

# **GST** **GUIDE**



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Circular

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AAR

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# Notifications, Circulars and Amendments to law/rule



In **35<sup>th</sup> GST Council Meeting**, certain important announcements were made. Of these few are notified vide notifications issued on **28-Jun-19 and 29-Jun-19**.

Extension of Due Dates for filing GST Returns and Annual Returns.

**Details are as follows:-**

Form	Applicable to	Period	Extended Due Date	Notification No./Order No.
GSTR 9, 9A/ 9B & 9C	All registered Taxpayers	Jul-17 to Mar-18	31-Aug-19	Order No. 6/2019-CT
GSTR-7 (TDS)	Tax Payers Registered u/s 51	July-19 to Sep-19	31-Aug-19	26/2019 – CT
GSTR-1 (Quarterly)	Tax payers having turnover < Rs.1.5 Cr	July-19 to Sep-19	31-Oct-19	27/2019 – CT
GSTR-1 (Monthly)	Tax Payers having turnover > Rs.1.5 Cr		11th of the following month	28/2019 – CT
GSTR-3B (Monthly)	Tax Payers other than composition scheme	July-19 to Sep-19	20th of the following month	29/2019 – CT
ITC-04 (Quarterly)	Tax Payer sending goods for Job work	July-17 to March-18	31-Aug-19	32/2019 – CT

Exemption granted to person registered as OIDAR from filing of Form GSTR9 & GSTR9C via **Notification no. 30/2019**

# Notifications, Circulars and Amendments to law/rule

Certain amendments were made in CGST rules through notification no. 31-2019. Details of the amendments are as under:-

Rule No.	Amendments	Applicable Date
10A and 21	New taxpayers are required to furnish the details of bank account on the portal within 45 days from the date registration is granted or the due date for filing of GSTR-3B for the first month, whichever is earlier. In case if the same is not updated, GST Registration will be cancelled.	28-Jun-19
138	A proviso has been inserted to enable the e-way bill generator to extend the validity of an e-way bill within 8 hours from time of its expiry.	28-Jun-19
95 A	Retail outlets established in departure area of an international airport have been allowed to refund the GST in specified circumstances. New form RFD 10B introduced circular no. 106/25/2019-GST	01-Jul-19
32A	For Kerala, all intra-state B2C supply of good or services, the value of supply shall not include the Kerala Flood Cess charged thereon	01-Aug-19
138E	Apart from normal suppliers not allowed to generate e-way bill if returns for 2 consecutive periods are not filed, composition dealers and suppliers claiming benefit of 6% presumptive taxation scheme shall also not be allowed to generate e-way bill if returns have not been filed for 2 consecutive quarters.	21-Aug-19 (vide Notification 25/2019-CT dated 21-06-19)
46 and 49	A new proviso has been inserted requiring mandatory Quick Response (QR) code on tax invoice and bill of supply, subject to certain conditions and restrictions, as may be prescribed	Not yet notified
87 (13)	Now a registered person can transfer any amount of tax / interest / penalty / fee to any other head in the electronic cash ledger. A new Form GST PMT-09 has been introduced.	Not yet notified

## **RAMA Says:-**

- ***Frequent extension in due dates for filing Annual Return of FY 2017-18 also lead to extension of due dates of next year's Annual Return.***
- ***Taxpayers still have confusion about Form 9 and 9C form and Government must make efforts to make sure that all the complex issues w.r.t. forms are resolved and taxpayers complete this compliance for FY 2017-18 with no more extensions.***

# Notifications, Circulars and Amendments to law/rule

Representations were made during 35<sup>th</sup> GST Council Meeting held on 21-Jun-2019 accordingly certain clarifications were given by the council through circulars issued on 28-Jun-2019. Details of the circulars are as follows:-

a. **Cases where the additional or penal Interest to form part of value of supply (Circular no. 102/21/2019-GST)**

- i. Any interest for delayed payment of EMI charged by supplier shall be included in the value of supply for the payment of GST
- ii. Additional / Penal Interest paid in case of loan taken from third party for purchase of the goods/services would not form part of the value of supply as the same shall be covered under the definition of "Interest" under S1 no.27 of notification no.12/2017 CTR dated 28.06.2019.
- iii. Any service fee or any other charges that are levied by loan giving entities in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, and accordingly will not be exempt.



▶ **RAMA Says:- Levy of GST on penal interest in form of fees or other charges by financial institutions or third party will lead to additional cost to loan recipient in case of any defaults made by him.**

b. **Place of supply issue clarified for**  
: (Circular no. 103/22/2019-GST)

- i. Services Provided by Ports:- Services relating to cargo handling shall not be deemed to be related to immovable property and the place of supply for such services will be determined as per section 12(2) or 13(2).
- ii. Services Rendered on Unpolished Diamonds Temporarily Imported in India:- In case of cutting or polishing services on unpolished diamonds temporarily imported in India and are not put to use in

# Notifications, Circulars and Amendments to law/rule

India, the place of supply shall be location of recipient of services. If the place of supply of recipient of service is not available, the place of supply will be the location of supplier of services.

## c. Processing of refund applications in FORM GST RFD-01A submitted by taxpayers wrongly mapped on the common portal (Circular no 104/23/2019-GST)

- i. CBIC clarifies that refunds will not be held for processing if the tax authority was wrongly mapped
- ii. Instead the refund should be processed by the tax authority to whom application was electronically transferred by common portal.
- iii. After processing the same refund process authority may inform on common portal for incorrect mapping

## d. Clarifications with respect to post sale discount : (Circular No. 105/24/2019-GST)

CBIC clarifies treatment of post supply discounts under different scenarios:-

- i. **If post sale discount is given without any obligation**, GST liability may be reversed by supplier subject to fulfilment of provisions of section 15(3).



- ii. **If post sale discount is given with any obligation like advertisement campaign, exhibition etc.**, then such discount given by supplier will be treated as additional consideration, GST will be levied by dealer and supplier will be eligible to take input tax credit.
- iii. **If additional discount is given by the supplier of goods to offer a special reduced price by the dealer to the customer**, the additional discount would be liable to be added to the consideration payable by the customer for the purpose of computing taxable supply under section 15. However the registered customer would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the customer.

# Notifications, Circulars and Amendments to law/rule



- iv. **In case of any financial credit notes issued for post sale discounts due to non fulfilment of provisions of section 15(3), the dealer is not required to reverse input tax credit attributable to the tax paid on such post sale discount as long as the dealer pays the value of supply as reduced by financial credit notes issued for post sale discounts**

## **Other Major points discussed during GST Council Meeting are:-**

- i. NAA (National Anti Profiteering Authority) extended by 2 years
- ii. The council decided to introduce electronic invoicing system in a phase-wise manner for B2B transactions in principal got approval for implementation from Jan 2020
- iii. GST Council also approve e-ticketing mandatory for multiplexes having multiple screens. However the same is not captured in the press release.
- iv. GSTAT will be set up to adjudicate appeals arising from central and state tax authorities.

## **RAMA Says:-**

- i. ***The clarification on input tax credit being eligible to the dealer in case of financial credit notes is a welcome step for various FMCG, textile, pharma companies etc.***
- ii. ***However, there is a lack of clarity for GST on additional discounts given on account of special reduced price by the dealer to the customer - whether the dealer will pay GST from its own pocket or it will claim from the supplier?***

# Advance Authority Rulings (GST)

## Case - 1

Case Name: Arihant Dredging Developers (P.) Ltd.

Appeal No: ORDER NUMBER  
04/WBAAR/2019-20

Date: JUNE 10, 2019

Court: AUTHORITY FOR ADVANCE  
RULINGS, WEST BENGAL

### Facts of the Case:

Applicant has been awarded a contract for re-sectioning of Jamuna by Irrigation and Waterways Directorate, contract involves earthwork in excavation of drainage channels and deposit of excavated materials to locations outside Government land. The total contract value includes cost of services like loading and unloading, transportation, arrangement of land etc. He argues that the work involves earth-work in excavation and re-excavation of the drainage channels and riverbed, and is pure service or a composite supply where the supply of goods is negligible. He claims that the work is an activity in relation to a function entrusted to a Panchayat under Article 243G and/or a municipality under Article 243W. In his support, the Applicant submits a copy of a letter vide Memo No. 469 dated



22/04/2019 from the recipient, stating that project is in relation to a function entrusted to a Panchayat under Article 243G and/or a municipality under Article 243W.

### Matter under Consideration:

Advance Ruling is sought for whether applicant's supply of services and goods for re-sectioning of river Jamuna to Irrigation and Waterways Directorate (State Government) is in relation to functions listed under Sl. No. 5 of the Eleventh Schedule, and entrusted to a Panchayat under Article 243G of the Constitution of India, and applicant is exempt from payment of GST under Sl. No. 3A of Notification No. 9/2017-Integrated Tax (Rate) dated 28-6-2017.



# Advance Authority Rulings (GST)

## Observations and Findings:

The Bench observed that the service tax exemption under Sl. No. 25(a) of Notification No. 25/2012 dated 20/06/2012 (hereinafter the ST Notification) has been substantially, although not in the same form, continued under GST with broader ambit covering any such functions that are performed by a Panchayat or a municipality under specific provisions of the Constitution.

Hence the real test to be done is –

- i. The supply shall be of pure service or a composite supply, where supply of goods does not exceed more than 25% of the value of the supply.
- ii. The recipient shall be government, local authority, governmental authority or a government entity.
- iii. Supply is being made in relation to any function entrusted to a Panchayat or a municipality under the Constitution.

**Held:** Bench concluded that –

For point 1, Supply of goods, if any, is purely incidental and is also not accounted for separately in the Tender Price Schedule.

For point 2, the recipient of Service is The Irrigation and Waterways Directorate, Govt. of West Bengal which is a State Government.



For point 3, the recipient certifies that the work awarded to the Applicant, involving drainage of channels and riverbeds, is an activity listed under Sl No. 5 of the Eleventh Schedule and therefore, entrusted to a Panchayat under Article 243G of the Constitution of India.

The Applicant's supply to the Irrigation and Waterways Directorate, Govt. of West Bengal is thus exempt from the payment of GST under Sl. No. 3A of Notification No. 9/2017 - Integrated Tax (Rate) dated 28/06/2017, as amended from time to time.

## ▶ RAMA Says:

***The deciding Bench critically evaluated the bare text of Sl No. 3A (inserted w.e.f 25-01-2018) of Notification 9/2017-IGST Rate, by breaking it down to the three test check points and concluded the matter. The ruling is pretty clear and as per the due concept of law.***

# Advance Authority Rulings (GST)

## Case - 2

Case Name: Mohana Ghosh

Appeal No: ORDER NUMBER  
06/WBAAR/2019-20

Date: JUNE 10, 2019

Court: AUTHORITY FOR ADVANCE  
RULINGS, WEST BENGAL

### Facts of the Case:

The applicant was supplying cabs on a rental basis. It submitted that people take the car on rent for the transportation of passengers. Rent-a-Cab was, therefore, essentially associated with the transportation of passengers. GST paid on the purchase of motor vehicles for supplying rent-a-cab service should, therefore, be admissible in terms of section 17(5)(a)(B).

The concerned Officer from the Revenue submits that the GST Act did not allow credit of GST paid on inputs for supply of rent-a-cab service in terms of section 17(5)(b)(iii) of the Act. However, the above restriction is removed with effect from 01/02/2019. As renting of a cab is made for the sole purpose of transporting passengers, the Applicant is eligible to claim the input tax credit on the purchase of motor vehicles for supplying rent-a-cab service.



### Matter under Consideration:

The Applicant seeks a ruling on whether credit is admissible of the input tax paid on the purchase of motor vehicles for the supply of cabs on rental basis.

### Observations and Findings:

Since “Rent-a-cab service” is not defined in the GST Act, the deciding Bench derived from what is stated in the application and what can be ascertained from the invoices. The applicant provides cab rental service inter alia to institutions like West Bengal Postal Service. The recipient has to pay the applicant a certain amount per month as consideration irrespective of what distance the cab travels in a particular month. Additional amount has to be paid if the cab is retained for extra hours or requisitioned on holidays. For the purpose of covering the cost of fuel,

# Advance Authority Rulings (GST)

the distance travelled needs to be brought into play, but only if it crosses a certain threshold. It is, therefore, clear from the above discussion that the nature of the service the applicant provides is classifiable under SAC 9966 as renting of a motor vehicle.

## **Held:**

The Bench from the above observations and findings concluded that Credit of GST paid on purchase of motor vehicles or other inputs for the supply of the applicant's service is not, therefore, admissible in terms of section 17(5)(b)(i).

## **RAMA Says:**

***The tactful analysis of the facts resulted into the conclusion that the ITC of motor vehicle shall not be allowed. The terms of agreement and basis of consideration played a major role in determining the ITC eligibility. If the clause of the agreement is demonstrated by the applicant as transport of passengers, ITC could have been allowed by the department.***



# Recent Case Laws (GST)

## GST on Online Fantasy Sports Gaming (Dream 11)

### Facts of the Case:

Dream11 is the world's 1<sup>st</sup> fantasy cricket, fantasy football & fantasy kabaddi Game of Skill with over 4 million gamers across India and USA. The petitioner Gurdeep Singh Sachar sought directions to initiate criminal prosecution against the Company named "Dream 11 Fantasy Pvt. Ltd.", firstly for allegedly conducting illegal operations of gambling/betting/wagering in the guise of Online Fantasy Sports Gaming, which as per the petitioner shall attract penal provisions of Public Gambling Act, 1867, and secondly for alleged evasion of Goods & Service Tax (GST) payable by it by violating the provisions of GST Act and the Rule 31A of CGST Rules, 2018.

### Points of Consideration:

Success in Dream 11's fantasy sports depends upon user's exercise of skill based on superior knowledge, judgment and attention, and the result thereof is not dependent on the winning or losing of a particular team in the real-world game on any particular day.

The amounts to be distributed to the winning participants at the time of



result are pooled in an escrow account. These are 'Actionable claim'.

### Decision:

Dream 11 will discharge GST @18% as it is not under purview of Gambling (28%). The outcome of fantasy is dependent upon user's exercise of skill based on superior knowledge, judgment and attention and not on winning or losing of a particular team in the real-world game on any particular day. Therefore petition of advocate Gurdeep Singh is dismissed on above discussed grounds.

### RAMA Says:

*The provision of law and nature of services was correctly evaluated by High Court in arriving at a decision to tax online gaming at 18%.*

# Clarification on filing of GSTR 9 & 9C

## Issues reported in filing Form GSTR 9 and 9C by the taxpayers

**Issue** : Mismatch in ITC as appearing in GSTR-2A and as auto populated in Table 8A of GSTR-9

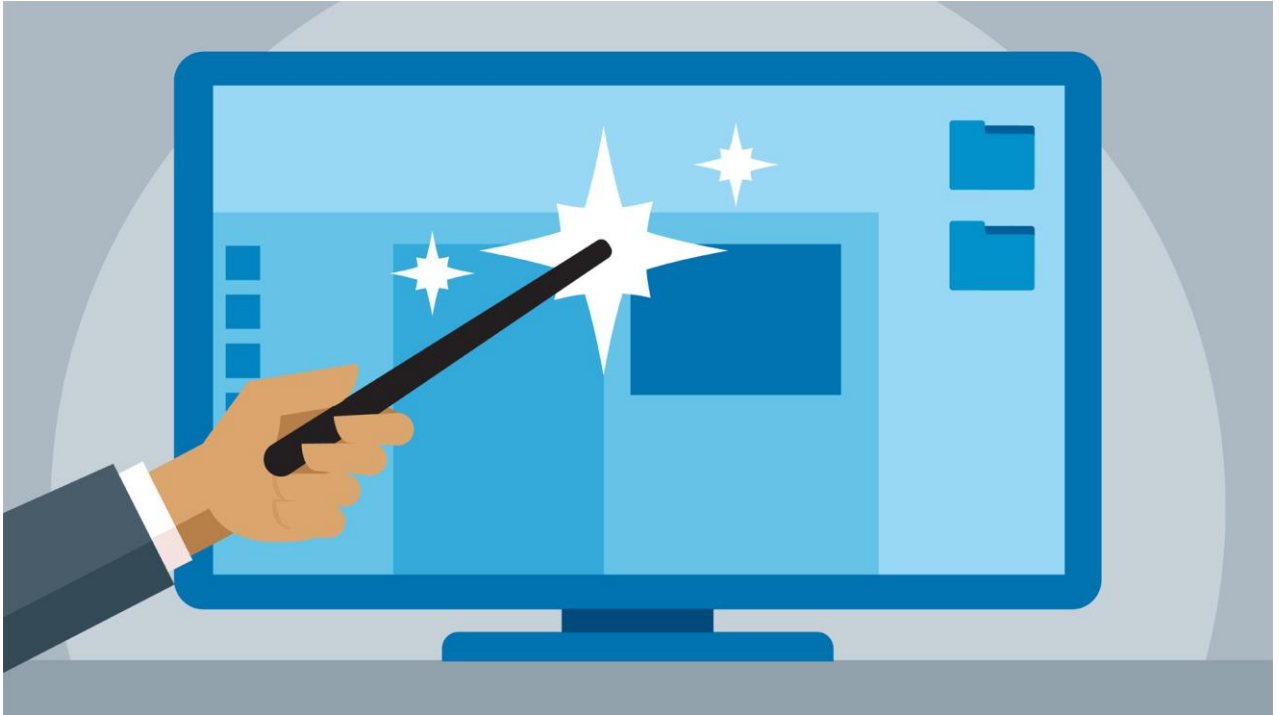
### Clarification:

- i. GSTR-2A figures are auto populated based on filed/ saved / submitted Form GSTR-1 of the supplier.
- ii. Figures in table 8A of Form GSTR-9 are auto-populated only on the basis of **filed** Form GSTR-1 by the supplier till 30-Apr-2019. Thus, ITC on supplies of the financial year 2017-18, if reported beyond 30th April, 2019, will not get auto-populated in table 8A of Form GSTR-9.
- iii. Also the amended figures will be auto populated. These figures will replace the original figures.
- iv. In cases where the place of supply is different from the place of supply of recipient then ITC of such invoices will not be auto populated in the table 8A of GSTR-9.
- v. The Figures in table 8A of Form GSTR-9 do not contain ITC for the period during which the recipient taxpayer was under composition scheme.



While filing Form GSTR 9 '**Proceed to File**' button will be enabled only if '**Compute Liability**' is clicked. This button is meant for computation of late fees only. Please note Form GSTR 9 once filed cannot be revised.

# RAMA IRIS GST - New Features



**IRIS Platform** has provided us with the option of **maintaining master data of our customers and vendors**. This facility is available at GSTIN level.

Vendor/Customer master will provide with the various **informative fields** such as:-

- i. Legal name and trade name of Business
- ii. Date of Registration and Cancellation of GSTIN
- iii. GSTIN Status
- iv. Taxpayer Type (Regular, ISD, Composition)

**Usage of maintaining vendor master** – IRIS portal is now under process of developing vendor master which will contain basic information along with mail ids. These mail ids will be used directly by IRIS portal for delivering mail to the vendors for invoice mismatches or invoices not reflected in 2A at time of input reconciliation through IRIS tool.

For demo enquiry, please contact Mr. Kapil Bansal: +91 97693 63338

## a. Budget Highlights:

- GST rate on Electric vehicle reduced from 12% to 5%
- Proposed for interest on delay in filing of returns except section 73 and 74 on net tax liability.
- No separate E-way bill for E-invoice system, will help to pre-draft GST Returns
- **Sabka Vishwas Legacy Dispute Resolution Scheme, 2019** is being introduced for resolution and settlement of legacy cases of Central Excise and Service Tax.

Section	Amendments in CGST Law Proposed in Budget 2019.2
Sec 25	Make Aadhaar authentication mandatory for specified class of new taxpayers and prescribe the way certain class of registered taxpayers are required to undergo Aadhaar authentication.
Sec 31A	Specified suppliers shall have to mandatorily give the option of specified modes of electronic payment to their recipients.
Sec 39	Allow the composition taxpayers to furnish annual return along with quarterly payment of taxes; and other specified taxpayers may be given the option for quarterly or monthly furnishing of returns and payment of taxes under the proposed new return system.
Sec 44 (1)	Empower the Commissioner to extend the due date for furnishing Annual return and reconciliation statement.
Sec 49	Provide a facility to the registered person to transfer an amount from one (major or minor) head to another (major or minor) head in the electronic cash ledger.
Sec 52 (4) and (5)	Empower the Commissioner to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.
Sec 53A	Transfer of amount between Centre and States consequential to amendment in section 49 of the CGST Act. Similar Section 17A is introduced in IGST Act providing the same.
Sec 54 (8A)	Central Government may disburse refund amount to the taxpayers in respect of refund of State taxes as well.
Sec 171	Empower the National Anti-profiteering Authority (under sub-section (2) of section 171 of the Act) to impose penalty equivalent to 10% of the profiteered amount.

- b. The **Directorate General of GST Intelligence Hqrs. arrests one person for fraudulently availing ITC benefits of more than Rs.16 Crore** involving invoice value of Rs.322 Crore on the strength of **invoices issued by non-existent fake firms.**
- c. The Government is contemplating **integration of E-Way Bill mechanism of GST with FASTag System** of National Highway Authority of India (NHAI) to track movement of goods and **check GST evasion.**
- d. The GST and Central Excise departments have arrested MD and GM of a Sriperumbudur-based automotive parts manufacturing company **for not depositing GST with authorities despite collecting it from customers.** The company has also not filed statutory returns for more than 20 months.
- e. **The Finance Ministry has put out a draft circular clarifying the taxability of services provided by head office, located in another.** Technically, it is called cross charges and the issue is how tax can be calculated in such a case.



**Disclaimer:** The views expressed in various sections of the guide are based on understanding of the GST Laws and study of notifications, circulars, rulings and judgements issued by various competent authorities, however, in no case these should be considered as opinion expressed on a particular scenario that would require a deeper understanding of the transaction in consideration.



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RAMA is pool of Business, Process, Systems & Tax experts to provide comprehensive Risk, Assurance & Advisory services.

RAMA's IT arm is a **Microsoft Certified Partner** providing ERP Implementation & Consulting services.

*For more details, please refer RAMA's Publication on Budget 2019.2 Key Highlights*

Link: <https://rama.co.in/wp-content/uploads/RAMA-Budget-2019.2-Key-Highlights.pdf>

## THANK YOU!

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