

GST GUIDE



**GSTR-9/9C due date extended
“AGAIN” to 30-Nov-19**

ITC-04 Waived off up to March-19

**GST Attracted on Membership fee
collected – AAR, MH**

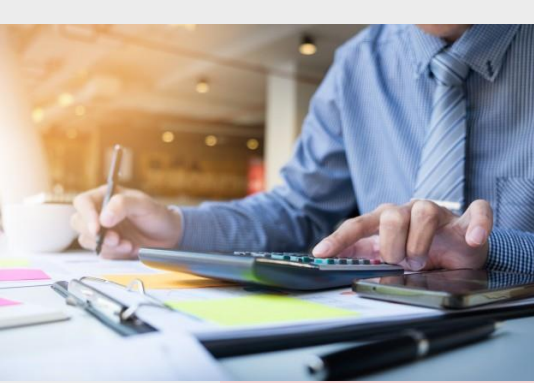
**Circular Cannot run contrary to
statutory provisions- Guj. HC**

**All Pending Refunds to be paid
within 30 days – announced by FM
Nirmala Sitharaman**

**Kerala Flood Cess Registration
enabled**

CRMX	0.45	▲	+0.45%
FTR	-0.23	▼	-2.34%
CSCO	-1.01	▼	-1.89%
CHK	0.02	▲	+0.21%
AAPL	+2.59	▲	+2.59%
PRTG	-0.01	▼	-0.10%
AMZN	-0.01	▼	-0.10%
TSLA	-0.01	▼	-0.10%

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Notifications, Circulars and Amendments to Law/Rule



Sr. No.	Type of Returns	Particulars	Due Date	Revised Due Date	Notification No.
1.	Annual Return (Form 9) and Reconciliation Statement (Form 9C)	For the period Jul-17 to Mar-18	31-Aug-19	30-Nov-19	Order No.07/2019-Central Tax dt.26-Aug-19
2.	GSTR-3B – Jul-19	Normal Taxpayer	20-Aug-19	22-Aug-19	37/2019-Central Tax, dt. 21-Aug-19
		Registered Tax payers of Jammu and Kashmir and in specified districts in Multiple States	20-Aug-19	20-Sep-19	
3.	FORM GSTR-7	Registered Tax payers of Jammu and Kashmir and in specified districts in Multiple States	10-Aug-19	20-Sep-19	40/2019-Central tax, dt.31-Aug-19
4.	138E of the CGST Rules, 2017	wrt Blocking and unblocking of e-way bills	21-Aug-19	21-Sep-19	36/2019-Central Tax Dt. 20-Aug-19
5.	ITC-04	Jul-17 to Mar-19	Waived off the requirement of filing. <i>(The said persons shall furnish the details of all challans for the goods dispatched to job worker and not received till 31-Mar-19, in serial no.4 of form ITC-04 for the period Apr-Jun-19)</i>		No.38/2019-Central Tax, dt.31-Aug-19
6.	Enforcement of Section 103 of Finance Act 2019	---	Government may disburse the refund of State Tax in such manner as may be prescribed		No.39/2019-Central Tax, dt.31-Aug-19
7.	GSTR01	Waiver of late fees having Aggregate turnover > Rs.1.5 crores	For specified districts including Jammu & Kashmir		No.41/2019-Central Tax, dt.31-Aug-19
8.	GSTR06	--			

CBIC vide notification no.04/2019 and 05/2019 –Central Excise –NT notified Sabka Vishwas (Legal Dispute Resolution Scheme,2019 and rules thereof which will come into force from 01-Sept-19 with validity of 4 months

Refer Annexure A for Flood Affected Areas`



RAMA SAYS:-

Due date for Annual Return and Reconciliation Statement for the period Jul-17 to Mar-18 has been extended for fourth time. This has been taken on account of technical glitches being faced by the taxpayers in filing the said returns. The decision has been welcomed by the industry as it has provided much respite to the industry, which has been persistently struggling with filing Annual Return and Audit Report. However, it has negatively impacted to Consulting Firms as they have spent valuable time on client records, they want to finish their work and move to new return filing mechanism for GST.

Further waiving of ITC-04 for the period Jul-17 to Mar-19 means that additional cost had been incurred by the taxpayers for preparation of data (which itself is complicated and time consuming) and filing of return which is of no use now.

Advance Authority Rulings (GST)

Case 1 Membership / Admission Fees Collected By The Club From Its Members Are Liable To GST

Case Name: Rotary Club of Mumbai Nariman Point

Appeal No: ORDER NO. GST/ARA/142/2018-19/B-88

Date: 13-Aug-19

Court: AUTHORITY FOR ADVANCE RULINGS, MAHARASHTRA

Facts of the Case:

Applicant, Rotary Club collects fees from their members in order to facilitate their meetings and for administrative purposes. These meetings are held for all the members to meet from time to time to review existing activities for keeping a tab on the same and consider new projects for execution. These contributions collected are spent by the end of the year and generally there is a deficit which is then borne by the Office. Furthermore, on perusal of the Constitution & Bye-Laws (the same shall be produced at the time of the personal hearing), it clearly indicates that the administration and working of the Association and Implementation of policies are established and are implemented on the concept of mutually.



Matter under Consideration:

It seeks advance ruling on issue as to whether contributions from the members in the Administration Account, recovered for expending the same for the weekly and other meetings and other petty administrative expenses incurred including the expenses for the location and light refreshments, amounts to or results in a supply, within the meaning of supply?

Observations and Findings:

The Honourable Bench find that as per the definition of “person” under the GST Act, 2017, there are two persons namely, the applicant and the other person being the “member” of the applicant. Hence the club/organization and member are distinct entities.

Advance Authority Rulings (GST)

The GST law has given very wide connotation for services, which will cover any activity other than which involves goods, money and securities. Therefore the activity of the applicant can clearly be considered as service being provided by the respondents to its members.

From the inclusive definition of the term 'consideration' it can decisively be construed that the membership fee collected by the club from its members is not only meant for meeting administrative expenses, but is also towards other services provided by club to its members.

Applicant has fulfilled both the conditions prescribed by Section 7 of the CGST Act; firstly that such supply is made by them in lieu of consideration and secondly, such supply has been made in the course or furtherance of business since the term business includes provision by club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members.

Ruling:

Held that the question under ruling results into supply of Services on which

GST is chargeable subject to provisions of Section 22 of The CGST Act.

RAMA SAYS:

The conclusion carried out by the Honourable bench that club and its members are two separate persons for the purpose of GST differs from the judgement of The Honourable High Court of Gujarat in the case of Karnavati Club Limited reported in 2010 (20) STR 169 (Guj.), which has been affirmed by the Honourable Apex Court in SLP (Civil) No. CC 6279/2010 on 09-sep-09 wherein, it has been held that any service provided by the club to its members is not a service, as there is mutuality of interest and the service provider and the service recipient are the same, therefore, they were not liable to pay service tax.

Applying the nexus of the same in the given case, the concept still holds good that club and member cannot be seen as separate entities. As per the above judgment, there are no different persons in the given case, services to oneself is not a supply and hence not subject to GST.

Advance Authority Rulings (GST)

Case 2 -18% IGST Payable on Fertilizer Export If Dealer opts for Refund

Case Name: Sai Fertilizers (P.) Ltd

Appeal No: ORDER NO.
20/WBAAR/2019-20

Date: 26-Aug-19

Court: AUTHORITY FOR ADVANCE
RULINGS, West Bengal

Facts of the case:

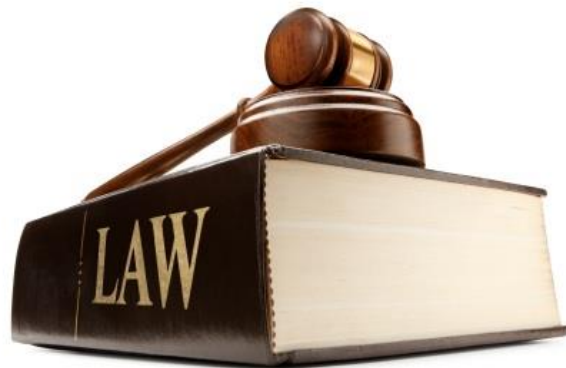
The applicant Sai Fertilizers, is a manufacturer of chemical fertilizer - Single Super Phosphate (hereinafter called SSP). The said chemical bearing HSN 3103 is used in both agriculture and industry.

Matter under Consideration:

The applicant intending to export SSP with payment of IGST seeks a ruling on at what rate IGST is payable on the export of said chemical as per the relevant GST notifications.

Observations:

- IGST payable on SSP is 18% under Sl.43 of Schedule III of rate notification provided it is *“not to be used as fertilizer”*
- Circular No. 5412812018-GST dated 09/08t2018 clarifies the phrase *“to*



- *be used as fertilizer”*. It says that the intention has been to provide the concessional rate of tax (i.e. 5%) to the fertilizers which are used directly as fertilizer or which are used in the manufacturing of other complex fertilizers for agricultural use.
- The provisions of the act applies to taxable territory u/s 2(22) of IGST Act. Taxes under the Act can be imposed on supplies, other than the zero rated ones (export in this case), only when the goods or services are consumed within the taxable territory. Therefore, consumption of SSP as fertilizer in the Rate Notification is limited to consumption in India only.
- SSP being exported is not to be used as fertilizer in India, as the

Advance Authority Rulings (GST)

place of supply, according to section 11(b) of the IGST Act, will be the location outside India. Accordingly, the applicable rate of IGST is, therefore, 18% under SI No. 43 of Schedule III of the Rate Notification.

Ruling:

The Applicant, while exporting 'single super phosphate', shall pay IGST @ 18% under SI No. 43 of Schedule III of Notification No. 112017 - IT (Rate) dated 2810612017, as amended from time to time, if it opts for refund in terms of section 16(3)(b) of the IGST Act. This Ruling is valid subject to the provisions u/s 104(1) of the GST, Act.

RAMA SAYS:

The ruling is in line of the provision of the law, as there is no ambiguity in the provision of place of supply and in definitions on taxable territory w.r.t. the transaction under review.



Recent Case Laws (GST)

Circulars Cannot Run Contrary to Statutory Provisions – Gujarat High Court Orders Grant of Export Refund

Facts of the Case:

The applicant had exported goods in Jul-17. It is the case of the writ-applicant that it is eligible to seek refund of the IGST in accordance with the provisions of the IGST Act, 2017. However, according to the writ-applicant, without any valid reason the refund to the tune of Rs.19,05,121/- has been withheld.

The applicant is rejected only on the basis of the circular issued by the Government of India dated 9th October 2018 referred to above, Accordingly the applicant, despite many representations addressed to the respondent no. 2, i.e. the Deputy Commissioner of Customs, no cognizance has been taken so far as regards the claim for the lawful refund of the requisite amount.

The applicant vehemently submitted that there is no legal embargo on availing the drawback at the rate of 1% higher rate on one hand and availing refund of the IGST paid in regard to the 'Zero Rated Supply', i.e. the goods exported out of India, on the other.

It is submitted that the refund ought to have been sanctioned immediately irrespective of the fact, whether the drawback was claimed at the rate of 1% (higher rate) or at the rate of 0.15% (lower rate). It is to be noted that the applicant has returned the drawback amount along with interest.

Decision:

The applicant is entitled to claim the refund of the IGST. In the result, this application succeeds and is hereby allowed. The respondents are directed to immediately sanction the refund of the IGST paid in regard to the goods exported, i.e. 'zero rated supplies', with 7% simple interest from the date of the shipping bills till the date of actual refund.

RAMA SAYS:

As per the policy decision taken by the Government of India, exporters availing higher rate of duty drawback may not be eligible for refund of IGST on exports. However, the same was not a permitted reason under the GST law to withhold refunds. Allowing refund of Inputs along with interest clarifies that circular cannot run contrary to Statutory Provisions to deny IGST Refund.

RAMA IRIS GST / Portal Updates

IRIS UPDATES:

1. **Purchase (2P) Data Download from Reconciliation:** It will help user to download the uploaded purchase register data from the reconciliation tab in IRIS input format. Since it is in the IRIS input format, user can make changes and upload corrected data directly on the sapphire portal. This option is available as "2P- DATA" under Reconciliation -> Results -> Invoice level view.
2. **Bulk Error Download:** This feature will allow user to download business errors of GSTR1 and GSTR2 for multiple GSTINs at a time for a particular period. Like bulk upload the user will also able to download the bulk error. This page is accessible from Bulk Operations at pan level.
3. **GSTR1 EWB Reconciliation:** The important feature of "Reconciliation between GSTR 1 and E- way bill" is now enabled on IRIS Sapphire
4. **Bulk Operation:** Earlier it was known as Bulk Upload. Now we have broaden the scope for the same. Along with Bulk Upload, now it has Bulk Download (Download Manager) feature also.

Using this you can download the data for GSTR1/GSTR2 which is uploaded on IRIS Sapphire in bulk i.e. more multiple GSTINs and for multiple periods. We have given various filters as well. This option is available at the PAN level.

5. **Utilities:** In Utilities section, two new additional details have been added in GSTIN validation namely - Financial Year and Filing Frequency

PORTAL UPDATES:

1. The format of the GST ITC-04, as amended vide Notification No. 39/2018–Central Tax, dated 04-09-2018, has been made available on the GST Portal.
2. The One Time Registration facility for Kerala Flood cess payment is now active on <https://floodcess.kerala.gov.in/viewUserReg>. The tax payers shall collect and pay the Flood Cess amount along with the return for the month of Aug-19 to be filed in Sep-19.

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

1. All Pending GST Refunds for MSMEs to be paid within 30 days: -

To ease GST related woes for MSME sector, the Finance Minister Nirmala Sitharaman has announced that all pending GST refunds will be paid within 30 days. Further all future GST refunds will be sorted out in 60 days.

2. GST Revenue collection for August, 2019 – ₹ 98,202 crores: -

The total gross GST revenue collected in the month of Aug-19 is ₹ 98,202 crores. The total number of GSTR 3B Returns filed for the month of July up to 31st Aug-19 is 75.80 lakh. The revenue in Aug-18 was ₹ 93,960 crore and the revenue during Aug-19 is a growth of 4.51% over the revenue in the same month last year. Rs. 27,955 crores have been released to the states as GST compensation for the months of Jun-Jul-19.

3. Constitution of Appellate Tribunals: -

Vide Notification No. S.O. 3009(E) dated 21-Aug-19, State Benches and Area Benches have been notified. However, it is pertinent to note that Benches for Rajasthan, Uttar Pradesh and Madhya Pradesh is yet



to be notified. Taxpayers and Department are eagerly waiting for commencement of operations of GSTAT.

4. Notice for not filing Annual GST Returns before expiry of due date – undue harassment by Department:-

Due date to file Annual return GSTR 9/GSTR 9A for Financial Year 2017-18 is 31-Aug-19 (extended till 30-Nov-19) but CGST Delhi Zone has started issuing notice to those who have not filed such returns till date even before the expiry of due date i.e. 31-Aug-19. In notice issued on 19-Aug-19 it has called those who have not filed such return as defaulters although they still have time to file. Interestingly Notice also ask to comply within 7 days from the date of notice i.e. on or before 26-Aug while due date is 31-Aug-19.



5. Fake invoices case with wrongful ITC availment of Rs. 39 Crore -

In a joint operation of Anti Evasion Wing and the Amritsar Division of CGST Commissionerate, Jalandhar, a case of fake invoices against 7 firms has been booked, initially valued at around Rs. 350 Crores and quantified to involve tax liability of Rs. 39 Crores approximately, being run by a syndicate of fake firms across the districts of Amritsar, Batala and Jalandhar.

GST Compliance Calendar

Return	Description	Due Date
GSTR-7	Return of TDS (Tax deducted at source) with payment of tax.	10-Sep-19
GSTR-8	Statement by e-commerce operator with tax.	10-Sep-19
GSTR-1	Outward Supplies (Monthly by taxable person other than ISD and those under composition scheme)	11-Sep-19
GSTR-6	Input Service Distributor	13-Sep-19
GSTR-3B	Monthly return and payment of tax by taxable person other than ISD and those under composition scheme.	20-Sep-19
GSTR-5	Return for Non-resident taxable person	20-Sep-19
GSTR-5A	Details of supplies of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India	20-Sep-19

Annexure A - Flood Affected Areas

Sr. No.	Name of the State	Name of the District
1	Bihar	Araria, Kishanganj, Madhubani, East Champaran, Sitamarhi, Sheohar, Supaul, Darbhanga, Muzaffarpur, Saharsa, Katihar, Purnia, West Champaran.
2	Gujarat	Vadodara
3	Karnataka	Bagalkot, Ballari, Belagavi, Chamarajanagar, Chikkamagalur, Dakshina Kannada, Davanagere, Dharwad, Gadag, Hassan, Haveri, Kalaburagi, Kodagu, Koppal, Mandya, Mysuru, Raichur, Shivamogga, Udupi, Uttara Kannada, Vijayapura, Yadgir.
4	Kerala	Idukki, Malappuram, Wayanad, Kozhikode.
5	Maharashtra	Kolhapur, Sangli, Satara, Ratnagiri, Sindhudurg, Palghar, Nashik, Ahmednagar.
6	Odisha	Balangir, Sonepur, Kalahandi, Nuapada, Koraput, Malkangiri, Rayagada, Nawarangpur.
7	Uttarakhand	Uttarkashi and Chamoli

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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 **Visit us at:** www.rama.co.in / www.ramaerp.in

Mumbai: Unit 401, Hub Town Viva,
Jogeshwari East, Shankarwadi
Mumbai - 400060
Contact: +91 22 6223 1063 / 1060

Dubai: M-01, Bank Street Building,
Next to Citibank, Bur Dubai,
P.O. Box: 120349, Dubai, UAE.
Ph: +971 4 354 5186 / +971 4 352 9466