

2nd August, 2018



LnCo GST Alert

New GST return format notified

I. New System of GST returns filing

The GST Council has approved and released a draft of new system of GST return filing for public comments. The insights of same are as follows:

Turnover basis segregation - large taxpayer and small taxpayer:

In the proposed system of GST returns, the taxpayers have been divided into large and small taxpayers for the purpose of filing of returns. This division of the taxpayers is based on the turnover reported in the financial year 2017-18 which will be considered and annualized for this purpose.

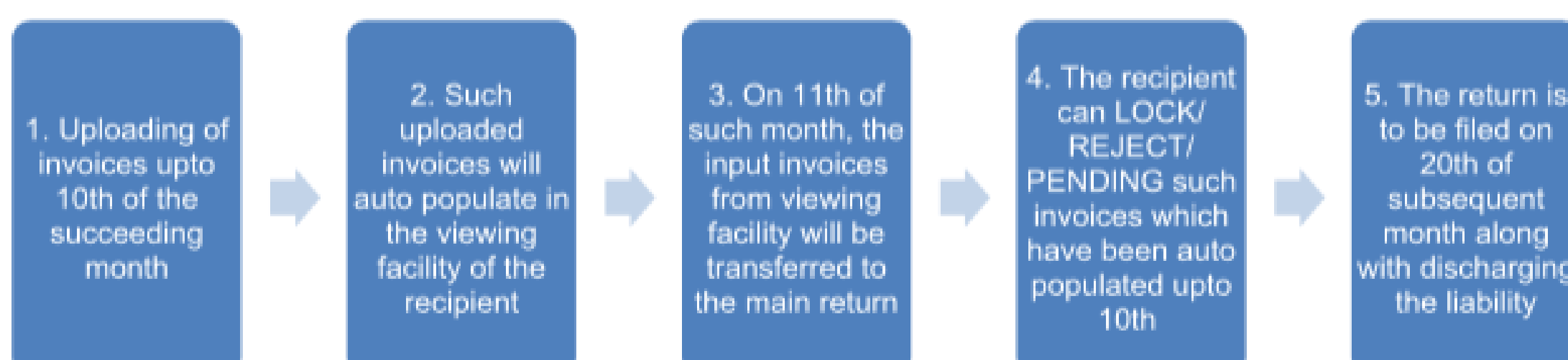
- **Small Taxpayers:** Taxpayers having turnover upto Rs. 5 Crores in the last financial year shall be considered as small taxpayers. Small taxpayers shall have the option of filing quarterly returns with monthly payment of taxes on self-declaration basis.
- **Large Taxpayers:** Taxpayers having turnover of more than Rs. 5 Crores in the last financial year shall be considered as large taxpayers. The large taxpayers are required to file monthly returns.

SMS facility for filing nil Return:

Taxpayers having no purchases, no output liability and no input tax credit to avail in any quarter, shall file one nil return for the entire quarter. In first and second month of the quarter, nil transactions shall be reported by sending a SMS. At the end of the quarter, a SMS shall be sent to file the nil return for such quarter.

Monthly filing of returns:

- The new system has a facility wherein the taxpayers will be uploading invoices continuously. These invoices will be visible to the recipient in the 'viewing facility'. The viewing facility will show the trade name as well as the return filing status of such supplier.
- In the proposed system, credit availment is purely based on auto population of input invoices upto 10th of each subsequent month. Any invoice uploaded after 10th shall be made available to recipient in the subsequent month. For this purpose, even the small taxpayers filing quarterly returns can upload invoices on continuous basis so that the recipient can avail such credit. The following will be the process of filing monthly returns:



Return Format: The return will be having two main tables, one for reporting the outward supplies and one for availing input tax credit. The invoice wise details shall be available in the annexure to main return.

Pending Invoices: Recipient can keep invoices pending for following reasons:

Supply not yet received

Invoices requires amendment

Unable to decide eligibility

To simplify and reduce the number of pending invoices, the tax payer shall be now allowed to avail credit of goods or services invoiced in current month but received upto 20th of the subsequent month i.e., upto the due date. However, in our view it is pertinent to note that this feature may require amendment in the laws.

Rejected Invoices: Where in the viewing facility certain credit is inadmissible due to wrong input of GSTIN by the supplier or if such credit is ineligible.

Deemed Locking: Any invoice not rejected or not kept pending will be deemed to be locked.

Amendment of invoices: Where invoices have been locked, then amendment can be done only via credit/debit note. Where invoices have not been locked, then the same can be amended.

Amendment return: There would be a facility to file two amendment returns for a return of a particular tax period within September of the following financial year with a higher late where the change in liability is >10%.

Exports: The table for reporting export of goods shall contain details of shipping bill. Such shipping bills details can be entered before or after filing of the return at the option of the taxpayer. This would not be considered as an amendment to the returns. The same will transmitted to ICEGATE.

Ease of accounting: All reported liabilities for a month, liabilities from missing invoices reported later and liability flowing from the amended return will be shown at one place on common portal to assess tax payer in tax period wise accounting.

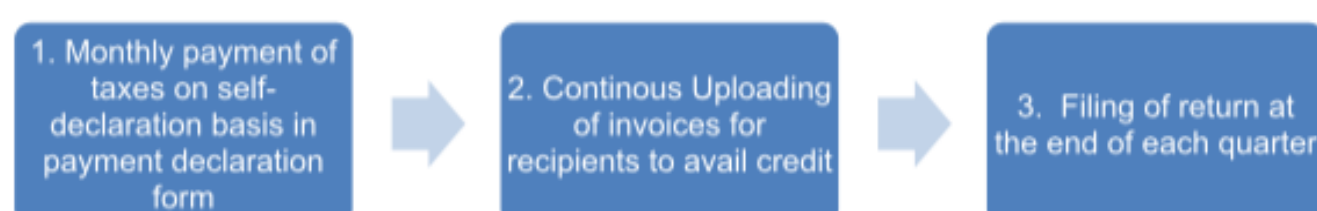
IT Tool: An IT tool shall be provided for downloading in excel format the invoices appearing in the viewing facility and matching them with the invoices stored in accounting software of the recipient. The IT tool shall also be enriched with facility of creating master list of recipient's and vendor's GSTINs so that the any mismatch of GSTIN number can be rejected automatically via such IT tool.

Transition Phase: The new return system has a transition phase wherein for the first six months, the recipient can avail input tax credit on self-declaration basis even though the invoice has not been uploaded by the vendor. It is based on the concept of 'missing invoices' where the recipient can avail credit of invoices which have not been uploaded by the supplier. The recipient has a time period of two tax periods to follow up and get such missing invoices uploaded by the supplier.

Supply Side Control: For a newly registered taxpayer or a taxpayer who has defaulted in payment of tax beyond a time period or /above a threshold, uploading of invoices shall be allowed only upto such threshold amount or only after clearing such default in payment of tax. Where the conditions of supply side control are not satisfied, the recipient would not be able to avail input tax credit until such default in payment of tax is made good by the supplier.

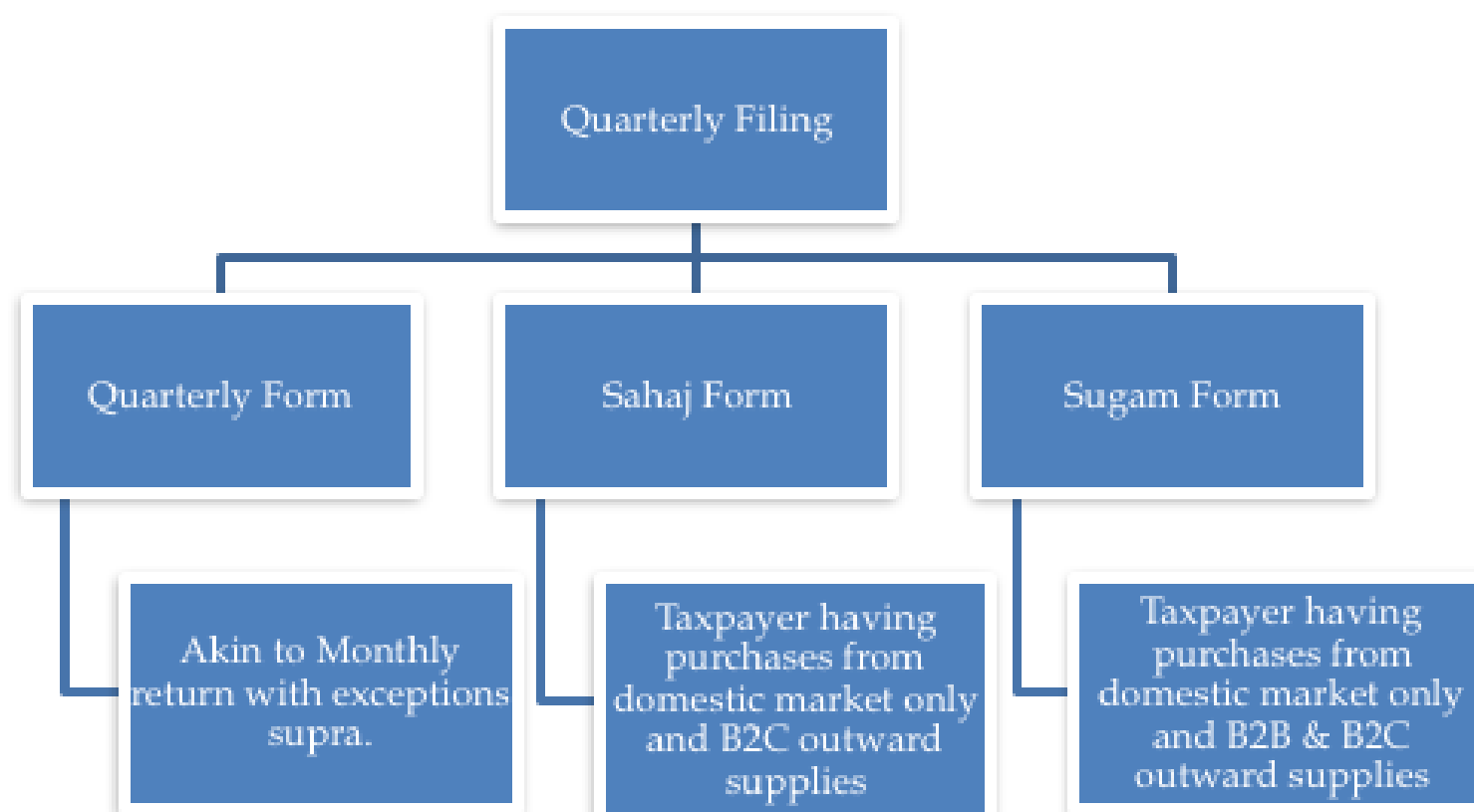
Quarterly filing of return:

- Taxpayers with turnover of preceding financial year upto Rs.5 Crores may avail the option for quarterly filing of the returns. However, this would still require them to pay taxes on monthly basis and avail input tax credit on self-declaration basis.
- The option to file returns on quarterly basis shall be exercised at the beginning of the year. Thereafter, an option to change from quarterly to monthly or vice-versa shall be allowed only once at the beginning of any quarter.
- Process of filing quarterly returns shall be as follows:



Quarterly filing shall not have compliance requirements in relation to:

- Quarterly reporting of non-GST, exempted supplies.
- Reporting of details of input tax credit on capital goods.
- Facility of availing input tax credit on missing invoices and keeping invoices pending due to any reasons.
- The taxpayer opting for quarterly filing may file any one of three forms viz., quarterly or Sahaj or Sugam. The forms Sahaj and Sugam are predetermined profiles of quarterly return and are based on the following criteria:



Authored by:

- CA Radhika Verma - Partner
- Devesh Agarwal – Article Assistant

II. GST RATE CHANGES

The 28th GST council meeting has brought about some remarkable changes in the GST rates. A total of 47 goods have been shifted from the highest rate slab to a feasible slabs of 18% to 5%.

The intention of the government to make GST only a 3 slab rate structure and do away with the highest rate of tax is yet again seen action.

Following is a sector wise summary of significant rate changes in goods and services.

Services

Relief to Food and Hotel Industry:

- For supply of food or any other article for human consumption provided by restaurant, mess or canteen other than by an hotel with declared tariff of any unit more than or equal to Rs. 7,500 tax shall be applicable at the rate of 5%. However, the entry has been substituted to include an explanation which states that such rate shall be applicable to restaurant, canteen or mess at an institution such as school, colleges, offices, hospital, industrial unit etc. or by any other person based on contractual agreement with such institution on a regular basis i.e. not for an event or on occasional basis. Further, supply of food at exhibition, events, outdoor or indoor function which are event based or occasional will be taxed at 18%, removing the necessity of it being classified as outdoor caterer.
- In case of services provided by way of accommodation in hotels for residential or lodging purposes, the rate of tax shall now depend on value of supply instead of declared tariff. This is a huge sigh of relief to the hotel industry which was already reeling due to pressures of low occupancy rates this year.

[Refer Notification 13/2018 – Central tax (rate) dated July 26, 2018]

- Services of licensing, registration or testing and analysis of food sample by Food Safety and Standards Authority of India (FSSAI) to food business operators has been exempted from GST.

[Refer Notification 13/2018 – Central tax (rate) dated July 26, 2018]

Transportation and Warehousing Industry:

- Multi-modal transportation of goods shall now be taxed at the rate 12%. Multi-modal transportation refers carriage of goods by at least two different modes of transport from the place of acceptance to place of delivery of goods by multi-modal transporter. This is a sigh-of relief to the transport industry as there was ambiguity of the right rate of tax to be applied where a single consignment was transported through multiple transport mode.

[Refer notification 13/2018 – Central tax (rate) dated July 26, 2018]

- In terms of the place of supply provisions, the place of supply for transportation of goods is in case of where services are provided to a registered person, the location of such registered person. However, in case of unregistered persons the place of supply shall be the place where the goods are handed over for their transportation. Now, therefore, the exemption has been provided for services by way of transportation of goods by aircraft or vessel from custom station of clearance in India to a place outside India upto September 30, 2019. In the erstwhile regime, the place of provision of services for transportation of goods other than by way of mail or courier was the
- place of destination of goods. GST provisions appear in contrast with the accepted principle of indirect taxes that taxes should not be exported.
- Services by way of warehousing of minor forest produce has now been exempted. Minor Forest Produce (MFP) has not been defined under the Act, however, the Indian Forest Act, 1927 defined MFP as all non-timber forest produce of plant origin and includes bamboo, brushwood, stumps, canes, Tusser, cocoon, honey, waxes, Lac, tendu/kendu leaves, medicinal plants and herbs, roots, tuber and the like.

[Refer notification 14/2018 – Central tax (rate) dated July 26, 2018]

Others (Taxable):

- Supply of E-book now taxable at 5%. E-book means electronic version of printed book classified under HSN 4901 in Customs Tariff Act, 1975 supplied online which can be read on a computer or a handheld device.

[Refer notification 13/2018 – Central tax (rate) dated July 26, 2018]

Additions to services specified under reverse charge:

- Services provided by individual direct selling agent to a Non-banking Finance Company (NBFC) shall now be taxable under reverse charge. It is pertinent to note that such direct selling agent is does not include body corporate, Partnership or Limited Liability Partnership firm (LLP).
- Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods & Services Tax Act ('the Act') is notified under reverse charge mechanism w.e.f. January 25, 2018. Now an explanation has been inserted stating that renting of immovable property means permitting or granting access, use or any such facility with or without transfer of possession or control and includes licensing, leasing of such immovable property.

[Refer notification 15/2018 – Central tax (rate) dated July 26, 2018]

Others (Exempt):

- Services by an old age home run by the Government or by an entity registered under Section 12AA of the Income Tax Act, 1961 to its residents aged 60 years or above, shall be exempt from GST upto an amount of Rs. 25,000 per month per member.
- Supply of services by electricity distribution utility (DISCOMs) by way of construction, erection, commissioning or installation of infrastructure for extending electricity distribution network up to tube well of farmer or agriculturist for agriculture use.
- Services by Government to their undertakings or PSUs for guaranteeing loans availed by such PSUs or undertakings is exempt from GST.
- Services by an unincorporated body or Non-profit entity registered for welfare of industry, agriculture or labour and promotion of trade, art, science, social welfare, charitable or protection of environment to its member for membership fee up to Rs. 1,000 per member per year is now exempt.

[Refer notification 14/2018 – Central tax (rate) dated July 26, 2018]

Goods

Electronic Industry:

- GST on Refrigerators, freezer or other refrigerating/freezing equipment have been reduced from 28% to 18%
- Rate on television including (LCD/ LED) for size up to 68 cm has been reduced to 18%

For other electronic devices such as washing machines, lithium ion batteries, vacuum cleaners, electro-magnetic domestic appliances, water heater, electric shavers and other hair removing appliances. The GST rate has been reduced from 28% to 18%.

[Refer notification 18/2018 – Central tax (rate) dated July 26, 2018]

Automobile:

- Rate of tax for fuel cell Motor vehicle has been reduced from 28% to 12%. Further cess on such vehicles have been removed.
- Special purpose motor vehicles other than those used for transportation of goods and passengers such as concrete mixers, break-down lorries, crane lorries, mobile workshops etc are to be taxed at 18%.
- Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance are now taxable at 18% from 28%
- Trailer and semi-trailer are now taxable at the rate 18%

[Refer notification 18/2018 – Central tax (rate) dated July 26, 2018]

Infrastructure:

- No Cess on coal rejects supplied by coal washery arising out of coal on which cess has been paid and ITC on it has not been availed by any person. [Refer notification 02/2018 Compensation Cess (Rate)]
- Glaziers' putty, grafting putty, resin cement are now leviable to tax @ 18%
- Paints and varnishes based on synthetic polymers of various technical specifications are taxable at 18%;

[Refer notification 18/2018 – Central tax (rate) dated July 26, 2018]

Textile Industry:

- Article of apparel and clothing accessories or cap/topi, knitted or crocheted value not exceeding Rs 1000 per piece shall be taxed @ 5%.
- GST shall be levied at the rate of 5% in case of footwear with maximum retail price for of Rs. 1,000/-.
- The threshold limit in both of the above goods has been increased from Rs. 500/- to Rs. 1,000/-.

[Refer notification 18/2018 – Central tax (rate) dated July 26, 2018]

- For woven fabrics of silk, wool, cotton, vegetable textile fiber paper yarn, man-made textiles/staple fabric, corduroy fabric and narrow fabrics refund of accumulated input tax credit can be made. Such change shall apply on supplies received on or after 1st August, 2018.

[Refer notification 20/2018 – Central tax (rate) dated July 26, 2018]

Others:

- Scents, toilet sprays are now taxable at the rate 18%.
- Fertilizer grade phosphoric acid is now taxable at the rate of 5%
- Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit are taxable at the rate of 5%
- Bamboo Flooring is now taxable at the rate of 12%.

[Refer notification 18/2018 – Central tax (rate) dated July 26, 2018]

Handicrafts – Partial Exemption

- Handicraft goods such as handcrafted candles, handbags, carved wood products, hand-made embroidery shawls of value less than Rs. 1,000 per piece, glass statuettes, aluminum, silver art ware are now taxed at the rate of 12%. The aforementioned goods at the respective HSN and explicit description shall not be taxable at rate exceeding 12%.
- Handmade imitation jewellery, silver filigree works are taxable at the rate of 3%. The aforementioned goods at the respective HSN and explicit description shall not be taxable at rate exceeding 3%.
- Hand crafted Bangles, mats, paper made articles, doorway decoration, hand embroidered articles are now taxed at the rate of 5%. The aforementioned goods at the respective HSN and explicit description shall not be taxable at rate exceeding 5%.

[Refer Notification 21/2018 – Central Tax (rate) dated July 26, 2018]

New Exemptions

- Sanitary towels and napkins are now exempt.
- Rakhi other than those made of pearls, precious or semi-precious stones,
- precious metals or imitation jewellery are now exempt.
- Rupee note or coin sold to RBI or Govt. of India are now exempt.
- Deities of stone, marble or wood are now exempt.

[Refer notification 19/2018 – Central tax (rate) dated July 26, 2018].

Authored by:

- **CA Radhika Verma - Partner**
- **Rahul Bajaj– Article Assistant**

III. Proposed changes in law

The GST council meeting also suggested significant changes in the GST statute and these have just been approved by the cabinet as we speak.

Post approval from the cabinet, these proposed amendments in the law are to be tabled in the state legislative assemblies for approval. All in all, they are targeted to be cleared in the ongoing monsoon session of the parliament.

Registration under GST:

- The threshold exemption limit for registration in the special category states of Assam, Arunachal Pradesh, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand has been increased to Rs 20 lakhs from Rs 10 lakhs;
- With respect to e-commerce operators, registration would be mandatory to only those e-commerce operators who are required to collect tax at source.
- When cancellation of registration is applied for and the application is under process, registration of such tax payer will be temporarily suspended thereby relieving the taxpayer from continued compliance under the law;
- Taxpayers are now allowed to opt for multiple registrations within a state/union territory in respect of multiple places of business located within the same state/union territory; - business vertical wise registration is already available in the law and the statute now allows a tax payer to go for more than one GST registration in a state irrespective of separate business vertical or not.

Extended scope of business of Composition Dealers:

- Maximum turnover threshold for opting for composition scheme to be raised from Rs 1 crore to Rs 1.5 crore.
- Composition dealers (other than restaurant services) will also be allowed to supply services to the tune of 10% of turnover in the preceding financial year or Rs 5 lacs whichever is higher.

Relaxed Compliance with GST Law:

Following are transactions not to be treated as a supply thereby no GST applicable:

- Supply of goods from a place in the non-taxable territory to another place in the non taxable territory without such goods entering in India;
- Supply of warehouse goods to any person before clearance for home consumption;
- Supply of goods in case of high sea sales;

Widened scope of ITC availment:

Council has proposed for eligible input tax credit availability to the taxpayer for the following:

- Motor vehicles with seating capacity of more than 13 persons;
- Motor vehicles for carrying cash by a banking company;
- Insurance and repair services on motor vehicles on which input tax credit is allowed.
- Goods and services which are obligatory for an employer to provide to the employee under any law for the time being in force – Eg. Canteen services.
- Procurement from unregistered vendor attracts reverse charge in the hands of the registered buyer as per the CGST Act 2017. Such inward supplies have been exempted from the reverse charge upto September 30, 2018. The same is proposed to be continued further all, but shall apply only to specified class of goods as notified by the Government further;
- Failure on part of the recipient to make payment of value + tax to the supplier within 180 days attracts reversal of credit (i.e.) addition to the output liability. However, liability to pay interest is proposed to be done away with.
- Registered person may issue consolidated credit/debit notes in respect to multiple invoices issued in a financial year. This is a much needed relief to tax payers who were compelled to raise invoice wise debit or credit note so far.
- Supply of services qualifies to be “Exports” even if the payment is received in Indian Rupees wherever permitted by RBI. One of the primordial conditions to amount to exports is proposed to be done away with provided the same is in line with regulations prescribed by RBI.
- Place of supply of goods imported into India for job work purposes an exported pursuant to completion of job work without putting them to any further use shall be outside India only.
- The order to cross utilization of input tax credit is being rationalized.

Authored by:

- CA Radhika Verma - Partner
- Jyothi Rampuria– Article Assistant

IV. Agenda for the upcoming council meeting:

The next council meeting is scheduled this week on 04 August 2018. Following is the brief summary of the proposed agenda to be take up:

- Formulation of Annual return in form GSTR-09.
- The highest GST slab rate (28%) items like AC, Big screen TV and cement might get a reduced rate.
- There is a proposal for 2% concession in GST rate where the tax rate is 3% or more on all B2C transactions if payment is made digitally(online or through cheque).
- The GST council meeting may come with a solution for single AAR across the country.
- The panel may also suggest ITC claim by the employers on all the paid GST on Insurance, Transport, Food and other benefits for the company employees.
- Discussion on the Inclusion of fuels under the GST.
- Discussion on heavy discounts offered to those who exchange their 20 year or old commercial vehicles for new vehicles. The new commercial 4-wheeler vehicles purchased under this scheme might be taxed at lower GST rate of 10-12% instead of 28%.

Authored by:

- **CA Radhika Verma - Partner**
- **CA Apoorva Jayasimha- Asst. Manager**

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