

GST NEWSLETTER

July 2019 Issue



Preface:

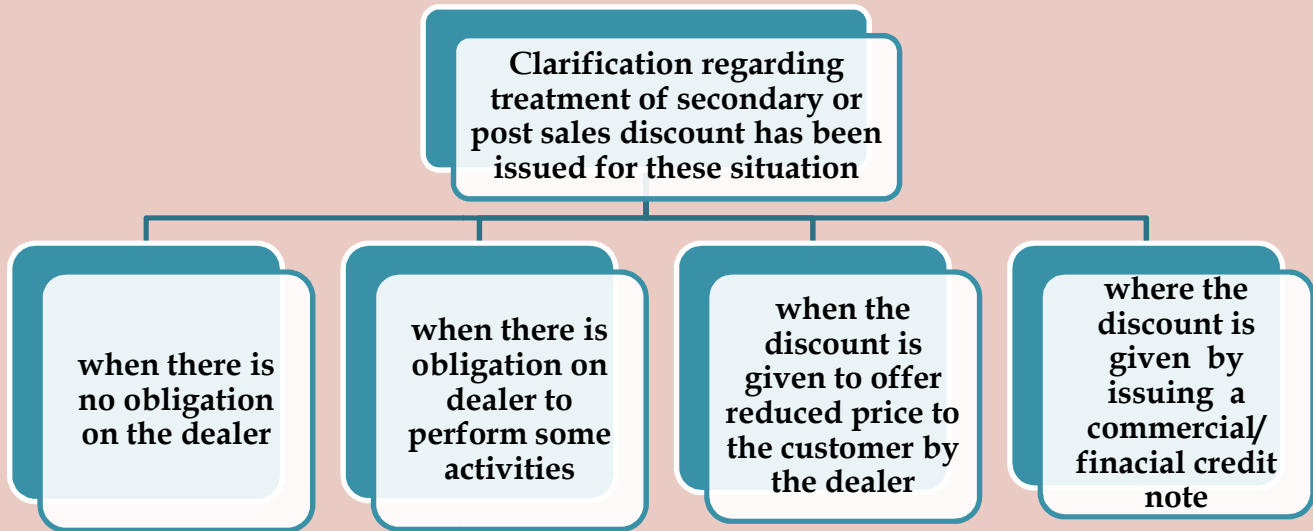
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With the Goods and Services Tax (GST) regime stabilizing after a series of rate rationalizations, the focus of the government has now clearly shifted to easing the compliance burden and containing tax evasion.

In its 35th meeting, the GST Council decided to introduce electronic invoicing system in a phase-wise manner for business-to-business or B2B transactions. The move is set to help tax authorities contain the menace of tax evasion.

This issue covers the recent CBIC circulars including the taxability of post-supply discounts provided by the suppliers, the new return filing mechanism and others.

1. Clarification on treatment of post sales discounts vide Circular No. 105/24/2019-GST dated 28th June 2019:



a. When there is no obligation on the dealer:

- If the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer's end, then such discount given by the supplier will be related to the original supply of goods and it would not be included in the value of supply.
- However, the eligibility of the discount shall be subject to the following conditions under Section 15(3) of the CGST Act,
 - If such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - Input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

b. When there is an obligation on the dealer to perform some activities:

- The dealer shall be required to undertake some activities such as special sales drive, advertisement campaign, exhibition etc. This shall be considered as a separate transaction.
- The additional discount shall be the consideration for the supply of such service by the dealer to the supplier of the goods.
- The dealer shall be the supplier of service and would be required to charge applicable GST on the value of such additional discount.
- The supplier of the goods being the recipient of the services shall be eligible to claim ITC of GST charged by the dealer.

Illustration:

Suppose M/s ABC Motors sells a car to a dealer M/s XYZ for Rs.10 Lakhs. After the sale transaction has been affected, the company decides to give a discount of Rs. 50,000/- to the dealer .What would be the tax liability in the following cases?

Case 1: Where the dealer provides marketing or promotional services (additional activity) to the company:

- The marketing or promotional services shall be considered as a supply by M/s XYZ to M/s ABC and the additional discount of Rs. 50,000/- shall be the consideration for such supply.
- Therefore, the dealer M/s XYZ shall charge GST on such discount and input tax credit on the same can be availed by M/s ABC.

Case 2: Where the dealer does not provide any marketing or promotional services to the company:

- Since the dealer does not provide any additional services i.e., marketing or promotional services, he is not required to charge GST on the additional discount

c. Where the discount is given to offer reduced price to customer by the dealer:

- If the additional discount is given by the supplier of goods to the dealer, to offer a special reduced price by the dealer to the customer to increase the sales volume, then such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer.
- Such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer.
- The value of discount would be liable to be added to the consideration payable by the customer, for the purpose of arriving value of supply of the dealer.
- The customer, if registered, would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the said customer to the dealer.

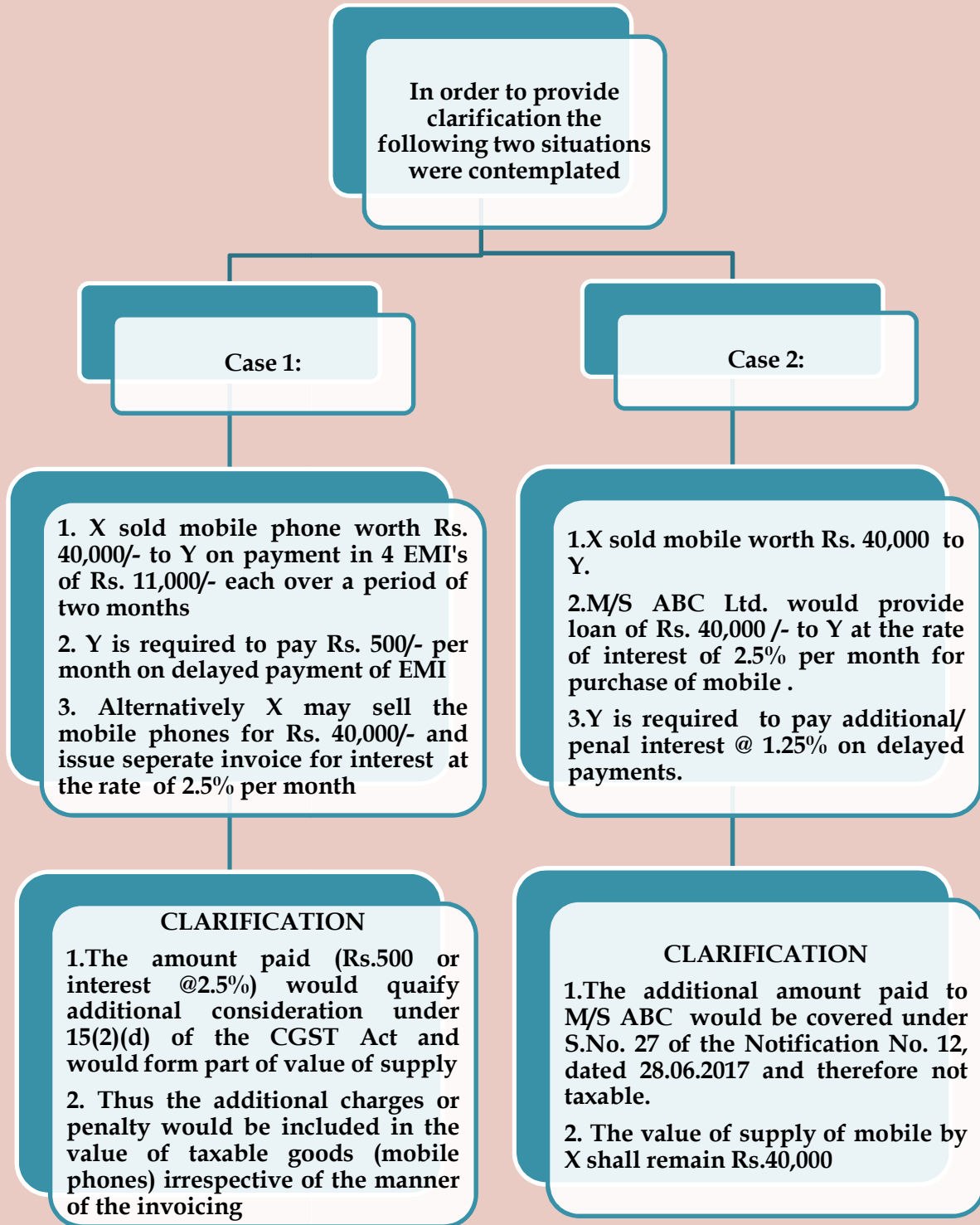
d. ITC eligibility of the dealer where the discount is given by issuing a commercial credit note:

- In cases where post sale discount is not allowed to be reduced from the value of supply and the supplier issues a commercial credit note, supplier is not eligible to reduce its tax liability.
- Dealer will not be required to reverse ITC attributable to the tax already paid on such post-sale discount received by him through issuance of financial / commercial credit notes by supplier.

2. Clarification on taxability of additional charges levied on delayed payment of EMI vide Circular No.102/21/2019-GST:

- Penal interest would form part of value of supply, in case it is intrinsically related to supply of goods and/or services and is charged by the supplier of such goods and/or services, irrespective of the manner in which the penal interest is recovered.
- Penal interest would be exempted if it is charged by an entity engaged in the business of providing loans/advances.

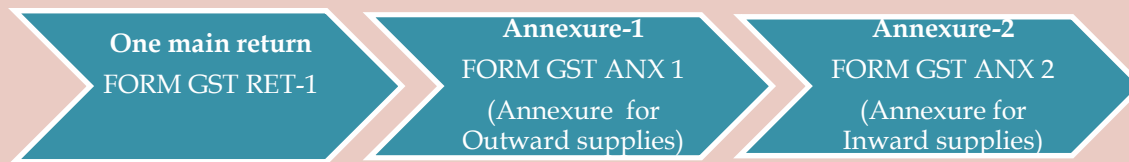
This has been explained through an illustration below:



3. Press Release regarding Transition plan to new GST return filing mechanism:

The GST Council in its 35th meeting decided that a new GST return system will be introduced to facilitate taxpayers. In order to ease transition to the new return system, a transition plan has been worked out. The details of the indicative transition plan are as follows:

- In May, 2019 a prototype of the offline tool has already been enabled on the common portal.
- There are there are three main components to the new return :



Return filing Mechanism:

- First taxpayer needs to file details of outward supply in GST ANX-1 (GSTR-1 in earlier formats),
- Then he is required to finalize purchase based on auto-populated data in GST ANX-2 (GSTR-2 & GSTR-2A in earlier format) and
- At last taxpayer needs to file final return in form GST RET 1/GST RET 2(SAHAJ)/ GST RET 3 (SUGAM) - (GSTR-3 in earlier format) on GST portal.

Basis	SAHAJ return (Form GSTRET2)	SUGAM return (Form GST RET3)	Normal return (quarterly) (Form GST RET 1)	Normal return (monthly) (Form GST RET1)
Periodicity of return where turnover is less than or equal to 5 Crores	Monthly (also quarterly option given)	Monthly (also quarterly option given)	Monthly (also quarterly option given)	Monthly
Periodicity of return where turnover is more than 5 Crores	Monthly	Monthly	Monthly	Monthly
Input tax credit (ITC) on missing invoice	Not allowed	Not Allowed	Allowed	Allowed
Payment of tax	Monthly	Monthly	Monthly	Monthly

A tax payer can opt for a form depending upon the nature of supplies made. This has been summarized below:

Basis	SAHAJ return (Form GST RET2)	SUGAM return (Form GST RET3)	Normal return(quarterly) (Form GST RET 1)	Normal return(monthly) (Form GST RET1)
B2C Supplies	Allowed	Allowed	Allowed	Allowed
B2B Supplies	Not Allowed	Allowed	Allowed	Allowed
Inwards Supplies attracting Reverse charge	Allowed	Allowed	Allowed	Allowed
Zero Rated supplies	Not Allowed	Not Allowed	Allowed	Allowed
Supplies through E commerce operator	Not Allowed	Not Allowed	Allowed	Allowed
Nil rated and exempted supplies	Not applicable	Not applicable	Allowed	Allowed

Key points for registered tax payers:

- From October, 2019 onwards, FORM GST ANX-1 shall be made compulsory and FORM GSTR-1 would be replaced by FORM GST ANX- 1.
- The large taxpayers (i.e. those taxpayers whose aggregate annual turnover in the previous financial year was more than Rs. 5 Crores) would upload their monthly FORM GST ANX-1 from October, 2019 onwards.
- However, the first compulsory quarterly FORM GST ANX-1 to be uploaded by small taxpayers (with aggregate annual turnover in the previous financial year upto Rs. 5 Crores) would be due only in January, 2020 for the quarter October to December, 2019.
- It may be noted that invoices etc. can be uploaded in FORM GST ANX-1 on a continuous basis both by large and small taxpayers from October, 2019 onwards.
- FORM GST ANX2 may be viewed simultaneously during this period but no action shall be allowed on such FORM GST ANX-2.
- For October and November, 2019, large taxpayers would continue to file FORM GSTR-3B on monthly basis. They would file their first FORM GST RET-01 for the month of December, 2019 by 20th January, 2020.
- From October, 2019, small taxpayers to stop filing FORM GSTR-3B and to start filing FORM GST PMT-08. They will file their first FORM GST RET-01 for the quarter October, 2019 to December, 2019 in January, 2020.
- From January, 2020 onwards, FORM GSTR-3B to be completely phased out.

4. Blocking of E-way bill due to non-filing of returns vide Notification 25/2019-Central tax

The GST Council in its 35th meeting held on 21st June 2019 decided that the Rule 138 E of the CGST rules, pertaining to blocking of e-way bills on non-filing of returns for two consecutive tax periods, be brought into effect from 21st August 2019.

5. Extension of due date to file ITC-04 vide Notification no. 32 - Central tax dt 28.06.2019:

Every registered person is required to file form **ITC-04** in respect of goods sent to or received from a job worker. The due date to file the same for the period from July 2017 to July 2019 has been extended till **31st August 2019**.

6. Insertion of Rule 32A in CGST Rules 2017 to include Kerala Flood Cess vide Notification no.31/2019- Central Tax dt 28.06.2019:

The value of supply of goods or services or both on which Kerala Flood Cess is levied under Clause 14 of the Kerala Finance Bill, 2019 shall be deemed to be the value determined in terms of Section 15 of the Act, but shall not include the said cess.

Hence, for determining the value of supply Kerala flood Cess shall not be included.

Kerala Flood Cess:

- Applicable from 1st August 2019.
- Cess would be levied on 'intra-state' supplies of goods or services or both by a taxable person to unregistered dealers.
- Cess shall remain effective for the period of 2 years from 1st June, 2019.
- Payment of cess is to be done to the Government along with the details of supplies made in the monthly returns in FORM KFC-A. Monthly return in FORM KFC-A is to be filed electronically through the official portal and payment of cess needs to be made along with the return.
- Monthly return in FORM KFC-A is to be filed on or before the due date of filing of return in FORM GSTR-3B of every month.

Exemption on applicability of Kerala Flood Cess:

- Supplies undertook by a composition scheme taxpayer.
- Supplies of goods or services or both which are exempted or NIL rated under the Kerala GST Act.

- Supplies of goods or services or both by a registered person to another registered person.
- Goods which attracts 0.125% SGST, i.e. diamonds and precious stones etc.
- Goods which attracts 2.5% SGST.

Rate of Kerala Flood Cess	Description
1%	Intra-state supplies of all the services
1%	Intra-state supplies of goods attracting 6% SGST, 9% SGST or 14% SGST
0.25%	Gold and silver on which 1.5% SGST is levied.

7. Proposed Amendments to Section 50 - Interest on late payment of Tax liability tabled in Finance bill 2019:

It was proposed that Interest on late payment of tax shall be calculated on net cash liability (gross liability less credit available), and not gross tax liability except in cases where proceedings under Section 73 or 74 have been initiated.

Key clarification issued by CBIC regarding GSTR-9 & 9C

1. Reverse charge in respect of FY 2017-18 paid during FY 2018- 19:

- It may be noted that since the payment was made during FY 2018-19, the input tax credit on such payment of tax would have been availed in FY 2018-19 only.
- Therefore, such details will not be declared in the annual return for the FY 2017-18 and will be declared in the annual return for FY 2018-19.
- If there are any variations in the calculation of turnover on account of this adjustment, the same may be reported with reasons in the reconciliation statement (FORM GSTR-9C).

2. Role of chartered accountant or a cost accountant in certifying reconciliation statement:

- With respect to the reconciliation statement, their role is limited to reconciling the values declared in annual return (FORM GSTR-9) with the audited annual accounts of the taxpayer.

3. Turnover for eligibility of filing of reconciliation statement:

- The aggregate turnover i.e. the turnover of all the registrations having the same PAN is to be used for determining the requirement of filing of reconciliation statement.
- The aggregate turnover for this purpose shall be reckoned for the period **July, 2017 to March, 2018**.

4. Reconciliation of input tax credit availed on expenses:

- Table 14 of the reconciliation statement calls for reconciliation of input tax credit availed on expenses with input tax credit declared in the annual return.
- It may be noted that only those expenses are to be reconciled where input tax credit has been availed. Further, the list of expenses given in Table 14 is a representative list of heads under which input tax credit may have been availed.
- The taxpayer has the option to add any head of expenses.

Disclaimer:

This document is prepared by A. K. Lunawath & Associates solely for clients and other chartered accountants to provide updates on important amendments in GST. The information is exclusively for educational Purposes, Professional advice shall be taken before taking any decision based on this document.

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