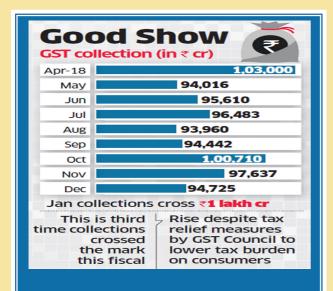
# GST NEWSLETTER

February 2019



GST collection crosses 1 Lakh Crores for the 3<sup>rd</sup> time in FY 2018-19

## **CA SUMIT KEDIA**

## **INSIDE THIS ISSUE:**

Key GST Recommendations made by the GST Council in the 32<sup>nd</sup> Meeting held on 10<sup>th</sup> January 2019 and the key amendments passed in the GST amendment Acts which are effective from 1<sup>st</sup> February 2019.

## **HEADS UP:**

Tax authorities have started carrying out raids based on various data analysis and started initiating penal provisions, including imprisonments for persons in default.

Further, procedures such as cancellation of registration, restrictions on generation of e-way bills on failure to file returns have ensured increase in tax compliance by the registered persons, thereby increasing the tax base and its collections thereon.

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# **COUNCIL MEET:**

The key points discussed in the 32<sup>nd</sup> GST Council Meet on 10<sup>th</sup> January'19 are as follows -

- The Council has accepted to allow **Kerala Government to collect 1% Cess Relief for intra-state supplies** in view of the floods suffered in 2018 for a period not exceeding 2 years.
- The Registration criterion for traders of goods under GST Act is proposed as Rs. 20 Lakhs or Rs. 40 Lakhs depending on the discretion of States. The Threshold for Registration for Service Providers would continue to be Rs. 20 Lakhs and in case of Special Category States at Rs. 10 Lakhs.

As per news reports, all the States barring Kerala and Telangana, and two Union Territories (with assemblies) have approved higher threshold from April 1 2019. However the respective SGST Act and CGST Acts will have to be amended to give effect to the above.

- **Composition Scheme** (w.e.f April 1'2019):
  - It is proposed to increase the threshold limit for opting Composition Scheme from Rs.1 Crore to Rs.1.5 Crores.
  - Composition rate for Service Providers as well as suppliers of goods and services (other than restaurant service providers) with turnover in preceding FY upto Rs.50 Lakhs, will be chargeable at 6% (3% each CGST and SGST).
  - The composition traders will be required to file only 1 Annual Return and pay taxes quarterly.

However amendment to the Act and notifications are notifications are not issued yet.

- Matters referred to Group of Ministers:
  - A seven Member Group of Ministers shall be constituted to examine the proposal of giving a Composition Scheme to Boost the Residential Segment of the Real Estate Sector.
  - A Group of Ministers shall be constituted to examine the GST Rate Structure on Lotteries.

- The RCM under Sec 9(4) for supplies received from unregistered persons has been notified effective but applicable to only specific class of people which is yet to be notified.
- To the existing specific list of goods and services attracting **RCM** under Sec.9(3), **'Security Services'** provided to a registered person by other than a body corporate is further added w.e.f 1<sup>st</sup> January 2019
- Changes made by CGST (Amendment) Act,2018, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and GST (Compensation to States) Amendment Act, 2018 along with amendments in CGST Rules, notifications and Circulars issued earlier and the corresponding changes in SGST Acts would be notified w.e.f. 01.02.2019.

## **MAJOR HIGHLIGHTS OF THE AMENDMENT ACT**

S No.	Section	What's Changing	AKL Remark
1.	Omission of Section 2(18) of the CGST Act, 2017	Omission of the definition of business vertical (18) "business vertical" means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals. Explanation—For—the purposes of this clause, factors that should be—considered in determining—whether—goods—or services are related include—(a) the nature of the goods or services; (b) the nature of the production processes; (c) the type or class of customers for the goods or services; (d) the methods used to distribute the goods or supply of services; and (e) the nature of regulatory environment (wherever applicable),—including—banking, insurance, or public utilities;	registration can be based on the location of the entity. Thus, if there are business units at more than one place
2.	Amendment of Section 7 of the CGST Act, 2017.	<ul> <li>(1) For the purposes of this Act, the expression "supply" includes</li> <li>(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;</li> <li>(b) import of services for a consideration whether or not in the course or furtherance of business; and</li> </ul>	referred to only when

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II

(1A) Certain activities or transactions, when constituting a supply in accordance with the provisions of sub-section (1), shall be treated either as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1), –

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, State а Government or any local authority in which they are engaged as public authorities, as may be notified by the Government the on recommendations the of Council,

shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of subsections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as-

	III of the CGST Act, 2017	<ul><li>the non-taxable territory to another place in the non-taxable territory without such goods entering into the taxable territory.</li><li>8. (a) Supply of warehoused goods</li></ul>	<ul><li>under the definition of supply.</li><li>1. Sale of goods from a non taxable territory to another non taxable territory,</li></ul>
		<ul><li>to any person before clearance for home consumption.</li><li>(b) Supply of goods by the consignee to any other person,</li></ul>	<ul><li>however the supplier is located in India.</li><li>2. High Seas Sales</li></ul>
		by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home	goods. Now these are not covered
		Explanation For the purposes of this clause, the expression "warehoused goods" shall have the	required under Section 17 read with Rule 42 and Rule 43.
5.	Omission of	meaning as assigned to it in the Customs Act, 1962 (52 of 1962)	Reverse Charge on

	Section 9(4) of the CGST Act, 2017 and insertion of new Section 9(4)		unregistered supplies is under suspension. Government will notify certain class of registered person who shall be liable to pay tax on reverse charge basis in case of receipt of goods from an unregistered person.
6.	Amendment of Section 10 of the CGST Act, 2017	<ol> <li>Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under subsection (1) of Section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding,</li> <li>(a) one per cent. of the turnover in Union territory in case of a</li> </ol>	under composition has been increased from Rs. One crore to Rs. One Crore Fifty Lakhs. Currently the composition dealers cannot supply service other than restaurant services. After the amendment composition dealers shall be eligible to supply services of value not exceeding 10% of their turnover in the preceding financial year in a

manufacturer,	5 Lakhs, higher.	whichever	is
(b) two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause.	ingrici.		
(b) of paragraph 6 of Schedule II, and			
(c) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed:			
Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one hundred and fifty lakhs rupees, as may be recommended by the Council.			
Provided further that a person who opts to pay tax under clause (a), clause (b) or clause (c) may supply services of value not exceeding ten percent of turnover in the preceding financial year in a State or Union territory or five lakh rupees, whichever is higher.			
<ul> <li>(2) The registered person shall be eligible to opt under sub-section</li> <li>(1), if: -</li> </ul>			
(a) he is not engaged in the supply of services, other than supplies referred to in clause (b) of paragraph 6 of Schedule II; save as provided in sub-section (1);			

7.	Amendment of 16 of the CGST Act, 2017	<ul> <li>Explanation – For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services</li> <li>(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</li> <li>(ii) where the services are provided by the supplier to any person on the direction of such registered person, whether services are provided by the supplier to any person on the direction of and on account of such registered person;</li> </ul>	Currently in case of "Bill to Ship to" model it is assumed that goods are deemed to be received by the recipient even though received by a third person. Such deemed received has now been extended to services.
8.	Amendment of 17 of the CGST Act, 2017	The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building but shall not include the value of activities or transactions (other than sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building) specified in Schedule III.	The amendment will allow ITC for items specified in Schedule III other than clause (b) of paragraph 5 of Schedule II. Hence these items will no longer be regarded as exempt supplies for the purpose of reversal under Section 17
9.	Amendment of 17 of the CGST Act, 2017	contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not	• • •

		<ul> <li>passengers; or</li> <li>(C) imparting training on driving, flying, navigating such vehicles or conveyances;</li> <li>(aa) vessels and aircraft except when they are used</li> <li>(i) for making the following taxable supplies, namely:</li> <li>(A) further supply of such vessels or aircraft; or</li> </ul>	than 13 persons including drivers. ITC shall not be available on motor vehicles designed to carry passengers with seating capacity of less than 13 persons including drivers except when used for further taxable supply of such vehicles or conveyances, transportation of passengers; or for imparting training on driving, flying, navigating such vehicles or conveyances. ITC in respect of services of general insurance, servicing, repair and maintenance in respect of those motor vehicles, vessels and aircraft on which ITC is not available under clause (a) or
10.	Amendment of 17 of the CGST Act, 2017	Before Amendment: Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not	etc. if required to be

be available in respect of the following, namely: –

(a).....

(b) The following supply of goods or services or both —

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre;

(iii) rent-a-cab, life insurance and health insurance except where—

(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and

(iii) travel benefits extended

through any obligation imposed under any law

Renting or hiring of motor vehicles, vessels and aircraft will be blocked only if the purchase of such motor vehicles, vehicles and aircrafts are blocked as per clause (a) of (aa).

## to employees on vacation such as leave or home travel concession;

#### After Amendment

Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely: –

(a).....

(b) the following supply of goods or services or both –

food (i) and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to

		<ul> <li>employees on vacation such as leave or home travel concession;</li> <li>Provided that the input tax credit in respect of such goods or services or both shall be available, where the provision of such goods or services or both is obligatory for an employer to provide to its employees under any law for the time being in force.</li> </ul>	
11.	Amendment of 25 of the CGST Act, 2017	Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed: Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business. Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory."; A person seeking registration	registrations could be taken for each business vertical. After the amendment, multiple places of business could also be registered separately subject to conditions. The conditions have not been prescribed yet. Further SEZ were required to take a separate

		<ul> <li>single registration in a State or Union territory:</li> <li>Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed:</li> <li>Provided further that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed:</li> </ul>	
12.	Amendment of Section 34 of the CGST Act, 2017	Where a tax invoice has one or more tax invoice have been issued for supply of any goods or services or both and the taxable value or tax charged in that invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.	Tax payers will now be able to issue a consolidated credit notes/debit notes in a financial year.
13.	Amendment of Section 39 of the CGST Act, 2017	Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof,	The amendment will enable government to prescribe the periodicity and time of

		furnish, in such form, manner and within such time as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed on or before the twentieth day of the month succeeding such calendar month or part thereof. Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.";	rules.
14.	Amendment of Section 39 of the CGST Act 2017	The following shall be inserted in sub section (7) Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.	mechanism, specified tax payers can file quarterly returns however the tax was required to be paid monthly. After the amendment,
15.	Amendment of Section 39 of the CGST Act 2017	Sec 39(9) - Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub- section (2) or sub-section (3) or sub- section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection	An amendment return is proposed in the new return filing mechanism for correction of past mistakes. The government can now notify the entire procedure through rules.

		or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, in such form and manner as may be prescribed subject to payment of interest under this Act: Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant	
16.	Amendment in Section 49, 49A and 49B of the CGST Act, 2017	<ul> <li>annual return, whichever is earlier.</li> <li>in sub-section (5),</li> <li>(i) in clause (c), the following proviso shall be inserted, namely:-</li> <li>Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax</li> <li>(ii) in clause (d), the following proviso shall be inserted, namely:-</li> <li>Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not</li> </ul>	<ul> <li>shall be used. i.e.</li> <li>Utilise IGST first against payment of any output tax liability in the form of CGST/SGST/UTGST/IG ST</li> </ul>

		available for payment of integrated tax	this table.
		Insertion of new section 49A	
		Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.	
		Insertion of new section 49B	
		Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.	
17.	Amendment of Section 140 of the CGST Act, 2017	A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit of eligible duties carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may	This amendment is retrospective and in applicable w.e.f 1 <sup>st</sup> July 2017. The definition of eligible duties has been modified and it does not include Additional Duties of Excise (Textiles and Textiles article) Act, 1978.
		be prescribed: Explanation 1 :	As per the CGST Act transitional credit of cesses

		Clause (iii) - the additional duty leviable under sub-section (1) and (5) of section 3 of the Customs Tariff Act, 1975; Clause (iv) - the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978; Explanation 3 - For removal of doubts, it is hereby clarified that the expression "eligible duties and taxes" excludes any cess which has not been specified in Explanation 1 or Explanation 2 and any cess which is collected as additional duty of customs under sub- section (1) of section 3 of the Customs Tariff Act, 1975.	and Higher Education Cess
18.	Amendment of Section 143(1) of the CGST Act, 2017	Following proviso has been inserted: Provided that the period of one year or three years, as the case may be, may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.	sent on job work. The time period of 1 year or 3 years may be extended on approval of the
19.	Amendment of Section 2 (6) clause (iv) of the IGST Act, 2017	<ul> <li>"export of services" means the supply of any service when,</li> <li>(i) the supplier of service is located in India;</li> <li>(ii) the recipient of service is located outside India;</li> </ul>	Earlier only if the payment was received in convertible foreign exchange; a transaction could be regarded as supply of service. After the amendment,

		<ul> <li>(iii) the place of supply of service is outside India;</li> <li>(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian Rupees where permitted by the Reserve Bank of India; and</li> <li>(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;.</li> </ul>	payments received in INR shall also be considered as exports if the same is permitted by the RBI.
20.	Amendment of Section 12 of the IGST Act 2017	<ul> <li>The place of supply of services by way of transportation of goods, including by mail or courier to,</li> <li>(a) a registered person, shall be the location of such person;</li> <li>(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation:.</li> <li>Provided that if the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.</li> </ul>	After the amendment the place of supply of service of transportation of goods in case of exports from India shall be the place of destination of such goods. Currently the place of supply is the location of the recipient.

## **EXAMPLE FOR NEW SET OFF RULES:**

The new set-off rules brought into effect through amendment of Section 49, 49A and 49B. As can be seen in the example there will be an additional cash outflow of Rs. 14,000/-

Head	ITC Amount	Liability	IGST Adjustment	CGST/SGST Adjustment	Balance to pay in cash	Balance ITC
IGST	1,18,000	90,000	90,000			-
CGST	18,000	32,000	28,000	4,000	-	14,000
SGST	18,000	32,000	-	18,000	14,000	-
TOTAL	1,54,000	1,54,000	1,18,000	22,000	14,000	14,000

ITC SET OFF W.E.F 01.02.2019

### ITC SET OFF UNTIL 31.01.2019

Head	ITC Amount	Liability	IGST Adjustment	CGST/SGST Adjustment	Balance to pay in cash	Balance ITC
IGST	1,18,000	90,000	90,000		-	_
CGST	18,000	32,000	14,000	18,000	-	-
SGST	18,000	32,000	14,000	18,000	-	-
TOTAL	1,54,000	1,54,000	1,18,000	36,000	-	-

**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.

(For your feedback or comments, you can reach CA Sumit Kedia | Email: <u>sumit@akl.co.in</u>)