




# GST, Excise, Service Tax, VAT & Customs updates for June 2019

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## I. GST Updates

35th GST Council Meeting was held on 21 June 2019 at New Delhi, after a long gap of more than three months. This was the first council meeting chaired by the re-elected government and India's second woman Union Finance Minister, Mrs Nirmala Sitharaman. This GST Council meeting has been called at a time when the countdown to upcoming Union Budget 2019 is less than a month away. A lot of expectations piled up over months concerning various indirect tax issues will be addressed in this meeting.

### A. Highlights of 35<sup>th</sup> GST council Meeting

#### i. Law and Procedure related changes

- On account of difficulties being faced by taxpayers in furnishing the annual returns in **FORM GSTR-9, FORM GSTR-9A** and reconciliation statement in FORM GSTR-9C, the due date for furnishing these returns/reconciliation statements to be **extended till 31.08.2019**
- To provide sufficient time to the trade and industry to furnish the declaration in **FORM GST ITC-04**, relating to job work, the due date for furnishing the said form for the period July, 2017 to June, 2019 to be **extended till 31.08.2019**

**In order to give ample opportunity to taxpayers as well as the system to adapt, the new return system to be introduced in a phased manner, as described below:**

- Between July, 2019 to September, 2019, the new return system (**FORM GST ANX-1& FORM GST ANX-2 only**) to be available for trial for taxpayers. Taxpayers to continue to file FORM GSTR-1& FORM GSTR-3B as at present;
- From October, 2019 onwards, **FORM GST ANX-1 to be made compulsory**. Large taxpayers (having aggregate turnover of more than Rs. 5 crores in previous year) to file FORM GST ANX-1 on monthly basis whereas small taxpayers to file first FORM GST ANX-1 for the quarter October, 2019 to December, 2019 in January, 2020
- For October and November, 2019, **large taxpayers to continue to file FORM GSTR-3B on monthly basis and will file first FORM GST RET-01 for December, 2019 in January, 2020**. 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 ANX-2 may be viewed simultaneously during this period but no action shall be allowed on such FORM GST ANX-2;

- 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 GSTRET-01 for the quarter October, 2019 to December, 2019 in January, 2020; v. **From January, 2020 onwards, FORM GSTR-3B to be completely phased out.**
- Rule 138E of the CGST rules, pertaining to blocking of **e-way bills on non-filing of returns** for two consecutive tax periods, to be brought into **effect from 21.08.2019, instead of the earlier notified date of 21.06.2019.**
- Last date for filing of intimation, in **FORM GST CMP-02**, for availing the option of payment of tax under **notification No. 2/2019-Central Tax (Rate) dated 07.03.2019**, to be extended from **30.04.2019 to 31.07.2019**

## ii. Rate related Changes

- **Rate cut decision on electric vehicles, chargers & leasing thereof deferred; Committee to submit its report** – The decision to cut GST rates for electric vehicles and electric chargers have been postponed to the next Council meeting. The matter has been referred to the Fitment Committee for checking the feasibility of the rate cut. At present, the GST rates for electric vehicles and electric chargers are 12% and 28% respectively.
- **Solar Power Generating Systems and Wind Turbines**– In terms of order of the Hon'ble High Court of Delhi, GST Council directed that the issue related to valuation of goods and services in a solar power generating system and wind turbine be placed before next Fitment Committee.
- **Rate cut for lottery put on hold; Matter to be referred before an Attorney General** – The previous council meet had not tabled the rate cut matter for lotteries. The 35th GST Council meeting discussed the matter at length and also brought to light two pending cases on this matter before the high court and supreme court respectively. Although the courts had referred the matter back to GST Council, the Council has decided to consult the Attorney General of India.

## iii. Issues other than Rate and Law changes

- **National Anti-profiteering Authority tenure extended by two years** – Tenure of **National Anti-profiteering Authority (NAA)** was due to end by 30 November 2019. GST Council has further extended this tenure by two years, to enable it to take up all the pending cases. Hence, the authority can take up new cases in future due to rate cut issues, indicating that the GST Council has plans for further rationalisation of GST rates.
- **E-invoicing to start from January 2020** –The new system for raising all the tax invoices on the GST portal has received in-principle approval for implementation from 1 January 2020. This applies to only B2B invoicing. By this system, no separate e-way

bill will be required in case of e-invoice. Returns to be framed from these e-invoices. A phased implementation is being worked out. Earlier, the government had fixed Rs 50 crore as the limit for the applicability of e-invoicing.

- **GSTAT to be GST Appellate Tribunal-** The Council took a decision regarding location of the State and the Area Benches for the Goods and Services Tax Appellate Tribunal (GSTAT) for various States and Union Territories with legislature. It has been decided to have a common State Bench for the States of Sikkim, Nagaland, Manipur and Arunachal Pradesh.

## Links to Read GST Council Press Releases

### CBIC extends due date of FORM GSTR-9, GSTR-9A & GSTR 9C

### 35th GST Council Meeting- GST rate related change

### NAA tenure extended for 2 Years; Phased electronic invoicing system introduction; Decision on GSTAT

## B. GST Compliance Calendar – July 2019

Return		Last Date
GSTR-1	Outward supply for the month of June 2019	11 <sup>th</sup> July 2019
GSTR-5	Non-resident foreign taxpayers return for the month of June 2019	20 <sup>th</sup> July 2019
GSTR-6	Input service distributor for the month of June 2019	13 <sup>th</sup> July 2019
GSTR-7	Tax Deducted at Source for June 2019	10 <sup>th</sup> July 2019
GSTR-8	Tax Collected at Source by e-commerce operator for June 2019	10 <sup>th</sup> July 2019
GSTR-3 B	Summary return tax payment for the month of June 2019	20 <sup>th</sup> July 2019

## C. Important Cases decided

**i. Carrying Lorry receipt is not a requirement under rule 138A-** Authority detained the vehicle as well as the goods of the assessee on the ground that the lorry receipt issued by the transporter was photocopy without computerized serial number and contact number details. Reference was made to Rule 138A(1) of **CGST Act, 2017** which stipulates that the person in-charge of conveyance is required to carry:

- the invoice or bill of supply or delivery challan, as the case may be;
- a copy of the e-way bill in physical form or the e-way bill number in electronic form
- In so far as the Lorry Receipt issued by the transporter is concerned, carrying the same is not a requirement prescribed under rule 138A(1) of the rules.

By way of further interim relief, the Competent Authority was to be directed to forthwith release the truck along with the goods contained therein (**M/s. FS Enterprise Vs. State of Gujarat [2019] 105 taxmann.com 303 (GUJARAT)**)

**ii. AAR cannot give ruling on “Place of supply”** – The Applicant is engaged in manufacture of Hand-made Cutting Knives for Shoe industries and they serve overseas as well as local customers. They have stated that they get orders from overseas customers, but delivery is made locally (within Tamil Nadu) and payment is received in foreign currency. It was held that **the issue for which Advance Ruling is sought depends on the ‘Place of Supply’ of the goods, which is not in the ambit of this authority. (Dagger Die Cutting (India) (P.) Ltd. [2019] 105 taxmann.com 319 (AAR-TAMILNADU))**

**iii. Sweetshop is not rendering composite supply of services** – The applicant is running sweetshop and a restaurant in two distinctly marked separate parts of the same premises and is also maintaining separate accounts as well as separate billings for the two types of business. The goods sold from the sweetshop are being billed exclusively as sweetshop sales; whereas the goods supplied from the restaurant are billed under restaurant head. It was held that Sweetshop shall be treated as extension of restaurant and supplies thereof shall be treated as supply of service. (**Kundan Mishthan Bhandar [2019] 105 taxmann.com 364 (AAR-UTTARAKHAND)**)

Also Read AAAR Ruling–**Sale of sweets, namkeens etc. is ‘composite supply’ and no input credit allowed: AAAR**

**iv. Nodal Officer to consider error committed in TRAN-1 due to taxpayers** – Assessee’s after receiving report from the Chartered Accountant, appointed for undertaking audit of the Cenvat Credit for the period between Apr’16 to June’17, realised that they had not reported credit of certain eligible credits in ER-1 and consequently in Form GST TRAN- 1 due to change in ERP Software in 2016-17, which had been already recorded in the books of account. In this case it was held that even on the technical glitches arising out of the assessee’s inadvertence required to be addressed by Nodal Officers appointed in terms of Circular instructions dated 3-4-2018 . It would be appropriate for this court to direct the petitioner to approach the Nodal Officer appointed for State of Karnataka in terms of Circular dated 3-4-2018. Hence, the writ petition is disposed of with a direction to the petitioner to approach the jurisdictional Nodal Officer. (**M/s Kongovi Pvt. Ltd. Vs. Union of India [2019] 105 taxmann.com 267 (KARNATAKA)**)

## **II. Customs Updates**

**i. Seeks to further amend notification No. 50/2017-Customs dated 30.06.2017 to implement the imposition of retaliatory duties on 28 specified goods originating in or exported from USA and preserving the existing MFN rate for all these goods for all countries other than USA- This notification shall come into force from the 16th day of June, 2019. Notification No.17/2019-Customs**

**ii. Seeks to increase the tariff rate of customs duty on lentils, boric acid and laboratory reagents by amending First schedule to the Customs Tariff Act, 1975 under emergency powers under section 8A of the Customs Tariff Act.**

In the First Schedule to the said Customs Tariff Act,-

(1) in Chapter 7, for the entry in column (4) occurring against tariff item 0713 40 00, the entry "50%" shall be substituted;

(2) in Chapter 28, for the entry in column (4) occurring against tariff item 2810 00 20, the entry "27.5%" shall be substituted;

(3) in Chapter 38, for the entry in column (4) occurring against tariff item 3822 00 90, the entry "30%" shall be substituted. **Notification No.16/2019-Customs**

**iii. Manufacture and other operations in Warehouse Regulations, 2019**— In exercise of the powers conferred under section 157 read with section 65 of the Customs Act, 1962 (52 of 1962), and in supersession of the Manufacture and Other Operations in Warehouse Regulations, 1966, except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs (hereinafter referred as "Board"). These regulations may be called the Manufacture and Other Operations in Warehouse Regulations, 2019. They shall come into force on the date of their publication in the Official Gazette **Notification No.44/2019-Customs (NT)**

**iv. Seeks to amend notification No. 23/2013-Customs(ADD), dated the 10th October, 2013 to extend the anti-dumping duty on ductile iron pipes originating in, or exported from China PR till 9th October, 2019– Notification 25 /2019-Customs (ADD)**

**v. Seeks to extend levy of anti-dumping duty till 09.07.2019, on imports of " Paracetamol" originating in or exported from china PR, extended vide notification No. 39/2018 Customs (ADD), dated the 20th August, 2018, in pursuance of order of Hon'ble High Court of Gujarat in the matter of SCA 5278/2019. Notification 26 /2019-Customs (ADD)**

**vi. Seeks to impose definitive countervailing duty on "New/Unused pneumatic radial tyres with or without tubes and/or flap of rubber (including tubeless tyres), having nominal rim dia code above 16" used in buses and lorries/trucks" originating in or exported from, People's Republic of China. Notification 1/2019-Customs(CVD)**

### III. Central Excise & Service Tax

#### **i. Revised Procedure for electronic filing of Central Excise returns and for electronic payment of Excise duty and Service tax arrears under the new portal [www.cbic-gst.gov.in](http://www.cbic-gst.gov.in).**

– Consequent to the roll out of GST w.e.f 01<sup>st</sup> July 2017 , GST tax payers are required to transact through common portal [www.cbic-gst.gov.in](http://www.cbic-gst.gov.in). the tax payers who deals in goods still attracting Excise even after 01<sup>st</sup> July 2017 continue to access [www.cbic-gst.gov.in](http://www.cbic-gst.gov.in) to register, file returns, file refund applications as well as make payments. Service tax payers also access [www.cbic-gst.gov.in](http://www.cbic-gst.gov.in) to pay arrears as well to file ST-3 along with applicable interest / penalty etc. During migration of data from ACES application to ACES GST application from 02<sup>nd</sup> May-2019 to 25<sup>th</sup> May 2019 both tax payers and departmental officers not able to do any transactions. The taxpayers continue to make payment through e-payment menu or directly on EASIEST portal. On the completion of integration and migration of data, the application will be available for taxpayers and departmental officer at [www.cbic-gst.gov.in](http://www.cbic-gst.gov.in) and <https://appstore.cbic.gov.in> (**Circular no. 1069/2/2019 CX dated 08<sup>th</sup> May 2019**)