



Analysis of important FAQ Clarified by CBEC

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Certain clarification has been issued by CBEC in GST in relation to the certain queries raised for applying the provisions of the GST. Thus, the query has been resolved in the form of FAQ's released by CBEC which are stated as here under.

Registration:

Q. Does aggregate turnover include value of inward supplies received on which tax is paid on Reverse Charge basis?

Ans: As per the relevant provisions¹ Aggregate Turnover does not include value of inward supplies on which tax is payable on reverse charge basis.

Q. Whether aggregate turnover includes turnover of supplies on which tax is payable by the recipient under reverse charge?

Ans: Aggregate Turnover² means the aggregate value of all taxable supplies, exempt supplies, exports of goods or services or both and interstate supplies of person having the same PAN, to be computed in all India Basis but excludes taxes paid under this act.

Hence, the outward supplies on which tax is payable on reverse charge basis by the recipient shall be included in the aggregate turnover.

Q. A taxable person's business is in many states. All supplies are below 10 Lakhs. He makes an Inter State supply from one state. Is he liable for registration?

Ans. Irrespective of the threshold limit of Rs 20 lakhs if a person is engaged in any interstate³ transaction then he may be liable to take registration.

Q . Can provisional GSTIN be used till new one is issued?

Ans. As per the information available from the GSTN site, the Provisional GSTIN can be used till the final GSTIN is issued. Moreover, the Provisional GSTIN shall get converted into Final GSTIN within 90 days.

Q. If there are two SEZ units within same state, whether two registrations are required to be obtained?

Ans. SEZ's under the same PAN in a state require a single registration⁴.

Q. Enrolment done in GST but SAC code for service not entered. How to rectify the same?

Ans. The same can be rectified while filing FORM REG 26 for converting the provisional ID to final registration.

¹ Section 2(6) of the CGST Act, 2017

² Section 2(6) of the CGST Act, 2017

³ Sec 24(i) of the CGST Act, 2017

⁴ Rule 8(1) of the CGST Rules

Q. Whether rental income attract GST?

Ans. GST is leviable only if aggregate turnover is more than Rs. 20 Lakhs. The aggregate turnover shall include all form of supplies⁵ including rental income.

Q. If a person deals exclusively in exempt goods/ services or trades in zero rated supplies is it necessary for such person to take registration for GST, if the turnover exceeds Rs 20 lakhs?

Ans. A person dealing 100% in exempted supplies or zero rated supplies are not liable to registration⁶.

Q. If a person is not liable for registration under GST but on the basis of Service tax registration migrated to GST. What compliance needs to be made by such person?

Ans. Such person shall apply for cancellation of Provisional ID so received on or before 31st July, 2017 through FORM GST REG 28.⁷

Q. If a person wants to take new registration under GST, when can he do so?

Ans. One needs to apply for new registration at the GST common portal www.gst.gov.in through as and when the portal becomes active for the same.

Refund :

Q. As an exporter, how do I ensure that my working capital is not blocked as refunds?

Ans. Exporter shall be provided 90% refund on provisional basis within seven days from filing of claim for refund⁸.

⁵ Section 7(1)(a) of the CGST Act, 2017

⁶ Section 23(1)(a) of the CGST Act, 2017

⁷ Rule 24 of CGST rules, 2017

⁸ Section 54 of CGST Act

Composition scheme :

Q. Whether GST is required to be paid by a person registered under composite scheme if goods purchased from unregistered person under reverse charge mechanism?

Ans. GST is required to be paid by the composite dealer if the goods are purchased from unregistered dealer under reverse charge⁹.

Exports:

Q . Are there exemptions for SEZ? How will a SEZ transaction happen in GST regime?

Ans. SEZ supplies are to be treated as zero rated supplies under GST¹⁰.

Q. When goods are being imported from SEZ who will pay IGST?

Ans. Such supply is treated as import and present procedure of payment of duty continues with the variation that IGST is levied in place of CVD.

Input tax credit :

Q. Can CGST/ SGST / IGST input under one GSTIN be used to pay liability under another GSTIN?

Ans. Cross utilisation among GSTIN of input tax credit is not permissible under GST.

Q. In case of service supplied, should the credit be given to the state where it is billed or the state it is rendered?

Ans. As the GST is levied based on the destination/consumption therefore the credit will be given in the state where the services is rendered.

Q. Company is engaged in manufacturing of cement and power. Which rule to be referred for reversal of credit related to power business?

Ans. Where the supplier is engaged in the supply of taxable and exempt goods or services, input tax credit with respect to exempted supplies is required to be reversed under ITC rules¹¹.

⁹ Sec 10 of CGST Act

¹⁰ Sec 16 of IGST Act

¹¹ Rule 7 of ITC rules

Q. How will the credit / debit note from unregistered supplier be reported to GSTN and ITC claimed in the same?

Ans. The registered person is required to issue credit/ debit notes on behalf of unregistered person. The registered person is required to report the same in GSTR 2.

Invoice:

Q. Whether a person supplying taxable and exempt products to the same person is required to issue tax invoice and bill of supply?

Ans. As per the clarification provided by CBEC only tax invoice needs to be issued to declare both taxable and exempt supply.

Q. How to treat following transaction in GST

- (i) Delivered supply shortages in Transit ;**
- (ii) Customer gets less quantity and pays less**

Ans. The adjustment will be made through issue of credit note¹².

Q. Should we issue Self Invoice for GST liability discharge on RCM or GST can be discharge through expenses booking voucher?

Ans. Self invoicing is mandatory in case of Reverse Charge Liabilities.

Returns :

Q. Do registered dealers have to upload sale details of unregistered dealers also in GST?

Ans. In case of sales to unregistered dealers, invoice wise details are not required to be uploaded in GSTR 1 except in case of interstate supplies having invoice value of more than 2.5 lacs.

Supply:

Q. What is the limit for discharging GST liability under reverse charge?

Ans. As per the clarification issued by CBEC the limit is Rs. 5000 per day in respect supplies received from unregistered person¹³.

¹² Sec 34 of CGST Act

¹³ Notification 10 of CGST Act

Q. Whether GST will be leviable in case of returnable packing material like drums supplied with finished goods?

Ans. GST is leviable on the value charged by the supplier.

Q. How will disposal of scrap be treated in GST?

Ans. If the disposal of the scrap is in the course of furtherance of business then it shall be considered as supply¹⁴.

Q. What is the difference in between 'Nil rated', 'taxable at 0%' and exempted goods and services? Especially in relation with ITC.

Ans. Exempt supplies means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non taxable supply¹⁵. Input Credit is not available for exempt supplies.

Q. Employer provides bus service, meal coupon, telephone at residence, gives vehicle for official and personal use, uniform and shoes, any GST?

Ans. Where the value of such supplies is in the nature of gifts, no GST will apply till value of such gifts exceeds Rs. 50,000/- in a financial year.

Q. Whether slump sale will attract GST. If yes then under which Section?

Ans. It will be treated as supply under Schedule 1 of CGST Act.

Transition Provisions:

Q. How to avail transition credit?

Ans. Transition credit can be availed by filing the **Form Tran 1 and Tran 2** as per the transition rules within 30/09/2017.

Q. Will area based exemption continue under GST?

Ans. Area based exemption would not continue under GST.

¹⁴ Sec 7 of CGST Act

¹⁵ Sec 2(47) of CGST Act

Q. How the dealers will get the credit of the closing stock of goods excisable which are manufactured by a unit available in area based exemption?

Ans. As the dealers who procure the goods from the area based exempt excise manufacturers then such dealers will not be in possession of any excise invoice or taxpaying document. Then the dealer will be eligible to get deemed credit¹⁶ @ 40%/ 60% of the CGST paid on supply of such goods in GST.

Q. If a trader purchases directly from manufacturer and has documents showing excise, will he get full credit or 60%/40% of CGST?

Ans. The registered dealer will be eligible to get full transition credit of such duty available on stock in hand in respect of which duty paying document is available subject to such condition as laid under the relevant provisions of the law¹⁷.

Q. What will be the impact of the closing stock which has been already paid VAT on 1st July, 2017?

Ans. The supplier would be eligible to carry forward ITC on such stock from VAT Return for June 17'.

Q. If refund claim in the VAT return has been shown then how the same shall be processed?

Ans. The refund claimed under existing law will be handled as per the provisions of the existing law¹⁸.

Q. Will credit of capital goods in transit received post GST eligible for credit?

Ans. The Act is silent on the same. No such provisions have been notified till date.

Q. A trader buys from manufacturer not registered in excise as his turnover is below 1.5 crore. Then in such a case can traders take Input tax credit in full or 40/60%?

Ans. As the trader purchases the goods from the unregistered manufacturer so he is not in possession of any excise paying document. So such traders will be eligible to get deemed credit in the form of 60%/40% of stock in hand as per the Transition Rules¹⁹.

Q. Can Input Tax Credit of Swachh Bharat Cess or Krishi Kalyan Cess be carried forward under GST?

Ans. As per the clarification issued by CBEC the credit of Swachh Bharat Cess and Krishi Kalyan Cess shall not be carried forward under GST.

Q. Will Clean Energy Cess be applicable in GST?

Ans. Clean Energy Cess has been repealed as per the Taxation Laws (Amendment) Act, 2017.

¹⁶ Sec 140(3) of CGST Act, 2017

¹⁷ Sec 140(3) of CGST Act, 2017

¹⁸ Sec 142(3) of CGST Act, 2017-06-30

¹⁹ Sec 140(3) and Transition rule 1(4) of CGST Act, 2017

Q. Whether closing balance of education cess and secondary higher education cess prior to 1st March, 2015 can be carried forward in GST?

Ans. As per the clarification issued by CBEC the closing balance of education cess and higher education cess will not be carried forward in GST as it is not covered by definition of eligible duties and taxes²⁰.

Miscellaneous:

Q. In GST what duties will be levied on imports of goods?

Ans. As per the Clarification issued by CBEC the imports in GST Regime would be chargeable to Basic Customs Duty, Cess as applicable, Integrated GST and GST Compensation cess. Integrated GST and GST Compensation Cess shall be paid after adding all Customs Duty and custom cess to the value of imports.

The same has also been clarified through a Guidance note issued to Importers/Exporters by CBEC.

Q. Is E-Way applicable from 1st July, 2017?

Ans. As per the Notification of the CGST Act²¹ the E way Bill has been postponed for the certain period of time. For such period the current system for Way bill in states shall continue.

²⁰ Sec 140 of the CGST Act, 2017

²¹ Notification no. 10/2017 of CGST Act, 2017

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