



Ignorance may be bliss but never an excuse in tax. With more and more happenings in the field of GST, it's a challenge to be updated. In an effort to help in updation, SA's Newsletter in its new Avatar is back with a fortnightly periodicity. It will hit your screens on 1st and 16th of every month covering the happenings in the preceding fortnight.

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1 M/s. Karnataka Co-Operative Milk Producers Federation Ltd, 2019-TIOL-385-AAR-GST

The Authority for Advance Ruling held that in flavored milk, the predominant constituent is milk and hence “flavored milk” does not merit classification as beverage containing milk under tariff heading 2202 9930, but merits classification as milk, under tariff heading 0402.



Atlast the AAR is treading the Milky way.

2 Hardcastle Restaurants PVT Ltd Vs. UOI, 2019-TIOL-2419-HC-MUM-GST

The Hon'ble Mumbai High Court has held that, the presence of a Member during the hearing is not a formality. Fourth member joining, only for signing the order has resulted in violation of principles of natural justice and fairness.



Will that anyway change the decision?

3 M/s. Square One Homemade Treats, 2019 (11) TMI 131 – AAR Kerala

Sale/Resale of food and bakery products in a bakery is not a restaurant service. It is held that a restaurant is a place of business where food is prepared in the premises and served based on the orders received from the customer, bakery is where ready to eat items are sold and mere facility is provided to have it from the shop..



A cake is a cake is a cake, wherever you eat it!

4 Prakashsinh Hathisinh Udavat Vs. State of Gujarat, 2019-TIOL-2431-HC-AHM-GST

Carrying out search by an officer without having proper authorisation from an officer not below the rank of Joint Commissioner is violation of natural justice.



Next time they will come with proper authorization!



5 Rich Diary Products India Pvt Ltd, 2019 (10) TMI 1186

The AAR Tamil Nadu, held that the Carbonated Fruit Juice falls under Fruit Juices and not under Aerated drinks. They fall under CTH 22021020 or CTH 22027090 depending on the flavor.

6 Insha Trading Company Vs. State Of Gujarat, 2019 (10) TMI 938

The Hon'ble Gujarat High Court has held that, detention and confiscation can be made only for discrepancy in e-way bill or invoice and not for any other reason.

7 M/s. Chennai Port trust, 2019 (10) TMI 1204 – AAR, TN

With respect to delayed or uncertain rental receipts, it was ruled that Time of supply shall be determined by the fact whether a periodical Rent Claim Advice is issued or not. In the case where Rent Claim Advice is issued, the Time of supply shall be the earliest of date of invoice or Rent Claim Advice or date of payment, while in cases where Rent Claim Advice is not issued, Time of supply shall be determined by Sec. 13(2)(b), as the earliest of date of provision of service or the date of

receipt of payment. AAR rules that if the rent invoices are issued before due date of payment, then Time of supply shall be earliest of date of invoice or Rent Claim Advice and if the invoices are issued after due date of payment, then it shall be the date of provision of service (which is the end of recurrent period specified in the agreement after which the rent/license fee is to be paid).

M/s. Vista Marine and Hydraulics, 2019-TIOL-431-AAR-GST – AAR, Kerala

Supply of spare parts/accessories and repair service are distinct and separately identifiable supplies for which the rates are quoted differently and work orders are issued separately - such supply under the Repair Rate Contract cannot be considered as composite supply. Where a supply involves supply of, both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.



If not this, then what else would be a composite supply?





NOTIFICATIONS & CIRCULARS



CENTRAL TAX NOTIFICATIONS - OCTOBER 2019

NO	DATE	GIST
44/2019	9/10/2019	The due date for GSTR-3B for the months of October, 2019 to March, 2020 - On or before the 20th day of the month succeeding such month.
45/2019	9/10/2019	The due date for GSTR-1 for registered persons having aggregate turnover of up to 1.5 crore rupees for the quarters, October, 2019 to December, 2019 - 31st Jan, 2020 January, 2020 to March, 2020 - 31st April, 2020
46/2019	9/10/2019	The due date for GSTR-1 for registered persons having aggregate turnover more than 1.5 crores. For the months of October, 2019 to March, 2020 - On or before the 11th day of the month succeeding such month.



NO	DATE	GIST
47/2019	9/10/2019	Filing of annual return under section 44 (1) of CGST Act FORM GSTR - 9 for F.Y. 2017-18 and 2018-19 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date.
48/2019	9/10/2019	Extension in due date for filing of GST returns for the state of J&K.
49/2019	9/10/2019	Amendment in CGST Rules, 2017. (Note on this notification is prepared by SA. Can be found in the Link: Provided below in GST Alert Column)
50/2019	24/10/2019	The due date for furnishing the statement containing the details of payment of self-assessed tax for Composition dealer in FORM GST CMP-08, for the quarter July, 2019 to September, 2019, shall be the 22.10.2019. This notification shall be deemed to have come into force with effect from the 18.10.2019



NO	DATE	GIST
51/2019	31/10/2019	<p>Amends Notification No. 02/2017- C.T.R, for the words State of J&K, UT of J&K and UT Ladakh is substituted.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <p>Before</p>  </div> <div style="text-align: center;"> <p>Now</p>  </div> </div>

CSGT CIRCULARS - OCTOBER 2019

NO	DATE	GIST
110/2019	3/10/2019	Seeks to clarify the eligibility to file a refund application in FORM GST RFD-01 for a period and category.
111/2019	3/10/2019	Seeks to clarify procedure to claim refund in FORM GST RFD-01 subsequent to favourable order in appeal or any other forum



NO	DATE	GIST
112/2019	3/10/2019	Seeks to withdraw Circular No. 105/24/2019-GST dated 28.06.2019. Circular dealing with the post sale discount is withdrawn.
113/2019	11/10/2019	Clarification regarding GST rates & classification (goods) Circular-reg.
114/2019	11/10/2019	Clarification on scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both
115/2019	11/10/2019	Clarification on issue of GST on Airport levies.
116/2019	11/10/2019	Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts by individual donors.



NO	DATE	GIST
117/2019	11/10/2019	Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India.
118/2019	11/10/2019	Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry.
119/2019	11/10/2019	Clarification regarding taxability of supply of securities under Securities Lending Scheme, 1997.
120/2019	11/10/2019	Clarification on the effective date of explanation inserted in notification No. 11/2017- CTR dated 28.06.2017, Sr. No. 3(vi).
121/2019	11/10/2019	Clarification related to supply of grant of alcoholic liquor license.

The GIST of the circulars prepared by SA is provided in the Link: <https://www.swamyassociates.com/latest-news.htm>





REVENUE AND STATISTICS



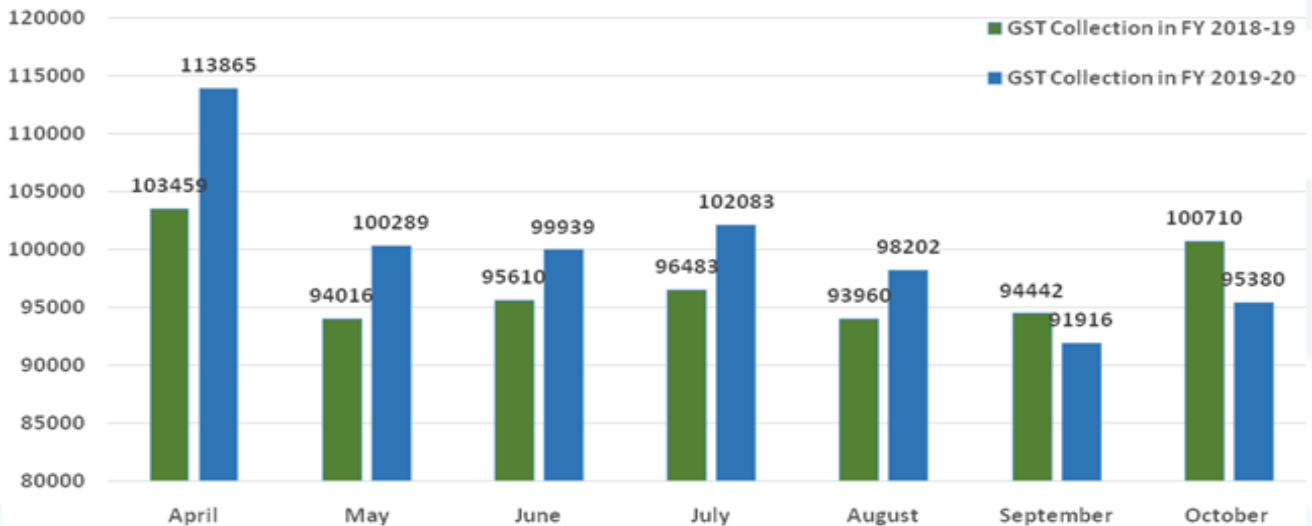
GST collection remains below Rs 1 lakh crore for three consecutive tax periods.

The gross GST revenue collected in the month of October, 2019 is **₹ 95,380 crore** of which CGST is **₹ 17,582 crore**, SGST is **₹ 23,674 crore**, IGST is

₹46,517 crore (including **₹1,446 crore** collected on Imports) and Cess is **₹ 7,607 crore** (including **₹ 774 crore** collected on imports).

The total number of GSTR 3B Returns filed for the month of September up to 31st October, 2019 is **73.83 lakh**.

Trends in GST Collection in Rs. Crore



E-Way Bill during the month of October 2019

Number of E-way Bills generated during the month of October'2019

Intra State – 2,77,15,900

Inter State – 2,04,01,131





ANI 
@ANI

Finance Min during interaction with businessmen,entrepreneurs,CAs& others in Pune:We just can't damn GST now. It has been passed in Parliament&in all state assemblies. It might have flaws, it might probably give you difficulties but I'm sorry, it's the 'kanoon' of the country now



7:33 PM · 11 Oct 19 · [Twitter Web App](#)

319 Retweets 1,297 Likes

GST might have its flaws but it's kanoon: Finance Minister Nirmala Sitharaman



Nirmala Sitharaman  @nsith... · 11 Oct 

Replying to @ANI

Request @ANI to upload the question too, wherein the participant from the audience spoke completely deriding #GST. Had halted him to say that he's welcome to give suggestions & on his request to meet me with a delegation, gave him 23rd Oct '19 even from the dais. @FinMinIndia

Stake sale by ICICI Bank in GSTN

India's largest Private sector bank, and a stake holder in GSTN, ICICI Bank has exited the GSTN, by selling its entire 10 per cent stake to as many as 13 state governments.



**Swamy Effect?
Nay not us.**





With 89.67% of registered persons filing GST returns during April 2019 to September 2019, Chandigarh tops GST Chart in the country.

UP wants GST Compensation scheme to continue for five more years.



Government plans to introduce encrypted e-way bill on gold movement to check GST evasion.



STRAIGHT FROM GST PORTAL



E- Invoicing

The GST Council approved the standard of e-invoice in its 37th meeting held on 20th Sept 2019 and the same along concept note, Standard, Schema and Template has been published in the GST Portal.

Link: <https://www.gst.gov.in/newsandupdates/read/326>



Forms relating to GST Compliance

The list of Forms available to both Taxpayers and the authorities in the GST Portal is provided by the GSTN. The details of these forms shall be found in the link.

Link:

https://tutorial.gst.gov.in/downloads/forms_available_25092019.pdf



DRC-03

Team GSTN has issued the features of Making Payment of Tax through FORM DRC – 03 on the GST Portal.

Link: <https://www.gst.gov.in/newsandupdates/read/327>





SABKA VISHWAS

Circular No. 1073/06/2019.CX, dated 29.10.2019

The Board has issued its third Circular, clarifying various doubts on Sabka Vishwas Legacy Dispute Resolution Scheme 2019. Few important highlights of the circular are, (a) even if the appeal is filed after 30.06.2019, the benefit of the relief under the scheme is available subject to the condition that the appeal should be withdrawn; (b) in a situation where returns are filed and also tax dues are paid, the relief under this scheme is also available for waiver of interest liability and late fee.

Link of the circular: <http://cbic.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2019/Circular1073-2019-CX-signed.pdf;jsessionid=73CD350818C826B2EC5C2E701957EE21>

D.O. Letter No. 267/78/19-CX-8, dated 30.10.2019

In order to extend the relief under this scheme, the cases covered by SCN's issued on or after 01.07.2019 would also become eligible for the scheme under "arrears" category if duty/tax is confirmed in adjudication before the closure of the scheme and the taxpayer decides not to file an appeal.

FAQ

On 30.10.2019, CBIC has issued a set of FAQ's.

Link:

<http://cbic.gov.in/resources//htdocsservicetax/FAQs30.10.2019svldrs.pdf;jsessionid=CB29EDD2CC3E4C2DF99D5914B502DC9B>





The Landmark decision of Supreme Court on Taxability of supplies made by Clubs and Associations to its members.

STATUS	VAT	SERVICE TAX (16.06.2005 TO 30.06.2012)	SERVICE TAX (01.07.2012 TO 30.06.2017)
INCORPORATED CLUBS & ASSOCIATIONS	NOT LEVIABLE	NOT LEVIABLE	NOT LEVIABLE
UNINCORPORAT ED CLUBS AND ASSOCIATIONS	NOT LEVIABLE	NOT LEVIABLE*	???*

•No specific discussion about unincorporated clubs in the judgement as both the appeals involved are of limited companies. In para 79 it is observed that the Explanation in Service Tax are similar to Art. 366 (29A) and hence the above inference could be drawn as the Explanation under Sec. 65 cannot overcome doctrine of mutuality.

** The language of Explanation under Sec. 65 B (44) has the effect of overcoming the doctrine of mutuality.

What about GST scenario?

Checkout in the link:

<https://www.swamyassociates.com/presentations.htm>





ARTICLES

GST rates for Job work – Mystery unraveled	https://www.swamyassociates.com/downloads/2019/GST%20Rates%20for%20jobwork%20-%20Mystery%20unravalled%20-%20tiol.pdf
RCM on Rent a cab	https://www.swamyassociates.com/downloads/2019/RCM%20on%20Rent%20a%20cab.pdf
RCM on Renting of Motor Vehicles – Explained further	https://www.swamyassociates.com/downloads/2019/RCM%20on%20renting%20of%20motor%20vehicles%20-%20further%20explained.pdf
Ghost of Retrospective legislation in GST	https://www.swamyassociates.com/downloads/2019/Ghost%20of%20Retrospective%20legislation%20in%20GST.pdf

GST ALERTS

Eligibility of Un-reconciled ITC	https://www.swamyassociates.com/downloads/2019/ITC%20Alert%20dated%2018.10.2019.pdf
Job work and ITC-04	https://www.swamyassociates.com/downloads/2019/Job%20work%20and%20ITC%204.pdf





Clubs welcome SC verdict on service tax

'Principle of mutuality upheld'

SANJAY VIJAYAKUMAR
SANGEETHA KANDAVEL
CHENNAI

The Supreme Court's ruling that clubs need not pay sales tax/valued-added tax or service tax has been welcomed by local establishments.

"Clubs across the country, including those from Tamil Nadu, were contesting the levy of sales tax as well as service tax. The simple contention was that a club and its members are one and the same based on the principle of mutuality and agency. Hence there cannot be a sale or service by a club to its members," said K. Valtheeswaran, who was counsel for Cosmopolitan Club, one of the respondents in the case.

"All these contentions have been accepted by the Supreme Court in a batch of cases. This is good news for member clubs operating on the principle of mutuality," he said.

VAT on food

According to sources, clubs were asked to pay VAT on food supplied to the members.

After emergence of the service tax regime, they were asked to pay service tax on membership fees, food and alcohol served to members which ranged from 10-14%, which was subject of the dispute.

"This decision vindicates the stand of the club taken decades ago on mu-

 A club and its members are one and the same based on the principle of mutuality and agency. Hence there cannot be a sale or service by a club to its members

K. VAITHEESWARAN
Counsel for Cosmopolitan Club

solved," said K. Santhanakrishnan, Secretary, Cosmopolitan Club.

Divergent views

However, there are divergent views on whether the verdict will be applicable under the Goods and Services Tax regime, where the current rate is 18%.

Mr. Santhanakrishnan said it was too early to comment.

G. Natarajan, Advocate and Partner of Swamy Associates, said that this judgment will be applicable under GST also, as the provisions similar to VAT Acts/Service Tax Acts are contained in the GST Acts also.

"As per this ruling, various food and beverages supplied by a club or association to its members and various services such as accommodation, spa, sporting facilities, swimming pools, halls, etc. provided by the clubs and associations to its members shall not be chargeable to GST," according to him.

Since mutuality as a concept continues, it may

The Hindu – Chennai 05.10.2019





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WE ARE ALSO FOUND IN

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GSTR 9 & 9C

Due Date : 30/11/2019

