

To operationalize numerous recommendations proposed in 39<sup>th</sup> GST Council meeting held on 14<sup>th</sup> March 2020 Government has issued various notifications and circulars on 23<sup>rd</sup> March 2020. Summary of relevant notifications and circulars has been summarized hereunder:

### **1. GST Annual Return**

- a. Government vide NN 15/2020-CT dt. 23<sup>rd</sup> March 2010 has extended the time limit for furnishing of the annual return for the FY 2018-2019 till 30.06.2020.
- b. Threshold for GST Annual Audit increased up to Rs.5 cr. for FY 2018-19. (NN 16/2020-Central Tax dt. 23<sup>rd</sup> March 2020)

### **2.Registration**

**a) Authentication of Aadhaar number for grant of registration** - For new application of registration to be filed w.e.f. 01.04.2020, the applicant shall undergo authentication of Aadhaar number for grant of registration.

**b) Physical verification, if failure from Aadhar authentication** - Proviso to rule 9(1) has been inserted w.e.f. 01.04.2020 to clarify that where a person, other than notified under section 25(6D), fails to undergo authentication of Aadhaar number as specified in newly inserted rule 8(4A) then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, within 60 days from the application date.

**c) Aadhar verification/Physical verification of business premises**

The provisions for aadhar verification/physical verification of business premises as introduced in sections 6A, 6B, 6C and 6D of CGST Act (w.e.f. 01.01.2020) has now been notified w.e.f. 01.04.2020 vide NN 17, 18 & 19/2020-CT dt. 23.03.2020. Following are the categories of persons to undergo said authentication process:

(a) Individual; (b) authorised signatory of all types; (c) Managing and Authorised partner; and (d) Karta of an Hindu undivided family.

Also, it has been notified in NN 17/2020-CT dt. 17.03.2020 that the said provision shall not be applicable to a person who is not a citizen of India or to a class of persons other than above mentioned.

### **3. Refund**

**a) Refund of tax wrongly paid or tax paid in excess (Rule 89(4A))**- Refund of any amount paid as wrong tax or paid in excess, for which debit has been made from the electronic credit ledger, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **Form GST PMT-03**.

**b) Refund of ITC on Zero rated supply of goods without payment (Rule 89(4)(c))** - Meaning of the term 'Turnover of zero-rated supply of goods' as provided in clause (c) of rule 89(4) has been substituted as "*Turnover of zero-rated supply of goods*" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking **or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less**, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both".

The amendment has been brought to put a limit on the value of the export supply for the purpose of calculation of refund on zero rated supplies.

c) **Manner for sanctioning refund order of any amount paid as tax other than tax paid on zero rated supplies or deemed export (Rule 92(1A))** - A new Sub-rule "(1A)" has been inserted in rule 92 to prescribe the manner for sanctioning refund order for amount paid as tax other than on export or deemed export, where proper officer is satisfied that refund under 54(5) is due and payable, he shall by an order in **Form RFD-06**, sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total tax liability for the relevant period and balance amount refundable for the remaining which has been debited from credit ledger for tax payment, the office shall issue the Form PMT-03 re-crediting as ITC in credit ledger.

In relevant sub-rule (4) & (5) of rule 92, after the words, "amount refundable under sub-rule (1)", letter "or sub-rule (1A)", shall be inserted accordingly.

- d. **Explanation in rule 96(10)(b) w.e.f. 23<sup>rd</sup> October 2017** - For the purpose of this sub-rule, the benefit of the notifications mentioned therein (NN 78/2017-Customs & NN 79/2017-Customs dt. 13<sup>th</sup> October 2017) shall not be considered to have been availed only where the registered person has paid IGST and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.

Earlier, the person availing the benefit of NN 78/2017-Customs & NN 79/2017-Customs dt. 13<sup>th</sup> October 2017 was not eligible for claiming refund on tax paid on export of goods or services. Here, it has been clarified now that if the person has availed benefit of exemption of only BCD under the said notification then also the registered will be eligible for claiming refund on tax paid on export of goods or services.

- e. **Recovery of refund of Unutilized ITC or integrated tax paid on export of goods where export proceeds not realized (Rule 96B)** - Where unutilized ITC has been or integrated tax paid on export of goods has been refunded to applicant but no amount of sale proceeds in respect of export of goods has been realized within given time period, amount of refund should be deposited to the extent of that unrealized amount along with applicable interest within 30 days of the expiry of the said period or, as the case may be. Failure of deposit of amount so refunded shall be recovered as per section 73 or 74 of the CGST Act.

Where sale proceeds has been realized by the applicant, in full or part, after the recovery of refund amount, and the applicant produces evidence of such realization within 3 month of realization of sale proceeds, the amount recovered shall be refunded (proportionate to the amount of sale proceeds) by the proper officer provided the sale proceeds have been realised within extended period as permitted by the RBI.

Further, the refund paid to the applicant shall not be recovered where the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits.

*(NN 16/2020-Central Tax dt. 23<sup>rd</sup> March 2020)*

**4. Manner of determination of ITC in respect of capital goods and reversal thereof in certain cases. Rule 43** - Recently, amendment has been brought in clause (c), (d) and (e) of rule 43(1) in order to remove anomalies in earlier provision and clause (f) of rule 43(1) has been omitted. After going through the amended provisions, we think circular is required for better understanding.

## **5. E-Invoicing**

**Date for implementation of E-Invoicing and QR code:** Implementation date for E-Invoicing and QR code has been extended to 1<sup>st</sup> October 2020.

(NN 13 & 14 /2020-CT dt. 23.03.2020)

b. **Exemption to certain cases of registered person from issuing E-Invoice:** Following registered persons/category of services have been exempted from issuing E-Invoice even if the turnover exceeds Rs.100 cr:

- Insurance company or banking company or financial institution including NBFC
- GTA supplying services of transportation of goods by road in a goods carriage
- Passenger transportation services
- Services by of admission to exhibition of cinematograph films in multiplex screens

(NN 13/2020-CT dt. 23.03.2020)

c. **Eligibility and Exemption to certain cases of registered persons capturing dynamic QR code:** An invoice issued by a registered person, whose aggregate turnover in a financial year exceeds Rs.500 cr. to an unregistered person (viz. B2C), shall have Dynamic Quick Response (QR) code, however, following registered persons/category of services have been exempted from mentioning QR code on invoice issued to unregistered person, even if the turnover exceeds Rs.500 cr:

- Insurance company or banking company or financial institution including NBFC
- GTA supplying services of transportation of goods by road in a goods carriage
- Passenger transportation services
- Services by of admission to exhibition of cinematograph films in multiplex screens
- Registered person providing online information and database access or retrieval services

Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code

(NN 14/2020-CT dt. 23.03.2020)

#### **6.Clarification in respect of apportionment of ITC in cases of business reorganization-**

Various issues have been clarified for distribution of ITC in case of restructuring of business under Section 18(3) read with Rule 41(1), due to ambiguity in provisions, as follows:

S.no.	Issue	Clarification
1.(a) (i)	In case of de-merger proviso to rule 41(1) says that ITC shall be apportioned in the ratio of the value of assets of the new units. Whether the value of asset is considered as state level or at all India level?	A person having same PAN required to take separate registration in different state and each registration is known as separate entity. So, the value of assets of the new units is to be taken at the State level.
(ii)	Is the transferor required to file Form GST ITC – 02 in all states?	No, only in the state of both transferor and transferee.
(b)	Whether the proviso to rule 41(1) shall be applicable to calculate the amount of transferable ITC, other form of business and where part of business is transferred	Yes, the formula for apportionment of ITC, shall be applicable for all forms of business organisaton.

	as a going concern?	
c.(i)	Whether the ratio of value of assets, in rule shall be applied in respect of each ITC head separately viz. CGST/ SGST/ IGST/ Cess?	No, it shall be applied to the total amount of unutilized ITC of the transferor sum of CGST, SGST/UTGST and IGST credit. Said formula also applicable for cess.
(ii)	How to determine the amount of ITC that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of Form GST ITC-02 by the transferor?	The amount of ITC to be transferred should not exceed the amount of ITC to be transferred according to rule 41(1). However, the transferor shall be at liberty to determine the amount to be transferred under each tax head within this total amount, subject to the ITC balance available with the transferor.
(d) (i)	It is not clear as to which date shall be relevant to calculate the amount of unutilized ITC balance of transferor?	Rule 18(3) says that "the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger" and rule 41(1) also prescribes transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee.
(ii)	Which date shall be relevant to calculate the ratio of value of assets, as prescribed in the proviso to rule 41(1)?	Appointed date of demerger. It is the date from which the scheme for demerger comes into force as specified in respective Scheme.

(Circular - 133 03/2020 - GST dt. 23.03.2020)

**7. Clarification in respect of issues under GST law for companies under Insolvency and Bankruptcy Code, 2016:** Clarification for recovery and other proceeding has been provided in respect of companies which have undergone Insolvent bankrupt and has filed for the same under Insolvency and Bankruptcy code. Now, the proceedings will be initiated as per the process prescribed in Circular 134 04/2020 dated 23<sup>rd</sup> March 2020.

(NN 11/2020-CT dt. 23.03.2020 read with Circular-134 04/2020 GST dt. 23.03.2020)

**8. Certain extensions for taxpayers located in the erstwhile state of J&K or converted UT of J&K or Ladakh:**

S. No.	Notification	Return for	Period	Extended date	Class of persons	Applicability
1	Notification No. 20/2020	Form GSTR-7	July to Oct 2019	24-Mar-20	Principal place of business is in the erstwhile State of J&K	Retrospective amendment from 20 December 2019
2		Form GSTR-7	Nov 2019 to Feb 2020	24-Mar-20	Principal place of business is in the UT of J&K or Ladakh	
3	Notification No. 21/2020	Form GSTR-1 (Quarterly)	Oct to Dec 2019	24-Mar-20	Principal place of business is in the erstwhile State of J&K, UT of J&K or Ladakh	Retrospective amendment from 31 January 2020

4	Notification No. 22/2020	Form GSTR-1 (Monthly)	Oct-19	24-Mar-20	Having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year and principal place of business in the erstwhile state of J&K	Retrospective amendment from 20 December 2019
5		Form GSTR-1 (Monthly)	Nov 2019 to Feb 2020	24-Mar-20	Having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year and principal place of business in the UT of J&K or Ladakh	
6	Notification No. 23/2020	Form GSTR-1 (Monthly)	July to Sept 2019	24-Mar-20	Having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year and principal place of business in the erstwhile state of J&K	Retrospective amendment from 20 December 2019
7	Notification No. 24/2020	Form GSTR-1 (Quarterly)	July to Sept 2019	24-Mar-20	Principal place of business is in the erstwhile State of J&K	Retrospective amendment from 30 November 2019
8	Notification No. 25/2020	Form GSTR-3B	Oct-19	24-Mar-20	Principal place of business is in the erstwhile State of J&K	Retrospective amendment from 20 December 2019
		Form GSTR-3B	Nov 2019 to Feb 2020	24-Mar-20	Principal place of business in the UT of J&K or Ladakh	
9	Notification No. 26/2020	Form GSTR-3B	July to Sept 2019	24-Mar-20	Principal place of business is in the erstwhile State of J&K	Retrospective amendment from 20 December 2019

