GST UPDATE
(March, 2020)

Directorate of Training, Excise and Taxation Department, Punjab

ABSTRACT OF GST UPDATE

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(I) GIST OF GST NOTIFICATIONS

1. Deemed value of supply of lottery tickets

In order to streamline the valuation rule for the lottery with the uniform rate, rules for value of supply of lottery (Rule 31A of **CGST Rules , 2017**) under GST has been modified.
From 1 of March, 2020, the value of lottery shall be 100/128 of the face value of the ticket or the price as notified in the Official Gazette by the Organizing State, whichever is higher.
The expression "Organising State" has the same meaning as assigned to it in clause (f) of sub-rule (1) of Rule 2 of the Lottery (Regulation) Rules, 2010.

[Notification No. 08/2020 – Central Tax dated 02.03.2020]

2. Exempt foreign airlines from furnishing reconciliation Statement in FORM GSTR-9C.

The Foreign Airline should submit a statement of receipts and payments for the financial year in respect of its Indian Business operations, duly authenticated by a practicing Chartered Accountant for each GSTIN by the 30th September of the year succeeding the financial year.

[Notification No. 09/2020 – Central Tax dated 16.03.2020]

3. Special Procedure – Daman And Diu & Dadra And Nagar Haveli

On merger of the given UT's w.e.f. 26.01.2020 special procedure has been prescribed vide **Notification No. 10/2020 – Central Tax dated 21.03.2020** for enabling the transfer of balance of input tax credit (ITC) of registered persons who were till 25.01.2020 registered with both the UT's. Further the transition date shall be 31st day of May, 2020 and till the said date the registered persons are required to pay the appropriate applicable tax in the returns to be filed for the period till the transition date.

[Notification No. 10/2020 – Central Tax dated 21.03.2020]

4. Special procedure for corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016

Vide **Notification No. 11/2020 – Central Tax dated 21.03.2020** special procedure for compliance under the GST laws has been proscribed for a corporate debtor from the date of the appointment of the IRP/RP till the period they undergo the corporate insolvency resolution process. **Circular No. 134/04/2020-GST dated 23.03.2020** has also been issued to clarify certain aspects related to compliance for companies under Insolvency and Bankruptcy Code, 2016.

[Notification No. 11/2020 – Central Tax dated 21.03.2020 and Circular No. 134/04/2020-GST dated 23.03.2020]

5. Composition Suppliers

Vide **Notification No. 12/2020 – Central Tax dated 21.03.2020** the registered person who have opted for composition scheme for FY 2019-20 and who have furnished GSTR – 3B for the said period shall be exempted from furnishing FORM GSTR- 1 as well as FORM GST CMP-08.

[Notification No. 12/2020 – Central Tax dated 21.03.2020]

6. E-Invoicing And QR Code

The mandatory requirement for E-invoicing for registered persons whose aggregate turnover in a financial year exceeds INR 100 crores shall now apply from 01.10.2020 vide **Notification No. 13/2020– Central Tax dated 23.03.2020**. Also, the requirement for capturing dynamic QR code for registered persons whose aggregate turnover in a financial year exceeds INR 500 crores while making supplies to unregistered persons shall now apply from 01.10.2020 vide **Notification No. 14/2020– Central Tax dated 23.03.2020.**

[Notification No. 13/2020 and 14/2020– Central Tax dated 23.03.2020]

7. Annual Return for FY 18-19

Vide **Notification No. 15/2020 – Central Tax dated 23.03.2020** the time limit for furnishing of the annual return for FY 2018-19 has been extended till 30.06.2020.

[Notification No. 15/2020 – Central Tax dated 23.03.2020]

8. Amendments in CGST Rules 2017

1. Authentication of Aadhar Number is mandatory while obtaining GST Registration filing from 1 April 2020.
In cases, if the applicant does not have PAN Number in such cases, the application can be accepted only on physical varication at the principal place of business in the presence of the applicant within 60 days from the date of filing of the application.
Physical Verification in Certain cases – if the officer feels that physical verification is required for the principal place of business for any other reason or the applicant does not have the PAN Number, the verification report along with the photographs and other documents has to be uploaded on the common portal within 15 days of such physical verification using the Form GST REG – 30.

2. Input Tax Credit on Capital Goods
The life of capital goods for the GST purposes is considered to be five years from the date of invoice, and the amount of tax shown on the tax invoice will be reflected in the input tax credit ledger.
The input tax credit claimed has to be reversed at the rate of 5% per quarter is the capital goods are used for other than taxable supplies.
The tax to be reversed has to be computed separately for each tax and reported in GSTR– 3B.

3. GST Audit Threshold Limit for FY 2018-19
The GST Audit threshold for the financial year 2018-19 has been increased to Rs 5 crores.

4. Refund of excess payment of Taxes
If the registered taxpayer has claimed refund of the taxes paid in excess or paid wrongly in different heads, for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03.

5. Zero Rated Supplies
Turnover for Zero Rate Supply has been defined, and it means the value of zero-rated supplies made during a relevant tax period under letter of credit or bond or the value which is 1.5 time of the value of like goods domestically supplied by the same or, similarly placed, supplier as declared by the supplier whichever is lesser.

6. Order Sanctioning Refund
The proper officer while sanctioning the refund will pass on order for the re-crediting the input tax credit ledger debited to be the extent of discharging the liability for making the payment of taxes for zero who has made the application for a refund using the Form GST RFD – 06 through Form GST PMT- 03.

7. Recovery of Refund
The taxpayers who have claimed a refund for export of goods or services or both have not realized the value of the goods or services exported based on the time limit prescribed under Foreign Exchange Management Act 1999, the amount of refund claimed has to be paid with interest for the pro-rated amount which is not realized. The amount has to be remitted within 30 days of the expiry of the time period prescribed else the recovery proceedings will be initiated under Section 73 or Section 74 of the **CGST Act 2017**.
Where the sale proceeds have been written off by the Reserve Bank of India, in such cases, no recovery will be made.
The amount of refund recovered from the taxpayer for non-realization will be refunded back if the exporter pays back the amount. The amount will be refunded if the exporter claims the same within three months from the date of remittance along with valid proofs.

[Notification No. 16/2020 – Central Tax dated 23.03.2020]

9. AADHAR authentication while obtaining the registration

Notification No. 18/2020 – Central Tax and **Notification No. 19/2020 – Central Tax both dated 23.03.2020** have been issued appointing 1 April as the notified date from which Aadhar authentication shall be mandatory for authorised signatory of all types, Managing and Authorised partners of a partnership firm, Karta of an Hindu undivided family and individual proprietors in order to obtain GST registration. If Aadhaar number is not assigned to the said persons, he shall be offered alternate and viable means of identification which shall include physical verification of the principal place of business within 60 days from the date of application. However, vide

Notification No. 17/2020 – Central Tax Aadhar authentication shall not apply to a person who is not a citizen of India.

[Notification No. 17/2020, 18/2020 and 19/2020 – Central Tax dated 23.03.2020]

10. Extension of due date for furnishing following returns for person having principal place of business in erstwhile State of Jammu & Kashmir

GSTR 7	July'2019 to February'2020	24th March, 2020
GSTR 1 (Quarterly)	July to September, 2019 and October to December, 2019	24th March, 2020
GSTR 1 (Monthly)	July'2019 to February'2020	24th March, 2020
GSTR 3B	July'2019 to February'2020	24th March, 2020

[Notification 20/2020 to 26/2020-Central Tax dated 23rd March 2020]

11. Notifies due date for furnishing of GSTR 1 and GSTR 3B returns for the period April 2020 to September 2020

GSTR 1 (Quarterly)	April 2020 to June 2020	31st July 2020
	July 2020 to September 2020	31st October 2020
GSTR 1 (Monthly)	April 2020 to September 2020	11th of succeeding month
GSTR 3B	April 2020 to September 2020	20th, 22nd and 24th of succeeding month (As per present staggering method)

[Notification 27/2020 to 29/2020-Central Tax dated 23rd March 2020]

12. Changes in GST Rates

Sl. No.	Recommendation	Notf No & Date	Rate of GST	Effective date
1	Mobile phone and specified parts (currently taxed at 12%)	03/2020 dated 25th March 2020	18%	1st April 2020
2	All type of Matches (handmade and other matches) – Current rate for handmade is 5% and other matches is 18%	03/2020 dated 25th March 2020	12%	1st April 2020
3	ü Rate for Maintenance, Repair and Overhaul (MRO) services for aircraft ü to change place of supply for B2B MRO services to the ***location of recipient***. ü Domestic MRO will also get protection due to 5% tax paid under section 3(7) of the Customs Tariff Act, 1975 on most imported goods (sent abroad for repairs) as this tax is not available as credit.	02/2020 dated 26th March 2020	5% with full ITC (Current rate 18%)	1st April 2020

Note – Similar Notifications has been issued under IGST Act, 2017 to give effect to the aforesaid rate changes.

[Notification 2/2020 and 3/2020-Central Tax (Rate) dated 26th March 2020]

13. Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal

Circular no. 132/2/2020 – GST dated 18.03.2020 has been issued to clarify that the prescribed time limit of three months (six months in case of appeals by the Government) to make application to appellate tribunal will be counted from the date on which President or the State President enters office and not from the date of communication of order due to non-constitution of Appellate Tribunal till date. This shall apply to the orders communicated before the date on which President or the State President enters office.

[Circular no. 132/2/2020 – GST dated 18.03.2020]

14. Clarification in respect of apportionment of Input Tax Credit (ITC) in cases of business reorganization

Circular No.133/03/2020-GST dated 23.03.2020 has been issued to clarify certain aspects related to the calculation and the manner for apportionment and transfer of ITC on account of business reorganization in the nature of de-merger or transfer of business.

[Circular No.133/03/2020-GST dated 23.03.2020]

(II) CENTRAL TAX NOTIFICATIONS

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 08/2020 – Central Tax

New Delhi, the 2nd March, 2020

G.S.R……(E). - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Second Amendment) Rules, 2020.

(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017, with effect from the 1st March, 2020, in rule 31A, for sub-rule (2), the following sub-rule shall be substituted, namely:-

"(2) The value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the Organising State, whichever is higher.

Explanation:– For the purposes of this sub-rule, the expression "Organising State" has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.".

[F. No. 20/06/03/2020 – GST]

(Pramod Kumar)
Director, Government of India

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, vide number G.S.R. 610 (E), dated the 19th June, 2017 and last amended vide notification No. 02/2020 - Central Tax, dated the 01st January, 2020, published vide number G.S.R. 4 (E), dated the 01st January, 2020.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
Notification No.09/2020– Central Tax

New Delhi, the 16th March, 2020

G.S.R.....(E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the persons who are foreign company which is an airlines company covered under the notification issued under sub-section (1) of section 381 of the Companies Act, 2013 (18 of 2013) and who have complied with the sub-rule (2) of rule 4 of the Companies (Registration of Foreign Companies) Rules, 2014, as the class of registered persons who shall follow the special procedure as mentioned below.

2. The said persons shall not be required to furnish reconciliation statement in **FORM GSTR-9C** to the Central Goods and Services Tax Rules, 2017 under sub-section (2) of section 44 of the said Act read with sub-rule (3) of rule 80 of the said rules:

Provided that a statement of receipts and payments for the financial year in respect of its Indian Business operations, duly authenticated by a practicing Chartered Accountant in India or a firm or a Limited Liability Partnership of practicing Chartered Accountants in India is submitted for each GSTIN by the 30th September of the year succeeding the financial year.

[F. No-20/08/01/2019-GST]

(Pramod Kumar)
Director to the Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 10/2020 – Central Tax

New Delhi, the 21st March, 2020

G.S.R.....(E). - In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Government, on the recommendations of the Council, hereby notifies those persons whose principal place of business or place of business was in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the 26th day of January, 2020; and is in the merged Union territory of Daman and Diu and Dadra and Nagar Haveli from the 27th day of January, 2020 onwards, as the class of persons who shall, except as respects things done or omitted to be done before the notification, follow the following special procedure till the 31st day of May, 2020 (hereinafter referred to as the transition date) as mentioned below.

2. The said registered person shall,-

(i) ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of January, 2020 and February, 2020 as below:-

(a) January, 2020: 1st January, 2020 to 25th January, 2020;

(b) February, 2020: 26th January, 2020 to 29th February, 2020;

(ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from the 26th January, 2020 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;

(iii) who have registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu and the erstwhile Union territory of Dadra and Nagar Haveli till the 25th day of January, 2019 have an option to transfer the balance of input tax credit (ITC) after the filing of the return for January, 2020, from the registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu to the registered GSTIN in the new Union territory of Daman and Diu and Dadra and Nagar Haveli by following the procedure as below:-

(a) the said class of persons shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration;

(b) the ITC shall be transferred on the basis of the balance in the electronic credit ledger upon filing of the return in the erstwhile Union territory of Daman and Diu, for the tax period immediately before the transition date;

(c) the transfer of ITC shall be carried out through the return under section 39 of the said Act for the tax period immediately before the transition date and the transferor GSTIN shall debit the said ITC from its electronic credit ledger in Table 4(B)(2) of **FORM GSTR-3B** and the transferee GSTIN shall credit the equal amount of ITC in its electronic credit ledger in Table 4(A)(5) of **FORM GSTR-3B**.

3. The balance of Union territory taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Daman and Diu, as on the 25th day of January, 2020, shall be transferred as balance of Union territory tax in the electronic credit ledger.

[F. No.20/06/03/2020-GST]

(Pramod Kumar)
Director, Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 11/2020 – Central Tax

New Delhi, the 21st March, 2020

G.S.R.....(E).–In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Government, on the recommendations of the Council, hereby notifies those registered persons(hereinafter referred to as the erstwhile registered person), who are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), as the class of persons who shall follow the following special procedure, from the date of the appointment of the IRP/RP till the period they undergo the corporate insolvency resolution process, as mentioned below.

2. **Registration.**- The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration)in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP:

Provided that in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days from the commencement of this notification, with effect from date of his appointment as IRP/RP.

3. **Return.**- The said class of persons shall, after obtaining registration file the first return under section 40 of the said Act, from the date on which he becomes liable to registration till the date on which registration has been granted.

4. **Input tax credit.**-(1)The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the

provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36 of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as the said rules).

(2)Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or thirty days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-rule (4) of rule 36 of the said rules.

(5) Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP/RP to the date of registration in terms of this notification shall be available for refund to the erstwhile registration.

Explanation.- For the purposes of this notification, the terms "corporate debtor", "corporate insolvency resolution professional", "interim resolution professional" and "resolution professional" shall have the same meaning as assigned to them in the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

[F.No.20/06/03/2020-GST]

(Pramod Kumar)
Director, Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 12/2020 – Central Tax

New Delhi, the 21st March, 2020

G.S.R.....(E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2019- Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23rd April, 2019, namely:–

In the said notification, in paragraph 2, the following proviso shall be inserted, namely: –

"Provided that the said persons who have, instead of furnishing the statement containing the details of payment of self-assessed tax in **FORM GST CMP-08** have furnished a return in **FORM GSTR-3B**under the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules) for the tax periods in the financial year 2019-20, suchtaxpayers shall not be required to furnish the statement in outward supply of goods or services or both in **FORM GSTR-1** of the said rules or the statement containing the details of payment of self-assessed tax in **FORM GST CMP-08** for all the tax periods in the financial year 2019-20."

[F.No.20/06/03/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification number 21/2019 – Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.322(E), dated the 23rd April, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section(i)]

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Notification No. 13/2020– Central Tax

New Delhi, the 21st March, 2020

G.S.R. …..(E).— In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017(hereinafter referred as said rules), the Government on the recommendations of the Council, and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 70/2019 – Central Tax, dated the 13th December, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 926 (E), dated the 13th December, 2019, except as respects things done or omitted to be done before such supersession, hereby notifies registered person, other than those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of the said rules, whose aggregate turnover in a financial year exceeds one hundred crore rupees, as a class of registered person who shall prepare invoice and other prescribed documents, in terms of sub-rule (4) of rule 48 of the said rules in respect of supply of goods or services or both to a registered person.

2. This notification shall come into force from the 1st October, 2020.

[F. No.20/06/03/2020-GST]

(Pramod Kumar)
Director, Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section(i)]

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

Notification No. 14/2020– Central Tax

New Delhi, the 21st March, 2020

G.S.R. …..(E).— In exercise of the powers conferred by the sixth proviso to rule 46 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), the Government, on the recommendations of the Council, and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 72/2019 – Central Tax, dated the 13th December, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 928(E), dated the 13th December, 2019, except as respects things done or omitted to be done before such supersession, hereby notifies that an invoice issued by a registered person, whose aggregate turnover in a financial year exceeds five hundred crore rupees, other than those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of said rules, and registered person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017, to an unregistered person (hereinafter referred to as B2C invoice), shall have Dynamic Quick Response (QR) code:

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.

2. This notification shall come into force from the 1st day of October, 2020.

[F. No.20/06/03/2020-GST]

(Pramod Kumar)
Director, Government of India

To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 15/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R.....(E).– In exercise of the powers conferred by sub-section (1) of section 44 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with rule 80 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing of the annual return specified under section 44 of the said Act read with rule 80 of the said rules, electronically through the common portal, for the financial year 2018-2019 till 30.06.2020.

[F.No CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 16/2020 – Central Tax

New Delhi, 23rd March, 2020

G.S.R……(E). - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Third Amendment) Rules, 2020.

(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 8, after sub-rule (4), the following sub-rule shall be inserted, namely:-

"(4A) The applicant shall, while submitting an application under sub-rule (4), with effect from 01.04.2020, undergo authentication of Aadhaar number for grant of registration.".

3. In the said rules, in rule 9, in sub-rule (1), with effect from 01.04.2020, the following sub-rule shall be inserted, namely:-

"Provided that where a person, other than those notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases.".

4. In the said rules, for rule 25, the following rule shall be substituted, namely:-

"**Physical verification of business premises in certain cases.**-Where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication before the grant of registration, or due to any other reason

after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in **FORM GST REG-30** on the common portal within a period of fifteen working days following the date of such verification.".

5. In the said rules, in rule 43, in sub-rule (1) with effect from the 1st April, 2020,-

(a) for clause (c), the following clause shall be substituted, namely:-

"c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A, being the amount of tax as reflected on the invoice, shall credit directly to the electronic credit ledger and the validity of the useful life of such goods shall extend upto five years from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, input tax in respect of such capital goods denoted as 'A' shall be credited to the electronic credit ledger subject to the condition that the ineligible credit attributable to the period during which such capital goods were covered by clause (a),denoted as 'T_{ie}', shall be calculated at the rate of five percentage points for every quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed:

Provided further that the amount 'T_{ie}' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B**.

Explanation.- An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause."

(b) for clause (d), the following clause shall be substituted, namely:-

"the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'T_c', shall be the common credit in respect of such capital goods:

Provided that where any capital goods earlier covered under clause (b) are subsequently covered under clause (c), the input tax credit claimed in respect of such capital good(s) shall be added to arrive at the aggregate value 'T_c';";

(c) in clause (e), the following Explanation shall be inserted, namely:-

"**Explanation.**- For the removal of doubt, it is clarified that useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.";

(d) clause (f) shall be omitted.

6. In the said rules, in rule 80, in sub-clause (3), the following proviso shall be inserted, namely:-

"Provided that every registered person whose aggregate turnover during the financial year 2018-2019 exceeds five crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9C** for the financial year 2018-2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.".

7. In the said rules, in rule 86, after sub-rule (4), the following sub-rule shall be inserted, namely:-

"(4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03.**".

8. In the said rules, in rule 89, in sub-rule (4), for clause (C), the following clause shall be substituted, namely:-

'(C) "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;'.

9. In the said rules, in rule 92,-

(a) after sub-rule (1), the following sub-rule shall be inserted, namely:-

"(1A)Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make 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 amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue **FORM GST PMT-03** re-crediting the said amount as Input Tax Credit in electronic credit ledger.";

(b) in sub-rule (4), after the words, brackets and figure "amount refundable under sub-rule (1)", the words, brackets, figure and letter "or sub-rule (1A)", shall be inserted;

(c) in sub-rule (5), after the words, brackets and figure "amount refundable under sub-rule (1)", the words, figures and letter "or sub-rule (1A)", shall be inserted.

10. In the said rules, in rule 96, in sub-rule (10),in clause (b) with effect from the 23rd October, 2017, the following Explanation shall be inserted, namely,-
"Explanation.- For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.".

11. In the said rules, after rule 96A, the following rule shall be inserted, namely:-

"96B. Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised. –(1) Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount

refunded shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:

Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

(2) Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under sub-rule (1) and the applicant produces evidence about such realisation within a period of three months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.".

12. In the said rules, in rule 141, in sub-rule (2), for the word "Commissioner", the words "proper officer" shall be substituted.

13. In the said rules, in **FORM GST RFD-01**, after the declaration under rule 89(2)(g), the following undertaking shall be inserted, namely:-

"UNDERTAKING

I hereby undertake to deposit to the Government the amount of refund sanctioned along with interest in case of non-receipt of foreign exchange remittances as per the proviso to section 16 of the IGST Act, 2017 read with rule 96B of the CGST Rules 2017.

Signature-

Name –

Designation / Status".

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)

Director, Government of India

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, vide number G.S.R. 610 (E), dated the 19th June, 2017 and last amended vide notification No. 08/2020 - Central Tax, dated the 02nd March, 2020, published vide number G.S.R. 147 (E), dated the 02nd March, 2020.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 17/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R….(E).- In exercise of the powers conferred by sub-section (6D) of section 25 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies that the provisions of sub-section (6B) or sub-section (6C) of the said Act shall not apply to a person who is not a citizen of India or to a class of persons other than the following class of persons, namely:–

(a) Individual;

(b) authorised signatory of all types;

(c) Managing and Authorised partner; and

(d) Karta of an Hindu undivided family.

2. This notification shall come into effect from the 1st day of April, 2020.

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 18/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R….(E).- In exercise of the powers conferred by sub-section (6B) of section 25 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the date of coming into force of this notification as the date, from which an individual shall undergo authentication, of Aadhaar number, as specified in rule 8 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in order to be eligible for registration:

Provided that if Aadhaar number is not assigned to the said individual, he shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

2. This notification shall come into effect from the 1st day of April, 2020.

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 19/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R….(E).- In exercise of the powers conferred by sub-section (6C) of section 25 of the Central Goods and Services Tax Act, 2017 (12 of 2017) , the Central Government, on the recommendations of the Council, hereby notifies the date of coming into force of this notification as the date, from which the -

(a) authorised signatory of all types;

(b) Managing and Authorised partners of a partnership firm; and

(c) Karta of an Hindu undivided family,

shall undergo authentication of possession of Aadhaar number, as specified in rule 8 of the Central Goods and Services Tax Rules, 2017(hereinafter referred to as the said rules), in order to be eligible for registration under GST:

Provided that if Aadhaar number is not assigned to the said persons, they shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

2. This notification shall come into effect from the 1st day of April, 2020.

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 20/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R.....(E).–In exercise of the powers conferred by sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.26/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.452(E), dated the 28th June, 2019, namely:–

In the said notification, in the first paragraph, for the second and third proviso, the following provisos shall be substituted, namely: –

" Provided further that the return by a registered person, required to deduct tax at source under the provisions of section 51 of the said Act in **FORM GSTR**-7 of the Central Goods and Services Tax Rules, 2017 under sub-section (3) of section 39 of the said Act read with rule 66 of the Central Goods and Services Tax Rules, 2017, for the months of July, 2019 to October,2019, whose principal place of business is in the erstwhile State of Jammu and Kashmir shall be furnished electronically through the common portal, on or before the 24th March, 2020:

Provided also that the return by a registered person, required to deduct tax at source under the provisions of section 51 of the said Act in **FORM GSTR**-7 of the Central Goods and Services Tax Rules, 2017 under sub-section (3) of section 39 of the said Act read with rule 66 of the Central Goods and Services Tax Rules, 2017, for the months of November, 2019 to February, 2020, whose principal place of business is in the Union territory of Jammu and Kashmir or the Union territory of Ladakh shall be furnished electronically through the common portal, on or before the 24th March, 2020."

2. This notification shall be deemed to have come into force with effect from the 20th Day of December, 2019.

[F.No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification No. 26/2019 – Central Tax, dated the 28th June, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 452(E), dated the 28th June, 2019 and was last

amended by notification No. 78/2019 – Central Tax, dated the 26th December, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 957(E), dated the 26th December, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 21 /2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R.....(E).–In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby makes the following amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 45/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 768 (E), dated the 09th October, 2019, namely:–

In the said notification, in the second paragraph, the following proviso shall be inserted, namely: –

"Provided that for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir or the Union territory of Jammu and Kashmir or the Union territory of Ladakh, shall furnish the details of outward supply of goods or services or both in **FORM GSTR-1** under the Central Goods and Services Tax Rules, 2017 effected during the quarter October-December, 2019 till 24th March, 2020.".

2. This notification shall be deemed to come into force with effect from the 31stDay of January, 2020.

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)

Director, Government of India

Note: The principal notification No. 45/2019 – Central Tax, dated the 09th October, 2019was published in the Gazette of India, Extraordinary vide number G.S.R. 768(E), dated the 09th October, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 22/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R.....(E).–In exercise of the powers conferred by second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.46/2019 – Central Tax, dated the 9th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.769(E), dated the 09th October, 2019, namely:–

i. In the said notification, in the first paragraph, for the first proviso, the following proviso shall be substituted, namely: –

"Provided that for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year, for the month of October, 2019 till 24th March, 2020.".

ii. In the said notification, in the first paragraph, after the second proviso, the following proviso shall be inserted, namely: –

"Provided that for registered persons whose principal place of business is in the Union territory of Jammu and Kashmir or the Union territory of Ladakh, the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year, for the months of November, 2019 to **February**till 24th March, 2020.".

2. This notification shall be deemed to come into force with effect from the 20thDay of December, 2019

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification No. 46/2019 – Central Tax, dated the 09th October, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 769(E), dated the 09th October, 2019 and was last amended by notification No. 76/2019 – Central Tax, dated the 26th December, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 955(E), dated the 26th December, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Central Board of Indirect Taxes and Customs

Notification No. 23/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R.....(E).–In exercise of the powers conferred by second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.28/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.454(E), dated the 28th June, 2019, namely:–

In the said notification, in the first paragraph, for the first proviso, the following proviso shall be substituted, namely: –

"Provided that for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year, for each of the months from July, 2019 to September, 2019 till 24th March, 2020."

2. This notification shall be deemed to come into force with effect from the 20thDay of December, 2019

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)

Director, Government of India

Note: The principal notification No. 28/2019 – Central Tax, dated the 28thJune, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 454(E), dated the 28thJune, 2019 and was last amended by notification No. 63/2019 – Central Tax, dated the 12th December, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 907(E), dated the 12th December, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 24 /2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R.....(E).–In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby makes the following amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 27/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 453 (E), dated the 28th June, 2019, namely:–

In the said notification, in the second paragraph, for the first proviso, the following proviso shall be substituted, namely: –

"Provided that for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, shall furnish the details of outward supply of goods or services or both in **FORM GSTR-1** under the Central Goods and Services Tax Rules, 2017 effected during the quarter July-September, 2019 till 24th March,2020.".

2. This notification shall be deemed to come into force with effect from the 30th Day of November, 2019.

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)

Director, Government of India

Note: The principal notification No. 27/2019 – Central Tax, dated the 28thJune, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 453(E), dated the 28thJune, 2019 and was last amended by notification No. 52/2019 – Central Tax, dated the 14th November, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 846(E), dated the 14th November, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 25/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R.....(E).–In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019, namely:–

i. In the said notification, in the first paragraph, for the first proviso, the following proviso shall be substituted, namely: –

"Provided that the return in **FORM GSTR-3B** of the said rules for the months of October, 2019 for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, shall be furnished electronically through the common portal, on or before the 24th March, 2020."

ii. In the said notification, in the first paragraph, after the fifth proviso, the following proviso shall be inserted, namely: –

"Provided also that the return in **FORM GSTR-3B** of the said rules for the months of November, 2019 to February, 2020 for registered persons whose principal place of business is in the Union territory of Jammu and Kashmir or the Union territory of Ladakh, shall be furnished electronically through the common portal, on or before the 24th March, 2020."

2. This notification shall be deemed to come into force with effect from the 20th Day of December, 2019

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)

Director, Government of India

Note: The principal notification number 44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019 and was last amended by notification number 07/2020 – Central Tax, dated the 3rd February, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 83(E), dated the 3rd February, 2020.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 26 /2020 – Central Tax

New Delhi, the 23rdMarch, 2020

G.S.R.....(E).–In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.29/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.455(E), dated the 28th June, 2019, namely:–

In the said notification, in the first paragraph, for the fourth proviso, the following proviso shall be substituted, namely: –

"Provided also that the return in **FORM GSTR-3B** of the said rules for the months of July,2019 to September, 2019 for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, shall be furnished electronically through the common portal, on or before the 24th March, 2020."

2. This notification shall be deemed to come into force with effect from the 20th Day of December, 2019

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)

Director, Government of India

Note: The principal notification No. 29/2019 – Central Tax, dated the 28thJune, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 455(E), dated the 28th June, 2019 and was last amended by notification No. 66/2019 – Central Tax, dated the 12th December, 2019 published in the Gazette of India, Extraordinary vide number G.S.R. 910(E), dated the 12th December, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 27/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R.....(E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who shall follow the special procedure as mentioned below for furnishing the details of outward supply of goods or services or both.

2. The said registered persons shall furnish the details of outward supply of goods or services or both in **FORM GSTR-1** under the Central Goods and Services Tax Rules, 2017, effected during the quarter as specified in column (2) of the Table below till the time period as specified in the corresponding entry in column (3) of the said Table, namely:-

Table

Sl. No.	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
(1)	(2)	(3)
1	April, 2020 to June, 2020	31st July, 2020
2	July, 2020 to September, 2020	31st October, 2020

3. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 of the said Act, for the months of April, 2020 to September, 2020 shall be subsequently notified in the Official Gazette.

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 28/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R.....(E). - In exercise of the powers conferred by the second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of the Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from April,2020 to September, 2020 till the eleventh day of the month succeeding such month.

2. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 of the said Act, for the months of April,2020 to September, 2020 shall be subsequently notified in the Official Gazette.

[F. No.CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

Notification No. 29/2020 – Central Tax

New Delhi, the 23rd March, 2020

G.S.R...(E).- In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby specifies that the return in **FORM GSTR-3B** of the said rules for each of the months from April, 2020 to September, 2020 shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month:

Provided that, for taxpayers having an aggregate turnover of up to rupees five crore rupees in the previous financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep, the return in **FORM GSTR-3B** of the said rules for the months of April, 2020 to September, 2020 shall be furnished electronically through the common portal, on or before the twenty-second day of the month succeeding such month:

Provided further that, for taxpayers having an aggregate turnover of up to rupees five crore rupees in the previous financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi, the return in **FORM GSTR-3B** of the said rules for the months of April, 2020 to September, 2020 shall be furnished electronically through the common portal, on or before the twenty-fourth day of the month succeeding such month.

2. **Payment of taxes for discharge of tax liability as per FORM GSTR-3B.** – Every registered person furnishing the return in **FORM GSTR-3B** of the said rules shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax by debiting the electronic cash

ledger or electronic credit ledger, as the case may be and his liability towards interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger, not later than the last date, as specified in the first paragraph, on which he is required to furnish the said return.

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

(III) CENTRAL TAX (RATE) NOTIFICATIONS

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 02/2020- Central Tax (Rate)

New Delhi, the 26th March, 2020

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1), (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.11/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 690(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, against serial number 25,

(a) after item (i) and entries relating thereto, in columns (3), (4) and (5), the following items and entries shall be inserted, namely, -

(3)	(4)	(5)
"(ia) Maintenance, repair or overhaul services in respect of aircrafts, aircraft engines and other aircraft components or parts.	2.5	-

(b) in item (ii), in column (3), after the brackets and figures "(i)", the word, brackets, and figures "and (ia)" shall be inserted.

2. This notification shall come into force with effect from the 1st day of April, 2020.

[F. No. 354/32/2020- TRU]

(Pramod Kumar)
Director to the Government of India

Note: - The principal notification No. 11/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 690 (E), dated the 28th June, 2017 and was last amended by notification No. 26/2019 - Central Tax (Rate), dated the 22nd November, 2019 *vide* number G.S.R. 870 (E), dated the 22nd November, 2019.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No. 03/2020-Central Tax (Rate)

New Delhi, the 25th March, 2020

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017, namely:-

In the said notification, -

(a) in Schedule I – 2.5%, serial number 187 and the entries relating thereto shall be omitted;

(b) in Schedule II - 6%,-

(i) after serial number 75 and the entries relating thereto, the following serial number and entries shall be inserted, namely :-

"75A.	3605 00 10	All goods";

(ii) serial numbers 202 and 203 and the entries relating thereto shall be omitted;

(c) in Schedule III - 9%,-

(i) serial number 73 and the entries relating thereto shall be omitted;

(ii) in serial number 379, for the entry in column (3), the entry "All goods" shall be substituted;

2. This notification shall come into force on the 1st day of April, 2020.

[F.No. 354/34/2020-TRU]

(Gaurav Singh)
Deputy Secretary to the Government of India

Note: - The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017 and was last amended by notification No. 01/2020- Central Tax(Rate), dated the 21st February, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number GSR 134(E), dated the 21st February, 2020.

(IV) IGST TAX (RATE) NOTIFICATIONS

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 02/2020- Integrated Tax (Rate)

New Delhi, the 26th March, 2020

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1), (3) and sub-section (4) of section 5, sub-section (1) of section 6 and clauses (iii) and (xxv) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 8/2017- Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 683 (E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, against serial number 25,

(a) after item (i) and entries relating thereto, in columns (3), (4) and (5), the following items and entries shall be inserted, namely, -

(3)	(4)	(5)
"(ia) Maintenance, repair or overhaul services in respect of aircrafts, aircraft engines and other aircraft components or parts.	5	-

(b) in item (ii), in column (3), after the brackets and figures "(i)", the word, brackets, and figures "and (ia)" shall be inserted.

2. This notification shall come into force with effect from the 1st day of April, 2020.

[F. No. 354/32/2020- TRU]

(Pramod Kumar)
Director to the Government of India

Note: -The principal notification No. 8/2017- Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 683 (E), dated the 28th June, 2017 and was last amended by notification No. 25/2019- Integrated Tax (Rate), dated the 22nd November, 2019 vide number G.S.R. 871(E), dated the 22nd November, 2019.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No. 03/2020-Intergrated Tax (Rate)

New Delhi, the 25th March, 2020

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017- Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 666 (E), dated the 28th June, 2017, namely:-

In the said notification, -

(a) in Schedule I - 5%, serial number 187 and the entries relating thereto shall be omitted;
(b) in Schedule II - 12%,-

(i) after serial number 75 and the entries relating thereto, the following serial number and entries shall be inserted, namely :-

"75A.	3605 00 10	All goods";

(ii) serial numbers 202 and 203 and the entries relating thereto shall be omitted;

(c) in Schedule III - 18%,-

(i) serial number 73 and the entries relating thereto shall be omitted;
(ii) in serial number 379, for the entry in column (3), the entry "All goods" shall be substituted;

2. This notification shall come into force on the 1st day of April, 2020.

[F.No. 354/34/2020-TRU]

(Gaurav Singh)
Deputy Secretary to the Government of India

Note: - The principal notification No.1/2017-Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 666(E), dated the 28th June, 2017 and was last amended by notification No. 01/2020- Integrated Tax(Rate), dated the 21st February, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number GSR 135(E), dated the 21st February, 2020.

(VI) CGST CIRCULARS

Circular No. 132/2/2020 - GST

CBEC-20/16/15/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
****

New Delhi, Dated the 18th March, 2020

To,

The Pr. Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)
The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal – reg.

Various representations have been received wherein the issue has been decided against the registered person by the adjudicating authority or refund application has been rejected by the appropriate authority and appeal against the said order is pending before the appellate authority. It has been gathered that the appellate process is being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed. Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in absence of appellate tribunal for appeal to be made under section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act").

2. The matter has been examined in detail. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3.1 Appeal against an adjudicating authority is to be made as per the provisions of Section 107 of the CGST Act. The sub-section (1) of the section reads as follows: -

"107. (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person."

3.2 Relevant rules have been prescribed for implementation of the above Section. The relevant rule for the same is rule 109A of Central Goods and Services Tax Rules, 2017 which reads as follows

"109A. Appointment of Appellate Authority.- (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –

(a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;

(b) any officer not below the rank of Joint Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,

within three months from the date on which the said decision or order is communicated to such person."

3.3 Hence, if the order has been passed by Deputy or Assistant Commissioner or Superintendent, appeal has to be made to the appellate authority appointed who would not be an officer below the rank of Joint Commissioner. Further, if the order has been passed by Additional or Joint Commissioner, appeal has to be made to the Commissioner (Appeal) appointed for the same.

4. 1 The appeal against the order passed by appellate authority under Section 107 of the CGST Act lies with appellate tribunal. Relevant provisions for the same is mentioned in the Section 112 of the CGST Act which reads as follows: -

"112 (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal

against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal."

4.2 The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued **the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019**. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order **or** date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, **whichever is later**.

4.3 Hence, as of now, the prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office. The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office. Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

6. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner (GST)

Circular No.133 03/2020-GST

F.No. CBEC-20/06/13/2019-GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes & Customs

GST Policy Wing

***

New Delhi, dated the 23rd March, 2020

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All) / The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Sub: Clarification in respect of apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules - reg.

Representations have been received from various taxpayers seeking clarification in respect of apportionment and transfer of ITC in the event of merger, demerger, amalgamation or change in the constitution/ownership of business. Certain doubts have been raised regarding the interpretation of sub-section (3) of section 18 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) and sub-rule (1) of rule 41of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) in the context of business reorganization.

2. According to sub-section (3) of section 18 of the CGST Act,

"Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed."

Further, according to sub-rule (1) of rule 41 of the CGST Rules:

"A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in ***FORM GST ITC-02,*** *electronically on the*

common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

***Explanation**:- For the purpose of this sub-rule, it is hereby clarified that the "value of assets" means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.*

3. The issues raised in various representations have been analyzed in the light of various legal provisions under GST. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the CGST Act clarifies the issues involved in the Table below.

S. No.	Issue / Question	Clarification
a.	(i) In case of demerger, proviso to rule 41 (1) of the CGST Rules provides that the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. However, it is not clear as to whether the value of assets of the new units is to be considered at State level or at all-India level.	Proviso to sub-rule (1) of rule 41 of the CGST Rules provides for apportionment of the input tax credit in the ratio of the value of assets of the new units as specified in the demerger scheme. Further, the explanation to sub-rule (1) of rule 41 of the CGST Rules states that "value of assets" means the value of the entire assets of the business, whether or not input tax credit has been availed thereon. Under the provisions of the CGST Act, a person/ company (having same PAN) is required to obtain separate registration in different States and each such registration is considered a distinct person for the purpose of the Act. Accordingly, for the purpose of apportionment of ITC pursuant to a demerger under sub-rule (1) of rule 41 of the CGST Rules, the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level. ***Illustration*** A company XYZ is registered in two States of M.P. and U.P. Its total value of assets is worth Rs. 100 crore, while its assets in State of M.P. and U.P are Rs 60 crore and Rs 40 crore respectively. It demerges a part of its business to company ABC. As a part of such demerger, assets

		of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P, while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC). The unutilized ITC of XYZ in State of M.P. shall be transferred to ABC on the basis of ratio of value of assets in State of M.P., i.e. 30/60 = 0.5 and **not** on the basis of all-India ratio of value of assets, i.e. 40/100=0.4. Similarly, unutilized ITC of XYZ in State of U.P. will be transferred to ABC in ratio of value of assets in State of U.P.,i.e. 10/40 = 0.25.
	(ii) Is the transferor required to file **FORM GST ITC – 02** in all States where it is registered?	No. The transferor is required to file **FORM GST ITC-02** only in those States where both transferor and transferee are registered.
b.	The proviso to rule 41 (1) of the CGST Rules explicitly mentions 'demerger'. Other forms of business reorganization where part of business is hived off or business in transferred as a going concern etc. have not been covered in the said rule. Wherever business reorganization results in partial transfer of business assets along with liabilities, whether the proviso to rule 41(1) of the CGST Rules, 2017 shall be applicable to calculate the amount of transferable	Yes, the formula for apportionment of ITC, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities.

<table>
<tr><td></td><td>ITC?</td><td></td></tr>
<tr><td>c.</td><td>(i) Whether the ratio of value of assets, as prescribed under proviso to rule 41 (1) of the CGST Rules, shall be applied in respect of each of the heads of input tax credit viz. CGST/ SGST/ IGST/ Cess?</td><td>No, the ratio of value of assets, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applied to the total amount of unutilized input tax credit (ITC) of the transferor i.e. sum of CGST, SGST/UTGST and IGST credit. The said formula need not be applied separately in respect of each heads of ITC (CGST/SGST/IGST). Further, the said formula shall also be applicable for apportionment of Cess between the transferor and transferee.

Illustration A: The ITC balances of transferor X in the State of Maharashtra under CGST, SGST and IGST heads are 5 lakh, 5 lakh and 10 lakh respectively. Pursuant to a scheme of demerger, X transfers 60% of its assets to transferee B. Accordingly, the amount of ITC to be transferred from A to B shall be 60% of 20 lakh (total sum of CGST, SGST and IGST credit) i.e. 12 lakh.</td></tr>
<tr><td></td><td>(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?</td><td>The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under sub-rule (1) of rule 41 of the CGST Rules [refer 3 (c) (i) above]. However, the transferor shall be at liberty to determine the amount to be transferred under each tax head (IGST, CGST, SGST/UTGST) within this total amount, subject to the ITC balance available with the transferor under the concerned tax head. This is shown in the illustration below:

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<tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th><th>(5)</th><th>(6)</th></tr>
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<tr><td></td><td></td><td>
<table>
<tr><th>State</th><th>Asset Ratio of Transferee</th><th>Tax Heads</th><th>ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC–02)</th><th>Total amount of ITC transferred to the Transferee under FORM GST ITC-02</th><th>ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC–02) [Col (4) – Col (5)]</th></tr>
<tr><td rowspan="4">Delhi</td><td rowspan="4">70%</td><td>CGST</td><td>10,00,000</td><td>10,00,000</td><td>0</td></tr>
<tr><td>SGST</td><td>10,00,000</td><td>10,00,000</td><td>0</td></tr>
<tr><td>IGST</td><td>30,00,000</td><td>15,00,000</td><td>15,00,000</td></tr>
<tr><td>Total</td><td>50,00,000</td><td>35,00,000</td><td>15,00,000</td></tr>
<tr><td rowspan="4">Haryana</td><td rowspan="4">40%</td><td>CGST</td><td>25,00,000</td><td>3,00,000</td><td>22,00,000</td></tr>
<tr><td>SGST</td><td>25,00,000</td><td>5,00,000</td><td>20,00,000</td></tr>
<tr><td>IGST</td><td>20,00,000</td><td>20,00,000</td><td>0</td></tr>
<tr><td>Total</td><td>70,00,000</td><td>28,00,000</td><td>42,00,000</td></tr>
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<tr><td>d.</td><td>(i) In order to calculate the amount of transferable ITC, the apportionment formula under proviso to rule 41(1) of the CGST Rules has to be applied to the unutilized ITC balance of the transferor. However, it is not clear as to which date shall be relevant to calculate the</td><td>According to sub-section (3) of section 18 of the CGST Act, "Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit <u>which remains unutilized in his electronic credit ledger</u> to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed." Further, sub-rule (1) of rule 41 of the CGST Rules prescribes that the registered person shall file the details in FORM GST ITC-02 for transfer of unutilized input tax credit lying in his electronic credit ledger</td></tr>
</table>

	amount of unutilized ITC balance of transferor.	to the transferee. A conjoint reading of sub-section (3) of section 18 of the CGST Act along with sub-rule (1) of rule 41 of the CGST Rules would imply that the apportionment formula shall be applied on the ITC balance of the transferor as available in electronic credit ledger on the date of filing of **FORM GST ITC – 02** by the transferor.
	(ii) Which date shall be relevant to calculate the ratio of value of assets, as prescribed in the proviso to rule 41 (1) of the CGST Rules, 2017?	According to **section 232 (6) of the Companies Act, 2013,** *"The scheme under this section shall clearly indicate an* ***appointed date*** *from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date".* The said legal provision appears to indicate that the "**appointed date of demerger**" is the date from which the scheme for demerger comes into force and it is specified in the respective scheme of demerger. Therefore, for the purpose of apportionment of ITC under rule sub-rule (1) of rule 41 of the CGST Rules, the ratio of the value of assets should be taken as on the "**appointed date of demerger**". In other words, for the purpose of apportionment of ITC under sub-rule (1) of rule 41 of the CGST Rules, while the ratio of the value of assets should be taken as on the "appointed date of demerger", the said ratio is to be applied on the ITC balance of the transferor on the date of filing **FORM GST ITC - 02** to calculate the amount to transferable ITC.

4. Difficulty, if any, in implementation of the Circular may be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner
y.garg@nic.in

Circular No.134/04/2020-GST

CBEC-20/16/12 /2020 -GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, dated the 23rd March, 2020

To,
The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)
The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification in respect of issues under GST law for companies under Insolvency and Bankruptcy Code, 2016 - Reg.

Various representations have been received from the trade and industry seeking clarification on issues being faced by entities covered under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IBC").

2. As per IBC, once an entity defaults certain threshold amount, Corporate Insolvency Resolution Process (hereafter referred to as "CIRP") gets triggered and the management of such entity (Corporate Debtor) and its assets vest with an interim resolution professional (hereafter referred to as "IRP") or resolution professional (hereafter referred to as "RP"). It continues to run the business and operations of the said entity as a going concern till the insolvency proceeding is over and an order is passed by the National Company Law Tribunal (hereinafter referred to as the "NCLT")

3. To address the aforementioned problems, notification No.11/2020- Central Tax, dated 21.03.2020 has been issued by the Government prescribing special procedure under section 148 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") for the corporate debtors who are undergoing CIRP under the provisions of IBC and the management of whose affairs are being undertaken by IRP/RP. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the

Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies various issues in the table below:-

S.No.	Issue	Clarification
1.	**How are dues under GST for pre-CIRP period be dealt?**	In accordance with the provisions of the IBC and various legal pronouncements on the issue, no coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date. The dues of the period prior to the commencement of CIRP will be treated as 'operational debt' and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC. The tax officers shall seek the details of supplies made / received and total tax dues pending from the corporate debtor to file the claim before the NCLT. Moreover, section 14 of the IBC mandates the imposition of a moratorium period, wherein the institution of suits or continuation of pending suits or proceedings against the corporate debtor is prohibited.
2.	**Should the GST registration of corporate debtor be cancelled?**	It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if need be, suspend the registration. In case the registration of an entity undergoing CIRP has already been cancelled and it is within the period of revocation of cancellation of registration, it is advised that such cancellation

		may be revoked by taking appropriate steps in this regard.
3.	**Is IRP/RP liable to file returns of pre-CIRP period?**	No. In accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements **for period after the Insolvency Commencement Date**. Accordingly, it is clarified that IRP/RP are not under an obligation to file returns of pre-CIRP period.
<u>During CIRP period</u>		
4.	**Should a new registration be taken by the corporate debtor during the CIRP period?**	The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification No.11/2020- Central Tax, dated 21.03.2020, he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.
5.	**How to file First Return after obtaining new registration?**	The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period. The IRP/RP is required to ensure that the first return is filed under section 40 of the CGST Act, for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.

6.	**How to avail ITC for invoices issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification No.11/2020- Central Tax, dated 21.03.2020 and no return has been filed by the IRP during the CIRP ?**	The special procedure issued under section 148 of the CGST Act has provided the manner of availment of ITC while furnishing the first return under section 40. The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules. In terms of the special procedure under section 148 of the CGST Act issued vide notification No.11/2020- Central Tax, dated 21.03.2020. **This exception is made only for the first return filed under section 40 of the CGST Act.**
7.	**How to avail ITC for invoices by persons who are availing supplies from the corporate debtors undergoing CIRP, in cases where the IRP/RP was appointed before the issuance of the notification No.11/2020 - Central Tax, dated 21.03.2020?**	Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-rule (4) of rule 36 of the CGST Rules.

8.	**Some of the IRP/RPs have made deposit in the cash ledger of erstwhile registration of the corporate debtor. How to claim refund for amount deposited in the cash ledger by the IRP/RP?**	Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP / RP to the date of notification specifying the special procedure for corporate debtors undergoing CIRP, shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant **FORM GSTR-3B/GSTR-1** are not filed for the said period. The instructions contained in Circular No. 125/44/2019-GST dt. 18.11.2019 stands modified to this extent.

4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

5. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner (GST)
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CBEC-20/01/06/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
****

New Delhi, Dated the 31st March, 2020

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All)
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Clarification on refund related issues – Reg.

Various representations have been received seeking clarification on some of the issues relating to GST refunds. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law in this regard across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder:

2. Bunching of refund claims across Financial Years

2.1 It may be recalled that the restriction on clubbing of tax periods across different financial years was put in vide para 11.2 of the Circular No. 37/11/2018-GST dated 15.03.2018. The said circular was rescinded being subsumed in the Master Circular on Refunds No. 125/44/2019-GST dated 18.11.2019 and the said restriction on the clubbing of tax periods across financial years for claiming refund thus has been continued vide Paragraph 8 of the Circular No. 125/44/2019-GST dated 18.11.2019, which is reproduced as under:

> *"8. The applicant, at his option, may file a refund claim for a tax period or by clubbing successive tax periods.* ***The period for which refund claim has been filed, however, cannot spread across different financial years.*** *Registered persons having aggregate turnover of up to Rs. 1.5 crore in the preceding financial year or the current financial year opting to file* ***FORM GSTR-1*** *on quarterly basis, can only apply for refund on a quarterly basis or clubbing successive quarters as aforesaid. However, refund claims under categories listed at (a), (c) and (e) in para 3 above must be filed by the applicant chronologically. This means that an applicant, after submitting a refund application under any of these categories for a certain period, shall not be subsequently allowed to file a refund claim under the same category for any previous period. This principle / limitation, however, shall not apply in cases where a fresh application is being filed pursuant to a deficiency memo having been issued earlier."*

2.2 Hon'ble Delhi High Court in Order dated 21.01.2020, in the case of M/s Pitambra Books Pvt Ltd., vide para 13 of the said order has stayed the rigour of paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019 and has also directed the Government to either open the online portal so as to enable the petitioner to file the tax refund electronically, or to accept the same manually within 4 weeks from the Order. Hon'ble Delhi High Court vide para 12 of the aforesaid Order has observed that the **Circulars can supplant but not supplement the law. Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law**.

2.3 Further, same issue has been raised in various other representations also, especially those received from the merchant exporters wherein merchant exporters have received the supplies of goods in the last quarter of a Financial Year and have made exports in the next Financial Year i.e. from April onwards. The restriction imposed vide para 8 of the master refund circular prohibits the refund of ITC accrued in such cases as well.

2.4 On perusal of the provisions under sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 and sub-section (3) of section 54 of the CGST Act, there appears no bar in claiming refund by clubbing different months across successive Financial Years.

2.5 The issue has been examined and it has been decided to remove the restriction on clubbing of tax periods across Financial Years. Accordingly, circular No. 125/44/2019-GST dated 18.11.2019 stands modified to that extent i.e. the restriction on bunching of refund claims across financial years shall not apply.

3. Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate

3.1 It has been brought to the notice of the Board that some of the applicants are seeking refund of unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods. This can be explained through an illustration. An applicant trading in goods has purchased, say goods "X" attracting 18% GST. However, subsequently, the rate of GST on "X" has been reduced to, say 12%. It is being claimed that accumulation of ITC in such a case is also covered as accumulation on account of inverted duty structure and such applicants have sought refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act.

3.2 It may be noted that refund of accumulated ITC in terms clause (ii) of sub-section (3) of section 54 of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of clause (ii) of sub-section (3) of section 54 of the CGST Act. It is hereby clarified that refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are the same.

4. Change in manner of refund of tax paid on supplies other than zero rated supplies

4.1 Circular No. 125/44/2019-GST dated 18.11.2019, in para 3, categorizes the refund applications to be filed in **FORM GST RFD-01** as under:

a. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
b. Refund of tax paid on export of services with payment of tax;
c. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;
d. Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;
e. Refund of unutilized ITC on account of accumulation due to inverted tax structure;
f. Refund to supplier of tax paid on deemed export supplies;
g. Refund to recipient of tax paid on deemed export supplies;
h. Refund of excess balance in the electronic cash ledger;
i. Refund of excess payment of tax;
j. Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;
k. Refund on account of assessment/provisional assessment/appeal/any other order;
l. Refund on account of "any other" ground or reason.

4.2 For the refund of tax paid falling in categories specified at S. No. (i) to (l) above i.e. refund claims on supplies other than zero rated supplies, no separate debit of ITC from electronic credit ledger is required to be made by the applicant at the time of filing refund claim, being claim of tax already paid. However, the total tax would have been normally paid by the applicant by debiting tax amount from both electronic credit ledger and electronic cash ledger. At present, in these cases, the amount of admissible refund, is paid in cash even when such payment of tax or any part thereof, has been made through ITC.

4.3.1 As this could lead to allowing unintended encashment of credit balances, this issue has been engaging attention of the Government. Accordingly, vide notification No.16/2020-Central Tax dated 23.03.2020, sub-rule (4A) has been inserted in rule 86 of the CGST Rules, 2017 which reads as under:

*"(4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**."*

4.3.2 Further, vide the same notification, sub-rule (1A) has also been inserted in rule 92 of the CGST Rules, 2017. The same is reproduced hereunder:

*"(1A) Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make 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 amount*

paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue ***FORM GST PMT-03*** *re-crediting the said amount as Input Tax Credit in electronic credit ledger."*

4.4 The combined effect the abovementioned changes is that any such refund of tax paid on supplies other than zero rated supplies will now be admissible proportionately in the respective original mode of payment i.e. in cases of refund, where the tax to be refunded has been paid by debiting both electronic cash and credit ledgers (other than the refund of tax paid on zero-rated supplies or deemed export), the refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability for the relevant period for which application for refund has been filed. Such amount, shall be accordingly paid by issuance of order in **FORM GST RFD-06** for amount refundable in cash and **FORM GST PMT-03** to re-credit the amount attributable to credit as ITC in the electronic credit ledger.

5. Guidelines for refunds of Input Tax Credit under Section 54(3)

5.1 In terms of para 36 of circular No. 125/44/2019-GST dated 18.11.2019, the refund of ITC availed in respect of invoices not reflected in **FORM GSTR-2A** was also admissible and copies of such invoices were required to be uploaded. However, in wake of insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017 vide notification No. 49/2019-GST dated 09.10.2019, various references have been received from the field formations regarding admissibility of refund of the ITC availed on the invoices which are not reflecting in the **FORM GSTR-2A** of the applicant.

5.2 The matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in **FORM GSTR-1** and are reflected in the **FORM GSTR-2A** of the applicant. Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent.

6. New Requirement to mention HSN/SAC in Annexure 'B'

6.1 References have also been received from the field formations that HSN wise details of goods and services are not available in **FORM GSTR-2A** and therefore it becomes very difficult to distinguish ITC on capital goods and/or input services out of total ITC for a relevant tax period. It has been recommended that a column relating to HSN/SAC Code should be added in the statement of invoices relating to inward supply as provided in **Annexure–B** of the circular No. 125/44/2019-GST dated 18.11.2019 so as to easily identify between the supplies of goods and services.

6.2 The issue has been examined and considering that such a distinction is important in view of the provisions relating to refund where refund of credit on Capital goods and/or services is not permissible in certain cases, it has been decided to amend the said statement. Accordingly, **Annexure-B** of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent.

6.3 A suitably modified statement format is attached for applicants to upload the details of invoices reflecting in their **FORM GSTR-2A**. The applicant is, in addition to details already prescribed, now required to mention HSN/SAC code which is mentioned on the inward invoices. In cases where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply.

7. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

8. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner
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Circular No.135/05/2020 - GST

Annexure-B
Statement of invoices to be submitted with application for refund of unutilized ITC

Sr. No.	GSTIN of the Supplier	Name of the Supplier	Invoice Details			Category of input supplies		Central Tax	State Tax/ Union Territory Tax	Integrated Tax	Cess	Eligible for ITC	Amount of eligible ITC
			Invoice No.	**Date**	**Value**	Inputs/Input Services/capital goods	HSN/SAC					Yes/No/Partially	
1	2	3	4	5	6	7	8	9	10	11	12	13	14

(VII) ADVANCE RULINGS

1. GST Appellate Authority can condone delay of upto 30 days only

Case Name : **In re the Deputy Conservator of Forests (GST AAAR Karnataka)**
Appeal Number : Advance Rulings No. AR/AAAR/Appeal-15/2019-20
Date of Judgement/Order : 03/03/2020

It is evident that GST Appellate Authority being a creature of the statue is empowered to condone a delay of only a period of 30 days after the expiry of the initial period for filing appeal. As far as the language of Section 100 of the CGST Act is concerned, the crucial words are “not exceeding thirty days” used in the proviso to sub-section (2). To hold that this Appellate Authority could entertain this appeal beyond the extended period under the proviso would render the phrase “not exceeding thirty days” wholly otiose. No principle of interpretation would justify such a result. Therefore, we hold that we are not empowered to condone the delay of one day in filing this appeal.

2. GST TDS not applies on supply to Howrah Municipal Corporation

Case Name : **In re Dolphin Techno Waste Management Private Limited (GST AAR West Bengal)**
Appeal Number : Order No. 43/WBAAR/2019-20
Date of Judgement/Order : 06/03/2020

The TDS Notifications bring into force section 51 of the GST Act, specifying the persons under section 51(1)(d) of the Act and have mandated and laid down the mechanism for deduction of TDS. These notifications, therefore, are applicable only if TDS is deductible on the Applicant’s supply under section 51 of the GST Act. Section 51(1) of the Act provides that the Government may mandate inter alia a local authority to deduct TDS while making payment to a supplier of *taxable* goods or services or both. As the Applicant is making an exempt supply to HMC the provisions of section 51 and, for that matter, the TDS Notifications do not apply to his supply.

The Applicant’s supply to the Howrah Municipal Corporation, as described in para 3.5, is exempt from the payment of GST under SI No. 3 of **Notification No. 12/2017–Central Tax (Rate) dated 28/06/2017** (corresponding State Notification No. 1136 – FT dated 28/06/2017), as amended from time to time. As the Applicant is making an exempt supply, the provisions of section 51 and, for that matter, **Notification No. 50/2018–Central Tax dated 13/09/2018** (corresponding State Notification No. 1344 – FT dated 13/09/2018) and State Government Order No. 6284 – F(Y) dated 28/09/2018, to the extent they mandate and deal with the mechanism of TDS, do not apply to his supply.

3. GST TDS Notifications not applies to exempt supply

Case Name : **In re Dipak Kanti Mazumder Dynamic Engineers (GST AAR West Bengal)**
Appeal Number : Order No. 44/WBAAR/2019-20
Date of Judgement/Order : 06/03/2020

The TDS Notifications bring into force section 51 of the GST Act, specifying the persons under section 51(1)(d) of the Act and have mandated and laid down the mechanism for deduction of TDS. These notifications, therefore, are applicable only if TDS is deductible on the Applicant's supply under section 51 of the GST Act. Section 51(1) of the Act provides that the Government may mandate inter alia a local authority to deduct TDS while making payment to a supplier of *taxable* goods or services or both. As the Applicant is making an exempt supply to HMC the provisions of section 51 and, for that matter, the TDS Notifications do not apply to his supply.

4. Whether printing service received locally is export when a foreign buyer is paying consideration in US dollars?

Case Name : **In re Swapna Printing Works Private Limited (GST AAR West Bengal)**
Appeal Number : Order No. 45/WBAAR/2019-20
Date of Judgement/Order : 06/03/2020

Whether printing service received locally is export when a foreign buyer is paying the consideration in US dollars?

The Applicant's supply of the composite printing service is taxable under SI No. 27(i) of **Notification No. 11/2017 — Central Tax (Rate) dated 28/06/2017** (corresponding State Notification No. 1135 — FT dated 28/06/2017) or SI No. 27 of **Notification No. 8/2017 —Integrated Tax (Rate) dated 28/06/2017**, as the case may be.

5. Local Authority within the meaning of section 2(69)(c) of GST Act entitled to GST Exemption

Case Name : **In re Newtown Kolkata Development Authority (GST AAR West Bengal)**
Appeal Number : Order No. 42/WBAAR/2019-20
Date of Judgement/Order : 06/03/2020

The Applicant is a local authority within the meaning of section 2(69)(c) of the GST Act and is entitled to the exemptions available on the services it supplies in terms of the various entries of **Notification No 12/2017 Central Tax (Rate) dated 28/06/2017** (corresponding State Notification No. 1136 — FT dated 28/06/2017), as amended time to time.

6. AAR liable for rejection as issue is pending before Hon'ble SC

Case Name : **In re Vikram Traders (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 08/2020
Date of Judgement/Order : 10/03/2020

It is pertinent to mention here that the Department has filed an appeal under SLP No.26696/2019 before the Hon'ble Supreme Court of India, against the order of the

Hon'ble High Court of Orissa supra. Thus the issue is pending before the Hon'ble Supreme Court and therefore the said issue is subjudice. Therefore the instant application is liable for rejection under Section 98(2) of CGST Act 2017.

7. GST on street lighting activity under Energy Performance Contract

Case Name : **In re Karnataka State Electronics Development Corporation Limited (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 7/2020
Date of Judgement/Order : 10/03/2020

i. Whether the street lighting activity under the Energy Performance Contract dated 05.12.2016 is to be considered as Supply of goods or a Supply of Services under the CGST / KGST Act 2017? Accordingly, whether the transaction can be sub-classified as a 'Pure Supply of Service' or 'Pure Supply of goods' or 'Composite Supply of goods and services being a works contract'?

The street lighting activity under the Energy Performance Contract dated 05.12.2016 amounts to composite supply where the principal supply is that of supply of goods.

ii. What is the rate of tax applicable on this transaction? Whether the applicant is entitled to the benefit of exemption under entry 3 or 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended? If not, what is the applicable rate of tax?

The rate of tax applicable on this transaction is 12% (CGST-6% 86 SGST-6%), in terms of Si. No. 226 of Schedule II to the **Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017,** as amended. Further, the applicant is not entitled to the benefit of exemption under entry 3 or 3A of **Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017**, as amended, as the impugned supply is not that of pure services.

iii. If the transaction is treated as supply of services, what is the time of supply of such services? Whether KEONICS is liable to tax only once the energy saved is certified by the energy auditor? Whether amount credited in joint ESCROW account can be termed as 'receipt' especially because the said amount is not under control of KEONICS until the conditions are met?

The instant transaction amounts to a composite supply, with supply of goods being principal supply and hence the impugned question is redundant.

iv. Without prejudice to above submissions, if the transaction is treated as a supply of goods, what is the time of supply of such supply? Whether KEONICS would be liable to tax only at the time when the possession and ownership in goods are vested to TMC at the end of tenure? What would be the value of the aforesaid taxable supply given the fact that it is based on energy savings which can be computed only when the energy auditor certifies the workings submitted by KEONICS ?

4. The time of supply is the date of invoice and the consideration is equal to the value of the invoice, the GST rate being 12%.

8. IGST paid under RCM eligible for ITC

Case Name : **In re Fom Aluminium Machines Pvt. Ltd. (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 09/2020
Date of Judgement/Order : 12/03/2020

The third question which reads as *'Is IGST paid under RCM eligible for ITC?'* The levy of IGST is only on the inter-state supplies and importation of goods/services is treated as inter-state supply, in terms of Section 7(2)/7(4) of the **IGST Act 2017** respectively. The IGST is levied on import of goods, as part of customs duty, and collected under The Customs Act 1962. The IGST paid on clearance of imported goods by the applicant is available for ITC to the applicant. Further import of services attract IGST and the concerned importer has to discharge the said levy under RCM, which is also available for ITC to the importer of services. In the instant case the applicant is not importing any services and hence payment of IGST under RCM does not arise.

9. GST payable on supply of purified water to public in empty unsealed cans

Case Name : **In re Water Health India Private Limited (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 12/2020
Date of Judgement/Order : 18/03/2020

Whether supply of purified water to public in empty unsealed cans is exempt under GST law?

Supply of purified water whether in sealed container or unsealed container not entitled for GST exemption as the purified water excluded from the Sl. No. 99 of n**otification No. 2/2017-Central Tax (Rate) dated 28.06.2017**. Thus supplying of purified drinking water to the general public in an unsealed container is not entitled for exempt from GST.

10. GST on Issuance of NOC to private persons, for change of name

Case Name : **In re Department Of Printing, Stationery and Publications (GST AAAR Karnataka)**
Appeal Number : KAR ADRG 11/2020
Date of Judgement/Order : 18/03/2020

Issuance of No Objection Certificate (NOC) to private persons, for change of name

This category covers the questions bearing number 23, 24 & 25, which deals with issuance of No Objection Certificate (NOC) to private persons, for change of name. Private individual who intended to change their name approach the applicant for publishing their present and proposed name in the official Gazette. Since the private individual name is not published in the official Gazette, applicant issues No Objection Certificate to the private individual which enable them to publish their name in the newspapers. Presently applicant is charging Rs.100/-, for each NOC and not paying GST on this amount.

The applicant being the Department of Government of Karnataka, issues the No Objection Certificate to the private individuals and collects an amount of Rs.100/-. This activity of the applicant amounts to provision of service by the State Government to an individual. The services provided by the State Government, where the consideration for such service does not exceed five thousand rupees are exempted from GST, in terms of entry number 9 of the **Notification No.12/2017 Central tax (Rate) dated 28/06/2017**. Thus impugned activity of issuing NOC to the private individuals for the consideration of Rs.100/- is exempted from GST.

11. GST on amounts collected towards Local Area Development, which form part of value of lease/rental services

Case Name : **In re Karnataka Solar Power Development Corporation Limited (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 10/2020
Date of Judgement/Order : 18/03/2020

In re Karnataka Solar Power Development Corporation Limited (GST AAR Karnataka)

1. The amount collected by the applicant towards LAD fund forms part of value of supply of rental/leasing service and hence is taxable under forward charge mechanism.
2. The applicable SAC for the impugned activity is 997212.
3. The exemption under S1.No.3 or 3A of **Notification 12/2017-Central Tax (Rate) dated 28.06.2017** is not applicable in the impugned activity, as it is not qualify to be a pure service, provided to Central Government, State Government or Union Territory or Local Authority or a Government Entity by way of any activity in relation to any function under article 243 G or 243 W of the Constitution of India.
4. Payment of GST, under Reverse Charge Mechanism (RCM), under Entry 5 of **Notification No.13/2017-Central Tax (Rate) dated 28.06.2017**, on the payments made at the direction of the Committee formed for Local Area Development be considered as service rendered by Government to Applicant, is not applicable to the instant case, as the Government of Karnataka / Local Authority are not involved in provision of any service.

12. No GST exemption if person administering Ayurveda treatment are not 'authorised medical practitioners'

Case Name : **In re OPTM Health Care Private Limited (GST AAR West Bengal)**
Appeal Number : Order No. 46/WBAAR/2019-20
Date of Judgement/Order : 20/03/2020

The Applicant claims that it administers certain plant-based medications for the treatment of osteoarthritis and disorders of similar nature. The medicaments are not supplied standalone, but ancillary to the supply of health care service. It is a composite supply of health care service called 'phytotherapy'. Applicant further submits that 'phytotherapy' is a treatment based on the ayurvedic system of medicine

Bundled supplies of two or more taxable goods or services, one of which is identifiable as principal supply within the meaning of section 2(90) of the GST Act, is defined as 'composite supply' under section 2(30) of the said Act if they are naturally bundled and supplied in conjunction with one another in the ordinary course of business. All other bundled supplies are clubbed underthe term 'mixed supply.'

It appears from the submissions of the Applicant that its 'phytotherapy' combines application of plant-based preparations with services having some therapeutic value. If the preparations applied are manufactured exclusively in accordance with the formulae described in any authoritative book of Ayurveda specified in the First Schedule of the Drugs and Cosmetics Act, 1940, for use in the diagnose, treatment, mitigation or prevention of specific disease or disorder, they can be called ayurvedic medicine [refer to section 3 (9) of Drugs and Cosmetics Act, 19401 and the treatment provided may be considered a recognised system of medicine in India.

The Applicant's submissions, however, do not clarify or claim that its plant-based preparations are manufactured exclusively in accordance with the formulae described in any authoritative book of Ayurveda specified in the First Schedule of the Drugs and Cosmetics Act, 1940. It does not claim that the persons administering the plant-based preparations are 'authorised medical practitioners' in Ayurveda within the meaning of Para No. 2 (k) of the Exemption Notification. The Applicant has not clarified whether these persons possess the medical qualification included in the Second Schedule of the Indian Medicine Central Council Act, 1970 and registered underthe said Act as medical practitioners.

Under the circumstances, this Authority cannot accept the Applicant's claim that it is a clinical establishment offering treatment in the recognised ayurvedic system of medicine. Its supplies are not, therefore, health care service by a clinical establishment, as defined under Para No. 2(s) of the Exemption Notification. Applicant's supply is, therefore, not exempt under Entry No. 74 of the Exemption Notification. It needs to remain registered, as its liability to pay GST does not cease.

13. GST on power supply & distribution network installed for Metro Rail

Case Name : **In re ABB India Ltd (GST AAR West Bangal)**
Appeal Number : Order No. 47/WBAAR/2019-20
Date of Judgement/Order : 20/03/2020

SCADA, in the context of the Applicant's supply to RVNL, is the system that controls and monitors the electrical network of the metro, enabling the operator to issue suitable commands to be followed in the operation of the metro. Using the SCADA interface, the operator sends instructions to the Remote Terminal Unit, which accordingly controls the signals, lights and other electrical equipment of the metro. It is, therefore, a power supply and distribution network installed for the purpose of the operation of the metro. It, therefore, is a supply pertaining to railways, including metro, as defined under section 2 (31) (c) of the Railways Act, 1989.

Based on the above discussion, we rule that The Applicant is making a composite supply of works contract taxable under Entry No. 3 (v) (a) of **Notification No. 11/2017 — Central Tax (Rate) dated 28/06/2017** (State Notification No. 1135-FT dated 28/06/2017), as amended, being erection, commissioning and installation of original work pertaining to railways, including metro.

(VII) COURT ORDERS/ JUDGEMENTS

1. 100% Budgetary support for area based exemption in post GST regime- HC dismisses Plea

Case Name : **Hero Motocorp Ltd. Vs Union of India (Delhi High Court)**
Appeal Number : W.P. (C) No. 505/2020
Date of Judgement/Order : 02/03/2020

Budgetary Support Scheme – Plea of Promissory Estoppel not enforceable

Facts – Petition filed against the Budgetary Support Scheme. Case of the Petitioner is that the erstwhile area based exemptions got rescinded with the introduction of the **GST Regime** w.e.f. 1.7.2017. Though Budgetary Support Scheme notified in by the Government to mitigate such difficulties, the benefits were substantially lesser than that enjoyed during the area based exemption regime. In these circumstances, the Petitioner has preferred the writ petition for grant of complete exemption by way of reimbursement of the amount of CGST & IGST for the residual period of exemption notification dated 10.06.2003, that granted 100% exemption on excise duty and adherence of Industrial Policy.

Decision of the Hon'ble High Court: The Hon'ble High Court while dismissing the Writ Petition held as under

What clearly emerges from the decisions taken note of is that the plea of promissory estoppel cannot be enforced against an act done in accordance with the statutory provisions of law. Under Section 174(2)(c) of the CGST Act, express provision has been made by the Parliament to provide that any tax exemption granted as an incentive against investment through a notification under, inter alia, the erstwhile Central Excise Act, shall not continue as a privilege if the said notification is rescinded, and in the present case, the notification which granted 100% excise duty exemption was, in fact, rescinded. Thus, in the absence of any challenge by the Petitioner to the rescission of the said notification which granted exemption or to the vires of the proviso to Section 174(2)(c) of the CGST Act, no plea of promissory estoppel is maintainable.

2. HC allows Filing of GSTR 9 & GSTR 9C without late fees & penalty until further order

Case Name : **All India Federation of Tax Practitioners Vs Union of India (Andhra Pradesh High Court)**
Appeal Number : Writ Petition No. 3296 of 2020
Date of Judgement/Order : 03/03/2020

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of mandamus directing and commanding the Respondents to consider the representation of the Petitioner's to extend the date to file the GSTR return in Form 9, **GST Return** in Form 9C by adequate and reasonable time and allow the members of the Petitioners Association to upload / file the annual and audit returns

on behalf of their clients namely, tax payers without payment of late fee and penalty and also to issue a direction to make the GST portal system free of technical glitches and workable before imposition of any late fees or penalty and on hearing the reason or reasons as may be shown and grant such other relief or reliefs as are deemed fit and appropriate.

3. Procedural law should not take away right to claim Transitional Credit: HC

Case Name : **Rishi Graphics Pvt. Ltd. Vs Union of India & Ors (Calcutta High Court)**
Appeal Number : W.P. 17234 of 2019
Date of Judgement/Order : 04/03/2020

A procedural law should not take away the vested rights of persons that are provided to them by statute.

The petitioners have approached this court with a prayer for allowing them to file/upload in **GST TRAN-1**. The petitioners intend to file TRAN-1 Form and/or revised TRAN-1 Form.

Though the time-limit for uploading of TRAN-1 is extended till March 31, 2020, sub-rule 1A of Rule 117 extends this benefit only to those registered persons who could not upload the form in time on account of technical difficulties on the common portal and in respect of whom, the GST Council forwards a recommendation for extension. In the present case, the request of the petitioners has not been accepted by the respondent authorities and, therefore, the benefit of the extension till March 31, 2020 is not available to these petitioners.

Needless to mention, this vested right is subject to scrutiny by the Department. Therefore, the petitioners should be allowed to upload the TRAN-1/revised TRAN-1 so that their claim of transfer of available credit may be considered by the authorities in accordance with law.

In view of the above reasons discussed hereinabove, I direct the GSTN authorities (Authority that manages the portal) to open the portal for the petitioners till March 31, This order shall not create any equity in favour of any of the petitioners in so far as their claim is concerned and the same shall be subject to scrutiny by the concerned authority.

4. Failure to pass fresh Provisional attachment order- HC imposes cost of ₹ 5 Lakh on GST Authorities

Case Name : **Amazonite Steel Pvt. Ltd Vs. UOI (Calcutta High Court)**
Appeal Number : W.P. No. 18429 of 2019
Date of Judgement/Order : 04/03/2020

Counsel on behalf of the GST Department submitted that the non issue of the fresh orders within time was an error on the part of the authorities. She further submitted that since the investigation with regard to the entire transactions that involved several companies was in progress, the authorities may have inadvertently failed to issue the fresh orders of provisional attachment within time.

Upon hearing both parties on the second issue, it is obvious that the authorities have acted in a blatantly highhanded and illegal manner by keeping the provisional attachments in a state of continuance for the period from 5th June, 2019 (when the first order of provisional attachment ceases to operate) till 31st October, 2019 (when fresh order for provisional attachment was passed). **Section 83(2) is crystal clear that the provisional attachment shall cease upon expiry of one year. It was therefore incumbent on the authorities to either release the provisional attachment by informing the bank or by issuing a fresh order of provisional attachment, if the law so allowed. The failure to do the above is nothing short of being an act of highhandedness. Such actions of the authorities is an obloquy and reprehensible.** No explanation has been provided for the same either in the affidavits filed in the earlier writ petitions or by counsel appearing on behalf of the respondent authorities during hearing of arguments. In **my view the above action is clearly in violation of the petitioners' rights for carrying on business under Article 19(1) of the Constitution of India and under Article 300A of the Constitution of India wherein the petitioners have been deprived of their property without authority of law. Ergo, the issue is decided in favour of the petitioners.** In my view the actions of the Revenue in acting in contravention of Section 83(2) is condemnable, and accordingly costs are required to be imposed. In light of the same, I direct the concerned respondent authorities to pay costs of Rs. 5 Lakhs to each of the three petitioner companies. These amounts should be deposited in the current account that are provisionally attached within a period of four weeks from date.

5. HC denies Anticipatory Bail for evading GST by not Raising Tax Invoices

Case Name : **Smt. Jecintha Pillaivs Vs State of Telangana (Telangana High Court)**
Appeal Number : Criminal Petition No. 1275 of 2020
Date of Judgement/Order : 10/03/2020

It is apparent that the petitioners are not cooperating with the investigation. The petitioners preferred the present petition on assumptions and presumptions with a view to avoid the statutory proceedings. The nature of financial frauds is complex in nature and requires examining several evidences to conclude the investigation and if the petitioners are released on anticipatory bail, there is every possibility of manipulating the records.

In view of the fact that the Department is still conducting further investigation with regard to the offence committed by TEPL, in which the petitioners are Directors and that there is specific allegation that TEPL is providing taxable services without raising invoices for the services rendered by them to the various service recipients and is not paying appropriate GST on the consideration received towards provision of taxable services, resulting in loss of Rs.11,80,95,716/- to the Government exchequer, I am of the considered opinion that this is not a fit case to grant anticipatory bail to the petitioners and that the prayer for grant of anticipatory bail is rejected.

6. IF VAT Rate reduced by Govt, Similar reduction should also be in Entry Tax Rate: HC

Case Name : **Jindal Stainless Hisar Ltd Vs State of Gujarat (Gujarat High Court)**
Appeal Number : R/Special Civil Application No. 6557 of 2017
Date of Judgement/Order : 11/03/2020

It is the case of the petitioners that while the State Government reduced the applicable rate of tax under the VAT Act on stainless steel flats and sheets to 1% it did not correspondingly reduce the rate of entry tax applicable to the same goods and thus, while the rate of tax under the VAT Act for stainless steel flats and sheets is reduced to 1%, the rate of entry tax on the same goods continues to be four percent.

The petitioners being aggrieved by the prescription of rate of entry tax at the rate of four percent as well as dissatisfied by the aforesaid action on the part of the Deputy Commissioner of Commercial Tax in issuing the notices to the petitioners, have preferred the captioned writ petition with the aforementioned prayers.

Held by High Court

Entry Tax Act is aimed at achieving a level playing field so as to obviate any chance of discrimination. Further, considering the provisions of the Entry Tax Act, in juxtaposition with the provisions of the VAT Act further read with the provisions of Article 304(a) of the Constitution of India, it is abundantly clear that if rates of a specified goods are reduced by the State Government in exercise of the powers conferred under the VAT Act, there has to be a corresponding reduction of the rates of entry tax by the State Government by issuing a notification under the Entry Tax Act; proportionately reducing the rate of tax. Not doing so and continuing with the notification specifying the rate of entry tax on the higher side as compared to the rates specified by the State Government in the notification under the VAT Act, would be in the teeth of the aforesaid well established principles enunciated by this court in the aforesaid judgments. In other words, the continuation of the notification dated 15th February, 2010 after the notification dated 3rd October, 2012 issued by the State Government under the VAT Act, without any justifiable reason, would run contrary to the Statement of Objects and Reasons of the Entry Tax Act so also the provisions of the VAT Act, rendering the action of the State Government violative of the provisions of the Article 304(a) of the Constitution of India. Under the circumstances, continuation of the notification dated 15th February, 2010 prescribing the rate of tax as 4%, after the issuance of the notification dated 3rd October, 2012 is discriminatory and is directly hit by the provisions of Article 304(a) of the Constitution of India and thus, cannot be sustained. Thus, the notification dated 15th February, 2010 insofar as it prescribes the rate of tax as 4% is illegal and not in sync with the provisions of the Entry Tax Act so also the VAT Act and hence, it is impermissible to the State Government to charge tax in excess of the rate of tax prescribed under the notification dated 3rd October, 2012.

Since the notification dated 15th February, 2010, has been held to be illegal and bad in law insofar as it prescribes a higher rate of entry tax vis-a-vis the rate of tax provided in the notification dated 3rd October, 2012 issued under the provisions of the VAT Act, the consequential notices dated 23rd January, 2017 (Annexure 'B' collectively) also cannot be

A contention has been raised by the respondent to the effect that sub-clause (iii) of clause (a) of sub-section (1) of section 11 entitles the registered dealer to claim tax credit equal to the amount of tax paid by a purchasing dealer under the Entry Tax Act and that any excess amount is refundable to the dealer as per the provisions of section 37 of the VAT Act and hence, any excess amount of entry tax paid would be refunded if found eligible as per the provisions of the VAT Act. It is also contended that legitimate tax calculated would not be discriminatory as also the dealer would be eligible to excess tax paid. The said contention does not merit acceptance inasmuch as, as discussed hereinabove, the action of the State Government continuing with the prescription of the higher rate of entry tax vide notification dated 15th February, 2010, have been held to be illegal and bad in law, there arises no question of asking the petitioner to make the payment and then seek refund of the tax amount under the provisions of the VAT Act.

In view of the above discussion, the petition succeeds and is accordingly allowed. The impugned notification dated 15th February, 2010 (Annexure A) to the extent it prescribes a higher rate of entry tax vis-à-vis the rate of tax provided in the notification dated 3rd October, 2012 issued under the provisions of the VAT Act is hereby held to be illegal and bad in law. Consequently, the impugned notices dated 23rd January, 2017 (Annexure 'B' collectively) are hereby quashed and set aside. Rule is made absolute accordingly. No order as to costs.

7. Transitional Credit not allowed if no attempt was made to file GST Tran-1: Rajasthan HC

Case Name : **Shree Motors Vs Union of India (Rajasthan High Court)**
Appeal Number : S.B.Civil W.P. No. 440/2020
Date of Judgement/Order : 18/03/2020

It is alleged that due to various technical glitches/system error the petitioners have failed to file Form GST Tran-1 at common portal within the time envisaged under Rule 117 of the CGST Rules. After attempting help at the GST network portal, the petitioners approached the department for manually accepting the Form GST Tran-1 and made several attempts in this regard. However, the same were not responded.

Further submissions were made that the petitioners have vested right to seek credit once the duties for taxes have been paid by the petitioners. The procedure providing for limitation despite the fault/defect on part of the department to make available requisite system for taking the credit, the action in denying the credit cannot be sustained.

Submissions were also made that various Courts have granted the requisite relief irrespective of non-availability of any technical log on 'GSTN system'. Submissions were made that the status of the departmental portal was such that despite attempts made in this regard no log in happened and, consequently for lack of technical log, the petitioners could not have been denied the credit, to which they were otherwise entitled.

Held by High Court

In view of the fact that this Court while deciding the writ petitions filed by the petitioners had laid down the specific parameters for grant of relief to the

petitioners and it has been found by the respondents as a fact that there was no evidences of error or submission/filing of Form GST Tran-1 by the petitioners, the petitioners apparently are bound by the said outcome and, as such, are not entitled to any relief.

So far as the submissions made pertaining to the vested right and the fact that as the petitioners have admittedly paid the taxes and are, therefore, entitled for the relief, suffice it to notice that the petitioners had questioned the validity of provisions of Section 140 of the CGST Act and Rule 117 of the CGST Rules in the earlier writ petition, which plea was negated.

The theory of vested rights and the implication of limitation on the said aspect of vested right has been considered by Hon'ble Supreme Court in the case of *Osram Surya (P) Ltd. (supra),* wherein, while considering the proviso II to Rule 57G of the Act of 1944 it was laid down that by providing limitation the statute has not taken away any of the vested rights, which accrue to the manufacturers and what is restricted is the time, within which, the manufacturer has to enforce that right and, therefore, once the provisions of Rule 117 of the CGST Rules, which prescribe limitation has been upheld, the plea raised pertaining to the denial of vested right on account of petitioners failing to submit/file Form GST Tran-1 in time cannot be countenanced.

In the judgments of various High Courts cited by learned counsel for the petitioners, in none of the cases the petitioners therein were given specific directions to place material with regard to the technical glitches and attempt on their part to file/submit the Form by the High Court in petitions filed by them and finding of fact had been recorded pertaining to failure on part of the petitioners therein to file/submit Form GST Tran-1 by the GST Council.

In view thereof, the directions given in the judgments relied on by leaned counsel for the petitioners cannot come to the rescue of the petitioners now, once under the directions of this Court a finding with regard to the same has come on record.

In view of the above discussion, no case for interference as sought by the petitioners is made out in the present writ petitions. The petitions are accordingly dismissed.

8. Time limit stipulated under Rule 117 is not ultra vires of GST Act: Bombay HC

Case Name : **NELCO Ltd. Vs Union of India (Bombay High Court)**
Appeal Number : W.P. No. 6998 of 2018
Date of Judgement/Order : 20/03/2020

Time limit stipulated under Rule 117 of the Rules is not ultra vires of the Act. This Rule is traceable to the power conferred under section 164(2) of the Act. The time limit stipulated in Rule 117 is in consonance with the transitional nature of the enactment, and it is neither arbitrary nor unreasonable. Availment of input tax credit under section 140(1) is a concession attached with conditions of its exercise within the time limit. The IT Grievance Redressal Cell is set up by the GST Council to examine the existence of technical difficulties on the common portal. Sufficient guidance is provided in the definition of technical difficulty in Rule 117(1A). Examining the system log to ascertain the existence of technical difficulties on the common portal for registered persons, is not arbitrary, nor does it lead to a fettering

of discretion by the authorities. Those registered persons who could not submit the declaration by the due date because of technical difficulties on the common portal as can be evidenced from the system logs are given an extension on the recommendation of the Council. Where no such evidence is forthcoming, no recommendation is made. In the Petitioner's case, no such proof emerges and, therefore, no direction as sought for can be issued.

Section 140 of CGST Act – Transition provisions – held to be valid and legal

Petitioner had accumulated CENVAT credit and they attempted to file TRAN-1 form on 27.12.2017 but could not do so as, according to the petitioner, there were problems on the common portal. It is submitted that they sent an email to the official but did not get any response; that when they again tried on 28.12.2017, it did not permit filing the same and they, therefore, made another e-mail complaint on 12.01.2018 but received no response and, therefore, they have filed the petition. It is grievance of the petitioner that the last communication made was on 23.4.2018 which too has not been answered and they are, therefore, in danger of losing the CENVAT credit. Petitioner has also challenged the rule 117 of the CGST rules as being ultra vires sections 140(1), (2), (3) and (5) of the Act to the extent that it prescribes a time limit for filing TRAN-1 form.

Decision of the Hon'ble High Court

The rights and privileges accrued during the existing law have been saved u/s 174 of the CGST Act. If what is saved from the earlier regime was conditional, then it cannot be converted to something without conditions in the new regime during the period of transition. If, before and after the GST regime, the availment of Input Credit is conditional, then it cannot be that it is without any limit in the transitional period. With the advent of an entirely new tax regime, the earlier credit could have lapsed, but as and by way of concession, it is permitted to be carried forward for a limited time – Thus going by the scheme of the Act u/s 140(1), the reference to Input Tax credit is not by way of a right, but as a concession. Once it is held that the rule making power exists and the placing of a time limit on the concession is not ultra vires, then the further tinkering with the statutory scheme on hyper technical and academic arguments is neither desirable nor necessary – time limit in rule 117(2) is traceable to the rule making power conferred in s. 164(2) and the credit envisaged under section 140(1) being a concession, it can be regulated by placing a time limit, therefore, time limit under rule 117(1) is not ultra vires the Act.

On the contention of the Petitioner that the time limit-imposed u/r 117 is arbitrary and is in violation of Article 14 of the Constitution, the Hon'ble Court held as under:

When economic legislation is questioned, the Courts are slow to strike down a provision which may lead to financial complications – Taxation issues are highly sensitive and complex; legislations in economic matters are based on experimentations; Court should decide the constitutionality of such legislation by the generality of its provisions – Trial and error method is inherent in the economic endeavours of the State – In matters of economic policy, the accepted principle is that the Courts should be cautious to interfere as interference by the Courts in a complex taxation regime can have large scale ramifications – What is claimed by the petitioner is not a right but a concession and secondly the rule is not ultra vires – even on the aspect of unreasonableness, judicial pronouncements already hold the field – for the new regime to come into force, the transitional arrangements have

been made – The view taken by the Gujarat High Court in Willowood is that Rule 117 is not ultra vires and there is no indefeasible right to carry forward CENVAT credit and the stipulation of the time limit is reasonable – the time limit in the impugned rule is not arbitrary or unreasonable – for an efficient administration of a tax system, certainty, especially in terms of time is important – Calculations of the tax liability dictated by subjective conditions can lead to uncertainty and such uncertainty makes it difficult to budget and ensure that funds are allocated where they are most required – the time limit for availing of input tax credit in the transitionary provisions is rooted in larger public interest of having certainty in allocation and planning, the time limit u/r 117 is thus not irrelevant – upholding only the right to carry forward the credit and ignoring the time limit would make the transitional provision unworkable – Credit under the transitional provision is not a right to be exercised in perpetuity and by the very nature of the transitional provision, it has to be for a limited period – Once, under the GST law for future transactions of ITC, time limit is stipulated, then there is nothing unreasonable in the stipulated time limit for the transitional period – if relief is to be granted to the individual petitioner overriding the time limit on equity, the perception of what is equitable will differ from authority to authority and would lead to uncertainty and the operation of the the complicated tax system will become unworkable – there is also no merit in the submission that insistence on submitting declaration electronically creates a classification between those with needed capabilities and equipment and those who do not and hence is violative of Article 14 – With the ever-expanding sweep of digital data pervading almost all walks of life, it will be a retrograde step to declare a provision unreasonable because it mandates electronic compliance, especially when the enactment in question is an intricate tax regime powered by a software based system – Therefore, the time limit stipulated under rule 117 is neither unreasonable or arbitrary nor violative of Article 14 – Rule 117 is in accordance with the purpose laid down in the Act.

On the issue of meaning of phrase Technical difficulties in Rule 117(1A) of the CGST Rules

GST – Rule 117(1A) – meaning of the phrase “technical difficulties” – This rule provides that the Commissioner may, on the recommendations of the Council, extend the date for submitting the declaration electronically in form GST TRAN-1 by a further period not beyond 31st March 2019 (now extended to 31st March 2020) regarding registered persons who could not submit the said declaration by the due date because of ‘technical difficulties’ on the common portal and regarding whom the GST council has made a recommendation for such extension – Petitioner contends that the ambit of the phrase ‘technical difficulties’ will have to be defined by the Court and it cannot be let to the IT Grievance Cell of the GST council to define the same.

GST Council is not a body to resolve technical issues, therefore, an IT Grievance Redressal Mechanism was developed by the GST Council and this Committee involved the CEO of the GST, Network Director General of Systems, CBSC and the Nominee from State as technical persons and based on the report of this Technical committee, a further recommendation would be made, therefore, there is no merit in the contention that the power could not have been delegated to the IT Grievance Redressal Committee – Contention of the petitioner that the phrase ‘technical difficulty’ in rule 117(1A) has to be broadly construed is not possible – Rule 117(1A) refers to technical difficulties in online submission of TRAN-1 form on the common portal and these technical difficulties are not the ones faced in general but on the common portal of GST – meaning of the phrase ‘technical difficulty’ is thus clear that

it is the technical difficulties which arise at the common portal of GST – The system log is an auto-generated data which records the activities performed; this data is not manually collected but auto-generated and from the system log it can be ascertained as to whether an attempt was made to access the data, therefore, not only there is nothing arbitrary in insisting on system log but a correct criterion – The system log is an unquestionable criterion for ascertaining the activity on the portal – the system log on the common portal does not support the case of the petitioner and this has been communicated – no direction can thus be issued to the respondents now to treat the case of the petitioner as filing within the ambit of Rule 117(1A) of the Rules – Petition is dismissed.