

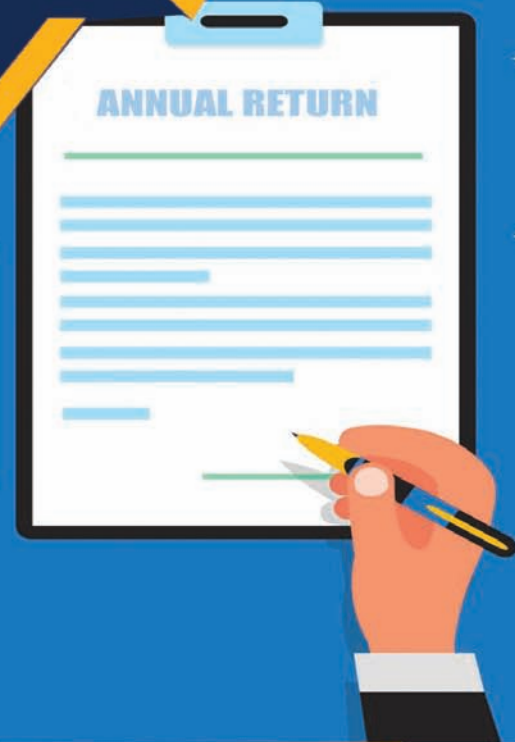


# ICAI-GST

26th Edition

NEWSLETTER  
January 2020

A Newsletter from The Institute of Chartered Accountants of India on GST



## GST Return & Audit



**GSTR 9C**

**GSTR 9  
FILING PROCESS**



- Due Date
- Penalty
- Meaning
- Requirement
- Details

*Important GST  
filing dates*

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22-23



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# President's Communication



**My Esteemed professional colleagues,**

As you may be aware, Union Budget 2020-21 will be presented on 1st February 2020. For the preparation of the same, the Ministry Officials had held discussions with the trade and industry including professional bodies. The ICAI has also presented its suggestions in the discussion meeting convened by the Finance Ministry and has submitted its Pre-Budget Memorandum, 2020 containing detailed suggestions for consideration of the Government.

We express our sincere gratitude to the GST Council and the Government of India for deciding to constitute GST Grievance Redressal Committees at State/Zonal Level for examining and resolving grievances and issues being faced by the taxpayers, including procedural difficulties and IT-related issues.. This will help in collating and understanding of various issues being faced by the taxpayers from across the country in the area of GST.. ICAI also has nominated its representative in the GST Grievance Redressal Committees to represent Tax Professionals as member of the Committee.

Considering low number of return being filed by the taxpayer against total no. of registrations under GST, the Government had earlier put restriction on the issue of E-way Bill by non-filer of GST Return in Form 3B which has now also been extended to GSTR-1 non filer. As a result, the number of Returns filed by the tax payers have increased substantially as also the collections with the improved compliance by tax payers. With the mandatory filing of E-Way Bill by the tax payers from the April, 2019 onwards, the revenue of the Government is expected to improve further. The filing of E-Way Bill would also streamline the credit mechanism as the recipient would be able to take the credit smoothly.

ICAI, being partner in Nation Building, has been regularly submitting its suggestions to the Government on different aspect of GST and has also been assisting in the capacity building by organising various GST accounting and auditing training programmes. As on date, ICAI under the aegis of its GST & Indirect Taxes Committee is organising a series of training programme for West Bengal State GST Department, which is being highly appreciated by the State Government.

ICAI has also been playing a crucial role in GST knowledge dissemination amongst the stakeholders through various technical publications. We have recently revised our Bare Law on GST containing GST Act and Rules which can be referred online at <https://idtc.icai.org/>

I am happy to share that this year our Institute has organised more than 2000 workshops, seminars / conferences on GST which have been attended and benefited by about 2.04 lakh participants. Also, 114 batches of Certificate Courses have been organized across the country which have been attended by more than 7700 participants.

Let's be informed, participate and support implementation of GST.

With Best Wishes,

**CA. Prafulla Preme Sukhi Chhajed**  
President, ICAI





# RCM ON RENTING OF MOTOR VEHICLE

GST being an infant law, the notifications issued by the Central Board of Indirect Taxes & Customs ('CBIC'), has been subject to addendum or modifications/amendments due to lack of clarity, mis-interpretation or inherent errors in drafting. One similar error has been recently addressed by the CBIC on 31-12-2019 by way of issuing an amendment to an earlier notification issued on 30-09-2019 along with a rider circular clarifying the issue. It is not a surprise that the amendment notification has again opened up many other avenues and is interpreted to widen the scope of the service of renting of motor vehicle which is taxable under reverse charge. This may be subjected to a plethora of litigations.

Prior to 30-09-2019, the GST law provided for the following categories of suppliers, including body corporates, engaged in supplying 'Renting of Motor Vehicle' services, where the cost of fuel formed part of the consideration:

- i. 5% GST (i.e. 2.5% CGST & SGST each or 5% IGST) with restriction on availment of Input Tax Credit ('ITC') on goods or services used in supplying the said service, other than input tax credit pertaining to input service used in the same line of business, i.e., service procured from another service provider providing services of transporting passengers in a motor vehicle or renting of a motor vehicle; or
- ii. 12% GST with no restriction of ITC.

The aforesaid services were earlier taxable under forward charge and service providers were eligible to opt for any of the above options for payment of GST. Also, on provision of such services, there was no GST liability under reverse charge mechanism upto 30-09-2019.

However, vide Notification No. 22/2019 - CT(R) dated 30-09-2019 (effective from 01-10-2019) issued by the CBIC, on the recommendations of the GST Council in its 37th meeting held on 20-09-2019, the above position of law was amended to include the following service under the reverse charge category:

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
15.	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Anybody corporate located in the taxable territory.

Similar notifications had also been issued under the IGST Act, 2017 and respective State GST Act(s).



On a conjunct reading of the above provisions, as amended, it can be said that with effect from 01-10-2019, the service of 'renting of motor vehicles' is covered under reverse charge mechanism only if all the following conditions are satisfied:

**a. Recipient of the service is a body corporate:**

As per the Explanation (b) to Notification No. 13/2017-CT(R) dated 28-06-2017, Body Corporate has the same meaning as is assigned to it in Section 2(11) of the Companies Act, 2013 according to which it includes Companies, Foreign Companies and other organizations which are incorporated under any statute.

**b. Service provider is any person other than body corporate**

This is in line with the basic concept of reverse charge, i.e., ensure collection of tax on supplies from unorganised sector to organised sector.

**c. Service provider must have been paying tax @ 5% on the said services upto 30-09-2019.**

The expression used in the notification was 'paying' and not 'liable to pay'.

On perusal of above it transpires that in a transaction of 'Renting of Motor Vehicles services', if all the conditions referred here-in-above are satisfied, the liability of payment of GST @ 5% has been casted upon the body corporates receiving such services. It can, therefore, be inferred that after the effective date of the above notification, i.e., w.e.f 01-09-2019, payment of GST under RCM is not envisaged under any other circumstances and does not include illustrative cases as stated below, where:

- a. Service providers are body corporates;
- b. Service providers who fall under other than body corporates category, but have opted to pay GST @ 12%; and
- c. Service providers who are not registered under GST

However, the analogy lies in the fact that the language of the aforesaid amendment notification was not free from ambiguity

and was amenable to different interpretations due to the usage of the words '*Any person other than a body corporate, paying central tax at the rate of 2.5%*' for the suppliers. The doubts arising from the words of the notification made it difficult for the assessee to follow the aforesaid amendment, thus rendering the above notification unworkable.

Further, as per Section 2(76) of the CGST Act, motor vehicle have been defined to have the meaning as assigned to it under Section 2(28) of the Motor Vehicles Act, 1988, which includes all motor vehicles even if not designed to carry passengers. However, the notification covers only situations where the supplier is paying 5 % GST, which was made applicable only for cases where motor vehicle is designed to carry passengers (SAC 9966) by Notification no. 20/2017- CT (R) dated 22-08-2017. Hence, it is to be interpreted that RCM is applicable only for the supplies where the motor vehicles, designed to carry passengers, are rented and not on renting of all types of motor vehicles. A clarification from the legislature in this respect was due to end any misinterpretation of the said clause.

In this connection, considering the prevailing confusion amongst the assessee at large and the difficulty arising thereof, the intention of the legislature has been further clarified by way of issue of Notification No. 29/2019-CT(R) dated 31-12-2019 and Circular No.130/49/2019-GST dated 31-12-2019. From above amendment following two issues have been put to rest:-

- a. The words 'paying central tax...' in Notification No. 22/2019 (supra) was amended the said entry to provide that the supplier shall be 'any person,..., does not issue an invoice charging central tax at the rate of 6 per cent to the service recipient', which gives the same meaning, as above, that the category of service providers falling under category (ii) are not covered and only service providers falling under category (i) above are covered under RCM.
- b. The nature of the service has been specified to mean the renting of any motor vehicles designed to carry passengers and where the cost of fuel is included in the consideration. Thus, squarely covering only the 5% category of services under chapter heading 9966 of the Service Code Tariff, i.e., Leasing of motor vehicle, where cost of fuel is not included in consideration, will not be subject to reverse charge.

Hence, it can be said that with the above amendment in place, the position of the earlier notification providing applicability of GST under reverse charge mechanism only for that category where GST @5% is charged by non-corporate service provider to a corporate services recipient, is still applicable and such position of law becomes more clear and is devoid of any more confusions.

The circular issued in this respect has tried to clarify the position and mentions that the intent of the GST Council to include the supplies made by suppliers paying GST @ 5% to corporate

entities within the ambit of services taxable under reverse charge. This change has clearly been brought in to relieve small and unorganised service providers and pass the onus on body corporates.

It may however be noted that the amendment, although clarificatory in nature, if read in isolation may be interpreted to mean:

- a. where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and,
- b. where the supplier of the service doesn't charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM.

On the basis of the above interpretation, an issue which still lingers is whether the term 'supplier' would include unregistered suppliers, since for the category of the suppliers in the amendment entry, starts from 'any person...'. In this regard, the following may be noted:

- a. The circular clarifying the amendment provides that the person supplying services to a body corporate may still continue to pay 5% GST on services to non-corporate recipients, which shows the intent of the legislature to include only those supplies where the suppliers would have otherwise charged 5% GST.
- b. The aforesaid notifications have been issued u/s 9(3) of the CGST Act, 2017, wherein the Government is empowered to notify the categories of services only, and not under Section 9(4) of the Act, under which the Government is empowered to specify the class of persons from whom the services are received. Thus, the 'supplier of services' in the notifications can only include registered persons who had opted to pay 5% GST on the said services.

In view of the aforesaid, it can be concluded that GST on the services of Renting of Motor vehicle, designed to carry passengers, where the cost of fuel is included in the consideration charged, and supplied by registered persons who had opted to pay 5 % GST, shall be payable under reverse charge mechanism by the recipient, being a body corporate.

**– contributed by CA. Ashis Agarwal**



# REFUND UNDER INVERTED DUTY STRUCTURE (IDS)

**Introduction:** Goods and Services Tax (GST) is a destination based tax regime, wherein tax gets discharged at multiple phases via credit and cash. Tax is paid to supplier on purchase of goods and/or services, which is available as credit to dealer and when dealer sells those goods, he pays tax on sale, after utilizing the credit available on purchase of goods. Hence tax is discharged in two facets - at the time of purchase and at the time of sale. This process goes on until the goods reach to the final customer.

**About GST Refund:** GST Refund can be of two types –

Type I: Refund of excessive gst paid in cash

Type II: Refund of unutilized credit of gst

While refund of gst under Type I is available at all circumstances, but Refund under type II is available only in the following scenarios-

**Scenario 1-** On zero rated supplies, made without payment of tax (considering the supplies are not subject to export duty and no duty drawback is claimed thereon)

**Scenario 2-** Due to rate of tax on Input supplies being higher than rate of tax on output supplies (Input supplies constitute Inputs, Input services and capital goods). Since the rate of inputs being higher than those of output, this is referred to as Inverted duty structure.

Let us understand scenario no. 2 with the help of an example i.e. where the rate on input supplies is higher as compared to the rate on output supplies. In order to manufacture lime, one needs to purchase raw materials like coal, limestone, petro coke and other packing material. Now petro coke and packing material is chargeable at 18% while tax on finished product i.e. Lime is 5%. In such cases, the credit gets carried forward every month leading to continuous blockage of working capital.

## Who is not eligible to claim under Refund under IDS?

While this looks like refund of unutilized tax credit, this may not be the case always. For example a super stockist having excessive credit balance available at all times is not eligible to claim refund under IDS merely on account of excessive credit. Hence the dealers involved in mere trading of goods, is not eligible to claim refund under this case. This is the case of parallel duty structure (PDS) and not the inverted duty structure (IDS), where the rate of input is equivalent to the rate of tax on output.

**Legal Provision:** Refund of Unutilized ITC under IDS is governed by Sec 54(3) of CGST Act read with Rule 89 of CGST Rules. Further Rule 89(5) of CGST Rules prescribes the formula of Refund, which says:

Maximum Refund Amount = Turnover of Inverted Supply/ Adjusted Total Turnover\* Net ITC – Tax payable on such Inverted Supply



“Net ITC” means input tax credit availed on inputs and input services during the relevant period. (This is up till 17th April 2018)

However, after the Notification No. 21/2018 dated 18th April 2018, ITC on Input Services have been specifically excluded from Net ITC, while determining Refund under IDS.

This exclusion of ITC on input services leaves one point open for discussion that whether ITC on Input services, which are ancillary and secondary to the principal transaction is also covered in the scope of above notification, the refund of which is sought to be barred. In order to understand this deeply, let us take an illustration to describe how ITC on Input services, which is a part of main transaction, can be impacted.

Say Mr. A of Delhi ordered goods from Mr. B of Mumbai. Obviously Mr. A would like to receive goods in his place of business. Now to operate this commercial transaction, goods are required to be reached to the place of Mr. A. Therefore Mr. B collects packing charges and freight over and above the basic commodity value and recovers the tax on the entire value i.e. being transaction value u/s 15 of the CGST as the value on which tax is payable.

Therefore, the point to be considered is whether ITC on Input Services which is sought to be barred by Notification No. 21/2018 dated 18th April 2018, also covers those input services which are merely a part of dominant transaction. In order to take this discussion forward, let us consider the meaning and scope of Composite Supply.

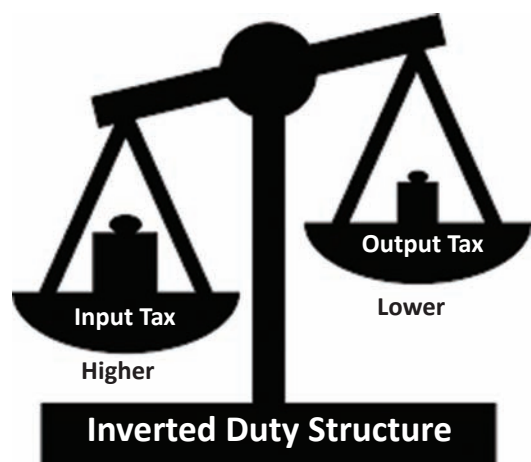
## Composite Supply – Definition Clause and Point of Taxation:

As per Section 2(30) of the Act, “Composite Supply” means a supply by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a Principal Supply”

An illustration to above definition reads as follows –

“Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply”.





On a plain reading of the above illustration and to stretch our imagination in practical situations, a supplier who sell goods and also charge Packing Charges, Freight, Insurance, etc – these ancillary services would fall under the gamut of composite supply and supply of the goods shall be a Principal Supply

Further attention is called for in referring to Section 8(a) of the Act, which deals with the taxability of Composite Supply.

#### As per Section 8(a) of the Act,

“The Tax Liability on a composite supply comprising of two or more supplies, one of which is a principal supply shall be treated as a supply of such principal supply”

*Whether ancillary or secondary input services, which are a part of dominant transaction, should be a part of composite supply, and hence the same should be considered under gamut of inputs, therefore being eligible for calculation of Maximum Refund under IDS as prescribed under Rule 89(5) of CGST Rules – Arguments in favour*

- 1) **Presence of Two or More Taxable Supplies** – The Invoices of some supplier contains ancillary and/or incidental charges like Freight, Insurance, Packing Charges, and Coding Charges etc. On taking the illustration annexed to Section 2(30) of the Act in to account, these charges will constitute composite supply and shall therefore be taxable at the rate applicable to dominant principal supply.

It is also observed that these ancillary input services are not charged at a rate different than the rate of Principal Supply, hinting that these charges do not form part of the contract and are a bare minimum necessity to fulfil the contractual obligation, as no goods could be supplied without being packed, and without getting dispatched. Hence the freight and packing charges are the basic minimum equities to carry out a transaction.

Further freight is chargeable at two rates i.e. 5% under the Reverse charge and 12% under forward charge, but in case of a composite transaction, it is charged at the rate of goods which are billed in the invoice, purging it us to confer that this supply is targeted as the composite supply.

- 2) **Account of Natural Bundling**– In order to take care of natural bundling, one must highlight where the scope of transaction ends in a normal parlance. For instance if Mr. A of Delhi ordered goods from Mr. B of Mumbai. Obviously Mr. A would like to receive goods in his place of business. Now to operate this commercial transaction, goods are required to be reached to the place of Mr. A. Therefore the activities which would ensure the completion of supply encumbrance till the point of termination of contract like freight, packing charges, etc would be the activities naturally bundled, the opposite interpretation of which would render the transaction unfulfilled. To undertake a transaction without the incidence of above mentioned activities is neither possible nor rational enough to even assume. Hence these services are naturally bundled to carry out a transaction.
- 3) **Ordinary Course**– In the normal circumstances freight, packing charges, insurance etc are the recovered in the day to day transactions. In fact these transactions are itself a basis to facilitate the supply of main transaction in the ordinary conduct of business.
- 4) **Presence of Principal Supply**– As the above mentioned ancillary services merely facilitate the transaction, the supply of goods is a dominant supply. Further this is clear from the fact that these incidental services do not carry their rate per se, they are taxable at the rate applicable to the supply of goods. Hence it can be inferred that, it is the goods which is prima-facie supplied and that the other additional miscellaneous recoveries will fall under the spectrum of composite supply.

#### Conclusion:

- 1) The proportionate claim of refund of ITC on account of input service under Refund of IDS which is sought to be denied by virtue of Notification No. 21/2018 dated 18th April 2018 is the denial of refund arising on account of Pure Input Service transactions, and not the ones which falls under the category of Composite Supplies. This is so because the entire levy of incidental and/or ancillary services falling under the Composite Supply is based upon the levy of Principal Supply, which are goods. Since these supplies never step in to the shoes of Input Services as evidenced from many factors highlighted above, they cannot be said to be the input services, the claim of which is barred by the notification.
- 2) Even considering the opposite view is also equally correct. For instance where the principal supply consist of input services, say a purchase of a Tally Accounting software along with basic CD or Pen drive charges, as may be required to install a software. In such a scenario, even if the charges of such CD/Pen drive are clearly mentioned, we would not be in a position to claim refund of those inward supplies as the principal transaction is an input service transaction.

Hence by the very occasion of considering above facts in to equation, I feel the refund occasioned on unutilized ITC on input services, which are a part of composite supply should not be denied.

– contributed by CA. Nikhil Kumar Ramnani

# RESTRICTION ON AVAILMENT OF ITC

## Introduction:

Rule 36(4) of CGST Rules, 2017 seems to be new addition to the much talked and debated amendments in GST law so far. In order to curb the problem of wrongful availment of Input Tax Credit (ITC), CBIC has made amendment to the GST provisions by inserting a new rule i.e. Rule 36(4) of CGST Rule, 2017 through notification no.49/2019-Central Tax dated 09.10.2019, which States that :

*"(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 10 \* per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37."*

### As per the said rule –

- Input tax credit to be availed by a registered person in respect of invoices or debit notes,
- the details of which have not been uploaded by the supplier under section 37(1),
- shall not exceed 10% of the \*eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under section 37(1).

Accordingly, input tax credit is not available in excess of 10% more of invoices uploaded by the supplier.

(\*For the purpose of this notification, eligible ITC means credit of those invoices and debit notes, the details of which are uploaded by the supplier.)

### Provisions and implications of the said rule:

Before the said notification, the taxpayer claimed ITC on a self-declaration basis in GSTR-3B. Even if the GSTR-2A reflected less ITC than the books of account, taxpayers could still make their ITC claim in full in the GSTR-3B, and the unreflected amount was treated as provisional credit.

After the implementation of rule 36(4), the provisional ITC amount will be restricted only to the extent of 10% of the eligible ITC value already reflected in the GSTR-2A for that period.

For Example:

Registered person Mr.A receives inward supplies involving ITC of Rs. 10,00,000/- but GSTR 2A of the same month reflects ITC of Rs.6,00,000/-.Mr.A can claim ITC as :

ITC Reflecting in GSTR 2A	6,00,000/-
10% of eligible ITC(as per Notification No. 75/2019–Central Tax)	60,000/-
(6,00,000*10%)	
Eligible ITC to be taken in GSTR 3B	6,60,000/-



## Input Tax Credit

The balance ITC of Rs.3,40,000 can be claimed in any of the succeeding months provided the details of requisite invoices are uploaded by the suppliers.

In simple words, taxpayer may avail full ITC in respect of a tax period as and when the invoices are uploaded by the suppliers to the extent of Eligible ITC.

### ITC outside the purview of Rule 36(4) for calculation:

- a) ITC available on the Bill of Entry against import of goods.
- b) ITC available on RCM (including import of services/ 9(3), 9(4) etc)
- c) Invoice issued by Input service Distributor since its credit appears in GSTR-6A.
- d) Re-availment of credit under rule 37
- e) Re-availment of credit after year under calculation of Rule 42
- f) ITC claimed through ITC-01, ITC02, TRAN-1, TRAN-2 and TRAN-3

### Before getting into the intricacies of the said rule let us consider its pros:

- Regularity in filing of GSTR-1 by the registered persons.
- No ITC would be claimed against fake invoices raised.
- Registered persons would report their outward taxable supplies in totality due to ITC matching mechanism.

### Impact on Tax Payers :

- This new rule would affect the working capital of the tax payer since he would be required to pay the liability in cash, despite having Eligible ITC on payment of taxes to its supplier.
- Moreover, the taxpayer would not be able to claim refund of excess tax paid by them due to default of the suppliers.
- It becomes vital for a business to regularly reconcile their purchase data between their books and the GSTR-2A.

### Practical difficulties in implementation:

#### 1. Quarterly Return Filers:

Registered persons who have opted for quarterly filing of GSTR-1 shall file their returns on quarterly basis, but at the same time, as per the GST law the taxpayer is required to file GSTR-3B on monthly basis.



As a result, the taxpayer is not able to claim the input in the same month in which GST is paid by him on his inward Supplies.

The taxpayer would be able to claim the credit nearly after 4 months.

This will create hardship for small taxpayers as recipients would try to get supplies from the dealers who opt for monthly filing of GSTR-1.

## 2. GSTR 2A Reconciliation:

- Registered person needs to execute compliance of preparing monthly reconciliation of credits vis-a-vis GSTR-2A, to ensure availment of unmatched credits only upto 10 percent of eligible credits reflecting in GSTR-2A.
- Another difficulty arises is that, GSTR-2A being dynamic report it is not possible for the taxpayer to get the same report as it stood on past date.
- To illustrate the same :

MR. A's inward supplies for the month of Jan 2020 involves ITC of Rs. 1,00,000. GSTR-2A of Jan 2020 reflects Rs. 70,000. ITC that can be claimed in GSTR-3B of Jan 2020 is as:

Particulars	Amount (Rs.)
ITC as per Purchase Register of Jan 2020	1,00,000/-
ITC reflecting in GSTR-2A of 11th Jan 2020	70,000/-
ITC that can be claimed as Provisional Credit (70,000*10%)	7,000/-
ITC can be claimed in GSTR-3B in Jan 2020	77,000/-

Balance ITC of Rs. 23,000/- can be claimed as :

In the above example, if invoices of Rs. 15000/- gets uploaded by the supplier in Feb 2020 then ITC to be claimed in Feb 2020 in respect of Jan 2020 would be :

Particulars	Amount (Rs.)
Invoices uploaded in Feb 2020 (Eligible ITC)	15,000/-
Provisional Credit can be claimed in Feb 2020. (15000*10%)	1,500/-
Total ITC to be claimed in Feb 2020	16,500/-
Balance ITC still not claimed for Jan 2020 (1,00,000-77,000-16,500)	6,500/-

(Note: The restriction of 10% provisional credit will not be supplier-wise, it is linked to total ITC from all suppliers)

- **Also, this balance credit in Jan 2020 will be required to be reconciled in every subsequent GSTR-3B to be filed by the taxpayer and it may last, unless all the invoices of Jan 2020 are reported by the supplier. This may lead to an unending working for the taxpayer for every month until and unless the entire eligible ITC is claimed by the taxpayer.**

## 3. Refund in case of unutilized ITC:

- Since the taxpayer is required to discharge his tax liability at the time of filing GSTR-3B, GST payable in excess of the maximum eligible ITC as per rule 36(4) would be required to be settled in cash.

- In such case, if ITC credited to Electronic Credit Ledger remains unutilized due to higher tax rate on inputs than the outward supplies, the tax payer is required to claim the refund of ITC which involves other compliances.

## 4. Cost of Blocked working capital:

- The taxpayer's funds get blocked as he is required to pay taxes on inward supplies as well as on the outward supplies, unless the invoices get reflected in GSTR-2A.

Government's determination to deny credit to recipient if supplier fails to deposit GST; and face another trail similar to the one in Arise India. But until then, trade is faced with this determination that presents itself in the form of rule 36(4) that was notified to apply to all returns filed from 9 Oct 2019.

Authority to 'prescribe' ways in which eligible credits would be restricted lies in section 43A of Central GST Act but that section is yet to be notified; however, restricting unmatched credits "up to 10 per cent" has already been rolled out by a new rule 36(4). Whether this too is an 'impossible eventuality' will certainly be put to Courts to answer but trade will require to self-assess the extent of 'credit overdraft' that will be tolerated in the form of this new rule. GST promised to allow seamless flow of credit, but this seems farther from that truth.

## Arguments 'for' and 'against'

The case for the Government is that 'credit cannot be allowed of tax that has not reached the Government'. And 'seamlessness' is actually a promise to 'flow what's there to be flowed'. And if tax has not reached the Government, there's nothing to 'flow' to the recipient. If a Recipient can take care to verify that right quantity and quality of supplies were delivered and that Supplier can take care to issue invoice and collect payment in time, can Government be expected to look into remittance of this tax with no responsibility shouldered by parties involved in carrying out the taxable supply? Can parties to the taxable supply still take shelter under 'impossible eventuality'?

The case of trade is entirely different because the recipient cannot be held responsible for failure of supplier. Hon'ble Supreme Court has held that tax credit is 'indefeasible and vested right' in Eicher Motors Ltd. v. UoI 1999 (106) ELT 3 (SC). Question would, therefore, revolve around 'time of vesting'. If it is a right that is 'not yet vested' (or inchoate right), then such unvested rights are for non-vesting. And if right has already vested, then its indefeasible and leaves no room for the Government to unsettle it. In fact, Hon'ble Gujarat High Court, although on other grounds, reiterated this principle while striking down a questionable proviso in notification 20/2018-CT(R) dated 26 Jul 2018 in Shabnam Petrofils (P) Ltd. v. UoI in CA 16213 of 2018 (Guj.) that attempted to 'lapse' vested credits.

Jury is out as to on whose side does 'balance of convenience' lie; and whether this was the real meaning of responsibility that taxpayer bargained for while seeking "minimal Government, maximum governance". Government would say "yes", because GST is a 'self-assessment' tax where tax administration has retained authority to interfere only by exception, howsoever extensive and pervasive these exceptions may be.

– contributed by CA. Sanjay V. Goyal

# SALIENT FEATURES OF E WAY BILL

This article covers all other provisions and related issues of e way bill generation clarified by Government from time to time vide circulars / FAQ etc.

## 1. GENERATION OF E WAY BILL - (PART A ) DIRECTLY FROM SYSTEM -

In the new system of generating e invoice, Part A of e way bill be created directly from portal. Only vehicle number need to be filled by the consignor, consignee or transporter for generation of e way bill.

The GST Council has approved introduction of 'E-invoicing' or 'electronic invoicing' in a phased manner for reporting of business to business (B2B) invoices to GST System, starting from 1st January 2020 on voluntary basis. It will be mandatory w.e.f 01 April 2010 for the businesses with turnover Rs 100 Crore or More.

The functioning of e-invoicing is directed in such a way that the invoice data will be uploaded on the IRP (Invoice Registration Portal) by the supplier. The IRP will sign the e-invoice along with hash and the e-invoice signed by the IRP will be a valid e-invoice and used by GST/ E - Way bill system.

E-Way bill system will create Part-A of e-way bill using this data to which only vehicle number will have to be entered in Part-B of the e-way bill.

## 2. BLOCKING OF E WAY BILL GENERATION :-

With effect from December 2, 2019, the blocking and unblocking of the e-way bill generation facility has been implemented on the e-way bill portal. E-way bill generation has been barred for taxpayers who haven't filed their returns for the previous two consecutive months/ periods. A GSTIN which is blocked cannot be used for generating an e-way bill either as a consignor or consignee.

## 3. UNBLOCKING OF E WAY BILL GENERATION :-

The blocked GSTIN will get unblocked automatically the following morning allowing to proceed with e-way bill generation once a blocked GST taxpayer files his pending GSTR-3B for the default period(s).

In case a taxpayer intends to generate an e-way bill soon after filing return, he can visit the e-way bill portal and choose the option 'Search Update Block Status. He will need to enter GSTIN followed by CAPTCHA code and click on 'GO'.

In case the status still reflects as 'blocked' then he need to click on the option 'Update Unblock Status from GST Common Portal'. This button will extract the most-recent filing status via the GST common portal and, if the returns are filed, the e-way bill system status will get updated subsequently to 'unblocked'.

In case the system fails to unblock the GSTIN, the taxpayer can get in touch with the GST Help Desk and raise a

complaint to get his query resolved.

There might be certain situations where a taxpayer may not be able to file GSTR-3B on time. These scenarios may include technical glitches, or unavailability due to an emergency, etc. In these scenarios, genuine taxpayers can seek help from a jurisdictional tax official to get the e-way bill generation facility restored.

## 4. E WAY BILL FOR SUPPLY OF GOODS FROM DTA TO SEZ IN SAME STATE

Supply of goods from DTA unit to SEZ is defined as Inter State Supply. However, if such supply is in same state, e-way bill is not required if such movement has been exempted from provisions of e way bill by concerned State Government under Rule 138(14)(d) of CGST Rules- CBEC circular No. 47/21/2018-GST dt 08.06.2018

As per Rule 138 (14(d) - Notwithstanding anything contained in CGST rule, no e-way bill is required to be generated in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the State or Union territory Goods and Services Tax Rules in that particular State or Union territory;

## 5. MOVEMENT OF GOODS WITHIN STATE, PASS THRU ANOTHER STATE

E way bill is required when during movement of goods within state, goods pass through another state, as it is an interstate movement of goods. - CBIC circular No. 47/21/2018 - GST dated 08.06.2018

## 6. SMS ALERT TO E WAY GENERATOR FOR INVOICE VALUE MORE THAN 10 CRORES :-

In a new version, w.e.f 01.10.2018, SMS alert, will be send to the generator of e way bill at the time of submission of the form, in case invoice value is more than Rs 10 crores. This will be in addition to pop up alert displayed at the time of entering the high value invoice. The alert message will help user to correct the error in case he enters higher value due to typo mistake - FAQ dated 29.09.2018

## 7. E WAY BILL IS REQUIRED FOR INTER STATE MOVEMENT OF MODE OF CONVEYANCE (BUSES TRUCKS ETC) FOR REPAIRS & MAINTENANCE OR CARRYING GOODS OR PASSENGERS :-

Generation of e way bill is required for interstate movement of mode of conveyance such as buses, trucks, tankers, Vessels, containers, Aircrafts, if value exceeds Rs. 50000/-. Movement of such conveyance can be for repairs & maintenance or carrying goods & passengers.

## 8. MINOR MISTAKES IN E WAY BILL AND PENALTY THERE ON:

Following situations will be considered as Minor Mistakes and penalty to the tune of Rs. 500/- each as CGST & SGST (total Rs. 1000/- ) under sec 125 of CGST Act will be imposed

for such minor mistakes. (Govt circular No. 64/38/2018-GST dt 14.09.2018)

- (a) Spelling mistake in the name of consignor / consignee but GSTN No. wherever applicable, is correct.)
- (b) Error in PIN Code but address of the consignor/consignee is correct subject to the condition that the error in PIN Code should not have the effect of increasing the validity period of e way bill.
- (c) Error in the address of the consignee to the extent that locality and other details of the consignee are correct.
- (d) Error in one or two digits of the document numbers mentioned in the e way bill.
- (e) Error in the 4 or 6 digit level of HSN where first 2 digits of HSN are correct and the rate of tax mentioned is correct.
- (f) Error in the one or two digit / characters of the vehicle number.

It is pertinent to note that in all the above cases, person in charge of vehicle should be in possession of e way bill / tax invoice or delivery challan along with the consignment of goods.

#### 9. PENALTY FOR TRANSPORTING GOODS WITHOUT DOCUMENTS

A conveyance carrying goods in contravention of the provisions of this Act and Rules is liable to detention and seizure. After detention / seizure, the goods & conveyance shall be released on payment of amount to be ascertained as follows :-

- (a) Where the owner of goods comes forward for payment of tax & penalty
  - (i) Applicable Tax on goods detained and penalty equal to 100 % of tax payable on such goods in case of taxable goods.
  - (ii) 2% of value of goods or Rs. 25000/- whichever is less in case of exempted goods.
- (b) Where the owner of goods does not come forward for payment of tax & penalty
  - (i) Applicable Tax on goods detained and penalty equal to 50% of the value of goods minus tax paid there on, in case of taxable goods
  - (ii) 5% of value of goods or Rs. 25000/- whichever is less, in case of exempted goods.

Detained goods and conveyance can be released on furnishing a security equivalent to the amount or on execution of bond with security.

#### 10. DETENTION AND CONFISCATION OF PARTIAL CONSIGNMENTS

Detention and confiscation should be only of consignments for which there is violation. For example, A vehicle carrying 25 consignments is having e way bills of 20 consignments, detention and confiscation should be only of those 5 consignments and not all 25 consignments. (CBIC circular no. 49/23/2018 – GST dated 21.06.2018)

#### 11. SUMMARY OF RELEVANT CIRCULARS

SL. No.	Circular no.	Date of issue	Description
1.	41/15/2018	13/04/18	Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.
2	49/23/2018	21/06/18	Amend Circular No. 41/15/2018 Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.
3	61/35/2018	04/09/18	E-way bill in case of storing of goods in warehouse of transporter.
4	64/38/2018	14/09/18	Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances
5	76/50/2018	31/12/18	Clarification on certain issues relating to GST; <ol style="list-style-type: none"> <li>1. Supply of used vehicles, seized and confiscated goods, waste and scrap by government departments.</li> <li>2. Levy of penalty under section 73(11) of the CGST Act,</li> <li>3. Rate of tax in case of debit notes / credit notes issued under section 142(2) of the CGST Act,</li> <li>4. Applicability of TDS (Notification No. 50/2018-Central Tax)</li> <li>5. Valuation methodology in case of TCS under Income Tax Act and definition of owner of goods.</li> </ol> Owner of the goods for the purpose of Section 129(1) of the CGST Act
6	88/07/2019	01/02/19	Amendment under various previous circular issued related to CGST Act, 2017 w.e.f 01/02/2019



## 12. SUMMARY OF RELEVANT NOTIFICATIONS

SL. No.	Notifications	Date of issue	Description
1.	74/2017	29/12/17	Notifies 01st Feb 2018 as the date from which E-Way Bill Rules shall come into force
2	11/2018	02/02/18	Postponing the E-WAY bills rules
3	15/2018	23/03/18	Notifies 01st April 2018 as the date from which E-Way Bill Rules shall come into force other than clause 7 of notification no. 12/2018 dated 07th March 2018

4	22/2019	23/04/19	Notifying the applicability date of Rule 138E as 21st June 2019
5	25/2019	21/06/19	Extension of applicability date of Rule 138E to 21st Aug 2019
6	36/2019	20/08/19	Extend the date from which the facility of blocking and unblocking of e-way bill facility shall be brought into force from 21.11.2019 vide Rule 138E.

- contributed by CA. Anita Bhadra



**GST & INDIRECT TAXES COMMITTEE OF ICAI**  
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- ❖ GST Tab newly created on website to provide consolidated GST information.

**Your suggestions on the website are also welcome at [gst@icai.in](mailto:gst@icai.in)**

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## FORTH COMING EVENTS UNDER THE AEGIS OF INDIRECT TAXES COMMITTEE

**1st February, 2020**

**Place : Kumbakonam • CPE Hours : 30 Hours**

**Title of the Seminar: Certificate Course on GST**

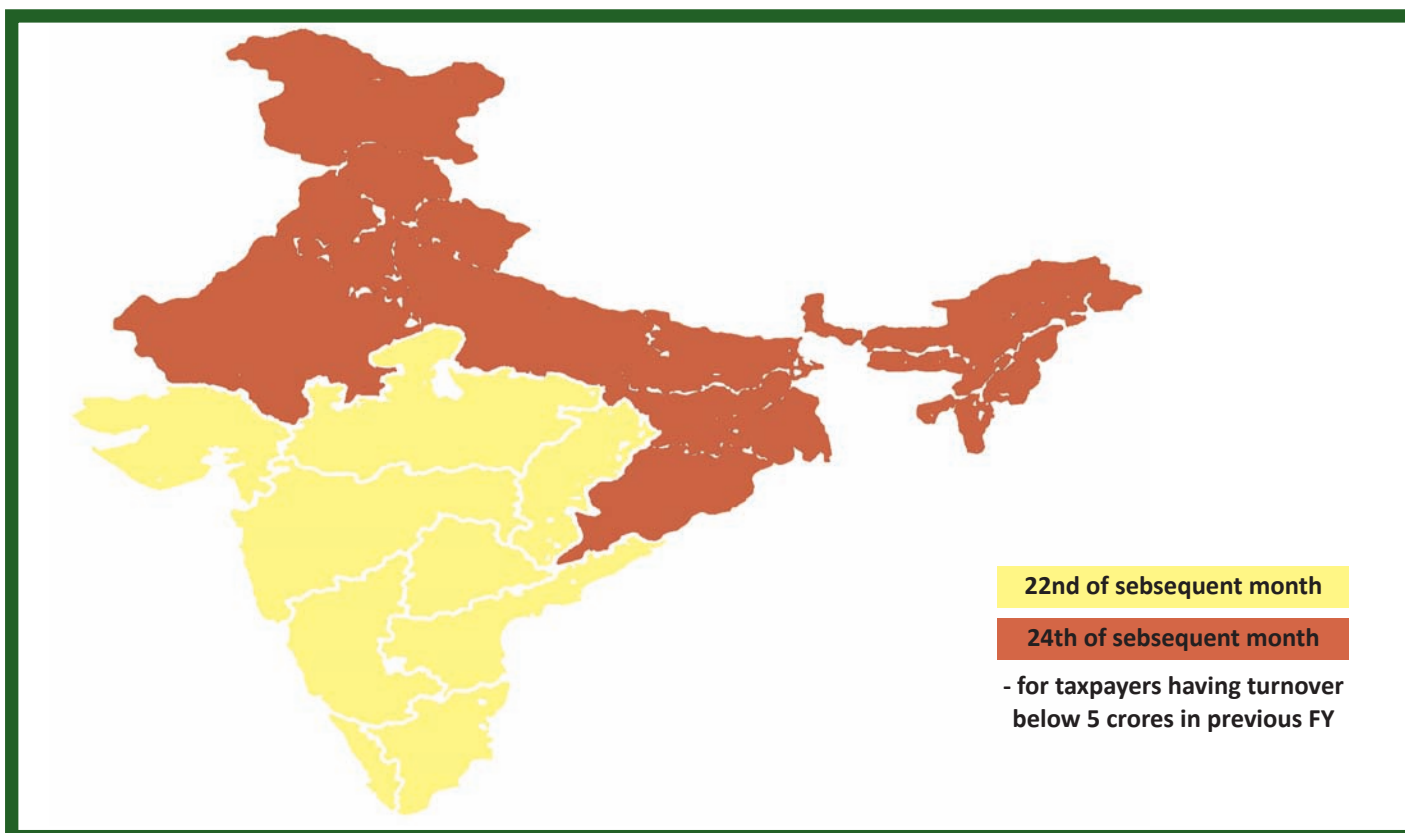
**Contact Details** : Kumbakonam Branch of SIRC  
 Ph: 435-2425329  
 Email: [kumbakonam@icai.org](mailto:kumbakonam@icai.org)

# NEW DUE DATES FOR GSTR-3B RETURN

Considering the difficulties faced by trade and industry in filing of returns, the Government has decided to introduce filing of their GSTR-3B returns in a staggered manner as explained in the below table:-

Turnover of the Taxpayer	States		Due Date
Above 5 crores	All States		20th of next month
Below 5 crores	1. Chhattisgarh 2. Madhya Pradesh 3. Gujarat 4. Daman and Diu 5. Dadra and Nagar Haveli 6. Maharashtra 7. Karnataka 8. Goa	9. Lakshadweep 10. Kerala 11. Tamil Nadu 12. Puducherry 13. Andaman and Nicobar Islands 14. Telangana 15. Andhra Pradesh	22nd of next month
	1. Jammu and Kashmir 2. Himachal Pradesh 3. Punjab 4. Chandigarh 5. Uttarakhand 6. Haryana 7. Delhi 8. Rajasthan 9. Uttar Pradesh 10. Bihar 11. Sikkim	12. Arunachal Pradesh 13. Nagaland 14. Manipur 15. Mizoram 16. Tripura 17. Meghalaya 18. Assam 19. West Bengal 20. Jharkhand 21. Odisha	24th of next month

❖ Necessary notification in this regard would be issued shortly.



# E-INVOICING UNDER GST

## Amendment in Manner of issuing invoice

The Central Government vide Notification No. 68/2019-Central Tax dated 13th December, 2019 has inserted the following sub-rule in rule 48, after sub-rule (3) in the CGST Rules, 2017 (Manner of Issuing Invoice):-

“(4) The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in FORM GST INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.

(5) Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.

(6) The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4).”

*Comment: - To implement a system of e-invoicing mandatorily. Under the proposed electronic invoicing system, an identification number will be issued against every invoice by the Invoice Registration Portal (IRP) to be managed by the GST Network (GSTN).*

## Notification of the common portal for the purpose of e-invoice.

The Central Government vide Notification No. 69/2019-Central Tax dated 13th December, 2019 has notified the following as the Common Goods and Services Tax Electronic Portal for the purpose of preparation of the invoice in terms of sub-rule(4) of rule 48 of the CGST Rules, 2017, namely :-

- (i) [www.einvoice1.gst.gov.in](http://www.einvoice1.gst.gov.in);
- (ii) [www.einvoice2.gst.gov.in](http://www.einvoice2.gst.gov.in);
- (iii) [www.einvoice3.gst.gov.in](http://www.einvoice3.gst.gov.in);
- (iv) [www.einvoice4.gst.gov.in](http://www.einvoice4.gst.gov.in);
- (v) [www.einvoice5.gst.gov.in](http://www.einvoice5.gst.gov.in);
- (vi) [www.einvoice6.gst.gov.in](http://www.einvoice6.gst.gov.in);
- (vii) [www.einvoice7.gst.gov.in](http://www.einvoice7.gst.gov.in);
- (viii) [www.einvoice8.gst.gov.in](http://www.einvoice8.gst.gov.in);
- (ix) [www.einvoice9.gst.gov.in](http://www.einvoice9.gst.gov.in);
- (x) [www.einvoice10.gst.gov.in](http://www.einvoice10.gst.gov.in).



Explanation. For the purposes of this notification, the above-mentioned websites mean the websites managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (18 of 2013).  
2. This notification shall come into force with effect from the 1st day of January, 2020.

## Notification of the class of registered person required to issue e-invoice & its effective date

The Central Government vide Notification No. 70/2019-Central Tax dated 13th December, 2019 has notified registered person, whose aggregate turnover in a financial year exceeds one hundred crore rupees, as a class of registered person who shall prepare invoice 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.

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

*Comment. -This new system of e-invoicing aims to make invoice reporting an integral part of a business process and remove the tedious task of invoice-compilation at the end of a return period. Further, it will help tax authorities to curb the actions of unscrupulous taxpayers and reduce the number of fraud cases as the tax authorities will have access to data in real-time.*

## Notification of the effective date of Tax Invoice having Quick Response (QR) code.

The Central Government vide Notification No. 71/2019-Central Tax dated 13th December, 2019 has notified 1st April 2020 as the date from which the tax invoice shall have Quick Response (QR) code subject to such conditions and restrictions as mentioned therein.

## Notification of the class of registered person required to issue invoice having QR Code

The Central Government vide Notification No. 72/2019-Central Tax dated 13th December, 2019 has notified that that an invoice issued by a registered person, whose aggregate turnover in a financial year exceeds five hundred crore rupees, to an unregistered person (hereinafter referred to as B2C invoice), shall have 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.

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

*Comment -An assessee may misplace a GST Invoice that was issued or may require additional copies of the same invoice. In such cases, the assessee faces the need to contact the supplier repeatedly. To solve the issue, the Government has introduced the requirement to include QR Codes in invoices. By scanning the QR Code, the assessee can generate the GST Invoice any number of times in PDF format.*

*The requirement for providing QR Code is part of an overall initiative by the Government to introduce e-invoicing. The e-invoicing facility is a proposed system for automatic online authentication of Business to Business (B2B) invoices.*



# AMENDMENTS IN GST RULES

The Central Government vide Notification No. 02/2020-Central Tax, dated 1st January, 2020 has made the following amendments in CGST Rules, 2017:-

❖ **Amendment in Rule 117. Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day:-**

- (a) in sub-rule (1A), with effect from the 31st December 2019, for the figures, letters and word "31st December, 2019", the figures, letters and word "31st March, 2020" shall be substituted;
- (b) in sub-rule (4), in clause (b), in sub-clause (iii), in the proviso, for the figures, letters and word "31st January, 2020", the figures, letters and word "30th April, 2020" shall be substituted.

**Comment:-** The above amendments empowers the Commissioner, on the recommendations of the Council, to extend the date for submitting the declaration electronically in FORM GST TRAN-1 by a further period not beyond [31st March, 2020], in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension. The above amendment also allows the registered persons filing the declaration in FORM GST TRAN-1 in accordance with sub-rule (1A), to submit the statement in FORM GST TRAN-2 by [30th April, 2020]

❖ **Amendment in FORM REG-01, FORM GSTR-3A, FORM INV-01:-**

Certain changes have also been made in in Part-B of FORM REG-01, FORM GSTR-3A ("Notice to Return Defaulter u/s 46 for not filing Return"), & FORM INV-01 vide the said notification.

## Central Goods and Services Tax (Ninth Amendment) Rules, 2019

The Central Government vide Notification No.75/2019-Central Tax dated 26th December, 2019 has made the following amendments in CGST Rules, 2017:-

❖ **Rule 36, sub-rule (4)**

With effect from the 1st January, 2020, in rule 36, sub-rule (4), for the figures and words "20 per cent.", the figures and words "10 per cent." shall be substituted

**Comment:-** W.e.f 1st January, 2020, Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 10 % of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.

❖ **Insertion of Rule 86A: Conditions of use of amount available in electronic credit ledger.-**

(1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner,

having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-

- a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-
  - i. issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained;
  - or
  - ii. without receipt of goods or services or both; or
- b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government;
- or
- c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained;
- d) the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,

may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.

(2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction."

**Comment:-** In line with the decisions taken by the 38th GST Council Meeting, this is a welcome step by Government to check the menace of Fake Invoices & disallowance of fraudulently availed input tax credit.

❖ **Clause (c) in rule 138E**

With effect from the 11th January, 2020, in rule 138E, after clause (b), the following clause shall be inserted, namely: -

"(c) being a person other than a person specified in clause (a), has not furnished the statement of outward supplies for any two months or quarters, as the case may be."

**Comment:-** The insertion has been made to block generation of E-way Bill by a registered person who has not furnished Form GSTR-1 for successive two months or two quarters, as the case may be w.e.f 11th January, 2020. In line with the decisions taken by the 38th GST Council Meeting, this step is taken by Government to ensure filing of GSTR-1 in a timely manner for generation of E-Way Bill.

## EXEMPTION OF UPFRONT PAYMENT FOR LONG TERM LEASE OF INDUSTRIAL/ FINANCIAL INFRASTRUCTURE PLOTS BY AN ENTITY HAVING 20% OR MORE OWNERSHIP OF CENTRAL OR STATE GOVERNMENT

The Central Government vide Notification No. 28/2019-Central Tax (Rate), dated 31st December 2019 has made the following amendment in Notification No.12/2017- Central Tax (Rate), dated the 28th June, 2017 :-

In the said notification, in the Table, against serial number 41, -

(a) in column (3), for the figure "50", at both the places where they occur, the figure "20" shall be substituted;

(b) for the entry in column (5), the following entries shall be substituted, namely, -

(5)
<p>"Provided that the leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area:</p> <p>Provided further that the State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard:</p> <p>Provided also that in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty:</p> <p>Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to abovecondition and that the parties to the said agreements undertake to comply with the same."</p>

Comment:-The above amendment has been made so as to exempt upfront amount payable for long term lease of industrial/ financial infrastructure plots by an entity having 20% or more ownership of Central or State Government. Earlier, the exemption was available to an entity having 50% or more ownership of Central or State Government.

The condition has also been substituted so as to restrict the usage of land for the purpose for which it was allotted & imposition of tax, interest & penal provisions for non-compliance.

Similar amendments has been made in the Integrated Tax (Rate) & Union Territory Tax (Rate) vide [Notification No. 27/2019-Integrated Tax (Rate), dated 31st December 2019] & [Notification No. 28/2019-Union Territory Tax (Rate), dated 31st December 2019]

## CLARITY ON RCM ON RENTING OF MOTOR VEHICLES TO A BODY CORPORATE

The Central Government vide Notification No. 29/2019-Central Tax (Rate), dated 31st December 2019 has made the following further amendment in Notification No.13/2017- Central Tax (Rate), dated the 28th June, 2017:-

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
"15	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient	Any body corporate located in the taxable territory."

To clarify the need of the above amendment, the Central Board of Indirect Taxes & Customs vide Circular No. 130/49/2019-GST dated 31st December, 2019 has issued the following clarification:-

Though a supplier providing the service to a body corporate under RCM may still be paying GST @ 5% on the services supplied to other non body corporate clients, to bring in greater clarity, serial No. 15 of the notification No. 13/2017-CT (R) dated 28.6.17 has been amended vide notification No. 29/2019-CT (R) dated 31.12.19 to state that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfils all the following conditions:-

- (a) is other than a body-corporate;
- (b) does not issue an invoice charging GST @12% from the service recipient; and
- (c) supplies the service to a body corporate.

Similar amendments has been made in the Integrated Tax (Rate) & Union Territory Tax (Rate) vide [Notification No. 28/2019-Integrated Tax (Rate), dated 31st December 2019] & [Notification No. 29/2019-Union Territory Tax (Rate), dated 31st December 2019]

# OTHER GST UPDATES

## Effecting certain provisions of the Finance (No. 2) Act, 2019

The Central Government vide Notification No. 01/2020-Central Tax, dated 1st January, 2020 has appointed the 1st day of January, 2020, as the date on which the provisions of sections 92 to 112, except section 92, section 97, section 100 and sections 103 to 110 of the Finance (No. 2) Act, 2019 (23 of 2019), shall come into force.

Comment: The Central Government vide the Finance (No. 2) Act, 2019 dated 1st August 2019 proposed certain amendments in the CGST Act, 2017 which shall come into force on such date as may be notified later.

Earlier, Notification No. 39/2019 – Central Tax dated 31st August 2019 notified 1st September 2019 as the date on which the provisions of section 103 of the Finance Act shall come into force. The section 103 provides for amendment in section 54 of the CGST Act, 2017 which empowers the Government to disburse the refund of the State tax in such manner as may be prescribed.”.

Now, Notification No. 01/2020-Central Tax, dated 1st January, 2020 provides 1st January, 2020 as the effective date for the below mentioned sections of the Finance (No. 2) Act, 2019:-

### 1. Composition Scheme- Section 93 of Finance (No. 2) Act, 2019- Section 10 of CGST Act, 2017

A new sub-section (2A) to section 10 of the CGST Act, 2017 has been introduced to bring in a similar Composition Scheme for Service Providers, as well as suppliers of both goods and services (mixed suppliers), having an annual turnover of up to Rs 50 lakhs in the preceding financial year. An amount of tax calculated at such rate as may be prescribed, but not exceeding 3% of the turnover in State or turnover in Union territory shall be paid, if he is not—

- engaged in making any supply of goods or services which are not liable to tax under this Act;
- engaged in making any inter-State outward supplies of goods or services;
- engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;
- a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
- a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.”;

Two further explanations have been added to this section-

- Value of exempt supplies of services provided by way of extending deposits, loans or advances, with interest or discount as the consideration shall not be considered as part of the aggregate turnover, for determining eligibility into the scheme.
- Value of exempt supplies of services provided by way of extending deposits, loans or advances, with interest or discount as the consideration shall not be considered as part of the aggregate turnover, to determine the value of turnover in a particular State or Union Territory.

In addition, any supplies made from 1st April of the year till the date the taxpayer becomes liable for registration shall not be taken into account.

This brings clarity for taxpayers who were worried about including such supplies while estimating aggregate turnover and whether they will have higher GST composition liability on account of such services.

### 2. Persons liable for registration- Section 94 of Finance (No. 2) Act, 2019- Section 22 of CGST Act, 2017

The threshold limit for Registration under GST has been increased from Rs 20 lakhs to Rs 40 lakhs for a supplier of goods only.

This amendment is beneficial especially for small and medium taxpayers who do not need to get themselves registered under GST unless their turnover exceeds Rs 40 lakhs. This applies only to those who are exclusive suppliers of goods.

### 3. Procedure for registration- Section 95 of Finance (No. 2) Act, 2019- Section 25 of CGST Act, 2017

A new sub-section (6A) has been introduced to section 25 of the CGST Act to mandate authentication using Aadhaar number for every registered person under GST. This section also prescribes the manner in which Aadhaar authentication needs to be done. In case a person fails to undergo Aadhaar authentication, then his registration would be deemed invalid.

This provision will also be applicable in cases where registration is being granted for the first time. In addition to this, the Aadhaar number of the authorized signatory such as Karta, Managing Director, Board of Trustees, etc as per the list specified by the Government, shall also need to be authenticated.

The mandatory disclosure of the Aadhaar number, first under the Income Tax Act, and now under the Central Goods and Services Act, shows the importance the Government has now placed on the Aadhaar Card.

### 4. Facility of digital payment to recipient- Section 96 of Finance (No. 2) Act, 2019- Section 31A of CGST Act, 2017 inserted



This section mandates certain registered suppliers to give their recipients the option of prescribed modes of electronic payment.

The Government is moving towards a cashless economy, and one such measure is the introduction of electronic modes of payment for certain payment and certain registered persons. Under this new section, these registered suppliers will have to mandatorily give their recipients the option of making electronic payments. This move will also help prevent the evasion of taxes. Giving cashless economy an essential push.

**5. Annual return- Section 98 of Finance (No. 2) Act, 2019- Section 44 of CGST Act, 2017**

This section provides for extension in the time limit for furnishing the annual return for a class of registered persons.

Provided that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner of Central Government.

**6. Payment of tax, interest, penalty and other amounts- Section 99 of Finance (No. 2) Act, 2019- Section 49 of CGST Act, 2017**

To remove inconveniences for taxpayers, a new sub-section (10) has been added to Section 49 of the CGST Act, 2019 to facilitate the transfer of amounts paid under tax, interest, penalty, fee or any other amount that is available in the electronic cash ledger to the correct head under integrated tax, central tax, State tax, Union territory tax or cess in the electronic cash ledger, as applicable.

This was a long-standing problem that causes grievances amongst taxpayers who have mistakenly paid taxes under the wrong head of tax, in the past. Previously, this tax could not be utilised and would need to be paid again under the correct head. The introduction of this sub-section means that henceforth, all taxes that are incorrectly paid under the wrong heads of tax can now be simply transferred to the correct head.

**7. Tax collected at source- Section 101 of Finance (No. 2) Act, 2019- Section 52 of CGST Act, 2017**

Two new provisos have been inserted in section 52(4) and section 52(5) of the CGST Act, 2017 so as to empower the Commissioner to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

**8. Transfer of certain amounts- Section 102 of Finance (No. 2) Act, 2019- Section 53 of CGST Act, 2017 inserted**

A new section 53A has been introduced in the CGST Act, 2017 so as to provide for transfer of amount between Centre and States consequential to amendment in section 49 allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.

**9. Power to issue instructions or directions- Section 111 of Finance (No. 2) Act, 2019- Section 168 of CGST Act, 2017**

Consequent to the amendments in section 44 and section 52, section 168 is proposed to be amended so as to specify that in respect of sub-section (1) of section 44 and sub-sections (4) and (5) of section 52, Commissioner /Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

**10. Anti-profiteering measure- Section 112 of Finance (No. 2) Act, 2019- Section 171 of CGST Act, 2017**

This section has been amended to empower the National Anti-profiteering Authority to impose a penalty that is equivalent to 10% of the profiteered amount.

The National Anti-Profiteering Authority examines whether the benefit of input tax credit has been passed on to the recipient by way of reduction in prices, and that no supplier unlawfully benefits from the same.

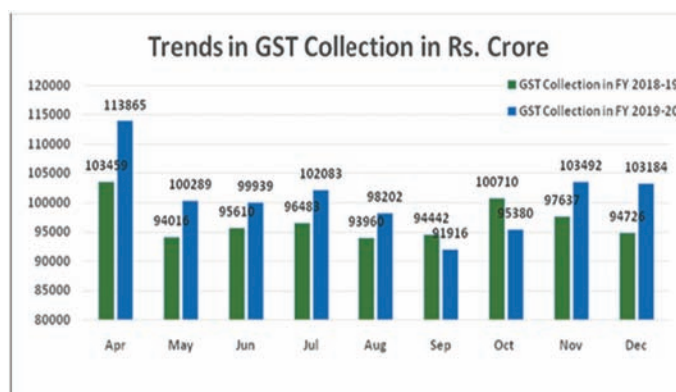
**GST Revenue collection for December, 2019 ₹ 1,03,184 of gross GST revenue collected in the month of December**

The gross GST revenue collected in the month of December 2019 is ₹ 1,03,184 crore of which CGST is ₹19,962 crore, SGST is ₹ 26,792 crore, IGST is ₹ 48,099 crore (including ₹ 21,295 crore collected on imports) and Cess is ₹ 8,331 crore (including ₹ 847 crore collected on imports). The total number of GSTR 3B Returns filed for the month of November up to 31 December 2019 is 81.21 lakh.

The GST revenues during the month of December 2019 from domestic transactions has shown an impressive growth of 16% over the revenue during the month of December 2018. If we consider IGST collected from imports, the total revenue during December 2019 has increased by 9% in comparison to the revenue during December 2018. During this month, the IGST on import of goods has seen a negative growth of (-) 10% but is an improvement over (-) 13% last month and (-) 20% in the month of October.

The government has settled ₹ 21,814 crore to CGST and ₹ 15,366 crore to SGST from IGST as regular settlement. The total revenue earned by Central Government and the State Governments after regular settlement in the month of December 2019 is ₹ 41,776 crore for CGST and ₹ 42,158 crore for the SGST.

Following is the table showing State-wise gross domestic GST Collection and its comparison with that of December 2018:



## State-wise Gross Domestic GST Collection for the month of December 2019

(Amount Rs. in Cr.)

	State	Dec-18	Dec-19	Growth
1	Jammu and Kashmir	293	409	40%
2	Himachal Pradesh	595	699	18%
3	Punjab	1,162	1,290	11%
4	Chandigarh	143	168	18%
5	Uttarakhand	1,055	1,213	15%
6	Haryana	4,646	5,365	15%
7	Delhi	3,146	3,698	18%
8	Rajasthan	2,456	2,713	10%
9	Uttar Pradesh	4,957	5,489	11%
10	Bihar	909	1,016	12%
11	Sikkim	150	214	43%
12	Arunachal Pradesh	26	58	124%
13	Nagaland	17	31	88%
14	Manipur	27	44	64%
15	Mizoram	13	21	60%
16	Tripura	48	59	24%
17	Meghalaya	108	123	14%
18	Assam	743	991	33%
19	West Bengal	3,230	3,748	16%
20	Jharkhand	1,995	1,943	-3%
21	Odisha	2,347	2,383	2%
22	Chhattisgarh	1,852	2,136	15%
23	Madhya Pradesh	2,094	2,434	16%
24	Gujarat	5,619	6,621	18%
25	Daman and Diu	77	94	22%
26	Dadra and Nagar Haveli	129	154	20%
27	Maharashtra	13,524	16,530	22%
29	Karnataka	6,209	6,886	11%
30	Goa	342	363	6%
31	Lakshadweep	4	1	-78%
32	Kerala	1,416	1,651	17%
33	Tamil Nadu	5,415	6,422	19%
34	Puducherry	152	165	9%
35	Andaman & Nicobar Island	22	30	36%
36	Telangana	3,014	3,420	13%
37	Andhra Pradesh	2,049	2,265	11%
	Grand Total	69,983	80,849	16%

\*\*\*\*\*

[Release id 1598153 dated 1st January 2020]

## Amendment in the transition plan for the UTs of Jammu & Kashmir and Ladakh

The Central Government vide Notification No. 03/2020-Central Tax, dated 1st January, 2020 has made certain changes in the transition plan notification No. 62/2019-Central Tax, dated the 26th November, 2019 for the UTs of Jammu & Kashmir and Ladakh as under:-

In the said notification-

- in paragraph 2, in clause (iii), for the figures, letters and words "30th day of October, 2019" and "31st day of October", the figures, letters and words "31st day of December, 2019" and "1st day of January, 2020" shall respectively be substituted;
- in paragraph 3, for the figures, letters and words "31st day of October, 2019", the figures, letters and words "1st day of January, 2020" shall be substituted.

Comment:- The above amendment extends the time to exercise the option to transfer the input tax credit (ITC) from the registered Goods and Services Tax Identification Number (GSTIN), till the 31st day of December, 2019 (instead of 30th day of October, 2019) in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 1st day of January, 2020 (instead of 31st day of October, 2019).

Further it also extends the time for transfer of the balance of State taxes in electronic credit ledger of the said class of persons, as the balance of Union territory tax whose principal place of business lies in the Union territory of Ladakh from the 1st Day of January, 2020 (in place of 31st day of October, 2019).

## Appointment of Revisional Authority under CGST Act, 2017.

The Central Government vide Notification No. 05/2020-Central Tax, dated 13th January, 2020 authorises the following as the Revisional Authority under section 108 of the CGST Act-

Sl. No.	Revisional Authority	For Orders Passed by
(a)	The Principal Commissioner or Commissioner of Central Tax	for decisions or orders passed by the Additional or Joint Commissioner of Central Tax
(b)	The Additional or Joint Commissioner of Central Tax	for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax.

## Effecting certain provisions of the Finance (No. 2) Act, 2019 to amend the IGST Act, 2017

The Central Government vide Notification No. 01/2020-Integrated Tax, dated 1st January, 2020 has appointed the 1st day of January, 2020, as the date on which the provisions of sections 114, of the Finance (No. 2) Act, 2019 (23 of 2019), shall come into force.

Comment: Sections 114, of the Finance (No. 2) Act, 2019 (23 of 2019) reads as under:-

114. After section 17 of the Integrated Goods and Services Tax Act, 2017, the following section shall be inserted, namely:—

"17A. Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the Government shall transfer to the State tax account or the Union territory tax account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time, as may be prescribed."

### **Extension of last date for furnishing of annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for FY 2017-18**

The Central Government vide Removal of Difficulty Order No.10/2019-Central Tax dated 26th December, 2019 has further extended the due dates of filing annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for FY 2017-18 to 31st January, 2020.

### **Constitution of Grievance Redressal Committees at Zonal/ State level for redressal of grievances of taxpayers on GST related issues**

With a view to tackle grievances of taxpayers on GST related issues of specific/ general nature, CBIC vide Instruction F. No. 20/10/16/2018-GST (Pt. I) dated 24th December, 2019 provides that GST Council has approved constitution of 'Grievance Redressal Committee' at Zonal/State level consisting of both Central Tax and State Tax officers, representatives of trade and industry and other GST stakeholders. Further, it provides for constitution of each such Grievance Redressal Committee, its terms, functions and mandate, periodicity of meeting as well as mechanism of working of the committee.

### **Format of DIN on any communication issued by the officers of the Central Board of Indirect Taxes and Customs (CBIC) to tax payers and other concerned persons**

Further to the Circular No. 122/41/2019-GST dated 05.11.2019, regarding use of Document Identification No (DIN), the Central Board of Indirect Taxes and Customs vide Circular no. 128/47/2019 dated 23rd December, 2019, has directed that electronic generation and quoting of Document Identification Number (DIN) shall be done in respect of all communications (including e-mails) sent to tax payers and other concerned persons by any office of the CBIC across the country w.e.f. 24th December, 2019. Further, in order to standardize the format of search authorizations, summons, arrest memos, inspection notices etc. issued by the GST/Central Excise/ Service Tax formations across the country, the Board had constituted a committee of officers to examine and suggest modifications in the formats of these documents which has submitted its recommendations. The standardized documents have since been uploaded by DDM and are ready to be used. When downloaded and printed, these standardized documents would bear a pre-populated DIN thereon. Accordingly, the Board directs that all field formations shall use the standardized authorization for search, summons, inspection notice, arrest memo and provisional release order (the formats are provided). These formats shall be used by all the formations w.e.f. 01.01.2020.

### **Standard Operating Procedure to be followed in case of non-filers of Returns**

The Central Board of Indirect Taxes and Customs vide Circular no. 129/48/2019 dated 24th December, 2019 has laid down the following SOP to be followed in case of non-filers of GST Return:-

- (i) Preferably, a system generated message would be sent to all the registered persons 3 days before the due date to nudge them about filing of the return for the tax period by the due date.
- (ii) Once the due date for furnishing the return under section 39 is over, a system generated mail / message would be sent to all the defaulters immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period; the said mail/message is to be sent to the authorized signatory as well as the proprietor/partner/director/karta, etc.
- (iii) Five days after the due date of furnishing the return, a notice in FORM GSTR-3A (under section 46 of the CGST Act read with rule 68 of the CGST Rules) shall be issued electronically to such registered person who fails to furnish return under section 39, requiring him to furnish such return within fifteen days;
- (iv) In case the said return is still not filed by the defaulter within 15 days of the said notice, the proper officer may proceed to assess the tax liability of the said person under section 62 of the CGST Act, to the best of his judgement taking into account all the relevant material which is available or which he has gathered and would issue order under rule 100 of the CGST Rules in FORM GST ASMT-13. The proper officer would then be required to upload the summary thereof in FORM GST DRC07;
- (v) For the purpose of assessment of tax liability under section 62 of the CGST Act, the proper officer may take into account the details of outward supplies available in the statement furnished under section 37 (FORM GSTR-1), details of supplies autopopulated in FORM GSTR-2A, information available from e-way bills, or any other information available from any other source, including from inspection under section 71;
- (vi) In case the defaulter furnishes a valid return within thirty days of the service of assessment order in FORM GST ASMT-13, the said assessment order shall be deemed to have been withdrawn in terms of provision of sub-section (2) of section 62 of the CGST Act. However, if the said return remains unfurnished within the statutory period of 30 days from issuance of order in FORM ASMT-13, then proper officer may initiate proceedings under section 78 and recovery under section 79 of the CGST Act;

Above general guidelines may be followed by the proper officer in case of non furnishing of return. In deserving cases, based on the facts of the case, the Commissioner may resort to provisional attachment to protect revenue under section 83 of the CGST Act before issuance of FORM GST ASMT-13.

Further, the proper officer would initiate action under sub-section (2) of section 29 of the CGST Act for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.

# CUSTOM UPDATES

## **Implementation of PGA e-SANCHIT– Paperless Processing under SWIFT- Uploading of Licenses/ Permits/Certificates/Other Authorizations (LPCOs) byPGAs**

The Central Government vide Circular No 03/2020-Customs dated 15th January 2020 introduced a facility to upload digitally signed Licenses / Permits / Certificates / Other Authorizations (LPCOs) by Participating Government Agencies.

eSANCHIT” application was successfully in operation since 1st April, 2018. With the objective of further reducing physical interface between Customs / regulatory agencies and the trade and to increase the speed of clearance in both imports & exports, a facility to upload digitally signed Licenses / Permits / Certificates / Other Authorizations (LPCOs) by Participating Government Agencies (PGAs), eSANCHIT was introduced at all ICES locations across India from 16th November, 2018.

Initially CBIC vide Circular No.44/2018-Cus. dated 13.11.2018 introduced 3 PGAs, later vide Circular No.13/2019-Cus. dated 3.6.2019 added 23 PGAs and thereafter vide Circular No.19/2019-Cus dated 16.07.2019 added 16 more PGAs, now 4 more PGAs are added vide Circular No 03/2020-Customs dated 15th January, 2020. All these PGAs are being brought onboard the e-SANCHIT platform.

Since the facility to upload the LPCOs is now being fully made available to these 4 new PGAs, the beneficiaries i.e. importer/ exporters/customs brokers would not be allowed to upload the previously issued LPCOs on e-SANCHIT w.e.f 31/01/2020.

Board had already introduced simplified auto registration process in ICEGATE based on email IDs already provided by them for registration under GST without the use of digital signatures for limited purposes of eSANCHIT (communication and viewing) and the IRNs will be communicated to such email IDs.

Since the facility of beneficiary uploading these documents through e-SANCHIT will be deactivated from 31.01.2020, beneficiary registration is of utmost importance. Hence, all the beneficiaries are required to ensure that correct email addresses are reflected in the ICEGATE.

## **Generation and quoting of DIN in all communications (including e-mails) sent to tax payers and other concerned persons by officers of the Central Board of Indirect Taxes and Customs (CBIC)**

The Central Government vide Circular No. 43/2019-Customs dated 23rd December 2019 provided the electronic generation and quoting of Document Identification Number(DIN) in respect of all communications (including e-mails) sent to tax payers and other concerned persons by any officer of the CBIC w.e.f 24.12.2019. This will create digital directory for maintaining a

proper audit trail of communications sent to tax payers & other concerned persons and also provide recipient a digital facility to ascertain the genuineness of the communication.

Earlier, CBIC vide Circular No. 37/2019-Customs dated 5th November, 2019 had specified that the DIN monitoring system would be used for incorporating a Document Identification Number (“DIN”) on search authorisations, summons, arrest memos, inspection notices etc which can be verified by recipient at cbic.gov.in.

Accordingly, the online digital platform/facility already available on the DDM’s online portal ‘cbicddm.gov.in’ for electronic generation of DIN has been suitably enhanced to enable electronic generation of DIN in respect of all forms of communication (including e-mails) sent to tax payers and other concerned persons. On the one hand electronic generation of DIN’s would create a digital directory for maintaining a proper audit trail of communications sent to tax payers and other concerned persons and on the other hand, it would provide the recipient of such communication a digital facility to ascertain the genuineness of the communication.

Therefore, any specified communication which does not bear the electronically generated DIN and is not covered by the exceptions mentioned in paragraph 4 of Circular No. 37/2019 dated 05.11.2019, shall be treated as invalid and shall be deemed to have never been issued.

## **Clarification: MEIS & SEIS Scrips are not valid for paying Social Welfare Surcharge on imports**

The Central Government vide Circular 02/2020-Customs dated January 10, 2020 clarified that the Social Welfare Surcharge (SWS) levied on imports cannot be debited through duty credit scrips such as MEIS, SEIS etc. of the Foreign Trade Policy and therefore has to be paid by the importer in cash. However, for ensuring ease of doing business, past cases of debits of SWS already made in duty credit scrips will be accepted as revenue duly collected and recoveries in cash not be insisted for these cases.

The aforesaid clarification is based on the contention of the Revenue that the debit of SWS through duty credit scrip is not envisaged in the FTP and the exemption notifications. SWS is levied and collected at rate of 10% on the aggregate of duties, taxes and cesses, on the goods imported into India, as a duty of Customs on the goods specified in the First Schedule to the Customs Tariff Act, 1975. The duty credit scrips issued under schemes such as MEIS, SEIS, etc. are granted as rewards/ incentives for exporters under the respective FTP can be used for payment of Basic Customs Duty and Additional Customs Duty for import of inputs or goods and for payment of Central Excise duties on domestic procurement of inputs or goods.



# SIGNIFICANT INITIATIVES / ACHIEVEMENTS OF THE COMMITTEE DURING THE YEAR 2019-20

## Representations/ Suggestions

- **Representation for inclusion of CA Member in the GST Grievance Redressal Committee:** Representation has been submitted nominating CA Member in each GST Grievance Redressal Committee to be constituted by the Government at State and Zonal Level for examining and resolving all the grievances and issues being faced by the taxpayers, including procedural difficulties and IT-related issues pertaining to GST.
- **Jurisdiction of Goods and Services Tax Appellate Tribunal (GSTAT) for Daman and Dadra & Nagar Haveli:** A representation has been submitted to the Government on 30th December 2019 for change in Jurisdiction of Daman and Dadra & Nagar Haveli from GSTAT Mumbai to GSTAT Surat Area Bench for conveniences of Taxpayers/Tax Practitioners.
- **Presentation before Ministry of Finance on Return filing issues:** President and Vice-President, ICAI made presentation before Hon'ble Finance Minister on the practical difficulties being faced by the taxpayers in filing their GST returns on 16th November, 2019 and submitted a list of practical difficulties being faced by the taxpayers in filing the GST Return along with suggestions thereof for their consideration.
- **Suggestions on GST Annual Return and Audit Certificates:** Considering the difficulties are being faced by the taxpayers in the filing the GST Annual Return and Audit Certificates, the Committee submitted various suggestions thereon to the Government on 12th September, 2019. It may be mentioned that most of the suggestions given by it have been accepted by the Government.
- **Representation for extending date for filing GST Annual Return and Audit:** Submitted a representation to the Government on August 21, 2019 for extending the due date of filing GST Annual Return and Audit by 3 months i.e. till November 30, 2019. In response thereto, the Government extended the due date of filing GST Return, as suggested.  
The Committee had earlier submitted a representation on June 19, 2019 for extending the due date of filing GST Annual Return and Audit by 4 months i.e. till October, 2019. In response thereto, Government had extended the due date of filing GST Return by two months i.e. till August 31, 2019.
- **Representation for extending date for filing of statement by a Composition Supplier and payment of tax for the quarter ending June 30, 2019:** Submitted a representation to the Government on July 17, 2019 for extending date for filing of statement by a Composition Supplier and payment of tax for the quarter ending June 30, 2019 by at least a month. Representation was submitted considering that no statement for declaring payment of self-assessed tax in FORM GST CMP-08 was made available on the GST Portal as

per the amended Rules and accordingly, the taxpayers are not able to debit their paid taxes and file their statement of self-assessed. Accordingly, the Government extended the due date till August 31, 2019.

- **Suggestion for correcting technical glitches in filing of Annual Return & Audit i.e. Form 9/ 9C:** Submitted a representation to the Government on June 13, 2019 highlighting issues being faced by the taxpayers in filing Form GSTR 9/9C. It was advised for correcting the process/software and enabling smooth filing of GST Annual Return & Audit by the taxpayers.
- **Suggestions on GST portal:** Based on the request received from Goods and Services Tax Network (GSTN) to provide suggestions for improving the User Interface of GSTN Portal, the Committee submitted 39 suggestions to the GSTN on March 25, 2019 for improving the User Interface of GSTN Portal.
- **Suggestions on GST in respect of Real Estate Sector:** GST Council had recommended change in rate of GST in respect of Real Estate sectors. In this regard, the Committee submitted suggestions on the proposed changes to the Government on 5th March 2019. Many of the suggestions were accepted by the Government and changes were made.

## Pre-Budget Memorandum, 2019

Submitted Pre-Budget Memorandum, 2019 containing suggestions on Customs and Excise to the Government on June 26, 2019.

## Pre-Budget Meeting and Memorandum, 2020

Committee presented the highlight of the suggestions contained in Pre-Budget Memorandum, 2020 before the Officials of the Central Board of Indirect Taxes and Customs on 5th December, 2020 and thereafter submitted its Memorandum for consideration of the Government.

## E-invoice under GST

The Committee supported GSTN in drafting an e-invoice standard, which also takes into account the requirement under tax laws and has features, which are required for international trade. Now, GST Council has approved introduction of 'E-invoicing' on voluntary basis in a phased manner for reporting of business to business (B2B) invoices to GST System starting from January 2020. It would be made mandatory from April, 2020 for specified taxpayers.

## ICAI's contribution in GST recognized by GSTN

The Goods and Services Tax Network (GSTN) on the occasion of its foundation day on April 5, 2019 felicitated ICAI in recognition of its contribution and support in development of GST ecosystem. It was handed over by Shri Navin Kumar, Chief Guest, former Chairman, GSTN in the presence of Shri Ajay Bhushan Pandey,

Chairman, GSTN & Revenue Secretary Government of India and Shri Krishnamurthy Subramanian, Chief Economic Advisor.

### Nomination of members for testing of GST Accounting, Billing & Return filing software at GSTN

GST Council mandated GSTN to provide free software to the Tax payers having less than 1.5 crore turnover, which should have features of invoicing, accounting, trial balance and return filing. In this regard, based on request received from GSTN to nominate members having knowledge of GST and software for testing software on invoicing, accounting and return filing etc., the Committee nominated 12 members for testing of software.

### BGM on training programme for Government officials

Considering importance for the Training of government officers so as to be abreast them with topical and intriguing concepts of accounting, auditing and taxation, the Committee revised its study material "Background Material on Training programme for Government Officials". This study material elucidates topics like Study of Financial Statements, Goods & Services Tax – Accounting issues, GST Audit desk Review, Ratio Analysis etc.

### Training programme for Government Officials

With a view to help the Government in its capacity, the Committee has been regularly organising Training Programmes for Officials of States and Central Government and its various departments. During the period, Committee organised 12 such training programmes on GST.

### Important Events

- **6 National Programme/Conferences** were organised at Jharsuguda, Chennai, Ernakulam, Pimpri Chinchwad, Surat and Pune as a nationwide outreach programme since February, 2019.
- **Certificate Course on GST:** With a view to facilitate the members with the specialized knowledge in the area of GST in a systematic manner and enhancing their skills, Committee launched a Certificate Course on GST in 2017. During the year, the Committee has organised 31 batches of the Course across India which have been attended by over 1359 members.
- **Outreach Programme on Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019:** The Committee has organised an Outreach programme on Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 jointly with Central Goods & Services Tax (CGST & CX), Delhi Zone on 2nd November, 2019 which was attended by more than 200 participants. Further, similar outreach programme were organised jointly with Vishakhapatnam and Pune Commissionerate on 3rd and 7th December, 2019 respectively.
- With a view to update the members with the latest development in the area of Indirect Taxes, including GST, the Committee organised over 74 **programmes, workshops, seminars and conferences** since February 2019 which have been attended by over 15,000/- members.

### Publications

The Committee has released following 3 new publications and revised 2 of its existing publication on GST, making total number of publications on GST to 20:

1. **Handbook on GST Annual Return:** With a view to provide support and help tax payers in filing their Annual Return for the first time, the GST & Indirect Taxes Committee has brought out Handbook on GST Annual Return. An attempt has been made to guide about each and every information sought in the Annual Return.
2. **Technical Guide on GST Audit:** Considering that the Chartered Accountants has been authorised to certifying the "Form GSTR-9C" comprising Reconciliation Statement and Certificates, the Committee has published "Technical Guide on GST Audit" with a view to guide members while certifying the aforesaid form. This Guide has been comprehensively designed and contains clause-by-clause analysis of Form GSTR -9C and therefore will assist members in resolving any issues that might arise while conducting audit.
3. **Background Material on Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019:** The Committee has come up with this Background Material on Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. It contains the extract of Finance Act (No.2), 2019, Rules, Notifications, Circulars and FAQ etc. issued by the Government at once place which may be referred by the reader as and when required.
4. **BGM on GST – revision:** The Committee revised its flagship publication Background Material on GST twice, in March and November 2019 to bring it in line with the changes made in the law. It has been appreciated by all the stakeholder and is in huge demand.
5. **Bare Law on GST- revision:** The Committee has revised its publication, Bare Law on GST which contains GST Acts and Rules.

### Live Webcast on GST and GST Audit

With a view to update the members and taking the benefit of technology, the Committee has been regularly organising LIVE Webcasts, which can be viewed by members from their workstation/home with a click of mouse. During the year, the Committee has organised 10 Live Webcast for the benefit of members at large.

### Recorded video on GST Annual Return

The Committee has recorded video on all the Table of GST Annual Return and hosted 30 video for the benefit of members at large.

### Updated GST Act & Rules at Digital Learning Hub

ICAI has launched Digital Learning Hub wherein all the relevant material of the Institute have been uploaded. Accordingly, GST & Indirect Taxes Committee of ICAI has uploaded GST Acts and Rules updated till 31st Dec, 2019 and the linking has been done with relevant notifications issued by the Government.





National Conference on GST at Pimpri Chinchwad



National Conference on GST at Pune



3rd Batch of 4 days Training Programme on GST Accounts & Audit for West Bengal State GST Officials organised in association with HRD Cell, Directorate of Commercial Taxes, West Bengal.



One day workshop on GST Annual Return and Audit at Dhanbad



Certificate Course on GST at Chennai



Certificate Course on GST at Hyderabad



One Day Workshop on GST Audit & Annual Return at Cuttack



Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 & New Returns of GST at Pune