

GOODS & SERVICES TAX / IDT UPDATE – 66

Extension in the time limit for furnishing the Various Forms / returns

S.No.	Particulars	Form Number	Existing / Earlier due date	Extended due date	N. No..
1.	Time period specified in N. No. 31/2018-CT dt. 06 th Aug, 2018 for completing migration of taxpayers who received provisional IDs but could not complete the migration process.	GST REG-01 (after submitting details to the concerned Jurisdictional officer)	Part-1 31st Aug, 2018 Part-2 30th Sep, 2018	Part-1 31st Jan, 2019 Part-2 28th Feb, 2019	N No. 67/2018 – CT dt. 31st Dec, 2018
2.	The time limit for furnishing the return for the newly migrated taxpayers for the period Jul, 2017 to Feb, 2019.	GSTR-3B / GSTR-1	31st Dec, 2018	31st Mar, 2019	N No. 68/2018 – CT N No. 69/2018 – CT N No. 70/2018 – CT N No. 71/2018 – CT N No. 72/2018 – CT dt. 31st Dec, 2018
3.	The time limit for furnishing the declaration in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to December, 2018	FORM GST ITC-04	31st Dec, 2018	31st March, 2019	N No. 78 /2018 – CT dt. 31st Dec, 2018

Waiver of late fees leviable on delayed furnishing of returns

The Central Government vide [N No. 75/2018 – CT /N No. 77/2018 – CT dt. 31st Dec, 2018](#) notified amendment in the N.No 4/2018- CT dt. 23rd January, 2018/ N No 73/2017- CT dt. 29th December, 2017 by inserting the following proviso in the notification:-

“Provided further that the **amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who failed to furnish the details of outward supplies in FORM GSTR-3B/GSTR-1/GSTR-4 for the months/quarters from July, 2017 to September, 2018** by the due date but furnishes the said details in FORM GSTR-1 between the period from 22nd December, 2018 to 31st March, 2019.”.

Comment: Late fee shall be completely waived for all such taxpayers who are in default as on the date of this notification for failure to file FORM GSTR-1, FORM GSTR-3B and FORM GSTR-4 for the months / quarters July, 2017 to September, 2018.

[\[N. No.. 75/2018 – CT N. No.. 76/2018 /N. No.. 77/2018 – CT dt. 31st Dec, 2018\]](#)

Exemption from TDS -Supplies made by Government Departments and PSUs to other Government Departments and vice-versa.

Central Government vide [N. No. 73/2018 – CT dt. 31st Dec, 2018](#) notified exemption to supplies made by Government Departments and PSUs to other Government Departments and vice-versa from TDS and thus insert the following proviso after the second proviso, namely:-

“Provided also that nothing in this notification shall apply to the supply of goods or services or both which takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of section 51 of the said Act.”.

[\[N. No.. 73/2018 – CT dt. 31st Dec, 2018\]](#)

Powers of the central tax officer and the officers subordinate under sections 73, 74, 75 and 76 of the CGST Act

The Central Government vide [N. No.. 79/2018 – CT dt. 31st Dec, 2018](#) notified the amendment to the N. No.. 2/2017- Central Tax, dt. the 19th June, 2017, by inserting the following to the paragraph 3 namely:-

“Notwithstanding anything contained in this notification, the central tax officer specified in column (3) of Table I and the officers subordinate to him shall exercise powers under sections 73, 74, 75 and 76 of Chapter XV of the said Act throughout the territorial jurisdiction of the corresponding central tax officer specified in column (2) of the said Table in respect of those cases as may be assigned by the Board”

Comment: Now, cases that are referred by Board requires involvement of, territorial jurisdiction officer.

[\[N. No. 79/2018 – CT dt. 31st Dec, 2018\]](#)

Amendment in exemption list of certain services

The Central Government vide [N. No. 28/2018- CT \(R\) dt. 31st Dec, 2018](#) hereby makes the following amendments in the N. No.12/2017- CT (R), dt. the 28th June, 2017, namely:

- 1. Insertion of Serial Number 21B:** Services provided by GTA to Government departments/local authorities exempted which have taken registration only for the purpose of deducting tax under Section 51

SI No	Chapter, Section or Heading	Description of Service	Rate	Condition
(1)	(2)	(3)	(4)	(5)
21B	9965 or 9967	Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, - (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.	Nil	Nil

Comment: Only GTA services are exempted. Care must be taken where goods transport services are provided under fixed-price contracts to these departments.

- 2. Insertion of Serial Number 27A:** Services supplied by banks to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY)

SI No	Chapter, Section or Heading	Description of Service	Rate	Condition
(1)	(2)	(3)	(4)	(5)
27A	9971	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).	Nil	Nil

Comment: This exemption entry is a clear indication that the said 'services' were taxable for the past period and continues to be taxable in all other cases of account holders. This has been a point attracting much media in the recent past about services at 'no charge' by banks to account holders.

3. Insertion of serial number 74A: Services supplied by rehabilitation professionals recognised under Rehabilitation Council of India Act, 1992 at medical establishments, educational institutions, rehabilitation centers

SI No	Chapter, Section or Heading	Description of Service	Rate	Condition
(1)	(2)	(3)	(4)	(5)
74A	9993	Services provided by rehabilitation professionals recognized under the Rehabilitation Council of India Act, 1992 (34 of 1992) by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961).	Nil	Nil

4. Insertion of meaning of “financial institution” in clause (zaa)

“(zaa) “financial institution” has the same meaning as assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934).”.

[\[N. No.. 28/2018- CT \(R\) dt. 31st Dec, 2018\]](#)

Services under Reverse Charge Mechanism

Central Government vide [N. No.. 29/2018- CT \(R\) dt. 31st Dec, 2018](#) notified the following amendments in the N. No.. 13/2017- CT (R) dt. 28th June, 2017, namely:-

1. Insertion of proviso to item (g) serial number 2:

“Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -

(a) a Department or Establishment of the Central Government or State Government or Union territory; or

(b) local authority; or

(c) Governmental agencies,

which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.”;

Comment: Services provided by GTA to Government departments/local authorities exempted which have taken registration only for the purpose of deducting tax under Section 51 not liable under RCM

2. Insertion of new services to RCM u/s 9(3) of CGST Act under serial number 14, 15 and 16:

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service	Comment
(1)	(2)	(3)	(4)	(5)
12	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory	
13	Services provided by an agent of business correspondent (BC) to business correspondent (BC).	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory.	
14	Security services (services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry shall apply to, - (i)(a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act.	Any person other than a body corporate	A registered person, located in the taxable territory.”;	<i>Therefore when Security services are provided to registered persons only then no need to take registration as per Section 23 of CGST Act, 2017, However, when supplier of security services provides services to registered as well as unregistered person then such supplier is required to take registration for supply to unregistered recipient and those under composition.</i>

3. Clause (h) to the explanation inserted:

Clause (h) states that the provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament and State Legislatures.

[\[N. No.. 29/2018- CT \(R\) dt. 31st Dec, 2018\]](#)

Explanation inserted in an item in N. No.. 11/2017 – CT (R)

The Central Government vide [N. No.. 30/2018-CT \(R\) dt. 31st Dec, 2018](#) clarified the applicability of N. No..11/2017- CT (R), dt. the 28th June, 2017, hereby inserts the following Explanation in the said notification, in the Table, against serial number 9, in column (3), in item (vi), namely:-

“Explanation 2.-Nothing contained in this item shall apply to supply of a service other than by way of transport of goods from a place in India to another place in India.”

Comment: The entry covers only domestic multi-modal transport. This is much needed relief to MMTs.

[\[N. No.. 30/2018-CT \(R\) dt. 31st Dec, 2018\]](#)

Integrated Goods and Services Tax (Amendment) Rules, 2018

Central Government vide [N. No. 04/2018- Integrated Tax dt. 31st Dec, 2018](#) notified the following rules as Integrated Goods and Services Tax (Amendment) Rules, 2018:-

1. Rule 3 in clause (h):

The words “**the service shall be deemed to have been provided all over India and**” inserted after the words “in the case of advertisements over internet” to clarify that the services provided over internet is not specific to 1 or more State or Union territory and shall be deemed to be provided all over India.

2. Insertion of Rule 4:

The place of supply in case of the supply of services attributable to different States or Union territories, under sub section (3) of section 12 of the IGST Act, 2017 shall be:-

- a. Where such immovable property or boat or vessel is located in more than one State or Union territory- each of the respective States or Union territories and
- b. In the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory- to be determined in the following manner namely:-
 - i. **Services provided by way of lodging accommodation by a hotel, inn, guest house, club or campsite, by whatever name called and services ancillary to such services:**

- 1) Where such property is a single property located in two or more contiguous States or Union territories or both: the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable property lying in each

State or Union territory.

Illustration: There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to T. The ratio of land in the two states works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.

- 2) Cases except where such property is a single property located in two or more contiguous States or Union territories or both: the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of nights stayed in such property.

Illustration: A hotel chain X charges a consolidt. sum of Rs.30, 000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both in the Union territory of Delhi and in the State of Uttar Pradesh and the service shall be deemed to have been provided in the Union territory of Delhi and in the State of Uttar Pradesh in the ratio 2:1 respectively. The value of services provided will thus be apportioned as Rs.20, 000/- in the Union territory of Delhi and Rs.10,000/- in the State of Uttar Pradesh .

- ii. **All other services in relation to immovable property including services by way of accommodation in any immovable property for organising any marriage or reception etc :** the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable property lying in each State or Union territory
- iii. **services provided by way of lodging accommodation by a house boat or any other vessel and services ancillary to such services:** the supply shall be treated as made in each of the respective States or Union territories, in proportion to the time spent by the boat or vessel in each such State or Union territory, determined on the basis of a declaration made to the effect by the service provider.

Illustration 3: A company C provides the service of 24 hours accommodation in a houseboat, which is situated both in Kerala and Karnataka inasmuch as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.

3. Insertion of Rule 5:

The place of supply in case of supply of services attributable to different States or Union territories, under subsection (7) of section 12 of the said Act, in the case of-

- a. services provided by way of organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, including supply of services in relation to a conference, fair exhibition, celebration or similar events; or

- b. services ancillary to the organisation of any such events or assigning of sponsorship to such events,

where the services are supplied to a person other than a registered person, the event is held in India in more than one State or Union territory and a consolidated amount is charged for supply of such services, shall be taken as being in each of the respective States or Union territories, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by application of the generally accepted accounting principles.

Illustration: An event management company E has to organise some promotional events in States S1 and S2 for a recipient R. 3 events are to be organised in S1 and 2 in S2. They charge a consolidated amount of Rs.10,00,000 from R. The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as Rs. 6,00,000/- in S1 and Rs. 4,00,000/- in S2.

4. Insertion of Rule 6: Supply under section 12(11) of the IGST Act

In the case of supply of services relating to a leased circuit, where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of such services, shall be taken as being in **each of the respective States or Union territories**, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined in the following manner, namely:-

- a. The number of points in a circuit shall be determined in the following manner:
- i. in the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points;
 - ii. any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point;
- b. the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of points lying in the State or Union territory.

Illustration 1: A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.

Illustration 2: A company T installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of a company C. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to

have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.

Illustration 3: A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.

5. Insertion of Rule 7

In the case of **services supplied in respect of goods** which are required to be made physically available by the recipient to the supplier, or to a person acting on behalf of the supplier, or in the case of **services supplied to an individual**, represented either as the recipient or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, where the location of the supplier of services or the location of the recipient of services is outside India, and where such services are supplied in more than one State or Union territory,

shall be taken as being in each of the respective States or Union territories, and the proportion of value attributable to each such State and Union territory in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined in the following manner, namely:-

- a. in the case of services supplied on the same goods, by equally dividing the value of the service in each of the States and Union territories where the service is performed;
- b. in the case of services supplied on different goods, by taking the ratio of the invoice value of goods in each of the States and Union territories, on which service is performed, as the ratio of the value of the service performed in each State or Union territory;
- c. in the case of services supplied to individuals, by applying the generally accepted accounting principles.

Illustration-1: A company C which is located in Kolkata is providing the services of testing of a dredging machine and the testing service on the machine is carried out in Orissa and Andhra Pradesh. The place of supply is in Orissa and Andhra Pradesh and the value of the service in Orissa and Andhra Pradesh will be ascertained by dividing the value of the service equally between these two States.

Illustration-2: A company C which is located in Delhi is providing the service of servicing of two cars belonging to Mr. X. One car is of manufacturer J and is located in Delhi and is serviced by its Delhi workshop. The other car is of manufacturer A and is located in Gurugram and is serviced by its Gurugram workshop. The value of service attributable to the Union Territory of Delhi and the State of Haryana respectively shall be calculated by applying the ratio of the invoice value of car J and the invoice value of car A, to the total value of the service.

Illustration-3: A makeup artist M has to provide make up services to an actor A. A is shooting some scenes in Mumbai and some scenes in Goa. M provides the makeup services in Mumbai and Goa. The services are provided in Maharashtra and Goa and the value of the service in Maharashtra and Goa will be ascertained by

applying the generally accepted accounting principles.

6. Insertion of Rule 8

In case of supply of services directly in relation to an immovable property, including services supplied by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, where the location of the supplier of services or the location of the recipient of services is outside India, and where such services are supplied in more than one State or Union territory, in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by applying the provisions of rule 4, mutatis mutandis.

7. Insertion of Rule 9

In case of supply of services by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, where the location of the supplier or the location of the recipient is outside India, and where such services are provided in more than one State or Union territory , in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by applying the provisions of rule 5, mutatis mutandis".

[[N. No.. 04/2018- Integrated Tax dt. 31st Dec, 2018](#)]

Clarification on certain issues related to GST

The Central Government vide [Circular No. 76/50/2018-GST dt. 31st Dec, 2018](#) clarified certain issues under the GST Law as under:-

Sl. No.	Issue	Clarification
1	Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?	<p>a. Intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority is a taxable supply under GST.</p> <p>b. N. No. 36/2017-CT (R) and N. No. 37/2017- IGST (R) notified that such supply to any registered person would be subject to GST on reverse charge basis.</p> <p>c. Such supply to an unregistered person is also a taxable supply under GST but is not covered under N. No. 36/2017-CT (R) and N. No. 37/2017-</p>

		<p>Integrated Tax (Rate).</p> <p>d. It is clarified that the respective Government departments shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by them to an unregistered person subject to the provisions of sections 22 and 24 of the CGST Act.</p>
2	Whether penalty in accordance with section 73 (11) of the CGST Act should be levied in cases where the return in FORM GSTR-3B has been filed after the due date of filing such return?	<p>It is clarified that penalty under the provisions of section 73(11) of the CGST Act is not payable in case of delayed filing of the return in FORM GSTR-3B because tax along with applicable interest has already been paid but after the due date for payment of such tax.</p> <p>It is further clarified that since the tax has been paid late in contravention of the provisions of the CGST Act, a general penalty under section 125 of the CGST Act may be imposed after following the due process of law.</p> <p><i>Comment: Penalty cannot be imposed and adjudicated without issuance of SCN.</i></p>
3	In case a debit note is to be issued under section 142(2)(a) of the CGST Act or a credit note under section 142(2)(b) of the CGST Act, what will be the tax rate applicable – the rate in the pre-GST regime or the rate applicable under GST?	<p>It is clarified that in case of revision of prices, after the appointed date, of any goods or services supplied before the appointed day thereby requiring issuance of any supplementary invoice, debit note or credit note, the rate as per the provisions of the GST Acts (both CGST and SGST or IGST) would be applicable.</p>
4	Applicability of the provisions of section 51 of the CGST Act (TDS) in the context of N. No.. 50/2018-CT dt. 13.09.2018.	<p>The doubt regarding the applicability of long line mentioned in clause (a) of N. No. 50/2018- CT dt. 13.09.2018 has been clarified that it is applicable to both the items (i) and (ii) of clause (a) of the said notification.</p> <p>In other words, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which fifty one per cent. or more participation by way of equity or control is with the Government.</p>
5	What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?	<p>Section 15(2) of CGST Act specifies that the value of supply shall include “any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.”</p> <p>Thus, It is clarified that as per the above provisions, taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act.</p>

		<p><i>Comment: Although TCS is only a mode of collection of tax, it appears that the amount of TCS paid by Buyer to Supplier will go to settle Buyer's tax liability or may even be refunded. Income-tax is a tax on income and not a tax on Person. As such, seeking its exclusion from valuation on the premise that TCS is not 'retained' by Supplier may not be readily accepted by Government as there is no such premise laid down as a test in section 15. And objections to inclusion of TCS may be resisted as an aspect that flows from the operation of section 15(2) and not although not part of 2(31). But the immediate concern is that calculation of GST on 'value + TCS' is cumbersome.</i></p> <p><i>Please also note that this clarification will have retrospective operation.</i></p>
6	Who will be considered as the owner of the goods" for the purposes of section 129(1) of the CGST Act?	<p>It is hereby clarified that if the invoice or any other specified document is accompanying the consignment of goods, then either the consignor or the consignee should be deemed to be the owner.</p> <p>If the invoice or any other specified document is not accompanying the consignment of goods, then in such cases, the proper officer should determine who should be declared as the owner of the goods.</p>

[\[Circular No. 76/50/2018-GST dt. 31st Dec, 2018\]](#)

Denial of composition option by tax authorities and effective date thereof

Central Government vide [Circular No. 77/51/2018-GST dt. 31st Dec, 2018](#) clarified the issue related to the effective date of withdrawal from the composition scheme as per Rule 6 of the CGST Rules, 2017 in case of :-

A. Where the composition taxpayer has exercised such option to withdraw.

The effective date shall be the **date indicated by him in his intimation/application filed in FORM GST CMP-04** but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed.

If at any stage it is found that he has contravened any of the provisions of the CGST Act or the CGST Rules, action may be initiated for recovery of tax, interest and penalty.

B. Where action has been initiated by the tax authorities to deny such option

The effective date of such denial shall be from a date, including any retrospective date as may be **determined by tax authorities**, but shall not be prior to the date of contravention of the provisions of the CGST Act or the CGST Rules.

As per section 10(5) of the CGST Act, the proceedings would have to be initiated under the provisions of section 73/ 74 of the CGST Act for determination of tax, interest and penalty for the period starting from the date of contravention of provisions till the date of issue of order in FORM GST CMP-07. It is also clarified that the registered person shall be liable to pay tax under section 9 from the date of issue of the order in FORM GST CMP-07. Provisions of section 18(1)(c) of the CGST Act shall apply for claiming credit on inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the date immediately preceding the date of issue of the order.

[\[Circular No. 77/51/2018-GST dt. 31st Dec, 2018\]](#)

Clarification on export of services under GST

Central Government vide [Circular No. 78/52/2018-GST dt. the 31st Dec, 2018](#) clarified the tax treatment in case where an exporter of services outsources a portion of the services contract to another person located outside India. Hence involve two supplies –

1. Supply of services from the exporter of services located in India to the recipient of services located outside India for the full contract value
2. Import of services by the exporter of services located in India from the supplier of services located outside India with respect to the outsourced portion of the contract.

The total value of services as agreed to in the contract between the exporter of services located in India and the recipient of services located outside India will be considered as export of services if all the conditions laid down in section 2(6) read with section 13(2) of the IGST Act are satisfied.

Further, the supplier of services located in India would be liable to pay IGST on reverse charge basis on the import of services on that portion of services which has been provided by the supplier located outside India to the recipient of services located outside India. And said supplier located in India would be eligible for taking input tax credit of the IGST so paid.

Moreover, even if the full consideration for the services as per the contract value is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India (for the outsourced part of the services), that portion of the consideration shall also be treated as receipt of consideration for export of services in terms of section 2(6)(iv) of the IGST Act, provided the IGST has been paid by the supplier located in India for import of services and RBI by general instruction or by specific approval has allowed that a part of the consideration for such exports can be retained outside India.

Illustration: ABC Ltd. India has received an order for supply of services amounting to \$ 5, 00,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in Section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value). ABC Ltd. India shall be the exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India. The services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India and it would be liable to pay integrated tax on the same under reverse charge and also be eligible to take input tax credit of the integrated tax

so paid. Further, if the provisions contained in section 2(6) of the IGST Act are not fulfilled with respect to the realization of convertible foreign exchange, say only 60% of the consideration is received in India and the remaining amount is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario, 100% of the total contract value shall be taken as consideration for the export of services by ABC Ltd. India provided integrated tax on import of services has been paid on the part of the services provided by XYZ Ltd Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India. In other words, in such cases, the export benefit will be available for the total realization of convertible foreign exchange by ABC Ltd. India and XYZ Ltd. Mexico.

Comment- Where an exporter of services outsources a portion of the services contract to another person located outside India, full value of consideration will be treated as export of services provided the IGST has been paid on import of services and RBI allow that a part of consideration for such exports can be retained outside India. Care should be taken to maintain correlation between the work outsourced and the export contract in respect of which such outsourcing is involved. It is common to find such arrangements with associated entities where correlation may not be rigorously maintained.

[\[Circular No. 78/52/2018-GST dt. the 31st Dec, 2018\]](#)

Clarification on refund related issues

The Central Government vide [Circular No. 79/53/2018-GST dt. 31st Dec, 2018](#) clarified the following issues related to refunds:

- **All documents/undertaking/statements to be submitted along with the claim for refund in FORM GST RFD-01A shall be uploaded on the common portal.**
 - Only the method of submission of these documents/ statements/ undertakings/ invoices is being changed from the physical mode to the electronic mode. It may also be noted that the other stages of processing of a refund claim submitted in FORM GST RFD-01A by the jurisdictional tax officer shall continue to be carried out manually for the time being, as is being presently done. However, option to submit the same physically is still available to the taxpayer.
 - ARN will be generated only after the claimant has completed the process of filing the refund application in FORM GST RFD-01A, and has completed uploading of all the supporting documents/undertaking/statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.
Thereafter, refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer. The application shall be deemed to have been filed under Rule 90(2) of the CGST Rules, 2017 on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement shall be counted from that date. Accordingly, the acknowledgement for the complete application or deficiency memo, as the case may be, would be issued by the jurisdictional tax officer based on the documents so received electronically from the common portal. However, the said acknowledgement or deficiency memo shall continue to be issued manually for the time being. Further, after the issuance of a deficiency memo, taxpayers would be required to submit the rectified refund application under the earlier ARN only. And such rectified application is to be treated as a fresh refund application,

will be submitted manually in the office of the jurisdictional proper officer.

- **Manner of calculation of refund amount under inverted rate structure:** Refund of unutilized ITC in case of inverted tax structure, as provided u/s 54(3) of the CGST Act, is available where ITC remains unutilized even after setting off of available ITC for the payment of output tax liability. Where there are multiple inputs attracting different rates of tax, in the formula provided in Rule 89(5) of the CGST Rules, the term “Net ITC” covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax. e.g. manufacture output Y attracting 12% GST, input A and B attracting 5 % and 18 % GST respectively are used. Suppose claimant supplies the output Y having value of Rs. 3,000/- during the relevant period for which the refund is claimed and Input A and B of value Rs. 2,000 is purchased, so net ITC= Rs. 385/- (Rs. 25/-[500*5%] and Rs. 360/-[2000*18%]. And maximum refund amount in terms of section 54(3) of the CGST Act read with Rule 89(5) of the CGST Rules is Rs 25 [Rs.385-Rs.360]
- **Disbursal of refund amounts after sanction:** All tax authorities are advised to issue the final sanction orders in FORM GST RFD-06 within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days by both Central and State Tax Authorities for CGST / IGST / UTGST / Compensation Cess and SGST respectively. As per Section 56 of the CGST Act read with N. No.. 13/2017-CT dt. 28.06.2017, if refund is not being made within 60 days of the date of receipt of application interest @6% is payable on the refund amount starting from the date immediately after the expiry of 60 from the date of receipt of application (ARN) till the date on which the amount is credited to the bank account of the claimant.
- **Refund applications that have been generated on the portal but not physically received in the jurisdictional tax offices,** before issuance of the Circular:
 - *In case of refund other than refund of excess balance in the electronic cash ledger-* All refund applications in which the amount claimed is less than the statutory limit of Rs. 1,000/- should be rejected. And where refund claimed is greater than Rs. 1000/-, and such application have not been received in the jurisdictional tax office within a period of 60 days starting from the date of generation of ARN may be compiled. A communication may be sent to all such claimants on their registered email ids, containing contact details and the address of the jurisdictional officer, informing that the application needs to be physical submitted to the jurisdictional tax office within 15 days of the date of the email, failing which the application shall be rejected and the debited amount, if any, shall be re-credited to the electronic credit ledger.
 - *In case of refund of excess balance in the electronic cash ledger-* Amount debited in the electronic cash ledger in refund application may be re-credited through FORM GST RFD-01B provided that there are no liabilities in the electronic liability register, even if return in FORM GSTR-3B for the relevant period has not been file.
- **Issues related to refund of accumulated ITC of Compensation Cess:**
 - *Where registered person uses inputs on which compensation cess is leviable to export goods on which there is no levy of compensation cess.* Refund amount of compensation cess (not claimed earlier) paid on the inputs used in the months of July, 2017 to May, 2018 (in respect of the past period), in the month of July, 2018 i.e., claimed after issuance of vide Circular No. 45/19/2018-GST dt. 30.05.2018 has been provided in this Circular
 - *A registered person uses coal for the captive generation of electricity which is further used for the manufacture of goods which are exported under Bond/Letter of Undertaking without*

payment of duty. ITC of the tax paid on coal for generation of electricity is available as coal is an input used in the production of aluminium, albeit indirectly through the captive generation of electricity, which is directly connected with the business of the registered person

- A registered person avails ITC of compensation cess (say, of Rs. 100/-) paid on purchases of coal every month and also reverses a certain proportion (say, half i.e., Rs. 50/-) of such ITC for which coal is used in making zero rated outward supplies. Both these details are entered in the FORM GSTR-3B filed for the month, thereby electronic credit ledger is credited with Rs. 50/- and reversed amount (Rs. 50/-) is shown as a 'cost' in the books of accounts of the registered person. It is clarified that such reversed ITC cannot be held to have been 'availed' in the relevant period and thus cannot be part of refund of unutilized ITC on account of zero-rated supplies. Moreover, the reversed ITC has been accounted as a cost which would have reduced the income tax liability of the claimant. Therefore, the same amount cannot, at the same time, be refunded to him/her in the ratio of export turnover to total turnover.
- **ITC of GST paid on invoices of earlier tax period availed in subsequent tax period cannot be excluded from the calculation of the refund amount of subsequent tax period.** The supplier may raise an invoice in earlier tax period and the goods reach the recipient's premises in in subsequent tax period and ITC can be availed only after the goods are received. Moreover, as per Rule 89(4) of the CGST Rules Net ITC means ITC availed on inputs and input services during the relevant period.
- **The GST paid on inward supplies of stores and spares, packing materials etc. shall be available as ITC as long as these inputs** are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies, and the ITC for such inputs is not restricted under section 17(5) of the CGST Act. Further, Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods

Refund of tax paid on input services and capital goods does not form part of refund of ITC accumulated on account of inverted duty structure (*Comment: due to their express exclusion*).

[*\[Circular No. 79/53/2018-GST dt. 31st Dec, 2018\]*](#)

Applicability of GST on various programmes conducted by the Indian Institutes of Managements (IIMs)

The Central Government has clarified that **Programmes offered by IIMs are exempt from tax as below in brief :**

Period	Exempt from GST	Not exempt from GST	Exemption under
1 st July, 2017 to 30 th January,	3 Programmes (mentioned above)	(i) One- year Post Graduate Programs for Executives, (ii) Any programs other than those mentioned at Sl.	Sl. No. 66 of N. No.. 12/ 2017-CT (R)

2018		No. 67 of NN 12/2017-CT (Rate) (iii) All short duration executive development programs or need based specially designed programs (less than 1 year).	
31 st January, 2018 onwards	All long duration programs (one year or more) conferring degree/ diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one- year Post Graduate Programs for Executives.	All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law.	From 31.01.2018 to 31.12.2018- Sno.66 of NN 12/2017- - CT (R) OR Sno.67 of NN 12/2017-CT (R) From 1.01.2019- Sno.66 of NN 12/2017- CT (R)

[[Circular No. 82/01/2019- GST dt. 1st January, 2019](#)]

Applicability of GST on Asian Development Bank (ADB) and International Finance Corporation (IFC) -

The Central Government vide [Circular No. 83/02/2019- GST dt. 1st January, 2019](#) clarified that that the services provided by IFC and ADB are exempt from GST in terms of provisions of IFC Act, 1958 and ADB Act. The exemption will be available only to the services provided by ADB and IFC and not to any entity appointed by or working on behalf of ADB or IFC.

The matter has been clarified in the light of order from CESTAT Mumbai in the case of M/s Coastal Gujarat Power Ltd which held that the enactments that honour international agreements specifically immunize the operations of the service provider from taxability, a law contrary to that in the form of Section 66A of Finance Act, 1994 will not prevail.

IFC Act, 1958 and ADB Act, 1966 not only immune from taxation but also absolved of any obligation to collect and deposit any tax, there is no scope for subjecting the recipient to tax. There is no need for a separate exemption and existing laws enacted by the sovereign legislature of the Union suffice for the purpose of giving effect to Agreements.

[[Circular No. 83/02/2019- GST dt. 1st January, 2019](#)]

Clarification on GST rate applicable on supply of food and beverage services by educational institution

The Central Government vide [Circular No. 85/04/2019- GST dt. 1st January, 2019](#) clarified that supply

of food and beverage services by educational institution to its students, faculty and staff is eligible for exemption under GST under N. No.. 12/2017-CT (R) although the rate of 5% has been prescribed on supply of food and beverages services under N. No.. 11/2017-CT (R). However, such supply of food and beverages by any person other than the educational institutions based on a contractual arrangement with such institution is leviable to GST@ 5%.

A supply which is specifically covered by any entry of N. No.. 12/2017-CT (R) dt. 28-06-2017 is exempt from GST notwithstanding the fact that GST rate has been prescribed for the same under N. No.. 11/2017-CT (R) dt. 28.06.2017.

In order to remove any doubts on the issue, Explanation 1 to Entry 7(i) of N. No.. 11/2017-CT (R) dt. 28.06.2017 has been amended vide N. No.. 27/2018-CT (R) dt. 31.12.2018 to omit from it the words “school, college”. Further, heading 9963 has been added in Column (2) against entry at Sl. No. 66 of N. No.. 12/2017-CT (R) dt. 28.06.2017, vide N. No.. 28/2018-CT (R) dt. 31.12.2018.

[\[Circular No. 85/04/2019- GST dt. 1st January, 2019\]](#)

GST on Services of Business Facilitator (BF) or a Business Correspondent (BC) to Banking Company

The Central Government vide [Circular No. 86/05/2019- GST dt. 1st January, 2019](#) clarified that the following two issues regarding Services provided by Business Facilitator (BF) or a Business Correspondent (BC) to Banking Company:-

i. **Issue 1: Clarification on value of services by BF/BC to a banking company**

It has been clarified that the banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via business facilitator or the business correspondent.

Banking company is the service provider in the business facilitator model or the business correspondent model operated by a banking company as per RBI guidelines. Since banks pay reasonable commission/fee to the BC and the agreement of banks with the BC specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank. Thus, it is clearly specified that the bank is responsible to the customer for acts of omission and commission of the Business Facilitator/Correspondent.

ii. **Issue 2: Clarification on the scope of services by BF/BC to a banking company with respect to accounts in rural areas**

It has been clarified that for the purpose of availing exemption from GST under Sl. No. 39 of N. No.. 12/2017- CT (R) dt. 28.06.2017 (services provided in relation to “accounts in its rural area branch” by BF/BC to a banking company), the conditions are that the services provided by a BF/BC to a banking company in their respective individual capacities should fall under the Heading 9971 and that such services should be with respect to accounts in a branch located in the rural area of the banking company.

[\[Circular No. 86/05/2019- GST dt. 1st January, 2019\]](#)

Central Goods and Services Tax (Amendment) Act, 2018- Clarification regarding

section 140(1) of the CGST Act, 2017

The Central Government vide [Circular No. 87/06/2019- GST dt. 2nd January, 2019](#) clarified that the CENVAT credit of service tax paid under section 66B of the Finance Act, 1994 was available as transitional credit under section 140(1) of the CGST Act and that legal position has not changed due to amendment of section 140(1) on account of following reasons:

1. The transition of credit of taxes paid under section 66B of the Finance Act, 1994 was never intended to be disallowed under section 140(1) and therefore no such remark was present in the “Rationale/ Remarks” column (at Sl. No. 37) of the draft proposals for amending the GST law.
2. Under tax statutes, the word “duties” is used interchangeably with the word “taxes” and in the present context, the two words should not be read in a disharmonious manner.
3. The amendment in provisions of section 140(1) and the explanations to section 140 need to be read harmoniously such that neither any provision of the amendment becomes otiose nor does the legislative intent of the amendment get defeated.

Further, it has been decided not to notify the clause (i) of sub-section (b) of section 28 and clause (i) of sub-section (c) of section 28 of CGST (Amendment) Act, 2018 which link Explanation 1 and Explanation 2 of section 140 to section 140(1). This would ensure that the credit allowed to be transitioned under section 140(1) is not linked to credit of goods in stock, as provided under Explanation 1, and credit of goods and services in transit, as provided under Explanation 2.

[Circular No. 87/06/2019- GST dt. 2nd January, 2019]

Extension in the due date for availing ITC on the invoices or debit notes issued during the FY 2017-18

With a view to remove difficulties arising in giving effects to the provisions of sub-section (4) of section 16 and sub-section (3) of section 37, the Central Government vide [Order No. 02/2018-CT dt. 31st Dec, 2018](#) brought in **Central Goods and Services Tax (Second Removal of Difficulties) Order, 2018** providing for :-

1. Insertion of proviso to sub-section (4) of section 16 of the Act

“Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 **till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.**”.

2. Insertion of proviso to sub-section (3) of section 37 of the Act

“Provided further that the rectification of error or omission in respect of the details furnished under

sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September, 2018 till the due date for furnishing the details under subsection (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019.”.

Comment: Please note that there is no requirement to await another specific extension of time for filing GSTR 1 for 17-18.

[\[Order No. 02/2018-CT dt. 31st Dec, 2018\]](#)

Extension in due date for furnishing of annual returns in FORM GSTR-9, GSTR-9A and reconciliation statement in FORM GSTR-9C for the FY 2017-2018 till 30.06.2019.

With a view to remove difficulties arising in filing annual return, the Central Government vide [Order No. 03/2018-CT dt. 31st Dec, 2018](#) brought in **Central Goods and Services Tax (Third Removal of Difficulties) Order, 2018** providing for extension in filing of annual return by substituting letters and word “31st March, 2019” with “30th June, 2019” under section 44 of the CGST Act, 2017.

Comment: Extension of due date is a positive step providing enough time for taxpayers to understand and furnish the required details as well as preparation and testing time to GSTIN. Trade expected a complete overhaul of this Form but Government’s intention seems conspicuous by the limited number of changes in the form and the paucity of explanation in the special instructions appended.

[\[Order No. 03/2018-CT dt. 31st Dec, 2018\]](#)

Extension in due date for furnishing FORM GSTR-8 by e-commerce companies for the months of October to December, 2018 till 31.01.2019

With a view to remove difficulties in giving effect to the provisions of sub-section (4) of section 52 of the CGST Act, 2018, the Central Government vide [Order No. 04/2018-CT dt. 31st Dec, 2018](#) brought in **Central Goods and Services Tax (Fourth Removal of Difficulties) Order, 2018** providing for extension in filing of statement electronically, containing the details of outward supplies of goods or services or both effected through it by every electric commerce operator for the months of October, November and December, 2018 to the 31st January, 2019.

Comment: Such extensions only aggravate the working capital liability of the Suppliers who may have already reported their outward supplies assuming the flow of TCS-credit in the respective months.

[\[Order No. 04/2018-CT dt. 31st Dec, 2018\]](#)

CUSTOMS

Exemption of temporary importation of private road vehicles from IGST and compensation cess

The Central Government vide [N. No.. 86/2018 – Customs dt. 31st Dec, 2018](#) notified amendments to the N. No.. 296/76-Customs, dt. the 2nd August, 1976, namely:-

- i. Insertion of the words, brackets and figures, “and sub-section (12) of section 3 of Customs Tariff Act, 1975 (51 of 1975) after the words, figures and brackets, “the Customs Act, 1962 (52 of 1962)”, in the opening paragraph: The exemption powers of the Central Government are provided under both Customs Act, 1962 as well as Customs Tariff Act, 1975.
- ii. Substitution of words “additional duty” with the words “integrated tax and goods and services compensation cess”: Temporary importation of private road vehicles are exempted from IGST and compensation cess, earlier called as additional duty in pre-GST regime.

[\[N. No.. 86/2018 – Customs dt. 31st Dec, 2018\]](#)

Deferment of circular regarding Electronic Sealing-Deposit in and removal of goods of goods from Customs Bonded Warehouses

Central Government vide [Circular No. 54/2018 dt. 31st Dec, 2018](#) provides for the deferment of the Circular No. 19/2018 dt. 18th June, 2018- RFID sealing of goods deposited and removal from Customs Bonded Warehouses. The implementation of the said circular was earlier deferred vide Circular No. 41/2018 dt. 30th October, 2018 to 1st January, 2019. The implementation of the circular thus stands deferred till the date notified.

[\[Circular No. 54/2018 dt. 31st Dec, 2018\]](#)

Central Goods and Services Tax (Fourteenth Amendment) Rules, 2018.

The Central Government vide [N. No.74/2018 dt. 31st Dec, 2018](#) has notified Central Goods and Services Tax (Fourteenth Amendment) Rules, 2018 particulars of which are explained below:

1. Insertion of sub-rule 1A in rule 12 : It provides that a person applying for registration to collect tax in accordance with the provisions of section 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in PART A of the application in FORM GST REG-07 and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.
2. **Omission in Rule 45 sub-rule 3:** After the words —received from a job worker||, the words, —or sent from one job worker to another|| shall be omitted.

Comments: It will relax the condition for reporting information in ITC-04 from one job worker to other job worker in relation to principal goods.

3. **Signature or digital signature of the supplier or his authorised representative shall not be required in the case of issue of Invoice/ Bill of Supply/Consolidated Invoice/Issuance of tickets etc.**
4. In explanation (b) to sub-rule (5) of rule 89, Adjusted Total turnover" and "relevant period" shall have the same meaning as assigned to them in sub-rule (4).
5. In rule 96, in sub-rule (1), in clause (a), after the words "export goods duly files", the words "a

departure manifest or" shall be inserted.

6. In rule 101, in sub-rule (1), after the words "financial year", the words "or part thereof" shall be inserted.

7. After rule 109A, the following rule shall be inserted, namely:-

"109B. Notice to person and order of revisional authority in case of revision. - (1) Where the Revisional Authority decides to pass an order in revision under section 108 which is likely to affect the person adversely, the Revisional Authority shall serve on him a notice in FORM GST RVN-01 and shall give him a reasonable opportunity of being heard.

(2) The Revisional Authority shall, along with its order under sub-section (1) of section 108, issue a summary of the order in FORM GST APL-04 clearly indicating the final amount of demand confirmed."

8. In rule 138, in sub-rule (1), for Explanation 1, the following Explanation shall be substituted,

"Explanation 1. - For the purposes of this rule, the expression "handicraft goods" has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No. 56/2018-Central Tax, dated the 23rd October, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1056 (E), dated the 23rd October, 2018 as amended from time to time."

9. In the said rules, after rule 138D, from a **date to be notified later**, the following rule shall be inserted, namely:

"138E. Restriction on furnishing of information in PART A of FORM GST EWB-01.- Notwithstanding anything contained in sub-rule (1) of rule 138, no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of a registered person, whether as a supplier or a recipient, who, -

(a) being a person paying tax under section 10, has not furnished the returns for two consecutive tax periods; or

(b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of two months:

Provided that the Commissioner may, on sufficient cause being shown and for reasons to be recorded in writing, by order, allow furnishing of the said information in PART A of FORM GST EWB 01, subject to such conditions and restrictions as may be specified by him:

Provided further that no order rejecting the request of such person to furnish the information in PART A of FORM GST EWB 01 under the first proviso shall be passed without affording the said person a reasonable opportunity of being heard:

Provided also that the permission granted or rejected by the Commissioner of State tax or

Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

Explanation:– For the purposes of this rule, the expression "Commissioner" shall mean the jurisdictional Commissioner in respect of the persons specified in clauses (a) and (b).".

10. In rule 142, in sub-rule (5), after the words "section 74", the words "or sub-section (12) of section 75" shall be inserted.

11. Application of Refund FORM GST RFD-01 /01A have been changed to incorporate the changes related to e-declarations associated with refunds etc.

12. Substitution in Form GSTR-9:

Changes made in form-9 are highlighted in Red.

	Change in Part name (if any)	Table no.	Sub table	Change (if any)	Change in th Instructions
II	Details of Outward and inward supplies made during the financial year	4	-	Details of advances, inward and outward supplies made during the financial year on which tax is payable.	
		5	-	Details of Outward supplies on which tax is not payable as declared in returns filed during the financial year	Details of Outward supplies made during the financial year on which tax is not payable
		5	D	Exempted	Aggregate value of exempted, Nil Rated and Non-GST supplies shall be declared here. Table 8 of FORM GSTR-1 may be used for filling up these details. The value of —no supply shall be declared under Non-GST supply (5F).
		5	E	Nil Rated	
		5	F	Non-GST supply (includes _no supply)	

III	Details of ITC for the financial year	6		Details of ITC availed during the financial year	
		7	-	Details of ITC Reversed and Ineligible ITC for the financial year	
		7	A	As per Rule 37	Details of input tax credit reversed due to ineligibility or reversals required under rule 37, 39, 42 and 43 of the CGST Rules, 2017 shall be declared here. This column should also contain details of any input tax credit reversed under section 17(5) of the CGST Act, 2017 and details of ineligible transition credit claimed under FORM GST TRAN-I or FORM GST TRAN-II and then subsequently reversed. Table 4(B) of FORM GSTR-3B may be used for filling up these details. Any ITC reversed through FORM ITC -03 shall be declared in 7H. If the amount stated in Table 4D of FORM GSTR-3B was not included in table 4A of FORM GSTR-3B, then no entry should be made in table 7E of FORM GSTR-9. However, if amount mentioned in table 4D of FORM GSTR-3B was included in table 4A of FORM GSTR-3B, then entry will come in 7E of FORM GSTR-9.
		8	A		The total credit available for inwards supplies (other than imports and inwards supplies liable to reverse charge but includes services received from SEZs) pertaining to 2017-18 and reflected in FORM GSTR-2A (table 3 & 5 only) shall be auto-populated in this table. This would be the aggregate of all the input tax credit that has been declared by the corresponding suppliers in their FORM GSTR-I.
		8	D	Difference [A-(B+C)]	Aggregate value of the input tax credit which was available in FORM GSTR2A (table 3 & 5 only) but not availed in FORM GSTR-3B

					returns shall be computed based on values of 8A, 8B and 8C. However, there may be circumstances where the credit availed in FORM GSTR-3B was greater than the credit available in FORM GSTR-2A. In such cases, the value in row 8D shall be negative.
		8	E	ITC available but not availed	The credit which was available and not availed in FORM GSTR-3B and the credit was not availed in FORM GSTR-3B as the same was ineligible shall be declared here. Ideally, if 8D is positive, the sum of 8E and 8F shall be equal to 8D.
		8	F	ITC available but ineligible	
		13	-	ITC availed for the previous financial year	Details of ITC for goods or services received in the previous financial year but ITC for the same was availed in returns filed for the months of April to September of the current financial year or date of filing of Annual Return for the previous financial year whichever is earlier shall be declared here. Table 4(A) of FORM GSTR-3B may be used for filling up these details. However, any ITC which was reversed in the FY 2017-18 as per second proviso to subsection (2) of section 16 but was reclaimed in FY 2018-19, the details of such ITC reclaimed shall be furnished in the annual return for FY 2018-19.
		17	-	HSN Summary of outward supplies	Summary of supplies effected and received against a particular HSN code to be reported only in this table. It will be optional for taxpayers having annual turnover upto ₹ 1.50 Cr. It will be mandatory to report HSN code at two digits level for taxpayers having annual turnover in the preceding year above ₹ 1.50 Cr but upto ₹ 5.00 Cr and at four digits' level for
		18	-	HSN Summary of	

				Inward supplies	taxpayers having annual turnover above ₹ 5.00 Cr. UQC details to be furnished only for supply of goods. Quantity is to be reported net of returns. Table 12 of FORM GSTR1 may be used for filling up details in Table 17. It may be noted that this summary details are required to be declared only for those inward supplies which in value independently account for 10 % or more of the total value of inward supplies.
Change in other / New Instructions Added					
2. It is mandatory to file all your FORM GSTR-1 and FORM GSTR-3B for the FY 2017-18 before filing this return. The details for the period between July 2017 to March 2018 are to be provided in this return.					
3. It may be noted that additional liability for the FY 2017-18 not declared in FORM GSTR-1 and FORM GSTR-3B may be declared in this return. However, taxpayers cannot claim input tax credit unclaimed during FY 2017-18 through this return.					
4 Part II consists of the details of all outward supplies & advances received during the financial year for which the annual return is filed. It may be noted that all the supplies for which payment has been made through FORM GSTR-3B between July 2017 to March 2018 shall be declared in this part.					
7 Part V consists of particulars of transactions for the previous financial year but paid in the FORM GSTR-3B of April to September of current FY or date of filing of Annual Return for previous financial year (for example in the annual return for the FY 2017-18, the transactions declared in April to September 2018 for the FY 2017-18 shall be declared), whichever is earlier					
9 Towards the end of the return, taxpayers shall be given an option to pay any additional liability declared in this form, through FORM DRC-03. Taxpayers shall select —Annual Return in the drop down provided in FORM DRC-03. It may be noted that such liability can be paid through electronic cash ledger only.					

13. Substitution in Form GSTR-9 C:

Changes made in form are highlighted in Red.

Insertion of : Verification of registered person:

I hereby solemnly affirm and declare that I am uploading the reconciliation statement in FORM GSTR-9C prepared and duly signed by the Auditor and nothing has been tampered or altered by me in the statement. I am also uploading other statements, as applicable, including financial statement, profit and loss account and balance sheet etc.

Change in Instructions

Instruction no.	Table	Old Instruction	New Instruction
2	-	The details for the period between July 2017 to March 2018 are to be provided in this statement for the financial year 2017-18. The reconciliation statement is to be filed for every GSTIN separately.	It is mandatory to file all your FORM GSTR-1, FORM GSTR-3B and FORM GSTR 9 for the FY 2017-18 before filing this return. The details for the period between July 2017 to March 2018 are to be provided in this statement for the financial year 2017-18. The reconciliation statement is to be filed for every GSTIN separately.
4	7F	Taxable turnover as declared in Table 4N of the Annual Return (GSTR9) shall be declared here.	Taxable turnover as declared in Table (4N-4G) + (10-11) of the Annual Return (GSTR9) shall be declared here.
8	-	Towards, the end of the reconciliation statement taxpayers shall be given an option to pay their taxes as recommended by the auditor.	Towards, the end of the return , taxpayers shall be given an option to pay any additional liability declared in this form, through FORM DRC-03 . Taxpayers shall select -Reconciliation statement in the drop down provided in FORM- DRC-03. It may be noted that such liability shall be paid through electronic cash ledger only.
Changes in Part-B certification			
Part II	Pt. 3	The documents required to be furnished under section 35 (5) of the CGST Act and Reconciliation Statement required to be furnished under section 44(2) of the CGST Act is annexed herewith in Form No.GSTR-9C.	The documents required to be furnished under section 35 (5) of the CGST Act/ SGST Act and Reconciliation Statement required to be furnished under section 44(2) of the CGST Act /SGST Act is annexed herewith in Form No.GSTR-9C.

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