

## **GOODS & SERVICES TAX / IDT UPDATE – 82**

### **Exemption of Foreign Airlines from furnishing reconciliation Statement in FORM GSTR-9C**

The Central Government vide [Notification No.09/2020-Central Tax ,dated 16<sup>th</sup> March, 2020](#) has notified the **foreign company which is an airlines company** covered under the notification issued under sub-section (1) of section 381 of the Companies Act, 2013 (18 of 2013) and who have complied with the sub-rule (2) of rule 4 of the Companies (Registration of Foreign Companies) Rules, 2014 as **the class of registered persons** who shall follow the **special procedure** as mentioned below :-

#### **Special procedure to be followed:-**

- **Exemption from furnishing GSTR-9C:-**

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

- **Requirement to submit the Receipts & Payment statement of Indian Business Operations:-**

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

*[Notification No.09/2020-Central Tax ,dated 16<sup>th</sup> March, 2020]*

### **Special procedure for Merged UTs of Daman and Diu & Dadra and Nagar Haveli**

The Central Government vide [Notification No. 10/2020- Central Tax dated 21<sup>st</sup> March 2020](#) has notified the following **special procedures** to be followed by the following registered persons as mentioned below:-

- **Who shall follow:-**

Those persons whose **principal place of business or place of business was in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the 26th day of January, 2020**; and is in the merged Union territory of Daman and Diu and Dadra and Nagar Haveli from the 27th day of January, 2020 onwards, are the class of persons who shall, except as respects things done or omitted to be done before the notification, **till the 31st day of May, 2020** (hereinafter referred to

as the **transition date**), follow the special procedures as mentioned below.

- **Special Procedures to be followed in respect of Tax period, registration, Electronic Credit ledger regarding - Transition period :-**

The said registered person shall,-

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

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

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

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

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

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

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

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

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

**[\[Notification No. 10/2020- Central Tax dated 21<sup>st</sup> March 2020\]](#)**

***Special Procedure to be followed by Corporate Debtors undergoing Corporate Insolvency Resolution Process***

The Central Government vide **[Notification No. 11/2020- Central Tax dated 21<sup>st</sup> March 2020](#)** has prescribed the following special procedures to be followed by the corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016),

undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), from the date of the appointment of the IRP/RP till the period they undergo the corporate insolvency resolution process, as mentioned below.

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

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

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

- **Input tax credit.-**

(1) The said class of persons shall, in his first return, **be eligible to avail input tax credit on invoices covering the supplies of goods or services or both**, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, **subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36** of the Central Goods and Service Tax [Rules, 2017](#) (hereinafter referred to as the said rules).

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

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

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

**[/Notification No. 11/2020- Central Tax dated 21<sup>st</sup> March 2020/](#)**

**[Waiver from filing GSTR-1 for 2019-20 for specified taxpayer](#)**

The Central Government vide [Notification No. 12/2020- Central Tax dated 21<sup>st</sup> March 2020](#) has exempted those registered persons from filing GSTR-1 for 2019-20 who could not opt for availing the option of special composition scheme under notification No.

2/2019-Central Tax (Rate) dated 07.03.2019 by filing FORM CMP-02 & have furnished a return in FORM GSTR-3B instead of furnishing the statement containing the details of payment of self-assessed tax in FORM GST CMP-08 under the Central Goods and Services Tax Rules, 2017.

[\[Notification No. 12/2020- Central Tax dated 21st March 2020\]](#)

### **Deferment of implementation date of E-invoicing**

The Central Government vide [Notification No. 13/2020- Central Tax dated 21<sup>st</sup> March 2020](#) has deferred the date of implementation of E-Invoicing to 1st October,2020 for those registered persons whose aggregate turnover whose aggregate turnover in a financial year exceeds one hundred crore rupees.

The said notification has also exempted the following persons from requirement of E-invoicing even if the aggregate turnover exceeds the specified limit:-

- Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company
- Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage.
- Where the supplier of taxable service is supplying passenger transportation service
- Where the supplier of taxable service is a registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens.

[\[Notification No. 13/2020- Central Tax dated 21<sup>st</sup> March 2020\]](#)

### **Deferment of implementation date of QR Code**

The Central Government vide [Notification No. 14/2020- Central Tax dated 21<sup>st</sup> March 2020](#) has deferred the date of implementation of **Dynamic Quick Response (QR) code** to **1<sup>st</sup> October,2020** for those registered persons whose aggregate turnover in a financial year exceeds five hundred crore rupees.

The said notification has also exempted the following persons from requirement of QR Code even if the aggregate turnover exceeds the specified limit:-

- Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company
- Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage.
- Where the supplier of taxable service is supplying passenger transportation service
- Where the supplier of taxable service is a registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens.

[\[Notification No. 14/2020- Central Tax dated 21<sup>st</sup> March 2020\]](#)

### **Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal**

The Central Board of Indirect Taxes & Customs vide [Circular No.132/2/2020-GST ,dated 18<sup>th</sup> March, 2020](#) has examined the issue of **appellate process being kept pending by several appellate authorities** on the grounds that the **appellate tribunal has been not constituted** and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed.

The Board has clarified the following:-

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

*“112 (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.”*

- The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated.
- In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued **the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019**. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.
- Hence, as of now, **the prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office.**
- **The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office.**
- Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

[/Circular No.132/2/2020-GST ,dated 18<sup>th</sup> March, 2020/](#)

### **CUSTOMS**

#### **Implementation of automated clearance on All-India basis**

The Central Board of Indirect Taxes & Customs vide [Circular No. 15/2020-Customs dated](#)

[28<sup>th</sup> February, 2020](#) has extended **the facility of automated clearance of Bills of Entry** to all customs formations where the Customs EDI system is operational, **with effect from 05.03.2020.**

The important features of the automated clearance are as follows:-

- i. The facility will only be for ICES locations where RMS is enabled and fully functional.
- ii. All the Customs Compliance Verification (CCV) requirements under the Customs Act, rules, instructions etc will be done by the designated proper officer of Customs.
- iii. The CCV would operate even while duty has not been paid or payment is under process.
- iv. After completion of CCV, the proper officer of customs, on satisfaction that the goods are ready for clearance, will confirm the completion of the CCV for the particular Bill of Entry in the Customs System.
- v. On confirmation of payment of applicable duty, the Customs System will then electronically give clearance to the Bill of Entry.

*After reviewing the implementation of the pilot roll-out of automated clearance at the two customs locations namely Chennai Customs House and Jawaharlal Nehru Customs House, the Board has decided to extend the above facility of the facility of automated clearance of Bills of Entry to all customs formations where the Customs EDI system is operational, with effect from 05.03.2020.*

[\[Circular No. 15/2020-Customs dated 28<sup>th</sup> February, 2020\]](#)

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