

## GOODS & SERVICES TAX / IDT UPDATE-166

In order to give effect to the recommendations made at the 48<sup>th</sup> GST Council Meeting, the CGST Rules, 2017 have been amended vide [Notification No. 26/2022-CT dt. 26.12.2022](#) as under:

### 1. Amendments in rule 8 (Application for registration)

- i. Sub-rule (1) has been amended to do away with the requirement of mentioning mobile no. and e-mail address in the application for registration.
- ii. The Permanent Account Number (PAN) shall also be verified through OTP sent to the mobile no. and e-mail address linked to the PAN. Consequently, clause (b) and (c) of sub-rule (2) which required verification of mobile no. and e-mail address have been omitted.
- iii. Sub-rule (4A) has been substituted to provide that registration application by a person who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking of photographs of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under section 25(6C) where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centers notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.
- iv. A new sub-rule (4B) has been inserted to provide that the provisions of sub-rule (4A) shall not apply to those States or Union Territories as may be notified by the Government on the recommendations of the Council.

It has been notified vide [Notification No. 27/2022-CT dt. 26.12.2022](#) that the provisions of sub-rule (4A) of rule 8 shall not apply in all the States and Union territories except the State of Gujarat. Therefore, biometric based Aadhaar authentication and taking of photograph for completion of registration application is applicable only in Gujarat.

- v. Sub-rule (5) has been amended to provide that on receipt of an application under sub-rule (4A) also, an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.

### 2. Amendments in rule 9 (Verification of the application and approval)

New proviso (aa) has been inserted in sub-rule (1) to lay down that registration shall be granted within thirty days of submission of application to a person, who has undergone authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, and is identified on the common portal, based on data analysis and risk parameters,

for carrying out physical verification of places of business. Consequential amendment has been made in sub-rule (2) by inserting a new proviso (aa) therein as well.

**3. Amendment in rule 12 (Grant of registration to persons required to deduct tax at source or to collect tax at source)**

Sub-rule (3) has been amended to specify that TDS and TCS registrations can also now be cancelled by the proper officer on a request made in writing by a person to whom such registration has been granted.

**4. Amendment in rule 37 (Reversal of input tax credit in the case of non-payment of consideration)**

Sub-rule (1) has been amended to provide that a registered person shall pay or reverse an amount equal to the input tax credit along with interest which is proportionate to the amount not paid to the supplier within the prescribed time limit.

**5. New rule 37A (Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof)**

New rule 37A has been inserted to specify the mechanism for reversal of input tax credit in the case of non-payment of tax by the supplier within the prescribed time and the procedure for re-availment of the same if the supplier pays such tax subsequently.

**6. Amendment in rule 46 (Tax invoice)**

A proviso has been inserted after clause (f) to state that where any taxable service is supplied by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services to a recipient who is un-registered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient.

**7. Amendment in rule 46A (Invoice cum bill of supply)**

A proviso has been inserted in rule 46A providing that the said single “invoice-cum-bill of supply” shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49.

**8. Amendment in rule 87 (Electronic cash ledger)**

A new proviso has been inserted in sub-rule (8) which lays down that where the bank fails to communicate details of Challan Identification Number to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the Reserve Bank of India in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.

**9. New rule 88C (Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return) and amendment in rule 59 (Form and manner of furnishing details of outward supplies)**

**Sub-rule (1)** lays down that where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in FORM GSTR-1 or using the Invoice Furnishing Facility in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in FORM GSTR-3B, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in Part A of FORM GST DRC-01B, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to—

(a) pay the differential tax liability, along with interest under section 50, through FORM GST DRC-03; or

(b) explain the aforesaid difference in tax payable on the common portal, within a period of seven days.

**Sub rule (2)** provides that the registered person referred to in sub-rule (1) shall, upon receipt of the intimation referred to in that sub-rule, either-

(a) pay the amount of the differential tax liability, as specified in Part A of FORM GST DRC-01B, fully or partially, along with interest under section 50, through FORM GST DRC-03 and furnish the details thereof in Part B of FORM GST DRC-01B electronically on the common portal; or

(b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, in Part B of FORM GST DRC-01B, within the period specified in the said sub-rule.

**Sub-rule (3)** provides that where any amount specified in the intimation referred to in sub-rule (1) remains unpaid within the period specified in that sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79.

Further, a new clause (d) has been inserted in **rule 59(6)** to provide that a registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88C in respect of a tax period, shall not be allowed to furnish FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of sub-rule (2) of rule 88C.

**10. Amendment in rule 89 (Application for refund)**

- i. A new clause (ka) has been inserted in sub-rule (2) to prescribe that the refund application shall be accompanied by a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated.
- ii. Further, a new clause (kb) inserted thereafter prescribes that refund application shall be accompanied by a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated.
- iii. A proviso has been inserted in clause (m) to clarify that a certificate from Chartered Accountant or Cost Accountant shall not be required in cases where refund is being claimed by an unregistered person who has borne incidence of tax.

## **11. Amendment in rule 108 (Appeal to the Appellate Authority)**

Sub-rule (3) has been substituted as under:

Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.

If the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-01 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal. However, if the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.

## **12. Substitution of rule 109 (Application to the Appellate Authority)**

Sub-rule (1) provides that an application to the Appellate Authority under sub-section (2) of section 107 shall be filed in FORM GST APL-03, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner and a provisional acknowledgment shall be issued to the appellant immediately.

Sub-rule (2) provides that where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal under sub-rule (1).

Where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-03 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal. However, where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-03, the date of submission of such copy shall be considered as the date of filing of appeal.

## **13. New rule 109C - Withdrawal of Appeal**

The appellant may, at any time before issuance of show cause notice under sub-section (11) of section 107 or before issuance of the order under the said sub-section, whichever is earlier, in respect of any appeal filed in FORM GST APL-01 or FORM GST APL-03, file an application for withdrawal of the said appeal by filing an application in FORM GST APL-01/03W.

Where the final acknowledgment in FORM GST APL-02 has been issued, the withdrawal of the said appeal would be subject to the approval of the appellate authority and such application for withdrawal of the appeal shall be decided by the appellate authority within seven days of filing of such application.

Any fresh appeal filed by the appellant pursuant to such withdrawal shall be filed within the time limit specified in sub-section (1) or sub-section (2) of section 107, as the case may be

## **14. Amendment in rule 138 (Information to be furnished prior to commencement of movement of goods and generation of e-way bill)**

Annexure to sub-rule (14) has been amended to the effect that e-way bill would be required to be generated for imitation jewellery (7117).

## **15. Amendment in rule 161 (Continuation of certain recovery proceedings)**

Rule 161 has been amended to replace the word 'order' with 'intimation or notice'. Consequently, now the 'intimation or notice' for the reduction or enhancement of any demand under section 84 shall be issued in Form DRC-25.

## 16. Amendments in Forms

The following forms have been amended:

- i. Form REG-01
- ii. FORM REG-17
- iii. FORM REG-19
- iv. FORM GSTR-1
- v. FORM RFD-01
- vi. FORM APL-02
- vii. FORM APL-03
- viii. FORM DRC-01A
- ix. FORM DRC-03
- x. FORM DRC-25

The detailed amendments can be referred to from [Notification No. 26/2022-CT dt. 26.12.2022](#)

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