



The Institute of Chartered Accountants of India

GST & Indirect Taxes Committee

GOODS & SERVICES TAX UPDATE-195

The following amendments have been made in the CGST Rules, 2017 vide [Notification No. 38/2023 – CT dt. 04.08.2023](#), which shall become effective from the date of issue of this notification unless mentioned otherwise:

1. Amendment in rule 9 (Verification of the application and approval)

The requirement of the presence of registered person at the time of physical verification of place of business for the purpose of verification of the registration application and granting of registration, has been done away with.

2. Substitution of rule 25 (Physical verification of business premises in certain cases)

Rule 25 has been substituted with a new rule to align the same with rule 9. Thus, the requirement of presence of registered person at the time of physical verification of premises has been removed from rule 25.

Further, the rule empowers the proper officer to get the physical verification of business premises done in all the circumstances as provided in proviso to rule 9 where physical verification is required to be done before grant of registration. The proper officer shall upload the verification report along with the other documents, including photographs, in FORM GST REG-30 on the common portal at least five working days prior to the completion of the time period specified in the said proviso. Where the physical verification of premises is done after the grant of registration, FORM GST REG-30 shall be uploaded within a period of fifteen working days following the date of such verification.

3. Amendment in rule 10A (Furnishing of Bank Account Details)

The time period for furnishing of bank account details after the certificate of registration in **FORM GST REG-06** has been made available on the common portal and a GSTIN has been assigned to the applicant, has been amended as below:

Old provision	Amended provision
45 days from the date of grant of registration	30 days from the date of grant of registration

OR	OR
The date on which the return required under section 39 is due to be furnished	The date of furnishing the details of outward supplies under section 37 in FORM GSTR-1 or using invoice furnishing facility (IFF)
Whichever is earlier	Whichever is earlier

4. Amendment in rule 21A (Suspension of registration)

Sub-rule (2A) of rule 21 has been amended to provide that registration of a person shall be suspended if he contravenes the provisions of rule 10A i.e., he fails to furnish the bank account details within the time period prescribed in rule 10A. However, if provisions of rule 10A are complied with, the suspension of registration shall be deemed to be revoked provided the registration has not already been cancelled by the proper officer under rule 22.

5. Amendment in rule 23 (Revocation of cancellation of registration)

With effect from 01.10.2023, the time period of filing an application for revocation of cancellation of registration shall be increased from 30 days to 90 days from the date of the service of the order of cancellation of registration. Further, on sufficient cause being shown and for reasons to be recorded in writing, such period can be extended by the Commissioner, or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding 180 days,.

6. Amendments in explanation to rule 42 and 43

- (i) Explanation 1 after sub-rule (5) of rule 43 has been amended to omit clause (c) therefrom. Accordingly, the aggregate value of exempt supplies shall not exclude 'the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India' for the purpose of reversal of ITC.
- (ii) A new explanation 3 shall be inserted in rule 43 to prescribe that for the purpose of rule 42 and this rule, the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers shall be included in the value of exempt supplies for the purpose of reversal of ITC. This insertion shall become effective from 01.10.2023.

7. Amendment in rule 46 (Tax invoice)

The requirement of putting name and address of the recipient along with the PIN code on the tax invoice, when a 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

an un-registered recipient, irrespective of the value of such supply, has been removed. Hence, in such cases, now only putting name of the state of the recipient shall be sufficient and shall be considered as the address on record of the recipient.

8. Insertion of rule 88D (Manner of dealing with difference in ITC available in auto-generated statement containing the details of ITC and that availed in return)

A new rule 88D has been inserted to provide that where the amount of ITC availed by a registered person in FORM GSTR-3B exceeds the ITC available to such person in accordance with FORM GSTR-2B, by such amount and such percentage, as may be prescribed, the said registered person shall be intimated of such difference in Part A of FORM GST DRC-01C on the common portal as well as on his e-mail address, and will be directed to –

- (i) pay an amount equal to the excess ITC availed in the said FORM GSTR-3B, along with interest payable under section 50, through FORM GST DRC-03, or
- (ii) explain the reasons for the aforesaid difference in ITC on the common portal within a period of 7 days.

Upon receipt of such intimation, the registered person will have an option to pay, fully or partially, the excess ITC along with interest under section 50 through FORM DRC-03 and furnish the details in Part B of FORM GST DRC-01C, or furnish a reply, incorporating reasons for not paying the excess ITC in Part B of FORM GST DRC-01C.

If the amount specified in the intimation is not paid within the specified period and no explanation or reason is provided or where the explanation or reason provided is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74, as the case may be.

9. Amendment in rule 59 (Form and manner of furnishing details of outward supplies)

Rule 59(6) has been amended to provide that a registered person, to whom an intimation has been issued under rule 88D in respect of a tax period(s), shall not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using IFF for a subsequent tax period, unless he has either paid the excess ITC as specified in the said intimation or has furnished a reply explaining the reasons in respect of the excess ITC that still remains to be paid, as required under rule 88D(2).

Further, a registered person shall also not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using IFF, if he has not furnished the bank account details as per the provisions of rule 10A.

10. Amendment in rule 64 (Form and manner of submission of return by persons

providing online information and data base access or retrieval services)

With effect from 01.10.2023, every registered person providing online information and data base access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the IGST Act, 2017 or to a registered person shall file return in FORM GSTR-5A. Consequential amendments have been made in FORM GSTR-5A to give effect to this amendment.

11. Amendment in rule 67 (Form and manner of submission of statement of supplies through an e-commerce operator)

Rule 67(2) has been amended to provide that the details of tax collected at source under section 52(1) furnished by the operator under sub-rule (1) shall be made available electronically to each of the registered suppliers.

The above amendment shall become applicable with effect from 01.10.2023.

12. Amendment in rule 89 (Application for refund of tax, interest, penalty, fees or any other amount)

- (i) Third proviso to sub-rule (1) has been amended to provide that refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, can be claimed, only after the last return required to be furnished by him has been so furnished.
- (ii) Clause (k) of sub-rule (2) has been amended to provide that the statement showing the details of the amount of claim on account of excess payment of tax submitted along with refund application as documentary evidence, shall also contain details of interest, if any, or any other amount paid.

13. Amendment in rule 94 (Order sanctioning interest on delayed refunds)

With effect from 01.10.2023, rule 94 shall be amended to provide that the following periods shall not be included in the period of delay for the purpose of calculating interest on delayed refunds:

- (a) any period of time beyond fifteen days of receipt of notice in FORM GST RFD-08 under sub-rule (3) of rule 92, that the applicant takes to
 - (i) furnish a reply in FORM GST RFD-09, or
 - (ii) submit additional documents or reply

and

- (b) any period of time taken either by the applicant for furnishing the correct details of the bank account to which the refund is to be credited or for validating the details of the

bank account so furnished, where the amount of refund sanctioned could not be credited to the bank account furnished by the applicant.

14. Amendment in rule 96 (Refund of integrated tax paid on goods or services exported out of India)

As per rule 96(2), the details of the relevant export invoices in respect of export of goods contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

First proviso to sub-rule (2) lays down that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended, the supplier shall furnish the information relating to exports as specified in Table 6A of FORM GSTR-1 after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs. Second proviso to sub-rule (2) lays down that the information in Table 6A furnished under the first proviso shall be auto-drafted in FORM GSTR-1 for the said tax period.

Both the said provisos to sub-rule (2) have now been omitted.

15. Amendment in rule 108 (Appeal to the Appellate Authority) and rule 109 (Application to the Appellate Authority)

Rules 108 and 109 have been amended to provide that an appeal or application to the Appellate Authority shall be filed electronically. However, an appeal to the Appellate Authority may be filed manually in FORM GST APL-01/ APL-03, along with the relevant documents, only if -

- (i) the Commissioner has so notified, or
- (ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal.

A provisional acknowledgement shall be issued to the appellant immediately in case of manual filing.

16. Insertion of rule 138F (Information to be furnished in case of intra-State movement of gold, precious stones, etc. and generation of e-way bills thereof)

(1) Where a Commissioner of State tax or Union territory (UT) tax mandates furnishing of information regarding intra-State movement of following goods in accordance with rule 138F of the State or UT GST Rules, –

- (i) Natural or cultured pearls and precious or semi-precious stones; precious metals

and metals clad with precious metal

- (ii) Jewellery, goldsmiths' and silversmiths' wares and other articles [excepting Imitation Jewellery]

and the consignment value of such goods exceeds such amount, not below rupees two lakhs as may be notified by the Commissioner of State/UT tax, in consultation with the jurisdictional Principal Chief Commissioner or Chief Commissioner of Central Tax, or any Commissioner of Central Tax authorised by him,

notwithstanding anything contained in Rule 138, every registered person who causes intra-State movement of such goods, -

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an un-registered person,

shall, before the commencement of such movement within that State or Union territory, furnish information relating to such goods electronically, as specified in Part A of FORM GST EWB-01, against which a unique number shall be generated:

Where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency.

- (2) The information as specified in PART B of FORM GST EWB-01 shall not be required to be furnished in respect of the above movement of goods and after furnishing information in Part-A of FORM GST EWB-01, the e-way bill shall be generated in FORM GST EWB-01, electronically on the common portal.
- (3) The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in FORM GSTR-1.
- (4) Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-waybill, the e-way bill may be cancelled, electronically on the common portal, within twenty-four hours of generation of the e-way bill. However, such e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.
- (5) Notwithstanding anything contained in this rule, no e- way bill is required to be generated –
 - (a) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container

freight station for clearance by Customs, or

(b) where the goods are being transported-

(i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or

(ii) under customs supervision or under customs seal.

(6) The provisions of sub-rule (10), sub-rule (11) and sub-rule (12) of rule 138, rule 138A, rule 138B, rule 138C, rule 138D and rule 138E shall, *mutatis mutandis*, apply to an e-way bill generated under this rule.

For the purpose of this rule, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State tax or Union territory tax charged in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

17. Insertion of rule 142B (Intimation of certain amounts liable to be recovered under section 79 of the Act)

(1) Where, in accordance with section 75 read with rule 88C or otherwise, any amount of tax or interest has become recoverable under section 79 and the same has remained unpaid, the proper officer shall intimate, electronically on the common portal, the details of the said amount in FORM GST DRC-01D, directing the person in default to pay the said amount, along with applicable interest, or, as the case may be the amount of interest, within seven days of the date of the said intimation and the said amount shall be posted in Part-II of Electronic Liability Register in FORM GST PMT-01.

(2) This intimation shall be treated as the notice for recovery.

(3) Where any amount of tax or interest specified in the intimation remains unpaid on the expiry of the period specified in the said intimation, the proper officer shall proceed to recover the amount that remains unpaid in accordance with the provisions of rule 143 or rule 144 or rule 145 or rule 146 or rule 147 or rule 155 or rule 156 or rule 157 or rule 160.

18. Amendment in rule 162 (Procedure for compounding of offences)

a) Sub-rule (3) has been amended to provide that the Commissioner, after taking into account the contents of the said application, may, by order in [FORM GST CPD-02](#), on being satisfied that the applicant has made full and true disclosure of facts relating

to the case, allow the application indicating the compounding amount and grant him immunity from prosecution or reject such application within ninety days of the receipt of the application. The requirement of co-operation of the applicant in the proceedings before him for the purpose of allowing the application for compounding of offence has now been done away with.

- b) A new sub-rule (3A) has been inserted to prescribe the compounding amount for various offences as under:

S. No.	Offence	Compounding amount if offence is punishable under clause (i) of sub-section (1) of section 132	Compounding amount if offence is punishable under clause (ii) of sub-section (1) of section 132
(1)	(2)	(3)	(4)
1	Offence specified in clause (a) of sub-section (1) of section 132 of the Act	Up to 75% of the amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken, subject to minimum of 50% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.	Up to 60% of the amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken, subject to minimum of 40% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.
2	Offence specified in clause (c) of sub-section (1) of section 132 of the Act		
3	Offence specified in clause (d) of sub-section (1) of section 132 of the Act		
4	Offence specified in clause (e) of sub-section (1) of section 132 of the Act		
5	Offence specified in clause (f) of sub-section (1) of section 132 of the Act	Amount equivalent to 25% of tax evaded.	Amount equivalent to 25% of tax evaded.
6	Offence specified in clause (h) of sub-section (1) of section 132 of the Act		
7	Offence specified in clause (i) of sub-section (1) of section 132 of the Act		
8	Attempt to commit the offences or abets the commission of offences mentioned in clause (a), (c) to (f) and clauses (h) and (i) of subsection (1) of section 132 of the Act	Amount equivalent to 25% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.	Amount equivalent to 25% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.

If the offence committed by the person falls under more than one category specified in the Table above, the compounding amount, in such case, shall be the amount determined for

the offence for which higher compounding amount has been prescribed.

The above amendments shall become applicable with effect from 01.10.2023.

19. Insertion of rule 163 (Consent based sharing of information)

A new rule 163 has been inserted as under:

- (1) Where a registered person opts to share the information furnished in—
 - (a) FORM GST REG-01 as amended from time to time;
 - (b) return in FORM GSTR-3B for certain tax periods;
 - (c) FORM GSTR-1 for certain tax periods, pertaining to invoices, debit notes and credit notes issued by him, as amended from time to time

with the requesting system referred to in section 158A, the requesting system shall obtain the consent of the said registered person for sharing of such information and shall communicate the consent along with the details of the tax periods, where applicable, to the common portal.

- (2) The registered person shall give his consent for sharing of information only after he has obtained the consent of all the recipients to whom he has issued the invoice, credit notes and debit notes during the said tax period and where he provides his consent, the consent of such recipients shall be deemed to have been obtained.
- (3) The common portal shall communicate the information referred to in sub-rule (1) with the requesting system on receipt from the said system-
 - (a) the consent of the said registered person, and
 - (b) the details of the tax periods or the recipients, as the case may be, in respect of which the information is required.

20. Amendment in Forms

Amendments have been made in the following forms:

- (i) In FORM GSTR-3A, a notice for default in filing annual return has been inserted.
- (i) FORM GSTR-8 (Changes in view of the amendment to allow unregistered suppliers to sell through ECO – To be effective from 01.10.2023)
- (ii) FORM GSTR-9
- (iii) FORM GSTR-9C

(iv) FORM RFD-01

***Vice - Chairman
GST & Indirect Taxes Committee***

***Chairman
GST & Indirect Taxes Committee***

The GST Update is an endeavour of the GST & Indirect Taxes Committee of ICAI to apprise the readers with the amendments made in the GST law vide significant notifications, circulars etc. The Committee welcomes your feedback on the Update at gst@icai.in. Please visit the website of the Committee <https://idtc.icai.org/index.php> for previous GST Updates and other knowledge resources on GST like articles, publications, legal updates, newsletter etc. as also for the information on upcoming events on GST organised by the Committee.

Information published in the Update is taken from publicly available sources and is believed to be accurate. The GST & Indirect Taxes Committee of ICAI takes no responsibility of accuracy and reliability of information published in the Update. No part of this Update may be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, photocopying, recording, or otherwise without the permission of GST & Indirect Taxes Committee of ICAI.

The Institute of Chartered Accountants of India, ICAI Bhawan, A-29, Sector 62, Noida (U.P.)-201301