



GOODS AND SERVICES TAX ALERT

N. A. SHAH BULLETIN

December 2020

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Recent GST Notifications:

Government has issued notifications amending GST rules in relation to GST registration, suspension or cancellation thereof, restrictions on claiming Input tax credit (ITC), restrictions on filing Form GSTR 1, etc.

The gist of the notifications issued is as under:

1. **Waiver of Late fees for delay in filing Form GSTR-4** (*Notification no. 93/2020–*

Central Tax dated 22.12.2020)

Late fee payable for delay in furnishing of FORM **GSTR-4** for the **Financial Year 2019-20** is waived for the registered person having principal place of business **in Ladakh** (UT), if the said return is filed within the period 01.11.2020 to 31.12.2020.

2. **Amendments to CGST Rules, 2017** (*Notification no. 94/2020–Central Tax dated*

22.12.2020)

CGST Rules are amended with effect from the date of notification, unless otherwise specified:

Rule 9 – Verification and approval of application of GST registration

- The proper officer will approve the application for GST registration within 7 working days from date of submission of the application instead of earlier time limit of 3 working days.
- Where the applicant fails to undergo Aadhaar authentication or where department deems it fit to carry out physical verification of place of business, the registration will be granted within 30 working days of submission of application after physical verification of place of business.

- Application for grant of registration shall be deemed to have been approved if proper officer fails to take action within:
- 7 working days of submission of application; or
 - 30 working days of submissions of application after physical verification of place of business; or
 - 7 working days from date of receipt of clarification, information or documents furnished by the applicant.

Rule 21 - Registration to be cancelled in certain cases

- The department is empowered to cancel GST registration under following **additional circumstances**:
- where taxpayer avails ITC in violation of Section 16 of the Act or rules made thereunder; or
 - where taxpayer furnishes outward supplies in FORM GSTR-1 for one or more tax periods which is in excess of the outward supplies declared in return u/s 39 (i.e. Form GSTR-3B) for the said tax periods; or
 - where taxpayer violates the provisions of rule 86B.

[Kindly refer later part of this alert for newly inserted Rule 86B]

Rule 21A – Suspension of GST Registration

- Where the proper officer has reasons to believe that the registration of person is liable to be cancelled, he may suspend registration of such person from a date determined by him **without granting an opportunity of being heard**.
- Where there are significant deviation/anomalies between details of outward supply furnished in Form GSTR 3B and Form GSTR1 or details of inward supplies (ITC) as furnished in Form GSTR 3B and reflected in Form GSTR 2A/2B indicating contravention of provisions of the Act, the proper officer

shall suspend registration of the said person.

The said registered person will be electronically intimated in Form GST REG-31 highlighting the differences and anomalies and asking him to explain within 30 days as to why his registration shall not be cancelled.

- A registered person whose registration has been suspended, shall not be granted refund u/s 54 of CGST Act 2017 during the period of such suspension of registration.
- Proper officer has been granted discretionary power to revoke suspension of registration at any time during pendency of proceedings of cancellation, if he so deems fit.

Rule 36 – Restriction on availment of ITC (effective from 01.01.2021)

- The claim of ITC in respect of invoices or debit notes, the details of which have not been furnished in FORM GSTR-1 or invoice furnishing facility by the corresponding vendors, is now being **restricted to 5%** (instead of earlier limit of 10%) **of eligible credit available in GSTR 2A.**

In simple words, w.e.f. 01.01.2021 the claim of ITC will be restricted to 105% of the eligible ITC reflected in GSTR 2A.

Rule 59 – Restriction in furnishing details of outward supplies in Form GSTR 1 or using Invoice Furnishing Facility (IFF)

- A registered person **shall not be allowed** to furnish the details of outward supplies in FORM GSTR-1 (for regular taxpayers) or using IFF (in case of taxpayers opting for Quarterly Return and Monthly Payment) in following cases:
 - If he has not furnished the return in FORM GSTR-3B for **preceding two months;**

- Where a taxpayer has not furnished the return in FORM GSTR-3B for **preceding tax period** and he is:
 - restricted under Rule 86B from using the amount in electronic credit ledger (i.e. ITC) to discharge tax liability in excess of 99% of such tax;
 - or**
 - required to file quarterly return under proviso to Section 39(1).

Rule 86B – Restrictions on use of amount available in electronic credit ledger (effective from 01.01.2021)

- The taxpayer whose value of taxable supply (other than exempt supplies and zero-rated supplies) in a month exceeds Rs. 50 lakhs **shall not use** the amount of electronic credit ledger (i.e. ITC) to discharge tax liability in excess of 99% of such liability.

In simple words, such taxpayer has to discharge minimum 1% of his tax liability in case irrespective of his balance in electronic credit ledger.

- Above restriction shall not apply in cases where:
- said taxpayer or the proprietor or Karta or managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than Rs. 1 lakh of income tax in each of the last two FY for which the time limit to file income tax return has expired; or
 - the taxpayer has received GST refund u/s 54 exceeding Rs. 1 lakh in the preceding financial year on account of unutilised ITC; or
 - the taxpayer has used electronic cash ledger to pay the liability on outward supplies which cumulatively is equivalent to 1% of the total liability up to the said month; or

- the taxpayer is a Government Department or Public Sector Undertaking or local authority or a statutory body.

➤ Commissioner or an officer so authorized by him are empowered to remove the aforesaid restriction after such verifications and safeguards as he may deem fit.

Rule 138 – Validity of E-way bill (effective from 01.01.2021)

➤ **Earlier**, E-way bill was valid for one day for goods to be transported upto a distance of 100 km.

The validity of said e-way bill increased by one day with every additional 100 km. or part thereof.

➤ **Now**, e-way bill will be valid for one day for goods to be transported upto a distance of 200 km.

The validity of said e-way bill will increase by one day with every additional 200 km. or part thereof.

Rule 138E – Restriction on furnishing of information in FORM GST EWB-01

➤ Following persons, whether as a supplier or recipient, shall not be allowed to furnish information in PART A of FORM GST EWB-01:

- who has not furnished the returns for a consecutive two tax periods; or
- whose registration is suspended under sub-rule (1) or (2) or (2A) of rule 21A

We will be glad to provide any information, elaboration and elucidation you may need in this regard

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