

## GST updates

Date: 23 March 2020

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### **Central Goods and Services Tax (Third Amendment) Rules, 2020 [Notification no. 16/2020 – Central Tax, dated 23 March 2020].**

- Rule 8(4A) inserted w.e.f 1 April 2020, stating that application for registration should be accompanied by authentication of Aadhar number.
- Proviso to Rule 9(1) inserted w.e.f 1 April 2020, stating that where Aadhar number authentication is not completed registration would be granted only after physical verification of the business premises in the presence of the person obtaining registration. Physical verification should be completed within 60 days from the date of application. Deemed registration provided under Rule 25(5) would not be applicable in this case.
- Rule 25 substituted w.e.f 24 March 2020, stating that for a physical verification done for a premises, verification report and other documents, including photographs, should be uploaded in Form GST REG-30 within 15 working days following the verification.
- Rule 43(1)(c) substituted w.e.f 1 April 2020. The result is that capital goods earlier used only for non-business purposes or exempt supplies is now are used for business purposes as well, the ineligible credit attributable to the earlier period should be added to the output liability as 5% (of such total input credit) for every quarter or part thereof. Such computation is to be done separately for CGST, SGST, UTGST and IGST and shown in Form GSTR-3B. Earlier such amount was reduced from the amount of eligible input credit.
- Rule 43(1)(d) substituted w.e.f 1 April 2020. The result is that capital goods earlier used only for taxable supplies is now also used for non-business purposes or exempt supplies, the input credit availed earlier should added back to determine the total common credit. Earlier, the assessee was required to reverse 5% of the input credit for each quarter of part thereof.

- Proviso inserted after Rule 80(3) w.e.f 24 March 2020, stating that turnover threshold for filing Form GSTR-9C for financial year 2018-2019 is INR 5 crores.
- Rule 86(4A) inserted w.e.f 24 March 2020, stating that any tax paid in excess or wrongly through input credit should be re-credited to the electronic credit ledger of the assessee through an order in Form GST PMT-03.
- For the computation of refund of input credit for zero-rates supplies of goods, the turnover of zero-rated supply of goods would be the lower of the value or 1.5 times the value of like goods supplied domestically by the same or similarly placed supplier. This has come through a substitution of clause (c) of Rule 89(4). This substitution would negatively impact the refund amounts significantly, especially in cases where the exporters were earning margins greater than 50% for export sales. This substitution has come into effect from 24 March 2020.
- Rule 92(1A) inserted w.e.f 24 March 2020 for refund of tax amount paid. The officer should make an order in Form RFD-06 for the amount paid in cash as reduced by amount of outstanding demand. Tax paid in excess through input credit should be re-credited to the electronic credit ledger through Form GST PMT-03. Relevant amendments also made to Rule 91(4) and Rule 91(5) to give effect to this amendment.
- Explanation inserted in Rule 96(10) w.e.f 23 October 2017, clarifying that IGST and Compensation Cess refund should be available in case only Basic Customs Duty exemption has been availed under Notification no. 28/2017 – Central Tax (supply of goods against Advance Authorization, EPCG, to an EOU), Notification no. 78/2017 – Customs (specified goods imported or procured from a Public Warehouse or a Private Warehouse appointed or licensed) and Notification no. 79/2017 – Customs.
- Rule 96B inserted w.e.f 24 March 2020 regarding recovery of refunds against exports. Where foreign exchange has not been realized by the exporter within the period prescribed under the Foreign Exchange Management Act, 1999 (including any extension), the exporter would be required to repay the proportionate amount of refund along with interest, except where the RBI writes off the requirement of realization of sale proceeds on merits. In cases where the recovery of refund amount and interest has been made and the exporter has realized the amount of foreign exchange, he may produce evidence of such realization within three months of the date of realization. In such a case, the amount recovered (refund amount and interest) should be refunded to the extent of realization of proceeds, provided sales proceeds have been realized within such extended period as permitted by the RBI.
- Relevant amendment made to Form GST RFD-01 as an undertaking by the exporter claiming refund.
- 'Proper officer' now authorized to dispose of seized goods in case the assessee does not pay an amount equivalent to the market price or the amount of tax, interest and penalty payable. Earlier the power to dispose of goods rested only with the Commissioner. The amendment has come w.e.f 24 March 2020.

### **Applicability to e-invoicing and QR code provisions.**

- Notification no. 13/2020 – Central Tax, dated 21 March 2020, has rescinded Notification no. 70/2019 – Central Tax, dated 13 December 2019, through which e-invoicing was made applicable from 1 April 2020.
- New date for generating e-invoicing is 1 October 2020. Turnover threshold of INR 100 crores is maintained.
- Notification no. 14/2020 – Central Tax, dated 21 March 2020, has rescinded Notification no. 72/2019 – Central Tax, dated 13 December 2019, through which depicting QR code was made applicable from 1 April 2020.
- New date for depicting QR code on invoices is 1 October 2020. Turnover threshold of INR 500 crores is maintained.
- E-invoicing and QR code provisions are not applicable for the following:
  - Insurer or a banking company or a financial institution, including a non-banking financial company.
  - Goods transport agency.
  - Suppliers of passenger transportation service.
  - A person supplying services of admission to exhibition of cinematograph films in multiplex screens.

### **Extension of due date for filing of GST annual returns.**

- Due date for filing GST annual returns in Form GSTR-9 and Form GSTR-9C for financial year 2018-2019 has been extended to 30 June 2020, through Notification no. 15/2020 – Central Tax, dated 23 March 2020.

### **Due date for filing Form GSTR-1 for assesseees with turnover more INR 1.5 crores.**

Form GSTR-1 for April – September 2020 should be filed by 11 of the succeeding months.

[Notification no. 28/2020 – Central Tax, dated 23 March 2020]

### **Transfer of input credit from Dadra and Nagar Haveli and Daman and Diu to the newly form Union Territory of Daman and Diu and Dadra and Nagar Haveli.**

- Under Notification no. 10/2020 – Central Tax, dated 21 March 2020, for the purposes of GST, two erstwhile Union Territories have been merged w.e.f 27 January 2020. As a result, assesseees are required to take the following steps till 31 May 2020.
  - Ascertain the new tax period for January 2020 as 1 – 25 January and February 2020 as 26 January – 29 February 2020.
- For invoices generated from 26 January to 31 May 2020, pay the appropriate tax in the returns.
  - Transfer the input tax credit balance in the erstwhile Union Territories to the newly formed Union Territory in the following manner.
    - Intimate the jurisdictional officer of the erstwhile and newly formed Union Territories within a month of obtaining registration.

- Input credit transferred upon filing of the return in the erstwhile Union Territory of Daman and Diu, for the tax period immediately before 31 May 2020.
- The transferor should debit the input credit in Table 4(B)(2) of Form GSTR-3B and the receiving GSTIN should credit an equal amount in Table 4(A)(5) of Form GSTR-3B.
- Amount of UTGST input credit of an assessee in Daman and Diu as on 25 January 2020 shall be transferred as UTGST input credit.

**Procedure for assessee undergoing corporate insolvency resolution.**

- Under Notification no. 11/2020 – Central Tax, dated 21 March 2020, from the date of the appointment of the interim resolution professionals (IRP) or resolution professionals (RP) till the period the assessee undergoes the corporate insolvency resolution process, the following procedure should be followed.
- A new registration should be obtained in each of the States and Union Territories where the assessee was earlier registered within 30 days of appointment of IRP / RP. In case IRP / RP was appointed before 21 March 2020, the period of 30 days will start from 21 March 2020. In such a case, the new registrations should be effective from the date of appointment of IRP / RP.
- The assessee should file a return under Section 40 of the CGST Act, from the date on which he becomes liable to registration till the date on which registration is obtained.
- The assessee should be eligible to avail input credit in his first return of supplies received since the appointment of IRP / RP (and bearing the erstwhile GSTIN). Conditions for availment of input credit should apply except for Section 16(4) and Rule 36(4) – availing input credit till filing of return of September of following year and limiting input credit to amount mentioned in Form GSTR-2 plus 10%.
- Assessee receiving supplies from such persons from the date of appointment of IRP / RP till the date of registration under the erstwhile GSTIN, should be eligible to avail input credit of the GST charged subject to prescribed conditions except Rule 36(4). As a result, the additional 10% input credit should not be computed on supplies received from such persons.
- GST paid in cash from the date of appointment of IRP / RP to the date of obtaining registration under this notification, should be available as refund under the erstwhile registrations of the assessee.

**Prescribing class of persons to whom Aadhar verification applies.**

- Under Notification no. 17/2020 – Central Tax, dated 23 March 2020, w.e.f 1 April 2020, for the purpose of obtaining registration an individual, authorized signatories of all types, Managing and Authorized Partner and Karta of an HUF would be required to furnish proof of possession of Aadhar number. This provision would not apply to a person who is not a resident of India. Provided that if Aadhaar number is not assigned to the abovementioned persons, he shall be offered alternate and viable means of identification. [Notification no. 18/2020 – Central Tax, dated 23 March 2020 and Notification no. 19/2020 – Central Tax, dated 23 March 2020]

**Due date for filing Form GSTR-1 and Form GSTR-3B in J&K and Ladakh extended.**

- For assesseees with turnover up to INR 1.5 crores, the due date for filing Form GSTR-1 for October – December 2019 has been extended to 24 March 2020 w.e.f 31 January 2020. [Notification no. 21/2020 – Central Tax, dated 23 March 2020]
- For assesseees with turnover up to INR 1.5 crores, the due date for filing Form GSTR-1 for July – September 2019 has been extended to 24 March 2020 w.e.f 30 November 2019. [Notification no. 24/2020 – Central Tax, dated 23 March 2020]
- For assesseees with turnover of more than INR 1.5 crores, the due date for filing Form GSTR-1 for July – September 2019 and October 2019 – February 2020 has been extended to 24 March 2020 w.e.f 20 December 2019. [Notification no. 23/2020 – Central Tax, dated 23 March 2020 and Notification no. 22/2020 – Central Tax, dated 23 March 2020]
- The due date for filing Form GSTR-3B for July – September 2019 and October 2019 – February 2020 has been extended to 24 March 2020 w.e.f 20 December 2019. [Notification no. 26/2020 – Central Tax, dated 23 March 2020 and Notification no. 25/2020 – Central Tax, dated 23 March 2020]

**Due date for filing Form GSTR-3B in various States prescribed for assesseees with turnover up to INR 5 crores for the period April – September 2020.**

- GST to be deposited by 20 of the succeeding months.
- Due date for filing Form GSTR-3B in Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep for the period April – September 2020 would be 22 of the succeeding months.
- Due date for filing Form GSTR-3B in Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, Jammu and Kashmir, Ladakh, Chandigarh and Delhi for the period April – September 2020 would be 24 of the succeeding months. [Notification no. 29/2020 – Central Tax, dated 23 March 2020]

**Due date for filing Form GSTR-1 for assesseees with turnover up to INR 1.5 crores.**

- Due date for the quarter April – June 2020 is 31 July 2020.
- Due date for the quarter July – September 2020 is 31 October 2020. [Notification no. 27/2020 – Central Tax, dated 23 March 2020]