

At a Glance

(Brief Updates from the world of Tax and Finance)

For Private Circulation Only

April 2020

Message

Month of March 2020 will probably go down in the annals of the when a new world order was born. This month saw the whole of the world being caught in the grips of the Novel Coronavirus. The pandemic of Covid-19 affected practically each and every country on this planet except a handful few. As the cases of covid started increasing all across, 'Lockdown' was the word of the month in each jurisdiction.

The Indian Government realizing the urgency of the situation also put the country in lockdown from March 24 till April 14. Given the population density of our country, this is a critical step since if the cases increased it will be next to impossible the control the outbreak. The lockdown will help in slowing down the rate of infection allowing the country to cope up with the challenges that ensue. No business other than essential services and goods has been allowed to operate under this lockdown.

Understanding the challenges that such a lockdown puts on the businesses, the Government took various measures to provide relief. Due dates for income tax and GST were extended.

Interest rates were reduced on amounts due and penalties and late fees were also waived. Due date for Vivaad se Vishwas Scheme was also extended. Relief was also extended under Companies Act where additional fees was waived, extension of time limits to hold board meetings, allowing virtual board meetings for approval of financial statements, relaxation of resident director amongst others. Amount spent on fighting COVID shall also be allowed as a specified objective

During the month, Government finally notified the Vivaad Se Vishwas Scheme and its forms. Charitable trusts have been allowed to invest in subsidiaries of National Payments Corporation of India, i.e., the

company managing the UPI payments module of the country.

Under Corporate laws, LLP Settlement Scheme was announced allowing LLPs to make good on their pending default and become compliant. Only Rs. 10 per day additional fee shall be payable against the Rs. 100 per day applicable with the maximum penalty capped to Rs. 5000.

Due dates of GST Audit for FY 18-19 were extended to June 30, 2020. E-invoicing and new simpler return formats were extended to October 1, 2020. Significant changes were made in refund of GST by way of amendment to the rules.

In the coming month, the major challenge is going to be handling the spread of the Corona virus. The lockdown would surely help in containing the spread but the next challenge forward be containing the damage to the economy. With the wheels of economy completely stopped for a period of 21 days, possibly even more, businesses, professionals, manufacturers and retailers would have to come up with a plan to be able to survive. However, if we are able to contain the spread of the virus, it is possible that the growth will pick up quickly making good for the shortfall of the lockdown and more.

So, in these tough times, it is imperative that we all stay sharp, keep ourselves isolated and maintain social distancing as much as possible so that we can quickly take the benefit of when times are good again. Here's wishing all our readers best of health for the days ahead.

With warm regards
Ankit Jain

Income Tax

Relief Measures provided due to outbreak of Corona Virus

Due to outbreak of Corona Virus, government has relaxed various compliance deadlines as under:

| Section/Law | Particulars | Existing Due date /law | Amended Due Date/Law |
|--|--|---|---|
| 139(4) | Filing of belated Income Tax Return "ITR" for the AY 2019-20 as specified u/s 139(4) of Income tax Act, 1961 | 31 st March, 2020 | 30 th June, 2020 |
| 139AA | Linking of Aadhaar with Permanent Account number "PAN" | 31 st March, 2020 | 30 th June, 2020 |
| Vivad se Vishwas scheme, 2020 | Vivad se Vishwas scheme, 2020 | 31 st March, 2020 | 30 th June, 2020 With No Additional 10% Payment |
| Issue of notice, approval, order etc. | Issue of notice, intimation, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents and time limit for completion of proceedings by the authority | Expiring between 20 th March, 2020 and 29 th June,2020 | 30 th June, 2020 |
| Investment in saving instruments etc. | Any compliance by the taxpayer including investment in saving instruments including chapter VI A or investments for roll over benefit of capital gains under Income Tax Act, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, STT law, CTT Law, Equalization Levy law and Vivad Se Vishwas law | Expiring between 20 th March, 2020 and 29 th June, 2020 | 30 th June, 2020 |
| Interest rate on Delayed payments of Tax | Interest rate on Delayed payments of advanced tax, self-assessment tax, regular tax, TDS, TCS, equalization levy, STT, CTT made between the period 20 th March, 2020 and 30 th June 2020 | 1/1.5% per month | 0.75% per month No Penalty No Late Fees |

Charitable Trusts/Societies allowed to invest in Equity Shares / Bonds / Debentures of subsidiaries of NPCI

Under the provisions of section 11 and 12 of IT Act, charitable trust or institutions are exempted from payment of income tax if 85% of total receipts are applied towards charitable activities, however, if 85% amount could not be spent on charitable activities, then the same could be accumulated under section 11(2) and such amount is to be invested in the modes specified u/s 11(5) i.e. F.D.R. with scheduled bank, Government Securities etc.

CBDT has now included Equity Share / Bonds / Debentures of Companies engaged in operations of retail or digital payments settlement or similar activities in which at least fifty-one per cent of equity shares are held by National Payments Corporation of India and is duly approved by the Reserve Bank of India in the list of prescribed modes of investment under section 11(5).

**[Notification G.S.R. 159(E)
[NO.15/2020/F.NO.370142/5/2020-TPL] dated
05.03.2020]**

CBDT notifies securities whose transactions will not be treated as transfer for calculating Capital Gain / Loss.

Section 47 of the Act deals with the transactions which are not considered as transfer of asset or property and accordingly does not attract tax provisions on gain or loss resulting from such transactions. Further, clause (viia) covers the transactions relating to transfer made by the non-residents of capital asset being bond or GDRs, rupee denominated bonds and derivative on a stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.

Now, CBDT has also notified the following securities under clause (viia) where transfer of such securities will not be treated as transfer for the purpose of calculation of capital gain / loss:

- Foreign currency denominated bonds,
- Units of mutual fund,
- Unit of a business trust,
- Foreign currency denominated equity share of a company, and
- Unit of Alternative Investment Fund.

[Notification S.O. 986 (E) [NO. 16/2020/F.NO. 370142/22/2019-TPL], dated 5-3-2020]

CBDT extends the time limit for filing of Income Tax Return / Tax Audit Report for AY 2019-20 in Jammu & Kashmir and Ladakh.

Due to the reports of disturbances in internet facility in certain areas of Jammu and Kashmir, CBDT further extended the 'due-date' for filing of Income-tax Returns / Tax Audit Reports for the Assessment Year 2019-20 to 31st March, 2020 in respect of all categories of income-tax assessee in the Union Territory of Jammu and Kashmir and Union Territory of Ladakh. For those who have filed the same after 31.01.2020 shall be deemed to be filled within

due date.

**[Order u/s 119 of the Income Tax Act, 1961-
F.NO.225/306/2019-ITA-II]**

Direct Tax Vivad se Vishwas Scheme

Finance Minister, Smt. Nirmala Sitharaman vide Union Budget, 2020, with the object of reducing the pending income tax litigation and in order to generate timely revenue for Government and to provide the peace of mind to the taxpayers by saving time as well as resources of the taxpayers which would otherwise have been spent on such vexatious litigation processes, announced a scheme namely Direct Tax Vivad se Vishwas Scheme which now has become an Act and rules related to operation of the scheme has been notified. Key highlights of the Scheme are as under:

Eligibility

- Appeals pending before the appellate forum [Commissioner (Appeals), Income Tax Appellate Tribunal (ITAT), High Court or Supreme Court], and writ petitions pending before High Court (HC) or Supreme Court (SC) or special leave petitions (SLPs) pending before SC as on the 31st day of January, 2020 (specified date);
- Cases where the order has been passed but the time limit for filing appeal under the Income-tax Act, 1961 (the Act) against the order has not expired as on the specified date i.e. 31st January, 2020;
- Cases where objections filed by the assessee against draft order are pending with Dispute Resolution Panel (DRP) or where DRP has given the directions but the Assessing Officer (AO) has not yet passed the final order on or before the specified date;
- Cases where revision application under section 264 of the Act is pending before the Principal Commissioner or Commissioner; and
- Where a declarant has initiated any proceeding or given any notice for arbitration, conciliation or mediation as referred to in clause 4 of the Bill.
- Cases pending before the DRP

Non Applicability of the Scheme in Certain Circumstances:

- Cases where the tax arrears relate to an assessment made consequent to the search and seizure action by the Income Tax Department u/s 132 or 132A of the Act, such cases would be excluded where the amount of disputed tax exceeds Five Crore rupees in that assessment year. Accordingly, declaration under the scheme can be made for the years where the amount of tax is less than Rs.5 Crores.
- Cases pending before Authority of Advance Ruling AAR are not covered under the scheme but if the order passed by AAR has determined the total income of an assessment year and writ against such order is pending in HC, the appellant would be eligible for the scheme.

Other points:

- Picking and choosing issues for settlement of an appeal is not allowed with respect of one order. Accordingly, the appellant must either choose to settle all the issues in order to file declaration or not to declare under such scheme.
- Option to pay tax on MAT Credit or Unabsorbed

Depreciation utilized in future years either with the application or in the year of adjustment along with interest thereon.

- Assessee opting for the scheme needs to file declaration in 'Form 1' before the assessing officer along with undertaking in 'Form 2' waiving his right to claim any remedy under the Act. Thereafter, AO will issue a certificate within fifteen days determining the amount to be paid in 'Form 3' and thereafter assessee needs to pay the tax amount within fifteen days and intimate the payment to Assessing Officer in 'Form 4' and thereafter AO will issue Full and Final Settlement Order in 'Form 5'. Immunity will be granted from prosecution also.
- Any amount paid under the scheme will not be refunded, however, any amount earlier paid excess will be refunded to the assessee without any interest.

Extended validity of certificates u/s 197 / 195

Due to outbreak of Corona Virus and lockdown in the country, CBDT has decided to extend the validity of the certificates for lower rates issued u/s 197 and 195. Under the given circumstance, where an assessee has granted certificate in previous year, he can continue to use the previous year certificate till June 30, 2020 if he has already filed the application. If the application is pending to be filed, the same can be made through email.

[Order no. F. No. 275/25/2020-IT(B) dated 31st March, 2020]

Direct Tax – Judgements

SC holds the satisfaction note that the documents seized from the searched person belonged to the other person fulfills Sec 153C if the assessing officer of the both are same.

The Court observed that in the case where the Assessing Officer of the searched person and the other person is the same, it is sufficient by the Assessing Officer to note in the satisfaction note that the documents seized from the searched person belonged to the other person. Once the note says so, then the requirement of Section 153C of the Act is fulfilled. However, he must be conscious and satisfied that the documents seized/recovered from the searched person belonged to the other person. The second requirement of transmitting the documents so seized from the searched person would not be there as he himself will be the Assessing Officer of the searched person and the other person and therefore there is no question of transmitting such seized documents to himself.

[Super Malls Private Limited vs Pr. CIT (Civil Appeal No(s). 2006/2020) Supreme Court dated 05.03.2020]

Gujarat HC: Self-certification on the part of the employees was adequate for the assessee not to deduct TDS from the reimbursement allowance towards uniforms.

The Court Hon'ble held that since liability to pay tax under the Act is of the individual employee and the liability on the part of the employer is only to deduct TDS, Circular No.15

dated 8.5.1969 provides that self-certification on the part of the employee is sufficient for the disbursing officer for calculation of the TDS. While the said circular relates to conveyances, the underlying principle can well be applied even in the case of uniform allowance. Therefore, if an employee gives a certificate certifying that he had incurred certain expenditure towards uniforms, that would be adequate while calculating the TDS. If the AO has any doubt about the claim made by any individual employee, he can always take upon the issue during the course of assessment proceedings of such employee, self-certification is good enough for the employer not to deduct tax at source. Whether the employee is able to substantiate his claim to exemption has no bearing on the estimate of income liable to tax to be made by the employer.

[CIT vs Oil And Natural Gas Corporation Ltd in ITA 1218/2018 dated 17.03.2020 Gujarat High Court]

ITAT Ahmedabad held that when the Assessing Officer did not have the power to make a full-fledged assessment in limited scrutiny cases, the power of CIT(A) could not be enlarged beyond the power of the Assessing Officer in limited scrutiny cases

ITAT held that there is no doubt that the power of the Commissioner (Appeals) is co-terminus with the power of the Assessing Officer. When the Assessing Officer did not have the power to make a full-fledged assessment in limited scrutiny cases, the Commissioner (Appeals)'s power could not be enlarged beyond the power of the Assessing Officer in limited scrutiny cases. Since the notice under section 143(2)(i) was issued for limited scrutiny, the Assessing Officer was precluded from considering any other issue while making the assessment under section 143(3) under limited scrutiny.

[Shri Narendrakumar Rameshbhai Patel vs Dy. CIT, ITA No. 981/Ahd/2019 dated 20.03.2020 (Ahmedabad - Trib.)]

International Taxation & Transfer Pricing

ITAT Mumbai affirms "intangible" business connection for Nicholas Cage's appearance in Dubai for Audi-A8L launch

Mumbai ITAT held that "the income embedded in payment to the international celebrity" for appearance / participation in a product launch event in Dubai, was taxable in India, holds assessee co. [an Indian financial affiliate & part of Volkswagen group] in default under section 201 for not deducting TDS u/s. 195. ITAT holds that "while the event, in which appearance was made by the celebrity, was held outside India, all the benefits accrued to the assessee in India...". ITAT observed that "The business connection in India, on the facts of the present case, is intangible". ITAT concludes by remarking that "Today, virtual and intangible business connections are perhaps far more critical, important and commonplace than the conventional brick and mortar business connections half a century ago, and, therefore, to disregard these business connections as a real and intimate business connection leading to earning of income by the non-residents, only because Hon'ble Courts, while delivering judgments several

decades ago, could not visualize the same and hedge their observations about such possibilities, will certainly be travesty of justice.”

[Volkswagen Finance Pvt Ltd vs ITO (ITA No. 2195/Mum/2017) dated 19.03.2020 – ITAT Mumbai]

Corporate Laws

Relief measures taken by the Government of India in view of COVID-19 outbreak

The Union Finance & Corporate Affairs Minister Smt. Niramla Sitharaman announced several important relief measures taken by the Government of India in view of COVID-19 outbreak. Relief measures announced in areas of Corporate Affairs & Insolvency and Bankruptcy Code (IBC) as follows:

1. No additional fees shall be charged for late filing during a moratorium period from 01st April to 30th September 2020, in respect of any document, return, statement etc., required to be filed in the MCA-21 Registry, irrespective of its due date, which will not only reduce the compliance burden, including financial burden of companies/ LLPs at large, but also enable long-standing non-compliant companies/ LLPs to make a 'fresh start'.
2. Section 173(1) of the Companies Act, 2013 prescribes that every company shall hold a minimum number of four meetings of its Board of directors every year in such a manner that not more than 120 days shall intervene between two consecutive meetings of the Board. The said period has been extended with a period of 60 days till next two quarters i.e., till 30th September.
3. Earlier, the Companies (Auditor's Report) Order, 2020 was applicable for audit of the eligible companies for the FY commencing on or after the 1st April, 2019. Now, CARO 2020 shall be made applicable from the FY 2020-2021 instead of from 2019-2020 as notified earlier. This will significantly ease the burden on companies & their auditors for the year 2019-20.
4. As per Schedule 4 to the Companies Act, 2013, Independent Directors are required to hold at least one meeting without the attendance of Non-independent directors and members of management. After relief grant, if the Independent Directors of a company have not been able to hold even one meeting during the FY 2019-20, the same shall not be viewed as a violation.
5. Earlier, there was a requirement to create a deposit reserve of 20% of deposits maturing during the upcoming financial year on or before 30th April of that financial year. After the announcement, the requirement to create reserve for the FY 2020-21 shall be allowed till 30th June 2020.
6. Earlier, there was a requirement to invest 15% of debentures maturing during a particular year in specified instruments before 30th April 2020. Now, the requirement to invest shall be allowed till 30th June 2020.
7. Newly incorporated companies are required to file a declaration for Commencement of Business within 6 months of incorporation. After relief grant, an additional time of 6 more months shall be allowed.

Now, newly incorporated companies have 12 month to file such declaration.

8. As per Section 149(3) of the Companies Act, 2013, every company shall have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year. Now, Non-compliance of Section 149(3) of the CA 2013 shall not be treated as a violation.
9. As per Section 4 of the IBC 2016, matters relating to the insolvency and liquidation of corporate debtors could be filed before the NCLT where the minimum amount of the default is Rs. 1 Lakh. Now, the said threshold limit has been extended to Rs. 1 Crore. This will by and large prevent triggering of insolvency proceedings against MSMEs.
10. FM Smt. Sitharaman also added that if the current situation continues beyond 30th April, we may consider suspending section 7, 9 and 10 of the IBC 2016 for a period of 6 months so as to stop companies at large from being forced into insolvency proceedings.

[MCA issued General Circular No. 11/2020 dated 24th March 2020]

A. Registration of Independent Director

MCA has notified the Companies (Appointment and Qualification of Directors) Amendment Rules, 2020 whereby it has clarified that an individual shall not be required to pass the online self-assessment test, in case he has served as director or KMP, for a period of not less than 10 years in one or more of the below mentioned entities:

- a) Listed public company; or
- b) Unlisted public company having a PSC of Rs. 10 Crore or more; or
- c) Body corporate listed on a recognized stock exchange.

[MCA issued Companies (Appointment and Qualification of Director) Amendment Rules, 2020 vide its notification G.S.R. 145(E) dated 28th Feb, 2020]

B. LLP Settlement Scheme, 2020

MCA has provided a one-time opportunity to all the LLPs to make good their default by filing pending documents and to serve as a compliant LLP in future by introducing LLP Settlement Scheme, 2020.

As per the Settlement Scheme, LLPs would be required to pay only Rs. 10/- as additional fee for each day of delay for filing of pending documents as against the earlier practice of Rs. 100/-. Further, the penalty on delay filing shall not exceed from Rs. 5,000/- per document. It will be applicable from 16th Mar, 2020 to 13th June, 2020.

[MCA issued General Circular No. 02/2020 dated 04th March 2020]

C. Extension of due date for filing form NFRA-2

The Ministry of Corporate Affairs (MCA) on 05th March 2020 passed a circular stating the extension of the last date for filing of Form NFRA-2 after the due examination. The time limit for filing the Form NFRA-2, for the Financial Year 2018-19, will be 150 days from the date of implementation of the form on the website of the NFRA.

[MCA issued General Circular No. 07/2020 dated 05th March 2020]

D. MCA introduces Companies (Meetings of Board and its Powers) Amendment Rules, 2020

Considering the need to take precautionary steps to overcome the outbreak of the corona virus (Covid-19), the Ministry of Corporate Affairs vide its notification provide relaxation to the requirement of holding Board meetings with physical presence of directors for the approval of annual financial statements, Board's report, etc. Such meetings may till 30th June, 2020 be held through video conferencing or other audio visual means.

[MCA issued Notification No. G.S.R. 186 (E) dated 19th March 2020]

E. MCA appeal to fill COVID-19 readiness form CAR-2020

In order to generate greater awareness & confidence in our state of readiness, the MCA introduced a simple web form for Companies and LLPs to report their readiness to deal with the COVID-19 threat.

The web form named CAR (Company Affirmation of Readiness towards COVID-19) which has been deployed on MCA portal w.e.f 23.03.2020.

[MCA issued Notice on 23rd March 2020]

F. Companies spending to tackle COVID-19 will be considering as CSR Activity.

The Ministry of Corporate Affairs (MCA) vide its circular clarify that CSR funds may be spent on various activities related to the Covid-19 disease in ways such as promoting healthcare, including preventive care. CSR funds could also be used to tackle disaster management, which includes relief, rehabilitation and reconstruction activities.

[MCA issued General Circular No. 10/2020 dated 23rd March 2020]

Goods & Services Tax

CBIC notifies the taxable value to be taken for "supply of Lottery"

CBIC substitutes sub-rule (2) of Rule 31A and notifies that value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of price as notified in the Official Gazette by the Organising State, whichever is higher.

[Notification 08/2020- Central Tax dated 02nd March 2020]

Relaxations regarding furnishing of GST Annual Return and GST Audit for FY 2018-19

- Due date for furnishing the GST Annual return and GST Audit report for FY 2018-19 has been extended to 30th June, 2020.

[Notification 15/2020- Central Tax dated 23rd March 2020]

- Relaxation is provided to the registered persons whose turnover does not exceed Rs. 5 crores, from furnishing of Reconciliation Statement in FORM GSTR-9C, for the financial year 2018-19.

[Notification 16/2020- Central Tax dated 23rd March 2020]

Deferment of E-invoicing and new return formats to be applicable from 1st October, 2020

The provisions of e-invoicing with / without QR Code shall now come into force w.e.f. 01st October, 2020. Earlier they were notified to be applicable from 1st April, 2020.

The new simplified return system has also been deferred and shall be applicable w.e.f. 1st October, 2020. The existing system of GST returns i.e. GSTR-1 & GSTR-3B shall continue in the meanwhile till 30th September, 2020.

[N/N 13,14,27,28,29/2020-Central Tax to N/N 14/2020-Central Tax, dated 21st March, 2020]

Aadhaar Authentication becomes mandatory for GST Registration from 1st April, 2020

Following class of persons, other than those who are not the citizens of India, shall be mandatorily required to undergo authentication of possession of Aadhaar number in order to be eligible for registration under GST w.e.f. 1st April, 2020:

- a) Individual;
- b) authorised signatory of all types;
- c) Managing and Authorised partner; and
- d) Karta of an Hindu undivided family.

[N/N 17/2020-Central Tax to N/N 19/2020-Central Tax, dated 23rd March, 2020]

Rule 9 and Rule 25 of CGST Rules have been accordingly amended to provide that where a person fails to undergo authentication of Aadhaar number, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application. The verification report along with the other documents, including photographs, shall be uploaded in **FORM GST REG-30** on the common portal within a period of fifteen working days following the date of such verification.

[N/N 16/2020-Central Tax, dated 23rd March, 2020]

Special procedure under GST for the Corporate debtors

A special procedure has been prescribed for registered persons who are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 and are undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), so as to enable them to comply with the provisions of GST Laws during the CIRP period. Such persons shall be liable to take a new registration in each of the States or UT where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Such persons shall also file the first return under section 40 of the CGST Act.

[Circular No. 134/04/2020-GST dated 23rd March, 2020 r/w N/N 11/2020-Central Tax, dated 21st March, 2020]

CBIC provides clarification on apportionment of ITC in case of Business reorganisation

CBIC has issued circular to provide clarification in respect of apportionment of ITC in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules. As per the said provisions, ITC is allowed to be transferred from the existing entity to the new entity by filing form GST ITC-02, where ITC is apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme, wherever applicable. The circular provides clarification on various aspects such as:

- value of assets of new units has to be taken at state level,
- The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered,
- the formula for apportionment of ITC is applicable for all forms of business reorganization and not only in case of demerger,
- the ratio of value of assets shall be applied to the total amount of unutilized ITC of the transferor, not in respect of each head of ITC,
- the apportionment formula shall be applied on the ITC balance of the transferor as available in electronic credit ledger on the date of filing of FORM GST ITC – 02 by the transferor, etc.

[Circular No. 133/03/2020-GST dated 23rd March, 2020]

Special Procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu

CBIC has provided special procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu consequent to merger of the two UTs. 31st May, 2020 shall be considered as the transition date, and the tax period shall be taken as follows-

- January, 2020: 1st January, 2020 to 25th January, 2020,
- February, 2020: 26th January, 2020 to 29th February, 2020

The taxpayers shall be able to transfer the input tax credit from erstwhile GSTIN to new GSTIN.

[N/N 10/2020-Central Tax, dated 21st March, 2020]

Change in formula for calculation of ineligible ITC on Capital goods not used for business purposes

Rule 43(1)(C) has been amended to give impact to the ineligible ITC on capital goods, considering a useful life of 5 years for all capital assets which are initially used for non-business purposes or exempt supplies. Such ineligible credit shall be added to the output tax liability as per the prescribed formula. The new rules will be effective April 1, 2020.

[N/N 16/2020-Central Tax, dated 23rd March, 2020]

Significant Changes in GST Refund

Refund of unutilised input tax credit in the case of zero-rated supply of goods

Amendment has been made in Rule 89(4)(c) to provide the maximum value which can be taken for “turnover of zero-rated supply of goods”. Such value shall be taken as lesser

of following-

- value of zero-rated supply of goods made during the period without payment of tax; or
- value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier.

[N/N 16/2020-Central Tax, dated 23rd March, 2020]

Refund of unutilised input tax credit or integrated tax paid in the case of export of goods

Rule 96B has been inserted in the CGST Rules to provide that where refund of unutilised input tax credit or integrated tax paid in the case of export of goods has been sanctioned and sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non realisation of sale proceeds, along with applicable interest within thirty days of the expiry of the said period failing which the amount refunded shall be recovered in accordance with the provisions of the Act. Earlier the realization of export proceeds was not required while claiming refund in case of export of goods.

[N/N 16/2020-Central Tax, dated 23rd March, 2020]

Refund of tax excess paid / wrongly paid

Sub-rule (4A) has been inserted in Rule 86 to provide that where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said admissible amount shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**. Earlier, the refund could only be paid in cash to the applicant.

[N/N 16/2020-Central Tax, dated 23rd March, 2020 r/w Circular No. 135/05/2020-GST, dated 31st March, 2020]

Refund under Inverted Duty Structure

CBIC has clarified that the claims seeking refund of unutilized ITC on account of inverted duty structure, where the inversion is due to change in the GST rate on the same goods, e.g. goods attracting 18% rate while purchasing but subsequently reduced to 12% at the time of sale, do not get covered under the GST provisions, and accordingly, such refund shall not be sanctioned where the input and the output supplies are the same.

[Circular No. 135/05/2020-GST, dated 31st March, 2020]

Bunching of refund claims across Financial Years allowed for all types of GST refund

Pursuant to Order of the Hon'ble Delhi HC dated 21.01.2020, in case of M/s Pitambura Books Pvt Ltd., CBIC has modified the circular No. 125/44/2019-GST dated 18.11.2019 to the extent that the restriction on bunching of refund claims across financial years shall not apply.

[Circular No. 135/05/2020-GST, dated 31st March, 2020]

Refund of unutilized ITC under Zero rated supplies as well as Inverted Duty Structure

- Earlier the refund of ITC availed in respect of invoices not reflected in Form GSTR-2A was admissible and copies of such invoices were required to be uploaded. Now recently as the sub-rule (4) has been inserted in Rule 36 to provide that the ITC shall be availed only upto the limit of 120% / 110% of the eligible ITC reflected in GSTR-2A, it is clarified that the refund shall not be allowed for the ITC claimed, which is not reflected in GSTR-2A.
- As per GST provisions, refund of credit on capital goods and/or services is not permissible in certain cases. Now as the HSN / SAC details of the ITC claimed are not provided to the GST Department while claiming the GST refund, it becomes very difficult for the department to distinguish ITC on capital goods and/or input services out of total ITC. To overcome such difficulty, 'Annexure-B' has been modified so as to enter the details of HSN / SAC of the credit claimed.

[Circular No. 135/05/2020-GST, dated 31st March, 2020]

Other Recommendations by GST Council in its 39th meeting

- Interest for delay in payment of GST to be charged only on the net cash tax liability with effect from 01st July, 2017.
- A new facility called 'Know Your Supplier' to be introduced so as to enable every registered person to have some basic information about the suppliers with whom they conduct or propose to conduct business.
- Where registrations have been cancelled till 14th March, 2020, application for revocation of cancellation of registration can be filled up to June 30th, 2020. This facility of extension of period of application is a one-time measure to facilitate those who want to conduct business.

[Recommendations of 39th GST Council meeting]

AAR Madhya Pradesh: Disallows ITC on goods/Works contract services purchased/received for warehouse construction/maintenance.

Madhya Pradesh AAR has disallowed the ITC of GST paid on goods and works contract services purchased/received for the purpose of construction and maintenance of warehouse/building being rented out. It notes that applicant paid GST on various goods such as vitrified tiles, marble granite, ACP sheet, steel plates, TMT Tor (Saria), Bricks, Cement, Paint and other construction material. Also, it finds that applicant is engaged in construction of building/warehouse which is an immovable property which falls under exclusion of section 17 (5) (d) of the CGST Act, 2017. While rejecting applicant's contention as regards entitlement of ITC u/s 16, it holds that "applicant has wrongly interpreted the Section to avail the benefit of inadmissible ITC". Applicant's argument that disallowance of ITC would render building constructed for renting out as uncompetitive, is not correct as said provisions are applicable to all and not only to the applicant.

[In the matter of Unity Traders]

West Bengal AAR: Conservancy Services provided by Applicant to Municipal Corporation, exempt from GST

West Bengal AAR holds that the conservancy/ solid waste management service provided by the applicant to the Howrah Municipal Corporation (HMC), a local authority defined u/s 2(69) of GST Act shall be exempt from GST. It observes that eligibility under Sl. No. 3 of the Exemption Notification is to be examined from three aspects: "(1) whether the supply being made is pure Service/ Composite supply... (2) whether the recipient is government, local authority...and (3) whether the supply is being made in relation to any function entrusted to a panchayat or a municipality under the Constitution...". Perusing the work orders issued to the applicant, it elucidates that after lifting and removing of daily garbage accumulated from the vats, dumping yards, containers, etc. of HMC area, garbage is brought to the compactor station where applicant performs compaction service and transport compacted garbage to the dumping station with the help of hook loaders mounted in compactor machine. Thus, it observes that there is no supply of goods in the course of executing the work and consideration is paid only in terms of the quantity of the garbage lifted and removed. Accordingly, it holds that applicant's supply to HMC is a pure service. Noting that applicant's supply to HMC is a function mentioned under Sl. No. 6 of the Twelfth Schedule to Article 243W of the Constitution, AAR holds that the said service is therefore exempt under Sl. No. 3 of the Exemption Notification No. 12/2017 - Central Tax (Rate) dated June 28, 2017.

[In the matter of Dipak Kanti Mazumder Dynamic Engineers]

West Bengal AAR: Printing Booklets at Foreign entity's instruction for delivering in India not an export of services

West Bengal AAR classifies the composite printing service provided by the applicant for printing booklets on instruction of foreign entity, as taxable under Sl No. 27(i) of Notification No. 11/2017 - Central Tax (Rate) dated June 28, 2017. It notes that foreign-based entity in the USA provides content on digital media retaining usage right to the Applicant and also pays for printing services and the booklets so supplied to the recipient have no utility other than displaying the printed content. It infers that the printing service is a principal supply and the place at which the printed booklets are delivered qualifies as the place of supply of the composite printing service. It, therefore holds that person who receives the supply in India should be considered as the recipient, being inseparable from the foreign buyer. It further concludes that applicant supplies the composite printing service to the recipient located in India and thus rejects claim of exports of services.

[In the matter of Swapna Printing works Private Limited]

GST Compliance Calendar for April – June, 2020

| Particulars | Compliance Date | | |
|---|---|---|---|
| | March | April | May |
| GSTR-3B | | | |
| Aggregate turnover in the preceding FY more than Rs. 5 Cr. | <ul style="list-style-type: none"> 5th May – without Interest 24th June – Interest @ 9% from 6th May till date of filing | <ul style="list-style-type: none"> 4th June – without Interest 24th June – Interest @ 9% from 5th June till date of filing | 27 th June, 2020 |
| Aggregate turnover in the preceding FY more than Rs. 1.5 Cr., but upto Rs. 5 Cr. | 29 th June, 2020 | 30 th June, 2020 | <ul style="list-style-type: none"> Delhi, Haryana, UP and other specified states- 14th July Maharashtra, Gujarat and other specified states – 12th July |
| Aggregate turnover in the preceding FY upto than Rs. 1.5 Cr. | 3 rd July, 2020 | 6 th July, 2020 | |
| Note: | | | |
| <p>a) The restriction imposed under Rule 36(4) for claiming credit upto 110% of eligible ITC reflected in GSTR-2A shall be applied cumulatively for the months of February, 2020 to August, 2020 in GSTR-3B for the tax period of September, 2020, meaning thereby that the reconciliation between ITC as per Books and GSTR-2A is not required to be done for every month till August, 2020. The cumulative adjustment can be done in the GSTR-3B for September, 2020.</p> <p>b) Where GSTR-3B is not furnished by above mentioned dates, Interest @ 18% and late fee shall be levied from the regular due dates (i.e. 20th / 22nd / 24th of next month) till date of filing.</p> | | | |
| GSTR-1 | | | |
| Monthly GSTR-1 | 30 th June, 2020 | 30 th June, 2020 | 30 th June, 2020 |
| Quarterly GSTR-1 for Quarter ending 31 st March, 2020 | 30 th June, 2020 | | |
| Composition taxpayers | | | |
| CMP-08 for Quarter ending 31 st March, 2020 | 7 th July, 2020 | | |
| GSTR-4 for FY 2019-20 | 15 th July, 2020 | | |
| Opt to Composition scheme | <ul style="list-style-type: none"> GST CMP-02: 30th June, 2020 GST ITC-03: 31st July, 2020 | | |
| GSTR-5, GSTR-6, GSTR-7 and GSTR-8 | | | |
| Statement for TDS u/s 51, TCS u/s 52, ISD and Non-resident taxable person | 30 th June, 2020 | 30 th June, 2020 | 30 th June, 2020 |
| GSTR-9 i.e. Annual Return | | | |
| Aggregate turnover during FY more than Rs. 2 Cr. | 30 th June, 2020 | | |
| Aggregate turnover during FY upto Rs. 2 Cr. | Not required to be filed for FY 2018-19 | | |
| GSTR-9C i.e. Reconciliation Statement (GST Audit) | | | |
| Aggregate turnover during FY more than Rs. 5 Cr. | 30 th June, 2020 | | |
| Aggregate turnover during FY upto Rs. 5 Cr. | Not required to be filed for FY 2018-19 | | |
| Miscellaneous | | | |
| Where E-way Bill validity expires during the period 20 th March, 2020 to 15 th April, 2020 | Validity period of such E-way Bill stands extended upto 30 th April, 2020 | | |
| Time limit for completion or compliance of any action, by any authority or by any person, specified in, or prescribed or notified under the said Act, which falls during the period from the 20 th March, 2020 to 29 th June, 2020 | 30 th June, 2020 | | |

[N/N 30/2020–36/2020 and Circular No. 136/06/2020, dated 03rd April, 2020]

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