




Pune Branch of
WIRC of ICAI

Recent Circulars
GST


CA Sushil K Goyal



GST - COVID-19 Impact

Form GSTR 3B (No Extension)

- No interest for first 15 days after due date for filing return **FORM GSTR-3B** and reduced rate of interest @ 9% for whose aggregate turnover in the preceding financial year is above Rs. 5 Crore.
- Persons having turnover up to Rs. 5 Crore in the preceding financial year, NIL rate of interest has also been notified.
- Late Fees has been waived for delay in furnishing of return for the months of February, March and April, 2020.
- The lower rate of interest and waiver of late fee by the date(s) as specified in the Notification.




GST - COVID-19 Impact

Form GSTR 3B (No Extension)

Turnover more than 5 crore

- The reduced interest is applicable if the registered person **furnish the returns in FORM GSTR-3B on or before 24th June, 2020.**
- If not furnished on or before 24th June, 2020 then interest at 18% shall be payable from the **due date of return,**
- In addition, regular late fee shall also be leviable for such delay along with liability for penalty.
- **May, 2020 shall be furnished on or before the 27th June, 2020**



GST - COVID-19 Impact

Form GSTR 3B (No Extension)

Turnover up to 5 crore

- The Nil interest is applicable if the registered person **furnish the returns in FORM GSTR-3B on or before**
- If not furnished on or before then interest at 18% shall be payable from the due date of return, till the date on which the return is filed.
- In addition, regular late fee shall also be leviable for such delay along with liability for penalty.


GST - COVID-19 Impact

Form GSTR 3B (No Extension)

Turnover up to 5 crore

PARTICULARS	FEBRUARY, 2020	MARCH, 2020	APRIL, 2020	MAY, 2020
Turnover up to 1.5 Cr.	30-06-2020	03-07-2020	06-07-2020	12 th or 14 th July, 2020
Turnover >1.5 UP to 5 Cr	29-06-2020	29-06-2020	30-06-2020	(*State Wise)

Interest, late fee and Penalty waived, on condition, if Return filed within above due date



GST - COVID-19 Impact

Form GSTR 1 (No Extension)

No Late Fees or Penalty till new date


- Late fee leviable under section 47 has been waived for delay in furnishing the statement of outward supplies in **FORM GSTR-1**
- For the tax periods March, 2020, April 2020 and May, 2020
- if the same are furnished on or before the 30th June, 2020.
- Also for Quarter ending 31st March 2020
- if the same are furnished on or before the 30th June, 2020.



GST - COVID-19 Impact

Restriction on ITC Sec36(4)

- Proviso has been inserted in CGST Rules 2017 to provide that the said condition **shall not apply**
- for the months of **February, March, April, May, June, July and August, 2020,**
- but that the said condition shall apply **cumulatively** in **FORM GSTR-3B** for the tax period of September, 2020
- Hence, cumulative adjustment of input tax credit for the said months in accordance with the condition under rule 36(4).



GST - COVID-19 Impact Composition u/s 10 & N No.2/2019

Form	Period	Due Date
Existing Assesses under the Scheme		
GST CMP-08	January to March,2020	07.07.2020
GSTR-4	Financial Year 2019-20	15.07.2020
New Assesses wish to opt		
GST CMP-02	Financial Year 2020-21	30.06.2020
GST ITC-03	As on 31.3.2020	15.07.2020



GST - COVID-19 Impact

E way Bills

- Those E way bills which **expire during the period 20th day of March, 2020 to 15th day of April, 2020,** the validity period of such e-way bill has been extended till the **30th day of April, 2020.**



GST - COVID-19 Impact

Not Apply to.....

- Time & Value of Supply - (Primarily, accrual of tax liability is not deferred).
- Composition Tax Payer has to switch to normal scheme if his turnover exceeds prescribed limit.
- Date of liability to get registered is not deferred
- Validity of Registration of Casual Taxable Person & Non resident Taxable Person is not extended.



GST - COVID-19 Impact

Not Apply to.....

- Time Limit to issue Tax Invoice is not extended.
- If a person is arrested for an offence u/s 132(5), he shall have to be produced before a Magistrate within twenty-four hours.
- E-way bills compliances are not deferred. Except as above



GST - COVID-19 Impact Others

- Payments for SV(LDR)S'2019 has been extended to 30th June, 2020.
- TDS/TCS date also extended to 30th June 2020



Changes on GST Rates

- **Mobile phones and other specified parts:**

- GST Rate on mobile phones and other specified parts are being increased to 18% from 12%.

- **Matches:**

- Uniform rate of 12% on all matches is being prescribed as compared to 5% on Handmade Matches and 18% on other matches.

- *Changes in rate is effective from 1st April, 2020*



Changes on GST Rates

- **Maintenance, Repair and Overhaul (MRO) services:**
 - Reduced rate of 5% with full ITC is being prescribed as compared to 18% earlier. The place of supply for B2B MRO transaction has also been changed to the location of recipient.
 - *Changes in rate is effective from 1st April, 2020*

E-Invoice and QR-Code

- Implementation of E-invoice and QR Code deferred to 01.10.2020.
- Class of registered persons exempted from e-invoicing and QR Code:-
 - (a) Insurer or a banking company or a financial institution, including a non-banking financial company
 - (b) Goods transport agency
 - (c) Registered person supplying passenger transportation service
 - (d) Registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens.



Aadhar based Authentication

- New GST Registrations shall be able to pass on ITC only after AADHAR based authentication or physical verification from 1st April, 2020.
- Aadhar authentication shall not apply to a person who is not a citizen of India or to a class of persons other than the following class of persons, namely:–
 - Individual
 - Authorised signatory of all types
 - Managing and Authorised partner; and
 - Karta of a Hindu undivided family.



Returns

– Annual Returns:

- Due date of GSTR 9 & 9C for the FY 2018-19 has been extended to 30th June, 2020. Further, only taxpayers having aggregate turnover exceeding Rs. 5 Crore are required file GSTR 9C for FY 2018-19.
- Foreign Airlines Company has been exempted from furnishing GSTR 9C provided a Statement of Receipts and Payments certified by a CA is submitted for each GSTIN by 30th September of the next year.

Returns



- **Service Composition Scheme:**

- Taxpayers under Composition Scheme shall be exempt from filing CMP-08 and GSTR-1 for all the tax periods of F. Y. 2019-20, if he has filled GSTR-3B for all the tax periods in the year.



Returns

- **Regular Returns:**

- GSTR-1 and GSTR-3B shall continue till September, 2020. The taxpayers having annual turnover less than Rs.5 crore shall continue to furnish GSTR-3B for the month of April-September 2020 in a staggered manner.



ITC Reversal on Capital Goods

Rule 43 of CGST Rules modified to have better understanding

Which prescribes procedure for reversal of input tax credit in respect of capital goods partly used for affecting taxable supplies and partly for exempt supplies.



Council Recommendations

- Interest for delay in payment of GST to be charged on the net cash tax liability w.e.f. 01.07.2017 (Law to be amended retrospectively)



Council Recommendations

- No late fees will be levied for delayed filing of the Annual return and the Reconciliation Statement for financial year 2017-18 and 2018-19 for taxpayers with aggregate turnover less than Rs. 2 crores.



Council Recommendations

- As one-time measure to facilitate those who want to conduct business the Council has decided that where registrations have been cancelled till 14.03.2020, application for revocation of cancellation of registration can be filled up to 30.06.2020.



Exports of Goods Cap on Price

- New approach to curb fraudulent and excess input tax credit claims by exporters.
- For calculation of Refund Amount the meaning of turnover of Zero Rated Supply of Goods has been changed.
- A upper cap of 1.5 times the value of like goods domestically supplied by the same person or by similarly placed, supplier, is fixed.



Exports of Goods

Repayment of refund

- Where refund has been received on account of unutilised ITC or IGST paid on export of goods and
- Export proceeds remain unrealised partly or fully on the expiry of the specified time period
- the person who was in receipt of the said amount shall deposit the received sum to the extent of unrealised sale proceeds along with interest
- Within thirty days of the expiry of the specified time period,



Exports of Goods

Repayment of refund

- Further, if the applicant realises
- the unrealised sale proceeds fully or partly and he produces evidence about such realisation
- within three months from the date of realization (within period extended by RBI),
- the recovered amount, to the extent of realisation, shall be refunded to the applicant.



Exports of Goods Repayment of refund

“UNDERTAKING”

I hereby undertake to deposit to the Government the amount of refund sanctioned along with interest in case of non-receipt of foreign exchange remittances as per the proviso to section 16 of the IGST Act, 2017 read with rule 96B of the CGST Rules 2017.

Signature-

Name –

Designation / Status



Corporate Insolvency Resolution Process

- Corporate Insolvency Resolution Process under IBC
 - When started on the Defaulting Corporate
 - Management and assets vest with IRP/RP
- IRP/RP gets control over Company's affairs
 - He continue to run the business and operation as a going concern till the process is over
 - He also required to comply with GST Liabilities for the CD



Corporate Insolvency Resolution Process

- Dues related to Pre-CIRP Period
 - GST Dues also considered Operational Debt
 - Proper officer to file claims before NCLT
 - Details about supplies made / received and tax dues may be collected
- Pending cases
 - Moratorium Period being imposed
 - No pending cases or proceedings may continue



Corporate Insolvency Resolution Process

- Registration of Pre CIRP Period
 - It should be continue and no cancellation
 - Even cancelled should be revoked
 - May be kept suspended
- Returns for the Pre CIRP Period
 - IRP/RP are required to comply for his period only
 - No returns to be filled by IRP/RP



Corporate Insolvency Resolution Process

- Registration CIRP Period
 - IRP/RP should apply for registration of CD
 - Within 30 days of appointment
 - If appointed before Notification 30days from 21.3.2020
- Returns for the CIRP Period
 - First Return as per Section 40
 - Including all transaction from date of appointment to actual date of registration



Corporate Insolvency Resolution Process

- Input Tax Credit
 - IRP/RP should apply for registration of CD
 - Within 30 days of appointment
 - If appointed before Notification 30days from 21.3.2020
- Returns for the CIRP Period
 - First Return as per Section 40
 - Including all transaction from date of appointment to actual date of registration



Constitution of Appellate Tribunal

- **Appeal to be made under section 112 of the CGST Act before Appellate Tribunal**

- an order passed against him under section 107 or a revision order passed against him under section 108
- may appeal to the Appellate Tribunal against such order within three months or six months as the case may be

The appellate tribunal has not been constituted in view of the order by Madras High Court in case of *Revenue Bar Assn. v. Union of India*



Constitution of Appellate Tribunal

– Impact of Non Constitution of Tribunal

- the issue has been **decided against** the registered person by the adjudicating authority
- refund application has been **rejected** by the appropriate authority and
- appeal against the said order is **pending** before the appellate authority.

the prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office



Apportionment of ITC Business Reorganisation

- **Transfer/Apportionment of ITC in the event of Business Reorganisation with **specific provision** for transfer of liability**

- Sale,
- Merger,
- Demerger,
- Amalgamation
- Lease
- Transfer or
- Change in the constitution/ownership of business



Apportionment of ITC Business Reorganisation

Issue : In case of de-merger proviso to rule 41(1) says that ITC shall be apportioned in the ratio of the value of assets of the new units. Whether the value of asset is considered as **state level or at all India level?**

Clarification : A person having same PAN required to take separate registration in different state and each registration is known as separate entity. So, the value of assets of the new units is to be taken at the **State level.**



Apportionment of ITC Business Reorganisation

Issue : Whether the transferor required to file Form GST ITC 02 in **all the States** where it is registered?

Clarification : No. The transferor is required to file **FORM GST ITC-02** only in those States **where both** transferor and transferee are registered.



Apportionment of ITC Business Reorganisation

Issue : Whether the proviso to rule 41(1) shall be applicable to calculate the amount of transferable ITC **only to demerger** or other form of business and where part of business is transferred as a going also covered?

Clarification : Yes, the formula for apportionment of ITC, shall be applicable for all forms of business re-organization that results in **partial transfer of business** assets along with liabilities.



Apportionment of ITC Business Reorganisation

Issue : Whether the ratio of **value of assets**, in rule shall be applied in respect of each ITC head separately viz. CGST/SGST/IGST/ Cess?

Clarification : No, it shall be applied to the **total amount of unutilized ITC** of the transferor sum of CGST, SGST/ UTGST and IGST credit. Said formula also applicable for cess.



Apportionment of ITC Business Reorganisation

Issue : How to determine the **amount of ITC** that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of Form GST ITC-02 by the transferor?

Clarification : The transferor shall be at **liberty to determine** the amount to be transferred under each tax head within this total amount, subject to the ITC balance available with the transferor.



Apportionment of ITC Business Reorganisation

Issue : It is not clear as to **which date** shall be relevant to calculate the amount of unutilized ITC balance of transferor?

Clarification : 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.



Apportionment of ITC Business Reorganisation

Issue : Which **date shall be relevant** to calculate the ratio of value of assets, as prescribed in the proviso to rule 41(1)?

Clarification : The ratio of the value of assets should be taken as on the **appointed date of demerger**, on the ITC balance of the transferor, on the date of filing **FORM GST ITC - 02** to calculate the amount to transferable ITC.



Clarification on Refund

List of Refunds

- a. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
- b. Refund of tax paid on export of services with payment of tax;
- c. Refund of unutilized ITC on account of supplies made to SEZ Unit/Developer without payment
- d. Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;
- e. Refund of unutilized ITC on account of accumulation due to inverted tax structure;
- f. Refund to supplier of tax paid on deemed export supplies;
- g. Refund to recipient of tax paid on deemed export supplies;
- h. Refund of excess balance in the electronic cash ledger;
- i. Refund of excess payment of tax;**
- j. Refund of tax paid on intra-State supply which is actually to be inter-State supply/vice versa**
- k. Refund on account of assessment/provisional assessment/appeal/any other order;**
- l. Refund on account of “any other” ground or reason.**



Clarification on Refund

Refund of ITC/Cash

- normally paid by the applicant by debiting tax amount from both electronic credit ledger and electronic cash ledger
- the amount of admissible refund, is paid in cash even when such payment of tax or any part thereof, has been made through ITC
- this leads to allowing unintended encashment of credit balances
- will now be admissible proportionately in the respective original mode of payment
- the refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability



Clarification on Refund Clubbing of Tax Period

- **restriction on the clubbing of tax periods across financial years**
 - claim for a tax period or by clubbing successive tax periods
 - cannot spread across different financial years
- **having aggregate turnover of up to Rs. 1.5 crore**
 - filing GSTR 1 quarterly can submit refund claim quarterly only
 - *after submitting a refund application can't submit application for any previous period*
- The issue has been examined and it has been decided to remove the restriction on clubbing of tax periods across Financial Years. Accordingly, circular No. 125/44/2019-GST dated 18.11.2019 stands modified to that extent i.e. the restriction on bunching of refund claims across financial years shall not apply.



Clarification on Refund Clubbing of Tax Period

- **restriction on the clubbing of tax periods across financial years**
 - claim for a tax period or by clubbing successive tax periods
 - cannot spread across different financial years
- **having aggregate turnover of up to Rs. 1.5 crore**
 - filing GSTR 1 quarterly can submit refund claim quarterly only
 - *after submitting a refund application can't submit application for any previous period*
- The issue has been examined and it has been decided to remove the restriction on clubbing of tax periods across Financial Years. Accordingly, circular No. 125/44/2019-GST dated 18.11.2019 stands modified to that extent i.e. the restriction on bunching of refund claims across financial years shall not apply.



Clarification on Refund Inverted Duty Structure

- **Refund of accumulated input tax credit (ITC)**

- Refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act :

- *“where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council”*



Clarification on Refund Inverted Duty Structure

- In few cases Rate of tax has been reduced
 - Hence purchased @18% and now rate at the time of sale is @12%
 - ITC in such a case is also covered as accumulation on account of inverted duty structure and such applicants have sought refund

It is hereby clarified that refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are the same



Clarification on Refund Not in 2A No Refund

- refunds of Input Tax Credit under Section 54(3)
 - the refund of ITC availed in respect of invoices not reflected in **FORM GSTR-2A** was also admissible and copies of such invoices were required to be uploaded
 - the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in **FORM GSTR-1** and are reflected in the **FORM GSTR-2A** of the applicant



Clarification on Refund HSN/SAC details

Difficult to distinguish ITC on capital goods and/or input services out of total ITC

- Distinction is important in view of the provisions relating to refund where refund of credit on Capital goods and/or services is not permissible in certain cases,
- A column relating to HSN/SAC Code has been added in the statement of invoices relating to inward supply
- In cases where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply.

Time for Query





Thanks

skgoyal@icai.org

9830088400

