



28th Edition

# ICAI-GST

**NEWSLETTER**  
June 2020

A Newsletter from The Institute of Chartered Accountants of India on GST



**Now, Certificate Course on GST is being organised through Virtual mode for the members of ICAI.**

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# President's Communication



**My Esteemed professional colleagues,**

Ever since the Goods and Services Tax (GST) was implemented in India in July, 2017, the revenue has been slowly but steadily increasing, even after rate rationalization on large numbers of goods. Due to COVID 19, the Government has recently shifted its focus to provide relief to the taxpayers. The GST Council in its recent meeting held on 12th June, 2020 has decided to provide relief to small taxpayers with an aggregate turnover of less than Rs 5 crore by reducing the interest rate on late submission of returns for the month of February, March, and April from 18 per cent to 9 per cent and waiver of late fees and interest if the returns in FORM GSTR-3B for the supplies effected in the months of May, June and July, 2020 are furnished by September, 2020. It has also been announced that there will be no late fee for filing GSTR 3B returns with no liability and pending from July 2017 to January 2020. However, for those with liabilities, the maximum late fee has been capped to Rs 500 per return. In another major decision, the Council has decided to allow taxpayers, who could not get cancelled GST registrations restored in time, to apply for revocation of cancellation of registration up to September 30, 2020.

Every challenge, every adversity, contains within it the seeds of opportunity and growth (Roy T. Bennett). It depends upon an individual to consider a situation as a problem or to accept it as a challenge and convert it into an opportunity. We, at The Institute of Chartered Accountants of India (ICAI) has been relentlessly working in this adverse situation and have been putting in our best efforts to continuously sharpen our axe

of knowledge. We have organised numerous webcasts on GST starting from basic topics like Levy, Input Tax Credit etc. to Advance Level topics like Appeals, Assessment etc. and received record number of participation from each and every corner of the country. Recently, we have also commenced a couple of batches of Certificate Course on GST through Virtual mode and received a great response from members across the country.

During this lockdown period, the GST & Indirect Taxes Committee of ICAI has also embarked upon preparing handbooks on various procedural aspects of GST. It is a matter of great pride that eleven (11) Handbooks covering various procedural aspects of GST like Registration, E-way Bill, Casual Taxable Person, Invoicing, Job Work, Refund etc. have been released. These handbooks explain the concepts / procedures in an easy to understand and lucid language and they aim at updating the knowledge base of members in a simple and concise manner.

The government has announced relaxation in a phased manner, with regard to lockdown norms. This will help the economy bounce back strongly but at the same time we should use this little freedom responsibly and continue to abide by the guidelines imposed by the government as well as judiciously adhere to the precautions prescribed to prevent the spread of COVID-19.

Let's stay safe & continue contributing to the society.

**CA. Atul Kumar Gupta**  
President, ICAI



# EXPORT OF GOODS AND REFUND UNDER GST

## 1. Introduction

Government has always focused on making industry friendly policies when it comes to exports since the consideration is received in foreign currency. Under pre-GST regime, excisable goods were allowed to be exported without payment of duty in terms of rule 19 of the Central Excise Rules, 2002. Along similar lines, but without any binding precedent, section 16 is placed in Integrated Goods and Service Tax Act, 2017 ('IGST Act'). This article summarizes authors learning from a deep dive into various aspects involved in neutralizing GST incidence on exports and lays out some concerns for reader's attention.

## 2. Zero-rated supply

Supplies specified in section 16 of IGST Act are called 'zero-rated supplies' not with standing the generally applicable rate of GST. Zero-rated supply is not one where exemption is issued under section 6 of IGST Act. So, zero-rated supply is a moniker for supplies enlisted in section 16 of IGST Act:

Export of goods is defined under Section 2(5) of the IGST Act which states that "export of goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India. Export of goods would be treated as inter-state supply in accordance with Section 7(5)(a) of the IGST Act. Under Section 16 of the IGST Act, following are treated as zero-rated supplies:

- I. Export of goods or services or both
- II. Supply of goods or services to Special Economic Zone developer or a Special Economic Zone unit

Zero-rated supply does not mean that the goods or services are nil rated or are subject to 0 percent tax. In respect of such zero-rated supplies, section 16(3) provides options to neutralize the incidence of GST on exports, namely, either exporter is free to export goods on payment of IGST (rebate option) or to export under Letter of Undertaking ('LUT') without payment of IGST to claim refund of unutilized input tax credits (refund option).

### 2.1 Procedure for making zero-rated supply

Exporter who intends to export goods without payment of IGST, is required to furnish LUT. LUT has to be applied on common portal in Form RFD-11 and the same will be valid for the entire Financial Year.

LUT is to be furnished prior to undertaking export of goods. However, Central Board of Indirect Taxes ('CBIC') vide circular no.125/44/2019 dated November 18, 2019 has clarified that the substantive benefit of zero-rated supply may not be denied

where the exporter has delayed in furnishing LUT. Accordingly, LUT may be admitted on ex post facto basis, taking into account, facts and circumstance of each case.

Exporter is required to issue a tax invoice for export of goods and the particulars "Supply meant for export under bond or Letter of Undertaking without payment of integrated tax" is required to be mentioned on the tax invoice. Do note that overseas buyer does requires an Export Invoice denominated in agreed foreign currency and not tax invoice denominated in Indian Rupees.

In addition to the invoice, exporter is required to file Shipping bill in Form SB-I. Shipping bill is required to be issued in four copies.

It is pertinent to note that exporter is required to export the goods within 3 months from the date of tax invoice. In case the goods are not exported within such time, Rule 96A (1) of the Central Goods and Service Tax Rules, 2017 ('CGST Rules') provides that tax along with the interest at 18 per cent is required to be paid within 15 days from the end of this 3 month period or such further period as may be allowed by the Commissioner.

## 3. Refunds

Section 54 of the CGST Act read with Rule 96 of the CGST Rules provides the mechanism for claiming refund on account of export of goods. As discussed earlier, exporter has an option for export goods under LUT or he may export goods on payment of IGST. Accordingly, the refund provision for each scenario are as under:

### A. Export of goods under LUT

Section 54(3)(i) of the CGST Act provides that a registered person may claim refund of unutilized input tax credit ('ITC') for zero-rated supply made without payment of tax. The refund



application may be made for each tax period. The said section comes with some of the restriction which are enumerated below:

- I. Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty
- II. Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

Accordingly, if the goods which are exported as subject to export duty or any drawback is to be claimed on such exports, refund of utilized ITC may not be available.

Further, it is pertinent to note that, refund of utilized ITC has to be computed as per the method prescribed under Rules 89(4) of the CGST Rules. The same is reproduced below:

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where, -

(A) "Refund amount" means the maximum refund that is admissible;

(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;

(C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the 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, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;

(D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

(E) "Adjusted Total Turnover" means the sum total of the value of

- (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
- (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-

- (i) the value of exempt supplies other than zero-rated supplies; and
- (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.'

(F) "Relevant period" means the period for which the claim has been filed.

#### Illustration

Particulars	Amount (INR)
Export of goods under LUT (100 Qty)	50,000
B2B Supply (100 Qty)	10,000
B2C Supply	30,000
Exempt Supply	20,000
Total Turnover	1,10,000
Input (A)	3,000
Input Service (B)	2,000
Capital goods (C)	4,000
<b>Total ITC</b>	<b>9,000</b>

#### Note:

It is assumed that all the B2B supplies are similar goods with same quantity as that of exports.

#### Refund Calculation

Particulars	Amount (INR)
Turnover of export of goods- INR 50,000 or 1.5 times value of like goods supplied in domestic market- 10,000 x 1.5 – INR 15,000 Whichever is lower (1)	15,000
Adjusted Total Turnover (2)	90,000
Net Input tax credit (A+B) (3)	5,000
Refund Amount (1/2) x 3	833

#### Certain issues in amendments in the refund formula:

- It is pertinent to note that the restriction placed in Rule 89(4)(c) of the CGST Rules on the value of export of goods maximum to 1.5 times the value of like goods sold domestically is inserted vide Notification No 16/2020-Central Tax dated March 23, 2020. There were no such restriction placed earlier. To expect that export price greater than 50 per cent over domestic price is unwarranted restraint on export benefits that is deserved and earned by exporters.
- The calculation of 1.5 times the value of export of goods is applicable in the numerator only. In numerator the actual

export value of goods is required to be added to the total adjusted turnover. Hence, this would further reduce the net refund amount to the exporter and is clearly a retrograde step.

- It is worthwhile to highlight that the said sub rule has been 'substituted' vide Notification No 16/2020-Central Tax dated March 23, 2020. In other words, the old rule has been replaced with new rule. Accordingly, one needs to interpret whether the said substitution can extent this restriction to rebates yet to be filed for past exports and thereby beretropective.
- It is deeply concerning if the said restriction applies to refund claim filed after March 2020 which are pertains to past period i.e. before March 2020
- Also, prices being dynamic, especially in present market conditions, to expect exporters to comply with this restriction when domestic supplies are nil or negligible or even sporadic.

## B. Export of goods on payment of IGST

Any person availing option to export goods on payment of IGST is not required to file separate application for refund. Following procedure is to be complied with for export of goods on payment of IGST:

- A registered person is required to file shipping bill showing prescribed details.
- Details of goods exported as to be reported in Table 6A of Form GSTR-1.
- Summary details of goods exported are to be reported in Table 3.1(b) of Form GSTR-3B.
- The amount disclosed in GSTR-3B should not be less than the same shown in GSTR-1.

Upon matching the above details on the GSTIN and ICEGATE portal, the refund of IGST paid would automatically be get credited to the bank account of the exporter. Accordingly, a registered person is required to take utmost care at the time of uploading exports details at the time of filing GST returns.

### 3.2 Restriction on making exports on payment of IGST

Rule 96(10) of the CGST Rules, 2017 provides that a register person shall not be allowed to export goods on payment of IGST in following circumstances:

- A register person should not have received supplies mentioned in Notification No 48/2017-Central Tax dated October 18, 2017.
- A register person should not have received supplies mentioned in Notification No 40/2017-Central Tax dated October 23, 2017.

- A registered person should not have availed benefit of Notification No 78/2017-Customs dated October 13, 2017 or 79/2017 dated October 13, 2017.

In other words, the said sub rule states that register person should not have received any supplies which are regarded as deemed exports under GST (except EPCG), merchant export supplies, and should not be an advance authorisation holder. The Government has provided relaxation to EPCG holder, wherein if they are importing goods under EPCG scheme without payment of duty, they can continue to export goods on payment of IGST.

### 3.3 Issues faced at the time of realising refund of IGST paid on export of goods

Certain registered person have erred at the time of filing Form GSTR-3B by reporting export of goods in Table 3.1(a) (outward taxable supplies) of GSTR-3B instead of Table 3.1(b) (zero-rated supplies) of Form GSTR-3B, though correctly reported in GSTR-1. As a result, the details of export invoices reported in Form GSTR-1 and GSTR-3B could not get match at GSTIN portal. Accordingly, the export invoices could not be transmitted from GSTIN to ICEGATE.

Hence, the genuine refund claims of many exporters got stuck due to wrong reporting of export details in Form GSTR-3B. In order to overcome the problem of refund blockage, CBIC have issued Circular No. 12/2018-Customs dated May 25, 2018 and Circular No 25/2019-Customs dated August 27, 2019 wherein the relief was granted to the exporters who have committed an error at the time of filing Form GSTR-3B.

In the said circular, it was clarified that those exporter who has committed error in filing returns for FY 17-18 and FY 18-19 their refund would not be withheld and custom policy wing would sent the details of exporter who have committed such error to GSTIN. The GSTIN would correct the error made in GSTR-3B from the back end and credit entry would be made in the export ledger of the registered person.

Upon such correction, records would get successfully transmitted from GST portal ICEGATE and refund would be processed. It is pertinent to note that the said solution provided by CBIC was for FY 17-18 and FY 18-19 only. Hence no resource is available as of now for such errors after FY 19-20 onwards. Accordingly, utmost care is to be taken at the time of reporting export details in GST returns.

### 3.4 Whether to export goods under LUT or on payment of IGST?

Every registered person is required to analyse looking at their nature and quantum of procurements as to whether to export goods on payment of IGST or under LUT. If a register person is having majority export supplies compare to domestic supplies, ideally ITC would be get accumulated in such case. Accordingly,

in such cases, it would be prudent to make an export on payment of IGST and claim the refund of accumulated ITC in cash.

Similarly, if a registered person is required to discharge his tax liability in cash i.e. after utilizing his full ITC at the end of the tax period, it is advisable for him to export goods under LUT.

It is pertinent to note that the IGST payment is made at the time of filing GSTR-3B and the same may be made by utilizing ITC. Accordingly, unlike the restriction of claiming the refund of capital goods for unutilized ITC, no such restriction is applicable for refund of IGST paid on export of goods. Hence, ITC of capital goods also gets liquidated if the exporter chooses an option to make export of goods on payment of IGST.

#### 4. Recent amendments in refund

##### 4.1 Circular No 135/05/2020-GST dated March 31, 2020

Earlier, Circular No 125/44/2019 dated November 18, 2019 had restricted filing refund applications where tax period was across financial years. Meaning thereby, refund claim for multiple tax period falling in different financial year was not allowed. However, there is no such restriction placed in Section 54 of the CGST Act and hence the circular was going beyond what was prescribed under the Act. Accordingly, the said restriction has been removed vide 135/05/2020-GST dated March 31, 2020.

##### 4.2 Insertion of sub rule 96B in the CGST Rules, 2017

CBIC vide Notification No 16/2020-Central Tax dated March 23, 2020 has inserted Rule 96B in the CGST Rules which provides the sale proceeds in respect of export of goods have to be realised within the time period allowed under Foreign Exchange Management Act, 1999 ('FEMA'). In case the sale proceeds is not realised within the prescribed time limit, the refund amount sanctioned to the extent of non-realisation of export proceeds shall have to be refunded along with applicable interest.

It is pertinent to note that, the time limit for realisation of export proceeds is 9 months from the date of exports. With this recent amendment, exporter claiming refund of IGST paid on export of goods or claiming refund of unutilized ITC, in both the

case, are now required to submit proof that the sale proceeds are realised within the prescribed time limit.

In case if the exporter does not realise the export proceeds within the prescribed time limit, the amount of refund to the extent of non-realisation of sale proceeds has to be deposited along with the applicable interest within thirty days of the expiry of the said period. If the refund amount is not deposited within thirty days, the amount of refund shall be recovered in accordance with Section 73 or 74 of the CGST Act.

##### 4.3 Following points need to be carefully analysed for complying the new sub rule 96B

It is pertinent to note that the said rule is inserted vide Notification No 16/2020-Central Tax dated March 23, 2020. Accordingly, the same would be applicable prospectively and not retrospectively. Hence, it would be prudent if the tax officers do not insist on proof of realisation of export proceeds for the past period, even if the refund application for the period before March-20 is filed on or after March-20.

In case of non-compliance of Rule 96B, the exporter is required to pay back the refund amount at 18 per cent interest. The period for which interest is to be paid shall be from the date of granting of refund till the date of payment of refund to the government.

The refund amount to be paid back may be paid through Form DRC-03 in accordance with Section 73(5) of the CGST Act. It would be prudent to make such payment in cash and not through utilization of electronic credit ledger.

Considering the unprecedented challenges due to COVID-19 pandemic, Reserve Bank of India has released a press release on April 01, 2020 wherein the time limit for realisation of export proceeds for the exports made on or up to July 31, 2020 has been extended to 15 months from the date of exports.

#### Conclusion

Exports are encouraged and domestic taxes and levies are not to be exported. To this end, rebate and refund of unutilized credit are options available in the IGST Act to neutralize tax-effect on exports. Repatriation of export proceeds is the litmus test of export that deserves this impetus. As in all encouragement schemes that benefit some transactions, it is only fair to impose conditions to monitor compliance with the underlying premise for extending such encouragement. Exporters are expected to shoulder the burden of compliances although Government seems to have extended great understanding by automating processes but trade needs to play its part and compete in the world arena on quality and customer care to grow India's share of global exports. And GST law joins hands with other legislations in giving a boost.

*Contributed by CA. Yash Parikh*



# NOTIFICATIONS ISSUED UNDER GST LAW TO PROVIDE RELIEF TO TAXPAYERS IN VIEW OF SPREAD OF NOVEL CORONA VIRUS (COVID-19)

## Extension of time limit for furnishing of Annual Return & Reconciliation Statement for the financial year 2018-2019

The Central Board of Indirect Taxes & Customs vide Notification No. 41/2020- Central Tax dated 5th May 2020 has extended the time limit for furnishing of the Annual Return in Form GSTR-9 and Reconciliation Statement in Form GSTR- 9C specified under section 44 of the said Act read with rule 80 of the said rules, electronically through the common portal, for the financial year 2018-2019 till the 30th September, 2020. Earlier, the said time limit was extended till 30.06.2020 vide Notification No. 15/2020- Central Tax dated 23rd March 2020

## Relief in furnishing of FORM GSTR-3B & GSTR-1

A. Conditional Waiver/Lowering of interest rate & Conditional Waiver of Late Fees for delay in furnishing of FORM GSTR-3B for the months of February, March & April, 2020

The Central Government vide Notification No. 31/2020- Central Tax dated 3rd April 2020 & Notification No. 32/2020- Central Tax dated 3rd April 2020 has waived/ lowered the interest payable & waived the Late Fees payable, for the class of registered persons, who are required to furnish the returns in FORM GSTR-3B, but fail to furnish the said return along with payment of tax for the following months & subject to conditions as specified under:-

Sl. No.	Taxpayers having an aggregate turnover in the preceding financial year of	Rate of interest	Late Fees	Tax period	Condition : If return in FORM GSTR-3B is furnished by
1	More than Rupees 5 crores	Nil for first 15 days from the due date, and 9% thereafter	NIL	February, 2020, March, 2020, April, 2020	24th day of June, 2020
2.	More than Rupees 1.5 crores and up to Rupees 5 crores	Nil	NIL	February, 2020 & March, 2020	29th day of June, 2020
			NIL	April, 2020	30th day of June, 2020

3.	Up to Rupees 1.5 crores	Nil	NIL	February, 2020	30th day of June, 2020
			NIL	March, 2020	3rd day of July, 2020
			NIL	April, 2020	6th day of July, 2020

B. Extension of Due date for furnishing FORM GSTR-3B for the month of May, 2020.

The Central Government vide Notification No.36/2020- Central Tax dated 3rd April 2020 has extended the due date for filing of return in Form GSTR-3B in a staggered manner for the month of May, 2020 as under:-

Class of Taxpayers	Revised Due Date
Registered person having an aggregate turnover above Rupees 5 Crore in the previous financial year	27th June, 2020
Registered person having an aggregate turnover of up to Rupees Five Crore in the previous financial year, whose principal place of business is in the States of :- Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	12th July, 2020
Registered person having an aggregate turnover of up to Rupees Five Crore in the previous financial year, whose principal place of business is in the States of :- Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	14th July, 2020

C. Conditional waiver of late fee for delay in furnishing FORM GSTR-1

The Central Government vide Notification No. 33/2020- Central Tax dated 3rd April 2020 has waived the Late Fees payable, for the registered persons who fail to furnish the

details of outward supplies in FORM GSTR-1 by the due date for the months of March, 2020, April, 2020 and May, 2020, and for the quarter ending 31st March, 2020, but furnishes the said details in FORM GSTR-1, on or before the 30th day of June, 2020.

### Relaxation in Rule 36(4) : Capping of of ITC as per Form-2A for the months of February 2020 to August, 2020

A proviso has been inserted in CGST Rules 2017 to provide that the condition as specified in Rule 36(4), i.e. Capping of ITC on the basis of Form-2A, shall not apply to input tax credit availed by the registered persons in the returns in FORM GSTR-3B for the months of February, March, April, May, June, July and August, 2020, but that the said condition shall apply cumulatively for the said period and that the return in FORM GSTR-3B for the tax period of September, 2020 shall be furnished with cumulative adjustment of input tax credit for the said months in accordance with the condition under rule 36(4).

### Relaxation in Composition Scheme

#### A. Amendment in CGST Rules in order to allow opting Composition Scheme for FY 2020-21 till 30.06.2020

The Central Government vide Notification No. 30/2020-Central Tax dated 3rd April 2020 has notified Extension of time limit for furnishing of the following for taxpayers opting for the Composition scheme for the financial year 2020-21 as under:-

Sl.No.	Forms	Revised Date
(i)	Filing an intimation in FORM GST CMP-02	30.06.2020
(ii)	Furnishing the statement in FORM GST ITC-03	31.07.2020

#### B. Extension of due date of furnishing FORM GST CMP-08 and filing FORM GSTR-4

The Central Government vide Notification No. 34/2020-Central Tax dated 3rd April 2020 has extended the due dates of furnishing the following forms by taxpayers registered under the Composition scheme as under:-

Sl.No.	Forms	For the Period	Revised Due Date
1.	FORM GST CMP 08	Quarter ending 31st March, 2020	7th July, 2020
2.	FORM GSTR-4	Financial year 31st March, 2020	15th July, 2020

### Extension of due date of various other compliances.

In view of the spread of pandemic COVID-19 across many countries of the world including India, the Central Government vide Notification No. 35/2020- Central Tax dated 3rd April 2020 has extended the time limit of the following:-

• **Extension of Time limit of various Compliances:-** where, any time limit for completion or compliance of any action, by any authority or by any person, has been specified in, or prescribed or notified under the said Act, which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto the 30th day of June, 2020, including for the purposes of—

- completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or
- filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above;

but, such extension of time shall not be applicable for the compliances of the provisions of the said Act, as mentioned below –

- Chapter IV;
- sub-section (3) of section 10, sections 25, 27, 31, 37, 47, 50, 69, 90, 122, 129;
- section 39, except sub-section (3), (4) and (5);
- section 68, in so far as e-way bill is concerned; and
- rules made under the provisions specified at clause (a) to (d) above;



# AMENDMENTS IN CENTRAL GOODS & SERVICES TAX RULES, 2017

The Central Government vide Notification No. 16/2020-Central Tax dated 23rd March 2020; has made the following amendments in the Central Goods & Services Tax Rules, 2017 :-

Rule	Amendments
Rule 8: (Application for registration)	Insertion of sub-rule (4A):- to operationalize Aadhaar authentication for new taxpayers w.e.f. 1st April, 2020.
Rule 9: (Verification of the application and approval.)	Insertion of sub-rule w.e.f. 01.04.2020 in sub-rule (1):- to restrict the new registrations only to those persons who have undergone authentication of Aadhaar No. or only after the physical verification of the premises w.e.f. 1st April 2020. It also clarifies that the provision of deemed approval of registration as specified in sub-rule (5) shall not apply in the above cases. This step has been taken to stop fraudulent persons to get registered under GST & to curb the fake invoicing and fraudulent passing of ITC by fraudulent businesses
Rule 25: (Physical verification of business premises in certain cases.)	Substitution of Rule:- to empower the proper officer to conduct the physical verification of the place of business of a person before the grant of registration, if aadhaar authentication is failed. Earlier, the rule provided for physical verification only after the grant of registration. This is again an important step to stop fraudulent persons to get registered under GST.
Rule 43: (Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases.)	Substitution of sub-rule (1) with effect from the 1st April, 2020:- <ul style="list-style-type: none"> <li>• Clause (c) and Clause (d) have been substituted.</li> <li>• Omission of Clause (f)</li> <li>• Insertion of Explanation in clause (e)</li> </ul>
Rule 80: (Annual return.)	Insertion of proviso in sub-clause (3):- to increase the threshold limit for furnishing the Form GSTR-9C&thereby relaxing the said compliance for SME's having turnover below Rs.5 Crores.

Rule 86 : (Electronic Credit Ledger)	Insertion of sub-rule (4A):- to allow refund of excess tax/ wrongly paid tax claimed by registered person, by re-crediting the electronic credit ledger
Rule 89 : (Application for refund of tax, interest, penalty, fees or any other amount)	Substitution of sub-rule (4) clause (C) :- to fix the ceiling for the value of the export supply for the purpose of calculation of refund on zero rated supplies.
Rule 92 : (Order sanctioning refund)	Insertion of sub-rule (1A):- to empower the proper officer to sanction refund in both cash and credit in case of excess payment of tax.
Rule 96 : (Refund of integrated tax paid on goods or services exported out of India)	Insertion of Explanation in in rule 96, in sub-rule (10),in clause (b) with effect from the 23rd October, 2017
Rule 96B: (Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realized)	Insertion of Rule 96B:- to provide for recovery of refund on export of goods where export proceeds are not realized within the time prescribed under FEMA.
Rule 141: (Procedure in respect of seized goods )	Amendments in sub-rule (2):- to empower the proper officer to dispose of the seized goods or things & adjust the amount realized thereby against the tax, interest, penalty, or any other amount payable in respect of such goods or things in cases where the taxable person fails to pay such amount in respect of the said goods or things.  Earlier, only the Commissioner was empowered to take such action.

## Clarification related to GST Refunds

The Central Board of Indirect Taxes & Customs vide Circular No.135/05/2020-GST, dated 31st March, 2020 has issued clarification in respect of some of the issues relating to GST refunds. A summary of the same is reproduced below:-

- **Removal of restriction of Bunching of refund claims across Financial Years:-**

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.

- **Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate:-**

It has been 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.

That is, refund of unutilized ITC is not admissible on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods.

- **Change in manner of refund of tax paid on supplies other than zero rated supplies:-**

Any refund of tax paid on supplies other than zero rated supplies will now be admissible proportionately in the respective original mode of payment i.e. in cases of refund, where the tax to be refunded has been paid by debiting both electronic cash and credit ledgers (other than the refund of tax paid on zero-rated supplies or deemed export), 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 for the relevant period for which application for refund has been filed. Such amount shall be accordingly paid by issuance of order in FORM GST RFD-06 for amount refundable in cash and FORM GST PMT-03 to re-credit the amount attributable to credit as ITC in the electronic credit ledger.

- **Guidelines for refunds of Input Tax Credit under Section 54(3):-**

It has been decided that 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. Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent.

- **New Requirement to mention HSN/SAC in Annexure 'B':-**

It has been recommended that a column relating to HSN/SAC Code should be added in the statement of invoices relating to inward supply as provided in Annexure-B of the circular No. 125/44/2019- GST dated 18.11.2019 so as to easily identify between the supplies of goods and services.

The issue has been examined and considering that such a 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, it has been decided to amend the said statement. Accordingly, Annexure-B of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent.

A suitably modified statement format has been prescribed for applicants to upload the details of invoices reflecting in their FORM GSTR-2A. The applicant is, in addition to details already prescribed, now required to mention HSN/SAC code which is mentioned on the inward invoices. 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.

## Amendment in CGST Rules to allow filing of Nil Return (GSTR-3B) through SMS

The Central Government vide Notification No. 38/2020-Central Tax dated 5th May, 2020 has inserted Rule 67A( Manner of furnishing of return by short messaging service facility) with effect from a date to be notified later in the CGST Rules,2017 to allow the registered person to furnish a Nil return in FORM GSTR-3B for a tax period, through a short messaging service (SMS) using the registered mobile number and the said return shall be verified by a registered mobile number based One Time Password facility (OTP).

**Explanation** - For the purpose of this rule, a Nil return shall mean a return under section 39 for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B”.

# APPORTIONMENT OF INPUT TAX CREDIT (ITC) IN CASES OF BUSINESS REORGANIZATION

The Central Board of Indirect Taxes & Customs vide Circular No.133/03/2020-GST, dated 23rd March, 2020 has issued clarification in respect of apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules as under:-

S. No.	Issue / Question	Clarification
a.	(i) In case of demerger, proviso to rule 41 (1) of the CGST Rules provides that the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. However, it is not clear as to whether the value of assets of the new units is to be considered at State level or at all-India level.	<p>Proviso to sub-rule (1) of rule 41 of the CGST Rules provides for apportionment of the input tax credit in the ratio of the value of assets of the new units as specified in the demerger scheme. Further, the explanation to sub-rule (1) of rule 41 of the CGST Rules states that “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon. Under the provisions of the CGST Act, a person/ company (having same PAN) is required to obtain separate registration in different States and each such registration is considered a distinct person for the purpose of the Act. Accordingly, for the purpose of apportionment of ITC pursuant to a demerger under sub-rule (1) of rule 41 of the CGST Rules, the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level.</p> <p>Illustration A company XYZ is registered in two States of M.P. and U.P. Its total value of assets is worth Rs. 100 crore, while its assets in State of M.P. and U.P are Rs 60 crore and Rs 40 crore respectively. It demerges a part of its business to company ABC. As a part of such demerger, assets of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P, while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC). The unutilized ITC of XYZ in State of M.P. shall be transferred to ABC on the basis of ratio of value of assets in State of M.P., i.e. <math>30/60 = 0.5</math> and not on the basis of all-India ratio of value of assets, i.e. <math>40/100=0.4</math>. Similarly, unutilized ITC of XYZ in State of U.P. will be transferred to ABC in ratio of value of assets in State of U.P., i.e. <math>10/40 = 0.25</math>.</p>
	(ii) Is the transferor required to file FORM GST ITC - 02 in all States where it is registered?	No. The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.
b.	The proviso to rule 41 (1) of the CGST Rules explicitly mentions ‘demerger’. Other forms of business reorganization where part of business is hived off or business is transferred as a going concern etc. have not been covered in the said rule. Wherever business reorganization results in partial transfer of business assets along with liabilities, whether the proviso to rule 41(1) of the CGST Rules, 2017 shall be applicable to calculate the amount of transferable ITC?	Yes, the formula for apportionment of ITC, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities.
c.	(i) Whether the ratio of value of assets, as prescribed under proviso to rule 41 (1) of the CGST Rules, shall be applied in respect of each of the heads of input tax credit viz. CGST/ SGST/ IGST/ Cess?	No, the ratio of value of assets, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applied to the total amount of unutilized input tax credit (ITC) of the transferor i.e. sum of CGST, SGST/UTGST and IGST credit. The said formula need not be applied separately in respect of each heads of ITC (CGST/SGST/IGST). Further, the said formula shall also be applicable for apportionment of Cess between the transferor and transferee.

		Illustration A: The ITC balances of transferor X in the State of Maharashtra under CGST, SGST and IGST heads are 5 lakh, 5 lakh and 10 lakh respectively. Pursuant to a scheme of demerger, X transfers 60% of its assets to transferee B. Accordingly, the amount of ITC to be transferred from A to B shall be 60% of 20 lakh (total sum of CGST, SGST and IGST credit) i.e. 12 lakh.																																																
	(ii) 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?	<p>The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under sub-rule (1) of rule 41 of the CGST Rules [refer 3 (c) (i) above]. However, the transferor shall be at liberty to determine the amount to be transferred under each tax head (IGST, CGST, SGST/UTGST) within this total amount, subject to the ITC balance available with the transferor under the concerned tax head. This is shown in the illustration below:</p> <table border="1"> <thead> <tr> <th>(1)</th> <th>(2)</th> <th>(3)</th> <th>(4)</th> <th>(5)</th> <th>(6)</th> </tr> <tr> <th>State</th> <th>Asset Ratio of Transferee</th> <th>Tax Heads</th> <th>ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)</th> <th>Total amount of ITC transferred to the Transferee under FORM GST ITC-02</th> <th>ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC-02 [Col (4) - Col (5)]</th> </tr> </thead> <tbody> <tr> <td rowspan="4">Delhi</td> <td rowspan="4">70%</td> <td>CGST</td> <td>10,00,000</td> <td>10,00,000</td> <td>0</td> </tr> <tr> <td>SGST</td> <td>10,00,000</td> <td>10,00,000</td> <td>0</td> </tr> <tr> <td>IGST</td> <td>30,00,000</td> <td>15,00,000</td> <td>15,00,000</td> </tr> <tr> <td>Total</td> <td>50,00,000</td> <td>35,00,000</td> <td>15,00,000</td> </tr> <tr> <td rowspan="4">Haryana</td> <td rowspan="4">40%</td> <td>CGST</td> <td>25,00,000</td> <td>3,00,000</td> <td>22,00,000</td> </tr> <tr> <td>SGST</td> <td>25,00,000</td> <td>5,00,000</td> <td>20,00,000</td> </tr> <tr> <td>IGST</td> <td>20,00,000</td> <td>20,00,000</td> <td>0</td> </tr> <tr> <td>Total</td> <td>70,00,000</td> <td>28,00,000</td> <td>42,00,000</td> </tr> </tbody> </table>	(1)	(2)	(3)	(4)	(5)	(6)	State	Asset Ratio of Transferee	Tax Heads	ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)	Total amount of ITC transferred to the Transferee under FORM GST ITC-02	ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC-02 [Col (4) - Col (5)]	Delhi	70%	CGST	10,00,000	10,00,000	0	SGST	10,00,000	10,00,000	0	IGST	30,00,000	15,00,000	15,00,000	Total	50,00,000	35,00,000	15,00,000	Haryana	40%	CGST	25,00,000	3,00,000	22,00,000	SGST	25,00,000	5,00,000	20,00,000	IGST	20,00,000	20,00,000	0	Total	70,00,000	28,00,000	42,00,000
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d.	(i) In order to calculate the amount of transferable ITC, the apportionment formula under proviso to rule 41(1) of the CGST Rules has to be applied to the unutilized ITC balance of the transferor. However, it is not clear as to which date shall be relevant to calculate the amount of unutilized ITC balance of transferor.	<p>According to sub-section (3) of section 18 of the CGST Act, "Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed." Further, sub-rule (1) of rule 41 of the CGST Rules prescribes that the registered person shall file the details in FORM GST ITC-02 for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee.</p> <p>A conjoint reading of sub-section (3) of section 18 of the CGST Act along with sub-rule (1) of rule 41 of the CGST Rules would imply that 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.</p>																																																
	(ii) Which date shall be relevant to calculate the ratio of value of assets, as prescribed in the proviso to rule 41 (1) of the CGST Rules, 2017?	<p>According to section 232 (6) of the Companies Act, 2013, "The scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date". The said legal provision appears to indicate that the "appointed date of demerger" is the date from which the scheme for demerger comes into force and it is specified in the respective scheme of demerger. Therefore, for the purpose of apportionment of ITC under rule sub-rule (1) of rule 41 of the CGST Rules, the ratio of the value of assets should be taken as on the "appointed date of demerger".</p> <p>In other words, for the purpose of apportionment of ITC under sub-rule (1) of rule 41 of the CGST Rules, while the ratio of the value of assets should be taken as on the "appointed date of demerger", the said ratio is to be applied on the ITC balance of the transferor on the date of filing FORM GST ITC - 02 to calculate the amount to transferable ITC.</p>																																																

## SPECIAL PROCEDURE TO BE FOLLOWED BY CORPORATE DEBTORS UNDERGOING CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016.

The Central Government vide Notification No. 11/2020- Central Tax dated 21st March 2020 as amended by Notification No. 39/2020- Central Tax dated 5th May, 2020 has provided the following special procedures to be followed by the corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), from the date of the appointment of the IRP/RP till the period they undergo the corporate insolvency resolution process, as mentioned below:-

Provided that the said class of persons shall not include those corporate debtors who have furnished the statements under section 37 (GSTR-1) and the returns under section 39 (GSTR-3B) of the said Act for all the tax periods prior to the appointment of IRP/RP

- **Registration:** The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later:

Provided that in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days from the commencement of this notification, with effect from date of his appointment as IRP/RP.

- **Return:** The said class of persons shall, after obtaining registration file the first return under section 40 of the said Act, from the date on which he becomes liable to registration till the date on which registration has been granted.
- **Input tax credit**
  - (1) The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his

appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36 of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as the said rules).

- (2) Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or thirty days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-rule (4) of rule 36 of the said rules.

- Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP/RP to the date of registration in terms of this notification shall be available for refund to the erstwhile registration.

**Explanation:** For the purposes of this notification, the terms “corporate debtor”, “corporate insolvency resolution professional”, “interim resolution professional” and “resolution professional” shall have the same meaning as assigned to them in the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

### Clarification in respect of issues under GST law for companies under Insolvency and Bankruptcy Code, 2016

The Central Board of Indirect Taxes & Customs vide Circular No.134/04/2020-GST, dated 23rd March, 2020 & Circular No. 138/08/2020-GST dated 6th May,2020 has issued clarification in respect of various issues under GST law for the corporate debtors who are undergoing CIRP under the provisions of IBC and the management of whose affairs are being undertaken by IRP/RP under Insolvency and Bankruptcy Code, 2016 as under:-

S. No.	Issue	Clarification
1.	How dues under GST for pre-CIRP period are be dealt?	In accordance with the provisions of the IBC and various legal pronouncements on the issue, no coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date. The dues of the period prior to the commencement of CIRP will be treated as ‘operational debt’ and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC. The tax officers shall seek the details of supplies made / received and total tax dues pending from the corporate debtor to file the claim before the NCLT.  Moreover, section 14 of the IBC mandates the imposition of a moratorium period, wherein the institution of suits or continuation of pending suits or proceedings against the corporate debtor is prohibited.

2.	Should the GST registration of corporate debtor be cancelled?	It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if need be, suspend the registration. In case the registration of an entity undergoing CIRP has already been cancelled and it is within the period of revocation of cancellation of registration, it is advised that such cancellation may be revoked by taking appropriate steps in this regard.
3.	Is IRP/RP liable to file returns of pre-CIRP period?	No. In accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date. Accordingly, it is clarified that IRP/RP are not under an obligation to file returns of pre-CIRP period.
<b>During CIRP period</b>		
4.	Should a new registration be taken by the corporate debtor during the CIRP period?	The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification No.11/2020 - Central Tax, dated 21.03.2020, he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.
5.	How to file First Return after obtaining new registration?	The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period. The IRP/RP is required to ensure that the first return is filed under section 40 of the CGST Act, for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.
6.	How to avail ITC for invoices issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification No.11/2020 - Central Tax, dated 21.03.2020 and no return has been filed by the IRP during the CIRP?	The special procedure issued under section 148 of the CGST Act has provided the manner of availment of ITC while furnishing the first return under section 40.  The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules. In terms of the special procedure under section 148 of the CGST Act issued vide notification No.11/2020 - Central Tax, dated 21.03.2020. This exception is made only for the first return filed under section 40 of the CGST Act.
7.	How to avail ITC for invoices by persons who are availing supplies from the corporate debtors undergoing CIRP, in cases where the IRP/RP was appointed before the issuance of the notification No.11/2020 - Central Tax, dated 21.03.2020?	Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-rule (4) of rule 36 of the CGST Rules.
8.	Some of the IRP/RPs have made deposit in the cash ledger of erstwhile registration of the corporate debtor. How to claim refund for amount deposited in the cash ledger by the IRP/RP?	Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP / RP to the date of notification specifying the special procedure for corporate debtors undergoing CIRP, shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant FORM GSTR-3B/GSTR-1 are not filed for the said period.  The instructions contained in Circular No. 125/44/2019-GST dt. 18.11.2019 stands modified to this extent.

9.	It has been represented that the IRP/ RP are facing difficulty in obtaining registrations during the period of the lockdown and have requested to increase the time for obtaining registration from the present 30 days limit.	Vide notification No. 39/2020-Central Tax, dated 05.05.2020, the time limit required for obtaining registration by the IRP/RP has been extended to the later of:-  within thirty days of the appointment of the IRP/RP or by 30th June, 2020,.
10.	Clarification has been sought whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing.	Vide notification No. 39/2020 - Central Tax, dated 05.05.2020 it is clarified that IRP/RP would not be required to take a fresh registration in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the CGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor (earlier GSTIN).
11.	Another doubt has been raised that the present notification has used the terms IRP and RP interchangeably, and in cases where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration.	i. In cases where the RP is not the same as IRP, or in cases where a different IRP/ RP is appointed midway during the insolvency process, the change in the GST system may be carried out by an amendment in the registration form. Changing the authorized signatory is a non- core amendment and does not require approval of tax officer. However, if the previous authorized signatory does not share the credentials with his successor, then the newly appointed person can get his details added through the Jurisdictional authority as Primary authorized signatory.  ii. The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment. Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.

## OTHER GST UPDATES

### FORM GST PMT-09 made effective

The Central Government vide Notification No.37/2020 ,dated 28th April, 2020 has appointed the 21st day of April, 2020, as the date from which Rule 87(13) of the CGST Rules, 2017 ,which states that a registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09,& FORM GST PMT –09 shall come into force.

### Filing of FORM GST PMT 09, to transfer/shift the money available in Electronic Cash ledger, between various major and minor heads of GST

Form GST PMT-09 is now available on GST portal and it enables a taxpayer to make intra-head or inter-head transfer of amount available in Electronic Cash Ledger. A taxpayer can file GST PMT 09 for transfer of any amount of tax, interest, penalty, fee or others available under one (major or minor) head to another (major or minor) head in the Electronic Cash Ledger. Form GST PMT 09 provides flexibility to taxpayers to make multiple transfers from more than one Major/Minor head to another Major/Minor head if the amount is available in the Electronic Cash Ledger. To file Form GST PMT-09 taxpayers are required to login on GST portal with valid credentials and navigate to Services > Ledgers > Electronic Cash Ledger > File GST PMT-09 For Transfer of Amount option. After Form GST PMT-09 is filed:

- ARN is generated on successful filing of Form GST PMT-09.



## CLARIFICATION IN RESPECT OF CERTAIN CHALLENGES FACED BY THE REGISTERED PERSONS IN IMPLEMENTATION OF PROVISIONS OF GST LAWS

The Central Government vide Circular No. 137/07/2020-GST dated 13th April,2020 & Circular No. 138/08/2020-GST dated 6th May,2020, has issued clarifications in respect of certain challenges that are being faced by taxpayers in adhering to the compliance requirements under various provisions of the CGST Act. An extract of the same has been reproduced below:-

Sl. No.	Issue	Clarification
1.	An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns ?	In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim.  However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.
2.	An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the CGST Act, he is required to issue a "refund voucher" in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules.  The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category "Refund of excess payment of tax".
3.	Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case.  However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.
4.	Letter of Undertaking (LUT) furnished for the purposes of zero-rated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the CGST Rules has expired on 31.03.2020. Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make such supplies on payment of IGST and claim refund of such IGST?	Notification No. 37/2017-Central Tax, dated 04.10.2017, requires LUT to be furnished for a financial year. However, in terms of notification No. 35/2020 Central Tax dated 03.04.2020, where the requirement under the GST Law for furnishing of any report, document, return, statement or such other record falls during between the period from 20.03.2020 to 29.06.2020, has been extended till 30.06.2020.  Therefore, in terms of Notification No. 35/2020-Central Tax, time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020 and the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020. Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents.
5.	While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Central Goods and Services Tax Act, 2017 i. e. Tax Deducted at Source (TDS). Whether the date of deposit of such payment has also been extended vide notification N. 35/2020-Central Tax dated 03.04.2020?	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (3) of section 39 and section 51 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till 30.06.2020 and no interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020.

6.	As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund expires on 31.03.2020, can such person make an application for refund before 29.07.2020?	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (1) of section 54 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for filing an application for refund falling during the said period has also been extended till 30.06.2020.
<b>COVID-19 related representations.</b>		
1..	As per Notification No. 40/2017-Central Tax (Rate) dated 23.10.2017, a registered supplier is allowed to supply the goods to a registered recipient (merchant exporter) at 0.1% provided, inter-alia, that the merchant exporter exports the goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier. Request has been made to clarify the provision vis-à-vis the exemption provided vide notification no. 35/2020-Central Tax dated 03.04.2020.	<p>i. Vide notification No. 35/2020-Central Tax dated 03.04.2020, time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020, where completion or compliance of such action has not been made within such time.</p> <p>ii. Notification no. 40/2017-Central Tax (Rate) dated 23.10.2017 was issued under powers conferred by section 11 of the CGST Act, 2017. The exemption provided in notification No. 35/2020-Central Tax dated 03.04.2020 is applicable for section 11 as well.</p> <p>iii. Accordingly, it is clarified that the said requirement of exporting the goods by the merchant exporter within 90 days from the date of issue of tax invoice by the registered supplier gets extended to 30th June, 2020, provided the completion of such 90 days period falls within 20.03.2020 to 29.06.2020.</p>
2.	Sub-rule (3) of that rule 45 of CGST Rules requires furnishing of FORM GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker during a quarter on or before the 25th day of the month succeeding that quarter. Accordingly, the due date of filing of FORM GST ITC-04 for the quarter ending March, 2020 falls on 25.04.2020. Clarification has been sought as to whether the extension of time limit as provided in terms of notification No. 35/2020-Central Tax dated 03.04.2020 also covers furnishing of FORM GST ITC-04 for quarter ending March, 2020.	Time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020 where completion or compliance of such action has not been made within such time. Accordingly, it is clarified that the due date of furnishing of FORM GST ITC-04 for the quarter ending March, 2020 stands extended up to 30.06.2020.

### Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal

The Central Board of Indirect Taxes & Customs vide Circular No.132/2/2020-GST, dated 18th March, 2020 has examined the issue of appellate process being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed.

#### The Board has clarified the following:-

- The appeal against the order passed by appellate authority under Section 107 of the CGST Act lies with appellate tribunal. Relevant provisions for the same is mentioned in the Section 112 of the CGST Act which reads as follows: -  
“112 (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.”
- The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar

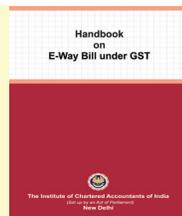
Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated.

- In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.
- Hence, as of now, 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.
- The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office.
- Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

# PUBLICATIONS

## Handbook on Registration under GST

The handbook explains the concepts/ procedures relating to Registration in an easy and lucid language. An attempt has been made to explain all aspects related to registration with the help of case laws, example etc.

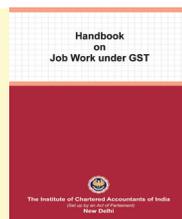


## Handbook on E-Way Bill under GST

The handbook aptly covers analysis of legal provisions, procedural and practical aspects relating to E-Way Bill under GST.

## Handbook on Annual Return under GST

The handbook is very comprehensively designed and contains clause-by-clause analysis of Annual Return Form under GST law including notifications, circulars or orders issued by the Government upto 31st March, 2020.

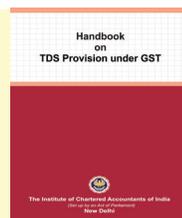


## Handbook on Job Work under GST

The handbook aims at guiding members and all other stakeholders in understanding various compliances related to Job work under GST law including conditions and restriction for supplying goods to job worker, removal of inputs / semi-finished goods/capital goods by principal to a job worker, duration within which goods to be returned by job worker, disposal of waste & scrap generated during job work, input tax credits, etc.

## Handbook on Refunds under GST

The handbook deals with the provisions of GST related to different types of refunds under GST including conditions and procedures for granting refunds, along with few FAQ's, MCQ's, Flow charts, Diagrams and Illustrations etc. to make the reading and understanding easier.



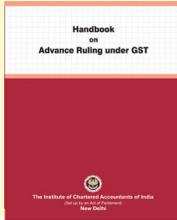
## Handbook on TDS Provision under GST

This "Handbook on TDS Provision under GST" covers all aspects related to TDS under GST at one place and Analysis thereof likewhen is TDS required to be deducted, who is required to deduct TDS, procedure for filing TDS return under GST, the interest, late fees and penalty that may be imposed on non deduction of TDS etc.

## Handbook on Interest, Late Fee and Penalties under GST

This publication contains analyses the provisions of the GST law in respect of Interest, Late Fees and Penalties that may be imposed. An attempt has been made to cover all aspects related to Interest, Late Fee and Penalties at one place and is intended to give general guidance to all stakeholders and also to help them in resolving issue that they may face during the course of its compliance in GST.



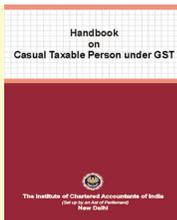
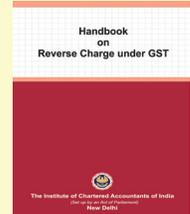


### Handbook on Advance Ruling under GST

An Advance Ruling helps the applicant in planning his activities, which are liable for payment of GST, well in advance. An attempt has been made to cover and explain all aspects related to Advance Ruling with the help of FAQ and example and is intended to give general guidance to all stakeholders.

### Handbook on Reverse Charge under GST

This handbook broadly covers procedural aspects and legal provisions related to RCM, various compliances, consequences of failure- Notice, Interest, Penalty etc. The illustrations & FAQ's provide an additional benefit to the readers of this handbook.

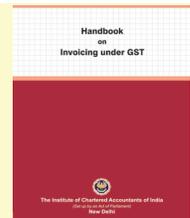


### Handbook on Casual Taxable Person under GST

This Handbook on Casual Taxable Person under GST is very comprehensive and contain analysis of the entire provisions relating to Casual Taxable Person under the law including notifications, circulars or orders issued by the Government from time to time upto 31st March, 2020 along with few FAQ's, MCQ's, Flowcharts, Diagrams and Illustrations etc. to make the reading and understanding easier.

### Handbook on Invoicing under GST

This handbook contain the concept of e-invoicing, understanding the type of documents specified in the law, what document to be issued in which situation, what is to be prescribed in the documents, the importance of documents to substantiate the ITC claims, the importance of documents in case of movement of Goods, how the information related to documents to be reflected in returns etc.



## GST & INDIRECT TAXES COMMITTEE OF ICAI A ONE STOP DESTINATION FOR ALL INDIRECT TAXES

website: [www.idtc.icai.org](http://www.idtc.icai.org)



The GST & Indirect Taxes Committee of ICAI has launched its website viz. [www.idtc.icai.org](http://www.idtc.icai.org) to provide the users a well set platform for sharing and gaining knowledge on GST & other indirect taxes and easy accessibility to the GST & Indirect taxes Committee. The Committee works relentlessly towards keeping the members abreast with the latest changes in all the Indirect tax laws vide various mediums like, organising programmes, updating study materials, sending regular updates etc.

### Main features:

- ❖ Regular GST / Indirect Taxes Updates
- ❖ Knowledge Bank of Indirect Taxes/ GST- Articles, Legal Updates etc.
- ❖ Publications on GST and others IDT Law including UAE VAT Law etc.- (Available for free download and online ordering)
- ❖ Recordings of Live Webcasts / E-lectures on GST
- ❖ E-learning on GST
- ❖ Upcoming events
- ❖ Details of Certificate Courses, Programme, Seminars etc. on GST/ Indirect Taxes
- ❖ Links of related important website
- ❖ Connect with GST & Indirect Taxes as a faculty / author of the publication etc.
- ❖ GST Tab newly created on website to provide consolidated GST information.

Your suggestions on the website are also welcome at [gst@icai.in](mailto:gst@icai.in)

Secretary  
GST & Indirect Taxes Committee  
The Institute of Chartered Accountants of India  
ICAI Bhawan  
A-29, Sector - 62, NOIDA (U.P.) India  
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for help please visit: <http://help.icai.org/>

# GST QUIZ

- Who among the following is not required to undergo Aadhaar authentication for GST Registration?**
  - (1) Karta of an Hindu undivided family
  - (2) Non-resident
  - (3) A Person who is not a citizen of India
  - (4) Both (ii) & (iii)
- \_\_\_\_\_ is excluded from the definition of goods as well as services**
  - (1) Securities and Money
  - (2) Only Securities
  - (3) Only Money
  - (4) None of the above
- The time limit of filing Annual Return under GST for the financial year 2018-19 has been extended up to:-**
  - (1) 31st July, 2020
  - (2) 30th of September, 2020
  - (3) 30th of November, 2020
  - (4) 31st December, 2020
- What shall be Time of Supply of services in case of reverse charge?**
  - (1) the date of the receipt of services
  - (2) the date of payment as entered in the books of account of recipient or payment is debited in his bank account, whichever is earlier
  - (3) the date immediately following sixty days from the date of issue of invoice or any other document
  - (4) earlier of (ii) and (iii)
- Section 56 of the CGST Act, 2017 states that if any tax ordered to be refunded under section 54 is not refunded within sixty days from the date of receipt of application interest at such rate \_\_\_\_\_**
  - (1) not exceeding six per cent
  - (2) not exceeding nine per cent
  - (3) not exceeding eighteen per cent
  - (4) none of the above
- Tax deduction at the rate of 1% on certain persons, who are recipients of supply, from the payment made or credited to the supplier where total value of supply, under contract, is exceeding rupees:**
  - (1) ₹ 1,00,000
  - (2) ₹ 2,50,000
  - (3) ₹ 1,50,000
  - (4) ₹ 5,00,000
- The audit needs to be completed within a period of \_\_\_\_\_ months from the date of commencement of the audit, but a further extension for a period of \_\_\_\_\_ months maybe provided by the Commissioner for the reasons recorded in writing –**
  - (1) Three, Six
  - (2) Nine, Three
  - (3) Six, Six
  - (4) Four, Three
- Proper officer shall pass an order (Provisional assessment request), within a period not later than \_\_\_\_\_ from the date of receipt of such request –**
  - (1) 90 days
  - (2) 30 days
  - (3) 100 days
  - (4) 120 days
- As per section 15 of the CGST Act, the value of supply shall include:-**
  - (1) GST taxes, duties, cesses, fees charged by supplier separately
  - (2) Interest, late fee or penalty for delayed payment of any consideration
  - (3) Subsidies directly linked to the price provided by the Central and State Government
  - (4) All of the above
- What is location of supply in case of importation of goods?**
  - (1) Customs port where the goods are cleared
  - (2) Location of the importer
  - (3) Place where the goods are delivered after clearance from customs port
  - (4) Owner of the goods

The names of the first 5 members who provided all the correct answers of the last Quiz (March,2020) within 48 hours are as under:-

Name	Membership No.
CA. PIYUSH MANCHANDA	519254
CA. KRISHNA MURTHY N	218903
CA. NEHA RAJPUT	542565
CA. KANIKA KHANDELWAL	437481
CA. ROHIT KUMAR AWASTHI	448551

Please provide reply of the above MCQs in the link given below. The name of the first 5 members who provide all the correct answers within 48 hours of receipt of this Newsletter, would be published in the next edition.

Link to reply: [https://docs.google.com/forms/d/1IVNQzUrewUk2N\\_KvMXo6SyNQboC2sobPxp237VOIfNU/edit?usp=sharing](https://docs.google.com/forms/d/1IVNQzUrewUk2N_KvMXo6SyNQboC2sobPxp237VOIfNU/edit?usp=sharing)

# ICAI'S CONTRIBUTION FOR SMOOTH IMPLEMENTATION OF GST AS PARTNER IN NATION BUILDING

## 1. Virtual Classes for Certificate Course on GST

The Committee organized 1st batch of the Virtual Classes for Certificate Course on GST for the participants of ongoing Certificate Course, which had intermittently been stopped due to epidemic COVID-19. .

After completion of above batch, the Committee is organising two new batches of the Virtual Classes for Certificate Course on GST for the members across India.

Also, Committee has decided to organize two new batches of the Course from 24th June and 27th June, 2020.

## 2. Handbook on procedural aspects of GST

The Committee has developed 11 Handbooks on following procedural aspects of GST which were released by the Hon'ble President, ICAI during the inaugural session at a Live webcast on "GST Conclave- Industry Perspective" on 31st May, 2020:

Sl. No.	Name of publication
1	Handbook on Registration under GST
2	Handbook on E-way Bill under GST
3	Handbook on Annual Return under GST
4	Handbook on Job Work under GST
5	Handbook on Refund under GST
6	Handbook on TDS provision under GST
7	Handbook on Interest, Late Fee and Penalties under GST
8	Handbook on Advance Ruling under GST
9	Handbook on Reverse Charge under GST
10	Handbook on Casual Taxable Person under GST
11	Handbook on Invoicing under GST

Due to Lockdown hard copies are not available for sale at present; however the same would be printed shortly and will be available for sale at the earliest. Orders for purchase of hard copies as and when available for sale may be placed at <https://icai-cds.org/>.

## 3. Live Webcast Series on GST

The Committee organized a LIVE Webcasts Series on GST as per the details below, which were viewed by approx. 25000 viewers:

Date	Topic
2nd April, 2020	Levy under GST
4th April, 2020	Place of Supply
6th April, 2020	Input Tax Credit
8th April, 2020	Valuation & Time of Supply
10th April, 2020	Reverse Charge mechanism & Interest / Penalty

After the lock down due to COVID 19, the GST and Indirect Taxes Committee was the earliest committee to organise the above series of the Webcast. Further, 2Live webcasts were organized on Input Tax Credit - Blocked Credits in GST & FTP and "GST Conclave- Industry Perspective" on 14th May, 2020 and on 31st May, 2020 respectively. The members and other stakeholders can view above webcast at <https://www.youtube.com/channel/UCJWqdlufpqvWIMQED1qNQA>

## 4. Course on Reconciliation Statement, Audit & Appeals and conversion

The Committee organised a five days Course on Reconciliation Statement, Audit & Appeals for the members. The recording of the course would be uploaded shortly in DLH.

## 5. Proposed Initiatives in near Future:

The Committee is revising its flagship publication BGM on GST, drafting research paper on various aspects of GST, Concept Paper to Re-boot Indian economy, suggestions on merging form 9 and 9C etc.



CONTRIBUTION

# Upcoming BGM on GST

9<sup>th</sup> Edition

July, 2020

## Background Material on GST

Volume - I



The Institute of Chartered Accountants of India  
(Set up by an Act of Parliament)  
New Delhi

July, 2020

## Background Material on GST

Volume - II



The Institute of Chartered Accountants of India  
(Set up by an Act of Parliament)  
New Delhi