

GOODS & SERVICES TAX / IDT UPDATE – 57

GST

Due date filing of GSTR 3B/GSTR 1 for the month of July and August, 2018 extended for registered persons in Kerala, Kodagu (Karnataka); Mahe(Pondicherry)

The Central Government vide *Notification No. 36 /2018 – Central Tax dated 24th August, 2018* and *Notification No. 37 /2018 – Central Tax dated 24th August* has notified that the return in FORM GSTR-3B/ GSTR 1 for the month of July, 2018 and August,2018 for the registered persons in Kerala, Kodagu (Karnataka); Mahe (Pondicherry) is required to furnish electronically through the common portal, on or before the 6th October, 2018 & 10th October, 2018 respectively.

However, *Notification No. 38 /2018 – Central Tax dated 24th August, 2018* has notified that the persons who are required to file quarterly Return in the form GSTR 1 for the quarter from July, 2018 to September, 2018 shall furnish the return electronically through the common portal on or before 15th October, 2018

[*Notification No. 36 /2018 – Central Tax dated 24th August, 2018*; *Notification No. 37 /2018 – Central Tax dated 24th August, 2018*; *Notification No. 38 /2018 – Central Tax dated 24th August, 2018*]

Clarification regarding removal of restriction of refund of accumulated ITC on fabrics

The Central Government vide *circular no. 56/30/2018 dated 24th August, 2018* has clarified certain doubts raised, with reference to changes made vide *Notification no. 20/2018-CT (R) dated 20/2018* which has removed the restriction of not allowing refund of ITC accumulated on account of inverted duty structure on fabrics w.e.f 1st August, 2018 and to lapse the accumulated ITC lying unutilized as on 31st July,2018

Doubts raised and their respective clarifications are explained below:

Doubt	Clarification
Whether this notification seeks to lapse all the input tax credit lying unutilized after payment of tax upto the month of July. 2018	Notification 20/2018 CT(R) provides for lapsing of input tax credit that would have been refundable in terms of section 54 of the Act, for the period prior to the 31st July, 2018, but for the restriction imposed vide notification No. 5/2017-Central Tax (Rate) and that too to the extent of accumulated ITC lying unutilized after making payment of GST upto the month of July, 2018 shall lapse.
Whether unutilized ITC in respect of services and capital goods shall also be disallowed	Proviso (ii) to section 54 (3) provides that in respect of notified goods, the refund of such accumulated input tax credit shall not be allowed. Notification No. 5/2017-Central Tax (Rate)has been issued in terms of

	this provision .Therefore it is clarified that the restriction of refund of accumulated ITC under notification No. 5/2017-Central Tax (rate)dated 28.06.2017 is applicable only in respect of refund of accumulated ITC on inputs. This notification does not put any restriction in relation to the ITC on input services and capital goods.
Implication to fabrics like cotton and silk where there was no inverted duty structure	It is clarified that the said condition of lapsing of ITC would apply only if input tax credit on inputs has been accumulated on account of inverted duty structure therefore; this notification has no implication to fabrics like cotton and silk where there was no inverted duty structure.
Whether accumulated ITC in respect of exports shall also be made to lapse	It is clarified that the proviso has no applicability to the input tax credit relating to zero rated supplies. Accordingly, accumulated ITC on zero rated supplies shall not lapse.
Manner of calculating the ITC amount accumulated on account of inverted duty structure	It is clarified that for determination of such amount, the formula as prescribed in rule 89 (5) of the CGST rules shall mutatis mutandis apply as it applies for determination of refundable amount for inverted duty structure. Such amount shall be determined for the months from July, 2017 to July 2018

The procedure to be followed for lapsing of accumulated input tax credit: A taxable person, whose input tax credit is liable to be lapsed in terms of said notification, shall calculate the amount of such accumulated ITC which is liable to be lapsed, shall, upon self-assessment, be furnished by such person in his GSTR 3B return for the month of August, 2018. The amount shall be furnished in column 4B (2) of the return [ITC amount to be reversed for any reason (others)]. Verification of accumulated ITC amount so lapsed may be done at the time of filing of first refund (on account of inverted duty structure on fabrics) by such person. Therefore, a detailed calculation sheet in respect of accumulated ITC lapsed shall be prepared by the taxable person and furnished at the time of filing of first refund claim on account of inverted duty structure.

Comment: Credit lawfully availed now being made to lapse casts doubts about the nature of 'credit' whether it's a vested right or not. This notification paves way for the possibility of more in future in other industries.

[circular no. 56/30/2018 dated 24th August, 2018]

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