

GOODS & SERVICES TAX / IDT UPDATE – 71

Amendment in Central Goods and Services Tax Rules,2017

The Central Government vide *N No. 20/2019- CT dated 23rd April,2019* has amended Central Goods and Services Tax Rules, 2017. Amendments made are explained below:

Rule	Revised Provision	Comment
Rule 23: (Revocation of cancellation of registration)	<p>Insertion of second proviso: - Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration.</p> <p>Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration.</p>	<p><i>Comment: Proviso has been inserted to provide post revocation order compliance.</i></p> <p><i>Now, registered person shall furnish all returns due for the period from the date of order of cancellation of registration till revocation within 30 days of the order of revocation.</i></p> <p><i>Also, where registration is cancelled retrospectively, all returns due till revocation needs to be filed within 30 days of revocation order.</i></p>
Rule 62: (Form and manner of submission of quarterly return by the composition supplier.)	<p>Change in Heading : “ Form and manner of submission of statement and return “</p> <p>Every registered person paying tax under section 10 or paying tax by availing the benefit of notification No. 02/2019– CT (R), dated 7th March, 2019, shall –</p> <p>(i) furnish a statement, every quarter or, as the case may be, part thereof, containing the details of payment of self-assessed tax in FORM GST CMP08, till the 18th day of the month succeeding such quarter; and</p> <p>(ii) furnish a return for every financial year or, as the case may be, part thereof in FORM GSTR-4, till the thirtieth day of April following the end of such financial</p>	<p><i>Comment: Substitution in rule 62 is made to provide that now onwards composition dealers or persons availing the benefit of n no. 2/2019 are required to furnish details of self-assessed tax quarterly and only one return at year end in Form GSTR 4 is required to furnish till</i></p>

	year.	<i>30th April of following year as compared to quarterly returns earlier.</i>
	(2) Every registered person furnishing the statement under sub-rule (1) shall discharge his liability towards tax or interest payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger.	<i>Comment: This substitution is to make the provision in harmony with previous changes made.</i>
	(4) A registered person who has opted to pay tax under section 10 or by availing the benefit of N No. 02/2019– CT (R), dated the 7th March, 2019 , from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.	<i>Comment: It is inserted to provide that person availing the scheme of payment of tax @ 6% on intra-state supply of goods or services are also required to furnish the details of outward and inward supplies till due date of return for the month of September or annual return whichever earlier</i>
	(5) A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish a statement in FORM GST CMP-08 for the period for which he has paid tax under the composition scheme till the 18th day of the month succeeding the quarter in which the date of withdrawal falls and furnish a return in FORM GSTR-4 for the said period till the thirtieth day of April following the end of the financial year during which such withdrawal falls.	<i>Comment: Much needed clarity is now available for 'exit from composition'</i>
	Insertion of sub rule (6): A registered person who ceases to avail the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, shall, where required, furnish a statement in FORM GST CMP-08 for the period for which he has paid tax by availing the benefit under the said notification till the 18th day of the month succeeding the quarter in which the	<i>Comment: Machinery provisions for exit from composition made applicable to exit from 02/2019</i>

	date of cessation takes place and furnish a return in FORM GSTR - 4 for the said period till the 30 th day of April following the end of the financial year during which such cessation happens	
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The Form GSTR CMP-08 (Statement for payment of self-assessed tax) has also been provided vide this notification.

Further, an instruction has been inserted in FORM GST REG-01 to provide that taxpayers who want to pay tax by availing benefit of notification No. 2/2019 – Central Tax (Rate) dated 07.03.2019, as amended, shall indicate such option at serial no. 5 and 6.1(iii) of Form GST REG-01.

Special procedure for furnishing of return and payment of tax

The Central Government vide *N. No. 21/2019-CT dated 23rd April, 2019* has provided the special procedure to be followed by persons paying tax under the provisions of section 10 or persons availing the benefit of N No. 02/2019 CT (R) for furnishing of return and payment of tax which is explained as below:

- (i) The said persons shall furnish a statement, every quarter or, as the case may be, part thereof containing the details of payment of self-assessed tax in FORM GST CMP-08 of the CGST Rules, 2017, till the 18th day of the month succeeding such quarter.
- (ii) The said persons shall furnish a return for every financial year or, as the case may be, part thereof in FORM GSTR-4 of the CGST Rules, 2017, on or before the 30th day of April following the end of such financial year.
- (iii) The registered persons paying tax by availing the benefit of the said notification, in respect of the period for which he has availed the said benefit, shall be deemed to have complied with the provisions of section 37 and section 39 of the said Act if they have furnished FORM GST CMP-08 and FORM GSTR-4 as provided in para 2 and para 3 above.

Comment: Being a special dispensation under section 148, this notification requires updated reporting prior to exit from composition tax payment schemes.

Restriction on furnishing of information in PART A of FORM GST EWB01

The Central Government vide *N No. 22 /2019 – CT dated 23rd April, 2019* has notified 21st June, 2019 as a date from which the provision of Rule 138E shall come into force.

Rule 138 E provides that no person shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of a registered person, whether as a supplier or a

recipient, who,—

(a) being a person paying tax under section 10, has not furnished the returns for two consecutive tax periods; or

(b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of two months.

Comment: To compel timely filing of returns Government has used e-way bill procedure as leverage. Trade needs to get accustomed to file returns promptly.

Clarification in respect of utilization of input tax credit under GST

The Central Government vide *circular no. 98/17/2019-GST dated 23rd April,2019* has clarified regarding the manner of utilization of ITC.

As per Section 49 credit of IGST has to be utilized first for payment of IGST then CGST and then SGST in that order mandatorily. Also, newly inserted section 49 A provides that the input tax credit of Integrated tax has to be utilized completely before ITC of Central tax / State tax can be utilized for discharge of any tax liability which will lead certain taxpayers to discharge of liability on account of one type of tax through electronic cash ledger while other tax ITC remain unutilized in credit ledger.

In view of above, Rule 88A has been inserted to allow utilization of ITC of IGST towards the payment of Central tax and State tax, or as the case may be, Union territory tax, in any order

From above two set of opinion can be drawn:

1. Available ITC of account of IGST will first be utilised for payment of IGST, then CGST/SGST and then for SGST/CGST or vice versa
2. Available ITC of account of IGST will first be utilised for payment of IGST and then for payment of CGST and SGST (in any proportion).

E.g.,

	ITC available	Liability	ITC Utilization OPTION-I		ITC Utilization OPTION-II
IGST	` 2000	` 1200	IGST- ` 1200	IGST- ` 1200	IGST- ` 1200
CGST	` 500	` 1800	IGST- ` 800 CGST- ` 500 Cash- ` 500	IGST- ` 0 CGST- ` 500 Cash- ` 1300	IGST- ` 400 CGST- ` 500 Cash- ` 900
SGST	` 300	` 1800	IGST- ` 0 SGST- ` 300 Cash- ` 1,500	IGST- ` 800 SGST- ` 300 Cash- ` 700	IGST- ` 400 SGST- ` 300 Cash- ` 1,100

Comment: This is a welcome circular and it now becomes clear that section 49A intended

the appropriation of IGST credit against CGST and SGST/UTGST only required that IGST be paid off first.

Clarification regarding filing of application for revocation of cancellation of registration in terms of Removal of Difficulty Order (RoD)

In light of the onetime opportunity provided by issuing removal of difficulty order and corresponding changes made in respective rule to apply for revocation of cancellation of registration. The central Government vide *Circular no. 99/18/2019-GST dated 23rd April, 2019* has clarified the issues relating to the procedure for filing of application for revocation of cancellation of registration which are explained in the table below:

Description	Time period for filing all returns due till the date of such cancellation	Time period for filing returns in respect of the period from the date of order of cancellation till the date of order of revocation
Where registration has been cancelled with effect from the date of order of cancellation	Before the date of application for revocation	Within a period of thirty days from the date of the order of revocation.
Where the registration has been cancelled with retrospective effect	Within a period of thirty days from the date of the order of revocation.	

One time opportunity to apply for revocation of cancellation of registration

A large number of registrations have been cancelled by the proper officer by serving notices by e-mail or making available at portal and the period of 30 days provided for revocation of cancellation order has been elapsed as taxpayers were not familiar with the manner of service of notice by e-mail or making available at portal in comparison to earlier regime where manual service of notice was provided, as a result many registered persons have missed the opportunity of applying for revocation.

Therefore, The central Government vide *Removal of difficulty order no., 5/2019 dated 23rd April, 2019* has provided that the registered persons who were unable to file application for revocation of cancellation of registration against order passed up to 31.03.2019, shall now be allowed to file application for revocation of cancellation of the registration upto 22.07.2019.

Comments: Numerous difficulties faced by trade are being addressed swiftly. Kudos to the Government machinery where difficulties of trade are given utmost priority.

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