

GOODS & SERVICES TAX / IDT UPDATE – 78

GST

I. Recommendations made during 38th Meeting of the GST Council – (Law & Procedural related changes) *(Recommendations to take effect only after duly notified)*

1. Constitution of Grievance Redressal Committees (GRC):-

GRC will be constituted at Zonal/State level with both CGST and SGST officers and including representatives of trade and industry and other GST stakeholders (GST practitioners and GSTN etc.). These committees will address grievances of specific/ general nature of taxpayers at the Zonal/ State level.

2. Extension of Due Date of Form GSTR-9 & 9C for F.Y. 2017-18:

Due date for annual return in **FORM GSTR-9** and reconciliation statement in **FORM GSTR-9C** for **FY 2017-18** to be extended to **31.01.2020**.

3. Measures to improve filing of Form GSTR-1:

- i. **Waiver of late fee** to be given to all taxpayers in respect of all pending **FORM GSTR-1** from **July 2017 to November 2019**, if the same are filed by **10.01.2020**.
- ii. **E-way Bill** for taxpayers who have **not filed** their **FORM GSTR-1** for **two tax periods shall be blocked**.

4. Restriction in Availing Input Tax Credit:

Input tax credit to the recipient in respect of invoices or debit notes that are not reflected in his **FORM GSTR-2A** shall be **restricted to 10 per cent** of the eligible credit available in respect of invoices or debit notes reflected in his **FORM GSTR-2A**.

5. Action for Blocking of fraudulently availed input tax credit:

To check the menace of fake invoices, suitable action to be taken for blocking of fraudulently availed input tax credit in certain situations.

6. SOP to be issued for actions to be taken in cases of Non-filing of FORM GSTR 3B:

A Standard Operating Procedure for tax officers would be issued in respect of action to be taken in cases of non-filing of **FORM GSTR 3B** returns.

7. **Extension of Due Date of filing of GST Returns for few North Eastern States for Nov,19:**

Due date of filing GST returns for the month of November, 2019 to be extended in respect of a few North Eastern States.

8. **Approval of amendments to be introduced in Budget 2020:**

The Council also approved various law amendments which will be introduced in Budget 2020.

[\[Release ID: 1596896 dt 18th December,2019\]](#)

**II. Recommendations made during 38th Meeting of the GST Council-
Rate changes and Exemptions
(Recommendations to take effect only after duly notified)**

1. **Single Rate of 28% on Lottery:**

To levy a single rate of GST @ **28%** on **both State run and State authorized lottery**. This change shall become **effective from 1st March, 2020**.

2. **Uniform Rate of 18% on woven & Non- woven Polyethylene Bags:**

Uniform rate of **18 %** (from 12 %) on Woven and Non-Woven Bags and sacks of **polyethylene or polypropylene strips** or the like, whether or not laminated, of a kind **used for packing of goods (HS code 3923/6305)** including Flexible Intermediate Bulk Containers (FIBC). This change is proposed to be **effective from 1st January, 2020**.

3. **Exemption of upfront payment on long term leasing of industrial plots :-**

To **exempt upfront amount** payable for **long term lease of industrial/ financial infrastructure plots** by an entity **having 20% or more ownership of Central or State Government**. Presently, the exemption is available to an entity having 50% or more ownership of Central or State Government. This change is proposed to be **effective from 1st January, 2020**.

[\[Release ID: 1596895 dt 18th December, 2019\]](#)

III. E-invoicing under GST

A. Amendment in Manner of issuing invoice

The Central Government vide [Notification No. 68/2019-CT dt 13th December, 2019](#) has inserted the following sub-rules in rule 48 in the CGST Rules, 2017 (Manner of Issuing Invoice):-

“(4) The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in **FORM GST INV-01** after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.

(5) Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.

(6) The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4).”

[Notification No. 68/2019-CT dt 13th December, 2019]

B. Common portal notified for the purpose of e-invoice

The Central Government vide [Notification No. 69/2019-CT dt 13th December, 2019](#) has notified the following as the **Common Goods and Services Tax Electronic Portal** for the purpose of **preparation of the invoice in terms of sub-rule(4) of rule 48** of the aforesaid rules, namely :-

- (i) www.einvoice1.gst.gov.in;
- (ii) www.einvoice2.gst.gov.in;
- (iii) www.einvoice3.gst.gov.in;
- (iv) www.einvoice4.gst.gov.in;
- (v) www.einvoice5.gst.gov.in;
- (vi) www.einvoice6.gst.gov.in;
- (vii) www.einvoice7.gst.gov.in;
- (viii) www.einvoice8.gst.gov.in;
- (ix) www.einvoice9.gst.gov.in;
- (x) www.einvoice10.gst.gov.in.

This notification shall come into force **with effect from the 1st day of January, 2020.**

[Notification No. 69/2019-CT dt 13th December, 2019]

C. Notification of the class of registered person required to issue E-invoice & its effective date.

The Central Government vide [Notification No. 70/2019-CT dt 13th December, 2019](#) has notified registered person, **whose aggregate turnover** in a financial year **exceeds one hundred crore rupees**, as a class of registered person **who shall prepare invoice in terms of sub-rule (4) of rule 48** of the said rules in respect of supply of goods or services or both **to a registered person.**

This notification shall come into force from the **1st day of April, 2020.**

[[Notification No. 70/2019-CT dt 13th December, 2019](#)]

D. Notification of the effective date of Tax Invoice having Quick Response (QR) code.

The Central Government vide [Notification No. 71/2019-CT dt 13th December, 2019](#) has notified **1st April 2020** as the date from which **the tax invoice shall have Quick Response (QR) code** subject to such conditions and restrictions as mentioned therein.

[[Notification No. 71/2019-CT dt 13th December, 2019](#)]

E. Notification of the class of registered person required to issue invoice having QR Code

The Central Government vide [Notification No. 72/2019-CT dt 13th December, 2019](#) has notified that that **an invoice issued by a registered person, whose aggregate turnover** in a financial year **exceeds five hundred crore rupees**, to an unregistered person (hereinafter referred to as **B2C invoice**), shall have **Quick Response (QR)code:**

Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

This notification shall come into force from the **1st day of April, 2020.**

[[Notification No. 72/2019-CT dt 13th December, 2019](#)]

IV. Extension of Due dates for filing various Returns under GST for Jammu & Kashmir

The Central Government vide [Notification No. 63/2019-CT dt 12th December, 2019](#); [Notification No. 64/2019-CT dt 12th December, 2019](#); [Notification No. 65/2019-CT dt 12th December, 2019](#); [Notification No. 66/2019-CT dt 12th December, 2019](#) & [Notification No. 67/2019-CT dt 12th December, 2019](#) has further **provided/extended** the due dates of the following Forms **for registered persons whose principal place of business** is in the state of **Jammu and Kashmir** as under:-

Sl. No	Form No.	Period	Due Date (as extended)
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1.	<p>FORM GSTR-1 (Form for furnishing the details of outward supply of goods or services or both.)</p> <p>(For registered persons in Jammu & Kashmir having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year)</p>	<p>For each of the months of:-</p> <p>July, 2019; August,2019; September, 2019</p>	<p>20th December, 2019</p>
2.	<p>FORM GSTR-1 (Form for furnishing the details of outward supply of goods or services or both.)</p> <p>(For registered persons in Jammu & Kashmir having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year)</p>	<p>For the months of:-</p> <p>October, 2019</p>	<p>20th December, 2019</p>
3.	<p>FORM GSTR-7 (Form for furnishing the monthly details of TDS)</p> <p>(For registered persons in Jammu & Kashmir)</p>	<p>For each of the months of :-</p> <p>July,2019; August,2019; September,2019; October,2019</p>	<p>20th December, 2019</p>
4.	<p>FORM GSTR-3B (Form to furnish monthly summary of data)</p> <p>(For registered persons in Jammu & Kashmir)</p>	<p>For each of the months of :-</p> <p>July,2019; August,2019; September, 2019</p>	<p>20th December, 2019</p>
5.	<p>FORM GSTR-3B (Form to furnish monthly summary of data)</p> <p>(For registered persons in Jammu & Kashmir)</p>	<p>For each of the months of :-</p> <p>October, 2019</p>	<p>20th December, 2019</p>

[Notification No. 63/2019-CT dt 12th December, 2019; Notification No. 64/2019-CT dt 12th December, 2019; Notification No. 65/2019-CT dt 12th December, 2019; Notification No. 66/2019-CT dt 12th December, 2019 & Notification No. 67/2019-CT dt 12th December, 2019]

V. Withdrawal of Circular No. 107/26/2019-GST dt 18-07-2019

The Central Board of Indirect Taxes and Customs vide [Circular No. 127/46/2019 dt 4th December, 2019](#) has withdrawn ab-initio, Circular No. 107/26/2019-GST dt 18.07.2019, wherein certain clarifications were given in relation to various doubts related to supply of Information Technology enabled Services (ITeS services) under GST.

Comment: The above withdrawal is effective from 18th July, 2019 & it is a welcome step by the Government since as the above circular was creating doubts related to supply of Information Technology enabled Services (ITeS services) under GST.

[Circular No. 127/46/2019 dt 4th December, 2019]

VI. Extension of last date for filing of appeals before the GST Appellate Tribunal against orders of Appellate Authority

The Appellate Tribunal and its Benches are yet to be constituted in many States and Union territories under section 109 of the CGST Act as a result whereof, **the appeal or application** as referred to in subsection (1) or sub-section (3) of section 112 of the said Act **could not be filed within the time limit specified** in the said sub-sections, and because of that, certain difficulties have arisen in giving effect to the provisions of the said section.

Therefore, the Central Government vide [Removal of difficulty order No. 9/2019 - CT dt 3rd December, 2019](#) has clarified that the **start of three months or six months**, as the case may be, for filing of **appeal or application** as referred to in subsection (1) or sub-section (3) of section 112 of the CGST Act shall be considered to be the later of:-

- (i) date of communication of order; or
- (ii) the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office.

[Removal of difficulty order No. 9/2019 - CT dt 3rd December, 2019]

VII. Transition plan with respect to J&K reorganization w.e.f. 31.10.2019

The Central Government vide [Notification No. 62/2019-CT dt 26th November, 2019](#)

has notified that those persons **whose principal place of business or place of business lies in the erstwhile State of Jammu and Kashmir till the 30th day of October, 2019;** and lies in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh **from the 31st day of October, 2019 onwards** shall follow the following special procedure **till 31st Day of December, 2019 (Transition Date):-**

➤ The said class of person shall :

(i) **ascertain the tax period** as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act **for the month of October, 2019 and November, 2019 as below:**

(a) October, 2019: 1st October, 2019 to 30th October, 2019;

(b) November, 2019: 31st October, 2019 to 30th November, 2019;

(ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from **31st October, 2019 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;**

(iii) **have an option to transfer the input tax credit (ITC)** from the registered Goods and Services Tax Identification Number (GSTIN), **till the 30th day of October, 2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31st day of October by following the procedure as below:**

(a) the said class of persons **shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration;**

(b) **the ITC shall be transferred on the basis of ratio of turnover** of the place of business in the Union territory of Jammu and Kashmir and in the Union territory of Ladakh;

(c) **the transfer of ITC shall be carried out through the return** under section 39 of the said Act for any tax period before the transition date and the transferor GSTIN would be debiting the said ITC from its electronic credit ledger in Table 4 (B) (2) of **FORM GSTR-3B** and the transferee GSTIN would be crediting the equal amount of ITC in its electronic credit ledger in Table 4 (A) (5) of **FORM GSTR-3B**

➤ **The balance of State taxes in electronic credit ledger** of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from the 31st day of October, 2019, shall **be transferred as balance of Union territory tax in the electronic credit ledger.**

➤ The **provisions of clause (i) of section 24 of the said Act shall not apply** on the said class of persons **making inter-State supplies** between the Union territories of Jammu and Kashmir and Ladakh **from the 31st day of October,**

2019 till the transition date.

[\[Notification No. 62/2019-CT dt 26th November, 2019\]](#)

VIII. Clarification on scope of the notification entry at item (id), related to job work, under heading 9988 of Notification No. 11/2017-CT (Rate) dt 28-06-2017

The Central Government vide [Circular No. 126/45/2019-GST dt 22nd November, 2019](#) clarified the scope of entry at item (id) and (iv) under heading 9988 of Notification No. 11/2017-CT (Rate) dt 28- 06-2017. The matter has been examined and observed that there is a clear demarcation between scope of the entries at item (id) and item (iv) under heading 9988. Entry at item (id) covers only job work services as defined in section 2 (68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging to another registered person. On the other hand, the entry at item (iv) specifically excludes the services covered by entry at item (id), and therefore, covers only such services which are carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.

The entries at items (id) and (iv) under heading 9988 read as under:

(3)	(4)	(5)
(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;	6	-
(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (ia) and (iii) above.	9	-

[\[Circular No. 126/45/2019-GST dt 22nd November, 2019\]](#)

IX. Fully electronic refund process through FORM GST RFD-01 and single disbursement

The Central Government issued [Circular No. 125/44/2019 – GST dt 18th November, 2019](#) to provide for the process of electronic submission and processing of the refund application wherein it was specified that the refund application in **FORM GST RFD01A**, along with all supporting documents, shall be submitted electronically. However, various post submission stages of processing of the refund application continued to be manual.

The circular is issued in supersession of earlier Circulars viz. Circular No. 17/17/2017-GST dt 15.11.2017, 24/24/2017-GST dt 21.12.2017, 37/11/2018-GST

dt 15.03.2018, 45/19/2018-GST dt 30.05.2018 (including corrigendum dt 18.07.2019), 59/33/2018-GST dt 04.09.2018, 70/44/2018-GST dt 26.10.2018, 79/53/2018-GST dt 31.12.2018 and 94/13/2019-GST dt 28.03.2019. However, the provisions of the said Circulars shall continue to apply for all refund applications filed on the common portal before 26.09.2019 and the said applications shall continue to be processed manually as prior to deployment of new system.

With effect from 26.09.2019, the applications for the following types of refunds shall be filed in FORM GST RFD 01 on the common portal and the same shall be processed electronically:

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

[\[Circular No. 125/44/2019 – GST dt 18th November, 2019\]](#)

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