

## **GOODS & SERVICES TAX / IDT UPDATE – 93**

### **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 5<sup>th</sup> 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.”.

*[Notification No. 38/2020- Central Tax dated 5<sup>th</sup> May, 2020].*

### **Amendments to special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016.**

The Central Government vide [Notification No. 39/2020- Central Tax dated 5<sup>th</sup> May, 2020](#) has made the following amendments in **Notification No. 11/2020- Central Tax dated 21<sup>st</sup> March 2020.**, wherein special procedures to be followed by the corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 was provided, as under:-

- The **corporate debtors who have furnished GSTR-1 & GSTR-3B** for all the tax periods prior to the appointment of IRP/RP **have been excluded from following the special procedures** as specified in the earlier notification.
- Those corporate debtor who are to be treated as distinct person & 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, shall be liable to **take new registration within:-**
  - **thirty days of the appointment of the IRP/RP**
  - **or by 30th June, 2020, whichever is later:.”.**

*[Notification No. 39/2020- Central Tax dated 5<sup>th</sup> May, 2020]*

### **Extension of due date for furnishing FORM GSTR-3B for the taxpayers registered in Ladakh.**

The Central Government vide [Notification No. 42/2020- Central Tax dated 5<sup>th</sup> May, 2020](#)

has further **provided/extended** the due dates of furnishing of the following Forms **for registered persons whose principal place of business is in the Union territory of Jammu and Kashmir or the Union territory of Ladakh** as under:-

<u>Sl. No</u>	<u>Form No.</u>	<u>Period</u>	<u>Due Date (as extended)</u>
1.	<b>FORM GSTR-3B</b> (Form to furnish monthly summary of data)  (For registered persons having principal place of business in the Union territory of Jammu & Kashmir )	<b>For each of the months of :-</b>  <b>November,2019;</b> <b>December,2019;</b> <b>January,2020;</b> <b>February,2020</b>	<b>24<sup>th</sup> March, 2020</b>
2.	<b>FORM GSTR-3B</b> (Form to furnish monthly summary of data)  (For registered persons having principal place of business in the Union territory of Ladakh )	<b>For each of the months of :-</b>  <b>November,2019;</b> <b>December,2019</b>	<b>24<sup>th</sup> March, 2020</b>
		<b>January,2020;</b> <b>February,2020</b> <b>March,2020</b>	<b>20<sup>th</sup> May, 2020</b>

*[Notification No. 42/2020- Central Tax dated 5<sup>th</sup> May, 2020]*

**Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws**

The Central Government vide [Circular No. 138/08/2020-GST dated 6<sup>th</sup> 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:-

<b>Sl. No.</b>	<b>Issue</b>	<b>Clarification</b>

## Issues related to Insolvency and Bankruptcy Code, 2016

1.	It has been represented that <b>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.</b>	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 :-  <b>within thirty days of the appointment of the IRP/RP</b>  <b>or by 30th June, 2020,.</b>
2.	<b>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.</b>	Vide notification No. 39/2020 - Central Tax, dated 05.05.2020 it is clarified that IRP/RP <b><u>would not be required to take a fresh registration</u></b> in those cases where statements in <b>FORM GSTR-1</b> under section 37 and returns in <b>FORM GSTR-3B</b> under section 39 of the CGST Act, <b>for all the tax periods prior to the appointment of IRP/RP, have been furnished</b> under the registration of Corporate Debtor ( <b>earlier GSTIN</b> ).
3.	Another doubt has been raised that the present notification has used the terms IRP and RP interchangeably, and in cases <b>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.</b>	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 <u>an amendment in the registration form</u> . 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.
<b>Other COVID-19 related representations.</b>		
4.	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>
5.	Sub-rule (3) of that rule 45 of CGST Rules requires furnishing of <b>FORM GST ITC-04</b> 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 <b>FORM GST ITC-04</b> 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	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 <b>FORM GST ITC-04</b> for the quarter ending March, 2020 stands extended up to 30.06.2020.

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.

[[Circular No. 138/08/2020-GST dated 6<sup>th</sup> May,2020](#)]

## **CUSTOMS**

### **Provisional Clearance of Goods under India's Trade Agreements**

In reference to **Circular 18/2020-Customs, dated 11.04.2020**, which provides an option to clear goods under preferential tariff claim, in terms of section 18 of the Customs Act, 1962, where a Certificate of Origin (CoO) is not available at the time of filing customs documents, **the Central Board of Indirect Taxes & Customs**, vide [Instruction No. 04/2020 – Customs dated 4<sup>th</sup> May,2020](#), has issued instructions that that where original hard copy of Certificate of Origin (CoO) has not been submitted or only **digitally signed copy or unsigned copy of CoO** is submitted, same **may be treated at par with category as listed at serial no. 5(c) of the Circular 38/2016-Customs**, provided that the matter is not covered under 5(a), wherein there is reasonable belief that the it involves mis-declaration of origin/value addition.

[[Instruction No. 04/2020 – Customs dated 4<sup>th</sup> May,2020](#)]

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