

GOODS & SERVICES TAX / IDT UPDATE-135

1. Amendments in CGST Rules, 2017

[Notification No. 35/2021 – Central Tax dated 24th September, 2021](#) has made the following amendments in the CGST Rules, 2017:

(i) **Rule 10A (Furnishing of Bank Account Details) – To be effective from a date to be notified**

The details of bank account furnished by the registered person after the grant of certificate of registration ought to be for the bank account which is in the name of the registered person and obtained on PAN of such registered person. In case of a proprietorship concern, the PAN of the proprietor shall also be linked with the Aadhaar number of the proprietor.

(ii) **Insertion of Rule 10B (Aadhaar authentication for registered person) - To be effective from a date to be notified**

The registered person (other than the notified persons who are exempt from the requirement of Aadhaar authentication) shall be mandatorily required to undergo Aadhaar authentication of the person mentioned in Table 1 below and of the authorized signatory in order to be eligible for-

- a) filing of application for revocation of cancellation of registration
- b) filing of refund application
- c) refund under rule 96 of the integrated tax paid on goods exported out of India

Table 1

S. No.	Entity	Authority
1.	Proprietorship Firm	Proprietor
2.	Partnership Firm	Any Partner
3.	HUF	Karta
4.	Company	Managing Director or any Whole Time Director
5.	Association of persons or Body of individuals or a Society	Any of the Members of the Managing Committee
6.	Trust	Trustee in the Board of Trustees

If Aadhaar number has not been assigned to the person required to undergo Aadhaar authentication, such person shall furnish the following identification documents, namely: –

- a. Her/his Aadhaar Enrolment ID slip; **and**

- b. Bank passbook with photograph, **or** Voter ID card issued by the Election Commission of India **or** Passport **or** Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988

Such person shall undergo the authentication of Aadhaar number within a period of **30 days** of the allotment of the Aadhaar number.

Consequential amendments have been made in rule 23 (Revocation of cancellation of registration), rule 89 (Application for refund of tax, interest, penalty, fees or any other amount) and rule 96 (Refund of integrated tax paid on goods or services exported out of India) to make Aadhaar authentication under rule 10B mandatory for filing application for revocation of cancellation of registration under rule 23, refund application under rule 89 and for refund under rule 96. Such amendments shall also be effective from a date to be notified subsequently.

(iii) Insertion of Rule 96C (Bank Account for credit of refund) - To be effective from a date to be notified

The bank account under the following provisions shall mean such bank account of the applicant which is in the name of applicant and obtained on his PAN:

Rule 91(3)	Grant of provisional refund and issuance of payment order in
Rule 92(4)	Order sanctioning refund under section 54(8) of the CGST Act, 2017 and issuance of payment order
Rule 94	Order sanctioning interest on delayed refunds and issuance of payment order

In case of a proprietorship concern, the PAN of the proprietor shall also be linked with the Aadhaar number of the proprietor.

(iv) Rule 45 (Conditions and restrictions in respect of inputs and capital goods sent to the job worker) – To be effective from 1st October, 2021

In order to give effect to one of the recommendations of the 45th GST Council meeting, sub-rule (3) of rule 45 has been amended to specify the periodicity of furnishing Form ITC-04 as under:

S. No.	Particulars	Remark
(a)	Principal, whose annual aggregate turnover in immediately preceding financial year exceeds Rs. 5 crores	ITC-04 to be furnished once in six months (commencing on 1 st April and 1 st October)
(b)	In any other case	ITC-04 to be furnished annually

(v) Rule 59 (Form and manner of furnishing details of outward supplies) – To be effective from 1st January, 2022

Earlier, the registered person was not allowed to file Form GSTR-1, if he has not furnished the return in Form GSTR-3B for preceding two months. Now, the said period of **two months** has been reduced to **one month**. Thus, the registered person

shall not be able to file Form GSTR-1 if he has not filed the Form GSTR-3B for the previous month. Consequently, sub-clause (c) has been omitted.

(vi) Rule 89 (Application for refund of tax, interest, penalty, fees or any other amount) – To be effective from 24th September, 2021

A new sub-rule (1A) has been inserted in rule 89 to prescribe specific provisions for claiming refund of tax under section 77 of the CGST Act, 2017. The new subsection lays down that any person, claiming refund under section 77 of any tax paid by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, may, before the expiry of a period of two years from the date of payment of the tax on the inter-State supply, file an application electronically in FORM GST RFD-01 through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

The said application may, as regard to any payment of tax on inter-State supply before coming into force of this sub-rule, be filed before the expiry of a period of two years from the date on which this sub-rule comes into force.

[Circular No. 162/18/2021-GST dated 25th September, 2021](#) has been issued to clarify certain doubts/issues in respect of refund of tax specified in section 77(1) of the CGST Act, 2017 and section 19(1) of the IGST Act, 2017 as under:

A. Meaning of the term “subsequently held”

The term “**subsequently held**” given in section 77 of CGST Act and section 19 of IGST Act **covers both the cases** where the inter-State or intra-State supply made by a taxpayer, is either subsequently found by taxpayer himself as intra-State or inter-State respectively or where the inter-State or intra-State supply made by a taxpayer is subsequently found/ held as intra-State or inter-State respectively by the tax officer in any proceeding.

B. The relevant date for claiming refund under section 77 of the CGST Act, 2017/ section 19 of the IGST Act, 2017

Through the insertion of sub-rule (1A) in rule 89 vide aforementioned [Notification No. 35/2021-Central Tax dated 24.09.2021](#), it has been clarified that the refund under section 77 of CGST Act/ section 19 of IGST Act, 2017 can be claimed before the expiry of two years from the date of payment of tax under the correct head. However, in cases, where the taxpayer has made the payment in the correct head before the date of issuance of [Notification No.35/2021-Central Tax dated 24.09.2021](#), the refund application under section 77 of the CGST Act/ section 19 of the IGST Act can be filed before the expiry of two years from the date of issuance of the said notification. i.e., from 24.09.2021.

Application of sub-rule (1A) of rule 89 read with section 77 of the CGST Act / section 19 of the IGST Act can be explained through following illustrations:

A taxpayer “A” has issued the invoice dated 10.03.2018 charging CGST and SGST on a transaction and accordingly paid the applicable tax (CGST and SGST) in the return for March, 2018 tax period. The following scenarios are explained hereunder:

S. No.	Scenario	Last date for filing the refund claim
1.	Having realized on his own that the said transaction is an inter-State supply, "A" paid IGST in respect of the said transaction on 10.05.2021.	Since "A" has paid the tax in the correct head before issuance of notification No. 35/2021-Central Tax, dated 24.09.2021, the last date for filing refund application in FORM GST RFD-01 would be 23.09.23 (two years from date of notification).
2.	Having realized on his own that the said transaction is an inter-State supply, "A" paid IGST in respect of the said transaction on 10.11.2021 i.e., after issuance of notification No. 35/2021-Central Tax dated 24.09.2021	Since "A" has paid the correct tax on 10.11.2021, in terms of rule 89 (1A) of the CGST Rules, the last date for filing refund application in FORM GST RFD-01 would be 09.11.2023 (two years from the date of payment of tax under the correct head, i.e., integrated tax)
3.	Proper officer or adjudication authority or appellate authority of "A" has held the transaction as an inter-State supply and accordingly, "A" has paid the IGST in respect of the said transaction on 10.05.2019	Since "A" has paid the tax in the correct head before issuance of notification No. 35/2021-Central Tax, dated 24.09.2021, the last date for filing refund application in FORM GST RFD-01 would be 23.09.23 (two years from date of notification).
4.	Proper officer or adjudication authority or appellate authority of "A" has held the transaction as an inter-State supply and accordingly, "A" has paid the IGST in respect of the said transaction on 10.11.2022 i.e., after issuance of notification No. 35/2021- Central Tax dated 24.09.2021.	Since "A" has paid the correct tax on 10.11.2022, in terms of rule 89 (1A) of the CGST Rules, the last date for filing refund application in FORM GST RFD-01 would be 09.11.2024 (two years from the date of payment of tax under the correct head, i.e., integrated tax).

Rule 89 (1A) of the CGST Rules would be applicable for section 19 of the IGST Act also, where the taxpayer has initially paid IGST on a specific transaction which later on is held as intra-State supply and the taxpayer accordingly pays CGST and SGST on the said transaction. It is also clarified that any refund applications filed, whether pending or disposed off, before issuance of notification No.35/2021-Central Tax, dated 24.09.2021, would also be dealt in accordance with the provisions of rule 89(1A) of the CGST Rules.

C. Tax adjustment through issuance of credit note

Refund under section 77 of the CGST Act, 2017 / section 19 of the IGST Act, 2017 would not be available where the taxpayer has made tax adjustment through issuance of credit note under section 34 of the CGST Act, 2017 in respect of the said transaction.

2. Amendment in Notification No. 03/2021 dated 23.02.2021

[Notification No. 03/2021 dated 23rd February, 2021](#) specifies persons who are exempted from the requirement of Aadhaar authentication under section 25(6D) of the CGST Act, 2017. The notification has been amended to provide that in addition to provisions of Aadhaar authentication as provided under sub-sections (6B) or (6C) of section 25, provisions of sub-section (6A) shall also not apply to persons specified under the notification.

[Notification No 36/2021-Central Tax dated 24th September, 2021](#)

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