

GOODS AND SERVICES TAX

CA. Rajiv Luthia

CBIC vide Notification No. 74/2019 - CT dated 26th December, 2019 has waived the late fees for registered person who failed to furnish the details of Outward supplies in Form GSTR -1 for months/quarter from July, 2017 to November, 2019, provided he furnishes the respective GSTR 1 between period 19th December, 2019 to 10th January, 2020.

CBIC vide Notification No. 75/2019 - CT dated 26th December, 2019 makes following amendment in CGST Rule, 2017

Condition for claiming ITC – Rule 36

Rule 34(4) has been amended to provide that ITC availed by registered person in respect of Invoice & debit note not appearing in GSTR 2A shall not exceed 10% of ITC on account of Invoice & debit note uploaded by supplier under section 37(1) & appearing in GSTR 2A. Before amendment, the ITC that can be availed by registered person was 20% of ITC not appearing in GSTR 2A. The said amendment shall come into effect from 1st January, 2020.

Condition for use of amount available in Electronic credit ledger – Rule 86A

New rule 86A has been inserted to provide that the Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of ITC available in the electronic credit ledger has been fraudulently availed or is ineligible, may for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharging of any liability under section 49 or for claim of any refund of any unutilised amount, in following cases.

- The credit of ITC has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36
 - o Issued by a registered person who has been found non-existent or not conducting any business from any place for which registration has been obtained; or
 - o Without receipt of goods or services or both.
- The credit of ITC has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or
- The registered person availing the credit of ITC has been found non-existent or not conducting any business from any place for which registration has been obtained; or
- The registered person availing any credit of ITC is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,

The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.

- Rule 138E – Restriction on generation on E-way Bill

Rule 138E has been amended to provide that person who fails to furnish details of Outward supply (i.e. GSTR 1) for any two months or quarter, as the case be, shall not be allowed to generate E-way Bill. The said rule shall come into force from 11th January, 2020.

CBIC vide Notification No. 76/2019 - CT dated 26th December, 2019 has extended the due date for furnishing of return in FORM GSTR-1 for registered persons in Assam, Manipur, Meghalaya and Tripura for the month of November, 2019 till 31st December, 2019

CBIC vide Notification No. 77/2019 - CT dated 26th December, 2019 has extended the due date for furnishing of return in FORM GSTR-3B for registered persons in Assam, Manipur, Meghalaya and Tripura for the month of November, 2019 till 31st December, 2019

CBIC vide Notification No. 78/2019 - CT dated 26th December, 2019 has extended the due date for furnishing of return in FORM GSTR-7 (Person required to deduct TDS) for registered persons in Assam, Manipur, Meghalaya and Tripura for the month of November, 2019 till 25th December, 2019

CBIC vide Notification No. 1/2020 - CT dated 1st January, 2020 has appointed 1st day of January, 2020 as the date on which following provision of Finance (No. 2) Act, 2019 shall come into force

- Section 93 of Finance Act, 2019 – Amendment in section 10 of CGST Act, 2017
- Section 94 of Finance Act, 2019 – Amendment in section 22 of CGST Act, 2017
- Section 95 of Finance Act, 2019 – Amendment in section 25 of CGST Act, 2017
- Section 96 of Finance Act, 2019 – Insertion of Section 31A in CGST Act, 2017
- Section 98 of Finance Act, 2019 – Amendment in section 44 of CGST Act, 2017
- Section 99 of Finance Act, 2019 – Insertion of Section 49(10) in CGST Act, 2017
- Section 101 of Finance Act, 2019 – Amendment in section 52 of CGST Act, 2017
- Section 102 of Finance Act, 2019 – Insertion of section 53A in CGST Act, 2017
- Section 111 of Finance Act, 2019– Amendment in section 168 of CGST Act, 2017
- Section 112 of Finance Act, 2019 – Amendment in section 171 of CGST Act, 2017

CBIC vide Notification No. 2/2020 - CT dated 1st January, 2020 made following amendment in CGST Rule, 2017

- Due date for furnishing Form GST TRAN 1 has been extended from 31st December, 2019 to 31st March, 2020 for registered person who could not submit the said declaration by due date on account of technical difficulties on the common portal & in respect of whom the council has made recommendation for such extension.
- Form REG -01 (Part B) has been substituted by new form
- Form GSTR 3A is been substituted by new form
- Form INV 01 has been substituted by new form

CBIC vide notification 4/2020-CT dated 10th January, 2020 provide a one time amnesty scheme to file all FORM GSTR 1 from July, 2017 to November, 2019 till 17th January, 2020 without late fees.

CBIC vide notification 5/2020-CT dated 13th January, 2020 appoints

- a) Principal Commissioner or commissioner of Central Tax for decision order passed by additional or Joint commissioner
- b) Additional commissioner or Joint commissioner of Central tax for decision or order passed by Deputy/assistant or superintendent of central tax as revisional authority under section 108 of CGST Act, 2017

CBIC vide Notification No. 27/2019 – CT (Rate) dated 30th December, 2019 has increased the rate for following item from 6% to 9%

HSN Code	Particulars
3923 or 6305	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;

The said notification shall come into force from 1st January, 2020.

CBIC vide Notification No. 28/2019 – CT (Rate) dated 30th December, 2019 has substituted Condition of entry 41 of Notification 12/2017-CT (Rate) relating to Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 20 per cent. or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area, as follows

“Provided that the leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area:

Provided further that the State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard:

Provided also that in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty:

Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above

CBIC vide Notification No. 29/2019 – CT (Rate) dated 31st December, 2019 has substituted entry 15 of notification 13/2017-CT (Rate) as follow

Nature of transaction	Service provider	Service receiver
Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient	Anybody corporate located in the taxable territory

CBIC vide circular no. 130/2019 dated 31st December, 2019 has clarified as follow in respect of RCM on renting of Motor Vehicle

- When any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure in law under RCM. There are only two rates applicable on the service of renting of vehicles, 5% with limited ITC and 12% with full ITC. The only interpretation of the notification entry in question which is not absurd would be that –
 - o Where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and,

- o Where the supplier of the service doesn't charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM.
- Though a supplier providing the service to a body corporate under RCM may still be paying GST @ 5% on the services supplied to other non-body corporate clients, to bring in greater clarity, serial No. 15 of the notification No. 13/2017-CT (R) dated 28.6.17 has been amended vide notification No. 29/2019-CT (R) dated 31.12.19 to provide that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfils all the following conditions:-
 - (a) is other than a body-corporate;
 - (b) does not issue an invoice charging GST @12% from the service recipient; and
 - (c) supplies the service to a body corporate.
- It may be noted that the present amendment of the notification is merely clarificatory in nature and therefore for the period 01.10.2019 to 31.12.2019 also, clarification given at para 5 above shall apply, as any other interpretation shall render the RCM notification for the said service unworkable for that period.

Government order dated 14.01.2020 states that elections to the managing committee of Co-operative Housing Societies for 250 or less than 250 members are further postponed till 29.02.2020 since rules for conducting elections are under finalization . The existing managing committees of societies who have completed their tenure shall continue till such time rules are published .