

GOODS AND SERVICES TAX

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CBIC vide notification 93/2020 – CT dated 22nd December, 2020 has waived late fee payable for delay in Furnishing FORM GSTR 4 (Return by composition dealer) for financial year 2019-20 from 1st November, 2020 till 31st December, 2020 for registered person whose principal place of business is in union territory of Ladakh.

CBIC vide notification 94/2020-CT dated 22nd December, 2020 has amended GST Rules as follows

- Rule 8 (Application for registration), sub-Rule 4A has been substituted as follows

Every application made under rule (4) shall be followed by-

(a) biometric-based Aadhaar authentication and taking photograph, unless exempted under sub-section (6D) of section 25, if he has opted for authentication of Aadhaar number; or

(b) taking biometric information, photograph and verification of such other KYC documents, as notified, unless the applicant is exempted under sub-section (6D) of section 25, if he has opted not to get Aadhaar authentication done,

of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this subrule.

- Time limit to approve & grant registration certificate is increased to 7 working days from existing 3 working days.

- In Rule 21 (Registration to be cancelled in certain case), new sub rule (e), (f) & (g) has been inserted which are as follows

The registration granted to a person is liable to be cancelled, if the said person

(e) avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or

(f) furnishes the details of outward supplies in FORM GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or

(g) violates the provision of rule 86B (i.e. restriction on use of amount available in ECL)

- In Rule 21A (Suspension of registration), new sub rule 2A has been inserted to provide as follows:

Where, a comparison of the returns furnished by a registered person under section 39 with

(a) the details of outward supplies furnished in FORM GSTR-1; or

(b) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1,

or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.

- In Rule 21A (suspension of registration), New sub rule 3A has been inserted to provide that in case registration has been suspended under sub-rule (2) or sub-rule (2A), assessee shall not be granted any refund under section 54, during the period of suspension of his registration

- In sub-rule 21A (4), new proviso has been inserted to provide that the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

- In Rule 36(4), ITC availed by registered person shall not exceed 5% (Previously it was 10%) of eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under section 37(1) in FORM GSTR-1 or using the invoice furnishing facility. This amendment shall come into force from 1st January, 2021.
- In Rule 59 (Form & Manner of furnishing details of outward supplies), sub rule 5 has been inserted to provide as follows

Notwithstanding anything contained in this rule, -

- (a) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for preceding two months;
- (b) a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period;
- (c) a registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent. of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period.
- Rule 86B has been inserted to provide as follows:

86B. Restrictions on use of amount available in electronic credit ledger.-Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:

Provided that the said restriction shall not apply where –

- (a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired; or
- (b) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of subsection (3) of section 54; or
- (c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or
- (d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or
- (e) the registered person is –
 - (i) Government Department; or
 - (ii) a Public Sector Undertaking; or
 - (iii) a local authority; or
 - (iv) a statutory body:

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit

- In Rule 138(10) (E-way Bill), In case of transport in “other than over Dimensional Cargo” E-way bill for distance upto 200 kms (Previous 100 kms) shall be valid for period of 1 days.

CBIC vide notification 95/2020-CT dated 30th December, 2020 has extended the due-date for furnishing GSTR 9 (Annual Return) for financial Year 2019-20 till 28th February, 2021.