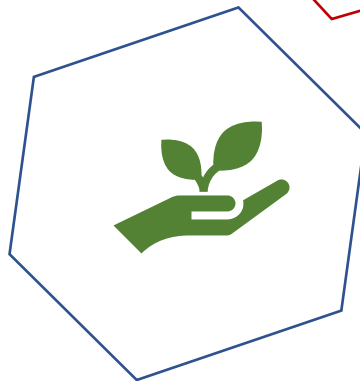
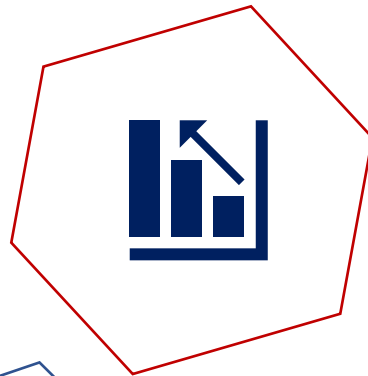
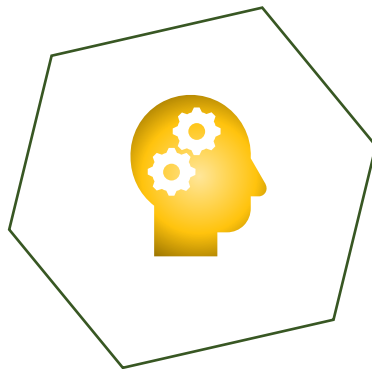


NEWSLETTER FOR THE MONTH OF MARCH 2020



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Recent Notifications Issued under GST

Foreign Airlines Companies exempted from filing GSTR-9C [Notification No. 09/2020-Central tax Dated 16th March 2020]

The Central Government vide this notification notified that the **foreign company which is an airlines company** covered under the notification issued under sub-section (1) of section 381 of the Companies Act, 2013 (18 of 2013) and who have complied with the sub-rule (2) of rule 4 of the Companies (Registration of Foreign Companies) Rules, 2014 as **the class of registered persons** who shall follow the **special procedure** as mentioned below :-

Special procedure to be followed: -

- **Exemption from furnishing GSTR-9C: -**

The said persons **shall not be required to furnish** reconciliation statement in **FORM GSTR-9C** to the Central Goods and Services Tax Rules, 2017 under subsection (2) of section 44 of the said Act read with sub-rule (3) of rule 80 of the said rules:

- **Requirement to submit the Receipts & Payment statement of Indian Business Operations: -**

Provided that **a statement of receipts and payments for the financial year in respect of its Indian Business operations, duly authenticated by a practicing Chartered Accountant in India** or a firm or a Limited Liability Partnership of practicing Chartered Accountants in India **is submitted** for each GSTIN **by the 30th September** of the year succeeding the financial year.

Editorial Comment *This notification shall sooth the 'Specified Foreign Airlines' companies, as they shall not be required to furnish reconciliation statement in FORM GSTR-9C. However, statement of receipts and payments for the financial year in respect of its Indian Business operations, authenticated by CA for each GSTIN shall suffice. Such statement of receipts and payments shall be submitted by the 30th September of the year succeeding the financial year.*

Special Procedure prescribed for Union territory of Daman & Diu & Dadra & Nagar Haveli to transfer ITC or taxes [Notification No. 10/2020-Central tax Dated 23rd March 2020]

The Central Government vide this notification notified that the following **special procedures** to be followed by the following registered persons as mentioned below: -

Who shall follow: -

Those persons whose **principal place of business or place of business was in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the 26th day of January, 2020**; and is in the merged Union territory of Daman and Diu and Dadra and Nagar Haveli from the 27th day of January, 2020 onwards, are the class of persons who shall follow the special procedures as mentioned below **till the 31st day of May, 2020** (hereinafter referred to as the **transition date**).

Special Procedures to be followed in respect of Tax period, registration, Electronic Credit ledger regarding - Transition period: -

The said registered 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 January, 2020 and February, 2020 as below: -

(a) **January, 2020: 1st January, 2020 to 25th January, 2020;**

(b) **February, 2020: 26th January, 2020 to 29th February, 2020;**

(ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from the 26th January, 2020 till the transition date, **pay the appropriate applicable tax in the return under section 39 of the said Act;**

(iii) who have registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu and the erstwhile Union territory of Dadra and Nagar Haveli till the 25th day of January, 2019 **have an option to transfer the balance of input tax credit (ITC) after the filing of the return for January, 2020**, from the registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu to the registered GSTIN in the new Union territory of Daman and Diu and Dadra and Nagar Haveli 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 the balance in the electronic credit ledger upon filing of the return in the erstwhile Union territory of Daman and Diu, **for the tax period immediately before the transition date;**

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

The balance of Union territory taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Daman and Diu, as on the 25th day of January, 2020, shall be transferred as balance of Union territory tax in the electronic credit ledger.

Special Procedure prescribed under GST for corporate debtors undergoing insolvency process [[Notification No. 11/2020-Central tax Dated 23rd March 2020](#)]

The Central Government vide this notification prescribed the following special procedures to be followed by the corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), from the date of the appointment of the IRP/RP till the period they undergo the corporate insolvency resolution process, as mentioned below.

• **Registration: -**

The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and **shall be 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, **within thirty days of the appointment of the IRP/RP:**

Provided that in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days from the commencement of this notification, with effect from date of his appointment as IRP/RP.

- **Return: -**

The said class of persons shall, after obtaining registration **file the first return** under section 40 of the said Act, **from the date on which he becomes liable to registration till the date on which registration has been granted.**

- **Input tax credit. -**

(1) The said class of persons shall, in his first return, **be eligible to avail input tax credit on invoices covering the supplies of goods or services or both**, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, **subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36** of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as the said rules).

(2) Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or thirty days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-rule (4) of rule 36 of the said rules.

- **Refund of Electronic Cash Ledger**

Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP/RP to the date of registration in terms of this notification shall be available for refund to the erstwhile registration.

Explanation. - For the purposes of this notification, the terms "corporate debtor", "corporate insolvency resolution professional", "interim resolution professional" and "resolution professional" shall have the same meaning as assigned to them in the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

CBIC has waived off filing of GSTR-1 & CMP-08 for F.Y. 2019-20 in special cases [Notification No. 12/2020-Central tax Dated 23rd March 2020]

The Central Government vide this notification exempted those registered persons from filing **GSTR-1** for **2019-20** who could not opt for availing the option of special composition scheme under notification No. 2/2019-Central Tax (Rate) dated 07.03.2019 by filing FORM CMP-02 & have furnished a return in **FORM GSTR-3B** instead of furnishing the statement containing the details of payment of self-assessed tax in **FORM GST CMP-08** under the Central Goods and Services Tax Rules, 2017.

Editorial Comment: Central Government vide Notification No. 2/2019-Central Tax (Rate) dated 07.03.2019 introduced composition scheme for supplier of services having annual turnover in preceding year upto Rs 50 lakhs to pay taxes at the rate of 6%. Such class of persons were required to opt for the scheme by filing FORM CMP-02 and furnish the statement containing the details of payment of self-assessed tax in FORM GST CMP-08. The procedure to file the returns for such class of persons were notified vide Notification No. 21/2019 Central Tax dated 23rd April 2019.

However, vide Notification No. 34/2019-CT dated 18th July 2019; 35/2019-CT dated 29th July 2019; and 50/2019-CT dated 24th October 2019 the due dates for filing of FORM GST CMP 08 was deferred repeatedly, on account of which such class of persons furnished FORM GSTR-3B instead of FORM CMP-08 to save themselves from the levy of late fees and interest (if any). This notification brings relief to such class of persons.

Implementation Date of E-Invoicing deferred by CBIC [\[Notification No. 13/2020-Central tax Dated 23rd March 2020\]](#)

The Central Government vide this notification deferred the date of implementation of **E-Invoicing to 1st October, 2020** for those registered persons whose aggregate turnover **whose aggregate turnover in a financial year exceeds one hundred crore rupees.**

The said notification has also exempted the following persons from requirement of E-invoicing even if the aggregate turnover exceeds the specified limit: -

- Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company
- Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage.
- Where the supplier of taxable service is supplying passenger transportation service
- Where the supplier of taxable service is a registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens.

Implementation Date of QR Code deferred by CBIC [\[Notification No. 14/2020-Central tax Dated 23rd March 2020\]](#)

The Central Government vide this notification deferred the date of implementation of **Dynamic Quick Response (QR) code to 1st October, 2020** for those registered persons **whose aggregate turnover in a financial year exceeds five hundred crore rupees.**

The said notification has also exempted the following persons from requirement of QR Code even if the aggregate turnover exceeds the specified limit: -

- Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company
- Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage.
- Where the supplier of taxable service is supplying passenger transportation service
- Where the supplier of taxable service is a registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens.

Due date to file GST annual return extended to 30-6-2020 for F.Y. 2018-19 [\[Notification No. 15/2020-Central tax Dated 23rd March 2020\]](#)

The Central Government vide this notification extended the due date for filing of annual return specified under Section 44 of CGST Act 2017 read with Rule 80 of CGST Rules 2017 to June 30, 2020 for the financial year 2018-19.

CBIC notifies Third Amendment Rules [\[Notification No. 16/2020-Central tax Dated 23rd March 2020\]](#)

CBIC vide this notification notified various provisions of CGST Rules 2017. The newly inserted/substituted provisions are as under: -

NEWLY INSERTED PROVISIONS**Rule 8 of CGST Rules 2017- Application for Registration**

4A "The applicant shall, while submitting an application under sub-rule (4), with effect from 01.04.2020, undergo authentication of Aadhaar number for grant of registration."

Editorial Comment: - This sub-rule has been inserted to operationalize Aadhaar authentication for new taxpayers w.e.f. 1st April,2020.

Rule 9 (1) of CGST Rules 2017- Verification of the application and approval

"Provided that where a person, other than those notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases."

Editorial Comment: - This rule has been inserted to restrict the new registrations only to those persons who have undergone authentication of Aadhaar No. or only after the physical verification of the premises w.e.f. 1st April 2020. It also clarifies that the provision of deemed approval of registration as specified in sub-rule (5) shall not apply in the above cases. This step has been taken to stop fraudulent persons to get registered under GST & to curb the fake invoicing and fraudulent passing of ITC by fraudulent businesses.

Rule 80 (3) of CGST Rules 2017- Annual Return

"Provided that every registered person whose aggregate turnover during the financial year 2018-2019 exceeds five crore rupees shall get his accounts audited as specified under subsection (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the financial year 2018- 2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner."

Editorial Comment: - This proviso has been inserted to increase the threshold limit for furnishing the Form GSTR-9C & thereby relaxing the said compliance for SME's having turnover below Rs.5 Crores.

Rule 86 (4) of CGST Rules 2017- Electronic Credit Ledger

"(4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03."

Editorial Comment: - *This sub-rule has been inserted to allow refund of excess tax/ wrongly paid tax claimed by registered person, by re-crediting the electronic credit ledger.*

Rule 89 (4) (c) of CGST Rules 2017- Application for refund of tax, interest, penalty, fees or any other amount

"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;"

Editorial Comment: - *This clause has been substituted to fix the ceiling for the value of the export supply for the purpose of calculation of refund on zero rated supplies.*

Rule 92 (1) of CGST Rules 2017- Order sanctioning refund

"(1A)Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in FORM RFD-06 sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue FORM GST PMT-03 re-crediting the said amount as Input Tax Credit in electronic credit ledger.";

Editorial Comment: - *This sub-rule has been inserted to empower the proper officer to sanction refund in both cash and credit in case of excess payment of tax.*

Rule 96 (10) (b) of CGST Rules 2017- Refund of integrated tax paid on goods or services exported out of India

"Explanation.- For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications."

Rule 96B- Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised

- (1) Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of nonrealisation of sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:

Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

- (2) Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under sub-rule (1) and the applicant produces evidence about such realisation within a period of three months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India."

Editorial Comment: -This Rule has been inserted to provide for recovery of refund on export of goods where export proceeds are not realized within the time prescribed under FEMA.

FORM GST RFD-01, after the declaration under rule 89(2)(g), the following undertaking shall be inserted, namely: -**"UNDERTAKING"**

I hereby undertake to deposit to the Government the amount of refund sanctioned along with interest in case of non-receipt of foreign exchange remittances as per the proviso to section 16 of the IGST Act, 2017 read with rule 96B of the CGST Rules 2017.

Signature

Name -

Designation / Status"

Provisions Substituted

Rule 25- Physical verification of business premises in certain cases

"Physical verification of business premises in certain cases.-Where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of fifteen working days following the date of such verification."

Editorial Comment: - This rule has been substituted to empower the proper officer to conduct the physical verification of the place of business of a person before the grant of registration, if Aadhaar authentication is failed. Earlier, the rule provided for physical verification only after the grant of registration. This is again an important step to stop fraudulent persons to get registered under GST.

Rule 43(1) (c)- Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases

the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as „A, being the amount of tax as reflected on the invoice, shall credit directly to the electronic credit ledger and the validity of the useful life of such goods shall extend upto five years from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, input tax in respect of such capital goods denoted as „A" shall be credited to the electronic credit ledger subject to the condition that the ineligible credit attributable to the period during which such capital goods were covered by clause (a),denoted as „Tie", shall be calculated at the rate of five percentage points for every quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed:

Provided further that the amount „Tie" shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B.

Explanation. - An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause." (b) for clause (d), the following clause shall be substituted, namely: -

"the aggregate of the amounts of „A" credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as „Tc", shall be the common credit in respect of such capital goods:

Provided that where any capital goods earlier covered under clause (b) are subsequently covered under clause (c), the input tax credit claimed in respect of such capital good(s) shall be added to arrive at the aggregate value „Tc";";

(c) in clause (e), the following Explanation shall be inserted, namely: -

"Explanation. - For the removal of doubt, it is clarified that useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.";

Claude (d) and clause (f) shall be omitted.

CBIC notifies persons exempted from Aadhar authentication for GST registration [\[Notification No. 17/2020-Central tax Dated 23rd March 2020\]](#)

CBIC exempted Aadhar authentication process GST registration for persons who are not citizens of India or class of persons except individual, authorised signatory of all types, managing and authorised partner and Karta of Hindu undivided family. It shall be effective w.e.f. 1-4-2020.

CBIC notifies the date from which an individual shall undergo authentication, of Aadhaar number in order to be eligible for registration. [\[Notification No. 18/2020-Central tax Dated 23rd March 2020\]](#)

CBIC has notified that the individual, authorised signatory of all types, managing and authorised partner and Karta of Hindu undivided family shall undergo authentication of possession of Aadhaar number in order to be eligible for GST registration **with effect from 1-4-2020**.

CBIC specifies class of persons, other than individuals who shall undergo authentication, of Aadhaar number in order to be eligible for registration. [\[Notification No. 19/2020-Central tax Dated 23rd March 2020\]](#)

CBIC vide this notification specified that the Managing and Authorised partners of a partnership firm; and Karta of a Hindu undivided family, shall undergo authentication of possession of Aadhaar number in order to be eligible for registration under GST. In case Aadhaar number is not assigned to the said persons, they shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

Editorial Comment: In accordance with Rule 9 of CGST Rules 2017 the person shall make an application in writing to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of three working days from the date of submission of the application.

Due date of filing GSTR-7 extended in Jammu & Kashmir and Ladakh [\[Notification No. 20/2020-Central tax Dated 23rd March 2020\]](#)

CBIC has extended due date of filing Form GSTR-7 for the period July, 2019 to October, 2019 for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir to 24-3-2020. Also, registered persons whose principal place of business is in the Union territory of Jammu and Kashmir or the Union territory of Ladakh shall file Form GSTR-7 for the period November, 2019 to February, 2020 on or before 24-3-2020.

Extension of due date of filing GSTR-1 for quarterly filers in Jammu & Kashmir and Ladakh [\[Notification No. 21/2020-Central tax Dated 23rd March 2020\]](#) and [\[Notification No. 24/2020-Central tax Dated 23rd March 2020\]](#)

CBIC has extended the due date of filing GSTR-1 for the quarter July 2019 - September 2019 to 24-3-2020 for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir. Also, registered persons whose principal place of business is in the Union territory of Jammu and Kashmir or the Union territory of Ladakh shall file GSTR-1 for the quarter October-December, 2019 till 24-3-2020.

Extension of due date of filing GSTR-1 having aggregate turnover of more than 1.5 crore rupees in Jammu & Kashmir [\[Notification No. 22/2020-Central tax Dated 23rd March 2020\]](#) and [\[Notification No. 23/2020-Central tax Dated 23rd March 2020\]](#)

CBIC vide this notification extend due date for furnishing FORM GSTR-1 for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, and having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year, for the month of: -

- July 2019 to September 2019 and
- October 2019 to February 2020

till **24th March, 2020.**

Extension of due date of filing GSTR-3B in Jammu & Kashmir [\[Notification No. 25/2020-Central tax Dated 23rd March 2020\]](#) and [\[Notification No. 26/2020-Central tax Dated 23rd March 2020\]](#)

CBIC vide this notification extend due date for furnishing FORM GSTR-3B for registered persons whose principal place of business is in the erstwhile State of Jammu and Kashmir, for the month of: -

- July 2019 to September 2019 and
- October 2019 to February 2020

till **24th March, 2020.**

Due Dates prescribed for furnishing FORM GSTR-1 having aggregate turnover of up to 1.5 crore for the period April 2020 to September 2020 [\[Notification No. 27/2020-Central tax Dated 23rd March 2020\]](#)

CBIC vide this notification prescribed the due dates for furnishing FORM GSTR-1 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year as below: -

Table

S.No.	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
1	April 2020 to June 2020	31 st July 2020
2	July 2020 to September 2020	31 st October 2020

Due Dates prescribed for furnishing FORM GSTR-1 having aggregate turnover more than 1.5 crore for the period April 2020 to September 2020 [\[Notification No. 28/2020-Central tax Dated 23rd March 2020\]](#)

CBIC vide this notification extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from April, 2020 to September, 2020 till the eleventh day of the month succeeding such month.

Due Dates prescribed for furnishing FORM GSTR-3B for the period April 2020 to September 2020 [\[Notification No. 29/2020-Central tax Dated 23rd March 2020\]](#)

CBIC vide this notification specifies the time limit for furnishing the details of outward supplies in FORM GSTR-3B for the period April 2020 to September 2020 as follows: -

Table

S.No.	Turnover	States	Due Date for furnishing FORM GSTR 3B
1	More than 5 crores	Any State	20 th of the month succeeding such month
2	Upto 5 Crores	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	22 nd of the month succeeding such month
3	Upto 5 Crores	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi	24 th of the month succeeding such month



Recent Circulars issued under GST

Time limit for appeal to GST Appellate Tribunal to be counted from the date when President enters office [[Circular No. 132/2/2020-GST, dated 18th March, 2020](#)]

Vide this circular the Central Board of Indirect Taxes & Customs (CBIC) has clarified that Appellate Authorities should not keep the appellate process pending on the grounds that the appellate tribunal has been not constituted.

The Board has clarified the following: -

The appeal against the order passed by appellate authority under Section 107 of the CGST Act lies with appellate tribunal. Relevant provisions for the same is mentioned in the Section 112 of the CGST Act which reads as follows: -

“112 (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.”

The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated.

In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued the **Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019**. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.

Hence, in view of said ROD order the prescribed ***time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office.***

The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office.

Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

CBIC issues clarification for apportionment of ITC in case of business reorganization [\[Circular No. 133/03/2020-GST, dated 23rd March 2020\]](#)

The Central Board of Indirect Taxes & Customs vide this circular clarified the apportionment and transfer of ITC in the event of merger, demerger, amalgamation or change in the constitution/ownership of business as under: -

S.No	Issue	Clarification
1	In case of demerger, proviso to rule 41 (1) of the CGST Rules provides that the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. However, it is not clear as to whether the value of assets of the new units is to be considered at State level or at all-India level.	Under the provisions of the CGST Act, a person/company (having same PAN) is required to obtain separate registration in different States and each such registration is considered a distinct person for the purpose of the Act. Accordingly, for the purpose of apportionment of ITC pursuant to a demerger under sub rule (1) of rule 41 of the CGST Rules, the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level.
2	Is the transferor required to file FORM GST ITC - 02 in all States where it is registered?	No. The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.
3	The proviso to rule 41 (1) of the CGST Rules explicitly mentions 'demerger'. Other forms of business reorganization where part of business is hived off or business is transferred as a going concern etc. have not been covered in the said rule. Wherever business reorganization results in partial transfer of business assets along with liabilities, whether the proviso to rule 41(1) of the CGST Rules, 2017 shall be applicable to calculate the amount of transferable ITC.	Yes, the formula for apportionment of ITC, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities.
4	Whether the ratio of value of assets, as prescribed under proviso to rule 41 (1) of the CGST Rules, shall be applied in respect of each of the heads of input tax credit viz. CGST/SGST/IGST/ Cess?	No, the ratio of value of assets, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applied to the total amount of unutilized input tax credit (ITC) of the transferor i.e. sum of CGST, SGST/UTGST and IGST credit. The said formula need not be applied separately in respect of each heads of ITC (CGST/SGST/IGST). Further, the said formula shall also be applicable for apportionment of Cess between the transferor and transferee.
5	How to determine the amount of ITC that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of FORM GST ITC-02 by the transferor?	The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under sub-rule (1) of rule 41 of the CGST Rules [refer 3 (c) (i) above]. However, the transferor shall be at liberty to determine the amount to be transferred under each

		tax head (IGST, CGST, SGST/UTGST) within this total amount, subject to the ITC balance available with the transferor under the concerned tax head.
6	In order to calculate the amount of transferable ITC, the apportionment formula under proviso to rule 41(1) of the CGST Rules has to be applied to the unutilized ITC balance of the transferor. However, it is not clear as to which date shall be relevant to calculate the amount of unutilized ITC balance of transferor.	<p>According to sub-section (3) of section 18 of the CGST Act, "Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed."</p> <p>Further, sub-rule (1) of rule 41 of the CGST Rules prescribes that the registered person shall file the details in FORM GST ITC-02 for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee. A conjoint reading of sub-section (3) of section 18 of the CGST Act along with sub-rule (1) of rule 41 of the CGST Rules would imply that the apportionment formula shall be applied on the ITC balance of the transferor as available in electronic credit ledger on the date of filing of FORM GST ITC - 02 by the transferor.</p>
7	Which date shall be relevant to calculate the ratio of value of assets, as prescribed in the proviso to rule 41 (1) of the CGST Rules, 2017?	<p>According to section 232 (6) of the Companies Act, 2013, "The scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date". The said legal provision appears to indicate that the "appointed date of demerger" is the date from which the scheme for demerger comes into force and it is specified in the respective scheme of demerger. Therefore, for the purpose of apportionment of ITC under sub-rule (1) of rule 41 of the CGST Rules, the ratio of the value of assets should be taken as on the "appointed date of demerger". In other words, for the purpose of apportionment of ITC under sub-rule (1) of rule 41 of the CGST Rules, while the ratio of the value of assets should be taken as on the "appointed date of demerger", the said ratio is to be applied on the ITC balance of the transferor on the date of filing FORM GST ITC - 02 to calculate the amount to transferable ITC.</p>

CBIC clarifies issues under GST law for companies under IBC, 2016 [Circular No. 134/04/2020-GST, dated 23rd March 2020]

CBIC vide this circular clarified certain issues GST law for companies under Insolvency and Bankruptcy Code, 2016. These clarifications on the issues are stated as under: -

S.No	Issue	Clarification
1	How are dues under GST for pre-CIRP period be dealt?	In accordance with the provisions of the IBC and various legal pronouncements on the issue, no

	<p>As per IBC, once an entity defaults certain threshold amount, Corporate Insolvency Resolution Process (hereafter referred to as "CIRP") gets triggered and the management of such entity (Corporate Debtor) and its assets vest with an interim resolution professional (hereafter referred to as "IRP") or resolution professional (hereafter referred to as "RP"). It continues to run the business and operations of the said entity as a going concern till the insolvency proceeding is over and an order is passed by the National Company Law Tribunal (hereinafter referred to as the "NCLT")</p>	<p>coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date. The dues of the period prior to the commencement of CIRP will be treated as 'operational debt' and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC. The tax officers shall seek the details of supplies made / received and total tax dues pending from the corporate debtor to file the claim before the NCLT.</p> <p>Moreover, section 14 of the IBC mandates the imposition of a moratorium period, wherein the institution of suits or continuation of pending suits or proceedings against the corporate debtor is prohibited.</p>
2	Should the GST registration of corporate debtor be cancelled?	It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if need be, suspend the registration. In case the registration of an entity undergoing CIRP has already been cancelled and it is within the period of revocation of cancellation of registration, it is advised that such cancellation may be revoked by taking appropriate steps in this regard.
3	Is IRP/RP liable to file returns of pre-CIRP period?	No. In accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date. Accordingly, it is clarified that IRP/RP are not under an obligation to file returns of pre-CIRP period.
DURING CIRP PERIOD		
4	Should a new registration be taken by the corporate debtor during the CIRP period?	The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification No.11/2020- Central Tax, dated 21.03.2020, he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.
5	How to file First Return after obtaining new registration?	The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period. The IRP/RP is required to ensure that the first return is filed under section 40 of the CGST Act, for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.

6	How to avail ITC for invoices issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification No.11/2020- Central Tax, dated 21.03.2020 and no return has been filed by the IRP during the CIRP?	<p>The special procedure issued under section 148 of the CGST Act has provided the manner of availment of ITC while furnishing the first return under section 40. The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules.</p> <p>In terms of the special procedure under section 148 of the CGST Act issued vide notification No.11/2020-Central Tax, dated 21.03.2020. This exception is made only for the first return filed under section 40 of the CGST Act.</p>
7	How to avail ITC for invoices by persons who are availing supplies from the corporate debtors undergoing CIRP, in cases where the IRP/RP was appointed before the issuance of the notification No.11/2020 - Central Tax, dated 21.03.2020?	Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-rule (4) of rule 36 of the CGST Rules.
8	Some of the IRP/RPs have made deposit in the cash ledger of erstwhile registration of the corporate debtor. How to claim refund for amount deposited in the cash ledger by the IRP/RP?	Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP / RP to the date of notification specifying the special procedure for corporate debtors undergoing CIRP, shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant FORM GSTR-3B/GSTR-1 are not filed for the said period. The instructions contained in Circular No. 125/44/2019-GST dt. 18.11.2019 stands modified to this extent.

General reminders to be considered at the time of closure of financial year.



- Do not forget to re-visit all those invoices on which ITC has been already availed, however the payment to the supplier has not been made within the period of 180 days.
- Compare the ITC available in FORM GSTR 2A with the ITC booked in 'Books of Account' so that none of the ITC is lapsed.
- Do not forget to apply for the fresh LuT (if applicable) for the FY 2020-21.
- Do you know ? you may change the series of Tax Invoice/ Credit Notes/Debit Notes in the beginning of each Financial Year.



LEGAL UPDATES

Collecting fees from members & spending on organizing leadership programs for members by club is liable to GST. Assistant Commissioner, Central Tax v. Lions Club of Poona Kothrud [2020] 115 taxmann.com 168 (AAAR-MAHARASHTRA)

BRIEF FACTS OF THE CASE

Lions Clubs are autonomous units those collect fees from their members in order to conduct social activities and meet their administrative costs. Similarly, Lions Districts collect fees from Clubs and Cabinet Members to manage District activities.

It was felt by M/s. Lions Club of Poona, Kothrud (hereinafter referred to as the respondent) that under the principle of mutuality and since the fees so collected are only pooled together for convenience of conducting social activities, paying meeting expenses and administrative expenses, should not be brought under the purview of GST.

The question raised by the respondent before the Advance Ruling Authority was "Since the amount collected by individual lions clubs and lions districts is for convenience of lions members and pooled together only for paying meeting expenses and communication expenses and the same is deposited in a single bank account, as there is no furtherance of business in this activity and neither any services are rendered nor are any goods being traded, whether registration is required by them or not."

The Authority for Advance Ruling vide its order dated 28-8-2018 ruled that the GST is not applicable on the fees collected by the Lions Club and hence need No Registration under GST Act.

Against the said Ruling the department is in appeal vide its Appeal filed on 23.01.2019 before the Maharashtra AAAR with a request to condone the delay in filing appeal.

Analysis of the facts of the case

On perusal of submissions made by respondents and the department it was opined by the bench of AAAR that the members of AAR have interpreted the definition of "business" by giving a restrictive meaning of "facilities and benefits" used in the inclusive definition of "business" by comprehending the same to be the activities such as recreation, sports, food etc., which are not there in the definition of the business provided in the CGST Act. Thus, they have not followed the literal rule of construction in so far as the interpretation of the definition of "business" under the CGST Act, 2017 is concerned. It is worth mentioning that the literal rule of interpretation is the most widely accepted rule of legal construction unless the meaning conveyed by literal rule is against the intent and spirit of the legislation. Thus, in the instant case, the AAR has erred by construing the term 'facilities and benefits' only to the extent of recreation, sports, food etc., by going beyond the text of the legislation. The CGST Act has expressly defined the term business, which, inter alia, includes 'provision by club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members'. Thus, any facility or benefits extended by the Club to its members for a consideration will get covered under the business insofar as the GST law is concerned. It is also difficult for us to comprehend the observation made by AAR, wherein they have opined that such activities as the one undertaken by the Respondent, wherein they organise the Leadership and other skill Development program for their subscribed members, do not appear to be for transforming members into leaders generally but for the members to become leaders to perform towards the causes of the club, as the objectives or the purpose for the transformation of the members into the leaders is inconsequential in the context of the GST Laws, since there is no mention of term such as objective or purpose in the definition of the term "business" under the GST Act. Accordingly, it is believed that under the GST Law, the intent or objective of any club or association is immaterial insofar as the levability of GST is concerned. Therefore, provision by club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members will surely attract GST irrespective of the fact that such club is not set-up with the objective of providing any goods or service to its members. Hence, the observation of AAR does not hold any legal ground. Therefore, the ruling passed by them on such grounds is not sustainable and merits to be set aside.

ORDER

Lions Club of Poona Kothrud, on account of the activities undertaken by them, is liable for taking registration for discharging their GST liability and the ruling made by AAR is hereby set aside.

Press Release issued by GOI on Statutory and Regulatory Compliances on outbreak of COVID-19

The Finance Minister, Smt. Nirmala Sitharaman, has convened a press conference on 24-03-2020 to address the concerns arising due to difficulty in doing the statutory and regulatory compliances. The announcements were made considering the issues faced by the taxpayers and corporates amid complete lockdown in the country to control the COVID-19. The highlights for the same are as under: -

INCOME TAX

1. Extend last date for income tax returns for (FY 18-19) from 31 March, 2020 to 30 June, 2020.
2. Aadhaar-PAN linking date to be extended from 31 March, 2020 to 30 June, 2020.
3. Vivad se Vishwas scheme – no additional 10% amount, if payment made by June 30, 2020.
4. Due dates for issue of notice, intimation, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents and time limit for completion of proceedings by the authority and any compliance by the taxpayer including investment in saving instruments or investments for roll over benefit of capital gains under Income Tax Act, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, STT law, CTT Law, Equalization Levy law, Vivad Se Vishwas law where the time limit is expiring between 20 March 2020 to 29 June 2020 shall be extended to 30th June 2020.
5. For delayed payments of advanced tax, self-assessment tax, regular tax, TDS, TCS, equalization levy, STT, CTT made between 20th March 2020 and 30 June 2020, reduced interest rate at 9% instead of 12 %/18 % per annum (i.e. 0.75% per month instead of 1/1.5 percent per month) will be charged for this period. No late fee/penalty shall be charged for delay relating to this period.
6. Necessary legal circulars and legislative amendments for giving effect to the aforesaid relief shall be issued in due course.

GST/INDIRECT TAX

1. Those having aggregate annual turnover less than Rs. 5 Crore Last date can file GSTR-3B due in March, April and May 2020 by the last week of June, 2020. No interest, late fee, and penalty to be charged.
2. Others can file returns due in March, April and May 2020 by last week of June 2020 but the same would attract reduced rate of interest @9 % per annum from 15 days after due date (current interest rate is 18 % per annum). No late fee and penalty to be charged, if complied before till 30 June 2020.
3. Date for opting for composition scheme is extended till the last week of June, 2020. Further, the last date for making payments for the quarter ending 31 March, 2020 and filing of return for 2019-20 by the composition dealers will be extended till the last week of June, 2020.

4. Date for filing GST annual returns of FY 18-19, which is due on 31 March, 2020 is extended till the last week of June 2020.
5. Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents, time limit for any compliance under the GST laws where the time limit is expiring between 20 March 2020 to 29th June 2020 shall be extended to 30th June 2020.
6. Necessary legal circulars and legislative amendments to give effect to the aforesaid GST relief shall follow with the approval of GST Council.
7. Payment date under Sabka Vishwas Scheme shall be extended to 30 June, 2020. No interest for this period shall be charged if paid by 30 June, 2020.

CUSTOMS

1. 24X7 Custom clearance till end of 30 June, 2020
2. Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing applications, reports, any other documents etc., time limit for any compliance under the Customs Act and other allied Laws where the time limit is expiring between 20 March 2020 to 29th June 2020 shall be extended to 30th June 2020.

FINANCIAL SERVICES

Relaxations for 3 months

- Debit cardholders to withdraw cash for free from any other banks' ATM for 3 months
- Waiver of minimum balance fee
- Reduced bank charges for digital trade transactions for all trade finance consumers.

CORPORATE AFFAIRS

1. No additional fees shall be charged for late filing during a moratorium period from 01st April to 30th September 2020, in respect of any document, return, statement etc., required to be filed in the MCA-21 Registry, irrespective of its due date, which will not only reduce the compliance burden, including financial burden of companies/ LLPs at large, but also enable long-standing noncompliant companies/ LLPs to make a 'fresh start';
2. The mandatory requirement of holding meetings of the Board of the companies within prescribed interval provided in the Companies Act (120 days), 2013, shall be extended by a period of 60 days till next two quarters i.e., till 30th September;
3. Applicability of Companies (Auditor's Report) Order, 2020 shall be made applicable from the financial year 2020-2021 instead of from 2019-2020 notified earlier. This will significantly ease the burden on companies & their auditors for the year 2019-20.
4. As per Schedule 4 to the Companies Act, 2013, Independent Directors are required to hold at least one meeting without the attendance of Non-independent directors and members of management. For the year 2019-20, if the IDs of a company have not been able to hold even one meeting, the same shall not be viewed as a violation.

5. Requirement to create a Deposit reserve of 20% of deposits maturing during the financial year 2020-21 before 30th April 2020 shall be allowed to be complied with till 30th June 2020.
6. Requirement to invest 15% of debentures maturing during a particular year in specified instruments before 30th April 2020, may be done so before 30th June 2020.
7. Newly incorporated companies are required to file a declaration for Commencement of Business within 6 months of incorporation. An additional time of 6 more months shall be allowed.
8. Non-compliance of minimum residency in India for a period of at least 182 days by at least one director of every company, under Section 149 of the Companies Act, shall not be treated as a violation.
9. Due to the emerging financial distress faced by most companies on account of the large-scale economic distress caused by COVID 19, it has been decided to raise the threshold of default under section 4 of the IBC 2016 to Rs 1 crore (from the existing threshold of Rs 1 lakh). This will by and large prevent triggering of insolvency proceedings against MSMEs. If the current situation continues beyond 30th of April 2020, we may consider suspending section 7, 9 and 10 of the IBC 2016 for a period of 6 months so as to stop companies at large from being forced into insolvency proceedings in such force majeure causes of default.
10. Detailed notifications/circulars in this regard shall be issued by the Ministry of Corporate Affairs separately.

DEPARTMENT OF FISHRIES

1. All Sanitary Permits (SIPs) for import of SPF Shrimp Broodstock and other Agriculture inputs expiring between 01.03.2020 to 15.04.2020 extended by 3 months.
2. Delay upto 1 month in arrival of consignments to be condoned.
3. Rebooking of quarantine cubicles for cancelled consignments in Aquatic Quarantine Facility (AQF) Chennai without additional booking charges.
4. The verification of documents and grant of NOC for Quarantine would be relaxed from 7 days to 3 days

DEPARTMENT OF COMMERCE

Extension of timelines for various compliance and procedures will be given. Detailed notifications will be issued by Ministry of Commerce.

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