



# NEWSLETTER

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DEEPALI MISHRA & ASSOCIATES  
CHARTERED ACCOUNTANTS



## INDIRECT TAX UPDATES

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## RECENT NOTIFICATIONS ISSUED IN GST

### **One-time relaxation granted in case of non-issuance of E-invoice during October, 2020 [Notification No. 73/2020-Central Tax dated 01.10.2020]**

The Central Government vide Notification No. 73/2020-Central Tax dated 1st October, 2020, has notified that the registered persons who are required to prepare E-Invoice as per Rule 48(4) of the CGST Rules, 2017 but have prepared tax invoice in a manner other than the said manner, shall during the period from 1st October, 2020 to 31st October, 2020, shall obtain an Invoice Reference Number (IRN) for such invoice by uploading specified particulars in FORM GST INV-01 on the Common Goods and Services Tax Electronic Portal, within 30 days from the date of such invoice, failing which the same shall not be treated as an invoice.

### **CBIC prescribes Due Dates for furnishing FORM GSTR-1 for Quarterly filers for the period October 2020 to March 2021 [Notification No. 74/2020-Central Tax dated 15.10.2020]**

CBIC vide this notification prescribed new 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: -

S.No.	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
1	October 2020 to December 2020	13 <sup>th</sup> January 2021
2	January 2021 to March 2021	13 <sup>th</sup> April 2021

**CBIC prescribes Due Dates for furnishing FORM GSTR-1 for Monthly filers for the period October 2020 to March 2021 [Notification No. 75/2020-Central Tax dated 15.10.2020]**

CBIC vide this notification prescribed the due dates for furnishing FORM GSTR-1 for registered persons having aggregate turnover more than 1.5 crore rupees in the preceding financial year or the current financial year as 11th of the next succeeding month.

**CBIC prescribes Due Dates for furnishing FORM GSTR-3B for the period October 2020 to March 2021 [Notification No. 76/2020-Central Tax dated 15.10.2020]**

CBIC vide this notification prescribed the due dates for furnishing FORM GSTR-3B for registered persons and the same are as below: -

S.No.	Turnover	States	Due Date for furnishing FORM GSTR 3B
1	More than 5 crores	Any State	20 <sup>th</sup> 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 <sup>nd</sup> 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 <sup>th</sup> of the month succeeding such month

**Furnishing of Annual return (GSTR-9) and reconciliation statement (GSTR 9C) made optional for small taxpayers even for the FY 2019-20 [Notification No. 77/2020 and 79/2020-Central Tax dated 15.10.2020]**

Central Government vide this notification has made optional furnishing of annual return in Form GSTR-9 for the FY 2019-20 for small taxpayers whose aggregate turnover in a financial year does not exceed Rs. 2 crores. Earlier, this benefit was provided for the FY 2017-18 and FY 2018-19 which has now been extended to FY 2019-20 as well. The Government also relaxed the requirement to furnish a copy of audited annual accounts and a reconciliation statement in Form GSTR-9C for the FY 2019-20 for every registered person having aggregate turnover of upto Rs. 5 crores. Earlier, this relaxation was only for the FY 2018-19 which has also been extended to FY 2019-20.

**Central Government mandates HSN Code for all class of taxpayers w.e.f. April 1, 2021 [Notification No. 78/2020-Central Tax dated 15.10.2020]**

CBIC vide this notification mandates HSN Code for all class of taxpayers w.e.f. April 1, 2021 as stated below: -

S.No.	Aggregate Turnover in the preceding Financial Year	Number of Digits of Harmonised System of Nomenclature Code (HSN Code)
1	Upto 5 crores	4
2	More than 5 crores	6

**Editorial Comment:** It has been clearly stated in the notification that the supplies made to unregistered persons, small taxpayers may not require to mention HSN code on invoice issued by it.

**CBIC made Twelfth amendment (2020) to the CGST Rules 2017 [Notification No. 79/2020-Central Tax dated 15.10.2020]**

The Central Government vide this notification has made the following amendments in the Central Goods & Services Tax Rules, 2017: -

Rule	Amendments
<b>Rule 46:</b>  (Tax Invoice)	<u>Substitution of First Proviso</u>  "Provided that the Board may, on the recommendations of the Council, by notification, specify- <ol style="list-style-type: none"> <li>i. the number of digits of Harmonised System of Nomenclature code for goods or services that a class of registered persons shall be required to mention; or</li> <li>ii. a class of supply of goods or services for which specified number of digits of Harmonised System of Nomenclature</li> </ol>

	<p>code shall be required to be mentioned by all registered taxpayers; and</p> <p>iii. the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services”.</p>
<p><b>Rule 67A:</b></p> <p>(Manner of furnishing return details of outward supplies by short messaging service facility)</p>	<p>Substitution of Rule 67A</p> <p>“Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in FORM GSTR-3B or a Nil details of outward supplies under section 37 in FORM GSTR-1 or a Nil statement in FORM GST CMP-08 for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies or statement through a short messaging service using the registered mobile number and the said return or the details of outward supplies or statement shall be verified by a registered mobile number based One Time Password facility.</p> <p><b>Explanation</b> - For the purpose of this rule, a Nil return or Nil details of outward supplies or Nil statement shall mean a return under section 39 or details of outward supplies under section 37 or statement under rule 62, for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B or FORM GSTR-1 or FORM GST CMP-08, as the case may be.”</p> <p><b><u>Editorial Comment:</u></b> - <i>This amendment has been made to allow SMS Facility for filing of Nil Return in case of FORM GST CMP-08 also.</i></p>
<p><b>Rule 80:</b></p> <p>(Annual Return)</p>	<p><b><u>Substitution of Proviso in sub-rule (3)-</u></b></p> <p>“Provided that for the financial year 2018-2019 and 2019-2020, every registered person whose aggregate turnover exceeds five crore rupees shall get his accounts audited as specified under sub-section (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 said financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.”</p> <p><b><u>Editorial Comment:</u></b> - <i>This amendment has been made to extend the applicability of threshold of Rs.5 Crore for Filing GSTR-9C for the Financial Year 2019-20 also. Earlier the threshold of Rs. 5 Crore was applicable for F.Y. 2018-19 only.</i></p>

<p><b>Rule 138E:</b></p> <p>(Restriction on furnishing of information in <b>PART A of FORM GST EWB-01</b>)</p>	<p><b><u>Insertion of Proviso after the third proviso-</u></b></p> <p>“Provided also that the said restriction shall not apply during the period from the 20th day of March, 2020 till the 15th day of October, 2020 in case where the return in FORM GSTR-3B or the statement of outward supplies in FORM GSTR-1 or the statement in FORM GST CMP-08, as the case may be, has not been furnished for the period February, 2020 to August, 2020”</p> <p><b><u>Editorial Comment:</u></b> - This amendment has been made to provide relaxation from the aforesaid restriction for the period specified.</p>
<p><b>Rule 142:</b></p> <p>(Notice and order for demand of amounts payable under the Act)</p>	<p><b><u>Amendment in sub-rule (1A)-</u></b></p> <p>I. for the words “proper officer shall”, the words “proper officer may” shall be substituted;</p> <p>II. for the words “shall communicate”, the word “communicate” shall be substituted.</p>
<p><b>FORM GSTR-1:</b></p>	<p>In the said rules, in FORM GSTR-1, against serial number 12, in the Table, in column 6, in the heading, for the words “Total value”, the words “Rate of Tax” shall be substituted.</p>
<p><b>Changes in Form</b></p>	<p>i. Substitution of New Form GSTR-2A in place of earlier one.</p> <p>ii. Further, changes have been made in the following form:</p> <ul style="list-style-type: none"> <li>• FORM GSTR-5,</li> <li>• FORM GSTR-5A,</li> <li>• FORM GSTR-9,</li> <li>• FORM GSTR-9C,</li> <li>• FORM GST RFD-01,</li> <li>• FORM GST ASMT-16,</li> <li>• FORM GST DRC-01,</li> <li>• FORM GST DRC-02,</li> <li>• FORM GST DRC-07,</li> <li>• FORM GST DRC-08,</li> <li>• FORM GST DRC-09,</li> <li>• FORM GST DRC-24,</li> <li>• FORM GST DRC-25</li> </ul> <p><b><u>Editorial Comment:</u></b> - Amendments in few places in the above Forms. For details the notification may be referred.</p>

**CBIC exempts satellite launch services from levy of GST [Notification No. 5/2020-Central Tax Rate dated 16.10.2020]**

CBIC vide Notification No. 5/2020-CT (Rate) dated 16th October 2020 exempted satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited from the levy of GST.



## RECENT CLARIFICATIONS ISSUED IN GST

### **CBIC clarifies application of Rule 36(4) of the CGST Rule for months of February to August, 2020 [Circular No. 142/12/2020- dated 09.10.2020]**

CBIC has clarified the cumulative application of Rule 36(4) of the CGST Rule for months of February to August, 2020. It explained that cumulative ITC availed for the said months in GSTR-3B should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices/debit notes uploaded by the suppliers in GSTR-1, till the due date of furnishing of GSTR-1 for the month of September, 2020.

The manner of cumulative reconciliation for the said months in terms of proviso to subrule (4) of rule 36 of the CGST Rules is explained by way of illustration, in a tabulated form, below: -

<b>Tax period</b>	<b>Eligible ITC as per the provisions of Chapter V of the CGST Act and the rules made thereunder, except rule 36(4)</b>	<b>ITC availed by the taxpayer (recipient) in GSTR3B of the respective months</b>	<b>Invoices on which ITC is eligible and uploaded by the suppliers till due date of FORM GSTR-1 for the tax period of September, 2020</b>	<b>Effect of cumulative application of rule 36(4) on availability of ITC.</b>
Feb,2020	300	300	270	Maximum eligible ITC in terms of rule 36 (4) is 2450 + [10% of 2450] =2695. Taxpayer had availed ITC of 2750. Therefore, ITC of 55 [2750-2695] would be required to be reversed as mentioned in para 3.4. above
March, 2020	400	400	380	
April,2020	500	500	450	
May, 2020	350	350	320	
June,2020	450	450	400	
July,2020	550	550	480	
August,2020	200	200	150	
<b>Total</b>	<b>2750</b>	<b>2750</b>	<b>2450</b>	



ITC Reversal required to the extent of 55				
September, 2020	500	385	350	10% Rule shall apply independently for September, 2020
In the FORM GSTR-3B for the month of September, 2020, the tax payer shall avail ITC of 385 under Table 4(A) and would reverse ITC of 55 under Table 4(B)(2)				

**Clarification on auto populated data of FY 2017-18 in annual return of FY 2018-19: [Press Release dated 09.10.2020]**

Ministry of Finance has clarified in a press release regarding auto populated data in annual return (GSTR 9) for the year 2018-19 which also includes data of FY 2017-18 that has been already furnished by the taxpayers in the GSTR 9 filed for FY 2017-18. In this regard, taxpayers are required to report only the values pertaining to FY 2018-19 and the values pertaining to FY 2017-18 which may have already been reported or adjusted are to be ignored.

**CBIC extended due date to file GSTR-9 and GSTR-9C to 31st Dec, 2020: [Press Release dated 24.10.2020 confirmed by Notification No. 80/2020 CT dated 28.10.2020]**

CBIC extended due dates for furnishing annual return and reconciliation statement in form GSTR-9 and GSTR-9C audit report for the Financial Year 2018-19. The new due date for furnishing of these forms is now 31-12-2020.

**CBIC prescribes measures for smooth implementation of Faceless Assessment under Customs: [CIRCULAR NO. 45/2020-CUSTOMS, DATED 12-10-2020]**

The Faceless Assessment under Customs on pan India basis is scheduled to be implemented by 31-10-2020. CBIC has identified the issues impacting the pace of assessment and clearances of consignments. To ensure timely assessment of bill of entry and clearance of imported assignments, CBIC vide its Circular has addressed the remedial measures of these issues.



## LEGAL UPDATES

### **K.U. Niyas v. Assistant Commissioner, State Goods and Service Tax Department Perumbavoor [2020] 120 taxmann.com 175 (Kerala)**

#### **Facts of the Case**

The assessee did not file GST returns for the period April 2018 to May, 2019. The department passed the assessment orders on best judgement basis and uploaded on the web portal of the assessee on the same date when they were passed.

As per the assessee's submission, the assessment orders were not served upon him and hence, assessee did not file the returns within 30 days. Thereafter, when the department issued demand-cum-recovery notice and the assessee filed the returns within 30 days from the date of receipt of such notice. The assessee filed the writ petition against such demand-cum-recovery notice issued upon him.

#### **HELD**

The Hon'ble High Court observed that as per Section 169(c) and (d) of the Central Goods and Services Tax Act, 2017 ('CGST Act'), the service of any communication to the e-mail address provided by an assessee at the time of registration and also by making available the communication in the GST portal of the department, shall be treated as an effective communication under the statute. Section 62 of the CGST Act provides that if the registered person furnishes a valid return within 30 days of the service of the assessment order, then the said assessment order shall be deemed to have been withdrawn.

In the present case, since the returns for the period covered by the assessment orders were filed belatedly i.e., 30 days after the date of service of the assessment orders on the assessee via the web portal of the department, he cannot avail the benefit of withdrawal of the assessment orders under Section 62 of the CGST Act.

In view of the above, the Writ Petition filed by the assessee fails and is accordingly dismissed.

## **Smt. Kanishka Matta v. Union of India [2020] 120 taxmann.com 174 (Madhya Pradesh)**

### **Facts of the Case**

The petitioner in this case is the wife of Shri Sanjay Matta. Shri Sanjay Matta is the Proprietor of the firm functioning in the name and style of M/s. S. S. Enterprises. The Firm is in the business of Confectionery and Pan Masala items. The petitioner has further stated that search operation was carried out at the business premises as well as residential premises and a Panchnama was drawn on 31/05/2020. The respondents have also seized an amount to the tune of Rs. 66 Lakhs as per the Panchnama prepared by them.

Learned counsel for the petitioner has vehemently argued before this Court that the respondent has got no power vested under section 67(2) of the Central Goods and Services Tax Act, 2017 (CGST Act, 2017) to effect seizure of cash amount from the petitioner nor from her husband. He has stated that the cash cannot be treated as "Document, Book or Things".

It was also stated that as per the provisions of section 37 of CGST Act, 2017 there is a procedure for filing of returns by the assessee and return could not be filed in time on account of lockdown keeping in view the Covid-19 Pandemic. It has vehemently been argued that the sale proceeds were kept by the petitioner and her husband and the respondents have illegally seized the money without their being any provision of law.

It has also been stated that the statement of the petitioner's husband was recorded on 30/05/2020, 31/05/2020, 01/06/2020 and 02/06/2020 and he was tortured in the name of tax terrorism by the authorities. The basic thrust is on the ground that without their being any provision under the CGST Act, 2017 the amount as seized by the respondents could not have been done and the same is violative of Article 14 of the Constitution of India. The another ground raised by the petitioner that the raid on the residential premises of petitioner and her husband is again violative of Article 19 of the Constitution of India.

### **HELD**

On carefully going through section 67 of the CGST Act, 2017 the court observed that the expression used in sub-section (2) of section 67 is "confiscation of any documents or books or things, now the core issue before this Court is that whether expression "things" covers within its meaning the cash or not. In the considered opinion of this Court, the CGST Act, 2017 has to be seen as a whole and the definition clauses are the keys to unlock the intent and purpose of the various sections and expressions used therein, where the said provisions are put to implementation. Section 2(17) defines "business" and section 2(31) defines "consideration". In the considered opinion of this Court a conjoint reading of section 2(17), 2(31), 2(75) and 67(2) makes it clear that money can also be seized by authorized officer.

The word "things" appears in section 67(2) of the CGST Act, 2017 is to be given wide meaning The Hon'ble Supreme Court in the case of D. Vinod Shivappa v. Nanda Belliappa [2006] 6 SCC 456 in paragraph No. 12 as held as under: —

"12. It is well settled that in interpreting a statute the court must adopt that construction which suppresses the mischief and advances the remedy. This is a rule laid down in Heydon's case [(1584) 76 ER 637: 3 Co Rep 7a] also known as the rule of purposive construction or mischief rule."

Therefore, keeping in view the aforesaid interpretation of the word "thing" money has to be included and it cannot be excluded as prayed by the petitioner from section 67(2). The present case is at the stage of search and seizure. A search has been carried out and proceedings are going on.

Resultantly, keeping in view the totality of the circumstances of the case, the material available in the case diary and also keeping in view section 67(2) of the CGST Act, 2017, this Court is of the opinion that the authorities have rightly seized the amount from the husband of the petitioner and unless and until the investigation is carried out and the matter is finally adjudicated, the question of releasing the amount does not arise. The writ petition is dismissed. Certified copy as per rules.



### **ABOUT THE AUTHOR**

CA Deepali Mishra is a young proficient Chartered Accountant with almost 9 years of overall experience in the field of Accounting & Finance and almost 3 years of post-qualification experience in the field of Indirect Taxation. She gained rich experience in renowned industries such as Tata Power Delhi Distribution Limited, Reliance Digicable India Private Limited, and Bharti Airtel Limited at a very tender age. Her extensive exposure in the fields of taxation, accounting and auditing always works as a catalyst to execute assignments in the best qualitative manner. She authored various articles on the platform such as Taxmann, LinkedIn Taxguru, Caclubindia and many more. Her easy approach to complex issues made her a trusted advisor to all her clients.

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