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TAX ALERT

GST AMENDMENTS ADMIST COVID 2019 LOCKDOWN

CGST Rules 2017 have been amended vide [Notification No. 16/2020 – Central Tax Dated 23 March 2020](#).
The amendments are discussed as below:

1. AADHAR AUTHENTICATION WHILE OBTAINING THE REGISTRATION

[Aadhaar authentication made mandatory for grant of new registration w.e.f 01/04/2020](#).

In cases, if the applicant does not have PAN Number in such cases, the application can be accepted only on physical verification at the principal place of business in the presence of the applicant within 60 days from the date of filing of the application.

Physical Verification in Certain cases – if the officer feels that physical verification is required for the principal place of business for any other reason or the applicant does not have the PAN Number, the verification report along with the photographs and other documents has to be uploaded on the common portal within 15 days of such physical verification using the Form GST REG – 30.

2. COMPUTATION OF ITC REVERSAL UNDER RULE 43 FOR CAPITAL GOODS:

Revised mechanism has been prescribed under Rule 43 to calculate the ITC reversal for situations wherein capital goods used exclusively for non-business purpose or for exclusively making exempted supplies or for exclusively making taxable supplies are subsequently used in making exempted as well as taxable supplies (mixed use).

In a nutshell the ITC attributable for the period (calculated @ 5% per quarter) for which the given capital goods were used exclusively in making exempted/non-business supplies shall be added to the output tax while allowing the credit of full ITC for such capital goods when brought for the mixed use (i.e. for exempted as well as taxable supplies).

Let's understand this with the help of an Example:

E.g. Date of invoice of capital goods: 22/01/2020,

Date from which exempt goods become taxable: 01/04/2020

IGST paid on capital goods used exclusively in relation to goods exempted up to 31/03/2020 - Rs. 3,60,000/-

Prior to amendment: ITC to be reduced by 5% per quarter from the date of invoice: 18,000/- .

Thus, ITC available on Capital Goods: Rs.3,42,000/- (360,000 – 18,000).

Post amendment: ITC available on capital Goods: Rs. 3, 60,000/-

Reduction in ITC, now to be added to Output tax (Rs. 18,000/-).

So, basically the net impact will remain same.

3. GST AUDIT THRESHOLD LIMIT FOR FY 2018-19

Rule 80 has been amended to the effect that registered persons whose aggregate turnover during the financial year 2018-2019 is INR 5 crore or less shall be exempted from filing GST Audit Report in FORM GSTR – 9C.

4. CAPPING TURNOVER WHILE ALLOWING REFUND OF ACCUMULATED ITC ON ACCOUNT OF ZERO-RATED SUPPLIES

The definition of “Turnover of zero-rated supply of goods” under Rule 89(4) has been amended to the definition of “Turnover of zero-rated supply of goods” under Rule 89(4) has been amended to the effect that it shall be the actual transaction value of zero-rated supplies made under LUT 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.

Therefore in a nutshell if the actual export value is let us say INR 160 but the value of the like goods domestically supplied by the same or similarly placed supplier is let us say INR 100, the value of exports for calculating the eligible refund amount of the accumulated ITC shall be INR 150 and not the actual export value of INR 160. It is also important to note that the domestic value of goods has to be declared by the supplier who is seeking the refund. It therefore remains to be seen whether the said declaration shall be accepted, or refunds will be delayed for the want of any other information at the end of the department.

5. RE-CREDIT OF EXCESS OR WRONGLY PAID TAX

New Sub-rule (4A) has been inserted in Rule 86 to provide for refund of any amount paid as tax wrongly paid or paid in excess from the electronic credit ledger. Said refund amount shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03. Earlier refund was allowed for cash payment only.

6. RECOVERY OF REFUND OF UNUTILISED ITC OR INTEGRATED TAX PAID ON EXPORT OF GOODS WHERE EXPORT PROCEEDS NOT REALISED

Rule 96B has been added to provide that in the situations wherein the sale proceeds in respect of export of goods have not been received within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the refund claimed by such person of either accumulated ITC or IGST paid on said exports shall have to be deposited back to the Government to the extent of non-realization 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.

Said recovery would not be made in situations wherein RBI writes off the requirement of realization of sale proceeds on merits. Also, when the sale proceeds are eventually realized (after the period allowed under FEMA but still permitted by RBI) the person who has deposited the refund back can claim it again provided the application is made within a period of three months from the date of realization of sale proceeds.

Corresponding amendment made in Form GST RFD 01 to insert an undertaking for deposit of refund amount if sale proceeds not realised as above.

7. CHANGES IN REFUND

Rule (1A) has been inserted in Rule 92, which reads as below:

“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.”

We shall summarize the same as below:

