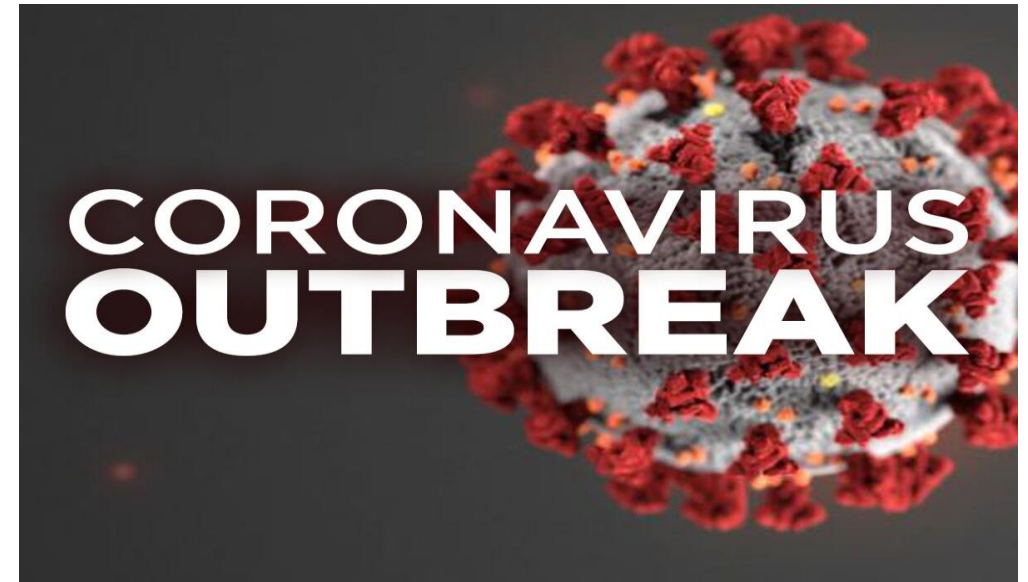


Chamber of Tax Consultants (CTC)

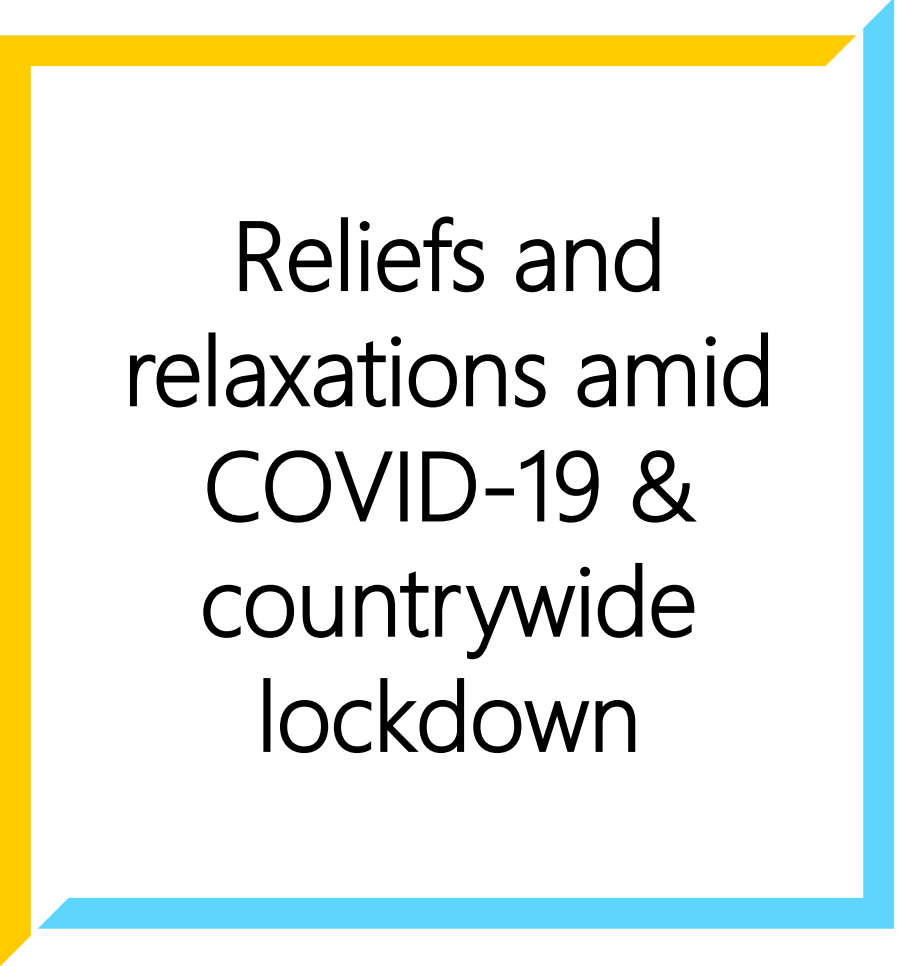
WEBINAR

- Subject** : 'Important relevant amendments and priority compliances on opening of lockdown'
- Day & Date** : Thursday, 23rd April, 2020
- Presented by** : CA Naresh Sheth



Scope of Presentation

- Notifications, Circulars and clarifications issued by CBIC amid Covid-19 granting relaxations for various compliances
- Amendment in CGST Act & Rules, notifications and circulars relevant for immediate compliances
- Priority compliances post lockdown for:
 - F.Y. 2018-19
 - F.Y. 2019-20
 - F.Y. 2020-21
- Some anticipated issues post lockdown



Reliefs and relaxations amid COVID-19 & countrywide lockdown

Overview of important relaxations

Pre -COVID-19

Various time-bound compliances prescribed

Rule 36(4) – Capping of ITC availment

18% interest on delayed tax payment

Imposition of late fees for delay in filing GSTR 3B and GSTR 1

Post COVID-19

Time bound compliances like filing appeal, LUT - Relaxed

Due date extended for May, 2020 GSTR 3B

Provisional relief from application of Rule 36(4)

Interest rate reduced for Feb, 2020 to April, 2020

Waiver of late fees of FORM GSTR-3B and GSTR 1

GSTR 1 - Waiver of late fees

➤ **Pre-Covid position (Sec. 47 of CGST Act and corresponding SGST Act):**

- Rs. 50 per day (maximum Rs. 10,000) – Late fee for failure to file GSTR-1 within due date; or
- Rs. 20 per day (maximum Rs. 10,000) – Late fee failure to file GSTR-1 (Nil outward supplies) within due date

➤ **Post-Covid - Relaxation provided vide *Notification No. 33/2020-CT dated 3rd April, 2020*:**

Waiver of entire late fees (irrespective of turnover), provided GSTR-1 is filed **on or before 30.06.2020**:

- For monthly returns of **March, 2020, April, 2020 and May, 2020**; and
- For quarterly return for **quarter ending March, 2020**

➤ **Issue - What will be the late fees if GSTR 1 for March, 2020 is filed on 14th August, 2020?**

- Late fees payable for period 1st July, 2020 to 14th August, 2020; OR
- Late fees payable after expiry of due date till 14th August, 2020

➤ Due date for filing GSTR 1 is not extended for above tax periods

➤ No relief provided for late filing of monthly return of June, 2020 and quarter ending 30.06.2020

GSTR 3B – Extension of due date

➤ Due date for filing **GSTR-3B of May-20 extended** as under: **[Notification No. 36/2020-CT dated 03.04.2020]**

Categories of taxpayers	Due date
Aggregate turnover in PFY > Rs.5 Crores (Original Due date – 20.06.2020)	27.06.2020
Aggregate turnover in PFY <=Rs.5 Crores (Based on location of Principal place of Business):	
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep (Original Due date – 22.06.2020)	12.07.2020
Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, Jammu and Kashmir, Ladakh, Chandigarh or Delhi (Original Due date – 24.06.2020)	14.07.2020

GSTR 3B – Waiver of late fees and interest

[Notification No. 31/2020-CT dated 3rd April, 2020]

- **Pre-Covid** - Interest @ 18% applicable for late filing of Form GSTR 3B – [Section 50(1)]

Late Fees: Rs. 50 per day per tax (Rs. 20 per day per tax in case of Nil liability)

- **Post-Covid** – Interest reduction and waiver of late fees provided **subject to filing of GSTR 3B by specified date**

Class of Persons	Period	Rate of interest	Late Fee	Specified date
Aggregate turnover in PFY > Rs.5 Crores	Feb-20 to Apr-20	For first 15 days from due date– Nil Thereafter – 9%	Nil	Till 24.06.2020
Aggregate turnover in PFY > Rs.1.5 Crores <= Rs.5 Crores	Feb-20 & Mar-20	Nil	Nil	Till 29.06.2020
	Apr-20			Till 30.06.2020
Aggregate turnover in PFY <= Rs.1.5 Crores	Feb-20	Nil	Nil	Till 30.06.2020
	Mar-20			Till 03.07.2020
	Apr-20			Till 06.07.2020

GSTR 3B – Waiver of interest and late fees

Important points and open issues:

- No extension of due dates for filing GSTR 3B for the months of **February, 2020 to April, 2020**
- Due date for GSTR 3B for **May, 2020** is extended
- 'Aggregate turnover' for this relaxation shall be computed as defined u/s 2(6) of the Act
- What shall be interest and late fees if GSTR 3B for February, 2020 is furnished on 14th August, 2020?
 - Interest / late fees leviable after **expiry of specified date** till **date of filing** ?; **OR**
 - Interest / late fees leviable after expiry of **due date** for return filing till actual **date of filing** ?
- Interest shall be payable on Gross liability or Net liability (i.e. after setting off available ITC) ?

Rule 36(4) – Provisional relief

Pre-Covid Position:

- Rule 36(4) of CGST Rules, 2017 provides for **capping** for availment of ITC as under:

October 2019 to December 2019	120% of ITC appearing in GSTR 2A
January 2020 onwards	110% of ITC appearing in GSTR 2A

Post-Covid Position:

- Relaxation of said rule vide **Notification No. 30/2020-CT dated 3rd April, 2020** as under:

GSTR 3B of February, 2020 to August, 2020	<ul style="list-style-type: none">- Rule 36(4) shall not apply- Assessee can claim ITC as per his records
GSTR 3B of September, 2020	Rule 36(4) shall apply cumulatively for tax periods February, 2020 to September, 2020

Relaxations – Composition taxpayers

[Notification No. 30/2020-CT and 34/2020-CT both dated 3rd April, 2020]

Time limit to Opt - Form CMP-02:

Pre-Covid: Before commencement of Financial Year

Post-Covid: On or before **30.06.2020**

Statement of inputs held in stock - Form ITC-03

(Person opting for composition scheme)

Pre-Covid due date: 31.05.2020

Extended due date: **31.07.2020**


Composition Taxpayers

Due date for payment of **self-assessed tax** [Form GST CMP-08] for quarter ended on March, 2020

extended from 18.04.2020 to 07.07.2020

Due date of filing **Form GSTR-4** (Details of inward and outward supplies) for FY 2019-20

extended from 13.04.2020 to 15.07.2020



Other relaxation with
respect to time
bound compliances

Relaxations for some time-bound compliances

- Validity of e-way bill expiring during period **20.03.2020 to 15.04.2020** has been extended till **30.04.2020**
- **Time limit is extended till 30.06.2020 for all compliances under GST legislation** whose due date is falling during the period 20.03.2020 to 29.06.2020 ***vide Notification no. 35/2020-Central Tax, dated 03.04.2020:***

Illustrative list:

- Furnishing of LUT by the taxpayer opting not to pay tax on zero-rated supplies:
 - Exporter is obliged to file this form before undertaking export
 - Exporter can make export based on LUT for F.Y. 2019-20
- Filing of application for GST refund getting time barred during 20.03.2020 to 29.06.2020
- Due date for furnishing Form ITC-04 (For Job worker) for **quarter Jan-Mar, 2020** extended from **25.04.2020** to **30.06.2020**
- Undergoing Aadhaar authentication by existing registered person or a person applying for new registration
 - Earlier the due date was 1st April, 2020

Relaxations for some time-bound compliances

- Furnishing of declaration in Form GST TRAN-1 by specified registered persons (facing technical difficulties)
 - Vide Commissioner order Order No. 01/2020-GST dated 7th February, 2020 the due date was extended to 31st March, 2020
- GST payable in case of failure to make payment to supplier within 180 days from invoice date
- Time limit to reply to Show cause notice
- To comply with hearing notices
- To comply with the Summons
- To make payment of demand raised in the Show Cause Notice
- Time limit to appeal before appellate authority against a decision or order passed

Relaxations for some time-bound compliances

- Input service distributors return in Form GSTR 6
- Return for Tax deductors under Form GSTR 7
- Return for Registered non-resident taxable in Form GSTR 5
- Return for tax collection at source in Form GSTR 8
- Inputs / capital goods which are required to be brought back during period 20.03.2020 to 29.06.2020 shall be required to be brought back till 30.06.2020
- Extension also applies to GST authorities, commission or Tribunal for following:

Completion of any proceedings	Passing an order
Issuance of any notice	Sending intimations
Issuance of notification	Sanction, approval or any other action

No relaxations for some compliances

- **No relaxation in respect of following time bound compliances** even if the due date falls during the period 20.03.2020 to 29.06.2020:
 - All compliances in respect of provisions of Time and Value of supply [Chapter IV] **such as:**
 - GST payable on the date of receipt of advance (time of supply) in respect of services to be provided; and
 - GST liability to be calculated at the GST rate applicable on the date of time of supply
 - Composition taxpayer to switch over to normal scheme **immediately** on the day when he crosses the threshold limit specified u/s 10
 - Provisions related to GST registration [Section 25] **such as:**
 - Obligation to apply for GST registration within 30 days from the day on which a person becomes liable for GST registration

No relaxations for some compliances

- GST registration of Casual or Non-resident Taxable Person will expire after 90 days, unless extended. They are not allowed to make any supply after expiry of their registration, unless extension is allowed [Section 27]
- Every registered person will issue Tax invoices within the time prescribed [Section 31]
- To furnish GSTR 1 within specified time unless otherwise notified
- To furnish Form GSTR 3B within specified time unless otherwise notified
- Every person will comply Section 68, as far as e-way bill is concerned and his person in-charge will carry a valid e-way bill.
- Proper officer has the right to inspect the valid e-way bill in respect of goods in movement.
- Commissioner has power to arrest a person committing certain offences [Section 69] even during the period 20.03.2020 to 29.06.2020

No relaxations for some compliances

- Retiring partner / firm to give intimation of retirement of partner to commissioner within 1 month even if the retirement date falls during the period 20.03.2020 to 29.06.2020
- Penalty will be imposed if a person commits any of the offences u/s 122 even if such offences are committed during the period of 20.03.2020 to 29.06.2020
- Proper officer has the right of detention, seizure and release of goods and conveyances, if goods are in transit in contravention of GST legislation [Section 129].
- Confiscation may be initiated if owner or transporter of goods fails to pay the Tax and penalty within 14 days of detention even if these 14 days are falling during the period of 20.03.2020 to 29.06.2020

Taxation and Other Laws Ordinance, 2020

- The Taxation and Other Laws (Relaxation of certain provisions) Ordinance, 2020 was promulgated on 31.03.2020
- This ordinance grants certain relaxation in respect of Central Excise, Customs, Service tax and Finance Act (No.2), 2019 compliances:
 - Time limit falling between 20.03.2020 to 29.06.2020 (Or beyond as notified) shall stand extended to 30.06.2020 (Or beyond as notified) for following :

Issuance of notice	Completion of proceedings	Issuance of Order
Filing of appeal	Filing of reply	Furnishing any report, statement, document or return
Issuance of notification	Issuance of sanction or approval	Filing of any application
Complying with the summons		

Taxation and Other Laws Ordinance, 2020 and Supreme Court order

- Following time limits under Sabka Vishwas (Legacy Dispute Resolution) Scheme also stand extended as under:

Issuance of Statement of estimated amount payable (SVLDRS-2) (Where amount payable equals amount declared)	31 st May, 2020
Issuance of Statement of estimated amount payable (SVLDRS-2) (Where amount payable exceeds amount declared)	1 st May, 2020
Issuance of statement of amount payable (SVLDRS-3)	31 st May, 2020
Due date for payment of amount stated in SVLDRS-3	30 th June, 2020

- *Supreme Court, vide its order dated 23.03.2020, extends period of limitation with respect to filing of petitions, applications, suits, appeal and all other proceedings, under general laws or special laws, till further orders*



Other relaxations

(Not specific to
COVID 19)

E-invoice - Relaxation

- Registered person having aggregate turnover exceeding Rs.100 Crores was mandated to issue **E-invoice** w.e.f. **01.04.2020** for supply made to a Registered person
- CBIC vide **Notification No. 13/2020-CT dated 21st March, 2020** has,
 - Deferred the implementation of E-invoicing provisions **till 01.10.2020; and**
 - **Further, exempted following class of persons** from E-invoicing provisions:
 - An insurance company
 - Banking company or a financial institution (including NBFC);
 - A Goods transport agency supplying services in relation to transportation of goods;
 - A service provider supplying passenger transportation services;
 - Theatres exhibiting cinematograph films in multiplex screens

QR Code - Relaxation

- Registered person having aggregate turnover exceeding Rs.500 Crores was mandated to have **QR Code on the invoice issued in respect of supply made to an Unregistered person**
- CBIC vide ***Notification No.14/2020-CT dated 21.03.2020*** has,
 - Deferred the implementation of QR code provisions **till 01.10.2020; and**
 - **Further, exempted following class of persons** QR code provisions:
 - An insurance company
 - banking company or a financial institution (including NBFC);
 - A Goods transport agency supplying services in relation to transportation of goods;
 - A service provider supplying passenger transportation services;
 - Theatres exhibiting cinematograph films in multiplex screens

Important
amendments and
clarifications
regarding refund

Refund to be granted proportionately in cash and Credit

- GST legislation granted cash refund irrespective of mode of discharging liability (i.e. By cash or by ITC)
- CBIC vide **Notification No. 16/2020-CT dated 23rd March, 2020** notified following:
 - Sub-rule (4A) in Rule 86 - If refund is in respect of **GST paid erroneously or excess by utilising ITC**, such GST refund will be paid by re-crediting the electronic credit ledger. Refund will not to be granted in cash
 - Sub-rule (1A) in Rule 92 - If refund is in respect of **GST paid (other than for Zero rated supplies or deemed export)**, then such refund will be paid in cash proportionate to the amount debited in cash ledger for discharging GST liability and balance amount will be paid by re-crediting electronic credit ledger

Recovery of GST refund in case of export of goods

- In respect of **export of services**, GST refund is sanctioned only after consideration is realized in foreign exchange
- In case of **export of goods**, there was **no such condition** of realization of sale proceeds
- **Rule 96B inserted vide Notification No. 16/2020-CT dated 23rd March, 2020** provides for **recovery of GST refund** where sales proceeds in respect of export goods is not realized, in full or in part, in India within the period (including extended period, if any) allowed under FEMA

Recovery of GST refund in case of export of goods

- If sale proceeds in respect of export goods is not realized, in full or in part, within the period allowed under FEMA:
 - The registered person will deposit the GST (refunded to him earlier), to the extent of non-realization of sale proceeds, along with interest within 30 days of the expiry of aforesaid period (extended period, if any)
 - If he fails to pay, GST refund shall be recovered u/s 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
- If sale proceeds are realized in foreign currency (in full or part) subsequently, within extended period as permitted by RBI, the person can re-claim refund amount on production of evidence about such realization within 3 months from the date of such realization
- If Reserve Bank of India writes off the requirement of realization of sale proceeds on merits, then no recovery will be initiated

Redefining value of zero-rated supply of goods for refund claim

- Amendment in Rule 89(4)(C) – Value of zero rated supply of goods is redefined for claiming refund of unutilised ITC [Notification No. 16/2020-CT dated 23rd March, 2020];

Pre amendment

Value of zero-rated supply of goods made during the relevant period without payment of tax under bond or LUT

Post amendment

Lower of:

- Value of zero-rated supply of goods made during the relevant period without payment of tax under bond or LUT **or**
- Value which is 1.5 times the value of like goods domestically supplied by the same supplier or similarly placed supplier

- Above amendment is effective from the date of notification

Redefining value of zero-rated supply of goods for refund claim

➤ **Whether amended definition will apply in following cases:**

- Refund application made **on or before 23.03.2020**, pending for sanction
- Refund application for **period up to February, 2020** made **on or after 23.03.2020**

GST Refund – Important clarifications

➤ CBIC clarified following vide **Circular No. 135/05/2020-GST Dated 31.03.2020**:

- Restriction on clubbing of refund application across different Financial Year has been removed. The applicant shall now be able to club two tax period in different financial year for the purpose of claiming refund
- Refund of accumulated credit on account of inverted duty structure will not be allowed where input and output supply are same
- Refund of accumulated ITC shall be restricted only to those invoices which are appearing in Form GSTR-2A of the applicant
- Circular No. 125/44/2019-GST dated 18.11.2019 requires claimant to attach Annexure "B" (Details of inward supplies) along with refund application. Annexure B is now amended requiring claimant to give details of **HSN / SAC** of inward supplies

GST Refund – Important clarifications

➤ CBIC clarified following vide **Circular No. 137/07/2020-GST** Dated 13.04.2020:

- **Receipt of advance and subsequent cancellation of supply:**

- In case where supplier has prepared a receipt voucher for discharging tax liability on advance received then in such cases he can issue a refund voucher and adjust tax accordingly
- In case where supplier has prepared a tax invoice for discharging tax liability on advance received then in such case he can issue a credit note (subject to conditions prescribed u/s 34) and adjust tax accordingly
- However, in case where there is no output liability against which tax can be adjusted then supplier can file refund claim under 'Excess payment of tax' through Form GSTR RFD – 01'
- Issue – What if tax paid is Rs. 1,00,000/-, liability available for adjustment – Rs. 10,000/- and balance Rs. 90,000/- cannot be adjusted ? Can Rs. 90,000/- be claimed as refund ?

GST Refund – Important clarifications

➤ CBIC clarified following vide **Circular No. 137/07/2020-GST** Dated 13.04.2020:

- **Goods supplied under tax invoice and subsequently returned by recipient:**

- In case of goods returned, supplier can issue a credit note (subject to conditions prescribed u/s 34) and adjust tax accordingly
- However, in case where there is no output liability against which tax can be adjusted then supplier can file refund claim under 'Excess payment of tax' through Form GSTR RFD – 01
- Issue – What if tax paid is Rs. 1,00,000/-, liability available for adjustment – Rs. 10,000/- and balance Rs. 90,000/- cannot be adjusted ? Can Rs. 90,000/- be claimed as refund ?

- **Limitation period for making refund application:**

- Section 54(1) allows a person to make a refund application before expiry of two years from the relevant date
- Circular clarifies that in case such two years' time limit falls between 20.03.2020 to 29.06.2020 then refund claim can be filed till 30.06.2020



Other relevant
amendments and
clarifications

Place of supply for B2B MRO services

- W.e.f. 01.04.2020, place of supply in respect of Maintenance, Repair or Overhaul (MRO) service for Aircraft is amended [**Notification No. 02/2020-IT dated 26.02.2020**]:

Description of services or circumstances	Place of Supply
Supply of maintenance, repair or overhaul service in respect of aircrafts, aircraft engines and other aircraft components or parts supplied to a person for use in the course or furtherance of business	Location of the recipient of service

- Above amendment is expected to promote aircraft MRO services in India
- No such amendment for MRO services pertaining to **ships and vessels**

Reversal of ITC in respect of Capital Goods ('CG')

- Notification No. 16/2020-CT dated 23rd March, 2020 has amended Rule 43 w.e.f. **1st April, 2020**
- **Rule 43 classifies and provides for the manner of claiming ITC in respect of Capital goods as under:**

Classification category	Used for	Treatment in E. Credit Ledger (ECL)
Category A	Non-business or exempt supply	Not credited to ECL
Category B	Taxable Supplies	Credited to ECL
Category C ('Common ITC')	Used for both taxable & exempt supplies	Credited to ECL

- Transfer of CG from Category A to C [***i.e. From Exempt to Common***]:

Prior amendment	Post amendment
Common ITC calculated by reducing the ITC (as per invoice) @ 5% per quarter or part thereof will be credited to the ECL	<ul style="list-style-type: none">▪ ITC(as indicated in invoice) will be credited to ECL; AND▪ Ineligible ITC will be calculated @ 5% per quarter or part thereof for the period when such CG were covered under Category A and will be added to output tax liability

Reversal of ITC in respect of Capital Goods ('CG')

- Transfer of CG from Category B to C [*i.e. From Taxable to Common*]:

Prior amendment	Post amendment
<p>Common ITC will be calculated by reducing the ITC (as per invoice) @ 5% per quarter or part thereof and such Common ITC will be used for calculating reversal of ITC in proportion to exempt supplies</p>	<p>Common ITC will be equal to the ITC (as indicated in invoice) will be added up to common ITC for calculating reversal of ITC in proportion to exempt supplies</p> <p>Comments:</p> <p>Credit on such capital goods shall be subject to reversal for remaining useful life</p>

ITC Apportionment on Sale, merger etc.

- **Section 18(3)** of the Act r.w. Rule 41 provides for transfer of unutilized ITC to transferee in case of change in the constitution of Transferor on account of sale, merger, demerger, etc. with specific provisions for transfer of liabilities
- **Proviso to rule 41(1)** provides for ITC apportionment in assets ratio of new units in case of 'demerger'
- CBIC issued following clarifications vide ***Circular No.133 03/2020-GST dated 23.03.2020***:
 - Proviso to Rule 41(1) will be applicable for all forms of business re-organization (not only demerger) that results in partial transfer of business assets along with liabilities
 - 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 since each state GST registration is considered a distinct person for the purpose of the Act

ITC Apportionment on Sale, merger etc.

- Value of assets shall be applied to the **total amount of unutilized ITC** i.e. sum of CGST, SGST and IGST
- Transferor has liberty to determine ITC to be transferred under each tax head (IGST, CGST, SGST) within total amount determined as above subject to sufficient ITC balance available under the concerned tax head
- It is further clarified that transferor will file **FORM GST ITC-02** only in those States where both transferor and transferee are registered
- It is clarified that **Transferable ITC** will be calculated based on **ratio of value of assets 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**
- **Meaning of the term ‘asset’ and ‘value of asset’ – Not yet clarified**

Finance Act, 2020 - Merger of two Union territories

- Erstwhile Union Territory ('UT') of Daman and Diu ('DD') and Dadra and Nagar Haveli ('DNH') merged into Daman and Diu and Dadra and Nagar Haveli (DDDNH)
 - President of India on 24.01.2020, (W.e.f. 26.01.2020) had promulgated **The Dadra and Nagar Haveli and Daman and Diu Goods and Services Tax (Regulation), 2020** for amending UTGST Act and CGST Act with respect to definition of '**Union Territory**'
 - Transition date prescribed in Notification 10/2020-CT dated 21st March, 2020 is **31st May, 2020**

Action required:

- Taxpayer will pay correct applicable taxes in GSTR 3B (i.e. CGST / SGST in case of local supplies and IGST in case of inter-state supplies) irrespective of filing in Form GSTR 1
- Taxpayer shall obtain new registration in DDDNH in case he does not have registration in erstwhile DNH
- Transfer ITC through Form GSTR 3B

Other amendments

- Time limit to claim ITC on debit note [Amendment vide Finance Act, 2020]:
 - Delinking time limit of availing ITC on debit note from the date of its Invoice. The amended provision provide the time limit of availing ITC on debit note as **earlier of** the following:
 - Due date of furnishing GSTR 3B for the month of September following the end of financial year
 - Date of furnishing of Annual Return
- Finance Act, 2020 enacted enabling provision for cancelling voluntary registration
- **Exemption from GST Audit and filing of Form GSTR 9C [Notification 09/2020-CT dated 16th March, 2020]:**
 - Foreign airlines is now exempted from furnishing Form GSTR 9C from FY 2018-19 onwards
 - No such relaxation provided to foreign shipping lines



Priority Compliances post Lockdown

Financial Year 2018-19

➤ **Annual Return (Form GSTR 9):**

- Taxpayers with aggregate turnover up to **Rs. 2 crore** is not obliged to file Form GSTR 9
- Extended due date for furnishing Annual return is **30.06.2020**
- No announcement till date for extension beyond 30.06.2020

➤ **GST Audit and filing of Form GSTR 9C:**

- Taxpayers with aggregate turnover up to Rs. 5 Crores are not obliged to get GST Audit done
- Such assesses are relived from furnishing reconciliation statement in Form GSTR 9C
- Extended due date for completing GST Audit and furnishing Form GSTR 9C is **30.06.2020**
- No announcement till date for extension beyond 30.06.2020

Financial Year 2019-20

➤ **Builder and Developers to discharge tax liability on procurement from Unregistered dealers:**

- Builder / Developers required to procure 80% of inputs and inputs services (excluding development rights, long term lease premium, electricity, diesel, motor spirit, natural gas) from registered dealers in respect of:
 - Projects commencing on or after 01.04.2019; or
 - On-going projects for which option to pay tax at new rate has been exercised
- Any shortfall thereof (except procurement of cement) is taxable under RCM @ 18%
- GST on procurement of cement / capital goods from unregistered person is to be paid under RCM at applicable rate in the same month when it is so procured
- **Shortfall to be calculated on annual basis for each project**
- **Liability to be discharged under RCM by builder/developer not later than the month of June, 2020**

Financial Year 2019-20

➤ **Final reversal of ITC under Rule 42 of CGST Rules, 2017**

Normal Taxpayers:

- Final reversal to be done before due date of furnishing return for the month of September'2020

Builders / Developers:

- Final reversal in respect of project where completion certificate is received in FY 19-20 needs to be done before due date of furnishing return for the month of September'2020 *[only in respect of mixed project or project which did not undergo transition on 01.04.2019]*

Common points:

- If final reversal amount exceeds amount already reversed on monthly basis, then difference to be reversed along with interest (from 1st April, 2020)
- If final reversal amount is less than amount already reversed on monthly basis, then difference to be re-availed

Financial Year 2019-20

➤ Last date for availing ITC

- Time limit for claiming of ITC for F.Y. 2019-20 is earlier of :
 - Due date for furnishing GSTR 3B for September, 2020; or
 - Date of filing of Annual Return for FY 19-20
- Taxpayer needs to carry out detailed exercise to identify:
 - ITC accounted for in books of account but not claimed in GSTR 3B
 - ITC accounted in books of account but not appearing in Form GSTR 2A
 - ITC appearing in Form GSTR 2A but not claimed in GSTR 3B or
 - ITC appearing in Form GSTR 2A but not accounted for in books of account



Financial Year 2019-20

➤ **Reversal of ITC on account of non-payment to vendor within 180 days [Proviso to section 16(4)]**

- Any such reversal which is falling within the period 20.03.2020 to 29.06.2020 needs to be reversed on or before 30.06.2020
- Taxpayer needs to work out and discharge such liability along with the interest

➤ **Compliance with Rule 36(4)**

- Rule 36(4) to be applied cumulatively for the tax period February, 2020 to September, 2020 while filing GSTR 3B of September, 2020
- Compare ITC claimable u/r 36(4) for the period February, 2020 to September, 2020 with ITC actually claimed for February, 2020 to August, 2020 and discharge the differential liability, if any

Financial Year 2019-20

➤ **Issuance of Credit Notes:**

- Credit notes issued in respect of supplies effected in FY 2019-20 are to be declared in the return for the month not later than September'20

➤ **Amendments / Rectifications pertaining to GSTR 1 and GSTR 3B filed:**


- Such amendments are to be done on or before September' 2020 returns
- Reconciliation of financial statement of 2019-20 with GST returns filed for the said period

Financial Year 2019-20

- Inter-branch billing and Corporate cost allocations
- ISD returns in Form GSTR 6 for March, 2020 to be furnished by 30.06.2020
- **Form ITC 04 (For Job worker) for January' 2020 to March' 2020 to be filed on or before 30.06.2020**
 - Details of inputs, semi-finished goods or capital goods sent or received to / from job-worker for the period January 20 to March 20 to be furnished in Form GST ITC-04
- Reconciliation of E-way bill generated vis-à-vis tax invoices / delivery challans issued
- Reconciliation of inventory as per books of accounts and physical verification – In case physical inventory is less than inventory as per books, ITC impact needs to be considered on the same
- Payment of self assessment tax for composition dealer for quarter ended March'20
- Filing of Form GSTR-4 by composition dealers on or before 15.07.2020

Financial Year 2020-21

- Aadhaar Authentication of GST registration to be done on or before 30.06.2020 as provided u/s 25 of CGST Act
- Furnishing of Letter of Undertaking for F.Y. 2020-2021 on or before 30.06.2020 [Circular 137/07/2020-GST dated 13.04.2020]
- **Composition Scheme:**
 - Person opting for composition scheme needs to file an intimation in Form CMP-02 on or before 30.06.2020
 - Stocks details are to be furnished by such person in Form ITC – 03 on or before 31.07.2020
- ISD returns for April, 2020 and May, 2020 to be filed on or before 30th June, 2020
- Form GST ITC-04 (for goods sent to job worker) for April'20 to June'20 to be filed on or before 25th July 2020
- Unused inputs (out of inputs sent to job worker during **21.03.2019 to 30.06.2019**) to be brought back on before 30.06.2020
- Capital goods sent to Job worker on or after 01.07.2017 to be brought back on or before 30.06.2020



Some
anticipated
issues

Some anticipated issues

- Truck Started journey from Mumbai to Chennai on 19th March, 2020 (i.e. prior to lockdown) but could not reach the destination due to lockdown:
 - Whether the supplier liable to discharge GST on such supply ?
 - Whether the customer eligible to claim ITC ?
- Issues pertaining to renting of commercial premises in following scenarios:
 - Invoice could not be raised on due date due to lockdown
 - Invoice raised on due date but could not be delivered to tenant - Whether the tenant eligible to claim ITC?
 - Rent for lockdown period (April-June, 2020) is deferred for payment over the period October, 2020 to March, 2021
 - Rent totally waived for the period April to June, 2020 (lock out period)
 - 50% waiver of the rent for April'20 and May'20

Some anticipated issues

- Validity of e-way bills expiring during 20.03.2020 to 15.04.2020 is extended till 30.04.2020. What will be the fate of such E-way bills if lockdown extended beyond 30th April, 2020 ?
- Stock clearance discounts / incentives expected for post lockdown period. Whether such discount or incentive will be reduced from taxable value?
 - For retailers
 - Manufacturers / Wholesalers granting discounts/incentives for stock already lying with retailers
- Whether reversal u/s 17(5)(h) will be necessary where inventory (of perishable nature) becomes obsolete during lockout period and written off from accounts?
- Whether a person can issue credit note u/s 34 on the grounds of "Force Majeure Clause" in the agreement?

Some anticipated issues

- Companies donating masks, gloves, sanitizers etc. as a part of their CSR activities. Whether ITC of such items is inadmissible under section 17(5)(h) which blocks ITC in respect of goods lost, stolen, destroyed, written off or disposed of by way of gifts or free samples?
- Due to staff constraint and financial crunch during lockdown period, assessee fails to file his returns for the period January'20 to June'20 before the due date (due dates are not extended). Whether GST authority can suo-moto cancel his registration u/s 29(2) of the CGST Act?
- Electronic Credit Ledger of many assessee were blocked before lockdown. Assessee is unable to approach GST authorities for unblocking of Electronic Credit Ledger during lockdown period. This further results into cash crunch and hardship for discharging GST liability and filing the returns. Is there any remedy for such assessee?

THANK YOU
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