



# Indirect Tax Update

Summary of Notifications and Circulars issued between 28<sup>th</sup>  
April'2020 to 06<sup>th</sup> May 2020

## Key Highlights:

- ✓ Extension for filing Annual Return (F.Y.18-19)
- ✓ Verification of GSTR 3B via EVC and filing NIL Return via SMS
- ✓ Amendments to Special procedure for IRP/RP
- ✓ Enabling of Form PMT 09 for transfer of cash balance from one head to another
- ✓ Extension of E-Way Bill Validity

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## 1. Extension of time limit for furnishing of the annual return specified under section 44 of the CGST Act, 2017 for the financial year 2018-2019 till 30.09.2020:

(Notification no.41/2020- Central Tax dated 05th May 2020)

Due date for filing Annual Return (GSTR-9) and Reconciliation Statement (GSTR-9C) for FY 2018-19 has been extended till 30th September 2020 from the earlier date of 30th June 2020.

**H&A Comments-** This was expected considering current unpredictable scenario of lockdown. Though in some parts of the country certain relaxation to open the business operation has been given, most business operations are still not opened. While many other due dates have been extended it was necessary to extend the due date of Annual Return from 30.06.2020 to 30.09.2020.

## 2. Amendment to CGST Rules in relation to method of verification of return and manner of filing Nil Return through SMS:

(Notification No.38/2020-Central Tax dated 05th May 2020)

### a. Verification of GSTR 3B through Electronic Verification Code (EVC):

Facility of verification of Form GSTR 3B through electronic verification code (EVC) is now given to registered person registered under the provisions of Companies Act'2013. This facility is available for filing Form GSTR 3B during the period from 21st April'2020 to 30th June'2020.

**H&A Comments:** Earlier, filing the GSTR 3B through EVC was available only to any registered taxpayer other than corporate entities. Considering the practical difficulty of non-availability of Digital Signature in current work from home scenario during lockdown period, facility of filing Form GSTR 3B through Electronic verification Code has been provided for returns filed during 21st April'2020 to 30th June'2020 for registered person registered under the provisions of Companies Act, 2013. Though notification is issued on 05th May'2020 it is effective from 21st April'2020. Similar facility for filing Form GSTR 1 is not provided to such corporate entities.

b. Filing and verification of NIL Return through short messaging service (SMS):

Rule 67A has been inserted to CGST Rules'2017 for registered persons who wants to file NIL Return in Form GSTR 3B to file the same through SMS and verify the same by a registered mobile number based One Time Password facility. This will be effective from the date to be notified.

**H&A Comments:** It is mandatory to file the Nil return in GSTR 3B where there is no entry in all the tables of GSTR 3B. To enable the registered person to file the Nil return conveniently, facility of filing NIL return through SMS has been given. The verification of the return shall be made by using the OTP received through the registered mobile phone. Though this provision has been inserted, the date from which it is effective is yet to be notified.

### 3. Amendments to Special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016:

(Notification No. 39/2020 - Central Tax dated 05th May 2020)

- As per Notification No 11/2020- Central Tax dated 21st March'2020 in case of corporate debtors under IBC 2016, undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by IRP or RP were required to follow special procedure for registration, return and Input Tax Credit for the purpose of compliance of corporate debtor. Now the said notification is amended to not include those corporate debtors who have furnished the statements under section 37 and the returns under section 39 of the said Act for all the tax periods prior to the appointment of IRP/RP.
- Also, as per Paragraph 2 of the said notification dated 21st March'2020, IRP/RP appointed are required to obtain new registration in all states where such corporate debtor was registered within 30 days from date of his appointment and as per proviso to Paragraph 2, in cases where the IRP/RP has been appointed prior to the date of this

notification registration needs to be obtained within thirty days from the commencement of the said notification dated 21st March'2020,

- Relaxation has been provided for obtaining new registration within thirty days of the appointment of the IRP/RP or by 30th June'2020, whichever is later.

**H&A Comments:** This amendment has reduced compliance burden on IRP/RP of corporate debtors who have filed GSTR 1 and GSTR 3B for all tax periods prior to the appointment of IRP/RP as IRP/RP of such corporate debtor need not to separately register. Apart from this the notification substitutes Paragraph 2 of Notification No 11/2020- Central Tax dated 21st March'2020 and nothing is mentioned about proviso to Paragraph 2 of the said notification in relation to providing relaxation till 30th June'2020 for obtaining registration for IRP/RP already appointed prior to said notification. So, there might be two possible views in this regard. One view may be substitution of Paragraph 2 is with proviso, then in that case there will be no distinction between IRP/RP appointed prior to said notification and IRP/RP appointed after said notification. Another possible view is that Proviso to Para 2 is not substituted then it means there is no relaxation given to obtain registration till 30th June'2020 for IRP/RP appointed prior to said notification and they need to obtain new registration within 30 days of 21st March'2020. Also it is important to note that Notification No.35/2020-Central Tax dated 03rd April'2020 given relaxation till 30th June'2020 for compliance following due during the period from the 20th day of March, 2020 to the 29th day of June, 2020 is not applicable for registration provision. A clarification in this regard is awaited.

#### 4. Extension for validity of E-Way Bill:

(Notification No. 40/2020-Central Tax dated 05th May 2020)

The e-way bill generated on or before 24.03.2020 and its period of validity expiring during 20.03.2020 to 15.04.2020, the validity period of such e-way bill has been extended till 31.05.2020.

**H&A Comments:** Due to the continued lockdown the movement of the goods transport vehicles is very restricted. Huge number of vehicles are stuck on the roads. It was not possible to amend the validity of the e-way bill by making amendment. Therefore, the validity of the e-way bills have been extended by the Govt. This notification is issued under

Section 168A of CGST Act'2017 which was inserted vide Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 granting power to government on recommendation of council to extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to force majeure.

## 5. Extension of due for filing of Form GSTR 3B for registered person having principal place of business in union territory of Ladakh

(Notification No. 42/2020 dated 05th May 2020)

Due Date for filing return in Form GSTR 3B for registered person having principal place of business in union territory of Ladakh for the period from January'2020 to March'2020 is extended till 20th May'2020.

**H&A Comments** - In view of the continued lockdown, the due date for filing GSTR 3B for the period from January'2020 to March'2020 has been extended till 20th May'2020 for registered person having principal place of business in union territory of Ladakh.

## 6. Enabling Rules for making effective transfer of cash balance from one head to another head by filing Form PMT 09 on GST Portal

(Notification No. 37/2020 dated 28<sup>th</sup> April 2020)

The provisions Rule 87 (13) of CGST Rules'2017 has been made effective from 21st April'2020 which enables to transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess.

**H&A Comments:** Where the tax was deposited under the wrong head, the taxpayer was not able to transfer the same to the correct head of tax. The sub rule 13 was inserted to Rule 87 vide notification No. 31/2019-CT, dated 28.06.2019 providing transfer of amount available in the electronic cash ledger. However, the effective date was not notified earlier. Considering the present difficulties faced by the taxpayer and in order to ease the financial burden in case of deposit of tax in the wrong head, facility to transfer the same through PMT 09 has been enabled w.ef 21.04.2020.



## 7. Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws

(Circular No. 138/08/2020 dated 06th May 2020)

This circular has provided clarification for certain challenges faced in relation to compliance of following:

### a. Registration by IRP/RP of corporate debtor going IBC process:

**Issue 1:** Difficulty due to lockdown in obtaining registrations which was required to be obtained within 30 days of the issuance of Notification No 11/2020 – Central Tax dated 21.03.2020:

**Clarification:** Time limit for taking separate registration by IRP/RP has been extended vide notification No. 39/2020- Central Tax, dated 05.05.2020 which is now within thirty days of the appointment of the IRP/RP or by 30th June'2020, whichever is later.

**Issue 2:** Whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing:

**Clarification:** As per Notification No. 39/2020 - Central Tax, dated 05.05.2020 IRP/RP would not be required to take a fresh registration in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the CGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor (earlier GSTIN).

**Issue 3:** Notification No 11/2020 – Central Tax dated 21.03.2020 has used the terms IRP and RP interchangeably, and in cases where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration:

**Clarification:**

- It is clarified that where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out by an amendment in the registration form.
- The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment.
- Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.

**H&A Comments:** Circular has given certain relaxations while clarifying important aspects such as new registration is required to be obtained by IRP/RP only once and any further changes of IRP or RP would be deemed to be change in authorized signatory. However, it may be disputed that procedural aspect of change in authorized signatory instead of new registration cannot be notified through circular instead of separate notification. However, since it is beneficial to taxpayer such questions may not arise from industry. Also, it has clarified that new registration need not be taken by IRP/RP if corporate debtor has filed Form GSTR 1 and GSTR 3B prior to appointment of IRP/RP.

**b. Satisfaction of exporting goods within 90 days from the issue of a tax invoice by registered supplier:**

**Issue:** As per notification no. 40/2017- Central Tax (Rate) dated 23.10.2017, a registered supplier can supply the goods to a registered recipient (merchant exporter) at 0.1% provided, inter-alia, that the merchant exporter exports the goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier. There is lack of clarity whether such time limit has been extended by up to 30.06.2020, where completion or compliance of such action has not been made within such time.



**Clarification:** In the circular it has been clarified that, the said requirement of exporting the goods by the merchant exporter within 90 days from the date of issue of tax invoice by the registered supplier gets extended to 30th June'2020, provided the completion of such 90 days period falls within 20.03.2020 to 29.06.2020.

H&A Comments –Clarification is welcome as due to current situation of COVID 19 many exports would not have been completed within 90 days. In such cases, there could have been tax demand with interest. It is now clarified that where the 90 days period falls during the period from 20.03.2020 to 29.06.2020, the time to export has been extended to 30.06.2020.

**c. Filing of Form ITC 04 for period January'2020 to March'2020 by principal sending goods for job work:**

**Issue:** Whether due date for filing Form GST ITC 04 in respect of goods dispatched to a job worker or received from a job worker during a quarter on or before the 25th day of the month succeeding that quarter as been extended till 30th June'2020 in terms of notification No. 35/2020-Central Tax dated 03.04.2020

**Clarification:** The due date of furnishing of FORM GST ITC-04 for the quarter ending March'2020 stands extended up to 30.06.2020.

**H&A Comments:** In view of the current situation where all the due dates have been extended, it was necessary to extend the due of filing GST ITC 04 also. This extension will enable the taxpayer to file the return within due date.

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