

Summary of GST notifications issued on 9th Oct, 2019

TEAM HIREGANGE

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1. Due date of furnishing FORM GSTR 3B (Notification No. 44/2019 – Central Tax dated 09.10.2019)

The due date for furnishing the return in FORM GSTR-3B and payment of taxes, interest, etc., by a registered person for the months of October 2019 to March 2020 has been specified as the 20th day of the month succeeding such month.

TEAM comments: Since the implementation of new returns is deferred, there was a requirement to further notify the due dates for filing of returns and payment of taxes in Form GSTR-3B.

2. Due date of furnishing FORM GSTR 1 (Notification No. 45/2019 & 46/2019 – Central Tax dated 09.10.2019)

The due date for furnishing the return in FORM GSTR-1

- a) By a registered person having an aggregate turnover of up to 1.5 crore rupees in the preceding FY or the current FY for.

S. No	Quarter	Due date
1	Oct`19 to Dec`19	31 st Jan, 2020
2	Jan`20 to Mar`20	30 th Apr, 2020

- b) By a registered person having an aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year for the months of October 2019 to March 2020 has been notified as **11th day** of the month succeeding such month.

TEAM comments: Every registered person, other than an Input Service Distributor, a non-resident taxable person and composition dealer or Tax deduct or Tax collector, shall furnish electronically, in Form GSTR 1, the details of outward supplies of goods or services or both effected during a tax period on or before the 10th of the month succeeding the said tax period. Special Procedure has been prescribed for the registered persons having a turnover up to Rs. 1.5 crores in preceding FY or current FY for furnishing the same quarterly. Time limit of furnishing GSTR 1 for such person for October 2019 to December 2019 has been prescribed as 31st January 2020 and for January 2020 to March 2020 has been prescribed as 30th April 2020. For other persons who are required to file such Form, the due date has been extended to 11th of the month succeeding such month.

In all the notifications extending the due date for Form GSTR-1, it has been mentioned that the due date for furnishing details in Form GSTR-2 and GSTR-3 would be subsequently notified.

3. Relaxation in filing of annual returns (*Notification No. 47/2019 Central Tax dated 09.10.2019*)

As per section 44(1) of CGST Act, 2017 every registered person (without any turnover limit), other than certain specified persons, is required to file an annual return (GSTR 9) for FY 17-18 on or before 31st December 2018 which is extended to 30th November 2019 by Order No 7/2019 Central Tax dated 26.08.2019.

However, the present notification provides that a registered persons:

i. Whose aggregate turnover in a financial year does not exceeds Rs.2 Crores,
and

ii. Who has not furnished the annual return
will have an option to file annual returns (i.e. not a mandatory requirement)for the financial years 2017-18 and 2018-19. Though, the said returns shall be deemed to be furnished on the due date if it has not been furnished before the due date.

TEAM comments: The option given to persons having aggregate turnover up to Rs. 2 crores is a welcome move considering the preparedness of the industry and the technical glitches of the portal. However, the deeming fiction created in the notification seems to be for the purpose of ascertaining the time lines for the issue of orders under section 73 and 74 of the Act.

4. Waiver of late filing fee (*Notification No. 48/2019 Central Tax dated 09.10.2019*)

Waiver of late fee payable for delay in filing of the following returns for registered persons whose principal place of business is in the State of Jammu and Kashmir:

S. No.	Class of persons	Form	Period	Condition: To be filed by
1	Having aggregate turnover more than Rs. 1.5 crores in the preceding or	Form GSTR-1	Jul`19 and Aug`19	11 th Oct `19

	current FY			
2	All	Form GSTR-3B	Jul`19 and Aug`19	20 th Oct `19
3	All	Form GSTR-7 (TDS return)	Jul`19 and Aug`19	10 th Oct `19

TEAM comments: The waiver of the late fee is only if the said statement/form is filed within the date mentioned in the notification. If not filed within such date then the late fee as prescribed would be applicable.

5. Amendments to CGST Rules, 2017 ([Notification No. 49/2019 Central Tax dated 09.10.2019](#))

5.1 Rule 21A- Suspension of registration

- **Rule 21A(3) provides that** a registered person, whose registration has been suspended cannot **make any taxable supply during the period of suspension.** Now an explanation is added to clarify that the expression “*shall not make any taxable supply*” would mean that such person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension
- Further, sub-rule 5 has been inserted to specify that in case if an order having the effect of **revocation** of suspension of registration has been passed, the provisions of
 - Section 31(3)(a) i.e. issue of revised invoice for any invoice issued from suspension till the date of revocation can be issued by such person, and
 - Section 40 i.e. declaration of supplies from the suspension of registration till the revocation of cancellation, in first return, would be applicable to such person.

TEAM comments: This clarification and amendment is done to address the practical difficulties in cases where the registration has been suspended. In cases say a person is

applying for cancellation of registration due to not crossing the threshold limit, then as per the explanation added such person would be able to make taxable supplies but cannot issue a tax invoice. This explanation was required otherwise such person would have been debarred from making the supply. This explanation being clarificatory in nature would be deemed to have force from the time the said rule is in existence.

Further, in case the registration is not cancelled, such person can issue revised invoices and pay taxes (in the first return filed after such suspension) for the taxable supplies made from the period of suspension of registration.

5.2 Rule 36 –Credit eligibility in case where supplier has not furnished details of supplies

Rule 36 was amended to specify that a registered person is eligible to avail the ITC, on invoices/debit notes **not uploaded** by a supplier in his form filled u/s 37(1), to the extent of 20% of the eligible ITC on invoices/debit notes uploaded by the suppliers.

TEAM comments:

The amendment provides that ITC on unmatched invoices are not completely barred but restricted to 20% of the matched ITC.

For example: If a person has procured supplies during the tax period on which he has paid GST of Rs. 1,00,000/- but the respective suppliers have only uploaded invoices amounting to a credit of Rs. 70,000/- then the recipient would be eligible to avail only
Eligible credit = Rs. 70,000 + [(20% of Rs. 70,000) or Rs. 30,000, whichever is lower]
= Rs. 70,000 + 14,000 = Rs. 84,000/-

There is serious doubt on the Legal validity of the aforesaid conditions/restriction due to fact that there is no provision that enables this restriction/ condition. The provisions like Section 42, 43 or 43A are not implemented yet. The matching report in GSTR-2A also lacks proper legal backing and is very dynamic,

Besides the legal infirmities, the rule is not clear on the periodicity of the matching, level of accuracy of the matching details etc., Therefore until clarified further one may do this year to year. Further, there are practical difficulties in implementing this rule. Though the objective of the rule is to curb the revenue leakage, the implementation can be made only after the new returns are made operative.

5.3 Rule 61 – Form GSTR-3B – return u/s 39(1) with retrospective effect from 1st Jul '17

Rule 61(5) has been amended to provide that where the time limit for furnishing of details in Form GSTR-1 and Form GSTR-2 has been extended, the return specified in section 39(1) shall be furnished in Form GSTR-3B. Further, where a return in Form GSTR-3B is filed, then such person would not be required to furnish the return in Form GSTR-3. The provision under sub-rule 6 regarding the manner of reconciliation of details provided in Form GSTR-3B and Form GSTR-3 has also been omitted.

TEAM comments: Hon'ble Gujarat HC in case of AAP and Co., 2019 (26) G.S.T.L. 481 (Guj.) wherein it was held that Form GSTR-3B is not a return u/s 39(1) and thereby the time limit for availing ITC would not depend on the due date of furnishing such form. The present amendment is made to overcome the aforesaid judgement but not completely addressing the anomaly pointed out in the decision thereby the legal position as declared by the Hon'ble HC may continue even after the amendment. This may also be disputed on whether prospective or retrospective.

5.4 Rule 83A- Examination of Goods and Services Tax Practitioners

Time limit given for passing of examination prescribed in this regard for a person who has enrolled as a sales tax practitioner or tax return preparer under the existing law for not less than 5 years, is now amended to be aligned with the time limit specified under rule 83(3) i.e. within 30 months from the appointed date.

5.5 Rule 91- Grant of provisional refund

Since the disbursement of refund is now based on a consolidated payment advice, that too by a single disbursement authority i.e. the Central Government in full, consequent changes have been made in Rule 91.

5.6 Rule 97- Consumer welfare fund

The rule has been amended whereby the Committee constituted for consumer welfare fund is required to make available to the Board 50 % of the amount credited to the Fund each year, for publicity or consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than Rs.25 crore rupees per annum

TEAM comments: *Prior to this amendment, such funds were to be made available to the Board only on recommendation of the Committee in this regard. Now it has been made mandatory for the Committee to make available 50% of the fund amount (subject to condition that atleast Rs. 25 crores is available for consumer welfare activities) for the publicity and awareness relating to GST. This should help the Government to spend on public awareness programs, advertisements, etc. to make the public aware about aspects relating to GST which should lead to increased awareness and compliance.*

It is understood that most of the funds are not being utilised or may be utilised as there is no transparency in usage of this fund.

5.7 Rule 117- Transitional returns

Rule 117(1A) has been amended to extend the availment of transitional credits through Form GST TRAN – I from 31st March 2019 to **31st December, 2019** in cases where registered persons could not submit the said declaration by the due date on account of **technical difficulties** on the common portal and in respect of whom the Council has made a recommendation for such extension. In such cases the due date for filing Form GST TRAN – 2 has been extended to 31st January, 2020.

TEAM comments: *This amendment is to enable persons with additional time to submit the transition forms where it was not possible earlier due to technical difficulties.*

It maybe ideal that those who have missed due to technical challenges even without any evidence like screen shots may take this opportunity to apply as the basic objective of GST was and is to avoid cascading of duties and taxes.

5.8 Rule 142- Notice and order for demand of amounts payable under the Act

New sub-rule (1A) has been inserted in rule 142 to prescribe a procedure for issuing a communication by the officer in Part A of Form GST DRC-01A, giving details of tax, interest and penalty, **before service of notice** u/s 73(1) or 74(1). Such person on receipt of the said communication may choose to pay the proposed dues or make a partial payment or file a submission in Part B of Form GST DRC-01A. SCN would be issued after the said process is completed, which will provide a stage to consider the submissions made by the assessee before issuance of SCN.



TEAM comments: This would enable the assessee a chance to make payment or initial submissions before the issuance of notice under the Act. This will also require the officer to communicate the details and the amounts to be paid on the portal, before pushing the assessee to make payment towards the proposed liability. This form is for the intimation by the department and also the reply of the tax payer. The payment shall be still made through form DRC-03.

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