

GST

Central Circulars on Miscellaneous Issues (Updated up to 28.02.2022)



GST

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Compiled by: GST PPU, Directorate of Commercial Taxes, Govt. of West Bengal

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1.Reference Circulars under both the WBGST Act, 2017 and CGST Act, 2017

Subject Matter	Central Circular	State Trade circular
System based reconciliation of information furnished in FORM GSTR-1 and FORM GSTR-2 with FORM GSTR-3B	7/7/2017- GST 01.09.2017	9/2017 - 04.09.2017
Due date for generation of FORM GSTR-2A and FORM GSTR-1A in accordance with the extension of due date for filing FORM GSTR-1 and GSTR-2 respectively	15/15/2017 - GST - 06.11.2017	....
Filing of Returns under GST	26/26/2017-GST – 29.12.2017	23/2018-17.09.2018
Circular to clarify the procedure in respect of return of time expired drugs or medicines	72/46/2018-GST- 26.10.2018	51/2018-22.11.2018
Mentioning details of inter-State supplies made to unregistered persons in Table 3.2 of FORM GSTR-3B and Table 7B of FORM GSTR-1	89/08/2019-GST 18.02.2019	09/2019- 18.02.2019
Clarification regarding optional filing of annual return under notification No. 47/2019- Central Tax dated 9th October, 2019	124/43/2019-GST 18.11.2019	44/2019- 21.11.2019
Standard Operating Procedure to be followed in case of non-filers of returns	129/48/2019-GST 24.12.2019	49/2019 26.12.2019
Quarterly Return Monthly Payment Scheme [Circular No. 143/13/2020-GST]	143/13/2020- GST 10.11.2020	10/2020 09.12.2020
Verification of applications for grant of new registration	95/14/2019-GST 28.03.2019	15/2019 28.03.2019
Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16	69/43/2018-GST- 26.10.2018	48/2018 22.11.2018
Clarification regarding filing of application for revocation of cancellation of registration in terms of ROD Order number 05/2019-Central Tax dated 23.04.2019	99/18/2019-GST 23.04.2019	19/2019 26.04.2019

Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act, 2017 and rule 23 of the CGST Rules, 2017	148/04/2021 dt 18-05-2021	08/2021 dt 30.06.2021
Clarification regarding extension of time limit to apply for revocation of cancellation of registration in view of Notification No. 34/2021-Central Tax dated 29 th August, 2021	158/14/2021 dt 06-09-2021	18/2021 dt 22.09.2021
Standard Operating Procedure (SOP) for implementation of the provision of suspension of registrations under sub-rule (2A) of rule 21A of CGST Rules, 2017	145/01/2021-GST 11.02.2021	01/2021 12.02.2021
Changes in Circulars issued earlier under the CGST Act, 2017	88/07/2019-GST 01.02.2019	08/2019 18.02.2019
Compliance of rule 46(n) of the CGST Rules, 2017 while issuing invoices in case of inter- State supply	90/09/2019-GST 18.02.2019	10/2019 18.02.2019
Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21 st March, 2020	146/02/2021-GST 23.02.2021	02/2021 25.02.2021
Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21 st March, 2020	156/12/2021 dt 21-06-2021	16/2021 dt. 30-06-2021
Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21 st March, 2020	165/21/2021 dt 17-11-2021	25/2021 dt 03.12.2021
Clarification in respect of transfer of input tax credit in case of death of sole proprietor	96/15/2019-GST 28.03.2019	16/2019 28.03.2019
Clarification in respect of utilization of input tax credit under GST	98/17/2019-GST 23.04.2019	18/2019 26.04.2019
Clarifications of issues under GST related to casual taxable person and recovery of excess ITC distributed by an ISD	71/45/2018-GST- 26.10.2018	50/2018-22.11.2018

Restriction in availment of input tax credit in terms of sub-rule (4) of rule 36 of CGST Rules, 2017	123/42/2019-GST 11.11.2019	43/2019 18.11.2019
Clarification in respect of apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules	133/3/2020 dt 23-03-2020	04/2020 dt 21.04.2020
Clarification relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017 for the months of February, 2020 to August, 2020	142/12/2020 dt. 09.10.2020	09/2020 dt 13.10.2020
Clarification in respect of certain GST related issues	160/16/2021 dt 20-09-2021	20/2021 dt 30.09.2021
Corrigendum to Circular No. 160/16/2021-GST dated 20 th September 2021	corrigendum	....
Guidelines for Deductions and Deposits of TDS by the DDO under GST	65/39/2018-DOR- 14.09.2018	....
Modification to the Guidelines for Deductions and Deposits of TDS by the DDO under GST as clarified in Circular No. 65/39/2018-DOR dated 14.09.18	67/41/2018-DOR- 28.09.2018	....
Collection of TDS by Tea Board of India	74/48/2018-GST- 05.11.2018	53/2018-22.11.2018
Manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling	25/25/2017-GST – 21.12.2017	16/2017- 21.12.2017
Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal	132/2/2020 dt 18-03-2020	03/2020 dt 21.04.2020
Clarifications on keeping of books of accounts, waybill etc.	47/21/2018-GST 08.06.2018	....
E-way bill in case of storing of goods in go down of transporter	61/35/2018-GST – 04.09.2018	44/2018-17.09.2018
Procedure for interception, detention, release and confiscation of such goods and conveyances	41/15/2018-GST - 13.04.2018	8/2018 - 16.04.2018
Modifications to Circular No. 41/15/2018-GST	49/23/2018-GST - 21.06.2018	36/2018-17.09.2018

Modification of Circular Nos. 41/15/2018-GST and 49/23/2018-GST	64/38/2018-GST-14.09.2018	46/2018-17.09.2018
Generation and quoting of Document Identification Number (DIN) on any communication issued by the officers of the Central Board of Indirect Taxes and Customs (CBIC) to tax payers and other concerned persons	122/41/2019-GST-05.11.2019	....
Generation and quoting of Document Identification Number (DIN) on any communication issued by the officers of the Central Board of Indirect Taxes and Customs (CBIC) to tax payers and other concerned persons	128/47/2019-GST-23.12.2019	....
Scope of Principal-agent relationship in the context of Schedule I of the CGST Act	57/31/2018-GST-04.09.2018	40/2018-17.09.2018
Scope of principal and agent relationship under Schedule I of CGST Act, 2017 in the context of del-credere agent	73/47/2018-GST-05.11.2018	52/2018-22.11.2018
Denial of composition option by tax authorities and effective date thereof	77/51/2018-GST-31.12.2018	55/2018-31.12.2018
Proper officer for provisions relating to Registration and Composition levy under CGST Act, 2017	1/1/2017 – GST – 26.06.2017	....
Proper officer relating to provisions other than Registration and Composition under CGST Act, 2017	3/3/2017 – GST-05.07.2017	....
Officer authorized for enrolling or rejecting application for GST Practitioner	9/9/2017- GST – 18.10.2017	....
Proper officer under sections 73 and 74 of CGST Act, 17 and under the IGST Act, 17	31/05/2018 – GST – 09.02.2018	....
Clarification on certain issues related to GST (sale by govt. depts, TCS, transitional provisions)	76/50/2018-GST – 31.12.2018	54/2018-31.12.2018
Recovery of arrears of wrongly availed CENVAT credit under the existing law and inadmissible transitional credit	58/32/2018-GST - 04.09.2018	41/2018-17.09.2018
Central Goods and Services Tax (Amendment) Act, 2018- Clarification regarding section 140(1) of the CGST Act, 2017	87/06/2019-GST – 02.01.2019	....

GST on Residential programmes or camps meant for advancement of religion, spirituality or yoga by religious and charitable trusts	66/40/2018-GST - 26.09.2018	47/2018-22.11.2018
Notifications issued under CGST Act, 2017 applicable to GST (Compensation to States) Act, 2017	68/42/2018-GST – 05.10.2018	....
Setting up of an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on GST Portal	39/13/2018-GST- 03.04.2018	31/2018-17.09.2018
Clarification regarding applicability of GST on additional / penal interest	102/21/2019-GST 28.06.2019	23/2019-28.06.2019
Clarification regarding determination of place of supply in certain cases	103/22/2019-GST 28.06.2019	24/2019-28.06.2019
Guidelines for processing of applications for financial assistance under the Central Sector Scheme named ‘Seva Bhoj Yojna’ of the Ministry of Culture	75/49/2018-GST – 27.12.2018	....
Clarification on the effective date of explanation inserted in notification No.11/2017- CTR dated 28.06.2017, Sr. No. 3(vi)	120/39/2019-GST- 11-10-2019	41/2019- 17.10.2019
GST on license fee charged by the States for grant of Liquor licences to vendors	121/40/2019-GST 11-10-2019	42/2019 17.10.2019
Clarification in respect of issues under GST law for companies under Insolvency and Bankruptcy Code, 2016	134/4/2020 dt 23-03-2020	05/2020 dt 21.04.2020
Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19)	136/6/2020 dt 31-03-2020	....
Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws	138/8/2020 dt 06-05-2020	....
Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19)	141/11/2020 dt 10-06-2020	....

Clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27.04.2021	157/13/2021 dt 20-07-2021	17/2021 dt. 22-07-2021
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2. Circulars related to return:

2.1 System based reconciliation of information furnished in FORM GSTR-1 and FORM GSTR-2 with FORM GSTR-3B [Circular No. 7/7/2017-GST]

Circular No. 7/7/2017-GST **New Delhi, Dated the 1st September, 2017**

Sections 37, 38 and section 39 of the CGST Act, 2017(hereinafter referred to as 'the Act') read with rules 59, 60 and 61 of the CGST Rules, 2017 (hereinafter referred to as 'the Rules') require every registered person to furnish details of outward supplies made in a month in **FORM GSTR-1**, details of inward supplies received in a month in **FORM GSTR-2** and a return in **FORM GSTR-3** by the 10th, 15th and 20th of the next month respectively. Keeping in view that taxpayers may face certain issues in the initial days after the introduction of GST, the GST Council extended the date for filing of **FORM GSTR-1** and **FORM GSTR-2** for the months of July and August, 2017 and approved the filing of a simplified return in **FORM GSTR-3B** for these two months by the notified due dates after making the due payment of tax.

2. Registered persons opting to utilize transitional credit available under section 140 of the Act read with the rules made there under for discharging the tax liability for the month of July, 2017 were required to file **FORM GST TRAN -1** on or before 28th August,2017. This transitional credit was to be credited to the electronic credit ledger and be available for discharging the tax liability.
3. As per the provisions of sub-rule (5) of rule 61 of the Rules, the return in **FORM GSTR-3B** was required to be furnished when the due dates for filing of **FORM GSTR-1** and **FORM GSTR-2** have been extended. After the return in **FORM GSTR-3B** has been furnished, the process of reconciliation between the information furnished in **FORM GSTR-3B** with that furnished in **FORM GSTR-1** and **FORM GSTR-2** would be carried out in accordance with the provisions of sub-rule (6) of rule 61 of the Rules.
4. The detailed procedure for reconciliation of information furnished in **FORM GSTR-3** and **FORM GSTR-3B** is detailed in succeeding paras.

Furnishing of information in FORM GSTR- 1 & FORM GSTR-2:

5. It may be noted that after the registered person has filed his return in **FORM GSTR-3B** and the statement of outward supplies in **FORM GSTR-1**, the inward supplies shall be auto drafted for all registered persons (corresponding recipients of supply) and made available to them in **FORM GSTR-2A** as per sub-rule (3) of rule 59 of the Rules. **FORM GSTR-2A** is the exact replica of **FORM GSTR-2** containing only those details that are auto-populated from the details furnished in **FORM GSTR-1** by the corresponding suppliers. Based on the details communicated in **FORM GSTR-2A**, the registered person shall prepare the statement of inward supplies in **FORM GSTR-2** by:-
- a. adding, deleting or modifying the invoice level details communicated in **FORM GSTR-2A**;
 - b. adding information pertaining to details that are required to be furnished in **GSTR-2** but are not part of **FORM GSTR-2A** like details of imports, details of supplies attracting reverse charge that have been received by registered person;
 - c. providing details of supplies received from composition suppliers and exempt, nil-rated & non GST inward supplies;
 - d. providing details of advances paid on inward supplies attracting reverse charge, if any, along with adjustments;
 - e. providing details of reversal of ITC as per the provisions of rules 37, 39, 42 and 43 of the Rules, if any; and
 - f. providing HSN wise summary details of inward supplies.

Correction of erroneous details furnished in FORM GSTR-3B:

6. In case the registered person intends to amend any details furnished in **FORM GSTR-3B**, it may be done in the **FORM GSTR-1** or **FORM GSTR-2**, as the case may be. For example, while preparing and furnishing the details in **FORM GSTR-1**, if the outward supplies have been under reported or excess reported in **FORM GSTR-3B**, the same maybe correctly reported in the **FORM GSTR-1**. Similarly, if the details of inward supplies or the eligible ITC have been reported less or more than what they should have been, the same maybe reported correctly in the **FORM GSTR-2**. This will get reflected in the revised output tax liability or eligible ITC, as the case may be, of the registered person. The details furnished in **FORM GSTR-1** and **FORM GSTR-2** will be auto-populated and reflected in the return in **FORM GSTR-3** for that particular month.

Action on the system-based reconciliation:

7. After the registered person has furnished the statement of inward supplies in **FORM GSTR-2** by the extended date, the common portal shall auto-draft Part-A of the return in **FORM GSTR-3** for the said month based on the information furnished in **FORM GSTR-1** and **FORM GSTR-2**. Based on the revised figures of output tax liability and eligible input tax credit, Table 12 of Part B of **FORM GSTR-3** shall be made available. The common portal would populate the correct figures of tax payable in column (2) of Table 12 of **FORM GSTR-3**, based on the information furnished in **FORM GSTR-1** and

FORM GSTR-2. The tax paid through the electronic cash ledger and electronic credit ledger in the return in **FORM GSTR-3B** shall be displayed by the system in column (3) to (7) of the Table 12 of Part B of **FORM GSTR-3**. Where there is no difference between the details of output tax liability and eligible input tax credit furnished in **FORM GSTR-3B** and the details furnished in **FORM GSTR-1** and **FORM GSTR-2**, the amount of tax payable and tax paid shall be the same in **FORM GSTR-3B** and **FORM GSTR-3**. The person can sign and submit **FORM GSTR-3** without any additional payment of tax.

Additional payment of taxes:

8. Where the tax payable by a registered person as per **FORM GSTR-3** is more than what has been paid as per **FORM GSTR-3B**, the common portal would show another instance of Table 12 for making additional payment of taxes, in accordance with the mandate of clause (b) of sub-rule (6) of rule 61. As the tax payable in column (2) of Table 12 of **FORM GSTR-3** is more than what was shown in **FORM GSTR-3B**, the additional amount of tax payable can be paid by debiting the electronic cash or credit ledger as per the provisions contained in section 49 of the Act along with applicable interest on delayed payment of tax starting from 26th day of August, 2017 till the date of debit in the electronic cash or credit ledger. If the eligible ITC claimed by the person in **FORM GSTR-2** is less than the ITC claimed and utilised by the registered person in **FORM GSTR-3B**, the same would be added to his output tax liability and shall have to be paid by him along with interest by debiting the electronic cash or credit ledger as per the provisions contained in section 49 of the Act before submitting the return in **FORM GSTR-3** to complete the process. It may be noted that where the transitional credit as declared in **FORM GST TRAN-1** is credited to the electronic credit ledger, the same can be utilised for the payment of the said additional tax liability.

Additional claim of eligible ITC:

9. Where the eligible ITC claimed by the taxpayer in **FORM GSTR-3B** is less than the ITC eligible as per the details furnished in **FORM GSTR-2**, the additional amount of ITC shall be credited to the electronic credit ledger of the registered person when he submits the return in **FORM GSTR-3** (in accordance with clause (c) of sub-rule (6) of rule 61). However, simultaneously, if there is an increase in the output tax liability, the registered person can utilise this additional amount of ITC eligible as per the details furnished in **FORM GSTR-2** along with the balance in the electronic cash ledger, if required, for the payment of the increased output tax liability and submit his return in **FORM GSTR-3**.

Reduction in output tax liability:

10. Where the output tax liability of the registered person as per the details furnished in **FORM GSTR-1** and **FORM GSTR-2** is less than the output tax liability as per the details furnished in the **FORM GSTR-3B** and the same is not offset by a corresponding reduction in the input tax credit to which he is entitled, the excess shall be carried forward to the next month's return to be offset against the output liability of the next month by the taxpayer when he signs and submits the return in **FORM GSTR-3**. However, simultaneously, if there is a decrease in the eligible input tax credit, the same will be adjusted against the above mentioned reduction in output tax liability and the balance, if

any, of the reduction in output tax liability shall be carried forward to the next month's return to be offset against the output liability of the next month.

Submission of GSTR-3B without payment of taxes:

11. Where, for some reasons, the registered person has only submitted the return in **FORM GSTR-3B** and has not made the payment of taxes by debiting the same from his electronic cash or credit ledger, the return shall still be subjected to the reconciliation process as detailed above. Such registered person should furnish the details in **FORM GSTR-1**, **FORM GSTR-2** and sign and submit the return in **FORM GSTR-3** along with the payment of the due taxes as per the provisions of section 49 of the Act. However, since the payment was not made on or before the due date, the registered person shall be liable for payment of interest on delayed payment of tax starting from 26th day of August, 2017 till the date of debit in the electronic cash and / or credit ledger but will not be liable to pay any late fee provided the requisite return in **FORM GSTR-3B** was submitted on or before the due date.
12. Where the registered person has not submitted the return in **FORM GSTR-3B**, he is required to furnish the details in **FORM GSTR-1** and **FORM GSTR-2** and sign and submit the return in **FORM GSTR-3** along with the payment of the due taxes as per the provisions of section 49 of the Act. However, since the payment was not made on or before the due date, the registered person shall be liable for payment of interest on delayed payment of tax starting from 26th day of August, 2017 till the date of debit in the electronic cash and / or credit ledger. No late fee, however, would be levied for late filing of return in terms of section 47 of the Act, in accordance with the recommendation of the GST Council, as notified vide Notification No. 28/2017-Central tax dated 01.09.2017.

Processing of information furnished:

13. After submission of the information in **FORM GSTR-1** and **FORM GSTR-2**, the process of matching as per section 41, 42 and 43 of the Act read with rules 69 to 76 of the Rules shall be carried out as if these details were submitted in the regular course. Any amendment in the details furnished in **FORM GSTR-1** and **GSTR-2** shall be done following the procedure laid down under sub-section (3) of section 37 and sub-section (5) of section 38 of the Act respectively. The return shall be considered to be a valid return when the tax payable as per **FORM GSTR-3** has been paid in full after which the return shall be taken up for matching.

2.2 Due date for generation of FORM GSTR-2A and FORM GSTR-1A in accordance with the extension of due date for filing FORM GSTR-1 and GSTR-2 respectively [Circular No.15 /15/2017 – GST]

Circular No.15 /15/2017 – GST]

New Delhi, Dated the 6th November, 2017

Please refer to Notification No. 30/2017-Central Tax dated 11th September 2017, and Notification 54/2017-Central Tax, dated 30th October, 2017 whereby the dates for filing **FORM GSTR-1**, **FORM GSTR-2** and **FORM GSTR-3** for the month of July, 2017 were extended. Queries have been received regarding the due dates for the generation of **FORM GSTR-2A** and **FORM GSTR-1A** in light of the said extension of dates. Therefore, in exercise of the powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the Act'), for the purpose of uniformity in the implementation of the Act, the following is clarified:

1. Sub-section (1) of section 37 of the Act read with sub-rule (3) of rule 59 of the CGST Rules, 2017 (hereinafter referred to as 'the Rules') provides that the details furnished in **FORM GSTR-1** by the supplier shall be made available electronically to the registered person (hereinafter referred to as 'the recipient') in **FORM GSTR-2A** after the due date for filing of **FORM GSTR-1**. Sub-section (2) of Section 38 read with sub-rule (1) of rule 60 of the said Rules provides for furnishing of details in **FORM- GSTR-2** after the 10th but before the 15th of the month succeeding the tax period. Further, sub-section (1) of section 38 read with sub-rule (1) of rule 60 provides that on the basis of the details contained in **FORM GSTR-2A**, the recipient shall prepare and furnish the details of inward supply in **FORM GSTR-2** after verifying, validating, modifying or deleting, the details, if required. Since the due dates for furnishing the details in **FORM GSTR-1** and **FORM GSTR-2** have been extended, it is hereby clarified that the due date of **FORM GSTR-2A** is also extended. The details furnished in **FORM GSTR-1** are available to the recipient in **FORM GSTR-2A** from 11th of October, 2017. These details are also available in **FORM GSTR-2** and can be verified, validated, modified or deleted to prepare details in **FORM GSTR-2** which is required to be furnished not later than the 30th November, 2017. It is further clarified that the details in **FORM GSTR-2A** are also available in his **FORM GSTR-2** and the recipient may take necessary action on the same, prior to furnishing the details in his **FORM GSTR-2**. **FORM GSTR-2A** is a read-only document made available to the recipient electronically so that he has a record of all the invoices received from various suppliers during a given tax period.
2. Sub-section (3) of section 38 of the Act read with sub-rule (4) of rule 59 of the Rules provides that the details of inward supplies added, corrected or deleted by the recipient in **FORM GSTR-2** shall be made available to the concerned supplier electronically in **FORM GSTR-1A**. Further, sub-section (2) of section 37 of the Act read with sub-rule (4) of rule 59 of the Rules provides that once these details are made available electronically through the common portal to the supplier in **FORM GSTR-1A**, the supplier shall either accept or reject the modifications made by the recipient on or before the 17th day of the month succeeding the tax period but not before the 15th day, and accordingly, **FORM GSTR-1** shall stand amended to the extent of modifications accepted by the supplier. In this regard, it is hereby clarified that as the dates for furnishing the details in **FORM GSTR-1** and **FORM GSTR-2** have been extended, the

due date for furnishing of **FORM GSTR-1A** for July 2017 is also extended. Therefore, the details in **FORM GSTR-1A** shall be made available to the supplier from the 1st of December to the 6th of December, 2017 for the month of July 2017.

2.3 Filing of Returns under GST [Circular No. 26/26/2017-GST]

Circular No. 26/26/2017-GST

New Delhi, Dated the 29th December, 2017

The GST Council, in its 23rd meeting held at Guwahati on 10th November 2017, has taken certain decisions in regard to filing of returns by taxpayers. Subsequently, various representations have been received seeking clarifications on various aspects of return filing such as return filing dates, applicability and quantum of late fee, amendment of errors in submitting / filing of **FORM GSTR-3B** and other related queries. In order to consolidate the information in various notifications and circulars regarding return filing and to ensure uniformity in implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 hereby clarifies the following issues:

1. Return Filing Calendar:

1.1 Dates for filing of **FORM GSTR-1** and **FORM GSTR-3B** have been put in a calendar format for ease of understanding as under:

Return Filing Dates		January 2018		February 2018			March 2018		April 2018			May 2018
		10	20	10	15	20	10	20	10	20	30	10
Up to 1.5 Crore	GSTR - 3B		Dec 3B			Jan 3B		Feb 3B		Mar 3B		Apr 3B
	GSTR -1	Jul - Sep 2017			Oct - Dec 2017						Jan- Mar 2017	
Greater than 1.5 Crore	GSTR - 3B		Dec 3B			Jan 3B		Feb 3B		Mar 3B		Apr 3B
	GSTR -1	July to Nov 2017		Dec 2017			Jan 2018		Feb 2018			Mar 2018

1.2 It may be noted that all registered persons are required to file their **FORM GSTR-3B** on a monthly basis in terms of Notification No. 35/2017-Central Tax (referred to as “CT” hereinafter)

dated 15th September, 2017 and 56/2017-CT dated 15th November 2017. Further, Notification No. 71/2017-CT and Notification No. 72/2017 – CT both dated 29th December 2017 (superseding Notification No. 57/2017-CT and 58/2017-CT both dated 15th November 2017) have been issued to notify the due dates for filing of outward supply statement in **FORM GSTR-1** for various months / quarters (as depicted in the calendar above) by registered persons having aggregate turnover in the previous financial year or current financial year of upto 1.5 Crores rupees and above 1.5 Crores rupees respectively. Since, the option of quarterly filing was not available earlier, many taxpayers have already filed their **FORM GSTR-1** for the month of July, such taxpayers shall not file these details again and shall only file details for the month of August and September, 2017. For those, who have not filed their **FORM GSTR-1** for the month of July, they shall also file their **FORM GSTR-1** for the month of July separately and then file their **FORM GSTR-1** on quarterly basis for the month of August and September, 2017.

1.3 It has been further decided that the time period of filing of **FORM GSTR-2** and **FORM GSTR -3** for the months of July 2017 to March 2018 would be worked out by a Committee of officers and communicated later.

1.4 Registered persons opting for Composition scheme are required to file their returns quarterly in **FORM GSTR-4**. The due date for filing of **FORM GSTR-4** for the quarter ending September 2017 has been extended to 24th December 2017 vide Notification No. 59/2017-CT dated 15th November 2017. For the remaining quarters, the last date for filing of **FORM GSTR-4** is within eighteen days after the end of such quarter.

1.5 It is also clarified that the registered person will self-assess his aggregate turnover in terms of Section 2(6) of the CGST Act, 2017 for the previous financial year or the current financial year (in case of new registrants). Based on this self-assessed turnover, the registered person with turnover up to Rs. 1.5 Crore will be required to file **FORM GSTR-1** on quarterly basis instead of on monthly basis. It is also clarified that the registered person may opt to file **FORM GSTR-1** on monthly basis if he so wishes even though his aggregate turnover is up to Rs. 1.5 Crore. Once he falls in this bracket or if he chooses to file return on monthly basis, the registered person will not have the option to change the return filing periodicity for the entire financial year. In cases, where the registered person wrongly reports his aggregate turnover and opts to file **FORM GSTR-1** on quarterly basis, he may be liable for punitive action under the CGST Act, 2017.

2. Applicability and quantum of late fee:

2.1 The late fee for the months of July, August and September for late filing of **FORM GSTR – 3B** has already been waived off vide Notification No. 28/2017-CT dated 1st September 2017 and 50/2017-CT dated 24th October 2017.

2.2 It has been decided that for subsequent months, i.e. October 2017 onwards, the amount of late fee payable, by a taxpayer whose tax liability for that month was „NIL“, will be Rs. 20/- per day (Rs. 10/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts). For other taxpayers, whose tax liability for that month was not „NIL“, late fee payable will be Rs. 50/- per day (Rs. 25/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts). Notification No. 64/2017-CT dated 15th November 2017 has already been issued in this regard.

3. Amendment / corrections / rectification of errors:

3.1 Various representations have been received wherein registered persons have requested for clarification on the procedure for rectification of errors made while filing their **FORM GSTR-3B**. In this regard, Circular No. 7/7/2017-GST dated 1st September 2017 was issued which clarified that errors committed while filing **FORM GSTR – 3B** may be rectified while filing **FORM GSTR-1** and **FORM GSTR-2** of the same month. Further, in the said circular, it was clarified that the system will automatically reconcile the data submitted in **FORM GSTR-3B** with **FORM GSTR-1** and **FORM GSTR-2**, and the variations if any will either be offset against output tax liability or added to the output tax liability of the subsequent months of the registered person.

3.2 Since, the GST Council has decided that the time period of filing of **FORM GSTR-2** and **FORM GSTR -3** for the month of July 2017 to March 2018 would be worked out by a Committee of officers, the system based reconciliation prescribed under Circular No. 7/7/2017-GST dated 1st September 2017 can only be operationalized after the relevant notification is issued. The said circular is therefore kept in abeyance till such time.

3.3 The common errors while submitting **FORM GSTR-3B** and the steps needed to be taken to rectify the same are provided in the table annexed herewith. The registered person needs to decide at which stage of filing of **FORM GSTR-3B** he is currently at and also the error committed by him. The corresponding column in the table provides the steps to be followed by him to rectify such error.

4. It is clarified that as return in **FORM GSTR-3B** do not contain provisions for reporting of differential figures for past month(s), the said figures may be reported on net basis along with the values for current month itself in appropriate tables i.e. Table No. 3.1, 3.2, 4 and 5, as the case may be. It may be noted that while making adjustment in the output tax liability or input tax credit, there can be no negative entries in the **FORM GSTR-3B**. The amount remaining for adjustment, if any, may be adjusted in the return(s) in **FORM GSTR-3B** of subsequent month(s) and, in cases where such adjustment is not feasible, refund may be claimed. Where adjustments have been made in **FORM GSTR-3B** of multiple months, corresponding adjustments in **FORM GSTR-1** should also preferably be made in the corresponding months.

5. Where the taxpayer has committed an error in submitting (before offsetting and filing) the information in **FORM GSTR-3B**, a provision for editing the same has been provided. The facility to edit the information can be used only before offsetting the liability and editing will not be permitted after offsetting the liability. Hence, every care should be taken to ensure the accuracy of the figures before proceeding to offset the liabilities.

6. It is further clarified that the information furnished by the registered person in the return in **FORM GSTR-3B** would be reconciled by the department's system with the information furnished in **FORM GSTR-1** and discrepancies, if any, shall be dealt with in accordance with the relevant provisions of the CGST Act, 2017 and rules made there under. Detailed instructions regarding reconciliation of information furnished in **FORM GSTR-3B** with that contained in **FORM GSTR-2** and **FORM GSTR-3** will be issued in due course of time.

Stage of Return Filing (GSTR – 3B)

	Stage 1	Stage 2	Stage 3	Stage 4
Common Error - 1	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step.	Cash was added to the electronic cash ledger as per return liability. No action was taken after this step	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.
Liability was under reported	Use “Edit” facility to add under reported liability.	Use "Edit" facility to add such liability and additional cash, if required (i.e. where sufficient balances are not available in the credit or cash ledgers) may be deposited in the cash ledger by creating challan in FORM GST PMT-06 .	Liability may be added in the return of subsequent month(s) after payment of interest.	
	<p><i>Company A has four units in Haryana, while filing their return for the month of July, they inadvertently, missed on details of a last minute order. Since, they had already submitted and confirmed their output supply details, they were not sure of how to proceed. What can they do?</i></p> <p><i>The company may use the „edit return“ facility to add such liability in their submitted return and then proceed for filing of their return.</i></p>	<p><i>Company A has four units in Haryana, while filing their return for the month of July, they inadvertently, missed on details of a last minute order. Since, they had already submitted and confirmed their output supply details, but were not sure of how to proceed. They added cash in the cash to the extent of their under reported liability. What can they do?</i></p> <p><i>The company may use the „edit return“ facility to add such liability in their submitted return. Further, the company may generate a fresh challan under FORM GST PMT-06 to additional cash or utilize their credit and furnish their return.</i></p>	<p><i>Company A has four units in Haryana, while filing their return for the month of July, they inadvertently, missed on details of a last minute order. The Company had filed their returns in order to not pay late fee and other penalties. What can they do?</i></p> <p><i>In this case, they may report this additional liability in the return of next month and pay tax with interest.</i></p>	
Change in FORM GSTR-1	If such liability was not reported in FORM GSTR-1 of the month/quarter, then such liability may be declared in the subsequent month’s/quarter’s FORM GSTR-1 in which payment was made.			

Stage of Return Filing (GSTR – 3B)

	Stage 1	Stage 2	Stage 3	Stage 4
Common Error - II	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step.	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed
Liability was under reported	Use "Edit" facility to reduce over reported liability.	Use "Edit" facility to reduce over reported liability and cash ledger may be partially debited to offset such liability. Remaining balance may either be claimed as refund or used to offset future liabilities.	Liability may be adjusted in return of subsequent month(s) or refund may be claimed where adjustment is not feasible.	
	<p><i>Company B had reported an inter-State sale but realized that the same sale was counted twice and hence was not to be reported. But the return form was already submitted and no change could be done to the liabilities. What can company B do?</i></p> <p><i>In this case, Company B has the option to use the "edit" facility to reduce such liability and proceed to file their return.</i></p>	<p><i>Company B had reported an inter-State sale but realized that the same sale was counted twice and hence was not to be reported or taxed. But the return form was already submitted and no change could be done to reduce the liabilities. Further, the company had already deposited cash in their cash ledger before realizing this error. What can company B do?</i></p> <p><i>In this case, Company B has the option to use the "edit" facility to reduce such liability. Once, this is done, they can partially debit their cash ledger to offset their tax liability. Further, remaining balance can either be claimed as refund or used to offset future liabilities.</i></p>	<p><i>Company B had reported an inter-State sale but realized that the same sale was counted twice and hence was not to be reported or taxed. But the return form was already filed and no change could be done to reduce the liabilities. What can company B do?</i></p> <p><i>In this case, they may reduce this liability in the return of subsequent months or claim refund of the same.</i></p>	
Change in FORM GSTR-1	Where the liability was over reported in the month's / quarter's FORM GSTR-1 also, then such liability may be amended through amendments under Table 9 of FORM GSTR-1			

Stage of Return Filing (GSTR – 3B)

Stage of Return Filing (GSTR – 3B)				
Common Error - III	Stage 1	Stage 2	Stage 3	Stage 4
	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Common Error - III	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step.	Cash was added to the electronic cash ledger as per return liability. No action was taken after this step	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.
Liability was under reported	Use “Edit” facility to rectify wrongly reported liability.	Use “Edit” facility to rectify wrongly reported liability and cash ledger may be debited to offset new liability, where sufficient balances are not available in the credit ledger. Remaining balance, if any may be either claimed as refund or used to offset future liabilities.	Unreported liability may be added in the next month’s return with interest, if applicable. Also, adjustment may be made in return of subsequent month(s) or refund may be claimed where adjustment is not feasible.	

	<p><i>Company C is registered in the State of Haryana. While entering their outward supplies in FORM GSTR-3B, the company realized that they had inadvertently, shown inter-State supply as intra-State supply and submitted the return. What can they do?</i></p> <p><i>In this case, the company will have to rectify wrongly reported liability using the edit facility. Here, the company will reduce their Central Tax / State tax supplies and liability and add integrated tax liability and proceed to file their return.</i></p>	<p><i>Company C is registered in the State of Haryana. While entering their outward supplies in FORM GSTR-3B, the company realized that they had inadvertently, shown inter-State supply as intra-State supply and submitted the return. Further, they also had updated their Central Tax and State tax cash ledgers. What can they do?</i></p> <p><i>In this case, the company will have to rectify wrongly reported liability using the edit facility. The company will reduce their Central Tax / State tax liability and add integrated tax liability. Further, they will have to pay integrated tax and update their cash ledger. They may seek for Central Tax / State tax cash refund in due course or use the same for offsetting future liabilities.</i></p>	<p><i>Company C was registered in the State of Haryana. While entering their outward supplies in FORM GSTR-3B, the company realized that they had inadvertently, shown inter-State supply as intra-State supply and submitted the return. The company paid their wrong liability and filed their return in order to avoid late fee and penalty? What can they do? Since, the return has already been filed, then the company will have to report the inter-State supply in their next month's liability and adjust their wrongly paid intra-State liability in the subsequent months returns or claim refund of the same.</i></p>
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Change in FORM GSTR-1	Such taxpayers will have to file for amendments by filling Table 9 of the subsequent month's / quarter's FORM GSTR-1.
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Stage of Return Filing (GSTR – 3B)

Stage of Return Filing (GSTR – 3B)				
	Stage 1	Stage 2	Stage 3	Stage 4
Common Error - IV	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.
Liability was under reported	Use 'Edit" facility to add un-availed input tax credit. Input tax Credit will be added to the credit ledger and may be used for offsetting this month or subsequent month's liability.	No Action required in cash ledger	Input tax credit which was not reported may be availed while filing return for subsequent month(s).	

	<p><i>Company D, while filing their FORM GSTR - 3B for the month of July, inadvertently, misreported Input tax credit of Rs. 1,00,00,000/- as Rs. 10,00,000/-. They had confirmed and submitted their return. What can they do?</i></p> <p><i>The company may use the "edit" facility to add more Input tax credit to their submitted FORM GSTR-3B. Once, this is done, such credit will be reflected in their Electronic Credit ledger and may be utilized to offset liabilities for this month or for subsequent months.</i></p>	<p>No Action required in cash ledger</p>	<p><i>Company D, while filing their FORM GSTR - 3B for the month of July, inadvertently, misreported Input tax credit of Rs. 1,00,00,000/- as Rs. 10,00,000/-. They had filed their return and paid Rs. 90,00,000/- in cash. What can they do?</i></p> <p><i>Since, the return has already been filed, Company D may add such Input tax credit in their return for subsequent month(s). Change in FORM GSTR-1</i></p>
<p>Change in FORM GSTR-1</p>	<p>No Action</p>		

<p style="text-align: center;">Stage of Return Filing (GSTR – 3B)</p>				
	<p style="text-align: center;">Stage 1</p>	<p style="text-align: center;">Stage 2</p>	<p style="text-align: center;">Stage 3</p>	<p style="text-align: center;">Stage 4</p>
<p>Common Error - V</p>	<p style="text-align: center;">Confirmed Submission</p>	<p style="text-align: center;">Cash Ledger Updated</p>	<p style="text-align: center;">Offset Liability</p>	<p style="text-align: center;">Return Filed</p>
	<p>Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step.</p>	<p>Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step</p>	<p>All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.</p>	<p>Return was filed.</p>

Liability was over reported	Use "Edit" facility to rectify the over reported input tax credit	Additional cash, if required, may be deposited in the cash ledger by creating challan in FORM GST PMT-06	Pay (through cash) / Reverse such over reported input tax credit with interest in return of subsequent month (s).
	<p>While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their eligible input tax credit, as Rs. 20,00,000/- instead of Rs. 10,00,000/- . What can they do?</p> <p>Since, the company has submitted details of their input tax credit but not used such credit for offsetting their liabilities, they can reduce their input tax credit by using the "edit" facility.</p>	<p>While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their eligible input tax credit, as Rs. 20,00,000/- instead of Rs. 10,00,000/-. What can they do?</p> <p>Since, the company has submitted details of their input tax credit but not used such credit for offsetting their liabilities, they can reduce their input tax credit by using the "edit" facility. Since, they have deposited Rs. 10,00,000/- only in their input tax credit ledger they may deposit additional Rs. 10,00,000/- in the cash ledger by creating challan in FORM GST PMT-06.</p>	<p>While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their eligible input tax credit, as Rs. 20,00,000/- instead of Rs. 10,00,000/-. Company E also utilized their additional input tax credit and filed their returns. What can they do?</p> <p>Since, the company had utilized ineligible credit to offset such liabilities, the company will have to pay (through cash) / Reverse such over reported utilized input tax credit with interest.</p>
Change in FORM GSTR-1	No Action		

Stage of Return Filing (GSTR – 3B)				
Common Error - VI	Stage 1	Stage 2	Stage 3	Stage 4
	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step.	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.

Liability was over reported	<ul style="list-style-type: none"> • “Edit” facility to be used to rectify such liability. • New Input tax credit will be added to the credit ledger. • Input tax credit reduced will be adjusted in the credit ledger without any additional liability 	Additional cash, if required, may be deposited in the cash ledger by creating challan in FORM GST PMT-06	Pay (through cash) / Reverse any wrongly reported input tax credit in return of subsequent month(s). For under reported input tax credit, the same may be availed in return of subsequent month(s).
	<p>While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their Central Tax credit of Rs. 20,00,000/- as Integrated tax. What can they do?</p> <p>Use edit facility to claim correct central tax credit under the right head.</p>	<p>While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their Central Tax credit of Rs. 20,00,000/- as Integrated tax. What can they do?</p> <p>They can use “edit” facility to correct central tax credit under the right head. For offsetting any integrated tax liability, additional cash may be deposited in the cash ledger by creating challan in FORM GST PMT-06.</p>	<p>While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their Central Tax credit of Rs. 20,00,000/- as Integrated tax credit. In order to avoid late fee and penalties, they paid Rs. 20,00,000/- Central Tax in cash and did not utilize their Integrated tax credit. What can they do? Since, the company has filed the returns and there is an unutilized Integrated tax credit of Rs. 20,00,000/- which was inadmissible to them, they will have to pay / reverse such credit in the return of subsequent month(s). Further, Central Tax credit of Rs. 20,00,000/- can be availed in return of subsequent month(s).</p>
Change in FORM GSTR-1	No Action		

Stage of Return Filing (GSTR – 3B)				
Common Error - VII	Stage 1	Stage 2	Stage 3	Stage 4
		Confirmed Submission	Cash Ledger Updated	Offset Liability

	Return liabilities / Input tax credit availed were reported correctly and thereafter confirmed and submitted. Therefore no change is required to be done to the liability. No action was taken after this step.	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step	Return was filed.
Liability was over reported	No Action	Add cash under the right tax head and seek cash refund of the cash added under the wrong tax head.	No Action	
	No Action	While filing their FORM GSTR-3B return, Company F while generating payment challan added Rs. 5,00,000/- under the Central Tax head, while they wanted to deposit Rs. 5,00,000/- under the integrated tax head. What can they do? Since, they have already filed their challan, they will have to add Rs. 5,00,000/- in their integrated tax head and file their returns. Further, they may seek refund of Rs. 5,00,000/- from their cash ledger.	No Action	
Change in FORM GSTR-1	No Action			

2.4 Circular to clarify the procedure in respect of return of time expired drugs or medicines [Circular No. 72/46/2018-GST]

Circular No. 72/46/2018-GST
New Delhi, Dated the 26th October, 2018

Various representations have been received seeking clarification on the procedure to be followed in respect of return of time expired drugs or medicines under the GST laws. The issues raised in the said representations have been examined and to ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) hereby clarifies the issue in succeeding paragraphs.

2. The common trade practice in the pharmaceutical sector is that the drugs or medicines (hereinafter referred to as “goods”) are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. It is significant to mention here that such goods have a defined life term which is normally referred to as the date of expiry. Such goods which have crossed their date of expiry are colloquially referred to as time expired goods and are returned back to the manufacturer, on account of expiry, through the supply chain.

3. It is clarified that the retailer/ wholesaler can follow either of the below mentioned procedures for the return of the time expired goods:

(A) Return of time expired goods to be treated as fresh supply:

a) In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, “return supply”). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail Input Tax Credit (hereinafter referred to as “ITC”) of the tax levied on the said return supply subject to the fulfilment of the conditions specified in Section 16 of the CGST Act.

b) In case the person returning the time expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply.

c) In case the person returning the time expired goods is an unregistered person, he may return the said goods by issuing any commercial document without charging any tax on the same.

d) Where the time expired goods which have been returned by the retailer/wholesaler are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of the provisions of clause (h) of sub-section (5) of section 17 of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

***Illustration:** Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs.15/- So, when the time expired goods are destroyed by the manufacturer he would be required to reverse ITC of Rs. 15/- and not of Rs. 10/-.*

(B) Return of time expired goods by issuing Credit Note:

a) As per sub-section (1) of Section 34 of the CGST Act the supplier can issue a credit note where the goods are returned back by the recipient. Thus, the manufacturer or the wholesaler who has supplied the goods to the wholesaler or retailer, as the case may be, has the option to issue a credit note in relation to the time expired goods returned by the wholesaler or retailer, as the case may be. In such a scenario, the retailer or wholesaler may return the time expired goods by issuing a delivery challan. It may be noted that there is no time limit for the issuance of a credit note in the law except with regard to the adjustment of the tax liability in case of the credit notes issued prior to the month of September following the end of the financial year and those issued after it.

b) It may further be noted that if the credit note is issued within the time limit specified in sub-section (2) of section 34 of the CGST Act, the tax liability may be adjusted by the supplier, subject to the condition that the person returning the time expired goods has either not availed the ITC or if availed has reversed the ITC so availed against the goods being returned.

c) However, if the time limit specified in sub-section (2) of section 34 of the CGST Act has lapsed, a credit note may still be issued by the supplier for such return of goods but the tax liability cannot be adjusted by him in his hands. It may further be noted that in case time expired goods are returned beyond the time period specified in the sub-section (2) of section 34 of the CGST Act and a credit note is issued consequently, there is no requirement to declare such credit note on the common portal by the supplier (i.e. by the person who has issued the credit note) as tax liability cannot be adjusted in this case.

d) Further, where the time expired goods, which have been returned by the retailer/wholesaler, are destroyed by the manufacturer, he/she is required to reverse the ITC attributable to the manufacture of such goods, in terms of the provisions of clause (h) of subsection (5) of section 17 of the CGST Act. This has been illustrated in table below:

	Date of Supply of goods from manufacturer /wholesaler to wholesaler/ retailer	Date of return of time expired goods from retailer / wholesaler to wholesaler / manufacturer	Treatment in terms of tax liability & credit note
Case 1	1 st July, 2017	20 th September, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.
Case 2	1 st July, 2017	20 th October, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.

4. It may be noted that though this circular discusses the scenarios in relation to return of goods on account of expiry of the same, it may be applicable to such other scenarios where the goods are returned on account of reasons other than the one detailed above.

2.5 Mentioning details of inter-State supplies made to unregistered persons in Table 3.2 of FORM GSTR-3B and Table 7B of FORM GSTR-1 [Circular No. 89/08/2019-GST]

Circular No. 89/08/2019-GST New Delhi, Dated the 18th February, 2019

A registered supplier is required to mention the details of inter -State supplies made to unregistered persons, composition taxable persons and UIN holders in Table 3.2 of **FORM GSTR-3B**. Further, the details of all inter-State supplies made to unregistered persons where the invoice value is up to Rs 2.5 lakhs (rate-wise) are required to be reported in Table 7B of **FORM GSTR-1**.

2. It has been brought to the notice of the Board that a number of registered persons have not reported the details of inter-State supplies made to unregistered persons in Table 3.2 of **FORM GSTR-3B**. However, the said details have been mentioned in Table 7B of **FORM GSTR-1**. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017(CGST Act for short), hereby issues the following instructions.

3. It is pertinent to mention that apportionment of IGST collected on inter-State supplies made to unregistered persons in the State where such supply takes place is based on the information reported in Table 3.2 of **FORM GSTR-3B** by the registered person. As such, non-mentioning of the said information results in –

- (i) non-apportionment of the due amount of IGST to the State where such supply takes place; and
- (ii) a mis-match in the quantum of goods or services or both actually supplied in a State and the amount of integrated tax apportioned between the Centre and that State, and consequent non-compliance of sub-section (2) of section 17 of the Integrated Goods and Services Tax Act, 2017.

4. Accordingly, it is instructed that the registered persons making inter-State supplies to unregistered persons shall report the details of such supplies along with the place of supply in Table 3.2 of **FORM GSTR-3B** and Table 7B of **FORM GSTR-1** as mandated by the law. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of section 125 of the CGST Act.

2.6 Clarification regarding optional filing of annual return under notification No. 47/2019- Central Tax dated 9th October, 2019 [Circular No. 124/43/2019-GST]

Circular No. 124/43/2019-GST

New Delhi, Dated the 18th November, 2019

Attention is invited to notification No. 47/2019-Central Tax dated 9th October, 2019 (hereinafter referred to as “the said notification”) issued under section 148 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the said Act”) providing for special procedure for those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees and who have not furnished the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “the CGST Rules”).

2. Vide the said notification it is provided that the annual return shall be deemed to be furnished on the due date if it has not been furnished before the due date for the financial year 2017-18 and 2018-19, in respect of those registered persons. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the said Act, hereby clarifies the issues raised as below:–

- a. As per proviso to sub-rule (1) of rule 80 of the CGST Rules, a person paying tax under section 10 is required to furnish the annual return in **FORM GSTR-9A**. Since the said notification has made it optional to furnish the annual return for FY 2017-18 and 2018-19 for those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees, it is clarified that the tax payers under composition scheme, may, at their own option file **FORM GSTR-9A** for the said financial years before the due date. After the due date of furnishing the annual return for the year 2017-18 and 2018-19, the common portal shall not permit furnishing of **FORM GSTR-9A** for the said period.
 - b. As per sub-rule (1) of rule 80 of the CGST Rules, every registered person other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in **FORM GSTR-9**. Further, the said notification has made it optional to furnish the annual return for FY 2017-18 and 2018-19 for those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees. Accordingly, it is clarified that the tax payers, may, at their own option file **FORM GSTR-9** for the said financial years before the due date. After the due date of furnishing the annual return for the year 2017-18 and 2018-19, the common portal shall not permit furnishing of **FORM GSTR-9** for the said period.
3. Section 73 of the said Act provides for voluntary payment of tax dues by the taxpayers at any point in time. Therefore, irrespective of the time and quantum of tax which has not been paid or short paid, the taxpayer has the liberty to self-ascertain such tax amount and pay it through **FORM GST DRC-03**. Accordingly, it is clarified that if any registered tax payer, during course of reconciliation of his accounts, notices any short payment of tax or ineligible availment of input tax credit, he may pay the same through **FORM GST DRC-03**.

2.7 Standard Operating Procedure to be followed in case of non-filers of returns [Circular No. 129/48/2019-GST]

Circular No. 129/48/2019-GST New Delhi, Dated the 24th December, 2019

Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in case of non-furnishing of return under section 39 or section 44 or section 45 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”). It has further been brought to the notice that divergent practices are being followed in case of non-furnishing of the said returns.

2. The matter has been examined. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3. Section 46 of the CGST Act read with rule 68 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) requires issuance of a notice in **FORM GSTR-3A** to a registered person who fails to furnish return under section 39 or section 44 or section 45 (hereinafter referred to as the “defaulter”) requiring him to furnish such return within fifteen days. Further section 62 provides for assessment of non-filers of return of registered persons who fails to furnish return under section 39 or section 45 even after service of notice under section 46. **FORM GSTR-3A** provides as under:

“Notice to return defaulter u/s 46 for not filing return

Tax Period -

Type of Return -

Being a registered taxpayer, you are required to furnish return for the supplies made or received and to discharge resultant tax liability for the aforesaid tax period by due date. It has been noticed that you have not filed the said return till date.

- 1. You are, therefore, requested to furnish the said return within 15 days failing which the tax liability may be assessed u/s 62 of the Act, based on the relevant material available with this office. Please note that in addition to tax so assessed, you will also be liable to pay interest and penalty as per provisions of the Act.*
- 2. Please note that no further communication will be issued for assessing the liability.*
- 3. The notice shall be deemed to have been withdrawn in case the return referred above, is filed by you before issue of the assessment order.”*

As such, no separate notice is required to be issued for best judgment assessment under section 62 and in case of failure to file return within 15 days of issuance of **FORM GSTR- 3A**, the best judgment assessment in **FORM ASMT-13** can be issued without any further communication.

4. Following guidelines are hereby prescribed to ensure uniformity in the implementation of the provisions of law across the field formations:

- (i) Preferably, a system generated message would be sent to all the registered persons 3 days before the due date to nudge them about filing of the return for the tax period by the due date.
- (ii) Once the due date for furnishing the return under section 39 is over, a system generated mail / message would be sent to all the defaulters immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period; the said mail/message is to be sent to the authorized signatory as well as the proprietor/partner/director/karta, etc.
- (iii) Five days after the due date of furnishing the return, a notice in **FORM GSTR-3A** (under section 46 of the CGST Act read with rule 68 of the CGST Rules) shall be issued electronically to such registered person who fails to furnish return under section 39, requiring him to furnish such return within fifteen days;
- (iv) In case the said return is still not filed by the defaulter within 15 days of the said notice, the proper officer may proceed to assess the tax liability of the said person under section 62 of the CGST Act, to the best of his judgement taking into account all the relevant material which is available or which he has gathered and would issue order under rule 100 of the CGST Rules in **FORM GST ASMT-13**. The proper officer would then be required to upload the summary thereof in **FORM GST DRC- 07**;
- (v) For the purpose of assessment of tax liability under section 62 of the CGST Act, the proper officer may take into account the details of outward supplies available in the statement furnished under section 37 (**FORM GSTR-1**), details of supplies auto-populated in **FORM GSTR-2A**, information available from e-way bills, or any other information available from any other source, including from inspection under section 71;
- (vi) In case the defaulter furnishes a valid return within thirty days of the service of assessment order in **FORM GST ASMT-13**, the said assessment order shall be deemed to have been withdrawn in terms of provision of sub-section (2) of section 62 of the

CGST Act. However, if the said return remains unfurnished within the statutory period of 30 days from issuance of order in **FORM ASMT-13**, then proper officer may initiate proceedings under section 78 and recovery under section 79 of the CGST Act;

5. Above general guidelines may be followed by the proper officer in case of non-furnishing of return. In deserving cases, based on the facts of the case, the Commissioner may resort to provisional attachment to protect revenue under section 83 of the CGST Act before issuance of **FORM GST ASMT-13**.

6. Further, the proper officer would initiate action under sub-section (2) of section 29 of the CGST Act for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.

2.8 Quarterly Return Monthly Payment Scheme [Circular No. 143/13/2020-GST]

Circular No. 143/13/2020- GST New Delhi, Dated the 10th November, 2020

As a trade facilitation measure and in order to further ease the process of doing business, the GST Council in its 42nd meeting held on 05.10.2020, had recommended that registered person having aggregate turnover up to five (5) crore rupees may be allowed to furnish return on quarterly basis along with monthly payment of tax, with effect from 01.01.2021. Government has issued following notifications to implement the Scheme of quarterly return filing along with monthly payment of taxes (hereinafter referred to as “QRMP Scheme/ Scheme”):

SI. No.	Notification	Remarks
1.	Notification No. 81/2020 – Central Tax, dated 10.11.2020.	Notifies amendment carried out in sub-section (1), (2) and (7) of section 39 of the CGST Act vide Finance (No.2) Act, 2019.
2.	Notification No. 82/2020 – Central Tax, dated 10.11.2020.	Makes the Thirteenth amendment (2020) to the CGST Rules 2017.
4.	Notification No. 84/2020 – Central Tax, dated 10.11.2020.	Notifies class of persons under proviso to section 39(1) of the CGST Act.

5.	Notification No. 85/2020 – Central Tax dated 10.11.2020.	Notifies special procedure for making payment of tax liability in the first two months of a quarter
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2. Various issues related to notifications issued to implement the QRMP Scheme have been examined. In order to explain the Scheme in simple terms and in order to ensure uniformity in implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Act, 2017 (hereinafter referred to as the CGST Act), hereby clarifies various issues in succeeding paragraphs.

3. **Eligibility for the Scheme**

In terms of notification No. 84/2020- Central Tax, dated 10.11.2020, a registered person who is required to furnish a return in FORM GSTR-3B, and who has an aggregate turnover of up to 5 crore rupees in the preceding financial year, is eligible for the QRMP Scheme. It is clarified that the aggregate annual turnover for the preceding financial year shall be calculated in the common portal taking into account the details furnished in the returns by the taxpayer for the tax periods in the preceding financial year. This new Scheme will be effective from 01.01.2021. Further, in case the aggregate turnover exceeds 5 crore rupees during any quarter in the current financial year, the registered person shall not be eligible for the Scheme from the next quarter.

4. **Exercising option for QRMP Scheme**

4.1 Facility to avail the Scheme on the common portal would be available throughout the year. In terms of rule 61A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred as CGST Rules), a registered person can opt in for any quarter from first day of second month of preceding quarter to the last day of the first month of the quarter. In order to exercise this option, the registered person must have furnished the last return, as due on the date of exercising such option.

For example: A registered person intending to avail of the Scheme for the quarter 'July to September' can exercise his option during 1st of May to 31st of July.

If he is exercising his option on 27th July for the quarter (July to September), in such case, he must have furnished the return for the month of June which was due on 22/24th July.

4.2 Registered persons are not required to exercise the option every quarter. Where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the said option.

4.3 For the first quarter of the Scheme i.e. for the quarter January, 2021 to March, 2021, in order to facilitate the taxpayers, it has been decided that all the registered persons, whose aggregate turnover for the FY 2019-20 is up to 5 crore rupees and who have furnished the return in FORM GSTR-3B for the month of October, 2020 by 30th November, 2020, shall be migrated on the common portal as below. Therefore, taxpayers are advised to furnish the return of October, 2020 in time so as to be eligible for default migration. The taxpayers who have not filed their return for October, 2020 on or before 30th November, 2020 will not be migrated to the Scheme. They will be able to opt for the Scheme once the FORM GSTR-3B as due on the

date of exercising option has been filed.

Sl. No.	Class of registered person	Default Option
1	Registered persons having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on quarterly basis in the current financial year	Quarterly return
2	Registered persons having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on monthly basis in the current financial year	Monthly Return
3	Registered persons having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in the preceding financial year	Quarterly return

Above default option has been provided for the convenience of registered persons based on their anticipated behaviour. However, such registered persons are free to change the option as above, if they so desire, from 5th of December, 2020 to 31st of January, 2021. It is re-iterated that any taxpayer whose aggregate turnover has exceeded 5 crore rupees in the financial year 2020-21, shall opt out of the Scheme.

4.4 Similarly, the facility for opting out of the Scheme for a quarter will be available from first day of second month of preceding quarter to the last day of the first month of the quarter.

4.5 All persons who have obtained registration during any quarter or the registered persons opting out from paying tax under Section 10 of the CGST Act during any quarter shall be able to opt for the Scheme for the quarter for which the opting facility is available on the date of exercising option as in para 4.1.

4.6 It is also clarified that such registered person, whose aggregate turnover crosses 5 crore rupees during a quarter in current financial year, shall opt for furnishing of return on a monthly basis, electronically, on the common portal, from the succeeding quarter. In other words, in case the aggregate turnover exceeds 5 crore rupees during any quarter in the current financial year, the registered person shall not be eligible for the Scheme from the next quarter.

4.7 It is further clarified that the option to avail the QRMP Scheme is GSTIN wise and therefore, distinct persons as defined in Section 25 of the CGST Act (different GSTINs on same PAN) have the option to avail the QRMP Scheme for one or more GSTINs. In other words, some GSTINs for that PAN can opt for the QRMP Scheme and remaining GSTINs may not opt for the Scheme.

5. Furnishing of details of outward supplies under section 37 of the CGST Act.

5.1 The registered persons opting for the Scheme would be required to furnish the details of outward supply in **FORM GSTR-1** quarterly as per the rule 59 of the CGST Rule.

5.2 For each of the first and second months of a quarter, such a registered person will have the facility (Invoice Furnishing Facility- IFF) to furnish the details of such outward **supplies to a registered person**, as he may consider necessary, between **the 1st** day of the succeeding month till the 13th day of the succeeding month. The said details of outward supplies shall, however, not exceed the value of fifty lakh rupees in each month. It may be

noted that after 13th of the month, this facility for furnishing IFF for previous month would not be available. As a facilitation measure, continuous upload of invoices would also be provided for the registered persons wherein they can save the invoices in IFF from the 1st day of the month till 13th day of the succeeding month. The facility of furnishing details of invoices in IFF has been provided so as to allow details of such supplies to be duly reflected in the **FORM GSTR-2A** and **FORM GSTR-2B** of the concerned recipient.

*For example, a registered person who has availed the Scheme wants to declare two invoices out of the total ten invoices issued in the first month of quarter since the recipient of supplies covered by those two invoices desires to avail ITC in that month itself. Details of these two invoices may be furnished using IFF. The details of the remaining 8 invoices shall be furnished in **FORM GSTR-1** of the said quarter. The two invoices furnished in IFF shall be reflected in **FORM GSTR-2B** of the concerned recipient of the first month of the quarter and remaining eight invoices furnished in **FORM GSTR-1** shall be reflected in **FORM GSTR-2B** of the concerned recipient of the last month of the quarter. The said facility would however be available, say for the month of July, from 1st August till 13th August. Similarly, for the month of August, the said facility will be available from 1st September till 13th September.*

It is re-iterated that said facility is not mandatory and is only an optional facility made available to the registered persons under the QRMP Scheme.

5.3 The details of invoices furnished using the said facility in the first two months are not required to be furnished again in **FORM GSTR-1**. Accordingly, the details of outward supplies made by such a registered person during a quarter shall consist of details of invoices furnished using IFF for each of the first two months and the details of invoices furnished in **FORM GSTR-1** for the quarter. At his option, a registered person may choose to furnish the details of outward supplies made during a quarter in **FORM GSTR-1** only, without using the IFF.

6. Monthly Payment of Tax

6.1 The registered person under the QRMP Scheme would be required to pay the tax due in each of the first two months of the quarter by depositing the due amount in **FORM GST PMT-06**, by the twenty fifth day of the month succeeding such month. While generating the challan, taxpayers should select “Monthly payment for quarterly taxpayer” as reason for generating the challan. The said person can use any of the following two options provided below for monthly payment of tax during the first two months -

- (a) **Fixed Sum Method:** A facility is being made available on the portal for generating a pre-filled challan in **FORM GST PMT-06** for an amount equal to thirty five per cent. of the tax paid in cash in the preceding quarter where the return was furnished quarterly; or equal to the tax paid in cash in the last month of the immediately preceding quarter where the return was furnished monthly.

For easy understanding, the same is explained by way of illustration in table below:

- i. In case the last return filed was on quarterly basis for Quarter Ending March, 2021:

Tax paid in Cash in Quarter (January)	Tax required to be paid in each of the months – April and May, 2021
--	--

- March, 2021)			
CGST	100	CGST	35
SGST	100	SGST	35
IGST	500	IGST	175
Cess	50	Cess	17.5

ii. In case the last return filed was monthly for tax period March, 2021:

Tax paid in Cash in March, 2021		Tax required to be paid in each of the months – April and May, 2021	
CGST	50	CGST	50
SGST	50	SGST	50
IGST	80	IGST	80
Cess	-	Cess	-

Monthly tax payment through this method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month. A complete tax period means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period.

- (b) **Self-Assessment Method:** The said persons, in any case, can pay the tax due by considering the tax liability on inward and outward supplies and the input tax credit available, in FORM GST PMT-06. In order to facilitate ascertainment of the ITC available for the month, an auto-drafted input tax credit statement has been made available in FORM GSTR- 2B, for every month.

6.2 The said registered person is free to avail either of the two tax payment method above in any of the two months of the quarter.

6.3 It is clarified that in case the balance in the electronic cash ledger and/or electronic credit ledger is adequate for the tax due for the first month of the quarter or where there is nil tax liability, the registered person may not deposit any amount for the said month. Similarly, for the second month of the quarter, in case the balance in the electronic cash ledger and/or electronic credit ledger is adequate for the cumulative tax due for the first and the second month of the quarter or where there is nil tax liability, the registered person may not deposit any amount.

6.4 Any claim of refund in respect of the amount deposited for the first two months of a quarter for payment of tax shall be permitted only after the return in **FORM GSTR-3B** for the said quarter has been furnished. Further, this deposit cannot be used by the taxpayer for any other purpose till the filing of return for the quarter.

7. Quarterly filing of FORM GSTR-3B

Such registered persons would be required to furnish **FORM GSTR-3B**, for each quarter, on or before 22nd or 24th day of the month succeeding such quarter. In **FORM GSTR-3B**, they shall declare the supplies made during the quarter, ITC availed during the quarter and all other details required to be furnished therein. The amount deposited by the registered person in the first two months shall be debited solely for the purposes of offsetting the liability furnished in that quarter's **FORM GSTR-3B**. However, any amount left after filing of that

quarter's **FORM GSTR-3B** may either be claimed as refund or may be used for any other purpose in subsequent quarters. In case of cancellation of registration of such person during any of the first two months of the quarter, he is still required to furnish return in **FORM GSTR-3B** for the relevant tax period.

8. Applicability of Interest

8.1. For registered person making payment of tax by opting Fixed Sum Method

i. No interest would be payable in case the tax due is paid in the first two months of the quarter by way of depositing auto-calculated fixed sum amount as detailed in para 6.1(a) above by the due date. In other words, if while furnishing return in **FORM GSTR-3B**, it is found that in any or both of the first two months of the quarter, the tax liability net of available credit on the supplies made /received was higher than the amount paid in challan, then, no interest would be charged provided they deposit system calculated amount for each of the first two months and discharge their entire liability for the quarter in the **FORM GSTR-3B** of the quarter by the due date.

ii. In case such payment of tax by depositing the system calculated amount in **FORM GST PMT-06** is not done by due date, interest would be payable at the applicable rate, from the due date of furnishing **FORM GST PMT-06** till the date of making such payment.

iii. Further, in case **FORM GSTR-3B** for the quarter is furnished beyond the due date, interest would be payable as per the provisions of Section 50 of the CGST Act for the tax liability net of ITC.

Illustration 1 –

*A registered person, who has opted for the Scheme, had paid a total amount of Rs. 100/- in cash as tax liability in the previous quarter of October to December. He opts to pay tax under fixed sum method. He therefore pays Rs. 35/- each on 25th February and 25th March for discharging tax liability for the first two months of quarter viz. January and February. In his return for the quarter, it is found that liability, based on the outward and inward supplies, for January was Rs. 40/- and for February it was Rs. 42/-. No interest would be payable for the lesser amount of tax (i.e. Rs. 5 and Rs. 7 respectively) discharged in these two months provided that he discharges his entire liability for the quarter in the **FORM GSTR-3B** of the quarter by the due date.*

Illustration 2 –

A registered person, who has opted for the Scheme, had paid a total amount of Rs. 100/- in cash as tax liability in the previous quarter of October to December. He opts to pay tax under fixed sum method. He therefore pays Rs. 35/- each on 25th February and 25th March for discharging tax liability for the first two months of quarter viz. January and February. In his return for the quarter, it is found that total liability for the quarter net of available credit was Rs. 125 but he files the return on 30th April. Interest would be payable at applicable rate on Rs. 55 [Rs. 125 – Rs. 70 (deposit made in cash ledger in M1 and M2)] for the period between due date of quarterly GSTR 3B and 30th April

8.2 For registered person making payment of tax by opting Self-Assessment Method

Interest amount would be payable as per the provision of Section 50 of the CGST Act for tax or any part thereof (net of ITC) which remains unpaid / paid beyond the due date for the first two months of the quarter.

8.3 Interest payable, if any, shall be paid through **FORM GSTR-3B**.

9. **Applicability of Late Fee** - Late fee is applicable for delay in furnishing of return / details of outward supply as per the provision of Section 47 of the CGST Act. As per the Scheme, the requirement to furnish the return under the proviso to sub-section (1) of Section 39 of the CGST Act is quarterly. Accordingly, late fee would be the applicable for delay in furnishing of the said quarterly return / details of outward supply. It is clarified that no late fee is applicable for delay in payment of tax in first two months of the quarter.

3. Circulars related to Registration:

3.1 Verification of applications for grant of new registration [Circular No. 95/14/2019-GST]

Circular No. 95/14/2019-GST New Delhi, Dated the 28th March, 2019

Recently, a large number of registrations have been cancelled by the proper officer under the provisions of sub-section (2) of section 29 of the Central Goods and Services Act, 2017 (hereinafter referred to as „CGST Act“) read with rule 21 of the Central Goods and Services Rules, 2017 (hereinafter referred to as „CGST Rules“) on account of non-compliance of the said statutory provisions. In this regard, instances have come to notice that such persons, who continue to carry on business and therefore are required to have registration under GST, are not applying for revocation of cancellation of registration as specified in section 30 of the CGST Act read with rule 23 of the CGST Rules. Instead, such persons are applying for fresh registration. Such new applications might have been made as such person may not have furnished requisite returns and not paid tax for the tax periods covered under the old/cancelled registration. Further, such persons would be required to pay all liabilities due from them for the relevant period in case they apply for revocation of cancellation of registration. Hence, to avoid payment of the tax liabilities, such persons may be using the route of applying for fresh registration. It is pertinent to mention that as per the provisions contained in proviso to sub-section (2) of section 25 of the CGST Act, a person may take separate registration on same PAN in the same State.

2. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following instructions.

3. Sub-section (10) of section 25 of the CGST Act read with rule 9 of the CGST Rules provide for rejection of application for registration if the information or documents submitted by the applicant are found to be deficient. It is possible that the applicant may suppress some material information in relation to earlier registration. Some of the information that may be concealed in the application for registration in **FORM GST REG -01** are S. No. 7 ‘Date of Commencement of Business’, S. No. 8 ‘Date on which liability to register arises’, S. No. 14 ‘Reason to obtain

registration' etc. Such persons may also not furnish the details of earlier registrations, if any, obtained under GST on the same PAN.

4. It is hereby instructed that the proper officer may exercise due caution while processing the application for registration submitted by the taxpayers, where the tax payer is seeking another registration within the State although he has an existing registration within the said State or his earlier registration has been cancelled. It is clarified that not applying for revocation of cancellation of registration along with the continuance of the conditions specified in clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act shall be deemed to be a "deficiency" within the meaning of sub-rule (2) of rule 9 of the CGST Rules. The proper officer may compare the information pertaining to earlier registrations with the information contained in the present application, the grounds on which the earlier registration(s) were cancelled and the current status of the statutory violations for which the earlier registration(s) were cancelled. The data may be verified on common portal by fetching the details of registration taken on the PAN mentioned in the new application vis-a-vis cancellation of registration obtained on same PAN. The information regarding the status of other registrations granted on the same PAN is displayed on the common portal to both the applicant and the proper officer. Further, if required, information submitted by applicant in S. No. 21 of **FORM GST REG-01** regarding details of proprietor, all partner/Karta/Managing Directors and whole time Director/Members of Managing Committee of Associations/Board of Trustees etc. may be analysed vis-à-vis any cancelled registration having same details.

5. While considering the application for registration, the proper officer shall ascertain if the earlier registration was cancelled on account of violation of the provisions of clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act and whether the applicant has applied for revocation of cancellation of registration. If proper officer finds that application for revocation of cancellation of registration has not been filed and the conditions specified in clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act are still continuing, then, the same may be considered as a ground for rejection of application for registration in terms of sub-rule (2) read with sub-rule (4) of rule 9 of CGST Rules. Therefore, it is advised that where the applicant fails to furnish sufficient convincing justification or the proper officer is not satisfied with the clarification, information or documents furnished, then, his application for fresh registration may be considered for rejection.

3.2 Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16 [Circular No. 69/43/2018-GST]

Circular No. 69/43/2018-GST

New Delhi, Dated the 26th October, 2018

The Board is in receipt of representations seeking clarifications on various issues in relation to processing of the applications for cancellation of registration filed by taxpayers in **FORM GST REG-16**. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its

powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), hereby clarifies the issues as detailed hereunder:

2. Section 29 of the CGST Act, read with rule 20 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Rules”) provides that a taxpayer can apply for cancellation of registration in **FORM GST REG-16** in the following circumstances:

- a. Discontinuance of business or closure of business;
- b. Transfer of business on account of amalgamation, merger, de-merger, sale, lease or otherwise;
- c. Change in constitution of business leading to change in PAN;
- d. Taxable person (including those who have taken voluntary registration) is no longer liable to be registered under GST;
- e. Death of sole proprietor;
- f. Any other reason (*to be specified in the application*).

3. Rule 20 of the CGST Rules provides that the taxpayer applying for cancellation of registration shall submit the application in **FORM GST REG-16** on the common portal within a period of 30 days of the „*occurrence of the event warranting the cancellation*“. It might be difficult in some cases to exactly identify or pinpoint the day on which such an event occurs. For instance, a business may be transferred/disposed over a period of time in a piece meal fashion. In such cases, the 30-day deadline may be liberally interpreted and the taxpayers’ application for cancellation of registration may not be rejected because of the possible violation of the deadline.

4. While initiating the application for cancellation of registration in **FORM GST REG- 16**, the Common portal captures the following information which has to be mandatorily filled in by the applicant:

- a) Address for future correspondence with mobile number and email address;
- b) Reason for cancellation;
- c) Date from which cancellation is sought;
- d) Details of the value and the input tax/tax payable on the stock of inputs, inputs contained in semi-finished goods, inputs contained in finished goods, stock of capital goods/plant and machinery;
- e) In case of transfer, merger of business, etc., particulars of registration of the entity in which the existing unit has been merged, amalgamated, or transferred (including the copy of the order of the High Court / transfer deed);
- f) Details of the last return filed by the taxpayer along with the ARN of such return filed.

On successful submission of the cancellation application, the same appears on the dashboard of the jurisdictional officer.

5. Since the cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation, the proper officer should accept all such applications within a period of 30 days from the date of filing the application, except in the following circumstances:

- a) The application in **FORM GST REG-16** is incomplete, i.e. where all the relevant particulars, as detailed in para 4 above, have not been entered;

b) In case of transfer, merger or amalgamation of business, the new entity in which the applicant proposes to amalgamate or merge has not got registered with the tax authority before submission of the application for cancellation.

In all cases other than those listed at (a) and (b) above, the application for cancellation of registration should be immediately accepted by the proper officer and the order for cancellation should be issued in **FORM GST REG-19** with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in **FORM GST REG-16**. In any case the effective date cannot be a date earlier to the date of application for the same.

6. In situations referred to in (a) or (b) in para 5 above, the proper officer shall inform the applicant in writing about the nature of the discrepancy and give a time period of seven working days to the taxpayer, from the date of receipt of the said letter, to reply. If no reply is received within the specified period of seven working days, the proper officer may reject the application on the system, after giving the applicant an opportunity to be heard, recording reasons for rejection in the dialog box that opens once the „Reject“ button is chosen. If reply to the query is received and the same on examination is found satisfactory, the Proper Officer may approve the application for cancellation and proceed to cancel the registration by issuing an order in **FORM GST REG-19**. If reply to the query is found to be not satisfactory, the Proper Officer may reject the application for cancellation on the system, after giving the applicant an opportunity to be heard. The Proper Officer must also record his reasons for rejection of the application in the dialog box that opens when the „Reject“ button is chosen.

7. Section 45 of the CGST Act requires every registered person (other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52) whose registration has been cancelled, to file a final return in **FORM GSTR-10**, within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The purpose of the final return is to ensure that the taxpayer discharges any liability that he/she may have incurred under sub-section (5) of the section 29 of the CGST Act. It may be noted that the last date for furnishing of **FORM GSTR-10** by those taxpayers whose registration has been cancelled on or before 30.09.2018 has been extended till 31.12.2018 *vide* notification No. 58/2018 – Central Tax dated the 26th October, 2018.

8. Further, sub-section (5) of section 29 of the CGST Act, read with rule 20 of the CGST Rules states that the taxpayer seeking cancellation of registration shall have to pay, by way of debiting either the electronic credit or cash ledger, the input tax contained in the stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable on such goods, whichever is higher. For the purpose of this calculation, the stock of inputs, semi-finished goods, finished goods and capital goods shall be taken as on the day immediately preceding the date with effect from which the cancellation has been ordered by the proper officer i.e. the date of cancellation of registration. However, it is clarified that this requirement to debit the electronic credit and/or cash ledger by suitable amounts should not be a prerequisite for applying for cancellation of registration. This can also be done at the time of submission of final return in **FORM GSTR-10**. In any case, once the taxpayer submits the application for cancellation of his/her registration from a specified date, he/she will not be able to utilize any remaining balances in his/her electronic credit/cash ledgers from the said date except for discharging liabilities under GST Act upto the date of filing of final return in **FORM GSTR-10**. Therefore, the requirement to

reverse the balance in the electronic credit ledger is automatically met. In case it is later determined that the output tax liability of the taxpayer, as determined under sub-section (5) of section 29 of the CGST Act, was greater than the amount of input tax credit available, then the difference shall be paid by him/her in cash. It is reiterated that, as stated in sub-section (3) of section 29 of the CGST Act, the cancellation of registration does not, in any way, affect the liability of the taxpayer to pay any dues under the GST law, irrespective of whether such dues have been determined before or after the date of cancellation.

9. In case the final return in **FORM GSTR-10** is not filed within the stipulated date, then notice in **FORM GSTR-3A** has to be issued to the taxpayer. If the taxpayer still fails to file the final return within 15 days of the receipt of notice in **FORM GSTR-3A**, then an assessment order in **FORM GST ASMT-13** under section 62 of the CGST Act read with rule 100 of the CGST Rules shall have to be issued to determine the liability of the taxpayer under sub-section (5) of section 29 on the basis of information available with the proper officer. If the taxpayer files the final return within 30 days of the date of service of the order in **FORM GST ASMT-13**, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall continue.

10. Rule 68 of the CGST Rules requires issuance of notices to registered persons who fail to furnish returns under section 39 (**FORM GSTR-1, FORM GSTR-3B and FORM GSTR-4**), section 44 (Annual Return – **FORM GSTR-9 / FORM GSTR-9A / FORM GSTR-9C**), section 45 (Final Return – **FORM GSTR-10**) or section 52 (TCS Return – **FORM GSTR-6**). It is clarified that issuance of notice would not be required for registered persons who have not made any taxable supplies during the intervening period (i.e. from the date of registration to the date of application for cancellation of registration) and has furnished an undertaking to this effect.

11. It is pertinent to mention here that section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for “*Suspension*” of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. Although the provisions of CGST (Amendment) Act, 2018 have not yet been brought into force, it will be prudent for the field formations not to issue notices for non-filing of return for taxpayers who have already filed an application for cancellation of registration under section 29 of the CGST Act. However, the requirement of filing a final return, as under section 45 of the CGST Act, remains unchanged.

12. It may be noted that the information in table in **FORM GST REG-19** shall be taken from the liability ledger and the difference between the amounts in Table 10 and Table 11 of **FORM GST REG-16**.

3.3 Clarification regarding filing of application for revocation of cancellation of registration in terms of Removal of Difficulty Order (RoD) number 05/2019-Central Tax dated 23.04.2019 [Circular No. 99/18/2019-GST]

Circular No. 99/18/2019-GST New Delhi, Dated the 23rd April, 2019

Registration of several persons was cancelled under sub-section (2) of section 29 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the said Act”) due to non-furnishing of returns in **FORM GSTR-3B** or **FORM GSTR-4**. Sub-section (2) of section 29 of the said Act empowers the proper officer to cancel the registration, including from a retrospective date. Thus registration have been cancelled either from the date of order of cancellation of registration or from a retrospective date.

2. Representations have been received that large number of persons whose registration were cancelled could not apply for revocation of the said cancellation of registration within the period of 30 days as provided in sub-section (1) of section 30 of the said Act. Accordingly, a Removal of Difficulty Order (RoD) number 05/2019-Central Tax dated the 23rd April, 2019 has been issued wherein persons whose registrations have been cancelled under sub-section (2) of section 29 of the said Act after they were served notice in the manner provided in section clause (c) and clause (d) of sub-section (1) of section 169 of the said Act and who could not reply to the said notice and for whom cancellation order has been passed up to 31st March, 2019, have been given one time opportunity to apply for revocation of cancellation of registration on or before the 22nd July, 2019. Further, vide notification No. 20/2019-Central Tax, dated the 23rd April, 2019, two provisos have been inserted in sub-rule (1) of rule 23 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “the said Rules”). In the light of these changes and in order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the said Act, hereby clarifies the issues relating to the procedure for filing of application for revocation of cancellation of registration.

3. First proviso to sub-rule (1) of rule 23 of the said Rules provides that if the registration has been cancelled on account of failure of the registered person to furnish returns, no application for revocation of cancellation of registration shall be filed, unless such returns are furnished and any amount in terms of such returns is paid. Thus, where the registration has been cancelled with effect from the date of order of cancellation of registration, all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed. Further, in such cases, in terms of the second proviso to sub-rule (1) of rule 23 of the said Rules, all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of thirty days from the date of the order of revocation.

4. Where the registration has been cancelled with retrospective effect, the common portal does not allow furnishing of returns after the effective date of cancellation. In such cases it was not possible to file the application for revocation of cancellation of registration. Therefore, a third proviso was added to sub-rule (1) of rule 23 of the said Rules enabling filing of application for

revocation of cancellation of registration, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of thirty days from the date of order of such revocation of cancellation of registration.

5. The above provisions are explained, by way of an Illustration in Annexure, for better clarity.

Annexure

Return not furnished from	Date of order of cancellation of registration	Cancellation of registration effective from	Date of filing of application for revocation of cancellation of registration as per RoD (to be filed on or before the 22nd July, 2019)	Returns to be furnished before filing the application for revocation of cancellation of registration	Date of order of revocation of cancellation of registration	Date of furnishing returns for period b/w date of order of cancellation of registration and date of revocation of cancellation of registration (to be filed within thirty days from the date of order of revocation of cancellation of registration)	Returns to be furnished within thirty days from date of order of revocation of cancellation of registration
July'18	01.03.19	01.03.19	30.05.19	Returns due till 01st March, 19 (i.e. July, 18 to January, 19)	01.06.19	01.07.19	Returns due till 01st June, 19 (i.e. February, 19 to April, 19)
July'18	22.03.19	22.03.19	20.06.19	Returns due till 22nd March, 19 (i.e. July, 18 to February, 19)	22.06.19	22.07.19	Returns due till 21st June, 19 (i.e. March, 19 to May, 19)
July'18	01.03.19	01.07.18	30.05.19	NA	01.06.19	01.07.19	Returns due till 01st June, 19 (i.e. July, 18 to April, 19)

3.4 Standard Operating Procedure (SOP) for implementation of the provision of suspension of registrations under sub-rule (2A) of rule 21A of CGST Rules, 2017 [Circular No. 145/01/2021-GST]

Circular No. 145/01/2021-GST New Delhi, Dated the 11th February, 2021

As you are aware that vide notification No. 94/2020- Central Tax, dated 22.12.2020, sub-rule (2A) has been inserted to rule 21A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules). The said provision provides for immediate suspension of registration of a person, as a measure to safeguard the interest of revenue, on observance of such discrepancies /anomalies which indicate violation of the provisions of Act and rules made there under; and that continuation of such registration poses immediate threat to revenue.

Sub-rule (2A) of rule 21A is reproduced hereunder:

“(2A) Where, a comparison of the returns furnished by a registered person under section 39 with

(a) the details of outward supplies furnished in **FORM GSTR-1**; or

(b) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their **FORM GSTR-1**,

or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made there under, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in **FORM GST REG-31**, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.”;

Till the time an independent functionality for **FORM REG-31** is developed on the portal, in order to ensure uniformity in the implementation of the provisions of above rule across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby provides the following guidelines for implementation of the provision of suspension of registrations under the said rule.

3 On the recommendation of the Council, the registration of specified taxpayers shall be suspended and system generated intimation for suspension and notice for cancellation of registration in **FORM GST REG-31**, containing the reasons of suspension, shall be sent to such taxpayers on their registered e-mail address. Till the time functionality for **FORM REG-**

31 is made available on portal, such notice/intimation shall be made available to the taxpayer on their dashboard on common portal in **FORM GST REG-17**. The taxpayers will be able to view the notice in the “View/Notice and Order” tab post login.

4 The taxpayers, whose registrations are suspended (hereinafter referred to as “the said person”) under the above provisions, would be required to furnish reply to the jurisdictional tax officer within thirty days from the receipt of such notice / intimation, explaining the discrepancies/anomalies, if any, and shall furnish the details of compliances made or/and the reasons as to why their registration shouldn’t be cancelled:

- a. The said person would be required to reply to the jurisdictional officer against the notice for cancellation of registration sent to them, in **FORM GST REG-18** online through Common Portal within the time limit of thirty days from the receipt of notice/intimation.
- b. In case the intimation for suspension and notice for cancellation of registration is issued on ground of non -filing of returns, the said person may file all the due returns and submit the response. Similarly, in other scenarios as specified under **FORM GSTREG-31**, they may meet the requirements and submit the reply.

Post issuance of **FORM GST REG-31** via email, the list of such taxpayers would be sent to the concerned Nodal officers of the CBIC/ States. Also, the system generated notice can be viewed by the jurisdictional proper officers on their Dashboard for suitable actions. Upon receipt of reply from the said person or on expiry of thirty days (reply period), a task would be created in the dashboard of the concerned proper officer under “**Suo moto cancellation proceeding**”.

Proper officer, post examination of the response received from the said person, may pass an order either for dropping the proceedings for suspension/ cancellation of registration in **FORM GST REG-20** or for cancellation of registration in **FORM GST REG-19**. Based on the action taken by the proper officer, the GSTIN status would be changed to “Active” or “Cancelled Suo-moto” as the case maybe.

Till the time independent functionality for **FORM GST REG-31** is fully ready, it is advised that if the proper officer considers it appropriate to drop a proceeding anytime after the issuance of **FORM GST REG-31**, he may advise the said person to furnish his reply on the common portal in **FORM GST REG-18**.

It is advised that in case the proper officer is prima-facie satisfied with the reply of the said person, he may revoke the suspension by passing an order in **FORM GST REG-20**. Post such revocation, if need be, the proper officer can continue with the detailed verification of the documents and recovery of short payment of tax, if any. Further, in such cases, after detailed verification or otherwise, if the proper officer finds that the registration of the said person is liable for cancellation, he can again initiate the proceeding of cancellation of registration by issuing notice in **FORM GST REG-17**.

3.5 Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act, 2017 and rule 23 of the CGST Rules, 2017 [Circular No. 148/04/2021-GST]

Circular No. 148/04/2021-GST New Delhi, Dated the 18th May, 2021

As you are aware *vide* Finance Act, 2020, section 30 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) was amended and the same has been notified with effect from 01.01.2021 *vide* notification No. 92/2020- Central Tax, dated 22.12.2020. The amended provision provides for extension of time limit for applying for revocation of cancellation of registration on sufficient cause being shown and for reasons to be recorded in writing, by:

- (a) the Additional or Joint Commissioner, as the case may be, for a period not exceeding thirty days;
- (b) the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a) above

Consequently, changes have also been made in rule 23 and **FORM GST REG-21** of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) *vide* notification No.15/2021- Central Tax, dated 18.05.2021.

2. In order to ensure uniformity in the implementation of the provisions of above rule across the field formations, till the time an independent functionality for extension of time limit for applying in **FORM GST REG-21** is developed on the GSTN portal, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby provides the following guidelines for implementation of the provision for extension of time limit for applying for revocation of cancellation of registration under the said section and rule.

3. As has been provided in section 30 of the CGST Act, any registered person whose registration is cancelled by the proper officer on his own motion, may apply to such officer in **FORM GST REG-21**, for revocation of cancellation of registration within 30 days from the date of service of the cancellation order. In case the registered person applies for revocation of

cancellation beyond 30 days, but within 90 days from the date of service of the cancellation order, the following procedure is specified for handling such cases:

4.1. Where a person applies for revocation of cancellation of registration beyond a period of 30 days from the date of service of the order of cancellation of registration but within 60 days of such date, the said person may request, through letter or e-mail, for extension of time limit to apply for revocation of cancellation of registration to the proper officer by providing the grounds on which such extension is sought. The proper officer shall forward the request to the jurisdictional Joint/Additional Commissioner for decision on the request for extension of time limit.

4.2 The Joint/Additional Commissioner, on examination of the request filed for extension of time limit for revocation of cancellation of registration and on sufficient cause being shown and for reasons to be recorded in writing, may extend the time limit to apply for revocation of cancellation of registration. In case the request is accepted, the extension of the time limit shall be communicated to the proper officer. However, in case the concerned Joint/Additional Commissioner, is not satisfied with the grounds on which such extension is sought, an opportunity of personal hearing may be granted to the person before taking decision in the matter. In case of rejection of the request for the extension of time limit, the grounds for such rejection may be communicated to the person concerned, through the proper officer.

4.3 On receipt of the decision of the Joint/Additional Commissioner on request for extension of time limit for applying for revocation of cancellation of registration, the proper officer shall process the application for revocation of cancellation of registration according to the law and procedure laid down in this regard.

5. Procedure similar to that explained in paragraph 4.1 to 4.3 above, shall be followed *mutatis-mutandis* in case a person applies for revocation of cancellation of registration beyond a period of 60 days from the date of service of the order of cancellation of registration but within 90 days of such date.

6. The circular shall cease to have effect once the independent functionality for extension of time limit for applying in FORM GST REG-21 is developed on the GSTN portal.

3.6 Clarification regarding extension of time limit to apply for revocation of cancellation of registration in view of Notification No. 34/2021-Central Tax dated 29th August, 2021 [Circular No. 158/14/2021-GST]

Circular No. 158/14/2021-GST New Delhi, Dated the 6th September, 2021

Vide Circular No. 148/04/2021-GST, dated 18th May, 2021, detailed guidelines for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "**the CGST Act / said Act**") and rule 23 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "**the CGST Rules**") have been specified, till the time an independent functionality for extension of time limit for applying in **FORM GST REG-21** is developed on the GSTN portal. It may be noted that notification No.14/2021-Central Tax, dated 1st May, 2021, as amended, had, inter-alia, extended the date of filing of application for revocation of cancellation of registration till 30th June, 2021, where the due date of filing of application was falling between 15th April, 2021 to 29th June, 2021. Government has now issued notification No. 34/2021-Central Tax dated 29th August, 2021 (hereinafter referred to as "**the said notification**")

under section 168A of the said Act to extend the timelines for filing of application for revocation of cancellation of registration to 30th September, 2021, where the due date of filing of application for revocation of cancellation of registration falls between 1st March, 2020 to 31st August, 2021. This extension is applicable for those cases where registrations have been cancelled under clause

(b) or clause (c) of sub-section (2) of section 29 of the said Act.

2. In order to ensure uniformity in the implementation of the said notification across field formations, the Board, in exercise of its powers conferred by section 168(1) of the said Act, hereby clarifies the issues relating to the extension of timelines for application for revocation of cancellation of registration as under:

3. Applications covered under the scope of the said notification

3.1. The said notification specifies that where the due date of filing of application for revocation of cancellation of registration falls between 1st March, 2020 to 31st August, 2021, the time limit for filing of application for revocation of cancellation of registration is extended to 30th

September, 2021. Accordingly, it is clarified that the benefit of said notification is extended to all the cases where cancellation of registration has been done under clause (b) or clause (c) of sub-section (2) of section 29 of the CGST Act, 2017 and where the due date of filing of application for revocation of cancellation of registration falls between 1st March, 2020 to 31st August, 2021. It is further clarified that the benefit of notification would be applicable in those cases also where the application for revocation of cancellation of registration is either pending with the proper officer or has already been rejected by the proper officer. It is further clarified that the benefit of notification would also be available in those cases which are pending with the appellate authority or which have been rejected by the appellate authority. In other words, the date for filing application for revocation of cancellation of registration in all cases, where registration has been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of CGST Act, 2017 and where the due date of filing of application for revocation of cancellation of registration falls between 1st March, 2020 to 31st August, 2021, is extended to 30th September, 2021, irrespective of the status of such applications. As explained in this para, the said notification would be applicable in the following manner:

(i) application for revocation of cancellation of registration has not been filed by the taxpayer-

In such cases, the applications for revocation can be filed upto the extended timelines as provided vide the said notification. Such cases also cover those instances where an appeal was filed against order of cancellation of registration and the appeal had been rejected.

(ii) application for revocation of cancellation of registration has already been filed and which are pending with the proper officer-

In such cases, the officer shall process the application for revocation considering the extended timelines as provided vide the said notification.

(iii) application for revocation of cancellation of registration was filed, but was rejected by the proper officer and taxpayer has not filed any appeal against the rejection -

In such cases, taxpayer may file a fresh application for revocation and the officer shall process the application for revocation considering the extended timelines as provided vide the said notification.

(iv) application for revocation of cancellation of registration was filed, the proper officer rejected the application and appeal against the rejection order is pending before appellate authority-

In such cases, appellate authorities shall take the cognizance of the said notification for

extension of timelines while deciding the appeal.

(v) application for revocation of cancellation of registration was filed, the proper officer rejected the application and the appeal has been decided against the taxpayer-

In such cases, taxpayer may file a fresh application for revocation and the officer shall process the application for revocation considering the extended timelines as provided vide the said notification.

4. It may be recalled that, with effect from 01.01.2021, proviso to sub-section (1) of section 30 of the CGST Act has been inserted which provides for extension of time for filing application for revocation of cancellation of registration by 30 days by Additional/ Joint Commissioner and by another 30 days by the Commissioner. Doubts have been raised whether the said notification has extended the due date in respect of initial period of 30 days for filing the application (in cases where registration has been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of CGST Act, 2017) under sub-section (1) of section 30 of the CGST Act or whether the due date of filing applications for revocation of registration can be extended further for the period of 60 days (30 + 30) by the Joint Commissioner/ Additional Commissioner/ Commissioner, as the case may be, beyond the extended date of 30.09.2021. It is clarified that:

(i) where the thirty days' time limit falls between 1st March, 2020 to 31st December, 2020, there is no provision available to extend the said time period of 30 days under section 30 of the CGST Act. For such cases, pursuant to the said notification, the time limit to apply for revocation of cancellation of registration stands extended up to 30th September, 2021 only; and

(ii) where the time period of thirty days since cancellation of registration has not lapsed as on 1st January, 2021 or where the registration has been cancelled on or after 1st January, 2021, the time limit for applying for revocation of cancellation of registration shall stand extended as follows:

(a) Where the time period of 90 days (initial 30 days and extension of 30 + 30 days) since cancellation of registration has elapsed by 31.08.2021, the time limit to apply for revocation of cancellation of registration stands extended upto 30th September 2021, without any further extension of time by Joint Commissioner/Additional Commissioner/ Commissioner.

(b) Where the time period of 60 days (and not 90 days) since cancellation of

registration has elapsed by 31.08.2021, the time limit to apply for revocation of cancellation of registration stands extended upto 30th September 2021, with the extension of timelines by another 30 days beyond 30.09.2021 by the Commissioner, on being satisfied, as per proviso to sub-section (1) of section 30 of the CGST Act

- (c) Where the time period of 30 days (and not 60 days or 90 days) since cancellation of registration has elapsed by 31.08.2021, the time limit to apply for revocation of cancellation of registration stands extended upto 30th September 2021, with the extension of timelines by another 30 days beyond 30.09.2021 by the Joint/ Additional Commissioner and another 30 days by the Commissioner, on being satisfied, as per proviso to sub-section (1) of section 30 of the CGST Act.

4. Changes in Circulars issued earlier under the CGST Act, 2017 [88/07/2019-GST]

Circular No. 88/07/2019-GST

New Delhi, Dated the 1st February, 2019

The CGST (Amendment) Act, 2018, SGST Amendment Acts of the respective States, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and the GST (Compensation to States) (Amendment) Act, 2018 (hereafter referred to as the GST Amendment Acts) have been brought in force with effect from 01.02.2019.

2. Consequent to the GST Amendment Acts, the following circulars issued earlier under the CGST Act, 2017 are hereby amended with effect from 01.02.2019, to the extent detailed in the succeeding paragraphs.

3. Circular No. 8/8/2017 dated 04.10.2017

The circular is revised in view of the amendment carried out in section 2(6) of the IGST Act, 2017 vide section 2 of the IGST (Amendment) Act, 2018 allowing realization of export proceeds in INR, wherever allowed by the RBI. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

3.1 Original Para 2(k)

Realization of export proceeds in Indian Rupee: Attention is invited to para A (v) Part-I of RBI Master Circular No. 14/2015-16 dated 01st July, 2015 (updated as on 05th November, 2015), which states that “*there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan*”.

Accordingly, it is clarified that the acceptance of LUT for supplies of goods to countries outside India Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

3.2 Amended Para 2(k)

Realization of export proceeds in Indian Rupee: Attention is invited to para A (v) Part-I of RBI Master Circular No. 14/2015-16 dated 01st July, 2015 (updated as on 05th November, 2015), which states that “*there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan*”. Further, attention is invited to the amendment to section 2(6) of the IGST Act, 2017 which allows realization of export proceeds of services in INR, wherever allowed by the RBI.

Accordingly, it is clarified that the acceptance of LUT for supplies of goods or services to countries outside India or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines.

4 Circular No. 38/12/2018 dated 26.03.2018

This circular is revised in view of the amendment carried out in section 143 of the CGST Act, 2017 vide section 29 of the CGST (Amendment) Act, 2018 empowering the Commissioner to extend the period for return of inputs and capital goods from the job worker. Further on account of amendment carried out in section 9(4) of the CGST Act, 2017 vide section 4 of the CGST (Amendment) Act, 2018 done in relation to reverse charge, certain amendments to the Circular are

required. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

4.1 Original Para 2.

As per clause (68) of section 2 of the CGST Act, 2017..... Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools).

4.2 Amended Para 2.

As per clause (68) of section 2 of the CGST Act, 2017, “job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the “Principal” for the purposes of section 143 of the CGST Act. The said section which encapsulates the provisions related to job work, provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and, if required, from there subsequently to another job worker and so on. Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within the time specified under section 143.

4.3 Original Para 3.

It may be noted Moreover, if the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out.
.....cast on the principal.

4.4 Amended Para 3.

It may be noted that the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal. Moreover, if the time frame specified under section 143 for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within the specified time period (under section 143) of being sent out. It may be noted that the responsibility for sending the goods for job work as well as bringing them back or supplying them has been cast on the principal.

4.5 Original Para 6.1

Doubts have been raised It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit (i.e. Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir) in case both the principal and the job worker are located in the same State.However, exemption from registration has been granted in case the aggregate turnover of the inter-State supply of taxable services does not exceed Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir in a financial year vide notification No. 10/2017 – Integrated Tax dated 13.10.2017. Therefore, States.

4.6 Amended Para 6.1

Doubts have been raised about the requirement of obtaining registration by job workers when they are located in the same State where the principal is located or when they are located in a State different from that of the principal. It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit as specified in sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section in case both the principal and the job worker are located in the same State. Where the principal and the job worker are located in different States, the requirement for registration flows from clause (i) of section 24 of the CGST Act which provides for compulsory registration of suppliers making any inter-State supply of services. However, exemption from registration has been granted in case the aggregate turnover of the inter-State supply of taxable services does not exceed the specified threshold limit as specified in sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section in a financial year vide notification No. 10/2017 – Integrated Tax dated 13.10.2017 as amended vide notification No 3/2019- Integrated Tax, dated 29.01.19. Therefore, it is clarified that a job worker is required to obtain registration only in cases where his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit regardless of whether the principal and the job worker are located in the same State or in different States.

4.7 Original Para 9.4.(i.)

(i) Supply of job work services: The job worker,not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.

4.8 Amended Para: 9.4.(i)

(i.) Supply of job work services : The job worker, as a supplier of services, is liable to pay GST if he is liable to be registered. He shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act. The value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal. Doubts have been raised whether the value of

moulds and dies, jigs and fixtures or tools which have been provided by the principal to the job worker and have been used by the latter for providing job work services would be included in the value of job work services. In this regard, attention is invited to section 15 of the CGST Act which lays down the principles for determining the value of any supply under GST. Importantly, clause (b) of sub-section (2) of section 15 of the CGST Act provides that any amount that the supplier is liable to pay in relation to the supply but which has been incurred by the recipient will form part of the valuation for that particular supply, provided it has not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker.

4.9 Original Para 9.6

Thus, if the If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the rules made there under. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

4.10 Amended Para 9.6

Thus, if the inputs or capital goods are neither returned nor supplied from the job worker's place of business / premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the rules made there under. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

5 Circular No. 41/15/2018 dated 13.04.2018

This circular is revised in view of the amendment carried out in section 129 of the CGST Act, 2017 vide section 27 of the CGST (Amendment) Act, 2018 allowing 14 days for owner/transporter to pay tax/penalty for seized goods. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

5.1 Original Para 2(k)

In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in **FORM GST MOV-06**, the action under section 130 of the

CGST Act shall be initiated by serving a notice in **FORM GST MOV-10**, proposing confiscation of the goods and conveyance and imposition of penalty.

5.2 Amended Para 2(k)

In case the proposed tax and penalty are not paid within fourteen days from the date of the issue of the order of detention in **FORM GST MOV-06**, the action under section 130 of the CGST Act shall be initiated by serving a notice in **FORM GST MOV-10**, proposing confiscation of the goods and conveyance and imposition of penalty.

5.3 Further, **FORM GST MOV-08** and **FORM GST MOV-09**, annexed to the circular are revised as below:

FORM GST MOV-08 (para 4)

And if all taxes, interest, penalty, fine and other lawful charges demanded by the proper officer are duly paid within fourteen days of the date of detention being made in writing by the said proper officer, this obligation shall be void.

FORM GST MOV-09 (para 10)

You are hereby directed to make the payment forthwith/not later than fourteen days from the date of the issue of the order of detention in **FORM GST MOV-06**, failing which action under section 130 of the Central/State Goods and Services Tax Act /section 21 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Act shall be initiated.

6. Circular No. 58/32/2018 dated 04.09.2018

This circular is revised in order to streamline the modes of recovery. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

6.1 Original Para 3.

Currently, the functionality to record this liability in the electronic liability register is not available on the common portal. Therefore, it is clarified that as an alternative method, taxpayers may reverse the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of **FORM GSTR-3B**. The applicable interest and penalty shall apply on all such reversals **which** shall be paid through entry in column 9 of Table 6.1 of **FORM GST-3B**.

6.2 Amended Para 3.

It may be noted that all such liabilities may be discharged by the taxpayers, either voluntarily in **FORM GST DRC-03** or may be recovered vide order uploaded in **FORM GST DRC-07**, and payment against the said order shall be made in **FORM GST DRC-03**. It is further clarified that the alternative method of reversing the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of **FORM GSTR-3B** would no longer be available to taxpayers. The applicable interest and penalty shall apply in respect of all such amounts, which shall also be paid in **FORM GST DRC-03**.

7. Circular No. 69/43/2018 dated 26.10.2018

The circular is revised in view of the amendment carried out in section 29 of the CGST Act, 2017 vide section 14 of the CGST (Amendment) Act, 2018 allowing suspension of

registration. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

7.1 Original Para 11.

It is pertinent to mention here that section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for “Suspension” of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. Although the provisions of CGST (Amendment) Act, 2018 have not yet been brought into force, it will be prudent for the field formations may not to issue notices for non- filing of return for taxpayers who have already filed an application for cancellation of registration under section 29 of the CGST Act. However, the requirement of filing a final return, as under section 45 of the CGST Act, remains unchanged.

7.2 Amended Para 11.

It is pertinent to mention here that section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for “Suspension” of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. Accordingly, the field formations may not issue notices for non- filing of return for taxpayers who have already filed an application for cancellation of registration under section 29 of the CGST Act. Further, the requirement of filing a final return, as under section 45 of the CGST Act, remains unchanged.

5. Circulars related to Invoices:

5.1 Compliance of rule 46(n) of the CGST Rules, 2017 while issuing invoices in case of inter- State supply [Circular No: 90/09/2019-GST]

Circular No. 90/09/2019-GST New Delhi, Dated the 18th February, 2019

A registered person supplying taxable goods or services or both is required to issue a tax invoice as per the provisions contained in section 31 of the Central Goods and Services Tax Act, 2017 (CGST Act for short). Rule 46 of the Central Goods and Services Tax Rules, 2017 (CGST Rules for short) specifies the particulars which are required to be mentioned in a tax invoice.

2. It has been brought to the notice of the Board that a number of registered persons (especially in the banking, insurance and telecom sectors, etc.) are not mentioning the place of supply along with the name of the State in case of a supply made in the course of inter-State trade

or commerce in contravention of rule 46(n) of the CGST Rules which mandates that the said details must be mentioned in a tax invoice. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017, hereby issues the following instructions.

3. After introduction of GST, which is a destination-based consumption tax, it is essential to ensure that the tax paid by a registered person accrues to the State in which the consumption of goods or services or both takes place. In case of inter-State supply of goods or services or both, this is ensured by capturing the details of the place of supply along with the name of the State in the tax invoice.

4. It is therefore, instructed that all registered persons making supply of goods or services or both in the course of inter-State trade or commerce shall specify the place of supply along with the name of the State in the tax invoice. The provisions of sections 10 and 12 of the Integrated Goods and Services Tax Act, 2017 may be referred to in order to determine the place of supply in case of supply of goods and services respectively. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of sections 122 or 125 of the CGST Act.

5.2 Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020 [Circular No: 146/02/2021-GST]

Circular No. 146/02/2021-GST New Delhi, Dated the 23rd February, 2021

Notification No. 14/2020-Central Tax, dated 21st March 2020 had been issued which requires Dynamic QR Code on B2C invoice issued by taxpayers having aggregate turnover more than 500 crore rupees, **w.e.f. 01.12.2020**. Further, vide Notification No. 89/2020- Central Tax, dated 29th November 2020, penalty has been waived for non-compliance of the provisions of Notification No.14/2020 – Central Tax for the period from 01st December, 2020 to 31st March, 2021, subject to the condition that the said person complies with the provisions of the said Notification from 01st April, 2021.

2. Various references have been received from trade and industry seeking clarification on applicability of Dynamic Quick Response (QR) Code on B2C (Registered person to Customer) invoices and compliance of Notification No. 14/2020-Central Tax,

dated 21st March, 2020 as amended. The issues have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, 2017, hereby clarifies the issues in the table below:

Sl No	Issues	Clarification
	<p>To which invoice is Notification No 14/2020 Central Tax dated 21st March, 2020 applicable? Would this requirement be applicable on invoices issued for supplies made for Exports?</p>	<p>This notification is applicable to a tax invoice issued to an unregistered person by a registered person (B2C invoice) whose annual aggregate turnover exceeds 500 Cr rupees in any of the financial years from 2017-18 onwards. However, the said notification is not applicable to an invoice issued in following cases:</p> <ul style="list-style-type: none"> i. Where the supplier of taxable service is: <ul style="list-style-type: none"> a) an insurer or a banking company or a financial institution, including a non-banking financial company; b) a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage; c) supplying passenger transportation service; d) supplying services by way of admission to exhibition of cinematograph in films in multiplex screens ii. OIDAR supplies made by any registered person, who has obtained registration under section 14 of the IGST Act 2017, to an unregistered person. <p>As regards the supplies made for exports, though such supplies are made by a registered person to an unregistered person, however, as e-invoices are required to be issued in respect of supplies for exports, in terms of Notification no. 13/2020-Central Tax, dated 21st March, 2020 treating them as Business to Business (B2B) supplies, Notification no. 14/2020-Central Tax, dated 21st March, 2020 will not be</p>

		applicable to them.
2.	What parameters/ details are required to be captured in the Quick Response (QR) Code?	<p>Dynamic QR Code, in terms of Notification No. 14/2020-Central Tax, dated 21st March, 2020 is required, inter-alia, to contain the following information: -</p> <ol style="list-style-type: none"> i. Supplier GSTIN number ii. Supplier UPI ID iii. Payee's Bank A/C number and IFSC iv. Invoice number & invoice date, v. Total Invoice Value and vi. GST amount along with breakup i.e. CGST, SGST, IGST, CESS, etc. <p>Further, Dynamic QR Code should be such that it can be scanned to make a digital payment.</p>
3	If a supplier provides/ displays Dynamic QR Code, but the customer opts to make payment without using Dynamic QR Code, then will the cross reference of such payment, made without use of Dynamic QR Code, on the invoice, be considered as compliance of Dynamic QR Code on the invoice?	<p>If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be deemed to have complied with Dynamic QR Code requirements.</p> <p>In cases where the supplier, has digitally displayed the Dynamic QR Code and the customer pays for the invoice: -</p> <ol style="list-style-type: none"> i. Using any mode like UPI, credit/ debit card or online banking or cash or combination of various modes of payment, with or without using Dynamic QR Code, and the supplier provides a cross reference of the payment (transaction id along with date, time and amount of payment, mode of payment like UPI, Credit card, Debit card, online banking etc.) on the invoice ; or ii. In cash, without using Dynamic QR Code and the supplier provides a cross reference of the amount paid in cash , along with date of such payment on the invoice; <p>The said invoice shall be deemed to have complied with the requirement of having Dynamic QR Code.</p>
4.	If the supplier makes available to customers an electronic mode of payment like UPI Collect, UPI Intent	<p>In such cases, if the cross reference of the payment made using such electronic modes of payment is made on the invoice, the invoice shall be deemed to comply with the requirement of Dynamic</p>

	<p>or similar other modes of payment, through mobile applications or computer based applications, where though Dynamic QR Code is not displayed, but the details of merchant as well as transaction are displayed/captured otherwise, how can the requirement of Dynamic QR Code as per this notification be complied with?</p>	<p>QR Code.</p> <p>However, if payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</p>
<p>5.</p>	<p>Is generation/ printing of Dynamic QR Code on B2C invoices mandatory for pre-paid invoices i.e. where payment has been made before issuance of the invoice?</p>	<p>If cross reference of the payment received either through electronic mode or through cash or combination thereof is made on the invoice, then the invoice would be deemed to have complied with the requirement of Dynamic QR Code.</p> <p>In cases other than pre-paid supply i.e. where payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</p>
<p>6.</p>	<p>Once the E-commerce operator (ECO) or the online application has complied with the Dynamic QR Code requirements, will the suppliers using such e-commerce portal or application for supplies still be required to comply with the requirement of Dynamic QR Code?</p>	<p>The provisions of the notification shall apply to each supplier/registered person separately, if such person is liable to issue invoices with Dynamic QR Code for B2C supplies as per the said notification. In case, the supplier is making supply through the E-commerce portal or application, and the said supplier gives cross references of the payment received in respect of the said supply on the invoice, then such invoices would be deemed to have complied with the requirements of Dynamic QR Code. In cases other than pre-paid supply i.e. where payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</p>

5.3 Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020 [Circular No: 156/12/2021-GST]

Circular No. 156/12/2021-GST New Delhi, Dated the 21st June, 2021

Notification No. 14/2020-Central Tax, dated 21st March 2020 had been issued which requires Dynamic QR Code on B2C invoice issued by taxpayers having aggregate turnover more than 500 crore rupees, **w.e.f. 01.12.2020**. Further, vide notification No. 06/2021-Central Tax, dated 30th March 2021, penalty has been waived for non-compliance of the provisions of notification No.14/2020 – Central Tax for the period from 01st December, 2020 to 30th June, 2021, subject to the condition that the said person complies with the provisions of the said notification from 1st July, 2021. Further, various issues on Dynamic QR Code have been clarified vide Circular No. 146/2/2021-GST, dated 23.02.2021.

2. Various references have been received from trade and industry seeking clarification on applicability of Dynamic Quick Response (QR) Code on B2C (Registered person to Customer) invoices and compliance of notification 14/2020-Central Tax, dated 21st March, 2020 as amended. The issues have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, 2017, hereby clarifies the issues in the table below:

1	Whether Dynamic QR Code is to be provided on an invoice, issued to a person, who has obtained a Unique Identity Number as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017?	Any person, who has obtained a Unique Identity Number (UIN) as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017, is not a “registered person” as per the definition of registered person provided in section 2(94) of the CGST Act 2017. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the
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		requirement of Dynamic QR Code.
2.	UPI ID is linked to the bank account of the payee/ person collecting money. Whether bank account and IFSC details also need to be provided separately in the Dynamic QR Code along with UPI ID?	Given that UPI ID is linked to a specific bank account of the payee/ person collecting money, separate details of bank account and IFSC may not be provided in the Dynamic QR Code.
3.	In cases where the payment is collected by some person other than the supplier (ECO or any other person authorized by the supplier on his/ her behalf), whether in such cases, in place of UPI ID of the supplier, the UPI ID of such person, who is authorized to collect the payment on behalf of the supplier, may be provided?	Yes. In such cases where the payment is collected by some person, authorized by the supplier on his/ her behalf, the UPI ID of such person may be provided in the Dynamic QR Code, instead of UPI ID of the supplier.
4.	In cases, where receiver of services is located outside India, and payment is being received by the supplier of services in foreign exchange, through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?	No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier in foreign currency, through RBI approved mediums, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.
5.	In some instances of retail sales over the counter, the payment from the customer is received on the payment	In such cases, where the invoice number is not available at the time of digital display of dynamic QR code in case of

	<p>counter by displaying dynamic QR code on digital display, whereas the invoice, along with invoice number, is generated on the processing system being used by supplier/ merchant after receiving the payment. In such cases, it may not be possible for the merchant/ supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment counter. However, each transaction i.e. receipt of payment from a customer is having a unique Order ID/ sales reference number, which is linked with the invoice for the said transaction. Whether in such cases, the order ID/ reference number of such transaction can be provided in the dynamic QR code displayed digitally, instead of invoice number.</p>	<p>over the counter sales and the invoice number and invoices are generated after receipt of payment, the unique order ID/ unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided in the Dynamic QR Code for digital display, as long as the details of such unique order ID/ sales reference number linkage with the invoice are available on the processing system of the merchant/ supplier and the cross reference of such payment along with unique order ID/ sales reference number are also provided on the invoice.</p>
<p>6.</p>	<p>When part-payment has already been received by the merchant/ supplier, either in advance or by adjustment (e.g. using a voucher, discount coupon etc), before the dynamic QR Code is generated, what amount should be provided in the Dynamic QR Code for “invoice value”?</p>	<p>The purpose of dynamic QR Code is to enable the recipient/ customer to scan and pay the amount to be paid to the merchant/supplier in respect of the said supply. When the part-payment for any supply has already been received from the customer/ recipient, in form of either advance or adjustment through voucher/ discount coupon etc., then the dynamic QR code may provide only the remaining amount payable by the customer/ recipient against “invoice value”. The details of total invoice value, along with details/ cross</p>

		reference of the part- payment/ advance/ adjustment done, and the remaining amount to be paid, should be provided on the invoice.
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3. Circular No. 146/2/2021-GST, dated 23.02.2021 stands modified to this extent.

5.4 Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020 [Circular No: 165/21/2021-GST]

Circular No. 165/21/2021-GST New Delhi, Dated the 17th November, 2021

Various references have been received from trade and industry seeking further clarification on applicability of Dynamic Quick Response (QR) Code on B2C (Registered person to Customer) invoices for compliance of notification 14/2020-Central Tax, dated 21st March, 2020 as amended. It has been represented that in some cases where, though the service recipient is located outside India and place of supply of the service is in India as per IGST Act 2017, the payment is received by the service provider located in India **not** in foreign exchange, but through other modes approved by RBI. In such cases, the supplier will not be fulfilling the condition specified in S. No. 4 of the Circular No. 156/12/2021 dated 21st June 2021, and accordingly, will be required to have dynamic QR code on the invoice. It has been also represented that relaxation from dynamic QR code on the invoices in such cases should be available if the payment is received through any RBI approved mode of payment, and not necessarily in foreign exchange.

2. The issues have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, 2017, hereby clarifies the issues hereafter.

3. It is observed that from the present wording of S. No. 4 of Circular No. 156/12/2021

dated 21st June 2021, doubt arises whether the relaxation from the requirement of dynamic QR code on the invoices would be available to such supplier, who receives payments from the recipient located outside India through RBI approved modes of payment, but **not** in foreign exchange. It is mentioned that the intention of clarification as per S. No. 4 in the said circular was not to deny relaxation in those cases, where the payment is received by the supplier as per any RBI approved mode, other than foreign exchange.

4. Accordingly, to clarify the matter further, the Entry at S. No. 4 of the Circular No. 156/12/2021-GST dated 21st June, 2021 is substituted as below:

4.	" In cases, where receiver of services is located outside India, and payment is being received by the supplier of services ,through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?	No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier, in convertible foreign exchange or in Indian Rupees wherever permitted by the RBI, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier."
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5. Circular No. 156/12/2021-GST, dated 21.06.2021 stands modified to this extent.

6. Circulars related to Input Tax Credit:

6.1 Clarification in respect of transfer of input tax credit in case of death of sole proprietor [Circular No. 96/15/2019-GST]

Circular No. 96/15/2019-GST New Delhi, Dated the 28th March, 2019

Doubts have been raised whether sub-section (3) of section 18 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as „CGST Act“) provides for transfer of input tax credit which remains unutilized to the transferee in case of death of the sole proprietor. As per sub-rule (1) of rule 41 of the Central Goods and Services Rules, 2017 (hereinafter referred to as “CGST Rules”), the registered person (transferor of business) can file **FORM GST ITC-02** electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee. Further, clarification has also been sought regarding procedure of filing of **FORM GST ITC-02** in case of death of the sole proprietor. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues raised as below.

2. Clause (a) of sub-section (1) of section 29 of the CGST Act provides that reason of transfer of business includes “death of the proprietor”. Similarly, for uniformity and for the purpose of sub-section (3) of section 18, sub-section (3) of section 22, sub-section (1) of section 85 of the CGST Act and sub-rule (1) of rule 41 of the CGST Rules, it is clarified that transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor.

3. In case of death of sole proprietor if the business is continued by any person being transferee or successor, the input tax credit which remains un-utilized in the electronic credit ledger is allowed to be transferred to the transferee as per provisions and in the manner stated below –

- a. **Registration liability of the transferee / successor:** As per provisions of sub-section (3) of section 22 of the CGST Act, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession, where a business is transferred to another person for any reasons including death of the proprietor. While filing application in **FORM GST REG-01** electronically in the common portal the applicant is required to mention the reason to obtain registration as “death of the proprietor”.
- b. **Cancellation of registration on account of death of the proprietor:** Clause (a) of sub-section (1) of section 29 of the CGST Act, allows the legal heirs in case of death of sole proprietor of a business, to file application for cancellation of registration in **FORM GST REG-16** electronically on common portal on account of transfer of business for any reason including death of the proprietor. In **FORM GST REG-16**, reason for cancellation is required to be mentioned as “death of sole proprietor”. The GSTIN of transferee to whom the business has been transferred is also required to be mentioned to link the GSTIN of the transferor with the GSTIN of transferee.

- c. **Transfer of input tax credit and liability:** In case of death of sole proprietor, if the business is continued by any person being transferee or successor of business, it shall be construed as transfer of business. Sub-section (3) of section 18 of the CGST Act, allows the registered person to transfer the unutilized input tax credit lying in his electronic credit ledger to the transferee in the manner prescribed in rule 41 of the CGST Rules, where there is specific provision for transfer of liabilities. As per sub-section (1) of section 85 of the CGST Act, the transferor and the transferee / successor shall jointly and severally be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business “in whole or in part, by sale, gift, lease, leave and license, hire *or in any other manner whatsoever*”. Furthermore, sub-section (1) of section 93 of the CGST Act provides that where a person, liable to pay tax, interest or penalty under the CGST Act, dies, then the person who continues business after his death, shall be liable to pay tax, interest or penalty due from such person under this Act. It is therefore clarified that the transferee / successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor.
- d. **Manner of transfer of credit:** As per sub-rule (1) of rule 41 of the CGST Rules, a registered person shall file **FORM GST ITC-02** electronically on the common portal with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee, in the event of sale, merger, de-merger, amalgamation, lease or *transfer or change in the ownership of business for any reason*. In case of transfer of business on account of death of sole proprietor, the transferee / successor shall file **FORM GST ITC-02** in respect of the registration which is required to be cancelled on account of death of the sole proprietor. **FORM GST ITC-02** is required to be filed by the transferee/successor before filing the application for cancellation of such registration. Upon acceptance by the transferee / successor, the un-utilized input tax credit specified in **FORM GST ITC-02** shall be credited to his electronic credit ledger.

6.2 Clarification in respect of utilization of input tax credit under GST [98/17/2019-GST]

Circular No. 98/17/2019-GST New Delhi, Dated the 23rd April, 2019

Section 49 was amended and Section 49A and Section 49B were inserted vide Central Goods and Services Tax (Amendment) Act, 2018 [hereinafter referred to as the CGST (Amendment) Act]. The amended provisions came into effect from 1st February 2019.

2. Various representations have been received from the trade and industry regarding challenges being faced by taxpayers due to bringing into force of section 49A of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act). The issue has arisen on account of order of utilization of input tax credit of integrated tax in a particular order, resulting in accumulation of input tax credit for one kind of tax (say State tax) in electronic credit ledger and discharge of liability for the other kind of tax (say Central tax) through electronic cash

ledger in certain scenarios. Accordingly, rule 88A was inserted in the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) in exercise of the powers under Section 49B of the CGST Act vide notification No. 16/2019-Central Tax, dated 29th March, 2019. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues raised as below.

3. The newly inserted Section 49A of the CGST Act provides that the input tax credit of Integrated tax has to be utilized completely before input tax credit of Central tax / State tax can be utilized for discharge of any tax liability. Further, as per the provisions of section 49 of the CGST Act, credit of Integrated tax has to be utilized first for payment of Integrated tax, then Central tax and then State tax in that order mandatorily. This led to a situation, in certain cases, where a taxpayer has to discharge his tax liability on account of one type of tax (say State tax) through electronic cash ledger, while the input tax credit on account of other type of tax (say Central tax) remains un-utilized in electronic credit ledger.

4. The newly inserted rule 88A in the CGST Rules allows utilization of input tax credit of Integrated tax towards the payment of Central tax and State tax, or as the case may be, Union territory tax, in any order subject to the condition that the entire input tax credit on account of Integrated tax is completely exhausted first before the input tax credit on account of Central tax or State / Union territory tax can be utilized. It is clarified that after the insertion of the said rule, the order of utilization of input tax credit will be as per the order (of numerals) given below:

Input tax Credit on account of	Output liability on account of Integrated tax	Output liability on account of Central tax	Output liability on account of State tax / Union Territory tax
Integrated tax	(I)	(II) – In any order and in any proportion	
<i>(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily</i>			
Central tax	(V)	(IV)	Not permitted
State tax / Union Territory tax	(VII)	Not permitted	(VI)

5 The following illustration would further amplify the impact of newly inserted rule 88A of the CGST Rules:

Illustration:

Amount of Input tax Credit available and output liability under different tax heads

Head	Output Liability	Input tax Credit
Integrated tax	1000	1300
Central tax	300	200
State tax / Union Territory tax	300	200
Total	1600	1700

Option 1:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of Input Tax Credit
Integrated tax	1000	200	100	0
<i>Input tax Credit on account of Integrated tax has been completely exhausted</i>				
Central tax	0	100	-	100
State tax / Union territory tax	0	-	200	0
Total	1000	300	300	100

Option 2:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of Input Tax Credit
Integrated tax	1000	100	200	0
<i>Input tax Credit on account of Integrated tax has been completely exhausted</i>				
Central tax	0	200	-	0
State tax / Union territory tax	0	-	100	100
Total	1000	300	300	100

6. Presently, the common portal supports the order of utilization of input tax credit in accordance with the provisions before implementation of the provisions of the CGST (Amendment) Act i.e. pre-insertion of Section 49A and Section 49B of the CGST Act. Therefore, till the new order of utilization as per newly inserted Rule 88A of the CGST Rules is implemented on the common portal, taxpayers may continue to utilize their input tax credit as per the functionality available on the common portal.

6.3 Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor [Circular No. 71/45/2018-GST]

Circular No. 71/45/2018-GST New Delhi, Dated the 26th October, 2018

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1.	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<ol style="list-style-type: none"> 1. It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the “<i>estimated net tax liability</i>” only and not the gross tax liability. 2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.
2.	As per section 27 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), period of operation by casual taxable person is ninety days with provision for extension of same by the proper officer for a further period not exceeding ninety days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.	<ol style="list-style-type: none"> 1. It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person. 2. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business. 3. In such cases he would not be required to pay advance tax for the purpose of registration. 4. He can surrender such registration once the exhibition is over.
3.	Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the CGST Act.	<ol style="list-style-type: none"> 1. According to Section 21 of the CGST Act where the ISD distributes the credit in contravention of the provisions contained in section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any.

		<p>2. The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by using FORM GST DRC-03.</p> <p>3. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) under the provisions of section 73 or 74 of the CGST Act as the case may be. FORM GST DRC-07 can be used by the tax authorities in such cases.</p> <p>4. It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1)(ix) of the CGST Act.</p>
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6.4 Restriction in availment of input tax credit in terms of sub-rule (4) of rule 36 of CGST Rules, 2017 [Circular No. 123/42/2019-GST]

Circular No. 123/42/2019-GST New Delhi, Dated the 11th November, 2019

Sub-rule (4) to rule 36 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) has been inserted vide notification No. 49/2019- Central Tax, dated 09.10.2019. The said sub-rule provides restriction in availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act).

2. To ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies various issues in succeeding paragraphs.

3. The conditions and eligibility for the ITC that may be availed by the recipient shall continue to be governed as per the provisions of Chapter V of the CGST Act and the rules made thereunder. This being a new provision, the restriction is not imposed through the common portal and it is the responsibility of the taxpayer that credit is availed in terms of the said rule and therefore, the availment of restricted credit in terms of sub-rule (4) of rule 36 of CGST Rules shall be done on self-assessment basis by the tax payers. Various issues relating to implementation of the said sub-rule have been examined and the clarification on each of these points is as under: -

Sl No	Issue	Clarification
	What are the invoices/ debit notes on which the restriction under rule 36(4) of the CGST Rules shall apply?	The restriction of availment of ITC is imposed only in respect of those invoices / debit notes, details of which are required to be uploaded by the suppliers under sub-section (1) of section 37 and which have not been uploaded. Therefore, taxpayers may avail full ITC in respect of IGST paid on import, documents issued under RCM, credit received from ISD etc. which are outside the ambit of sub-section (1) of section 37, provided that eligibility conditions for availment of ITC are met in respect of the same. The restriction of 36(4) will be applicable only on the invoices / debit notes on which credit is availed after 09.10.2019.
2.	Whether the said restriction is to be calculated supplier wise or on consolidated basis?	The restriction imposed is not supplier wise. The credit available under sub-rule (4) of rule 36 is linked to total eligible credit from all suppliers against all supplies whose details have been uploaded by the suppliers. Further, the calculation would be based on only those invoices which are otherwise eligible for ITC. Accordingly, those invoices on which ITC is not available under any of the provision (say under sub-section (5) of section 17) would not be considered for calculating 20 per cent. of the eligible credit available.
3.	FORM GSTR-2A being a dynamic document, what would be the amount of input tax credit that is admissible to the taxpayers for a particular tax period in respect of invoices / debit notes whose details have not been uploaded by the suppliers?	The amount of input tax credit in respect of the invoices / debit notes whose details have not been uploaded by the suppliers shall not exceed 20% of the eligible input tax credit available to the recipient in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 as on the due date of filing of the returns in FORM GSTR-1 of the suppliers for the said tax period. The taxpayer may have to ascertain the same from his auto populated FORM GSTR 2A as available on the due date of filing of FORM GSTR-1 under sub-section (1) of section 37.
4.	How much ITC a registered tax payer can avail in his FORM GSTR-3B in a month in case the details of some of the invoices have not been uploaded by the suppliers under sub-section (1) of section 37.	Sub-rule (4) of rule 36 prescribes that the ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37. The eligible ITC that can be availed is explained by way of illustrations, in a tabulated form, below. In the illustrations, say a taxpayer “R” receives <u>100 invoices</u> (for inward supply of goods or services) involving ITC of <u>Rs. 10 lakhs</u> , from various suppliers during the month of Oct, 2019 and has to claim ITC in his FORM GSTR-3B of October, to be filed by 20 th Nov, 2019.

		Details of Suppliers' invoice for which recipient is to take Credit	20% of eligible credit where invoices are uploaded	Eligible ITC to be taken in GSTR- 3B to be filed by 20th Nov.
		Case 1 Suppliers have furnished in FORM GSTR-1 80 invoices involving ITC of Rs. 6 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	Rs.1,20,000/-	Rs. 6,00,000 (i.e. amount of eligible ITC available, as per details uploaded by the suppliers) 20% of amount of eligible ITC available, as
		Case 2 Suppliers have furnished in FORM GSTR-1 80 invoices involving ITC of Rs.7 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	Rs. 1,40,000/-	Rs 7,00,000 + Rs. 1,40,000 = 8,40,000/-
		Case 3 Suppliers have furnished in FORM GSTR-1 75 invoices having ITC of Rs. 8.5 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers	Rs. 1,70,000/-	Rs. 8,50,000/- + Rs.1,50,000/-* =Rs.10,00,000 *The additional amount of ITC availed shall be limited to ensure that the total ITC availed does not exceed the total eligible ITC.
5.	When can balance ITC be claimed in case availment of ITC is restricted as	The balance ITC may be claimed by the taxpayer in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers. He can claim proportionate ITC as and when details of some invoices are uploaded by the suppliers		

	<p>per the provisions of rule 36(4)?</p>	<p>provided that credit on invoices, the details of which are not uploaded (under sub-section (1) of section 37) remains under 20 per cent of the eligible input tax credit, the details of which are uploaded by the suppliers. Full ITC of balance amount may be availed, in present illustration by “R”, in case total ITC pertaining to invoices the details of which have been uploaded reaches Rs. 8.3 lakhs (Rs 10 lakhs /1.20). In other words, taxpayer may avail full ITC in respect of a tax period, as and when the invoices are uploaded by the suppliers to the extent Eligible ITC/ 1.2. The same is explained for Case No. 1 and 2 of the illustrations provided at Sl. No. 4 above as under:</p>				
		<table border="1"> <tr> <td data-bbox="612 566 778 837">Case 1</td> <td data-bbox="778 566 1385 837"> <p>“R” may avail balance ITC of Rs. 2.8 lakhs in case suppliers upload details of some of the invoices for the tax period involving ITC of Rs. 2.3 lakhs out of invoices involving ITC of Rs. 4 lakhs details of which had not been uploaded by the suppliers. [Rs. 6 lakhs + Rs. 2.3 lakhs = Rs. 8.3 lakhs]</p> </td> </tr> <tr> <td data-bbox="612 837 778 1068">Case 2</td> <td data-bbox="778 837 1385 1068"> <p>“R” may avail balance ITC of Rs. 1.6 lakhs in case suppliers upload details of some of the invoices involving ITC of Rs. 1.3 lakhs out of outstanding invoices involving Rs. 3 lakhs. [Rs. 7 lakhs + Rs. 1.3 lakhs = Rs. 8.3 lakhs]</p> </td> </tr> </table>	Case 1	<p>“R” may avail balance ITC of Rs. 2.8 lakhs in case suppliers upload details of some of the invoices for the tax period involving ITC of Rs. 2.3 lakhs out of invoices involving ITC of Rs. 4 lakhs details of which had not been uploaded by the suppliers. [Rs. 6 lakhs + Rs. 2.3 lakhs = Rs. 8.3 lakhs]</p>	Case 2	<p>“R” may avail balance ITC of Rs. 1.6 lakhs in case suppliers upload details of some of the invoices involving ITC of Rs. 1.3 lakhs out of outstanding invoices involving Rs. 3 lakhs. [Rs. 7 lakhs + Rs. 1.3 lakhs = Rs. 8.3 lakhs]</p>
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6.5 Clarification in respect of apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules [Circular No. 133/03/2020-GST]

Circular No. 133/03/2020-GST New Delhi, Dated the 23rd March, 2020

Representations have been received from various taxpayers seeking clarification in respect of apportionment and transfer of ITC in the event of merger, demerger, amalgamation or change in the constitution/ownership of business. Certain doubts have been raised regarding the interpretation of sub-section (3) of section 18 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) and sub-rule (1) of rule 41 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) in the context of business reorganization.

2. According to sub-section (3) of section 18 of the CGST Act,

“Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.”

Further, according to sub-rule (1) of rule 41 of the CGST Rules:

*“A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC-02**, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:*

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Explanation:- *For the purpose of this sub-rule, it is hereby clarified that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.*

3. The issues raised in various representations have been analyzed in the light of various legal provisions under GST. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the CGST Act clarifies the issues involved in the Table below.

S. No	Issue / Question	Clarification
a.	(i) In case of demerger, proviso to rule 41 (1) of the CGST Rules provides that the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. However, it is not clear as to whether the value of assets of the new units is to be considered at State level or at all-India level.	<p>Proviso to sub-rule (1) of rule 41 of the CGST Rules provides for apportionment of the input tax credit in the ratio of the value of assets of the new units as specified in the demerger scheme. Further, the explanation to sub-rule (1) of rule 41 of the CGST Rules states that “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon. Under the provisions of the CGST Act, a person/ company (having same PAN) is required to obtain separate registration in different States and each such registration is considered a distinct person for the purpose of the Act. Accordingly, for the purpose of apportionment of ITC pursuant to a demerger under sub- rule (1) of rule 41 of the CGST Rules, the 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.</p> <p>Illustration A company XYZ is registered in two States of M.P. and U.P. Its total value of assets is worth Rs. 100 crore, while its assets in State of M.P. and U.P are Rs 60 crore and Rs 40 crore respectively. It demerges a part of its business to company ABC. As a part of such demerger, assets of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P, while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC). The unutilized ITC of XYZ in State of M.P. shall be transferred to ABC on the basis of ratio of value of assets in State of M.P., i.e. $30/60 = 0.5$ and not on the basis of all-India ratio of value of assets, i.e. $40/100=0.4$. Similarly, unutilized ITC of XYZ in State of U.P. will be transferred to ABC in ratio of value of assets in State of U.P.,i.e. $10/40 = 0.25$.</p>
b.	The proviso to rule 41 (1) of the CGST Rules explicitly mentions ‘demerger’. Other forms	Yes, the formula for apportionment of ITC, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of

	<p>of business reorganization where part of business is hived off or business is transferred as a going concern etc. have not been covered in the said rule. Wherever business reorganization results in partial transfer of business assets along with liabilities, whether the proviso to rule 41(1) of the CGST Rules, 2017 shall be applicable to calculate the amount of transferable ITC?</p>	<p>business assets along with liabilities.</p>
<p>c.</p>	<p>(i) Whether the ratio of value of assets, as prescribed under proviso to rule 41 (1) of the CGST Rules, shall be applied in respect of each of the heads of input tax credit viz. CGST/ SGST/ IGST/ Cess?</p>	<p>No, the ratio of value of assets, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applied to the total amount of unutilized input tax credit (ITC) of the transferor i.e. sum of CGST, SGST/UTGST and IGST credit. The said formula need not be applied separately in respect of each heads of ITC (CGST/SGST/IGST). Further, the said formula shall also be applicable for apportionment of Cess between the transferor and transferee.</p> <p>Illustration A: The ITC balances of transferor X in the State of Maharashtra under CGST, SGST and IGST heads are 5 lakh, 5 lakh and 10 lakh respectively. Pursuant to a scheme of demerger, X transfers 60% of its assets to transferee B. Accordingly, the amount of ITC to be transferred from A to B shall be 60% of 20 lakh (total sum of CGST, SGST and IGST credit) i.e. 12 lakh.</p>
	<p>(ii) How to determine the amount of ITC that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of FORM</p>	<p>The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under sub-rule (1) of rule 41 of the CGST Rules [refer 3 (c) (i) above]. However, the transferor shall be at liberty to determine the amount to be transferred under each tax head (IGST, CGST, SGST/UTGST) within this total amount, subject to the</p>

<p>GST ITC-02 by the transferor?</p>	<p>ITC balance available with the transferor under the concerned tax head. This is shown in the illustration below:</p>																																																				
	<table border="1"> <thead> <tr> <th data-bbox="571 259 692 315">(1)</th> <th data-bbox="692 259 837 315">(2)</th> <th data-bbox="837 259 935 315">(3)</th> <th data-bbox="935 259 1129 315">(4)</th> <th data-bbox="1129 259 1294 315">(5)</th> <th data-bbox="1294 259 1434 315">(6)</th> </tr> </thead> <tbody> <tr> <td data-bbox="571 315 692 994">State</td> <td data-bbox="692 315 837 994">Asset Ratio of Transferee</td> <td data-bbox="837 315 935 994">Tax Heads</td> <td data-bbox="935 315 1129 994">ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)</td> <td data-bbox="1129 315 1294 994">Total amount of ITC transferred to the Transferee under FORM GST ITC-02</td> <td data-bbox="1294 315 1434 994">ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC-02) [Col (4)-Col(5)]</td> </tr> <tr> <td data-bbox="571 994 692 1256" rowspan="4">Delhi</td> <td data-bbox="692 994 837 1256" rowspan="4">70%</td> <td data-bbox="837 994 935 1055">CGST</td> <td data-bbox="935 994 1129 1055">10,00,000</td> <td data-bbox="1129 994 1294 1055">10,00,000</td> <td data-bbox="1294 994 1434 1055">0</td> </tr> <tr> <td data-bbox="837 1055 935 1115">SGST</td> <td data-bbox="935 1055 1129 1115">10,00,000</td> <td data-bbox="1129 1055 1294 1115">10,00,000</td> <td data-bbox="1294 1055 1434 1115">0</td> </tr> <tr> <td data-bbox="837 1115 935 1189">IGST</td> <td data-bbox="935 1115 1129 1189">30,00,000</td> <td data-bbox="1129 1115 1294 1189">15,00,000</td> <td data-bbox="1294 1115 1434 1189">15,00,000</td> </tr> <tr> <td data-bbox="837 1189 935 1256">Total</td> <td data-bbox="935 1189 1129 1256">50,00,000</td> <td data-bbox="1129 1189 1294 1256">35,00,000</td> <td data-bbox="1294 1189 1434 1256">15,00,000</td> </tr> <tr> <td data-bbox="571 1256 692 1525" rowspan="4">Haryana</td> <td data-bbox="692 1256 837 1525" rowspan="4">40%</td> <td data-bbox="837 1256 935 1323">CGST</td> <td data-bbox="935 1256 1129 1323">25,00,000</td> <td data-bbox="1129 1256 1294 1323">3,00,000</td> <td data-bbox="1294 1256 1434 1323">22,00,000</td> </tr> <tr> <td data-bbox="837 1323 935 1391">SGST</td> <td data-bbox="935 1323 1129 1391">25,00,000</td> <td data-bbox="1129 1323 1294 1391">5,00,000</td> <td data-bbox="1294 1323 1434 1391">20,00,000</td> </tr> <tr> <td data-bbox="837 1391 935 1458">IGST</td> <td data-bbox="935 1391 1129 1458">20,00,000</td> <td data-bbox="1129 1391 1294 1458">20,00,000</td> <td data-bbox="1294 1391 1434 1458">0</td> </tr> <tr> <td data-bbox="837 1458 935 1525">Total</td> <td data-bbox="935 1458 1129 1525">70,00,000</td> <td data-bbox="1129 1458 1294 1525">28,00,000</td> <td data-bbox="1294 1458 1434 1525">42,00,000</td> </tr> </tbody> </table>					(1)	(2)	(3)	(4)	(5)	(6)	State	Asset Ratio of Transferee	Tax Heads	ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)	Total amount of ITC transferred to the Transferee under FORM GST ITC-02	ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC-02) [Col (4)-Col(5)]	Delhi	70%	CGST	10,00,000	10,00,000	0	SGST	10,00,000	10,00,000	0	IGST	30,00,000	15,00,000	15,00,000	Total	50,00,000	35,00,000	15,00,000	Haryana	40%	CGST	25,00,000	3,00,000	22,00,000	SGST	25,00,000	5,00,000	20,00,000	IGST	20,00,000	20,00,000	0	Total	70,00,000	28,00,000	42,00,000
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<p>d. (i) In order to calculate the amount of transferable ITC, the apportionment formula under proviso to rule 41(1) of the CGST Rules has to be applied to the unutilized ITC balance of the transferor.</p>	<p>According to sub-section (3) of section 18 of the CGST Act, “Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.” Further, sub-rule (1) of rule 41 of the CGST Rules prescribes that the registered person shall file the</p>																																																				

<p>However, it is not clear as to which date shall be relevant to calculate the amount of unutilized ITC balance of transferor.</p>	<p>details in FORM GST ITC-02 for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee.</p> <p>A conjoint reading of sub-section (3) of section 18 of the CGST Act along with sub-rule (1) of rule 41 of the CGST Rules would imply that the apportionment formula shall be applied on the ITC balance of the transferor as available in electronic credit ledger on the date of filing of FORM GST ITC – 02 by the transferor.</p>
<p>(ii) Which date shall be relevant to calculate the ratio of value of assets, as prescribed in the proviso to rule 41 (1) of the CGST Rules, 2017?</p>	<p>According to section 232 (6) of the Companies Act, 2013, “<i>The scheme under this section shall clearly indicate an <u>appointed date</u> from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date</i>”. The said legal provision appears to indicate that the “appointed date of demerger” is the date from which the scheme for demerger comes into force and it is specified in the respective scheme of demerger. Therefore, for the purpose of apportionment of ITC under rule sub-rule (1) of rule 41 of the CGST Rules, the ratio of the value of assets should be taken as on the “appointed date of demerger”.</p> <p>In other words, for the purpose of apportionment of ITC under sub-rule (1) of rule 41 of the CGST Rules, while the ratio of the value of assets should be taken 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 to calculate the amount to transferable ITC.</p>

6.6 Clarification relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017 for the months of February, 2020 to August, 2020 [Circular No. 142/12/2020-GST]

Circular No. 142/12/2020-GST New Delhi, Dated the 9th October, 2020

Vide Circular No. 123/42/2019 – GST dated 11th November, 2019, various issues relating to implementation of sub-rule (4) of rule 36 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) relating to availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) were clarified.

2. Keeping the situation prevailing in view of measures taken to contain the spread of COVID-19 pandemic, vide notification No. 30/2020-CT, dated 03.04.2020, it had been prescribed that the condition made under sub-rule (4) of rule 36 of the CGST Rules shall apply cumulatively for the tax period February, March, April, May, June, July and August, 2020 and that the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months.

3. To ensure uniformity in the implementation of the said provisions across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies certain issues in succeeding paragraphs.

3.1 **It is re-iterated that the clarifications issued earlier vide Circular No. 123/42/2019 – GST dated 11.11.2019 shall still remain applicable, except for the cumulative application as prescribed in proviso to sub-rule (4) of rule 36 of the CGST Rules.** Accordingly, all the taxpayers are advised to ascertain the details of invoices uploaded by their suppliers under sub-section (1) of section 37 of the CGST Act for the periods of February, March, April, May, June, July and August, 2020, till the due date of furnishing of the statement in FORM GSTR-1 for the month of September, 2020 as reflected in GSTR-2As.

Taxpayers shall reconcile the ITC availed in their **FORM GSTR-3Bs** for the period February, 2020 to August, 2020 with the details of invoices uploaded by their suppliers of the said months, till the due date of furnishing **FORM GSTR-1** for the month of September, 2020. The cumulative amount of ITC availed for the said months in **FORM GSTR-3B** should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the CGST Act, till the due date of furnishing of the statements in **FORM GSTR-1** for the month of September, 2020.

3.2 It may be noted that availability of 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the CGST Act does not mean that the total

credit can exceed the tax amount as reflected in the total invoices for the supplies received by the taxpayer i.e. the maximum credit available in terms of provisions of section 16 of the CGST Act.

3.3 The excess ITC availed arising out of reconciliation during this period, if any, shall be required to be reversed in Table 4(B)(2) of FORM GSTR-3B, for the month of September, 2020. Failure to reverse such excess availed ITC on account of cumulative application of sub-rule (4) of rule 36 of the CGST Rules would be treated as availment of ineligible ITC during the month of September, 2020.

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

Table I

Tax period	Eligible ITC as per the provisions of Chapter V of the CGST Act and the rules made thereunder, except rule 36(4)	ITC availed by the taxpayer (recipient) in GSTR-3B of the respective months	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	Effect of cumulative application of rule 36(4) on availability of ITC.
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	
TOTAL	2750	2750	2450	
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)				

6.7 Clarification in respect of certain GST related issues [Circular No. 160/16/2021-GST]

Circular No. 160/16/2021-GST New Delhi, Dated the 20th September, 2021

Various representations have been received from taxpayers and other stakeholders seeking clarification in respect of certain issues pertaining to GST laws. The issues have been examined. In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies each of these issues as under:

S. No.	Issue	Clarification
1	<p>Section 16 (4), as amended with effect from 01.01.2021, provides that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.</p> <p>Doubts have been raised seeking following clarification:</p> <p>1. Which of the following dates are relevant to determine the ‘financial year’ for the purpose of section 16(4):</p> <p style="margin-left: 40px;">(a) date of issuance of debit note, or</p> <p style="margin-left: 40px;">(b) date of issuance of</p>	<p>1. With effect from 01.01.2021, section 16(4) of the CGST Act, 2017 was amended <i>vide</i> the Finance Act, 2020, so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.</p> <p style="margin-left: 40px;">The amendment made is shown as below: <i>“A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.”</i></p> <p style="margin-left: 40px;">As can be seen, the words “invoice relating to such” were omitted w.e.f. 01.01.2021.</p> <p>2. The intent of law as specified in the Memorandum explaining the Finance Bill, 2020 states that <i>“Clause 118 of the Bill</i></p>

	<p>underlying invoice.</p> <p>Whether any availment of input tax credit, on or after 01.01.2021, in respect of debit notes issued either prior to or after 01.01.2021, will be governed by the provisions of the amended section 16(4), or the amended provision will be applicable only in respect of the debit notes issued after 01.01.2021?</p>	<p><i>seeks to amend sub-section (4) of section 16 of the Central Goods and Services Tax Act so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.</i></p> <p>3. Accordingly, it is clarified that:</p> <p>a) w.e.f. 01.01.2021, in case of debit notes, the date of issuance of debit note (not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of the CGST Act.</p> <p>b) The availment of ITC on debit notes in respect of amended provision shall be applicable from 01.01.2021. Accordingly, for availment of ITC on or after 01.01.2021, in respect of debit notes issued either prior to or after 01.01.2021, the eligibility for availment of ITC will be governed by the amended provision of section 16(4), whereas any ITC availed prior to 01.01.2021, in respect of debit notes, shall be governed under the provisions of section 16(4), as it existed before the said amendment on 01.01.2021.</p> <p>Illustration 1. A debit note dated 07.07.2021 is issued in respect of the original invoice dated 16.03.2021. As the invoice pertains to F.Y. 2020- 21, the relevant financial year for availment of ITC in respect of the said invoice in terms of section 16(4) of the CGST shall be 2020-21. However, as the debit note has been issued in FY 2021-22, the relevant financial year for availment of ITC in respect of the said debit note shall be 2021-22 in terms of amended provision of section 16(4) of the CGST Act.</p> <p>Illustration 2. A debit note has been issued on 10.11.2020 in respect an invoice dated 15.07.2019. As per amended provision of section 16(4), the relevant financial year for</p>
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		<p>availment of input tax credit on the said debit note, on or after 01.01.2021, will be FY 2020-21 and accordingly, the registered person can avail ITC on the same till due date of furnishing of FORM GSTR-3B for the month of September, 2021 or furnishing of the annual return for FY 2020-21, whichever is earlier.</p>
<p>2 .</p>	<p>Whether carrying physical copy of invoice is compulsory during movement of goods in cases where suppliers have issued invoices in the manner prescribed under rule 48 (4) of the CGST Rules, 2017 (i.e. in cases of e-invoice).</p>	<ol style="list-style-type: none"> 1. Rule 138A (1) of the CGST Rules, 2017 <i>inter-alia</i>, provides that the person in charge of a conveyance shall carry— (a) the invoice or bill of supply or delivery challan, as the case may be; and (b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a RadioFrequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner. 2. Further, rule 138A (2) of CGST Rules, after being amended vide notification No. 72/2020-Central Tax dated 30.09.2020, states that <i>“In case, invoice is issued in the manner prescribed under sub-rule (4) of rule 48, the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice”</i> 3. A conjoint reading of rules 138A (1) and 138A (2) of CGST Rules, 2017 clearly indicates that there is no requirement to carry the physical copy of tax invoice in cases where e-invoice has been generated by the supplier. After amendment, the revised rule 138A (2) states in unambiguous words that whenever e- invoice has been generated, the Quick Reference (QR) code, having an embedded Invoice Reference Number (IRN) in it, may be produced electronically for verification by the proper officer in lieu of the physical copy of such tax invoice. 4. Accordingly, it is clarified that there is no

		<p>need to carry the physical copy of tax invoice in cases where invoice has been generated by the supplier in the manner prescribed under rule 48(4) of the CGST Rules and production of the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.</p>
3	<p>Whether the first proviso to section 54(3) of CGST / SGST Act, prohibiting refund of unutilized ITC is applicable in case of exports of goods which are having NIL rate of export duty.</p>	<p>1. The term ‘subjected to export duty’ used in first proviso to section 54(3) of the CGST Act, 2017 means where the goods are actually leviable to export duty and suffering export duty at the time of export. Therefore, goods in respect of which either NIL rate is specified in Second Schedule to the Customs Tariff Act, 1975 or which are fully exempted from payment of export duty by virtue of any customs notification or which are not covered under Second Schedule to the Customs Tariff Act, 1975, cannot be considered to be subjected to any export duty under Customs Tariff Act, 1975.</p> <p>2. Accordingly, it is clarified that only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export, will be covered under the restriction imposed under section 54(3) from availment of refund of accumulated ITC. Goods, which are not subject to any export duty and in respect of which either NIL rate is specified in Second Schedule to the Customs Tariff Act, 1975 or which are fully exempted from payment of export duty by virtue of any customs notification or which are not covered under Second Schedule to the Customs Tariff Act, 1975, would not be covered by the restriction imposed under the first proviso to section 54(3) of the CGST Act for the purpose of availment of refund of accumulated ITC.</p>

6.8 Corrigendum to Circular No. 160/16/2021-GST dated 20th September 2021 issued vide F. No. CBIC-20001/8/2021-GST dated the 24th September

In the opening para of the said circular, in the table against S. No. 3, for the words ‘**first proviso**’ wherever they occur, the words ‘**second proviso**’ shall be read.

7. Circulars related to TDS & TCS:

7.1 Guidelines for Deductions and Deposits of TDS by the DDO under GST [Circular No. 65/39/2018-DOR]

Circular No. 65/39/2018-DOR New Delhi, Dated the 14th September, 2018

Section 51 of the CGST Act 2017 provides for deduction of tax by the Government Agencies (Deductor) or any other person to be notified in this regard, from the payment made or credited to the supplier (Deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees. The amount deducted as tax under this section shall be paid to the Government by deductor within ten days after the end of the month in which such deduction is made alongwith a return in FORM GSTR-7 giving the details of deductions and deductees. Further, the deductor has to issue a certificate to the deductee mentioning therein the contract value, rate of deduction, amount deducted etc.

2. As per the Act, every deductor shall deduct the tax amount from the payment made to the supplier of goods or services or both and deposit the tax amount so deducted with the Government account through NEFT to RBI or a cheque to be deposited in one of the authorized banks, using challan on the common portal. In addition, the deductors are entrusted the responsibility of filing return in FORM GSTR-7 on the common portal for every month in which deduction has been made based on which the benefit of deduction shall be made available to the deductee. All the DDOs in the Government, who are performing the role as deductor have to register with the common portal and get the GST Identification Number (GSTIN).

3. The subject section which provides for tax deduction at source was not notified to come into force with effect from 1st July, 2017, the date from which GST was introduced. Government has recently notified that these provisions shall come into force with effect from 1st October, 2018, vide Notification No. 50/2018 – Central Tax dated 13th September, 2018.

4. For payment process of Tax Deduction at Source under GST two options can be followed, which are as under:

Option I: Generation of challan for every payment made during the month

Option II: Bunching of TDS deducted from the bills on weekly, monthly or any periodic manner

5. In order to give effect to the above options from 01.10.2018, a process flow of deduction and deposit of TDS by the DDOs has been finalised in consultation with CGA for guidance and implementation by Central and State Government Authorities. The process flow for Option I and Option II are described as under:

Option I - Individual Bill-wise Deduction and its Deposit by the DDO

6. In this option, the DDO will have to deduct as well as deposit the GST TDS for each bill individually by generating a CPIN (Challan) and mentioning it in the Bill itself.

7. Following process shall be followed by the DDO in this regard:

- (i) The DDO shall prepare the Bill based on the Expenditure Sanction. The Expenditure Sanction shall contain the (a) Total amount, (b) net amount payable to the Contractor/Supplier/Vendor and (c) the 2% TDS amount of GST.
- (ii) The DDO shall login into the GSTN Portal (using his GSTIN) and generate the CPIN (Challan). In the CPIN he shall have to fill in the desired amount of payment against one/many Major Head(s) (CGST/SGST/UTGST/IGST) and the relevant component (e.g. Tax) under each of the Major Head.
- (iii) While generating the CPIN, the DDO will have to select mode of payment as either (a) NEFT/RTGS or (b) OTC. In the OTC mode, the DDO will have to select the Bank where the payment will be deposited through OTC mode.
- (iv) The DDO shall prepare the bill on PFMS (in case of Central Civil Ministries of GoI), similar payment portals of other Ministries/Departments of GoI or of State Governments for submission to the respective payment authorities.
- (v) In the Bill,
 - (a) the net amount payable to the Contractor; and
 - (b) 2% as TDSwill be specified
- (vi) In case of NEFT/RTGS mode, the DDO will have to mention the CPIN Number (as beneficiary's account number), RBI (as beneficiary) and the IFSC Code of RBI with the request to payment authority to make payment in favour of RBI with these credentials.
- (vii) In case of the OTC mode, the DDO will have to request the payment authority to issue 'A' Category Government Cheque in favour of one of the 25 authorized Banks. The Cheque may then be deposited along with the CPIN with any of branch of the authorized Bank so selected by the DDO.
- (viii) Upon successful payment, a CIN will be generated by the RBI/Authorized Bank and will be shared electronically with the GSTN Portal. This will get credited in the electronic Cash Ledger of the concerned DDO in the GSTN Portal. This can be viewed and the details of CIN can be noted by the DDO anytime on GSTN portal using his Login credentials.

- (ix) The DDO should maintain a Register as per proforma given in Annexure 'A' to keep record of all TDS deductions made by him during the month. This Record will be helpful at the time of filing Monthly Return (FORM GSTR-7) by the DDO. The DDO may also make use of the offline utility available on the GSTN Portal for this purpose.
- (x) The DDO shall generate TDS Certificate through the GST Portal in FORM GSTR-7A after filing of Monthly Return.

Option II - Bunching of deductions and its deposit by the DDO

8. Option-I may not be suitable for DDOs who make large number of payments in a month as it would require them to make large number of challans during the month. Such DDOs may exercise this option wherein the DDO will have to deduct the TDS from each bill, for keeping it under the Suspense Head. However, deposit of this bunched amount from the Suspense Head can be made on a weekly, monthly or any other periodic basis.

9. Following process shall be followed by the DDO in this regard:

- (i) The DDO shall prepare the Bill based on the Expenditure Sanction. The Expenditure Sanction shall contain the (a) Total amount, (b) net amount payable to the Contractor/Supplier/Vendor and (c) the 2% TDS amount of GST.
- (ii) The DDO shall prepare the bill on PFMS (in case of Central Civil Ministries of GoI), similar payment portals of other Ministries/Departments of GoI or of State Governments for submission to the respective payment authorities.
- (iii) In the Bill, it will be specified
 - (a) the net amount payable to the Contractor; and
 - (b) 2% as TDS
- (iv) The TDS amount shall be mentioned in the Bill for booking in the Suspense Head (8658 - Suspense; 00.101 - PAO Suspense; xx – GST TDS)
- (v) The DDO will require to maintain the Record of the TDS so being booked under the Suspense Head so that at the time of preparing the CPIN for making payment on weekly/monthly or any other periodic basis, the total amount could be easily worked out.
- (vi) At any periodic interval, when DDO needs to deposit the TDS amount, he will prepare the CPIN on the GSTN Portal for the amount (already booked under the Suspense Head).
- (vii) While generating the CPIN, the DDO will have to select mode of payment as either (a) NEFT/RTGS or (b) OTC. In the OTC mode, the DDO will have to select the Bank where the payment will be deposited through OTC mode.
- (viii) The DDO shall prepare the bill for the bunched TDS amount for payment through the concerned payment authority. In the Bill, the DDO will give reference of all the earlier paid bills from which 2% TDS was deducted and kept in the suspense head.

The DDO may also attach a certified copy of the record maintained by him in this regard.

- (ix) The payment authority will pass the bill by clearing the Suspense Head operated against that particular DDO after exercising necessary checks.
- (x) In case of NEFT/RTGS mode, the DDO will have to mention the CPIN Number (as beneficiary's account number), RBI (as beneficiary) and the IFSC Code of RBI with the request to payment authority to make payment in favour of RBI with these credentials.
- (xi) In case of the OTC mode, the DDO will have to request the payment authority to issue 'A' Category Government Cheque in favour of one of the 25 authorized Banks. The Cheque may then be deposited along with the CPIN with any of branch of the authorized Bank so selected by the DDO.
- (xii) Upon successful payment, a CIN will be generated by the RBI/Authorized Bank and will be shared electronically with the GSTN Portal. This will get credited in the electronic Cash Ledger of the concerned DDO in the GSTN Portal. This can be viewed and the details of CIN can be noted by the DDO anytime on GSTN portal using his Login credentials.
- (xiii) The DDO should maintain a Register as per proforma given in Annexure 'A' to keep record of all TDS deductions made by him during the month. This Record will be helpful at the time of filing Monthly Return (FORM GSTR-7) by the DDO. The DDO may also make use of the offline utility available on the GSTN Portal for this purpose.
- (xiv) The DDO shall file the Return in FORM GSTR-7 by 10th of the following month
- (xv) The DDO shall generate TDS Certificate through the GSTN Portal in FORM GSTR-7A

10. Departments in Central Government should instruct all its DDOs under them to follow the above procedure for payment of GST TDS amount deducted from payments to be made to suppliers.

Annexure A

Record to be maintained by the DDO for filing of GSTR7

Sl. No.	GSTIN of the Deductee	Trade Name	Amount paid to the Deductee on which tax is deducted	Integrated Tax	Central Tax	State/UT Tax	Total

7.2 Modification to the Guidelines for Deductions and Deposits of TDS by the DDO under GST as clarified in Circular No. 65/39/2018-DOR dated 14.09.2018 [Circular No. 67/41/2018-DOR]

Circular No. 67/41/2018-DOR New Delhi, Dated the 28th September, 2018

Circular No. 65/39/2018-DOR dated 14/09/2018, vide which Guidelines for Deductions and Deposits of TDS by the DDO under GST had been issued by the Department of Revenue.

2. On the recommendation of the Controller General of Accounts, the Department of Revenue, hereby issues the following modifications to the said Circular:-

Para 9 (iv) should read as: To enable the DDOs to account for the TDS bunched together (in terms of Option II), following sub-head related to the GST-TDS below the Head 8658.00.101-PAO Suspense has been opened.

SI No.	Major Head	Sub Head Description	Major Head Serial Code (8-digit reduced accounting code)	SCCD Code
1	8658-00-101	08-GST TDS	86580344	367

7.3 Collection of tax at source by Tea Board of India [Circular No 74/48/2018-GST]

Circular No. 74/48/2018-GST New Delhi, Dated the 5th November, 2018

Tea Board of India (hereinafter referred to as the, "Tea Board"), being the operator of the electronic auction system for trading of tea across the country including for collection and settlement of payments, admittedly falls under the category of electronic commerce operator liable to collect Tax at Source (hereinafter referred to as, "TCS") in accordance with the provisions of section 52 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as, "the CGST Act").

2. The participants in the said auction are the sellers i.e. the tea producers and auctioneers who carry out the auction on behalf of such sellers and buyers.

3. It has been represented that the buyers in the said auction make payment of a consolidated amount to an escrow Account maintained by the Tea Board. The said consolidated amount is towards the value of the tea, the selling and buying brokerages charged by the auctioneers and also the amount charged by the Tea Board from sellers, auctioneers and buyers. Thereafter, Tea

Board pays to the sellers (i.e. tea producers), from the said escrow account, for the supply of goods made by them (i.e. tea) and to the auctioneers for the supply of services made by them (i.e. brokerage). Under no circumstances, the payment is made by the Tea Board to the auctioneers on account of supply of goods i.e., tea sold at auction.

4. A representation has been received from Tea Board, seeking clarification whether they should collect TCS under section 52 of the CGST Act from the sellers of tea (i.e. the tea producers), or from the auctioneers of tea or from both.

5. The matter has been examined. In exercise of the powers conferred under sub-section (1) of section 168 of the CGST Act, for the purpose of uniformity in the implementation of the Act, it is hereby clarified, that TCS at the notified rate, in terms of section 52 of the CGST Act, shall be collected by Tea Board respectively from the -

- (i) sellers (i.e. tea producers) on the net value of supply of goods i.e. tea; and
- (ii) auctioneers on the net value of supply of services (i.e. brokerage).

8. Circular related to Advance Ruling, appeals before Appellate Authority for Advance Ruling & Appellate Tribunal etc.

8.1 Manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling [Circular No. 25/25/2017-GST]

Circular No. 25/25/2017-GST New Delhi, dated 21st December, 2017

As per rules 104 and 106 of the CGST Rules, 2017 (hereinafter referred to as “the CGST Rules”) the application for obtaining an advance ruling and filing an appeal against an advance ruling shall be made by the applicant on the common portal. However, due to the unavailability of the requisite forms on the common portal, a new rule 107A has been inserted vide notification No. 55/2017-Central Tax, dated 15.11.2017, which states that in respect of any process or procedure prescribed in Chapter XII, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include the manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to the CGST Rules.

2. Therefore, in exercise of the powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as ‘the CGST Act’) on the recommendations of the Council and for the purpose of ensuring uniformity in the processing of such manual applications till the advance ruling module is made available on the common portal, the following conditions and procedure are prescribed for the manual filing and processing of the applications.

Form and Manner of Application to the Authority for Advance Ruling

3. An application for obtaining an advance ruling under sub-section (1) of section 97 of the CGST Act and the rules made there under, shall be made in quadruplicate, in **FORM GST ARA-01**. The application shall clearly state the question on which the advance ruling is sought. The application shall be accompanied by a fee of five thousand rupees which is to be deposited online by the applicant, in the manner specified under section 49 of the CGST Act. It is reiterated that though the application shall be filed manually till the advance ruling module is made available on the common portal, the fee is required to be deposited online in terms of section 49 of the CGST Act.

4. In order to make the payment of fee for filing an application for Advance Ruling on the common portal, the applicant has to fill his details using “Generate User ID for Advance Ruling” under “User Services”. After entering the email id and mobile number, a One Time Password (OTP) shall be sent to the email id. Upon submission of OTP, Systems shall generate a temporary ID and send it to the declared email and mobile number of the applicant. On the basis of this ID, the applicant can make the payment of the fee of Rs. 5,000/- each under the CGST and the respective SGST Act. The applicant is then required to download and take a print of the challan and file the application with the Authority for Advance Ruling.

5. The application, the verification contained therein and all the relevant documents accompanying such application shall be signed-

(a) in the case of an individual, by the individual himself or where he is absent from India, by some other person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu Undivided Family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family or by the authorised signatory of such Karta;

(c) in the case of a company, by the Chief Executive Officer or the authorised signatory thereof;

(d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;

(e) in the case of a firm, by any partner thereof, not being a minor or the authorised signatory thereof;

(f) in the case of any other association, by any member of the association or persons or the authorised signatory thereof;

(g) in the case of a trust, by the trustee or any trustee or the authorised signatory thereof; or

(h) in the case of any other person, by some person competent to act on his behalf, or by a person authorised in accordance with the provisions of section 48 of the CGST Act.

Form and Manner of Appeal to the Appellate Authority for Advance Ruling

6. An appeal against the advance ruling issued under sub-section (6) of section 98 of the CGST Act and the rules made there under shall be made by an applicant in quadruplicate, in **FORM GST ARA-02** and shall be accompanied by a fee of ten thousand rupees to be deposited online, in the manner specified in section 49 of the CGST Act. It is reiterated that though the application shall be filed manually till the advance ruling module is made available on the common portal, the fee is required to be deposited online in terms of section 49 of the CGST Act. The payment of fee shall be made as detailed in para 4 above.

7. An appeal made by the concerned officer or the jurisdictional officer referred to in section 100 of the CGST Act and the rules made there under shall be filed in quadruplicate, in **FORM GST ARA-03** and no fee shall be payable by the said officer for filing the appeal. As per section 100 (2) of the CGST Act, the appeal shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicant or the concerned officer or the jurisdictional officer, as the case maybe.

8. The appeal, the verification contained therein and all the relevant documents accompanying such appeal shall be signed-

(a) in the case of the concerned officer or jurisdictional officer, by an officer authorised in writing by such officer; and

(b) in the case of an applicant, in the manner specified in Para 5 above.

9. The application for advance ruling or the appeal before the Appellate Authority shall be filed in the jurisdictional office of the respective State Authority for Advance Ruling or the State Appellate Authority for Advance Ruling respectively.

10. If the space provided for answering any item in the Forms is found to be insufficient, separate sheets may be used. Further, the application, the verification appended thereto, the Annexures to the application and the statements and documents accompanying the Annexures must be self-attested.

8.2 Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal [Circular No. 132/2/2020-GST]

Circular No. 132/2/2020-GST New Delhi, Dated the 18th March, 2020

Various representations have been received wherein the issue has been decided against the registered person by the adjudicating authority or refund application has been rejected by

the appropriate authority and appeal against the said order is pending before the appellate authority. It has been gathered that the appellate process is being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed. Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in absence of appellate tribunal for appeal to be made under section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”).

2. The matter has been examined in detail. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3.1 Appeal against an adjudicating authority is to be made as per the provisions of Section 107 of the CGST Act. The sub-section (1) of the section reads as follows: -

4 *“107. (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.”*

3.2 Relevant rules have been prescribed for implementation of the above Section. The relevant rule for the same is rule 109A of Central Goods and Services Tax Rules, 2017 which reads as follows

“109A. Appointment of Appellate Authority.- (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –

(a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;

(b) any officer not below the rank of Joint Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,

within three months from the date on which the said decision or order is communicated to such person.”

3.3 Hence, if the order has been passed by Deputy or Assistant Commissioner or Superintendent, appeal has to be made to the appellate authority appointed who would not be an officer below the rank of Joint Commissioner. Further, if the order has been passed by Additional or Joint Commissioner, appeal has to be made to the Commissioner (Appeal) appointed for the same.

4.1 The appeal against the order passed by appellate authority under Section 107 of the CGST Act lies with appellate tribunal. Relevant provisions for the same is mentioned in the Section 112 of the CGST Act which reads as follows: -

“112 (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.”

4.2 The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued **the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019**. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, **whichever is later.**

4.3 Hence, as of now, the prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office. The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office. Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

9. Circulars related to certain issues under GST like keeping of books of accounts, waybill etc.

9.1 Clarifications on keeping of books of accounts, waybill etc. [Circular No. 47/21/2018-GST]

Circular No. 47/21/2018-GST New Delhi, Dated the 8th June, 2018

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1	Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?	<p>1.1 Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.</p> <p>1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).</p> <p>1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM</p>

		to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.
2.	How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST?	<p>2.1 The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case.</p> <p>2.2 Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.</p>
3.	In case of auction of tea, coffee, rubber etc., whether the books of accounts are required to be maintained at every place of business by the principal and the auctioneer, and whether they are eligible to avail input tax credit?	<p>3.1 The requirement of maintaining the books of accounts at the principal place of business and additional place(s) of business is clarified as below:</p> <p>(a) For the purpose of auction of tea, coffee, rubber, etc, the principal and the auctioneer may declare the warehouses, where such goods are stored, as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouses. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said provisions.</p> <p>(b) The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of the first proviso to sub-section (1) of section 35 of the CGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their</p>

		<p>principal place of business instead of such additional place(s).</p> <p>(c) The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall intimate their jurisdictional officer in writing about the maintenance of books of accounts relating to the additional place(s) of business at their principal place of business.</p> <p>3.2 It is further clarified that the principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall be eligible to avail input tax credit subject to the fulfillment of other provisions of the CGST Act read with the rules made there under.</p>
4.	In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery?	As per proviso to rule 138(2A) of the Central Goods and Services Tax Rules, 2017 (CGST Rules for short), the railways shall not deliver the goods unless the e-way bill is produced at the time of delivery.
5.	<p>Whether e-way bill is required in the following cases-</p> <p>(i) Where goods transit through another State while moving from one area in a State to another area in the same State.</p> <p>(ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.</p>	<p>(i) It may be noted that e-way bill generation is not dependent on whether a supply is inter-State or not, but on whether the movement of goods is inter-State or not. Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated.</p> <p>(ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State, there is no requirement to generate an e-way bill, if the same has been exempted under rule 138(14)(d) of the CGST Rules.</p>

9.2 E-way bill in case of storing of goods in go down of transporter [Circular No. 61/35/2018-GST]

Circular No. 61/35/2018-GST

New Delhi, Dated the 4th September, 2018

Various representations have been received on the matter pertaining to the textile sector and problems being faced by weavers & artisans regarding storage of their goods in the warehouse of the transporter. It has been stated that textile traders use transporters' go down for storage of their goods due to their weak financial conditions. The transporters providing such warehousing facility will have to get themselves registered under GST and maintain detailed records in cases where the transporter takes delivery of the goods and temporarily stores them in his warehouse for further transportation of the goods till the consignee/recipient taxpayer's premises. The transport industry is facing difficulties due to the same and a request has been made to treat these go downs as transit go downs.

2. In view of the difficulties being faced by the transporters and the consignee/recipient taxpayer and to ensure uniformity in the procedure across the sectors and the country, the Board in exercise of its power conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereafter referred to as the CGST Act) hereby clarifies the issues in the succeeding paragraphs.

3. As per rule 138 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) e-way bill is a document which is required for the movement of goods from the supplier's place of business to the recipient taxpayer's place of business. Therefore, the goods in movement including when they are stored in the transporter's go down (even if the go down is located in the recipient taxpayer's city/town) prior to delivery shall always be accompanied by a valid e-way bill.

4. Further, section 2(85) of the CGST Act defines the "place of business" to include "a place from where the business is ordinarily carried out, and includes a warehouse, a go down or any other place where a taxable person stores his goods, supplies or receives goods or services or both". An additional place of business is the place of business from where taxpayer carries out business related activities within the State, in addition to the principal place of business.

5. Thus, in case the consignee/ recipient taxpayer stores his goods in the go down of the transporter, then the transporter's go down has to be declared as an additional place of business by the recipient taxpayer. In such cases, mere declaration by the recipient taxpayer to this effect with the concurrence of the transporter in the said declaration will suffice. Where the transporter's go down has been declared as the additional place of business by the recipient taxpayer, the transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's go down (recipient taxpayer' additional place of business). Hence, e-way bill validity in such cases will not be required to be extended.

6. Further, whenever the goods are transported from the transporters' go down, which has been declared as the additional place of business of the recipient taxpayer, to any other premises of the recipient taxpayer then, the relevant provisions of the e-way bill rules shall apply. Hence,

whenever the goods move from the transporter's go-down (i.e, recipient taxpayer's additional place of business) to the recipient taxpayer's any other place of business, a valid e-way bill shall be required, as per the extant State-specific e-way bill rules.

7. Further, the obligation of the transporter to maintain accounts and records as specified in section 35 of the CGST Act read with rule 58 of the CGST Rules shall continue as a warehouse keeper. Furthermore, the recipient taxpayer shall also maintain accounts and records as required under rules 56 and 57 of the CGST Rules. Furthermore, as per rule 56 (7) of the CGST Rules, books of accounts in relation to goods stored at the transporter's go down (i.e., the recipient taxpayer's additional place of business) by the recipient taxpayer may be maintained by him at his principal place of business. It may be noted that the facility of declaring additional place of business by the recipient taxpayer is in no way putting any additional compliance requirement on the transporters.

10. Circulars related to interception, detention, release and confiscation of goods and conveyances

10.1 Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances [Circular No. 41/15/2018-GST]

Circular No. 41/15/2018-GST New Delhi, Dated the 13th April, 2018

Sub-section (1) of section 68 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") stipulates that the person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount shall carry with him the documents and devices prescribed in this behalf. Sub-section (2) of the said section states that the details of documents required to be carried by the person in charge of the conveyance shall be validated in such manner as may be prescribed. Sub-section (3) of the said section provides that where any conveyance referred to in sub-section (1) of the said section is intercepted by the proper officer at any place, he may require the person in charge of the conveyance to produce the documents for verification, and the said person shall be liable to produce the documents and also allow the inspection of goods.

1.1 Rules 138 to 138D of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") lay down, in detail, the provisions relating to e-way bills. As per the said provisions, in case of transportation of goods by road, an e-way bill is required to be generated before the commencement of movement of the consignment. Rule 138A of the CGST rules

prescribes that the person in charge of a conveyance shall carry the invoice or bill of supply or delivery challan, as the case may be; and in case of transportation of goods by road, he shall also carry a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

1.2 Section 129 of the CGST Act provides for detention, seizure and release of goods and conveyances in transit while section 130 of the CGST Act provides for the confiscation of goods or conveyances and imposition of penalty.

2. In this regard, various references have been received regarding the procedure to be followed in case of interception of conveyances for inspection of goods in movement and detention, seizure and release and confiscation of such goods and conveyances. In order to ensure uniformity in the implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the CGST Act, hereby issues the following instructions:

- (a) The jurisdictional Commissioner or an officer authorised by him for this purpose shall, by an order, designate an officer/officers as the proper officer/officers to conduct interception and inspection of conveyances and goods in the jurisdictional area specified in such order.
- (b) The proper officer, empowered to intercept and inspect a conveyance, may intercept any conveyance for verification of documents and/or inspection of goods. On being intercepted, the person in charge of the conveyance shall produce the documents related to the goods and the conveyance. The proper officer shall verify such documents and where, prima facie, no discrepancies are found, the conveyance shall be allowed to move further. An e-way bill number may be available with the person in charge of the conveyance or in the form of a print out, sms or it may be written on an invoice. All these forms of having an e-way bill are valid. Wherever a facility exists to verify the e-way bill electronically, the same shall be so verified, either by logging on to <http://mis.ewaybillgst.gov.in> or the Mobile App or through SMS by sending **EWBVER <EWB_NO>** to the mobile number **77382 99899** (For e.g. EWBVER 120100231897).
- (c) For the purposes of verification of the e-way bill, interception and inspection of the conveyance and/or goods, the proper officer under rule 138B of the CGST Rules shall be the officer who has been assigned the functions under sub-section (3) of section 68 of the CGST Act vide Circular No. 3/3/2017 – GST, dated 05.07.2017.
- (d) Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in **FORM GST MOV-01**. In addition, the proper officer shall issue an order for physical verification/inspection of the conveyance, goods and documents in **FORM GST MOV-02**, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods. The proper officer shall, within twenty four hours of the aforementioned issuance of **FORM GST**

MOV-02, prepare a report in **Part A** of **FORM GST EWB-03** and upload the same on the common portal.

- (e) Within a period of three working days from the date of issue of the order in **FORM GST MOV-02**, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorised in this behalf. Where circumstances warrant such time to be extended, he shall obtain a written permission in **FORM GST MOV-03** from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.
- (f) On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in **FORM GST MOV-04** and serve a copy of the said report to the person in charge of the goods and conveyance. The proper officer shall also record, on the common portal, the final report of the inspection in **Part B** of **FORM GST EWB-03** within three days of such physical verification/inspection.
- (g) Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in **FORM GST MOV-05** and allow the conveyance to move further. Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the CGST Act, he shall issue an order of detention in **FORM GST MOV-06** and a notice in **FORM GST MOV-07** in accordance with the provisions of sub-section (3) of section 129 of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance.
- (h) Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the CGST Act, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in **FORM GST MOV-05**. Further, the order in **FORM GST MOV-09** shall be uploaded on the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.
- (i) Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by furnishing a security under clause (c) of sub-section (1) of section 129 of the CGST Act, the goods and the conveyance shall be released, by an order in **FORM GST MOV-05**, after obtaining a bond in **FORM GST MOV-08** along with a security in the form of bank guarantee equal to the amount payable under clause (a) or clause (b) of sub-section (1) of section 129 of the CGST Act. The finalisation of the

proceedings under section 129 of the CGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings.

- (j) Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in **FORM GST MOV-09**, quantifying the tax and penalty payable. On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in **FORM GST MOV-05**. The order in **FORM GST MOV-09** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.
- (k) In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in **FORM GST MOV-06**, action under section 130 of the CGST Act shall be initiated by serving a notice in **FORM GST MOV-10**, proposing confiscation of the goods and conveyance and imposition of penalty.
- (l) Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in **FORM GST MOV-10**. In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section 122 of the CGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the CGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.
- (m) No order for confiscation of goods or conveyance, or for imposition of penalty, shall be issued without giving the person an opportunity of being heard.
- (n) An order of confiscation of goods shall be passed in **FORM GST MOV-11**, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in **FORM GST MOV-11** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in **FORM GST**

MOV-11, the order in **FORM GST MOV-09** passed earlier with respect to the said goods shall be withdrawn.

- (o) An order of confiscation of conveyance shall be passed in **FORM GST MOV-11**, after taking into consideration the objections filed by the person in charge of the conveyance and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such conveyance shall stand transferred to the Central Government. In the order passed above, a suitable time not exceeding three months shall be offered to make the payment of penalty and fines imposed in lieu of confiscation and get the conveyance released. The order in **FORM GST MOV-11** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.
- (p) The order referred to in clauses (n) and (o) above may be passed as a common order in the said **FORM GST MOV-11**.
- (q) In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in **FORM GST MOV-11**, the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the Central Government.
- (r) Suitable modifications in the time allowed for the service of notice or order for auction or disposal shall be done in case of perishable and/or hazardous goods.
- (s) Whenever an order or proceedings under the CGST Act is passed by the proper officer, a corresponding order or proceedings shall be passed by him under the respective State or Union Territory GST Act and if applicable, under the Goods and Services Tax (Compensations to States) Act, 2017. Further, sub-sections (3) and (4) of section 79 of the CGST Act/respective State GST Acts may be referred to in case of recovery of arrears of central tax/State tax/Union territory tax.
- (t) The procedure narrated above shall be applicable *mutatis mutandis* for an order or proceeding under the IGST Act, 2017.
- (u) Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.
- (v) A summary of every order in **FORM GST MOV-09** and **FORM GST MOV-11** shall be uploaded electronically in **FORM GST-DRC-07** on the common portal.

3. The format of **FORMS GST MOV-01** to **GST MOV-11** are annexed to this Circular.

GOVERNMENT OF INDIA
FORM GST MOV-01
STATEMENT OF THE OWNER / DRIVER/ PERSON IN CHARGE
OF THE GOODS AND CONVEYANCE

Statement of Sri _____ S/o _____ age _____ years, residing at _____ owner / driver / person- in- charge of the goods and conveyance bearing No. _____ (Vehicle Number) made before the _____ (Designation of the proper officer) on DD/MM/YYYY at _____ AM/PM at _____ (place).

Today, you have intercepted the above mentioned conveyance and after disclosing your identity, you have requested me to produce my credentials and the documents relating to the goods in movement for your verification.

In this regard, I hereby declare the following.

1. : Personal Details					
NAME					
FATHER'S NAME					
AGE:	Yrs	DL NO:		RTO	
Conveyance Registration No.			Engine No.		Chassis No.
Proof of Identity					
ADDRESS					
Phone:			Email, If any		
2.Details of the transporter:					
NAME					
ADDRESS					
Phone:			Email		
3	I am the person-in-charge of the goods conveyance number			/	/
4	I am transporting the goods from			To	
5	I have	a) not produced any documents relating to the goods under transportation			
		b) produced the documents, recorded in the Annexure, relating to the goods under transportation, which I have duly certified and signed as correct.			

I hereby further declare that, except the documents mentioned in the Annexure to this statement **which have been** tendered to you, there are no other documents with me or in the conveyance relating to the goods in movement.

The facts recorded in this statement are as per the submissions made by me and the contents of the statement were explained to me once again in the _____ (language) which is known to me and I declare that the information furnished in this statement is true and correct and I have retained a copy of this statement.

“Before me”

(Owner/Driver/Person in charge)

Signature

Designation

ANNEXURE TO THE DEPONENT STATEMENT IN FORM GST MOV-01

PARTICULARS OF GOODS UNDER MOVEMENT- AS PER DOCUMENTS TENDERED									
SL.NO.	LR NO	LR DATE	INVOICE/ BOS/DC NO	INVOICE/BOS/ DC DATE	CONSIGNOR	CONSIGNEE	COMMODITY	VALUE	EWB BILL NO, IF ANY
1	2	3	4	5	6	7	8	9	10

“Before me”

(Owner/Driver/Person in charge)

Signature

Designation

GOVERNMENT OF INDIA

FORM GST MOV-02

**ORDER FOR PHYSICAL VERIFICATION / INSPECTION OF THE CONVEYANCE,
GOODS AND DOCUMENTS**

The goods/conveyance, bearing No. / / / carrying _____ goods was intercepted by the undersigned _____(Designation of the officer), on / / at AM/PM at _____(Place). The owner/driver/person-in- charge of the goods conveyance has:

1. failed to tender any document for the goods in movement, or
2. tendered the documents mentioned in the Annexure to **FORM GST MOV-01** for verification.

Upon verification of the documents tendered, the undersigned is of the opinion that the inspection of the goods under movement is required to be done in accordance with the provisions of sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with State/UT Goods and Services Tax Act, 2017 or under section 20 of the Integrated Goods and Services Tax Act, 2017 for the following reasons.

	The owner / driver / person-in charge of the conveyance has not tendered any documents for the goods in movement
	<i>Prima facie</i> the documents tendered are found to be defective
	The genuineness of the goods in transit (its quantity etc) and/or tendered documents requires further verification
	E-Way bill not tendered for the goods in movement
	Others (Specify)

Hence, you are hereby directed,-

- (1) to station the conveyance carrying goods at _____ (place) at your own risk and responsibility,
- (2) to allow and assist in physical verification and inspection of the goods in movement and related documents,
- (3) not to move the goods and conveyance from the place at which it is stationed until further orders and not to part with the goods in question.

Proper officer

To,
Sri.
Owner/Driver/Person-in-charge

Conveyance No: ///

**GOVERNMENT OF INDIA
FORM GST MOV-03**

ORDER OF EXTENTION OF TIME FOR INSPECTION BEYONF THREE WORKING DAYS

Order No.

The conveyance bearing No. _____ was intercepted by _____
(Designation of the officer) on _____ (date & time) at
_____ (Place) and the same was directed to be stationed at _____
(place) for inspection by serving an Order in **FORM GST MOV-02** on the person in charge of
the conveyance.

Now, the proper officer has requested for extension of time for conducting the inspection of the
goods and conveyance for the following reasons:

The request of the proper officer has been examined and the same is found to be reasonable. The
time period for conduct of inspection is hereby extended for a further period of _____ days.

The proper officer is hereby directed to serve a copy of this order on the person in charge
of the conveyance.

JOINT/ADDL. COMMISSIONER

Place:

Date:

GOVERNMENT OF INDIA
FORM GST MOV-04
PHYSICAL VERIFICATION REPORT

Ref: **FORM GST MOV-02** No. _____ Dated _____

The physical verification of the goods conveyance bearing No. _____ has been conducted in the presence of Shri _____ owner / person in charge of the goods vehicle. The details of the physical verification are as under:-

PHYSICAL VERIFICATION REPORT							
Date of Physical Verification							
Goods Conveyance number							
Name of the Transporter							
Sl. No	Transport Document / LR No. & Date	Tendered Invoice / Documents No. & Date	Description of goods as per invoice including HSN code	Description of goods in the conveyance	Quantity as per invoice	Quantity as per physical verification	Diff
1							
	Date:	Date:					
2							
	Date:	Date:					

I hereby declare that the physical verification of the goods and conveyance mentioned above has been conducted in my presence and I accept that the contents recorded in this report are true and correct.

Signature of the Owner / Person in charge

Signature

Designation of the Proper Officer

ACKNOWLEDGEMENT :

I hereby duly declare that I have received a copy of the above report of physical verification.

Signature of the Owner / Person in charge

GOVERNMENT OF INDIA
FORM GST MOV-05
RELEASE ORDER

Ref: **FORM GST MOV-02** NO. _____ Dated _____

1. The goods conveyance bearing No. _____ carrying goods was inspected by me (name and designation) on _____ and on inspection, no discrepancy was noticed either in the documents or in the physical verification of goods.

or

2. The goods conveyance bearing No. _____ carrying goods was inspected by me (name and designation) on _____ and after inspection, an order of detention was issued in **FORM GST MOV-06** on _____ and a notice in **FORM GST MOV-07**

was served on the person in charge of the conveyance on _____. The owner or person in charge of the conveyance has-

- a. come forward and made the payment of tax and penalty as proposed and proceedings is drawn in this regard.
- b. made the payment of tax and penalty as demanded in the order in **FORM GST MOV-09**.
- c. come forward and furnished a bond in **FORM GST MOV-08** along with the bank guarantee for the amount equivalent to the tax and penalty proposed.

or

3. The goods conveyance bearing No. _____ carrying goods was inspected by me (name and designation) on _____ and after inspection and following the due process, an order of confiscation of goods and conveyance was issued in **FORM GST MOV-11** and served on the owner/person in charge of the conveyance on _____. The owner/person-in-charge has come forward and made the payment of tax, penalty, fine in lieu of confiscation of goods and conveyance.

In view of the above, the goods and conveyance are hereby released on _____ at ____ AM/PM in good condition.

Signature

Designation of the Proper Officer,

ACKNOWLEDGEMENT :

I hereby duly declare that I have received a copy of the above order.

Signature of the Owner / Person-in-charge

* Strike through whichever is not applicable

GOVERNMENT OF INDIA

FORM GST MOV-06

ORDER OF DETENTION UNDER SECTION 129 (1) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND THE STATE/UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017 / UNDER SECTION 20 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

The goods conveyance bearing No. _____ was intercepted and inspected by the undersigned on _____ at _____ (place and time) AM/PM. At the time of interception, the owner/ driver/ person in charge of the goods/ conveyance is Shri _____

	the owner/ driver/ person in charge of the goods conveyance Shri _____ has not tendered any documents for the goods in movement
	<i>Prima facie</i> , the documents tendered are found to be defective
	The genuineness of the goods in transit (its quantity etc) and/or tendered documents requires further verification
	E-Way bill not tendered for the goods in movement
	Others (Specify)

For the above said reasons, an order for physical verification / inspection of the conveyance, goods and documents was issued in **FORM GST MOV-02** dated _____ and served on the owner/driver/person in charge of the conveyance. A physical verification and inspection of goods in movement was conducted on _____ by _____ (name and designation) in the presence of the owner/driver/person in charge of the conveyance Shri _____ and a report was drawn in **FORM GST MOV-04**. The following discrepancies were noticed.

Discrepancies noticed after physical verification of goods and conveyance	
	Mismatch between the goods in movement and documents tendered, the details of which are as under- a) ----- b) ----- c) -----
	Mismatch between E-Way bill and goods in movement, the details of which are as under- a) ----- b) ----- c) -----
	Goods not covered by valid documents, and the details are as under- a) ----- b) ----- c) -----
	Others (Specify) a) ----- b) ----- c) -----

In view of the above discrepancies, the goods and conveyance are required to be detained for further proceedings. Hence, the goods and above conveyance are detained by the undersigned and the driver/person in charge of the conveyance is hereby directed to station the conveyance at _____ (place) at his own risk and responsibility and not to part with any goods, till the issue of release order in **FORM GST MOV-05**.

Signature
Designation of the Proper Officer

To,
Shri _____
Driver/Person in charge
Vehicle/Conveyance No:
Address:

**GOVERNMENT OF INDIA
FORM GST MOV- 07**

NOTICE UNDER SECTION 129 (3) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND THE STATE/UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017 / UNDER SECTION 20 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

The conveyance bearing No. _____ was intercepted by _____ (Name and Designation of the proper officer) on _____ (date) at _____ (time) at _____ (place). The statement of the driver/person in charge of the vehicle was recorded on _____ (date).

2. The goods in movement were inspected under the provisions of sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State/ Union Territory Goods and Services Tax Act, 2017 or under section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 on _____ (date) and the following discrepancies were noticed.

(i)

(ii)

(iii)

3. In view of the above, the goods and the conveyance used for the movement of goods were detained under sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 and sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State/ Union Territory Goods and Services Tax Act, 2017 or under section 20 of the Integrated Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the Central Goods and Services Tax Act, 2017 by issuing an order of detention in **FORM GST MOV 06** and the same was served on the person in charge of the conveyance on _____ (date).

4. Sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 provides for the release of goods and conveyance detained on the payment of tax and penalty as under:

(i) the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods, where the owner of the goods comes forward to pay such tax and penalty.

(ii) the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon under the Central Goods and Services Tax Act, 2017 and State/UT Goods and Services Tax Act calculated separately or the applicable tax and penalty equal to the value of the goods reduced by the tax amount paid thereon under the Integrated Goods and Services Tax Act, where the owner of the goods does not come forward to pay such tax and penalty.

5. Clause (c) of sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 provides for the release of goods upon furnishing of a security equivalent to the amount payable under clause (a) or clause (b) of the said sub-section, as indicated supra at (i) and (ii) of para 4 above, in **FORM GST MOV-08**.

6. The calculation of proposed tax and penalty is as under:

1) CALCULATION OF APPLICABLE TAX

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (RS.)	RATE OF TAX				TAX AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

2) CALCULATION OF APPLICABLE PENALTY UNDER CLAUSE (a) OF SUB-SECTION (1) OF SECTION 129

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (RS.)	RATE OF TAX				PENALTY AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

3) CALCULATION OF APPLICABLE PENALTY UNDER CLAUSE (b) OF SUB-SECTION (1) OF SECTION 129

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	AMOUNT OF TAX				PENALTY AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

7. You are hereby directed to show cause, within seven days from the receipt of this notice, as to why the proposed tax and penalty mentioned supra should not be payable by you, failing which, further proceedings under the provisions of the Central Goods and Services Tax Act, 2017 State/Union Territory Goods and Services Tax Act, 2017 or the Integrated Goods and Services Tax Act, 2017 and the Goods and Services Tax (Compensation to States) Act, 2017 shall be initiated.

8. You are hereby directed to appear before the undersigned on DD/MM/YYYY at HH/MM.

9. If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex-parte on the basis of available records and on merits.

Signature

Name and Designation of the Proper Officer

To,

Sri. _____

Driver/Person in charge

Vehicle/Conveyance No:

Address:

**GOVERNMENT OF INDIA
FORM GST MOV -08**

BOND FOR PROVISIONAL RELEASE OF GOODS AND CONVEYANCE

I/We.....S/D/W of.....hereinafter called "obligor(s)" am/are held and firmly bound to the President of India (hereinafter called "the President") and/or the Governor of(State) (hereinafter called "the Governor") for the sum of.....rupees to be paid to the President / Governor for which payment will and truly be made. I jointly and severally bind myself and my heirs/ executors/ administrators/ legal representatives/successors and assigns by these presents; dated this.....day of.....

WHEREAS, in accordance with the provisions of sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017, the goods have been detained vide order numberdated..... having value ofrupees and involving an amount of tax of rupees. On my request, the goods have been permitted to be released provisionally by the proper officer on execution of the bond of valuerupees and a security ofrupees against which bank guarantee has been furnished in favour of the President/ Governor; and

WHEREAS, I undertake to produce the said goods released provisionally to me as and when required by the proper officer duly authorized under the Act.

And if all taxes, interest, penalty, fine and other lawful charges demanded by the proper officer are duly paid within seven days of the date of detention being made in writing by the said proper officer, this obligation shall be void.

OTHERWISE and on breach or failure in the performance of any part of this condition, the same shall be in full force and virtue:

AND the President/Governor shall, at his option, be competent to make good all the losses and damages from the amount of the bank guarantee or by endorsing his rights under the above- written bond or both;

IN THE WITNESS THEREOF these presents have been signed the day hereinbefore written by the obligor(s).

Signature(s) of obligor(s).

Date :

Place :

Witnesses

(1) Name and Address

Occupation

(2) Name and Address Date

Occupation

Place

Accepted by me this.....day of(month).....(year)
 (designation of officer) for and on behalf of the President/Governor.
 (Signature of the Officer)

GOVERNMENT OF INDIA
FORM GST MOV -09
ORDER OF DEMAND OF TAX AND PENALTY

Order No.

Order Date

1.	Conveyance No.	
2.	Person in charge of the Conveyance	
3.	Address of the Person in charge of the Conveyance	
4.	Mobile No. of the Person in charge of the conveyance	
5.	e-mail ID of the Person in charge of the conveyance	
6.	Name of the transporter	
7.	GSTIN of the transporter, if any	
8.	Date and Time of Inspection	
9.	Date of Service of Notice	
10.	Order passed by	
11.	Date of Service of Order	
12.	Demand as per Order	

Act	Tax	Interest	Penalty	Fine/Other charges	Demand No.
CGST Act					
SGST / UTGST Act					
IGST Act					
Cess					
Total					

DETAILS OF GOODS DETAINED

Sl.No.	Description of goods	HSN Code	Quantity	Value

DETAILS OF CONVEYANCE DETAINED

Sl.No.	Description	Details
1.	Conveyance Registration No.	
2.	Vehicle Description	
3.	Engine No.	
4.	Chassis No.	
5.		

ORDER ENCLOSED

(Name and designation of Proper Officer)

ORDER UNDER SECTION 129 (3) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 READ WITH RELEVANT PROVISIONS OF THE STATE/UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017 INTEGRATED GOODS AND SERVICES TAX ACT, 2017 AND GOODS AND SERVICES

(COMPENSATION TO STATES) ACT, 2017

The conveyance bearing No. _____ was intercepted by _____ (name and designation of the proper officer) on _____ (date) at _____ (time) at _____ (place). The statement of the driver/person in charge of the vehicle was recorded on _____ (date).

2. The goods in movement was inspected under the provisions of sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State/ Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 on _____ (date) and the following discrepancies were noticed.

(i)

(ii)

(iii)

3. In view of the above, the goods and the conveyance used for the movement of goods were detained under sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 read with sub-section (3) of section 68 of the State/ Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act read with sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 by issuing an order of detention in **FORM GST MOV-06** and the same was served on the person in charge of the conveyance on _____ (date).

4. Sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 provides for the release of goods and conveyance detained on the payment of tax and penalty as under:

(i) the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods, where the owner of the goods comes forward to pay such tax and penalty.

(ii) the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon under the Central Goods and Services Tax Act and State/Union Territory Goods and Services Tax Act calculated separately or the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon under the Integrated Goods and Services Tax Act, where the owner of the goods does not come forward to pay such tax and penalty.

4.1. Clause (c) of sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 provides for the release of goods upon furnishing of a security equivalent to the amount payable under clause (a) or clause (b) of the said sub-section, as indicated supra at (i) and (ii) of para 4 above, in **FORM GST MOV-08**.

5. The calculation of proposed tax and penalty is as under:

1) CALCULATION OF APPLICABLE TAX

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	RATE OF TAX				TAX AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

2) CALCULATION OF APPLICABLE PENALTY UNDER CLAUSE (a) OF SUB-SECTION (1) OF SECTION 129

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	RATE OF TAX				PENALTY AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

3) CALCULATION OF APPLICABLE PENALTY UNDER CLAUSE (b) OF SUB-SECTION (1) OF SECTION 129

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	AMOUNT OF TAX				PENALTY AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

6. Incorporating the above points, a notice in **FORM GST MOV-07** was issued and duly served on the person in charge of the conveyance, providing him an opportunity to show cause against the demand of tax and penalty as applicable and make payment of the same and to get the goods and conveyance released.

7. In response to the said notice,

(i) the owner of the goods/ person in charge of the conveyance has come forward and made the payment of tax and penalty as proposed. In view of this, the applicable tax and penalty proposed are hereby confirmed.

(ii) the owner of the goods/ person in charge of the conveyance has neither made the payment of tax and penalty proposed nor has he filed any objections to the notice issued in **FORM GST MOV-07** and hence, the proposed tax and penalty are confirmed.

(iii) the owner of the goods/ person in charge of the conveyance has filed objections as under:

a. ..

b. ..

c. ...

8. The objections filed by him were perused and found acceptable/ not acceptable for the following reasons:

< SPEAKING ORDER Text >

9. In view of the above, the applicable tax and penalty are hereby calculated/ recalculated as under:

< RECALCULATION PART >

10. You are hereby directed to make the payment forthwith/not later than seven days from the date of the issue of the order of detention in **FORM GST MOV-06**, failing which action under section 130 of the Central/State Goods and Services Tax Act /section 21 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Act shall be initiated.

Signature

Name and Designation of the Proper Officer

To,

Shri _____

Driver/Person in charge

Vehicle/Conveyance No:

Address:

GOVERNMENT OF INDIA

FORM GST MOV -10

NOTICE FOR CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY UNDER SECTION 130 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 READ WITH THE RELEVANT PROVISIONS OF STATE/UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017 / THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017 AND GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017

The conveyance bearing No. _____ was intercepted by _____ (Designation of the proper officer) on _____ (date) at _____ (time) at _____ (place). The statement of the driver/person in charge of the vehicle was recorded on _____ (date).

2. The goods in movement was inspected under the provisions of subsection (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State Goods and Services Tax Act / Section 21 of the Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act read with sub-section (3) of section 68 of the Central Goods and Services Tax Act on _____(date) and the following discrepancies were noticed.

(i)

(ii)

(iii)

3. In view of the above, the goods and conveyances used for the movement of goods were detained under sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State/ Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act read with sub-section (3) of section 68 of the Central Goods and Services Tax Act by issuing an order of detention in **FORM GST MOV 06** and the same was served on the person in charge of the conveyance on _____ (date). Along with the order of detention in **FORM GST MOV 06**, a notice was issued in **FORM GST MOV 07** under the provisions of sub-section (3) of section 129 of the Central Goods and Services Tax Act, 2017, specifying the tax and penalty payable in respect of the goods in question.

4. Subsequently, after observing the principles of natural justice, an order demanding the applicable tax and penalty was issued in **FORM GST MOV-09** on _____(Date) and the same was served on the person in charge of the conveyance. However, neither the owner of the goods nor the person in charge of the conveyance came forward to make the payment of applicable tax and penalty within the time allowed in the order passed supra.

5. In view of this, the undersigned proposes to confiscate the above goods and the conveyance used to transport such goods under the provisions of section 130 of the Central Goods and Services Tax Act, 2017 read with State Goods and Services Tax Act / section 21 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Tax Act, 2017/Goods and Services Tax (Compensation to States) Act, 2017. In addition, you are liable to pay the tax, penalty and other charges payable in respect of such goods and the conveyance.

OR

As the goods were transported without any valid documents, it is presumed that the goods were being transported for the purposes of evading the taxes. In view of this, the undersigned proposes to confiscate the above goods and the conveyance used to transport such goods under the provisions of section 130 of the Central Goods and Services Tax Act, 2017 read with the relevant provisions of the State Goods and Services Tax/Union Territory Goods and Services Tax Act, the Integrated Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, 2017. In addition, you are liable to pay the tax, penalty and other charges payable in respect of such goods and the conveyance.

6. The calculation of proposed tax and penalty is as under:

1) CALCULATION OF TAX

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	RATE OF TAX				TAX AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

2) CALCULATION OF PENALTY

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	RATE OF TAX				PENALTY AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

**3) DETERMINATION OF FINE IN LIEU OF CONFISCATION OF GOODS
FINE AMOUNT**

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	FINE AMOUNT	
							INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9

4) CALCULATION OF FINE IN LIEU OF CONFISCATION OF CONVEYANCE

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	RATE OF TAX				FINE AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

7. You are hereby directed to show cause, within seven days from the receipt of this notice, as to why the goods in question and the conveyance used to transport such goods shall not be confiscated under the provisions of section 130 of the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, 2017 and why the tax, penalty and other charges payable in respect of such goods and the conveyance shall not be payable by you.

8. You are hereby directed to appear before the undersigned on DD/MM/YYYY at HH/MM.

9. If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex-parte on the basis of available records and on merits.

Signature

Name and Designation of the Proper Officer

To,

Shri _____

Driver/Person in charge

Vehicle/Conveyance no:

Address:

GOVERNMENT OF INDIA

FORM GST MOV -11

ORDER OF CONFISCATION OF GOODS AND CONVEYANCE AND DEMAND OF TAX, FINE AND PENALTY

Order No.

Order Date:

1.	Conveyance No.	
2.	Person in charge of the Conveyance	
3.	Address of the Person in charge of the Conveyance	
4.	Mobile No. of the Person in charge of the conveyance	
5.	e-mail ID of the Person in charge of the conveyance	
6.	Name of the transporter	
7.	GSTIN of the transporter, if any	
8.	Date and Time of Inspection	
9.	Date of Service of Notice of Confiscation	
10.	Order passed by	
11.	Date of Service of Order	
12.	Demand as per Confiscation Order	

On the Goods

Act	Tax	Interest	Penalty	Fine/ Other charges	Demand No.
CGST Act					
SGST / UTGST Act					
IGST Act					
Cess					
Total					

On the Conveyance

Act	Tax	Interest	Penalty	Fine/ Other charges	Demand No.
CGST Act					
STATE TAX / UTGST Act					
IGST Act					
Cess					
Total					

DETAILS OF GOODS CONFISCATED

Sl.No.	Description of goods	HSN Code	Quantity	Value

DETAILS OF CONVEYANCE CONFISCATED

Sl.No.	Description	Details
1.	Conveyance Registration No.	
2.	Vehicle Description	
3.	Engine No.	
4.	Chassis No.	
5.		

ORDER ENCLOSED

(Name and designation of Proper Officer)

ORDER OF CONFISCATION UNDER SECTION 130 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 READ WITH THE RELEVANT PROVISIONS OF THE STATE/UNION TERRITORY GOODS AND SERVICES TAX ACT/ THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

The conveyance bearing No. _____ was intercepted by _____ (Name and Designation of the proper officer) on _____ (date) at _____ (time) at _____ (place). The statement of the driver/person in charge of the vehicle was recorded on _____ (date).

2. The goods in movement was inspected under the provisions of sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with the relevant provisions of the State/ Union Territory Goods and Services Tax Act/the Integrated Goods and Services Tax Act, 2017 and Goods and Services Tax (Compensation to States) Act, 2017 on _____ (date) and the following discrepancies were noticed.

(i)

(ii)

(iii)

3. In view of the above, the goods and conveyances used for the movement of goods were detained under sub-section (1) of section 129 of the Central Goods and Services Tax Act read with sub-section (3) of section 68 of the State/ Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act read with sub-section (3) of section 68 of the Central Goods and Services Tax Act by issuing an order of detention in **FORM GST MOV 06** and the same was served on the person in charge of the conveyance on _____ (date). Along with the order of detention in **FORM GST MOV 06**, a notice was issued in **FORM GST MOV 07** under the provisions of sub-section (3) of section 129 of the Central Goods and Services Tax Act, specifying the tax and penalty payable.

4. Subsequently, after observing the principles of natural justice, an order demanding the applicable tax and penalty was issued in **FORM GST MOV-09** on _____ (Date) and the same was served on the person in charge of the conveyance. However, neither the owner of the goods nor the person in charge of the conveyance came forward to make the payment of applicable tax and penalty within the time allowed in the order passed supra. Hence, a notice in **FORM GST MOV-10** was issued on _____ (Date) proposing to confiscate the goods and the conveyance used for transporting such goods and the same was duly served on the person in charge of the conveyance. In the said notice, the tax, penalty and other charges payable in respect of such goods and the conveyance were also demanded.

OR

As the goods were transported without any valid documents, it was presumed that the goods were transported for the purposes of evading the taxes. Hence, it was proposed to confiscate the above goods and the conveyance used to transport such goods under the provisions of section 130 of the Central Goods and Services Tax Act, 2017 read with State Goods and Services Tax Act / Section 21 of the UT Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Tax Act, 2017 and the Goods and Services Tax (Compensation to States) Act, 2017 by issue of a notice in **FORM GST MOV-10**. In the said notice, the tax, penalty and other charges payable in respect of such goods and the conveyance were also demanded.

5. The person in charge has not filed any objections/ the objections filed were found to be not acceptable for the reasons stated below:

- a) ...
- b) ...
- c) ...

6. In view of the above, the following goods and conveyance are confiscated by the undersigned by exercising the powers vested under section 130 of the Central Goods and Services Tax Act and under section 130 of the State Goods and Services Tax Act / Section 21 of the Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act which are listed as under:

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)
1	2	3	4	5

7. You are also informed that the above goods and conveyance shall be released on the payment of the following tax, penalty and fines in lieu of confiscation if the same is made within ----- days from the date of this order.

(1) CALCULATION OF TAX

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	RATE OF TAX				TAX AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

(2) CALCULATION OF PENALTY

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	RATE OF TAX				PENALTY AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

(3) DETERMINATION OF FINE IN LIEU OF CONFISCATION OF GOODS

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	FINE AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9

(4) CALCULATION OF FINE IN LIEU OF CONFISCATION OF CONVEYANCE

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	RATE OF TAX				FINE AMOUNT			
					CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

Signature

Name and Designation of the Proper Officer

To,
Shri _____
Driver/Person in charge
Vehicle/Conveyance no:
Address:

10.2 Modifications to the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in Circular No. 41/15/2018-GST dated 13.04.2018 [Circular No. 49/23/2018-GST]

Circular No. 49/23/2018-GST New Delhi, Dated the 21st June, 2018

Circular No. 41/15/2018-GST dated 13.04.2018 was issued to clarify the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.

2. In order to clarify certain issues regarding the specified procedure in this regard and in order to ensure uniform implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, hereby issues the following modifications to the said Circular:-

- (i) In para 2 (e) of the said Circular, the expression “three working days” may be replaced by the expression “three days”;
- (ii) The statement after paragraph 3 in FORM GST MOV-05 should read as: “In view of the above, the goods and conveyance(s) are hereby released on (DD/MM/YYYY) at ____ AM/PM.”

3.0 Further, it is stated that as per rule 138C (2) of the Central Goods and Services Tax Rules, 2017, where the physical verification of goods being transported on any conveyance has been done during transit at one place within a State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently. Since the requisite FORMS are not available on the common portal currently, any action initiated by the State tax officers is not being intimated to the central tax officers and vice-versa, doubts have been raised as to the procedure to be followed in such situations.

3.1 In this regard, it is clarified that the hard copies of the notices/orders issued in the specified FORMS by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required. 3.2

Further, it is clarified that only such goods and/or conveyances should be detained/confiscated in respect of which there is a violation of the provisions of the GST Acts or the rules made thereunder.

Illustration: Where a conveyance carrying twenty-five consignments is intercepted and the person-in-charge of such conveyance produces valid e-way bills and/or other relevant documents in respect of twenty consignments, but is unable to produce the same with respect to the remaining five consignments, detention/confiscation can be made only with respect to the five consignments and the conveyance in respect of which the violation of the Act or the rules made thereunder has been established by the proper officer.

10.3 Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in Circular Nos. 41/15/2018-GST dated 13.04.2018 and 49/23/2018-GST dated 21.06.2018 [Circular No. 64/38/2018-GST]

Circular No. 64/38/2018-GST New Delhi, Dated the 14th September, 2018

Kind attention is invited to Circular No. 41/15/2018-GST dated 13th April, 2018 as amended by Circular No. 49/23/2018-GST dated 21st June, 2018 vide which the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances was specified.

2. Various representations have been received regarding imposition of penalty in case of minor discrepancies in the details mentioned in the e-way bill although there are no major lapses in the invoices accompanying the goods in movement. The matter has been examined. In order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') hereby clarifies the said issue hereunder.

3. Section 68 of the CGST Act read with rule 138A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules') requires that the person in charge of a conveyance carrying any consignment of goods of value exceeding Rs 50,000/- should carry a copy of documents viz., invoice/bill of supply/delivery challan/bill of entry and a valid e-way bill in physical or electronic form for verification. In case such person does not carry the mentioned documents, there is no doubt that a contravention of the provisions of the law takes place and the provisions of section 129 and section 130 of the CGST Act are invocable. Further, it may be noted that the non-furnishing of information in **Part B** of **FORM GST EWB-01** amounts to the e-way bill becoming not a valid document for the movement of goods by road as per Explanation (2) to rule 138(3) of the CGST Rules, except in the case where the goods are transported for a distance of upto fifty kilometres within the State or Union territory to or from the place of business of the transporter to the place of business of the consignor or the consignee, as the case may be.

4. Whereas, section 129 of the CGST Act provides for detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act or the rules made thereunder. It has been informed that proceedings under section 129 of the CGST Act are being initiated for every mistake in the documents mentioned in para 3 above. It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.

5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, *inter alia*, in the following situations:

- a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
- b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
- c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- d) Error in one or two digits of the document number mentioned in the e-way bill;
- e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
- f) Error in one or two digits/characters of the vehicle number.

6. In case of the above situations, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in **FORM GST DRC-07** for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis.

10.4 Generation and quoting of Document Identification Number (DIN) on any communication issued by the officers of the Central Board of Indirect Taxes and Customs (CBIC) to tax payers and other concerned persons[Circular No. 122/41/2019-GST]

Circular No. 122/41/2019-GST New Delhi, Dated the 5th November, 2019

In keeping with the Government's objectives of transparency and accountability in indirect tax administration through widespread use of information technology, the CBIC is implementing a system for electronic (digital) generation of a Document Identification Number (DIN) for all communications sent by its offices to taxpayers and other concerned persons. To begin with, the DIN would be used for search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry. This measure would create a digital directory for maintaining a proper audit trail of such

communication. Importantly, it would provide the recipients of such communication a digital facility to ascertain their genuineness. Subsequently, the DIN would be extended to other communications. Also, there is a plan to have the communication itself bearing the DIN generated from the system.

2. The Board in exercise of its power under section 168(1) of the CGST Act, 2017/ Section 37B of the Central Excise Act, 1944 directs that no search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry shall be issued by any officer under the Board to a taxpayer or any other person, on or after the 8th day of November, 2019 without a computer-generated Document Identification Number (DIN) being duly quoted prominently in the body of such communication. The digital platform for generation of DIN is hosted on the Directorate of Data Management (DDM)'s online portal "cbicddm.gov.in"
3. Whereas DEN is a mandatory requirement, in exceptional circumstances communications may be issued without an auto generated DIN. However, this exception is to be made only after recording the reasons in writing in the concerned file. Also, such communication shall expressly state that it has been issued without a DIN. The exigent situations in which a communication may be issued without the electronically generated DIN are as follows:-
 - (i) when there are technical difficulties in generating the electronic DIN, or
 - (ii) when communication regarding investigation/enquiry, verification etc. is required to issued at short notice or in urgent situations and the authorized officer is outside the office in the discharge of his official duties.
4. The Board also directs that any specified communication which does not bear the electronically generated DIN and is not covered by the exceptions mentioned in para 3 above, shall be treated as invalid and shall be deemed to have never been issued.
5. Any communication issued without an electronically generated DIN in th exigencies mentioned in para 3 above shall be regularized within 15 working days of its issuance, by:
 - (i) obtaining the post facto approval of the immediate superior officer as regards the justification of issuing the communication without the electronically generated DIN;
 - (ii) mandatorily electronically generating the DIN after post facto approval; and
 - (iii) printing the electronically generated pro-forma bearing the DIN and filing it in the concerned file.
6. In order to implement this new facility of electronically generating the DIN, all Principal Chief Commissioners/Principal Director Generals/Chief Commissioners/Director Generals shall ensure that all their authorized officers who have to electronically generate the DIN are immediately mapped as users in the System and are conversant with the process for auto-generating a DIN. In order to successfully add users for the DIN utility and enable them to electronically generate DINs, the following steps shall be followed: (i) The details of officers to be added as users of the DIN Utility such as name, designation/Branch and official e-mail Id shall be fed into the System (the office of the officer being added will be auto populated); (ii) The dashboard (Manage User) is provided with add/activate/inactivate/delete and edit options which can be availed for namely adding, activating, inactivating, editing and deleting the users as follows:
 - (a) **Add:-** Officers name/designation and branch can be added by selecting appropriate designation and branch from the drop down menu provided against the respective column.

(b) Activate:- Once the user activates the URL and provides the user name and password and OTP, the authorization will be processed by the system and shall be reflected as Green Radio button.

(c) Inactivate: Any already added user who may be diverted on temporary basis to attend to some other assignment in the case of administrative exigency, can be deactivated for time being by dragging the Green Radio button to the left by which it will become red in color showing the user's position as inactive. A confirmation e-mail will also be sent to the respective user.

(d) Edit:- This icon will always appear with Red Radio button (indicating the inactive position of the user) and is provided for modifying/editing the name/designation/branch/e-mail Id of the officer to be authorized.

(e) Delete:- This icon can be used for deleting the already added user profile if the officer is permanently transferred out from that office.

7. Officers who have been added as users in the DIN utility shall electronically generate DINS, as follows:

(i) Every authorized user shall receive an e-mail on his official e-mail Id after he/she is mapped into the DIN utility. This e-mail shall provide the user of his/her user name and password. The same e-mail shall also provide an URL online link.

(ii) After clicking on the said URL link, the user shall be guided to the DIN utility within CBIC-Sanchar on the DDM's online portal "cbicddm.gov.in".

(iii) The user shall be required to submit his/her mobile number on the screen page for purposes of verification and then click "Get OTP" button for receiving a One Time Password (OTP) on the mobile.

(iv) The user shall login to the DIN utility by entering the OTP received.

(v) After successfully logging in, the user shall see the Dashboard displaying different categories, for total number of summons, search authorizations, inspection notices and arrest memos issued by the user. Initially, the figures under each category shall be 'zero'.

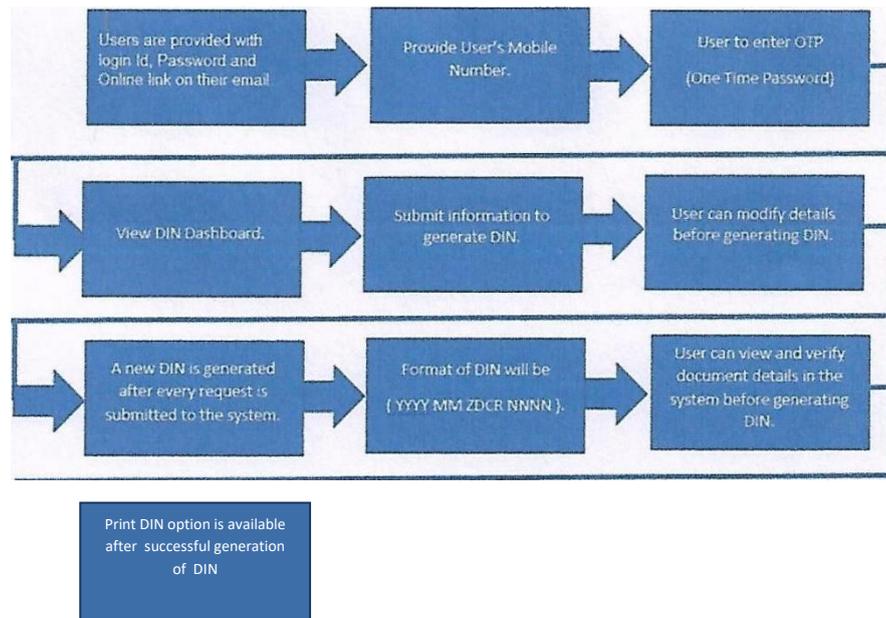
(vi) The user shall click "Generate DIN" on the Menu Bar located at the left hand side of the screen and enter the details of the communication to be issued by choosing its category and selecting the appropriate title of the communication from the dropdown menu "Choose Document"

(vii) After filling in all the required information, and clicking on the "View & Save DIN" button, the user shall see a preview page. By clicking the "Back button", mistakes or typographical errors, if any, can be rectified. Also, the user has the option of partially entering details in the System at a time and coming back later to retrieve the partially entered document (automatically saved in the System), fill in the remaining details, and generate a DIN on a later occasion.

(viii) The last step is to click on the "Generate DIN" button and a DIN shall be generated for that particular communication by the System. The generated DIN cannot be edited.

(ix) A new DIN shall be generated each time a request for generating it is submitted to the System.

(x) After the DIN is generated, the user shall print the page bearing the DIN and file it in the concerned file while also quoting the DIN on the communication.



8. The genuineness of the communication can be ascertained by recipient (public) by entering the CBIC- DIN for that communication in a window VERIFY CBIC-DIN on CBIC's website www.cbicsiov.in. Only in those cases where the DIN entered is valid, information about the office that issued that communication and the date of generation of its DIN would be displayed on the screen.
9. As aforementioned, in the first phase beginning on 8th day of November, 2019, the "Generate DIN" option shall be used for Search Authorizations, Summons, Inspection Notices, Arrest Memos, and letters issued in the course of any enquiry. The format of the DIN shall be CBIC-YYYY MM ZCDR NNNNNN where,
 - (a) YYYY denotes the calendar year in which the DIN is generated,
 - (b) MM denotes the calendar month in which the DIN is generated,
 - (c) ZCDR denotes the Zone-Commissionerate-Division-Range Code of the field formation/Directorate of the authorized user generating the DIN,
 - (d) NNNNNN denotes 6 digit alpha-numeric system generated random number.
10. The electronic generation of DIN and its use in official communications to taxpayers and other concerned persons is a transformative initiative. Principal Chief Commissioners/Principal Director Generals / Chief Commissioners/Director Generals must become fully familiar with the process involved. They are also urged to ensure that adequate and proper training is provided to all concerned officers under their charge to ensure its successful implementation. It is reiterated that any specified document that is issued without the electronically generated DIN shall be treated as invalid and shall be deemed to have never been issued. Therefore, it is incumbent upon all officers concerned to strictly adhere to these instructions.

10.5 Generation and quoting of Document Identification Number (DIN) on any communication issued by the officers of the Central Board of Indirect Taxes and Customs (CBIC) to tax payers and other concerned persons [Circular No. 128/47/2019-GST]

Circular No. 128/47/2019-GST New Delhi, Dated the 23rd December, 2019

Attention is invited to Board's Circular No. 122/41/2019- GST dated 05th November, 2019 that was issued to implement the decision for Generation and Quoting of Document Identification Number (DIN) on specified documents. This was done with a view to leverage technology for greater accountability and transparency in communications with the trade/ taxpayers/ other concerned persons.

2. Vide the aforementioned Circular, the Board had specified that the DIN monitoring system would be used for incorporating a DIN on search authorisations, summons, arrest memos, inspection notices etc. to begin with. Further, a facility was provided to enable the recipient of these documents/communications to easily verify their genuineness by confirming the DIN online at cbic.gov.in. In continuation of the same, the Board has now directed that electronic generation and quoting of Document Identification Number (DIN) shall be done in respect of all communications (including e-mails) sent to tax pavers and other concerned persons by any office of the Central Board of Indirect Taxes and Customs (CBIC) across the country. Instructions contained in this Para would come into effect from 24.12.2019.

3. Accordingly, the online digital platform/facility already available on the DDM's online portal "cbicddm.gov.in" for electronic generation of DIN has been suitably enhanced to enable electronic generation of DIN in respect of all forms of communication (including e-mails) sent to tax payers and other concerned persons. On the one hand electronic generation of DIN's would create a digital directory for maintaining a proper audit trail of communications sent to tax payers and other concerned persons and on the other hand, it would provide the recipient of such communication a digital facility to ascertain the genuineness of the communication.

4. In this context, the Board also felt it necessary to harmonize and standardize the formats of search authorisations, summons, arrest memos, inspection notices etc. issued by the GST/Central Excise/Service Tax formations across the country. Accordingly, the Board had constituted a committee of officers to examine and suggest modifications in the formats of these documents. The committee has submitted its recommendations. The standardized documents have since been

uploaded by DDM and are ready to be used. When downloaded and printed, these standardized documents would bear a prepopulated DIN thereon. Accordingly, the Board directs that all field formations shall use the standardized authorisation for search, summons, inspection notice, arrest memo and provisional release order (the formats are attached). These formats shall be used by all the formations w.e.f. 01.01.2020.

5. The Board once again directs that any specified communication which does not bear the electronically generated DIN and is not covered by the exceptions mentioned in paragraph 3 of Circular No. 122/41 /2019-GST dated 05.11.2019, shall be treated as invalid and shall be deemed to have never been issued.

11. Circulars related to Schedule I of the CGST Act

11.1 Scope of Principal-agent relationship in the context of Schedule I of the CGST Act [Circular No. 57/31/2018-GST]

Circular No. 57/31/2018-GST

New Delhi, Dated the 4th September, 2018

In terms of Schedule I of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), the supply of goods by an agent on behalf of the principal without consideration has been deemed to be a supply. In this connection, various representations have been received regarding the scope and ambit of the principal-agent relationship under GST. In order to clarify some of the issues and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 (1) of the CGST Act hereby clarifies the issues in the succeeding paras.

2. As per section 182 of the Indian Contract Act, 1872, an “agent” is a person employed to do any act for another, or to represent another in dealings with third person. The person for whom such act is done, or who is so represented, is called the “principal”. As delineated in the definition, an agent can be appointed for performing any act on behalf of the principal which may or may not have the potential for representation on behalf of the principal. So, the crucial element here is the representative character of the agent which enables him to carry out activities on behalf of the principal.

3. The term “agent” has been defined under sub-section (5) of section 2 of the CGST Act as follows:

“agent” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who

carries on the business of supply or receipt of goods or services or both on behalf of another.

4. The following two key elements emerge from the above definition of agent:

- a) the term „agent“ is defined in terms of the various activities being carried out by the person concerned in the principal-agent relationship; and
- b) the supply or receipt of goods or services has to be undertaken by the agent on behalf of the principal.

From this, it can be deduced that the crucial component for covering a person within the ambit of the term “agent” under the CGST Act is corresponding to the representative character identified in the definition of “agent” under the Indian Contract Act, 1872.

5. Further, the two limbs of any supply under GST are “consideration” and “in the course or furtherance of business”. Where the consideration is not extant in a transaction, such a transaction does not fall within the ambit of supply. But, in certain scenarios, as elucidated in Schedule I of the CGST Act, the key element of consideration is not required to be present for treating certain activities as supply. One such activity which has been detailed in para 3 of Schedule I (hereinafter referred to as “**the said entry**”) is reproduced hereunder:

3. *Supply of goods—*

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

6. Here also, it is worth noticing that all the activities between the principal and the agent and *vice versa* do not fall within the scope of the said entry. Firstly, the supply of services between the principal and the agent and *vice versa* is outside the ambit of the said entry, and would therefore require “consideration” to consider it as supply and thus, be liable to GST. Secondly, the element identified in the definition of “agent”, i.e., “**supply or receipt of goods on behalf of the principal**” has been retained in this entry.

7. It may be noted that the crucial factor is how to determine whether the agent is wearing the representative hat and is supplying or receiving goods on behalf of the principal. Since in the commercial world, there are various factors that might influence this relationship, it would be more prudent that an objective criteria is used to determine whether a particular principal-agent relationship falls within the ambit of the said entry or not. Thus, the key ingredient for determining relationship under GST would be whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not. Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of the said entry. However, it may be noted that in cases where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Schedule I of the CGST Act. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered by the said entry. In other words,

the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

8. Looking at the convergence point between the character of the agent under both the CGST Act and the Indian Contract Act, 1872, the following scenarios are discussed:

Scenario 1

Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A. In this scenario, Mr. B is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Mr. B is not an agent of Mr. A for supply of goods in terms of Schedule I.

Scenario 2

M/s XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders. The highest bid is accepted and the goods are sold to the highest bidder by M/s XYZ. The invoice for the supply of the goods is issued by M/s XYZ to the successful bidder. In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mr. B is not an agent of M/s XYZ for the supply of goods in terms of Schedule I.

Scenario 3

Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder. In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Schedule I.

A similar situation can exist in case of supply of goods as well where the C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F/commission agent is an agent of the principal for the supply of goods in terms of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.

Scenario 4

Mr A sells agricultural produce by utilizing the services of Mr B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A. As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.

In cases where the invoice is issued by Mr. B to the buyer, the former is an agent covered under Schedule I. However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Schedule I.

9. In scenario 1 and scenario 2, Mr. B shall not be liable to obtain registration in terms of clause (vii) of section 24 of the CGST Act. He, however, would be liable for registration if his aggregate turnover of supply of taxable services exceeds the threshold specified in sub-section (1) of section 22 of the CGST Act. In scenario 3, M/s B shall be liable for compulsory registration in terms of the clause (vii) of section 24 of the CGST Act. In respect of commission agents in Scenario 4, notification No. 12/2017 Central Tax (Rate) dated 24.06.2017 has exempted "services by any APMC or board or services provided by the commission agents for sale or purchase of agricultural produce" from GST. Thus, the „services“ provided by the commission agent for sale or purchase of agricultural produce is exempted. Such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered according to sub-clause (a) of sub-section (1) of section 23 of the CGST Act, if the supply of the agricultural produce, and /or other goods or services supplied by them are not liable to tax or wholly exempt under GST. However, in cases where the supply of agricultural produce is not exempted and liable to tax, such commission agent shall be liable for compulsory registration under sub-section (vii) of section 24 of the CGST Act.

11.2 Scope of principal and agent relationship under Schedule I of CGST Act, 2017 in the context of del-credere agent [Circular No. 73/47/2018-GST]

Circular No. 73/47/2018-GST New Delhi, Dated the 5th November, 2018

Post issuance of circular No. 57/31/2018-GST dated 4th September, 2018 from F. No. CBEC/20/16/4/2018-GST, various representations have been received from the trade and industry, as well as from the field formations regarding the scope and ambit of principal agent relationship under GST in the context of del-credere agent (hereinafter referred to as "DCA"). In order to clarify these issues and to ensure uniformity of implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") hereby clarifies the issues in succeeding paras.

12. In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier. In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer

(effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent. In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date. This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer. Concerns have been expressed regarding the valuation of supplies from Principal to recipient where the payment for such supply is being discharged by the recipient through the loan provided by DCA or by the DCA himself. Issues arising out of such loan arrangement have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1.	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?	<p>As already clarified <i>vide</i> circular No. 57/31/2018-GST dated 4th September, 2018, whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios:</p> <ul style="list-style-type: none"> • In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent. • In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent
2.	Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?	<p>In such a scenario following activities are taking place:</p> <ol style="list-style-type: none"> 1. Supply of goods from supplier (principal) to recipient; 2. Supply of agency services from DCA to the supplier or the recipient or both; 3. Supply of extension of loan services by the DCA to the recipient. <p>It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply.</p> <p>Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier. It may be noted that <i>vide</i> notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 (S. No. 27), services by way of extending deposits, loans or</p>

		advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) has been exempted.
3.	Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?	<p>In such a scenario following activities are taking place:</p> <ol style="list-style-type: none"> 1. Supply of goods by the supplier (principal) to the DCA; 2. Further supply of goods by the DCA to the recipient; 3. Supply of agency services by the DCA to the supplier or the recipient or both; 4. Extension of credit by the DCA to the recipient. <p>It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is emphasised that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient.</p> <p>It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per clause (d) of sub-section (2) of section 15 of the CGST Act.</p>

12 Denial of composition option by tax authorities and effective date thereof [Circular No. 77/51/2018-GST]

Circular No. 77/51/2018-GST New Delhi, dated the 31st December, 2018

Rule 6 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) deals with the validity of the composition levy. As per the said rule, the option exercised by a registered person to pay tax under the composition scheme shall remain valid so long as he satisfies the conditions mentioned in section 10 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) and the CGST Rules. The rule lays down the procedure for withdrawal

from the composition scheme by a taxpayer who intends to withdraw from the said scheme and also the procedure for denial of option to the taxpayer to pay tax under the said scheme where he has contravened the provisions of the CGST Act or the CGST Rules.

2. In this connection, doubts have been raised as to the date from which withdrawal from the composition scheme shall take effect in a case where the composition taxpayer has exercised such option to withdraw. Doubts have also been raised regarding the effective date of denial of the option to pay tax under the composition scheme where action has been initiated by the tax authorities to deny such option to the composition taxpayer. Further, clarification has been sought regarding the follow up action to be taken by the tax authorities when the composition option is denied to the taxpayer retrospectively. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues raised as below.

3. Sub-rule (2) of rule 6 of the CGST Rules provides that the composition taxpayer shall pay tax under sub-section (1) of section 9 of the CGST Act as a normal taxpayer from the day he ceases to satisfy any of the conditions of the composition scheme and shall issue tax invoice for every taxable supply made thereafter. Sub-rule (3) of rule 6 of the CGST Rules provides that the registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04** on the common portal. He shall file intimation for withdrawal from the scheme in **FORM GST CMP-04** within seven days of the occurrence of such event.

4. As per sub-rule (4) of rule 6 of the CGST Rules, where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 of the CGST Act or has contravened the provisions of the CGST Act or the CGST Rules, he may issue a notice to such person in **FORM GST CMP-05** to show cause as to why the option to pay tax under section 10 of the CGST Act shall not be denied. Upon receipt of the reply to the show cause notice from the registered person in **FORM GST CMP-06**, the proper officer shall, in accordance with the provisions of sub-rule (5) of rule 6 of the CGST Rules, issue an order in **FORM GST CMP-07** within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 of the CGST Act from the date of the option or from the date of the

event concerning such contravention, as the case may be.

5. It is clarified that in a case where the taxpayer has sought withdrawal from the composition scheme, the effective date shall be the date indicated by him in his intimation/application filed in **FORM GST CMP-04** but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed. If at any stage it is found that he has contravened any of the provisions of the CGST Act or the CGST Rules, action may be initiated for recovery of tax, interest and penalty. In case of denial of option by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date as may be determined by tax authorities, but shall not be prior to the date of contravention of the provisions of the CGST Act or the CGST Rules. In such cases, as provided under subsection (5) of section 10 of the CGST Act, the proceedings would have to be initiated under the provisions of section 73 or section 74 of the CGST Act for determination of tax, interest and penalty for the period starting from the date of contravention of provisions till the date of issue of order in **FORM GST CMP-07**. It is also clarified that the registered person shall be liable to pay tax under section 9 of the CGST Act from the date of issue of the order in **FORM GST CMP-07**.

Provisions of section 18(1)(c) of the CGST Act shall apply for claiming credit on inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the date immediately preceding the date of issue of the order.

13 Circulars related to functions of proper officer

13.1 Proper officer for provisions relating to Registration and Composition levy under the Central Goods and Services Tax Act, 2017 or the rules made there under [Circular No.1/1/2017]

Circular No.1/1/2017 New Delhi, Dated the 26th June, 2017

In exercise of the powers conferred by Clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the Act) read with Section 20 of the Integrated Goods and Services Tax Act (13 of 2017) and subject to sub-section (2) of section 5 of the said Act, the Board, hereby assigns the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to the various sections of the of the said Act or the rules made there under mentioned in the corresponding entry in Column (3) of the said Table:-

Table

Serial Number	Designation of the Officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made there under
1.	Assistant or Deputy Commissioners of Central Tax and Assistant or Deputy Directors of Central Tax	i. Sub-Section (5) of Section 10 ii. Proviso to Sub-Section (1) of Section 27 iii. Section 30 iv. Rule 6 v. Rule 23 vi. Rule 25
2.	Superintendent of Central Tax	i. Sub-section (8) of Section 25 ii. Section 28 iii. Section 29 iv. Rule 9 v. Rule 10 vi. Rule 12 vii. Rule 16 viii. Rule 17 ix. Rule 19 x. Rule 22 xi. Rule 24

13.2 Proper officer relating to provisions other than Registration and Composition under the Central Goods and Services Tax Act, 2017 [Circular No. 3/3/2017 – GST]

Circular No. 3/3/2017 – GST New Delhi, Dated the 5th July, 2017

In exercise of the powers conferred by clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with Section 20 of the Integrated Goods and Services Tax Act (13 of 2017) and subject to sub-section (2) of section 5 of the Central Goods and Services Tax Act, 2017, the Board, hereby assigns the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to the various sections of the Central Goods and Services Tax Act, 2017 or the rules made there under given in the corresponding entry in Column (3) of the said Table:-

Table

Sl. No. (1)	Designation of the officer (2)	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made there under (3)
1.	Principal Commissioner/ Commissioner of Central Tax	i. Sub- section (7) of Section67 ii. Proviso to Section78
2.	Additional or Joint Commissioner of Central Tax	i. Sub- sections (1), (2), (5) and (9) of Section67 ii. Sub-section (1) and (2) of Section71 iii. Proviso to section81 iv. Proviso to sub-section (6) of Section 129 v. Sub-rules (1),(2),(3) and (4) of Rule 139 vi. Sub-rule (2) of Rule140
3.	Deputy or Assistant Commissioner of Central Tax	i. Sub-sections (5), (6), (7) and (10) of Section54 ii. Sub-sections (1), (2) and (3) of Section 60 iii. Section63 iv. Sub-section (1) of Section 64 v. Sub-section (6) of Section 65 vi. Sub-sections (1), (2), (3), (5), (6),(7),(9), (10) of Section 74 vii. Sub-sections (2), (3), (6) and (8) of Section76 viii. Sub-section (1) of Section79

		<ul style="list-style-type: none"> ix. Section123 x. Section127 xi. Sub-section (3) of Section129 xii. Sub- sections (6) and (7) of Section 130 xiii. Sub- section (1) of Section 142 xiv. Sub-rule (2) of Rule 82 xv. Sub-rule (4) of Rule 86 xvi. Explanation to Rule 86 xvii. Sub-rule (11) of Rule 87 xviii. Explanation 2 to Rule 87 xix. Sub-rules (2) and (3) of Rule 90 xx. Sub-rules (2) and (3) of Rule 91 xxi. Sub-rules(1), (2), (3), (4) and (5) of Rule 92 xxii. Explanation to Rule 93 xxiii. Rule 94 xxiv. Sub-rule (6) of Rule 96 xxv. Sub-rule (2) of Rule 97 xxvi. Sub-rule (2), (3), (4), (5) and (7) of Rule 98 xxvii. Sub-rule (2) of Rule100 xxviii. Sub-rules (2), (3), (4) and (5) of Rule 101 xxix. Rule 143 xxx. Sub-rules (1), (3), (4), (5), (6) and (7) of Rule 144 xxxi. Sub-rules (1) and (2) of Rule145 xxxii. Rule 146 xxxiii. Sub-rules (1), (2), (3), (5), (6), (7), (8), (10),(11), (12), (14) and (15) of Rule147 xxxiv. Sub-rules(1),(2) and (3) of Rule151 xxxv. Rule152 xxxvi. Rule 153 xxxvii. Rule 155 xxxviii. Rule 156
4.	Superintendent of Central Tax	<ul style="list-style-type: none"> i. Sub- section (6) of Section35 ii. Sub-sections (1) and (3) of Section61 iii. Sub-section (1) of Section 62 iv. Sub-section (7) of Section 65 v. Sub-section (6) of Section 66 vi. Sub-section (11) of Section 67 vii. Sub-section (1) of Section 70 viii. Sub-sections (1), (2), (3), (5), (6),(7), (9) and (10) of Section 73 ix. Sub-rule (6) of Rule 56 x. Sub-rules (1), (2) and (3) of Rule 99 xi. Sub-rule (1) of Rule132 xii. Sub-rule (1), (2), (3) and (7) of Rule 142 xiii. Rule 150
5.	Inspector of Central Tax	<ul style="list-style-type: none"> i. Sub-section (3) of Section 68 ii. Sub- rule (17) of Rule 56 iii. Sub- rule (5) of Rule 58

13.3 Officer authorized for enrolling or rejecting application for Goods and Services Tax Practitioner [Circular No 9/9/2017- GST]

Circular No 9/9/2017- GST New Delhi, Dated the 18th October, 2017

In pursuance of clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and subject to sub-section (2) of section 5 of the Central Goods and Services Tax Act, 2017, the Board, hereby specifies the Assistant Commissioner/Deputy Commissioner, having jurisdiction over the place declared as address in the application for enrolment as Goods and Service Tax Practitioner in **FORM GST PCT-1** submitted in terms of sub-section (1) of section 48 of the Central Goods and Services Tax Act, 2017 read with sub-rule (2) of rule 83 of the Central Goods and Service Tax Rules, 2017 as the officer authorized to approve or reject the said application.

2. It is also clarified than the applicant shall be at liberty to choose either the Centre or the State as the enrolling authority. The choice will have to be specified by the applicant in Item 1 of Part B of **FORM GST PCT-1**.

13.4 Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017 [Circular No. 31/05/2018 – GST]

Circular No. 31/05/2018 – GST New Delhi, 9th February 2018

The Board, vide Circular No. 1/1/2017-GST dated 26th June, 2017, assigned proper officers for provisions relating to registration and composition levy under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) and the rules made thereunder. Further, vide Circular No. 3/3/2017 - GST dated 5th July, 2017, the proper officers for provisions other than registration and composition under the CGST Act were assigned. In the latter Circular, the Deputy or Assistant Commissioner of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 74 while the Superintendent of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 73 of the CGST Act.

2 It has now been decided by the Board that Superintendents of Central Tax shall also be empowered to issue show cause notices and orders under section 74 of the CGST Act. Accordingly, the following entry is hereby being added to the item at Sl. No. 4 of the Table on page number 3 of Circular No. 3/3/2017-GST dated 5th July, 2017, namely:-

Sl. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
4.	Superintendent of Central Tax	viii(a). Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 74

3. Further, in light of sub-section (2) of section 5 of the CGST Act, whereby an officer of central tax may exercise the powers and discharge the duties conferred or imposed under the CGST Act on any other officer of central tax who is subordinate to him, the following entry is hereby removed from the Table on page number 2 of Circular No. 3/3/2017-GST dated 5th July,2017:-

Sl. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
3.	Deputy or Assistant Commissioner of Central Tax	vi. Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 74

4. In other words, all officers up to the rank of Additional/Joint Commissioner of Central Tax are assigned as the proper officer for issuance of show cause notices and orders under sub- sections (1), (2), (3), (5), (6), (7), (9) and (10) of sections 73 and 74 of the CGST Act. Further, they are so assigned under the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”) as well, as per section 3 read with section 20 of the said Act.

5. Whereas, for optimal distribution of work relating to the issuance of show cause notices and orders under sections 73 and 74 of the CGST Act and also under the IGST Act, monetary limits for different levels of officers of central tax need to be prescribed. Therefore, in pursuance of clause (91) of section 2 of the CGST Act read with section 20 of the IGST Act, the Board hereby assigns the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to issue of show cause notices and orders under sections 73 and 74 of the CGST Act and section 20 of the IGST Act (read with sections 73 and 74 of the CGST Act), up to the monetary limits as mentioned in columns (3), (4) and (5) respectively of the Table below:-

Sl. No.	Officer of Central Tax	Monetary limit of the amount of central tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act	Monetary limit of the amount of integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of integrated tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to matters in relation to integrated tax vide section 20 of the IGST Act	Monetary limit of the amount of central tax and integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax and integrated tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to integrated tax vide section 20 of the IGST Act
(1)	(2)	(3)	(4)	(5)
1.	Superintendent of Central Tax	Not exceeding Rupees 10 lakh	Not exceeding Rupees 20 lakh	Not exceeding Rupees 20lakhs
2.	Dyor Asst Commissioner of Central Tax	Above Rupees 10 lakhs and not exceeding Rupees 1 crore	Above Rupees 20 lakhs and not exceeding Rupees 2 crore	Above Rupees 20 lakhs and not exceeding Rupees 2 crore
3.	Additional or Jt Commissioner of Central Tax	Above Rupees 1 crore without any limit	Above Rupees 2 crores without any limit	Above Rupees 2 crores without any limit

6. The central tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as “DGGSTI”) shall exercise the powers only to issue show cause notices. A show cause notice issued by them shall be adjudicated by the competent central tax officer of the Executive Commissionerate in whose jurisdiction the noticee is registered. In case there are more than one notices mentioned in the show cause notice having their principal places of business falling in multiple Commissionerates, the show cause notice shall be adjudicated by the competent central tax officer in whose jurisdiction, the principal place of business of the noticee from whom the highest demand of central tax and/or integrated tax (including cess) has been made falls.

7. Notwithstanding anything contained in para 6 above, a show cause notice issued by DGGSTI in which the principal places of business of the noticees fall in multiple Commissionerates and where the central tax and/or integrated tax (including cess) involved is more than Rs. 5 crores shall be adjudicated by an officer of the rank of Additional Director/Additional Commissioner (as assigned by the Board), who shall not be on the

strength of DGGSTI and working there at the time of adjudication. Cases of similar nature may also be assigned to such an officer.

8. In case show cause notices have been issued on similar issues to a noticee(s) and made answerable to different levels of adjudicating authorities within a Commissionerate, such show cause notices should be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of central tax and/or integrated tax (including cess).

14 Clarification on certain issues (sale by government departments to unregistered person; leviability of penalty under section 73(11) of the CGST Act; rate of tax in case of debit notes / credit notes issued under section 142(2) of the CGST Act; applicability of notification No. 50/2018-Central Tax; valuation methodology in case of TCS under Income Tax Act and definition of owner of goods) related to GST [Circular No. 76/50/2018-GST]

Circular No. 76/50/2018-GST New Delhi, dated the 31st December, 2018

Various representations have been received seeking clarification on certain issues under the GST laws. In order to clarify these issues and to ensure uniformity of implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) hereby clarifies the issues as below:

Sl no.	Issue	Clarification
1.	Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?	<p>1. It may be noted that intra-State and inter- State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority is a taxable supply under GST.</p> <p>2. Vide notification No. 36/2017-CentralTax (Rate) and notification No. 37/2017- Integrated Tax (Rate) both dated 13.10.2017, it has been notified that intra- State and inter-State supply respectively of used vehicles, seized and</p>

		<p>confiscated goods, old and used goods, waste and scrap by the Central Government, State Government, Union territory or a local authority to any registered person, would be subject to GST on reverse charge basis as per which tax is payable by the recipient of such supplies.</p> <p>3. A doubt has arisen about taxability of intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority to an unregistered person.</p> <p>4. It was noted that such supply to an unregistered person is also a taxable supply under GST but is not covered under notification No. 36/2017-Central Tax (Rate) and notification No. 37/2017- Integrated Tax (Rate) both dated 13.10.2017.</p> <p>5. In this regard, it is clarified that the respective Government departments (i.e. Central Government, State Government, Union territory or a local authority) shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by them to an unregistered person subject to the provisions of sections 22 and 24 of the CGST Act.</p>
2.	Whether penalty in accordance with section 73 (11) of the CGST Act should be levied in cases where the return in FORM GSTR-3B has been filed after the due date of filing such return?	<p>1. As per the provisions of section 73(11) of the CGST Act, penalty is payable in case self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.</p> <p>2. It may be noted that a show cause notice (SCN for short) is required to be issued to a person where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised for any reason under the provisions of section 73(1) of the CGST Act. The provisions of section 73(11) of the CGST Act can be invoked only when the provisions of section 73 are invoked.</p> <p>3. The provisions of section 73 of the CGST Act are generally not invoked in case of delayed filing of</p>

		<p>the return in FORM GSTR-3B because tax along with applicable interest has already been paid but after the due date for payment of such tax. It is accordingly clarified that penalty under the provisions of section 73(11) of the CGST Act is not payable in such cases. It is further clarified that since the tax has been paid late in contravention of the provisions of the CGST Act, a general penalty under section 125 of the CGST Act may be imposed after following the due process of law.</p>
3.	<p>In case a debit note is to be issued under section 142(2)(a) of the CGST Act or a credit note under section 142(2)(b) of the CGST Act, what will be the tax rate applicable– the rate in the pre-GST regime or the rate applicable under GST?</p>	<ol style="list-style-type: none"> 1. It may be noted that as per the provisions of section 142(2) of the CGST Act, in case of revision of prices of any goods or services or both on or after the appointed day (i.e., 01.07.2017), a supplementary invoice or debit/credit note may be issued which shall be deemed to have been issued in respect of an outward supply made under the CGST Act. 2. It is accordingly clarified that in case of revision of prices, after the appointed date, of any goods or services supplied before the appointed day thereby requiring issuance of any supplementary invoice, debit note or credit note, the rate as per the provisions of the GST Acts (both CGST and SGST or IGST) would be applicable.
4.	<p>Applicability of the provisions of section 51 of the CGST Act (TDS) in the context of notification No. 50/2018-Central Tax dated 13.09.2018.</p>	<ol style="list-style-type: none"> 1. A doubt has arisen about the applicability of long line mentioned in clause (a) of notification No. 50/2018- Central Tax dated 13.09.2018. 2. It is clarified that the long line written in clause (a) in notification No. 50/2018- Central Tax dated 13.09.2018 is applicable to both the items (i) and (ii) of clause (a) of the said notification. Thus, an authority or a board or any other body whether set up by an Act of Parliament or a State Legislature or established by any Government with fifty-one per cent. or more participation by way of equity or control, to carry out any function would only be liable to deduct tax at source. 3. In other words, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or

		established by any Government in which fifty one per cent. or more participation by way of equity or control is with the Government.
5.	What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?	<p>1. Section 15(2) of CGST Act specifies that the value of supply shall include “any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.”</p> <p>2. It is clarified that as per the above provisions, taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS.</p>
6.	Who will be considered as the ‘owner of the goods’ for the purposes of section 129(1) of the CGST Act?	It is hereby clarified that if the invoice or any other specified document is accompanying the consignment of goods, then either the consignor or the consignee should be deemed to be the owner. If the invoice or any other specified document is not accompanying the consignment of goods, then in such cases, the proper officer should determine who should be declared as the owner of the goods.

15 Circulars related to transitional provisions

15.1 Recovery of arrears of wrongly availed CENVAT credit under the existing law and inadmissible transitional credit [Circular No. 58/32/2018-GST]

Circular No. 58/32/2018-GST

New Delhi, Dated the 4th September, 2018

Various representations have been received seeking clarification on the process of recovery of arrears of wrongly availed CENVAT credit under the existing law and CENVAT credit wrongly carried forward as transitional credit in the GST regime. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the

Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act'), hereby specifies the process of recovery of the said arrears and inadmissible transitional credit in the succeeding paragraphs.

2. The Board vide Circular No. 42/16/2018-GST dated 13th April, 2018, has clarified that the recovery of arrears arising under the existing law shall be made as central tax liability to be paid through the utilization of the amount available in the electronic credit ledger or electronic cash ledger of the registered person, and the same shall be recorded in Part II of the Electronic Liability Register (**FORM GST PMT-01**).

3. Currently, the functionality to record this liability in the electronic liability register is not available on the common portal. Therefore, it is clarified that as an alternative method, taxpayers may reverse the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of **FORM GSTR-3B**. The applicable interest and penalty shall apply on all such reversals which shall be paid through entry in column 9 of Table 6.1 of **FORM GSTR-3B**.

15.2 Central Goods and Services Tax (Amendment) Act, 2018- Clarification regarding section 140(1) of the CGST Act, 2017 [Circular No. 87/06/2019-GST]

Circular No. 87/06/2019-GST New Delhi, dated the 2nd January, 2019

Attention is invited to sub-section (a) of section 28 of the CGST (Amendment) Act, 2018 (No. 31 of 2018) which provides that section 140(1) of the CGST Act, 2017 be amended with retrospective effect to allow transition of CENVAT credit under the existing law viz. Central Excise and Service Tax law, only in respect of "eligible duties". In this regard, doubts have been expressed as to whether the expression "eligible duties" would include CENVAT credit of Service Tax within its scope or not.

2. Therefore, in exercise of powers conferred under section 168 of the Central Goods and Services Act (hereinafter referred to as "Act"), for the purposes of uniformity in the implementation of the Act, the Central Board of Indirect Taxes and Customs hereby directs the following:

3.1 The CENVAT credit of service tax paid under section 66B of the Finance Act, 1994 was available as transitional credit under section 140(1) of the CGST Act and that legal position has not changed due to amendment of section 140(1) on account of following reasons:

- i) The amendment in provisions of section 140(1) and the explanations to section 140 need to be read harmoniously such that neither any provision of the amendment becomes otiose nor does the legislative intent of the amendment get defeated.
- ii) The intention behind the amendment of section 140(1) to include the expression "eligible duties" has been indicated in the "Rationale/ Remarks" column (at Sl. No. 37) of the draft proposals for amending the GST law which was uploaded in the public domain for comments. It is clear that the transition of credit of taxes paid under section 66B of the Finance Act, 1994 was never intended to be disallowed under section 140(1) and therefore no such remark was present in the document.
- iii) Under tax statutes, the word "duties" is used interchangeably with the word "taxes" and in the present context, the two words should not be read in a disharmonious manner.

3.2 Thus, expression "eligible duties" in section 140(1) which are allowed to be transitioned would cover within its fold the duties which are listed as "eligible duties" at sl. no. (i) to (vii) of explanation 1, and "eligible duties and taxes" at sl. no. (i) to (viii) of explanation 2 to section 140, since the expression "eligible duties and taxes" has not been used elsewhere in the Act.

3.3 The expression "eligible duties" under section 140(1) does not in any way refer to the condition regarding goods in stock as referred to in Explanation 1 to section 140 or to the condition regarding inputs and input services in transit, as referred to in Explanation 2 to section 140.

4. Further, it has been decided not to notify the clause (i) of sub-section (b) of section 28 and clause (i) of sub-section (c) of section 28 of CGST (Amendment) Act, 2018 which link Explanation 1 and Explanation 2 of section 140 to section 140(1). This would ensure that the credit allowed to be transitioned under section 140(1) is not linked to credit of goods in stock, as provided under Explanation 1, and credit of goods and services in transit, as provided under Explanation 2. However, the duties and taxes for which transition is allowed shall be governed by para 3.2 above.

5. No transition of credit of cesses, including cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975, would be allowed in terms of Explanation 3 to section 140, inserted vide sub-section (d) of section 28 of CGST Amendment Act, 2018 which shall become effective from the date the same is notified giving it retrospective effect.

16 GST on Residential programmes or camps meant for advancement of religion, spirituality or yoga by religious and charitable trusts [Circular No. 66/40/2018-GST]

Circular No. 66/40/2018-GST **New Delhi, 26th September 2018**

Certain representations have been received seeking clarification as regards applicability of GST on residential programmes or camps meant for advancement of religion, spirituality or yoga where the fee charged includes the cost of boarding and lodging.

2. The issue has already been clarified in the Chapter 39 “GST on Charitable and Religious Trusts” of Compilation of 51 GST Flyers updated as on 01.01.2018 available on CBIC website at the link <https://goo.gl/EgAJtA>.

2.1 The relevant portion reads as under:

“The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt. Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt. Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga. However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable”.

Circular No. 66/40/2018-GST

3. It is accordingly clarified that taxability of the services of religious and charitable trusts by way of residential programmes or camps meant for advancement of religion, spirituality or yoga may be decided accordingly.

17 Notifications issued under CGST Act, 2017 applicable to Goods and Services Tax (Compensation to States) Act, 2017 [Circular No. 68/42/2018-GST]

Circular No. 68/42/2018-GST

New Delhi, 5th October 2018

Representations have been received by the Board regarding the entitlement of UN and specified international organizations, foreign diplomatic mission or consular posts, diplomatic agents and consular offices post therein to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them.

2. The issue has been examined. Section 55 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'CGST Act') provides that the Government may, on the recommendation of the council, specify UN agencies and organizations notified under the UNPI Act 1947, Consulates, Embassies of foreign countries and any other person to be entitled to claim refund of the taxes paid on the notified supplies of goods and services, subject to such conditions and restrictions as may be prescribed. Notification No. 16/2017- Central Tax(Rate) dated 28.06.2017 has been issued specifying UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein for the purposes of the said section.

3. Section 11 of the Goods and Services Tax (Compensation to States) Act, 2017(hereinafter referred to as 'the Compensation Cess Act'), provides that provisions of CGST Act and IGST Act apply in relation to levy and collection of Compensation Cess. Further, section 9(2) of the Compensation Cess Act provides that for all the purposes of claiming refunds, except the form to be filed, the provisions of the CGST Act and the rules made there under, shall apply in relation to the levy and collection of Compensation Cess. Therefore, notifications issued under the CGST Act except those prescribing rate or granting exemptions, are applicable for the purpose of the Compensation Cess Act.

4. Accordingly, notification No. 16/2017-Central Tax(Rate) dated 28.06.2017 shall be applicable for the purposes of refund of Compensation Cess to UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein.

5. In view of the above, it is clarified that UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having being specified under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017.

18 Setting up of an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on GST Portal [Circular No. 39/13/2018-GST]

Circular No. 39/13/2018-GST New Delhi, dated the 3rd April, 2018

It has been decided to put in place an IT-Grievance Redressal Mechanism to address the difficulties faced by a section of taxpayers owing to technical glitches on the GST portal and the relief that needs to be given to them. The relief could be in the nature of allowing filing of any Form or Return prescribed in law or amending any Form or Return already filed. The details of the said grievance redressal mechanism are provided below:

2. Introduction

Where an IT related glitch has been identified as the reason for failure of a class of taxpayer in filing of a return or a form within the time limit prescribed in the law and there are collateral evidences available to establish that the taxpayer has made bonafide attempt to comply with the process of filing of form or return, GST Council has delegated powers to the IT Grievance Redressal Committee to approve and recommend to the GSTN the steps to be taken to redress the grievance and the procedure to be followed for implementation of the decision.

3. Scope

Problems which are proposed to be addressed through this mechanism would essentially be those which relate to Common Portal (GST Portal) and affect a large section of taxpayers.

Where the problem relates to individual taxpayer, due to localised issues such as non-availability of internet connectivity or failure of power supply, this mechanism shall not be available.

4. IT-Grievance Redressal Committee

Any issue which needs to be addressed through this mechanism shall be identified by GSTN and the method of resolution approved by the GST Implementation Committee (GIC) which shall act as the IT Grievance Redressal Committee. In GIC meetings convened to address IT issues or IT glitches, the CEO, GSTN and the DG (Systems), CBEC shall participate in these meetings as special invitees.

5. Nodal officers and identification of issues

5.1 GSTN, Central and State government would appoint nodal officers in requisite number to address the problem a taxpayer faces due to glitches, if any, in the Common Portal. This would be publicized adequately.

5.2 Taxpayers shall make an application to the field officers or the nodal officers where there was a demonstrable glitch on the Common Portal in relation to an identified issue, due to which the due process as envisaged in law could not be completed on the Common Portal.

5.3 Such an application shall enclose evidences as may be needed for an identified issue to establish bonafide attempt on the part of the taxpayer to comply with the due process of law.

5.4 These applications shall be collated by the nodal officer and forwarded to GSTN who would on receipt of application examine the same. GSTN shall after verifying its electronic records and the applications received, identify the issue involved where a large section of tax payers are affected. GSTN shall forward the same to the IT Grievance Redressal Committee with suggested solutions for resolution of the problem.

6. Suggested solutions

6.1 GST Council Secretariat shall obtain inputs of the Law Committee, where necessary, on the proposal of the GSTN and call meeting of GIC to examine the proposal and take decision thereon.

6.2 The committee shall examine and approve the suggested solution with such modifications as may be necessary.

6.3 IT-Grievance Redressal Committee may give directions as necessary to GSTN and field formations of the tax administrations for implementation of the decision.

7. Legal issues

7.1 Where an IT related glitch has been identified as the reason for failure of a taxpayer in filing of a return or form prescribed in the law, the consequential fine and penalty would also be required to be waived. GST Council has delegated the power to the IT Grievance Redressal Committee to recommend waiver of fine or penalty, in case of an emergency, to the Government in terms of section 128 of the CGST Act, 2017 under such mitigating circumstances as are identified by the committee. All such notifications waiving fine or penalty shall be placed before GST Council.

7.2 Where adequate time is available, the issue of waiver of fee and penalty shall be placed before the GST Council with recommendation of the IT-Grievance Redressal Committee.

8. Resolution of stuck TRAN-1s and filing of GSTR-3B

8.1 A large number of taxpayers could not complete the process of TRAN-1 filing either at the stage of original or revised filing as they could not digitally authenticate the TRAN-1s due to IT related glitches. As a result, a large number of such TRAN-1s are stuck in the system. GSTN shall identify such taxpayers who could not file TRAN-1 on the basis of electronic audit trail. It has been decided that all such taxpayers, who tried but were not able to complete TRAN-1 procedure (original or revised) of filing them **on or before 27.12.2017** due to IT-glitch, shall be provided the facility to complete TRAN-1 filing. It is clarified that the last date for filing of TRAN 1 is not being extended in general and only these identified taxpayers shall be allowed to complete the process of filing TRAN-1.

8.2 The taxpayer shall not be allowed to amend the amount of credit in TRAN-1 during this process vis-à-vis the amount of credit which was recorded by the taxpayer in the TRAN-1, which could not be filed. If needed, GSTN may request field formations of Centre and State to collect additional document/ data etc. or verify the same to identify taxpayers who should be allowed this procedure.

8.3 GSTN shall communicate directly with the taxpayers in this regard and submit a final report to GIC about the number of TRAN-1s filed and submitted through this process.

8.4 The taxpayers shall complete the process of filing of TRAN 1 stuck due to IT glitches, as discussed above, by 30th April 2018 and the process of completing filing of GSTR 3B which could not be filed for such TRAN 1 shall be completed by 31st May 2018.

9. The decisions of the Hon'ble High Courts of Allahabad, Bombay etc., where no case specific decision has been taken, may be implemented in-line with the procedure prescribed above, subject to fulfilment of the conditions prescribed therein. Where these conditions are not satisfied, Hon'ble Courts may be suitably informed and if needed review or appeal may be filed.

19 Clarification regarding applicability of GST on additional / penal interest [Circular No. 102/21/2019-GST]

Circular No. 102/21/2019-GST New Delhi, dated the 28th June, 2019

Various representations have been received from the trade and industry regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI). An EMI is a fixed amount paid by a borrower to a lender at a specified date every calendar month. EMIs are used to pay off both interest and principal every month, so that over a specified period, the loan is fully paid off along with interest. In cases where the EMI is not paid at the scheduled time, there is a levy of additional / penal interest on account of delay in payment of EMI.

2. Doubts have been raised regarding the applicability of GST on additional / penal interest on the overdue loan i.e. whether it would be exempt from GST in terms of Sl. No. 27 of notification No. 12/2017-Central Tax (Rate) dated 28th June 2017 or such penal interest would be treated as consideration for liquidated damages [amounting to a separate taxable supply of services under GST covered under entry 5(e) of Schedule II of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) i.e. "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act"]. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarification.

3. Generally, following two transaction options involving EMI are prevalent in the trade:-

- **Case – 1:** X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. However, X gives Y an option to pay in installments, Rs 11,000/- every month before 10th day of the following month, over next four months (Rs 11,000/- *4 = Rs. 44,000/-). Further, as per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional / penal interest amounting to Rs. 500/- per month for the delay. In some instances, X is charging Y Rs. 40,000/-

for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional / penal interest amounting to Rs. 500/- per month for each delay in payment.

- Case – 2: X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s ABC Ltd. The terms of the loan from M/s ABC Ltd. allows Y a period of four months to repay the loan and an additional / penal interest @ 1.25% per month for any delay in payment.

4. As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the value of supply shall include “interest or late fee or penalty for delayed payment of any consideration for any supply”. Further in terms of Sl. No. 27 of notification No. 12/2017- Central Tax (Rate) dated the 28.06.2017 “services by way of (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services)” is exempted. Further, as per clause 2 (zk) of the notification No. 12/2017-Central Tax (Rate) dated the 28th June, 2017, ‘interest’ means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;’.

5. Accordingly, based on the above provisions, the applicability of GST in both cases listed in para 3 above would be as follows:

- Case 1: As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the amount of penal interest is to be included in the value of supply. The transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.
- Case 2: The additional / penal interest is charged for a transaction between Y and M/s ABC Ltd., and the same is getting covered under Sl. No. 27 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017. Accordingly, in this case the ‘penal interest’ charged thereon on a transaction between Y and M/s ABC Ltd. would not be subject to GST, as the same would not be covered under notification No. 12/2017- Central Tax (Rate) dated 28.06.2017. The value of supply of mobile by X to Y would be Rs. 40,000/-for the purpose of levy of GST.

6. It is further clarified that the transaction of levy of additional / penal interest does not fall within the ambit of entry 5(e) of Schedule II of the CGST Act i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”, as this levy of additional / penal interest satisfies the definition of “interest” as contained in notification No. 12/2017- Central Tax (Rate) dated 28.06.2017. It is further clarified that any service fee/charge or any other charges that are levied by M/s ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, and accordingly will not be exempt.

20 Clarification regarding determination of place of supply in certain cases [Circular No. 103/22/2019-GST]

Circular No. 103/22/2019-GST New Delhi, dated the 28th June, 2019

Various representations have been received from trade and industry seeking clarification in respect of determination of place of supply in following cases: -

- (I) Services provided by Ports - place of supply in respect of various cargo handling services provided by ports to clients;
- (II) Services rendered on goods temporarily imported in India - place of supply in case of services rendered on unpolished diamonds received from abroad, which are exported after cutting, polishing etc.

2. The provisions relating to determination of place of supply as contained in the Integrated Goods & Services Tax Act, 2017 (hereinafter referred to as “the IGST Act”) have been examined. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”) clarifies the same as below: -

Sl. No.	Issue	Clarification
1.	Various services are being provided by the port authorities to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc. Doubts have been raised about determination of place of supply for such services i.e. whether the same would be determined in terms of the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be or the same shall be determined in terms of the provisions contained in sub-section (3) of Section 12 of the IGST Act.	It is hereby clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.
2.	Doubts have been raised about the place of supply in case of supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India?	Place of supply in case of performance based services is to be determined as per the provisions contained in clause (a) of sub-section (3) of Section 13 of the IGST Act and generally the place of services is where the services are actually performed. But an exception has been carved out in

		<p>case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process. In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in sub-section (2) of Section 13 of the IGST Act.</p>
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21 Guidelines for processing of applications for financial assistance under the Central Sector Scheme named 'Seva Bhoj Yojna' of the Ministry of Culture [Circular No. 75/49/2018-GST]

Remark: Circular No. 75/49/2018 dated 27.12.2018 regarding 'Seva Bhoj Yojana' is available at

<http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-75.pdf;jsessionid=985F6E7E4E0E0E8A29ED8C1B6EB91B5F>

22 Clarification on the effective date of explanation inserted in notification No.11/2017- CTR dated 28.06.2017, Sr. No. 3(vi) [Circular No. 120/39/2019-GST]

**Circular No. 120/39/2019-GST
New Delhi, dated the 11th October, 2019**

Representations have been received to amend the effective date of notification No. 17/2018-CTR dated 26.07.2018 whereby explanation was inserted in notification No. 11/2017-CTR dated 28.06.2017, Sr. No. 3(vi) to the effect that for the purpose of the said entry, the activities or transactions under taken by Government and Local Authority are excluded from the term 'business'.

2. The matter has been examined. Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under section 11, for the purpose of clarifying

its scope or applicability, at any time within one year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification.

3. As recommended by GST Council, the explanation in question was inserted vide notification No. 17/2018-CTR dated 26.07.2018 in exercise of powers under section 11(3) within one year of the insertion of the original entry prescribing concessional rate, so that it would have effect from the date of inception of the entry i.e. 21.09.2017. However, like other notifications issued on 26.07.2018 to give effect to other recommendations of the GST Council, the said notification also contained a line in the last paragraph that the notification shall come into effect from 27.07.2018.

4. It is hereby clarified that the explanation having been inserted under section 11(3) of the CGST Act, is effective from the inception of the entry at Sl. No. 3(vi) of the notification No. 11/2017- CTR dated 28.06.2017, that is 21.09. 2017. The line in notification No. 17/2018-CTR dated 26.07.2018 which states that the notification shall come into effect from 27.07.2017 does not alter the operation of the notification in terms of Section 11(3) as explained in para 3 above.

23 GST on license fee charged by the States for grant of Liquor licences to vendors [Circular No. 121/40/2019-GST]

Circular No. 121/40/2019-GST New Delhi, dated the 11th October, 2019

Services proved by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Same was the position under Service Tax regime also with effect from 1st April, 2016. Tax is required to be paid by the business entities on such services under reverse charge.

2. GST Council in its 26th meeting held on 10.03.2018, recommended that GST was not leviable on license fee and application fee, by whatever name it is called, payable for alcoholic liquor for human consumption and that this would apply mutatis mutandis to the demand raised by Service Tax/Excise authorities on license fee for alcoholic liquor for human consumption in the pre-GST era, i.e. for the period from 01-04-2016 to 30-06-2017.

3. Grant of liquor licences by State Government against payment of consideration in the form of licence fee, application fee etc. was a taxable service under Service Tax, therefore to implement GST Council's recommendation, Central Government decided to exempt service provided or agreed to be provided by way of grant of liquor licence by the State Government, against consideration in the form of licence fee or application fee, by whatever name called, during the period from 01.04.2016 to 30.06.2017. Clause No. 117 of Finance (No. 2) Act, 2019 may be referred in this regard.

4. GST Council in its 37th meeting held on 20.09.2019 further recommended that the

decision of the 26th GST Council meeting be implemented by notifying service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called, by State Government as neither a supply of goods nor a supply of service. Therefore, in exercise of powers conferred under sub-section 2 (b) of section 7 of CGST Act, 2017, Notification No. 25/2019-Central Tax (Rate) dated 30th September, 2019 has been issued.

5. GST Council further decided in the 37th meeting held on 20.09.2019, to clarify that this special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

Treatment of service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee by State Government as neither a supply of goods nor a supply of service applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

24 Clarification in respect of issues under GST law for companies under Insolvency and Bankruptcy Code, 2016 [Circular No. 134/4/2020-GST]

Circular No. 134/4/2020-GST New Delhi, dated the 23rd March, 2020

Various representations have been received from the trade and industry seeking clarification on issues being faced by entities covered under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “IBC”).

2. As per IBC, once an entity defaults certain threshold amount, Corporate Insolvency Resolution Process (hereafter referred to as “CIRP”) gets triggered and the management of such entity (Corporate Debtor) and its assets vest with an interim resolution professional (hereafter referred to as “IRP”) or resolution professional (hereafter referred to as “RP”). It continues to run the business and operations of the said entity as a going concern till the insolvency proceeding is over and an order is passed by the National Company Law Tribunal (hereinafter referred to as the “NCLT”)

3. To address the aforementioned problems, notification No.11/2020- Central Tax, dated 21.03.2020 has been issued by the Government prescribing special procedure under section 148 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST

Act”) for the corporate debtors who are undergoing CIRP under the provisions of IBC and the management of whose affairs are being undertaken by IRP/RP. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies various issues in the table below:-

S.No.	Issue	Clarification
1	How are dues under GST for pre-CIRP period be dealt?	<p>In accordance with the provisions of the IBC and various legal pronouncements on the issue, no coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date. The dues of the period prior to the commencement of CIRP will be treated as ‘operational debt’ and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC. The tax officers shall seek the details of supplies made / received and total tax dues pending from the corporate debtor to file the claim before the NCLT.</p> <p>Moreover, section 14 of the IBC mandates the imposition of a moratorium period, wherein the institution of suits or continuation of pending suits or proceedings against the corporate debtor is prohibited.</p>
2	Should the GST registration of corporate debtor be cancelled?	<p>It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if need be, suspend the registration. In case the registration of an entity undergoing CIRP has already been cancelled and it is within the</p>

		period of revocation of cancellation of registration, it is advised that such cancellation may be revoked by taking appropriate steps in this regard.
3	Is IRP/RP liable to file returns of pre-CIRP period?	No. In accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date. Accordingly, it is clarified that IRP/RP are not under an obligation to file returns of pre-CIRP period.
<u>During CIRP period</u>		
4	Should a new registration be taken by the corporate debtor during the CIRP period?	The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification No.11/2020- Central Tax, dated 21.03.2020, he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.
5	How to file First Return after obtaining new registration?	The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period. The IRP/RP is required to ensure that the first return is filed under section 40 of the CGST Act, for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.
6	How to avail ITC for invoices	The special procedure issued under section 148

	<p>issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification No.11/2020- Central Tax, dated 21.03.2020 and no return has been filed by the IRP during the CIRP ?</p>	<p>of the CGST Act has provided the manner of availment of ITC while furnishing the first return under section 40.</p> <p>The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, <u>except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules</u>. In terms of the special procedure under section 148 of the CGST Act issued vide notification No.11/2020- Central Tax, dated 21.03.2020. This exception is made only for the first return filed under section 40 of the CGST Act.</p>
<p>7</p>	<p>How to avail ITC for invoices by persons who are availing supplies from the corporate debtors undergoing CIRP, in cases where the IRP/RP was appointed before the issuance of the notification No. 11/2020 – Central Tax, dated 21.03.2020?</p>	<p>Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, <u>except the provisions of sub-rule (4) of rule 36 of the CGST Rules</u>.</p>
<p>8</p>	<p>Some of the IRP/RPs have made deposit in the cash ledger</p>	<p>Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the</p>

<p>of erstwhile registration of the corporate debtor. How to claim refund for amount deposited in the cash ledger by the IRP/RP?</p>	<p>date of appointment of IRP / RP to the date of notification specifying the special procedure for corporate debtors undergoing CIRP, shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant FORM GSTR-3B/GSTR-1 are not filed for the said period.</p> <p>The instructions contained in Circular No. 125/44/2019-GST dt. 18.11.2019 stands modified to this extent.</p>
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25 Various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19)

25.1 Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19) [Circular No. 136/6/2020]

Circular No. 136/6/2020-GST New Delhi, dated the 4th April, 2020

The spread of Novel Corona Virus (COVID-19) across many countries of the world, including India, has caused immense loss to the lives of people and resultantly impacted the trade and industry. In view of the emergent situation and challenges faced by taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), Government has announced various relief measures relating to statutory and regulatory compliance matters across sectors.

2. Government has issued following notifications in order to provide relief to the taxpayers:

S. No.	Notification	Remarks
	Notification No. 30/2020-Central Tax, dated 03.04.2020	Amendment in the CGST Rules so as to allow taxpayers opting for the Composition Scheme for the financial year 2020-21 to file their option in FORM CMP-02 till 30 th June, 2020 and to allow cumulative application of the condition in

		rule 36(4) for the months of February, 2020 to August, 2020 in the return for tax period of September, 2020.
	Notification No. 31/2020- Central Tax, dated 03.04.2020	A lower rate of interest of NIL for first 15 days after the due date of filing return in FORM GSTR-3B and @ 9% thereafter is notified for those registered persons having aggregate turnover above Rs. 5 Crore and NIL rate of interest is notified for those registered persons having aggregate turnover below Rs. 5 Crore in the preceding financial year, for the tax periods of February, 2020 to April, 2020. This lower rate of interest shall be subject to condition that due tax is paid by filing return in FORM GSTR-3B by the date(s) as specified in the Notification.
	Notification No. 32/2020- Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing returns in FORM GSTR-3B for the tax periods of February, 2020 to April, 2020 provided the return in FORM GSTR-3B by the date as specified in the Notification.
	Notification No. 33/2020- Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing the statement of outward supplies in FORM GSTR-1 for taxpayers for the tax periods March, 2020 to May, 2020 and for quarter ending 31 st March 2020 if the same are furnished on or before 30 th day of June, 2020.
	Notification No. 34/2020- Central Tax, dated 03.04.2020	Extension of due date of furnishing statement, containing the details of payment of self-assessed tax in FORM GST CMP-08 for the quarter ending 31 st March, 2020 till the 7 th day of July, 2020 and filing FORM GSTR-4 for the financial year ending 31 st March, 2020 till the 15 th day of July, 2020.
	Notification No. 35/2020- Central Tax, dated 03.04.2020	Notification under section 168A of CGST Act for extending due date of compliance which falls during the period from the 20 th day of March, 2020 to the 29 th day of June, to 30 th day of June, 2020.

- 3 Various issues relating to above mentioned notifications have been examined. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies each of these issues as under:-

S. No.	Issue	Clarification
1	What are the measures that have been specifically taken for taxpayers who have opted to pay tax under section 10 the CGST Act or those availing the option to pay tax under the notification No.	<p>1. The said class of taxpayers, as per the notification No. 34/2020- Central Tax, dated 03.04.2020, have been allowed, to,-</p> <p>(i) furnish the statement of details of payment of self-assessed tax in FORM GST CMP-08 for the <u>quarter January to March, 2020</u> by 07.07.2020; and</p> <p>(ii) furnish the return in FORM GSTR-4 for the <u>financial year 2019-20</u> by 15.07.2020.</p> <p>2. In addition to the above, taxpayers opting for the composition scheme <u>for the financial year 2020-21</u>, have been</p>

	02/2019– Central Tax (Rate), dated the 7th March, 2019?	allowed, as per the notification No. 30/2020- Central Tax, dated 03.04.2020, to,- (i) file an intimation in FORM GST CMP-02 by 30.06.2020; and (ii) furnish the statement in FORM GST ITC-03 till 31.07.2020.										
2	Whether due date of furnishing FORM GSTR-3B for the months of February, March and April, 2020 has been extended ?	1. The due dates for furnishing FORM GSTR-3B for the months of February, March and April, 2020 <u>has not been extended</u> through any of the notifications referred in para 2 above. 2. However, as per notification No. 31/2020- Central Tax, dated 03.04.2020, NIL rate of interest for first 15 days after the due date of filing return in FORM GSTR-3B and <u>reduced rate of interest @ 9% thereafter has been notified</u> for those registered persons whose aggregate turnover in the preceding financial year is above Rs. 5 Crore. For those registered persons having turnover up to Rs. 5 Crore in the preceding financial year, <u>NIL rate of interest has also been notified</u> . 3. Further, vide notification as per the notification No. 32/2020- Central Tax, dated 03.04.2020, Government has waived the late fees for delay in furnishing the return in FORM GSTR-3B for the months of February, March and April, 2020. 4. The lower rate of interest and waiver of late fee would be available only if due tax is paid by filing return in FORM GSTR-3B by the date(s) as specified in the Notification.										
3	What are the conditions attached for availing the reduced rate of interest for the months of February, March and April, 2020, for a registered person whose aggregate turnover in the preceding financial year is above Rs. 5 Crore?	1. As clarified at sl.no. (2) above, the due date for furnishing the return remains unchanged; i.e. 20 th day of the month succeeding such month. The rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months. 2. The reduced rate of interest is subject to the condition that the registered person must furnish the returns in FORM GSTR-3B on or before 24th day of June, 2020. 3. In case the returns in FORM GSTR-3B for the said months are not furnished on or before 24 th day of June, 2020 then interest at 18% per annum shall be payable from the due date of return, till the date on which the return is filed. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.										
4	How to calculate the interest for late payment of tax for the months of February, March and April, 2020 for a registered person whose aggregate turnover in preceding financial year is above Rs. 5 Crore?	1. As explained above, the rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months. The same can be explained through an illustration. <i>Illustration:-</i> Calculation of interest for delayed filing of return for the month of March, 2020 (due date of filing being 20.04.2020) may be illustrated as per the below Table: <table border="1" data-bbox="635 1861 1433 2011"> <thead> <tr> <th data-bbox="635 1861 730 1928">S. No.</th> <th data-bbox="730 1861 938 1973">Date of filing GSTR-3B</th> <th data-bbox="938 1861 1086 1973">No. of days of delay</th> <th data-bbox="1086 1861 1270 2011">Whether condition for reduced</th> <th data-bbox="1270 1861 1433 1895">Interest</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	S. No.	Date of filing GSTR-3B	No. of days of delay	Whether condition for reduced	Interest					
S. No.	Date of filing GSTR-3B	No. of days of delay	Whether condition for reduced	Interest								

				interest		
		1	02.05.2020	11	Yes	Zero interest
		2	20.05.2020	30	Yes	Zero interest for 15 days + interest rate @9% p.a. for 15 days
		3	20.06.2020	61	Yes	Zero interest for 15 days + interest rate @9% p.a. for 46 days
		4	24.06.2020	65	Yes	Zero interest for 15 days + interest rate @9% p.a. for 50 days
		5	30.06.2020	71	NO	Interest rate @18% p.a. for 71 days (i.e. benefit of reduced interest)
5	What are the conditions attached for availing the NIL rate of interest for the months of February, March and April, 2020, for a registered person whose aggregate turnover in preceding financial year is up to Rs. 5	<p>1. As clarified at sl.no. (2) above, the due date for furnishing the return remains unchanged. The rate of interest has been notified as Nil for the said months.</p> <p>2. The conditions for availing the NIL rate of interest is that the registered person must furnish the returns in FORM GSTR-3B on or before the date as mentioned in the notification No. 31/2020- Central Tax, dated 03.04.2020.</p> <p>3. In case the return for the said months are not furnished on or before the date mentioned in the notification then interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed as</p>				

	Cröre?	explained in the illustration at sl.no (4) above, against entry 5. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.
6	Whether the due date of furnishing the statement of outward supplies in FORM GSTR-1 under section 37 has been extended for the months of February, March and April 2020?	Under the provisions of section 128 of the CGST Act, in terms of notification No. 33/2020- Central Tax, dated 03.04.2020, late fee leviable under section 47 has been waived for delay in furnishing the statement of outward supplies in FORM GSTR-1 under Section 37, for the tax periods March, 2020, April 2020, May, 2020 and quarter ending 31 st March 2020 if the same are furnished on or before the 30 th day of June, 2020.
7	Whether restriction under rule 36(4) of the CGST Rules would apply during the lockdown period?	Vide notification No. 30/2020- Central Tax, dated 03.04.2020, a proviso has been inserted in CGST Rules 2017 to provide that the said condition shall not apply to input tax credit availed by the registered persons in the returns in FORM GSTR-3B for the months of February, March, April, May, June, July and August, 2020, but that the said condition shall apply cumulatively for the said period and that the return in FORM GSTR-3B for the tax period of September, 2020 shall be furnished with cumulative adjustment of input tax credit for the said months in accordance with the condition under rule 36(4).
8	What will be the status of e-way bills which have expired during the lockdown period?	In terms of notification No. 35/2020- Central Tax, dated 03.04.2020, Issued under the provisions of 168A of the CGST Act, where the validity of an e-way bill generated under rule 138 of the CGST Rules expires during the period 20th day of March, 2020 to 15th day of April, 2020 , the validity period of such e-way bill has been extended till the 30th day of April, 2020 .
9	What are the measures that have been specifically taken for taxpayers who are required to deduct tax at source under section 51, Input Service Distributors and Non-resident Taxable persons?	Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020, the said class of taxpayers have been allowed to furnish the respective returns specified in sub-sections (3), (4) and (5) of section 39 of the said Act, for the months of March, 2020 to May, 2020 on or before the 30 th day of June, 2020.
10	What are the measures that have been specifically taken for taxpayers who are required to collect tax at source under section 52?	Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020, the said class of taxpayers have been allowed to furnish the statement specified in section 52, for the months of March, 2020 to May, 2020 on or before the 30 th day of June, 2020.
11	The time limit for compliance of some of the provisions of the CGST Act is falling	Vide notification No. 35/2020- Central Tax, dated 03.04.2020, issued under the provisions of 168A of the CGST Act, except for few provisions covered in exclusion clause, any time limit for completion or compliance of any action

during the lock-down period announced by the Government. What should the taxpayer do?	which falls during the period from the 20 th day of March, 2020 to the 29 th day of June, 2020, and where completion or compliance of such action has not been made within such time, has been extended to 30 th day of June, 2020.
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25.2 Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws [Circular No. 138/8/2020]

Circular No. 138/8/2020-GST New Delhi, dated the 6th May, 2020

Circular No.136/06/2020-GST, dated 03.04.2020 and Circular No.137/07/2020-GST, dated 13.04.2020 had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). Post issuance of the said clarifications, certain challenges being faced by taxpayers in adhering to the compliance requirements under various other provisions of the CGST Act were brought to the notice of the Board, and need to be clarified.

2. The issues raised have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies as under:

SI No	Issue	Clarification
Issues related to Insolvency and Bankruptcy Code, 2016		
1	Notification No. 11/2020 – Central Tax dated 21.03.2020, issued under section 148 of the CGST Act provided that an IRP/ CIRP is required to take a separate registration within 30 days of the issuance of the notification. It has been represented that the IRP/RP are facing difficulty in obtaining registrations during the period of the lockdown and have requested to increase the time for obtaining registration from the present 30 days limit.	Vide notification No. 39/2020- Central Tax, dated 05.05.2020, the time limit required for obtaining registration by the IRP/RP in terms of special procedure prescribed vide notification No. 11/2020 – Central Tax dated 21.03.2020 has been extended. Accordingly, IRP/RP shall now be required to obtain registration within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later.
2	The notification No. 11/2020– Central Tax dated 21.03.2020 specifies that the IRP/RP, in respect of a corporate debtor, has	i. The notification No. 11/2020– Central Tax dated 21.03.2020 was issued to devise a special procedure to overcome the requirement of sequential filing of FORM

	to take a new registration with effect from the date of appointment. Clarification has been sought 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.	GSTR-3B under GST and to align it with the provisions of the IBC Act, 2016. The said notification has been amended vide notification No. 39/2020 - Central Tax, dated 05.05.2020 so as to specifically provide that corporate debtors who have not defaulted in furnishing the return under GST would not be required to obtain a separate registration with effect from the date of appointment of IRP/RP. ii. Accordingly, it is clarified that 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).
3	Another doubt has been raised that the present notification 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.	i. In cases 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 <u>an amendment in the registration form</u> . Changing the authorized signatory is a non- core amendment and does not require approval of tax officer. However, if the previous authorized signatory does not share the credentials with his successor, then the newly appointed person can get his details added through the Jurisdictional authority as Primary authorized signatory. ii. 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.
Other COVID-19 related representations		
4	As per notification no. 40/2017-Central Tax (Rate) dated	i. Vide notification No. 35/2020-Central Tax dated 03.04.2020, time limit for

	<p>23.10.2017, a registered supplier is allowed to supply the goods to a registered recipient (merchant exporter) at 0.1% provided, <i>inter-alia</i>, 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. Request has been made to clarify the provision vis-à-vis the exemption provided vide notification no. 35/2020-Central Tax dated 03.04.2020.</p>	<p>compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020, where completion or compliance of such action has not been made within such time.</p> <p>ii. Notification no. 40/2017-Central Tax (Rate) dated 23.10.2017 was issued under powers conferred by section 11 of the CGST Act, 2017. The exemption provided in notification No. 35/2020-Central Tax dated 03.04.2020 is applicable for section 11 as well.</p> <p>iii. Accordingly, it is 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.</p>
<p>5</p>	<p>Sub-rule (3) of that rule 45 of CGST Rules requires furnishing of 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. Accordingly, the due date of filing of FORM GST ITC-04 for the quarter ending March, 2020 falls on 25.04.2020. Clarification has been sought as to whether the extension of time limit as provided in terms of notification No. 35/2020-Central Tax dated 03.04.2020 also covers furnishing of FORM GST ITC-04 for quarter ending March, 2020</p>	<p>Time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020 where completion or compliance of such action has not been made within such time. Accordingly, it is clarified that the due date of furnishing of FORM GST ITC-04 for the quarter ending March, 2020 stands extended up to 30.06.2020.</p>

5.3 Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19) [Circular No. 141/11/2020]

Circular No. 141/11/2020-GST New Delhi, dated the 24th June, 2020

Circular No. 136/06/2020-GST, dated 03.04.2020 was issued by the Board on the subject issue clarifying various issues relating to the measures announced by the Government providing relief to the taxpayers. The GST Council, in its 40th meeting held on 12.06.2020, recommended further relief to the taxpayers and accordingly, following notifications have been issued:

S. No	Notification No.	Remarks
1.	Notification No.51/2020-Central Tax, dated 24.06.2020.	Seeks to provide relief to taxpayers by reducing the rate of interest from 18% per annum to 9% per annum for specified period.
2.	Notification No.52/2020-Central Tax, dated 24.06.2020.	Seeks to provide relief to taxpayers by conditional waiver of late fee for delay in furnishing FORM GSTR-3B for specified period.
3.	Notification No.53/2020-Central Tax, dated 4.06.2020.	Seeks to provide relief to taxpayers by conditional waiver of late fee for delay in furnishing FORM GSTR-1 for specified period.

The above referred notifications have amended the parent notifications through which the relief from interest for late payment of GST and late fee for delay in furnishing of FORM GSTR-3B / FORM GSTR-1 was provided for the tax periods of February, March and April, 2020. Accordingly, the clarifications issued vide Circular No. 136/06/2020-GST, dated 03.04.2020 stand modified to the extent as detailed in the succeeding paragraphs to incorporate the decisions of the 40th meeting of the GST Council. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) clarifies the issues detailed below:

Manner of calculation of interest for taxpayers having aggregate turnover above Rs. 5 Cr.

Vide notification No.31/2020- Central Tax, dated 03.04.2020, a conditional lower rate of interest was provided for various class of registered persons for the tax period of February, March and April, 2020. The same was clarified through Circular No. 136/06/2020-GST, dated 03.04.2020 (para 3, sl. No. 3, 4 and 5). It was clarified that in case the return for the said months are not furnished on or before the date mentioned in the notification No.31/2020- Central Tax, dated 03.04.2020, interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed.

The Government, vide notification no 51/2020- Central Tax, dated 24.06.2020 has removed the said condition. Accordingly, a lower rate of interest of NIL for first 15 days after the due date of filing return in **FORM GSTR-3B** and @ 9% thereafter till 24.06.2020 is notified. **After the specified date, normal rate of interest i.e. 18% per annum shall be charged for any**

further period of delay in furnishing of the returns.

The calculation of interest in respect of this class of registered persons for delayed filing of return for the month of **March, 2020** (due date of filing being **20.04.2020**) is as illustrated in the Table below:

Sl. No.	Date of filing GSTR-3B	No. of days of delay	Interest
1	02.05.2020	12	Zero interest
2	20.05.2020	30	Zero interest for 15 days, thereafter interest rate @9% p.a. for 15 days
3	20.06.2020	61	Zero interest for 15 days, thereafter interest rate @9% p.a. for 46 days
4	24.06.2020	65	Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days
5	30.06.2020	71	Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days and interest rate @18% p.a. for 6 days

Manner of calculation of interest for taxpayers having aggregate turnover below Rs. 5 Cr.

For the taxpayers having aggregate turnover below Rs. 5 Crore, notification No.31/2020-Central Tax, dated 03.04.2020 provided a conditional NIL rate of interest for the tax period of February, March and April, 2020. The Government, vide notification no 52/2020- Central Tax, dated 24.06.2020 provided the NIL rate of interest till specified dates in the said notification and 9% per annum thereafter till 30th September, 2020. Similar relaxation of reduced rate of interest has been provided for the tax period of May, June and July 2020 also for the said class of registered persons having aggregate turnover below Rs. 5 Crore in the preceding financial year. **The notification, thus, provides NIL rate of interest till specified dates and after the specified dates lower rate of 9% would apply till 30th September 2020. After 30th September, 2020, normal rate of interest i.e. 18% per annum shall be charged for any further period of delay in furnishing of the returns.**

The calculation of interest in respect of this class of registered persons for delayed filing of return for the month of March, 2020 (for registered persons for whom the due date of filing was 22.04.2020) and June, 2020 (for registered persons for whom the due date of filing is 22.07.2020) is as illustrated in the Table below:

Table

S. No.	Tax period	Applicable rate of interest	Date of filing GSTR-3B	No. of days of delay	Interest
1	March, 2020	Nil till the 3 rd day of July, 2020, and 9 per cent thereafter till the 30 th day of September, 2020	22.06.2020	61	Zero interest
2			22.09.2020	153	Zero interest for 72 days, thereafter interest rate @9% p.a. for 81 days
4			22.10.2020	183	Zero interest for 72 days, thereafter interest rate @9% p.a. for 89 days and interest rate @18% p.a. for 22 days

4	June, 2020	Nil till the 23 rd day of September, 2020, and 9 per cent thereafter till the 30 th day of September, 2020	28.08.2020	37	Zero interest
5			28.09.2020	68	Zero interest for 63 days, thereafter interest rate @9% p.a. for 5 days
6			28.10.2020	98	Zero interest for 63 days, thereafter interest rate @9% p.a. for 7 days and interest rate @18% p.a. for 28 days

Manner of calculation of late fee

Vide notification No. 32/2020- Central Tax, dated 03.04.2020, a conditional waiver of late fee was provided for the tax period of February, March and April, 2020, if the return in **FORM GSTR-3B** was filed by the date specified in the said notification. The same was clarified through Circular No. 136/06/2020-GST, dated 03.04.2020.

The Government vide notification No. 52/2020- Central Tax, dated 24.06.2020 has provided the revised dates for conditional waiver of late fee for the months of February, March and April, 2020 and extended the same for the months of May, June and July, 2020 for the small taxpayers.

It is clarified that the waiver of late fee is conditional to filing the return of the said tax period by the dates specified in the said notification. In case the returns in FORM GSTR- 3B for the said months are not furnished on or before the dates specified in the said notification, then late fee shall be payable from the due date of return, till the date on which the return is filed.

6. The contents of the Circular 136/06/20-GST, dated 03.04.2020 are modified to this extent.

26 Clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27.04.2021 (Circular No. 157/13/2021-GST)

Circular No. 157/13/2021-GST New Delhi, dated the 20th July, 2021

The Government has issued notifications under Section 168A of the CGST Act, 2017, wherein the time limit for completion of various actions, by any authority or by any person, under the CGST Act, which falls during the specified period, has been extended up to a specific

date, subject to some exceptions as specified in the said notifications. In this context, various representations have been received seeking clarification regarding the cognizance for extension of limitation in terms of Hon'ble Supreme Court Order dated 27.04.2021 in Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020 under the GST law. The issues have been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder:

2.1 The extract of the Hon'ble Supreme order dated 27th April 2021 is reproduced below for reference:

"We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders. It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities."

2.2 The matter of extension of period of limitation under Section 168A of the CGST Act, 2017 was deliberated in the 43rd Meeting of GST Council. Council, while providing various relaxations in the compliances for taxpayers, also recommended that wherever the timelines for actions have been extended by the Hon'ble Supreme Court, the same would apply.

3. Accordingly, legal opinion was solicited regarding applicability of the order of the Hon'ble Supreme Court to the limitations of time lines under GST Law. The matter has been examined on the basis of the legal opinion received in the matter. The following is observed as per the legal opinion:-

(i) The extension granted by Hon'ble Supreme Court order applies only to quasi-judicial and judicial matters relating to petitions/ applications/ suits/ appeals/ all other proceedings. All other proceedings should be understood in the nature of the earlier used expressions but can be quasi-judicial proceedings. Hon'ble Supreme Court has stepped into to grant extensions only with reference to judicial and quasi-judicial proceedings in the nature of appeals/ suits/ petitions etc. and has not extended it to every action or proceeding under the CGST Act.

(ii) For the purpose of counting the period(s) of limitation for filing of appeals before any appellate authority under the GST Law, the limitation stands extended till further orders as ordered by the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) 3 of 2020* vide order

dated 27th April 2021. Thus, as on date, the Orders of the Hon'ble Supreme Court apply to appeals, reviews, revisions etc., and not to original adjudication.

(iii) Various Orders and extensions passed by the Hon'ble Supreme Court would apply only to acts and actions which are in nature of judicial, including quasi-judicial exercise of power and discretion. Even under this category, Hon'ble Supreme Court Order, applies only to a lis which needs to be pursued within a time frame fixed by the respective statutes.

(iv) Wherever proceedings are pending, judicial or quasi-judicial which requires to be heard and disposed off, cannot come to a standstill by virtue of these extension orders. Those cases need to be adjudicated or disposed off either physically or through the virtual mode based on the prevailing policies and practices besides instructions if any.

(v) The following actions such as scrutiny of returns, issuance of summons, search, enquiry or investigations and even consequential arrest in accordance with GST law would not be covered by the judgment of the Hon'ble Supreme Court.

(vi) As regards issuance of show cause notice, granting time for replies and passing orders, the present Orders of the Hon'ble Supreme Court may not cover them even though they are quasi-judicial proceedings as the same has only been made applicable to matters relating to petitions/applications/suits, etc.

4. On the basis of the legal opinion, it is hereby clarified that various actions/compliances under GST can be broadly categorised as follows: -

(a) **Proceedings that need to be initiated or compliances that need to be done by the taxpayers:-**

These actions would continue to be governed only by the statutory mechanism and time limit provided/ extensions granted under the statute itself. Various Orders of the Hon'ble Supreme Court would not apply to the said proceedings/ compliances on part of the taxpayers.

(b) **Quasi-Judicial proceedings by tax authorities:-**

The tax authorities can continue to hear and dispose off proceedings where they are performing the functions as quasi-judicial authority. This may inter alia include disposal of application for refund, application for revocation of cancellation of registration, adjudication proceedings of demand notices, etc.

Similarly, appeals which are filed and are pending, can continue to be heard and disposed off and the same will be governed by those extensions of time granted by the statutes or notifications, if any.

(c) **Appeals by taxpayers/ tax authorities against any quasi- judicial order:-**

Wherever any appeal is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where a proceeding for revision or rectification of any order

is required to be undertaken, the time line for the same would stand extended as per the Hon'ble Supreme Court's order.

5. In other words, the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27.04.2021 is applicable in respect of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws.