

GSC UPDATES

Notification 94/2020 dated 22.12.2020

CGST (Fourteenth amendment) Rules, 2020

Rule 36(4): Cap for claiming ITC as compared with GSTR-2A further reduced w.e.f. 01.01.2021

- ☺ Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under in GSTR-1 or Invoice Furnishing Facility has now capped at 5% of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers in Form GSTR-1/Invoice Furnishing Facility. Earlier said cap was prescribed for 10%.

Imposition of new condition for filing of GSTR-1 (w.e.f 22.12.2020)

- ☺ Registered person shall not be allowed to furnish GSTR-1 if:
 - GSTR-3B is not furnished for preceding 2 months
 - GSTR-3B is not furnished for preceding tax period in case where GSTR 1 is required to be furnished every quarter
 - GSTR-3B is not furnished for preceding tax period in case of registered person in whose case restriction of not using more than ninety-nine per cent of the amount available in electronic credit ledger against tax liability under Rule 86B is applicable.

Introduction of new rule 86B in CGST Rules 2017 (w.e.f 01.01.2021)

- ☺ Registered person will not be able to use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability where the value of taxable supplies other than exempt supply and zero-rated supply exceeds Rs. 50 lakhs in a month.

The said restriction shall not apply where:

- Where the registered person or managing director or one of the partner or whole time director have paid more than Rs. 1 lakhs as income tax under Income Tax Act 1961 in each of last two financial years; Or
- Where registered person has received refund of un-utilised input tax credit exceeding Rs. 1 lakh in the preceding FY u/s 54(3) of CGST Act 2017; Or

- Where registered person has discharged tax liability through electronic cash ledger for an amount which is in excess of 1% of total output liability applied cumulatively, up to the said month in the current financial year; Or
- Where registered person is a Government Department, Public Sector Undertaking (PSU), local authority or a statutory body.

Amendments relating to distance validity of E-way bill (w.e.f 01.01.2021)

- ☺ E-way bill will be valid for 1 day for covering 200 kms instead of earlier limit of 100 kms.
- ☺ Following registered persons will not be able to generate E-way bill:
 - who has not filed return for two tax periods
 - whose registration has been suspended

Amendment in procedure for registration under GST law

Effective date to be notified

- ☺ Every person applying for registered under GST needs to undergo authentication or furnish proof of possession of Aadhaar number. Now, in case any person has opted for Aadhaar authentication, biometric-based Aadhaar authentication and photograph will be required and in case any person has not opted for Aadhaar authentication i.e., furnishes proof of possession of Aadhaar number then biometric information, photograph and verification of such other KYC documents, as may be notified will be required to be submitted after submitting application for GST registration.

Effective from 22nd December 2020

- ☺ Application for GST registration will be verified and if appropriate, will be approved within 7 working days from date of submission instead of 3 working days before. However, if the officer deems fit, in case where:
 - the applicant does not opt for Aadhaar authentication or,
 - the applicant fails to undergo Aadhaar authentication, or,
 - officer has carried out physical verification of business with proper approvalRegistration may be approved within 30 days from date of submission

- ☺ In case of deficiency in application submitted, the officer may issue notice to the applicant within 7 working days instead of older period of 3 working days and within 30 days in case where:
 - the applicant does not opt for Aadhaar authentication or,
 - the applicant fails to undergo Aadhaar authentication or,
 - officer has carried out physical verification of business with proper approval

- ☺ If the proper officer fails to take any action,
 - within a period of seven working days from the date of submission of the application in cases where there is deficiency in documents while application for registration or,
 - within a period of thirty days from the date of submission of the application in cases where a person has failed/ not undergone Aadhaar authentication or where physical verification of business is carried out or,
 - no response from proper officer on within a period of seven working days on providing clarification, information or documentsthe application for grant of registration shall be deemed to have been approved.

Cancellation of GST registration: Rule 21 amended w.e.f 22.12. 2020

- ☺ As per newly inserted sub-rule (e) to Rule 21 of CGST Rules 2017, GST registration shall be liable to be cancelled, under followings situations also-
 - Availment of ITC in violation of the provisions of Section 16 of CGST Act & rules made thereunder,
 - Outward supplies as mentioned in GSTR-1 is in excess of outward supplies declared in GSTR-3B
 - Non-fulfillment to Rule 86B (Restrictions on use of amount available in electronic credit ledger).

Suspension of GST registration: Rule 21A amended w.e.f 22.12.2020

- ☺ Rule 21A provides for suspension of GST registration pending cancellation of GST registration. Now, it is provided that in the case where differences and anomalies are noticed on comparing return furnished in GSTR 3B with-
 - the details of outward supplies furnished in GSTR-1; or
 - the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their GSTR-1,then, GST registration shall be liable to be suspended and the said person shall be intimated about suspension in Form GST REG-31, electronically, on the common

portal, or by sending a communication to his e-mail address for submitting reason for such difference and anomalies within 30 days.

- ☺ No opportunity of being heard shall be given before suspending GST registration where the proper officer has reasons to believe that the registration of a person is liable to be cancelled
- ☺ On suspension of GST registration, the registered person during the period of such suspension shall not be able to
 - make any taxable supply i.e., not issue a tax invoice and, accordingly, not charge tax or,
 - furnish any returns under GST law or,
 - be granted any refund under the GST law
- ☺ However, on the basis of representation of the registered person, the Officers have been assigned with the power to revoke suspension of registration anytime during the pendency of proceedings.

GSC Comments

- ☺ *As per CBIC's recent clarification titled as "Myths and Facts" which was issued on the backdrop of the above amendments, CBIC has clarified that the above amendments though appears to be very stringent and harsh but have been done to nab fraudsters who issued fake credit invoices. Therefore, it seems that in fraudulent cases the Govt. will be resorting to these actions on the basis of data analysis and genuine taxpayers should not be subjected to these harsh measures.*

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