

GST NEWSLETTER

BHASIN SETHI & ASSOCIATES

02/01/2020

VOLUME III, ISSUE I

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NOTIFICATIONS AND CIRCULARS

Due-dates for filing returns by taxpayers in J&K

Notifications No. 63/2019-Central Tax, 64/2019-Central Tax; 65/2019-Central Tax; 66/2019-Central Tax 67/2019-Central Tax, all dated 12th December 2019.

CBIC has extended due dates for furnishing of various returns by registered persons in Jammu and Kashmir till December 20, 2019. The time period has been extended for the months of July to October, 2019 for furnishing (i) FORM GSTR-1 by persons having aggregate turnover of more than 1.5 crore rupees, (ii) GSTR-3B and (iii) FORM GSTR-7 (Return for tax deducted at source).

Changes in GST Rules; Rules; common GST Electronic portal for e-invoicing also notified

Notifications No. 68/2019-Central Tax; 69/2019-Central Tax; 70/2019-Central Tax; 71/2019-Central Tax; 72/2019-Central Tax, all dated 13th December 2019.

Registered person, whose aggregate turnover in a financial year exceeds Rs. 100 crores are required to prepare e-invoice in respect of supply of goods and / or services to a registered person w.e.f. April 01, 2020. Further, the Common GST Electronic Portal is notified for the purpose of preparation of e-invoice in terms of sub-rule (4) of rule 48 of CGST Rules, 2017. Sub-rule (4) provides that e-invoice is to be prepared by such class of registered persons as may be notified by the Government, on Council's recommendations, by including such particulars contained in FORM GST INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the Common GST Electronic Portal. Moreover, provisions of sub-rule 1 and 2 (prescribing triplicate/duplicate copy of invoice for supply of goods/services) will not apply to such invoice. An invoice issued by a registered person, whose aggregate turnover in a financial

year exceeds Rs. 500 crore, to an unregistered person (B2C invoice), will have Quick Response (QR) code while clarifying that where such person makes a Dynamic QR code available to the recipient through a digital display, such B2C invoice containing cross-reference of the payment using a Dynamic QR code, will be deemed to be having QR code. April 01, 2020 has been appointed as the date, vide which provision of Notification No. 31/2019 – Central Tax empowering Government to prescribe for Quick Response (QR) code shall come into force.

Implementation of 38th GST Council Meeting decisions

Notification No. 74/2019-Central Tax; 75/2019-Central Tax; 76/2019-Central Tax; 77/2019-Central Tax; 78/2019-Central Tax, all dated 26th December 2019

Notifications were issued pursuant to the recommendation made by the GST Council during its 38th Meeting. Late fee is waived for the registered persons who failed to furnish the details of outward supplies in GSTR-01 for the months/quarters from July, 2017 to November, 2019 by the due date but furnishes the said details in GSTR-01 between period from December 19, 2019 to January 10, 2020. CGST (Ninth Amendment) Rules, 2019 have been notified to inter-alia, (i) amend Rules 36 (4) restricting ITC availment to 10 % in respect of invoices/debit notes not reflected in its FORM GSTR-2A, (ii) insert new Rule 86A stipulating “Conditions of use of amount available in electronic credit ledger” and (iii) Provide for blocking of E-Way bill generation for assessee (other than composition dealers) who have not furnished return for two months/quarters. For taxpayers whose principal place of business is in the State of Assam, Manipur or Tripura, due date is extended for, (i) furnishing GSTR-1 upto December 31 for registered persons having aggregate turnover of more than 1.5 crore rupees, (ii) furnishing GSTR-7 upto December 25 for registered person required to deduct tax at source under the provisions of section 51 for month of November 2019 (iii) furnishing GSTR-3B for November 2019 till December 31. Separately, order has been issued extending due-date for filing of Annual Return for FY 2017-18 for all taxpayers till January 31, 2020.

Rate revision on woven/non-woven bag & flexible intermediate bulk containers

Notification No. 27/2019-Central Tax (Rate)

dated 20th December 2019

CBIC notified rate of 18% on (i) woven and non-woven bags and sacks of polythene or polypropylene strips or the like, whether or not laminated, of a kind used for the packing of goods, falling under Heading 3923 or 6305 and (ii) Flexible intermediate bulk containers falling under Heading 6305 32 00.

Exemption on upfront amount for industrial-plot lease

Notification No. 28/2019-Central Tax (Rate); 29/2019-Central Tax (Rate), dated 31st December 2019

The upfront amount payable for long term lease of industrial/ financial infrastructure plots by an entity having 20% or more ownership of Central or State Govt. has been exempted w.e.f. January 01, 2020. Conditions viz. (i) leased plots allotted to be utilised for industrial or financial activity in an industrial or financial business area (ii) in case of any violation or subsequent change of land use, original lessor, original lessee as well as subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of central/integrated/union territory tax along-with interest and penalty for the long term lease of the plots and (iii) agreement of sale entered into between the parties must contain a condition that central tax was exempted on the long term lease of the plots by the original lessor to the original lessee, have been laid down. Further, GST will be payable under Reverse Charge Mechanism (RCM) w.r.t. services provided by a person, other than a body corporate by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, to a body corporate who does not issue an invoice charging GST at rate of 12% to the service recipient.

Clarification on applicability of Reverse Charge Mechanism on motor vehicle renting

Circular No. 130/2019 - GST dated December 31, 2019.

Clarification was issued on applicability of Reverse Charge Mechanism (RCM) on renting of motor vehicles w.r.t. entry inserted in RCM Notification with effect from October 1, 2019. There are only two rates applicable on the service of renting of vehicles, 5% with limited ITC and 12% with full ITC. The only interpretation of

the Notification Entry would be that (i) where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and (ii) where the supplier of the service does not charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM. Serial No. 15 of Notification No. 13/2017-CT (R) has been amended to provide that RCM will be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier (a) is other than a body-corporate; (b) does not issue an invoice charging GST @12% from the service recipient; and (c) supplies the service to a body corporate.

Standard Operating Procedure for return defaulters

Circular No. 129/2019 - GST dated December 24, 2019.

Standard Operating Procedure (SoP) has been issued to be followed in case of non-filers of returns. The clarification has been issued to ensure uniformity in respect of the appropriate procedure to be followed in case of non-furnishing of return u/s 39/44/45 of the CGST Act, 2017. Notice to the defaulter is to be issued in GSTR-3A, hence, no separate notice is required to be issued for best judgment assessment u/s 62. A system-generated message will be sent to registered persons 3 days before due date to nudge them to file returns & notice in GSTR-3A shall be issued five days after due date of furnishing returns. Further, Commissioner may resort to provisional attachment u/s 83 of the CGST Act and subsequently, proceed to cancel registration in cases where return has not been furnished for specified period.

DIN to be quoted on all communications including e-mails to taxpayers

Circular No. 128/2019 - GST dated December 23, 2019.

CBIC directed that electronic generation and quoting of Document Identification Number (DIN) will be done in respect of all the communications (including emails) sent to tax payers and other concerned persons by any office of CBIC across the country. Online digital platform/facility already available for electronic generation of DIN has been suitably enhanced.

Further, in order to harmonize and standardize the formats of search authorisations, summons, arrest memos, inspection notices, all field formations are to use the standardized authorisations for the same w.e.f. January 01, 2020. Any specified communications not bearing the electronically generated DIN and is not covered by the exceptions in para 3 of Circular No. 122/2018- GST will be treated as invalid and will be deemed to have never been issued.

Withdrawal of clarification issued on supply of ITeS services

Circular No. 127/2019 - GST dated December 04, 2019.

CBIC *ab-initio* withdrew Circular No. 107/2019-GST providing certain clarifications in relation to supply of Information Technology enabled Services (ITeS) under GST. The circular has been withdrawn in view of numerous representations received expressing apprehensions on implications of same and to ensure uniformity in implementation of provisions of law across field formations.

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