

GST NEWSLETTER

BHASIN SETHI & ASSOCIATES

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NOTIFICATIONS AND CIRCULARS

Special procedure for payment and return filing by composition taxpayers.

Notifications No. 20/2019-Central Tax; 21/2019-Central Tax; 22/2019-Central Tax, dated 23rd April 2019.

Govt. prescribed special procedure for furnishing return and payment of tax by persons paying tax under composition scheme in terms of Section 10 of CGST Act, 2017. Statement containing details of payment of self-assessed tax is to be submitted for every quarter in FORM GST CMP-08 till 18th day of month succeeding such quarter. Further, annual return in FORM GSTR-4 is to be furnished on or before the April 30 following the end of such financial year. Such persons would be deemed to have complied with provisions of Section 37 (Furnishing details of outward supplies) and Section 39 (Furnishing of return) of CGST Act if they have furnished FORM GST CMP-08 and FORM GSTR-4. Also CGST Rules, 2017 are amended to prescribe that Rule 138E (introduced vide CGST (Fourteenth) Amendment Rules, 2018) providing for restrictions on furnishing of Part A of FORM GST EWB-01 shall come into force w.e.f. June 21, 2019.

Time limit for furnishing FORM GSTR-1, GSTR-3B & GSTR-7 extended.

Notification No. 17/2019-Central Tax and 18/2019-Central Tax, dated 10th April 2019; Notification no. 19/2019-Central Tax dated 20th April 2019

CBIC extended the time limit for furnishing FORM GSTR-1 (details of outward supply of goods or services) for the month of March 2019 up to April 13, 2019. Also, the time limit for furnishing FORM GSTR-7 (Persons required to deduct TDS u/s 51) for the month of March 2019 was extended up to April 12, 2019. The time limit for furnishing GSTR 3B for the month of March 2019 was extended upto April 23, 2019

Service providers opting for composition levy to file prescribed form by April 30.

Circular No. 97/2019-Central Tax, dated 5th April 2019.

CBIC required a registered person opting for payment of Central Tax at 3% by availing benefit of Notification No.2/2019-Central Tax (Rate) to file FORM GST CMP-02 by selecting category of registered person as "Any other supplier eligible for composition levy" as listed at Sl. No. 5(iii) by April 30, 2019. Also, such person is required to furnish a statement in FORM GST ITC-03 in accordance with the provisions of sub-rule (3) of rule 3 of Central Goods and Services Tax Rules, 2017. Further, any person who applies for registration and wants to opt for payment of central tax @ 3%, may do so by indicating the option at serial no. 5 and 6.1(iii) of FORM GST REG-01 at the time of filing of registration application. Moreover, option of payment of tax in respect of any place of business in any State or Union territory shall be deemed to be applicable in respect of all other places of business registered on the same PAN. It was explained that, the option to pay tax by availing the benefit of the said notification would be effective from the beginning of the financial year or from the date of registration, as the case may be.

Clarification in respect of utilization of input tax credit (ITC) under Rule 88A.

Circular No. 98/2019-Central Tax, dated 23rd April 2019.

CBIC issued clarification in respect of utilization of input tax credit (ITC) under GST after issuance of the newly inserted rule 88A in the CGST Rule, 2017. It was explained that ITC of IGST can be

utilized towards the payment of Central tax and State tax or Union territory tax, in any order/proportion. However, this is subject to the condition that the entire ITC on account of IGST is completely exhausted first before the credit on account of Central tax or State / Union territory tax is utilized. Further, taxpayers may continue to utilize their ITC as per the functionality available on common portal till new order of utilization as per newly inserted Rule 88A of the CGST Rules is implemented.

Clarification regarding filing of application for revocation of cancellation of registration.

Circular No. 99/2019-Central Tax, dated 23rd April 2019.

Vide the Circular, CBIC issued clarification regarding filing of application for revocation of cancellation of registration. It was explained that, where the registration has been cancelled w.e.f. date of order of cancellation of registration, all returns due till the date are required to be furnished before application for revocation can be filed. The returns have to be furnished within a period of 30 days from the date of the order of revocation. Further, in cases where the registration has been cancelled with retrospective effect, all returns relating to the period from effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.

Clarification w.r.t. exemption on upfront amount payable in installments for long term lease of plots.

Circular No. 101/2019-Central Tax, dated 30th April 2019

CBIC issued clarification w.r.t. exemption on upfront amount payable in installments for long term lease of plots. Clarification on admissibility of GST exemption on the upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease (of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business under Entry No. 41 of Exemption Notification 12/2017 - Central Tax(Rate). It was explained that said exemption shall be available

irrespective of whether such upfront amount is payable or paid in one or more instalments, provided the amount is determined upfront.

Clarification on the applicability of GST on supply of Seed Certification Tags.

Circular no. 100/2019-Central Tax dated 30th April 2019.

CBIC clarified on the applicability of GST on supply of Seed Certification Tags. The steps of processing of seed testing and certification followed in Tamil Nadu prescribed in Seeds Act 1966 were explained and elaborated in Manual on Seed Production and Certification, published by Centre for Indian Knowledge Systems, Chennai includes (i) Application for seed production (ii) Registration of sowing report (iii) Field Inspection (iv) Seed Processing (v) Seed Sample and seed analysis (vi) Tagging and sealing. All the charges, including those for issue of seed certificates/tags by the Seed Certification Agency of Tamil Nadu and Uttarakhand to the seed producing organization/companies are collected for the composite supply of seed testing and certification, which is exempt under Notification No. 12/2017-Central Tax (Rate) Sl. No. 47 (services by Central/State Governments by way of testing/certification relating to safety of consumers and public at large, required under any law);. The said clarification would apply to supply of seed tags by seed testing and certification agencies of other states also following similar seed testing and certification procedure. However, supply of seed tags by other departments/manufacturers to State Government/Seed Certification Agencies is a supply of goods liable to tax, and whether same would be classifiable as tags made of paper or textile would depend upon the predominant material used in the tags.

CASE LAWS AND OTHER UPDATES

New enhancements introduced to the E - Way Bill (EWB) generation form.

Govt. introduced new enhancements in E- Way Bill (EWB) generation form. A detailed note is released to communicate the tax payers and transporters the latest changes with screen shots to enable them to generate the e-way bill with ease. The enhancements include (i) Auto calculation of distance based on PIN Codes for

generation of e-Way Bill, (ii) Knowing the distance between two PIN codes, (iii) Blocking the generation of multiple e-Way Bills on one Invoice/Document, (iv) Extension of e-Way Bill in case the consignment is in Transit/Movement and (v) Report on list of e-Way Bills about to expire. E-Way Bill system is being enabled to auto calculate the distance for movement of goods based on the postal PIN codes of source and destination locations. Generation of multiple e-way bills will not be allowed based on one invoice which means that, once e-way bill is generated with an invoice number, then none of the parties - consignor, consignee or transporter can generate the e-Way bill with the same invoice number. Extension of e-way bill would be enabled when goods/consignment are in transit (i.e. on Road or Warehouse) while not allowing generation of e-way bill for inter-state movement, if the supplier is composition tax payer.

HC dismissed writ where ITC was availed basis fictitious sale invoices.

In the matter of Bharat Raj Punj vs. Commissioner of Central Goods and Service Tax, Rajasthan HC dismissed writ seeking quashing summons/coercive action where the petitioner and its sister concerns availed ITC to the tune of 328 crores on the basis of fake invoices, imposes a cost of Rs. 1 lac. It was observed that, raid conducted at petitioner's premises revealed that company has not done any business and fake sale purchase bills were prepared and only trading activities were shown, without any banking transaction or movement of goods. It was also observed that the Director of the company was receiving managerial remuneration from the company to the tune of about Rs.60 lakh per annum hence, plea that it was residing abroad and was not involved in day to day affairs of the company is unacceptable. It was clarified that the petitioner's contention that the tax is to be first determined under Section 73 & 74 of the Act does not have any force for the very reason that "in an offence committed under Section 132 of the Act determination of tax is not required and the Department can proceed straight away by issuing summons or if reasonable grounds are available by arresting the offender". The judgments in Make My Trip (India) Pvt. Ltd. & Meghraj Moolchand Burad were distinguished.

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