

Monthly News Letter

October, 2020

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NOTIFICATIONS AND CIRCULARS

1. Seeks to notify a special procedure for taxpayers for issuance of e-Invoices in the period 01.10.2020 - 31.10.2020.-Notification No. 73/2020 - Central Tax

Ministry of Finance, CBIC vide Notification No. 73 of 2020-Central tax dated 1st October, 2020 notifies that the registered persons required to prepare the tax invoice in the manner specified under sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017, who have prepared tax invoice in a manner other than the said manner, as the class of persons who shall, during the period from the 1st day of October, 2020 to the 31st day of October, 2020, follow the special procedure such that the said persons shall obtain an Invoice Reference Number (IRN) for such invoice by uploading specified particulars in FORM GST INV-01 on the Common Goods and Services Tax Electronic Portal, within thirty days from the date of such invoice, failing which the same shall not be treated as an invoice.

2. Seeks to prescribe the due date for furnishing FORM GSTR-1 for the quarters October, 2020 to December, 2020 and January, 2021 to March, 2021 for registered persons having aggregate turnover of up to

1.5 crore rupees in the preceding financial year or the current financial year. -Notification No. 74/2020-Central Tax dated 15.10.2020

Ministry of Finance, CBIC vide Notification No. 74 of 2020-Central tax dated 15th October, 2020 notifies that the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who shall follow the special procedure as mentioned below for furnishing the details of outward supply of goods or services or both. 2. The said registered persons shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 under the Central Goods and Services Tax Rules, 2017, effected during the quarter as specified in column (2) of the Table below till the time period as specified in the corresponding entry in column (3) of the said Table, namely:-
Table Sl. No. Quarter for which details in FORM GSTR-1 are furnished Time period for furnishing details in FORM GSTR-1 (1) (2) (3) 1 October, 2020 to December, 2020 13th January, 2021 2 January, 2021 to March, 2021 13th April, 2021 3. The time limit for furnishing the details or return, as the case may be, under subsection (2) of section 38 of the said Act, for the months of October, 2020 to March, 2021 shall be subsequently notified in the Official Gazette.

3. Seeks to prescribe the due date for furnishing FORM GSTR-1 by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the

current financial year, for each of the months from October, 2020 to March, 2021.

Ministry of Finance, CBIC vide Notification No. 75 of 2020-Central tax dated 15th October, 2020 extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from October, 2020 to March, 2021 till the eleventh day of the month succeeding such month. 2. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 of the said Act, for the months of October, 2020 to March, 2021 shall be subsequently notified in the Official Gazette.

4. Seeks to prescribe return in FORM GSTR-3B of CGST Rules, 2017 along with due dates of furnishing the said form for October, 2020 to March, 2021-Notification No. 76/2020-Central Tax dated 15.10.2020

The Ministry of Finance vide the notification no. 76/2020-Central Tax dated 15.10.2020 specifies that the return in FORM GSTR-3B of the said rules for each of the months from October, 2020 to March, 2021 shall be furnished electronically through the common portal, on or before the *twentieth day* of the month succeeding such month:

Provided that, for taxpayers having an aggregate turnover of up to five crore rupees in the previous financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry,

Andaman and Nicobar Islands or Lakshadweep, the return in FORM GSTR-3B of the said rules for the months of October, 2020 to March, 2021 shall be furnished electronically through the common portal, on or before the twenty-second day of the month succeeding such month:

Provided further that, for taxpayers having an aggregate turnover of up to five crore rupees in the previous financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi, the return in FORM GSTR-3B of the said rules for the months of October, 2020 to March, 2021 shall be furnished electronically through the common portal, on or before the *twenty-fourth day* of the month succeeding such month.

It is further specified through this notification that 'Payment of taxes for discharge of tax liability as per FORM GSTR-3B. –

Every registered person furnishing the return in FORM GSTR-3B of the said rules shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax *by debiting the electronic cash ledger or electronic credit ledger, as the case may be and his liability towards interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger, not later than the last date, as specified in the first paragraph, on which he is required to furnish the said return.*

5. Seeks to make filing of annual return under section 44 (1) of CGST Act for F.Y. 2019-20 optional for small taxpayers whose aggregate

turnover is less than Rs 2 crores and who have not filed the said return before the due date-Notification No. 77/2020 dated 15.10.2020

The Ministry of Finance vide the notification no. 77/2020-Central Tax dated 15.10.2020 makes the following amendment in the notification of Government of India in the Ministry of Finance, (Department of Revenue), No. 47/2019 – Central Tax dated the 9th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 770(E), dated the 9th October, 2019, namely: - In the said notification in the opening paragraph, for the words and figures —financial years 2017-18 and 2018-19, the words and figures —financial years 2017-18, 2018-19 and 2019- 20 shall be substituted.

6. Seeks to notify the number of HSN digits required on tax invoice- Notification No. 78/2020 central Tax dated 15.10.2020

The Ministry of Finance vide the notification no. 78/2020-Central Tax dated 15.10.2020 makes the following amendment in the notification of the Government of India in the *Ministry of Finance (Department of Revenue), No.12/2017 – Central Tax, dated the 28th June, 2017*, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 660(E), dated the 28th June, 2017, namely:- In the said notification, with effect from the 01st day of April, 2021, for the Table, the following shall be substituted, namely, - —Table

Serial Number	Aggregate Turnover in the preceding Financial Year	Number of Digits of Harmonised System of Nomenclature Code (HSN(1))
1.	Up to rupees five crores	4
2.	more than rupees	6

	five crores	
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Provided that a registered person having aggregate turnover up to five crores rupees in the previous financial year may not mention the number of digits of HSN Code, as specified in the corresponding entry in column (3) of the said Table in a tax invoice issued by him under the said rules in respect of supplies made to unregistered persons.

7.Requirement for GST Audit is exempted for taxpayer having turnover up to Rs. 5 Crores to FY 2019-20 as well

GST Audit exemption continues for taxpayer having turnover upto Rs. 5 Crores for FY 2019-20 as well.

8. Seeks to amend notification No.13/2020-Customs dated 14.02.2020 for extending the RoSCTL scheme validity from 31.03.2020 to 31.03.2021 or until such date the RoSCTL scheme is merged with RoDTEP scheme, whichever is earlier 36/2020-Cus,dt. 05-10-2020

Ministry of Finance vide the Notification no. 36/2020-Customs dated 05.10.2020 makes the following amendment in the notification of Government of India, in the Ministry of Finance (Department of Revenue), No. 13/2020- Customs, dated the 14th February, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 119 (E), dated the 14th February, 2020, namely:- In the said notification, in paragraph 2, in clause (1) in sub-clause (c), for the figures, letters and word “31st March, 2020”, the figures, letters and words “31st March, 2021 or until such date the RoSCTL scheme is merged with the Remission of Duties and Taxes on Exported Products

scheme, whichever is earlier”, shall be substituted.

months of February, 2020 to August, 2020

PRESS RELEASE

- CBIC in a press release dated 09.10.2020 clarified that the taxpayers are required to report only the values pertaining to Financial Year 2018-19 and the values pertaining to Financial Year 2017-18 which may have already been reported or adjusted are to be ignored. No adverse view would be taken in cases where there are variations in returns for taxpayers who have already filed their GSTR-9 of Financial Year 2018-19 by including the details of supplies and ITC pertaining to Financial Year 2017-18 in the Annual return for FY 2018-19. All the taxpayers are requested to avail the benefit of the extended due date and file their Annual Return (FORM GSTR-9) at the earliest to avoid last minute rush. It may be noted that furnishing of the Annual return in FORM GSTR-9 is mandatory only for taxpayers with aggregate annual turnover above Rs. 2 Cr. while reconciliation statement in FORM GSTR9C is to be furnished only by the registered persons having aggregate turnover above Rs. 5 Cr.

CIRCULAR

➤ Circular No. 142/12/2020- GST

Clarification relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017 for the

CASE LAWS/ ADVANCE RULING

➤ In the matter of M/s Liberty Trans lines [TS-824-AAAR-2020-NT]

Maharashtra AAAR upholds AAR's order, rules that the Appellant is merely supporting M/s Posco ISDC Pvt. Ltd. (POSCO) in their activity as Goods Transport Agency (GTA) by way of renting out their transport vehicle and itself is not GTA under the specific arrangement;

AAR noted that POSCO has only sub-contracted service of transportation of goods to applicant & contract to undertake transportation is given by consignee/consignor to POSCO and not to applicant;

On perusal of the definition of GTA and Consignment Note, AAAR observes that Appellant is not receiving goods directly from the consignor/consignee of the goods but from POSCO which itself is acting as GTA as it is receiving goods and issuing consignment notes thereof;

Perceives that the Appellant is simply hiring out vehicles for a consideration hence, their services would be classified under the Heading 9966 of Notification No. 11/2017 dated June 28, 2017, bearing description 'rental services of transport vehicles'; Explains that a consignment note is an essential condition for any person to act as GTA while rejecting Appellant's contention that the instant case is of bailment and sub-bailment under the Indian Contract Act, 1872 and

that lorry receipt issued by it is same thing as a consignment note;

In respect of Appellant's contention that AAR has imposed restrictions upon it in doing business as it doesn't permit them to charge 12% GST on the forward charge basis, holds that the observation passed by AAR is in the context of proposed agreement propounded by the Appellant for seeking ruling in the matter;

Clarifies that the AAR doesn't debar Appellant from acting as GTA in other transactions where they enter into transport contract with the consignor/consignee directly

• **Royal Chains Pvt. Ltd. vs. UOI & Ors. TS-933-HC-2020(BOM)-NT**

Bombay HC disposes of writ petition in view of administrative instructions issued by CBIC implementing GST Council's decision regarding recovery of interest only on the net cash liability; Petitioner sought relief in the prayer that interest would be payable only on the cash component of the liability under section 50 of the CGST Act (interest on delayed payment); Earlier HC had stayed the recovery of interest in terms of letter dated February 19, 2020 pending the final hearing and disposal of the present petition.

• **Confederation of GST Professionals and Industries vs. Union of India & Ors. TS-931-HC-2020(BOM)-NT**

Bombay HC disposes of writ filed by the Confederation of GST Professionals insight of CBIC Press Release dated October 24, 2020, notifying extension of due dates for filing of annual return and reconciliation statement for the

financial year 2018-19; Observes that the due dates for filing annual return (Form GSTR - 9 /GSTR - 9A) and reconciliation statement (Form GSTR - 9C) for the financial year 2018-19 has been extended from October 31, 2020 to December 31, 2020; Opines that in view of the aforesaid development, Petitioner has got the relief sought and no further order is called for.

• **UOI vs. Yasho Industries Ltd. TS-819-SC-2019-NT**

SC hears Revenue's appeal against Gujarat HC judgment which struck down 'pre-import' condition in respect of imports under Advance Authorisation; Issues notice to assessee (Respondent) while granting permission to file additional evidence/documents, stays operation of HC order.

• **Nipun Malhotra vs. Union of India TS-928-SC-2020-NT**

SC grants liberty to Petitioner to move a representation before the GST Council for exemption of GST on mobility devices, lists the matter for final disposal in March, 2021; Notes that the writ has been filed by the Petitioner against the levy of GST rate @ 5% on disability equipments / mobility devices meant for the aid of persons with disabilities and seeking exemption on the same; Attorney General submitted that after a detailed discussion with the Secretary - Revenue, it has been found that it may not be possible to accede to the request of the Petitioner that an exemption from tax be granted on 'mobility devices' because of the policy implications, however, the Petitioner may move a

representation before the GST Council; Petitioner pressed that since the petition under Article 32 of the Constitution has been instituted in the public interest to safeguard the interests of a large number of similarly situated disabled persons, who have to suffer a tax on mobility devices, at this stage, it would like to move a representation with the Council.

• **In the matter of Vimos Technocrats Pvt. Ltd. TS-906-AAR-2020-NT**

Karnataka AAR holds that pure consultancy services (without supply of goods) like project management consultancy services including construction, supervision, quality control, rejuvenation and development of lakes to the Municipalities, Corporations (i.e. local bodies) and also to Government Departments, as enumerated in the application, are exempt from GST as per serial no. 3 of Notification No. 12/2017-CTR dated June 28, 2017; Observes that services provided are related to functionalities entrusted under Article 243W of the Constitution while caveating that Applicant has not submitted copies of agreement entered with BBMP or Forest Department to know any involvement of goods; However, clarifies that pure consultancy services provided to the private individuals is taxable at 18% (CGST + SGST) as per the entry no. 21 of the Notification No. 11/2017- CTR dated June 28, 2017; Explains input tax paid on the purchase of capital goods like furniture, compute, lab equipments, drone camera, total station, auto level instruments etc. and on certain inputs services shall be restricted to so much of the input

tax as is attributable to the taxable supplies made by the applicant as per sub-section 2 of section 17 of CGST Act: Karnataka AAR

• **In the matter of MFAR Hotels and Resorts Private Limited TS-896-AAR-2020-NT**

Tamil Nadu AAR holds that supply of soft beverages/water by the Applicant by the restaurant located in the premises of hotel is taxable @18%, supply of cigarettes is taxable @28%, supply of free food to employees from canteen located at hotel premises is taxable @18%, however, the supply of alcoholic liquor for human consumption by the restaurant shall not be taxable as per Notification no. 11/2017 dated June 28, 2017; Notes that the Applicant runs a hotel offering various services such as accommodation, dining, etc., has a licence to serve alcohol and also supplies cigarettes under separate supply; Observes that supply of Soft beverages / aerated water from the restaurant menu involves the supply of the items along with the use of the facilities/ staff of the restaurant which are naturally bundled and supplied in conjunction, therefore, is a composite supply as per Section 2(30) classifiable under SAC 996331; As regards supply of cigarettes, opines that when a guest (resident or non-resident) comes to the restaurant and orders cigarettes, it involves supply of goods and supply of services by the restaurant, however, the sale of cigarettes products are not naturally bundled together with the restaurant services as the services of the restaurant involves serving of food and beverages alone in the normal

course; Therefore, said supply is not a composite supply but a mixed supply, thereby rules that "the tax liability on a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax"; Holds that in the case of the mixed supply of cigarettes by the restaurant, in person or room service, the applicable rate is the rate applicable to supply of cigarettes which is 28% GST as per Notification No. 1/2017-C.T.(Rate) and Notification No. 11(2)/CTR/532(d-41/2017 vide G.O. (Ms) No. 62 as amended and the applicable GST Compensation Cess is applicable at specified rates for different kinds of cigarette product; Clarifying on taxability of alcoholic liquor for human consumption on which only VAT is being charged by the restaurant, holds that as per Section 9(1) of CGST/TNGST Act, the supply of alcoholic liquor for human consumption, is a non-taxable supply; Rules that supply of food to employees from the canteen on the premises of the hotel without consideration amounts to supply liable to 18% GST on value determined as per Rule 28 of CGST Rules 2017.

• **In the matter of Rajesh Rama Varma**
TS-880-AAAR-2020-NT

Tamil Nadu AAAR upholds AAR order observing that software services provided by the Appellant to a company's ('Principal's') foreign client, amounted to supply of services under the CGST/TNGST Act, and not under the IGST Act, and hence the Appellant was liable to pay relevant tax on such supply; Notes that the Appellant was

contracted by the Principal to provide professional and consultancy services to be carried out through them and that he rendered software support services to the Principal's client in the US; Appellant averred that - (i) GST is a destination based consumption tax, the skill-based service supplied by him is consumed by the Principal's client which is based outside India, and thus that client is the recipient, (ii) the GST Act is wide enough to include payment obligation which can be satisfied by any other person other than the actual 'recipient'; Contrary to Appellant's contention that the foreign client is the ultimate 'recipient' of his services, AAAR holds that "...the statute is unambiguous in as much as it says, the person liable to pay the consideration for supply of services is the 'Recipient' of such supply and 'Consideration' is any payment made whether by the recipient or any other person for such supply."; Thus, affirms AAR's finding that the recipient of the Appellant's services is the Principal, since it is the Principal who's liable to pay the Appellant and not the foreign client

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