

CBIC amends CGST rules, notifies formats of annual return and issues various clarifications

September 6, 2018

In brief

CBIC has issued notification nos. 39-42/2018-Central Tax and circular nos. 57-61/2018-GST, all dated 4 September, 2018. This tax insight summarises the major amendments/ clarifications below:

In detail

Notifications

- 1) The CGST Rules are amended. The major amendments are as under:
 - a) Proceedings for cancellation of registration due to non-filing of returns can now be dropped if all pending returns are filed and tax dues paid along with interest and late fees.
 - b) Input tax credit (ITC) can be claimed if the invoice/debit note contains the details of at least the amount of tax charged, description of goods or services, total value of supply, GSTIN of the supplier and recipient, and place of supply in case of inter-State supply.
 - c) Definition of adjusted total turnover to compute the amount of eligible refund of accumulated ITC for zero-rated supplies has been amended to bring it in line with the definition of zero-rated turnover of services, and remove an internal inconsistency between accrual and cash based details.
 - d) Refund of IGST paid on export of goods is restricted if the exporter has imported goods without payment of IGST by availing benefits under customs duty, i.e. advance authorisation, EPCG, EOU/STPI etc, benefits with retrospective effect from 23 October, 2017. Previously, such restrictions were applicable only if the supplier to the exporter had availed the aforementioned benefits on the supplies made to the exporter.
 - e) In case of imported goods, person in-charge of a conveyance will now need to carry a copy of the bill of entry filed by the importer and indicate the number and date of the bill of entry in Part A of Form GST EWB-01.
 - f) The format of annual return notified in Form GSTR-9 and Form GSTR-9A for normal and composition taxpayers respectively. This is a much awaited development.
- 2) Due date for submitting Form GST ITC-04 (for goods dispatched to a job worker or received from a job worker or sent from one job worker to another) for the period July, 2017 to June, 2018 has been extended to 30 September 2018.

(Notification No. 39/2018 – Central Tax dated 04 September 2018)

(Notification No. 40/2018 – Central Tax dated 04 September 2018)

Circulars

- 1) Supply of services by principal to agent and vice versa without consideration is outside the ambit of scope of entry I of Schedule I, and therefore in the absence of any consideration, it cannot be treated as supply.

Further, the key ingredient for determining an agency 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 (in his own name) or not, and vice versa in case of procurements on behalf of principal. In other words, the important criteria is whether or not the agent has the authority to transfer or receive the title of the goods on behalf of the principal, thus contractually binding the principal.

(Circular No. 57/31/2018-GST dated 04 September 2018)

- 2) It was earlier clarified that the recovery of arrears arising from legacy central laws (e.g. excise, service tax, etc.) shall be made as central tax liability, and can be paid by utilizing the balance available in credit or cash ledger. Since the GSTN portal did not allow such liability under the legacy laws to be recorded, the taxpayers can alternatively reverse the erroneously availed CENVAT credit or inadmissible transition credit through Table 4(B)(2) of Form GSTR 3B. The applicable interest and penalty should be paid through entry in column 9 of Table 6.1 of Form GSTR 3B.

(Circular No. 58/32/2018-GST dated 04 September 2018)

- 3) Clarifications relating to refunds:

- a) For claiming refund on exports, instead of submission of invoices for inputs etc, a copy of Form GSTR 2A of the claimant for the period for which the refund is claimed will need to be submitted. The authorities may call for copies of invoices, only where the assessee has claimed credit but the same are not reflected in Form GSTR 2A due to various reasons. The assessee is also required to submit the details of the invoices on the basis of which ITC had been availed during the period for which the refund is being claimed in prescribed format (Annexure A), provided in the circular.
 - b) For claiming refund of ITC, amount equal to the refund claim has to be debited in the credit ledger. The order, in which the amount need to be debited from respective tax credit ledger is prescribed for all the refund claims filed after this circular. For previous claims, no adverse view to be taken by the authorities if this order was not followed.
 - c) For rejection of refund claim due to ineligibility of credit, the amount of credit would be re-credited in the credit ledger and notice to disallow such credit would be issued. For rejection of refund claim due to any other reason, the amount of ITC would be re-credited in the credit ledger after receipt of undertaking from the assessee that no appeal would be filed, or if an appeal is filed, the re-credit will not occur until it is finally decided against the assessee.
 - d) It has been clarified that the restriction under rule 96(10) of the CGST Rules on claiming refund of IGST paid on import of goods applies only to those purchasers/importers who are directly purchasing/importing supplies on which the benefit of specified notifications is availed.

Once the refund claim is sanctioned, any error in such order should be appealed against by the sanctioning authority. The disbursement should not, however, be withheld.
 - e) In case of any deficiency in the refund claim filed, a deficiency memo is to be issued and the amount of credit already debited would be re-credited. Further, the refund would have to be filed afresh. Show cause notices are not required to be issued where the deficiency memo is issued.

(Circular No. 59/33/2018-GST dated 04 September 2018)
- b) Clarifications relating to e-way bill for storing goods in transporter's godown state that:
 - a) Goods in movement, including when they are stored in the transporter's godown prior to delivery, would always be accompanied by a valid e-way bill.
 - b) Transporter's godown should be declared as an additional place of business by the consignee, if its goods are stored

there. Accordingly, transportation under e-waybill would be treated to be concluded once the goods have reached the transporter's godown.

- c) The movement from the transporter's godown to any other premises of the recipient would also attract the relevant provisions of e-way bill rules.
- d) The transporter would be required to maintain accounts and records as a warehouse keeper. The recipient taxpayer would also be responsible for

maintaining relevant accounts and records, including for goods stored at the transporter's godown.

(Circular No. 61/35/2018-GST dated 04 September 2018)

The takeaways

The clarifications issued would help the industry resolve certain ambiguities and computational anomalies (e.g. for refund claims). The industry would have expected that the retrospective amendment pertaining to denial of refund of IGST paid on export of goods should have been made on a prospective basis. The

release of annual return formats is an important development and would enable the industry to commence preparations for identifying various data points needed for the annual return. However, the additional compliances for transporter's warehouses will increase compliances, especially for the e-commerce sector.

The industry would now look forward to issuance of format of GST audit reports.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

Our Offices

Ahmedabad

1701, 17th Floor, Shapath V,
Opp. Karnavati Club,
S G Highway,
Ahmedabad – 380051
Gujarat
+91-79 3091 7000

Hyderabad

Plot no. 77/A, 8-2-624/A/1, 4th
Floor, Road No. 10, Banjara Hills,
Hyderabad – 500034
Telangana
+91-40 44246000

Gurgaon

Building No. 10, Tower - C
17th & 18th Floor,
DLF Cyber City,
Gurgaon – 122002
Haryana
+91-124 330 6000

Bengaluru

6th Floor
Millenia Tower 'D'
1 & 2, Murphy Road, Ulsoor,
Bengaluru – 560 008
Karnataka
+91-80 4079 7000

Kolkata

56 & 57, Block DN.
Ground Floor, A- Wing
Sector - V, Salt Lake
Kolkata – 700 091
West Bengal
+91-033 2357 9101/
4400 1111

Pune

7th Floor, Tower A - Wing 1,
Business Bay, Airport Road,
Yerwada, Pune – 411 006
Maharashtra
+91-20 4100 4444

Chennai

8th Floor
Prestige Palladium Bayan
129-140 Greams Road
Chennai – 600 006
Tamil Nadu
+91 44 4228 5000

Mumbai

PwC House
Plot No. 18A,
Guru Nanak Road (Station Road),
Bandra (West), Mumbai – 400 050
Maharashtra
+91-22 6689 1000

For more information

Contact us at
pwctr.knowledgemanagement@in.pwc.com

About PwC

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 158 countries with more than 236,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com

In India, PwC has offices in these cities: Ahmedabad, Bangalore, Chennai, Delhi NCR, Hyderabad, Jamshedpur, Kolkata, Mumbai and Pune. For more information about PwC India's service offerings, visit www.pwc.com/in

PwC refers to the PwC International network and/or one or more of its member firms, each of which is a separate, independent and distinct legal entity. Please see www.pwc.com/structure for further details.

©2018 PwC. All rights reserved

Follow us on:



For private circulation only

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PwCPL, its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. Without prior permission of PwCPL, this publication may not be quoted in whole or in part or otherwise referred to in any documents.

© 2018 PricewaterhouseCoopers Private Limited. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Private Limited (a limited liability company in India having Corporate Identity Number or CIN : U74140WB1983PTC036093), which is a member firm of PricewaterhouseCoopers International Limited (PwCIL), each member firm of which is a separate legal entity.