

Key Amendments Notified by the Government between 4th – 13th September

- The Government has notified the **format of annual return** vide Notification no. 39/2018 dated 4th September 2018. The said return is required to be filed by every registered person other than an ISD, person paying TDS or TCS, casual taxable person and non-resident taxable person on or before 31st December 2018. The following are the major constituents of the said return:
 - Outward supplies made during the year including the tax amount paid on them
 - Inward supplies on which tax has been paid under reverse charge
 - Credit, debit notes and amendments to the outward supplies
 - Any outward supplies on which no tax liability is involved (Exempted, NIL rated, Non GST supplies etc.)
 - Bifurcation of all inward supplies into inputs, capital goods and input services including the ITC taken on them (this may not be readily available for every registered person and may require substantial additional work to be performed)
 - Transitional credit taken through TRAN-1 and TRAN-2
 - Reversal of credit due to it being blocked or being attributable to exempt supply
 - Comparison of credit between GSTR 2A and 3B along with explanation of the difference being relatable to credit not availed or ineligible ITC (This can be a challenging task as the difference between 2A and 3B may be vitiated due to a number of reasons which are not specified in the form)
 - Total credit lapsed during the year
 - The details of actual tax paid during the year through Form GSTR 3B
 - Any amendments made in outward supplies along with tax amount or input tax credit made during the period April – September 2018 of the same belonging to the year 2017-18
 - Particulars of demand and refund
 - Supplies received from composition dealers, deemed supplies for goods sent on job work and goods sent on approval basis
 - HSNwise summary of outward supplies and inward supplies (Finding HSNwise inward supplies can be a mammoth task as the data may not be readily available with a registered person)

(Notification no. 39/2018-Central tax dated 4th September 2018)

- The **format of GST reconciliation** has also been notified in Form GSTR 9C. Along with this the certification in Part B by the auditor making the reconciliation has also been notified. As per Section 35(5), every registered person whose turnover in a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or cost accountant. As per Rule 80(3), every person whose aggregate turnover exceeds Rs. 2

crores in a financial year is required to get his accounts audited under the GST law. The format of GSTR 9C requires the following major reporting to be made:

- Reconciliation between the gross turnover and taxable turnover as per audited financial statements and as declared in the annual return along with the specification of the unreconciled differences if any
- Reconciliation of tax payable as per the computation in GSTR 9C and the actual tax paid as per the annual return
- Any additional tax liability that may be occurring due to the reconciliation
- Reconciliation of the input tax credit as per the audited financial statements and the annual return along with the specification of the unreconciled differences if any
- Enumeration of all the list of expenses along with the total value, total amount of ITC available and the eligible ITC availed on them. Any unreconciled between the ITC as per books and annual return is to be specified
- Auditor's recommendation on additional tax liability due to the non-reconciliation if any

(Notification no. 49/2018-Central tax dated 13th September 2018)

- The **provisions of TDS** have been notified to be applicable from **1st October 2018**. Certain specified category of registered persons will be required to deduct tax at the rate of 1%(CGST) + 1% (SGST) = 2% from the total payment made or credited to the supplier of goods or services or both where the total value of supply under the contract exceeds Rs. 250,000. Where the location of the supplier and the place of supply of the recipient is different from the state where the recipient is registered, no deduction will be made. The specified category of registered persons are:
 - An authority or board or any other body set up by an Act of Parliament or a State legislature or established by the Government with 51% or more participation by way of equity or control to carry out any function
 - Society established by CG or SG of LA under the Societies Registration Act 1860
 - Public Sector Undertakings

(Notification no. 50/2018-Central Tax dated 13th September 2018)

- The **provisions of TCS** have been notified to be applicable from **1st October 2018**. Every electronic commerce operator shall collect tax at the rate of 1%(CGST) + 1% (SGST) = 2% of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator. This will not include supplies made through e-commerce operator under Section 9(5).

(Notification no. 51/2018-Central Tax dated 13th September 2018)

- Proper officer may issue notice for **cancellation of registration** in situations wherein the return is not furnished by a person for a specified tax period. It has now been provided if the person instead of replying to the notice, **furnishes all the pending returns** and makes full payment of taxes along with interest and late fees, the proper officer can **drop the proceedings** of cancellation.

(Notification no. 39/2018-Central tax dated 4th September 2018)

- The law prescribes the depiction of certain particulars in the **tax paying documents** (like invoice) on which input tax credit can be taken. It has now been stated even if the said document **does not contain all the specified particulars** but contains the details of tax charged, description of goods or services or both, GSTIN of supplier and recipient and place of supply in case of inter state supply, **input tax credit can be availed**

(Notification no. 39/2018-Central tax dated 4th September 2018)

- In case of **transportation of goods** in semi knocked down or completely knocked down condition, transportation **on the basis of delivery challan** and a certified copy of the invoice is allowed. This is now enabled in case of transportation of goods in batches or lots as well. So, in case of transportation of goods by **batches or lots**, the following steps are to be taken:
 - Supplier is required to issue the invoice before dispatch of the first consignment
 - Supplier shall issue a delivery challan for each of the subsequent consignments giving reference of the invoice
 - Each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice
 - Original copy of the invoice shall be sent along with the last consignment

(Notification no. 39/2018-Central tax dated 4th September 2018)

- Rule 89(4) prescribes the calculation for the refund amount in case of zero rated supplies of goods and services. For the purpose of this calculation, both the turnover of zero rated supplies and Adjusted total turnover need to be computed. With regard to services:
Zero rated supply of services = Aggregate payment received for zero rated supply of services + zero rated supply of services where supply has been completed for which payment had been received in prior period – advances received for which supply has not been completed
In calculation of adjusted total turnover, the total turnover of zero rated supply of services used to be taken. This calculation of **adjusted total turnover** has now been made **consistent with the numerator** which depicts the computation of **zero rated supply of**

services. The aggregate amount of zero rated supplies of services for which payment is not yet received formed the part of the adjusted total turnover earlier. This will not be considered anymore as part of adjusted total turnover. Only actual amount which is part of zero rated supply of services will be taken for computation of adjusted total turnover also.

(Notification no. 39/2018-Central tax dated 4th September 2018)

- With effect from 23rd October 2017, it has been stated the person claiming refund of integrated tax paid on export of goods or services should not have:
 - received supplies on which benefit under Notification no. 48/2017-CT, 40/2017-CT(rate) or 41/2017-IT has been availed
 - availed the benefit under Notification no. 78 and 79/2017-Customs

(Notification no. 39/2018-Central tax dated 4th September 2018)

- It has been specified that in case of **import of goods**, the person in charge of the conveyance is required to **carry the copy of the bill of entry** filed by the importer and shall indicate the number of the bill of entry in the ewaybill

(Notification no. 39/2018-Central tax dated 4th September 2018)

- The **new format** for submission of **ITC-04** has been specified. The said form is in respect of inputs/capital goods sent and received back from job worker after job work

(Notification no. 39/2018-Central tax dated 4th September 2018)

- **Late Fees** has been **waived** for the following category of taxpayers:
 - Registered persons whose return in **Form GSTR 3B** for the month of **October 2017 was submitted but not filed**
 - Registered persons who have filed the return in **Form GSTR 4 for the period October 2017 to December 2017**
 - **Input Service Distributors** who have paid **late fees** for filing return in Form GSTR 6 for any tax period **between 1st Jan 2018 to 23rd Jan 2018**

(Notification no. 41/2018-Central tax dated 4th September 2018)

➤ The following due dates have been notified by the Government for various forms:

SI No	Form	Description	Period	Due date	Notification
1	GST ITC-04	Details of goods/capital goods sent to job worker and received back	July 2017 - June 2018	30th Sept 2018	40/2018-CT dtd 4th Sept 2018
2	GST ITC-01	ITC as per Section 18(1) by those persons who have filed GST CMP-04 between 2nd March - 31st March 2018		30 days from publication of notification	42/2018-CT dtd 4th Sept 2018
3	Form GSTR-1	Persons having aggregate turnover upto Rs. 1.5 cr in preceding FY	July 2017 - Sept 2018	31st October 2018	43/2018-CT dtd 10th Sept 2018
4	Form GSTR-1	Persons having aggregate turnover upto Rs. 1.5 cr in preceding FY	Oct - Dec 2018	31st January 2019	43/2018-CT dtd 10th Sept 2018
5	Form GSTR-1	Persons having aggregate turnover upto Rs. 1.5 cr in preceding FY	Jan - Mar 2019	30th April 2019	43/2018-CT dtd 10th Sept 2018
6	Form GSTR-1	Persons having aggregate turnover more than Rs. 1.5 cr in preceding FY	July 2017 - Sept 2018	31st October 2018	44/2018-CT dtd 10th Sept 2018
7	Form GSTR-1	Persons having aggregate turnover more than Rs. 1.5 cr in preceding FY	Oct 2018 - Mar 2019	11th day of next month	44/2018-CT dtd 10th Sept 2018
8	Form GSTR-1	Persons having aggregate turnover more than Rs. 1.5 cr in preceding FY with GSTIN in terms of Not. 31/2018	July 2017 - Nov 2018	31st December 2018	44/2018-CT dtd 10th Sept 2018
9	Form GSTR-3B	Persons with GSTIN in terms of Not. 31/2018	July 2017 - Nov 2018	31st December 2018	45/2018-CT dtd 10th Sept 2018
10	GST TRAN-1	Persons who could not submit the form by the due date due to technical difficulties		31st March 2019	48/2018-CT dtd 10th Sept 2018
11	GST TRAN-2	Persons who could not submit the form by the due date due to technical difficulties	July - Dec 2017	30th April 2019	48/2018-CT dtd 10th Sept 2018

➤ In case a consignment of goods is accompanied with an **invoice** or any other specified document and also an **e-way bill, proceedings under section 129** of the CGST Act in respect of detention and seizure **may not be initiated**, inter alia, in the following situations:

a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;

- b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
- c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- d) Error in one or two digits of the document number mentioned in the e-way bill;
- e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
- f) Error in one or two digits/characters of the vehicle number. 6.

In case of the above situations, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis

(Circular no. 64/2018-Central tax dated 14th September 2018)

- GST on **PSLCs** for the period **1.7.2017 to 27.05.2018** will be paid by the seller bank on **forward charge** basis and GST rate of 12% will be applicable on the supply

(Circular no. 62/2018-Central tax dated 12th September 2018)

- In case the consignee/ recipient **taxpayer stores his goods in the godown of the transporter**, then the transporter's godown has to be declared as an **additional place of business** by the recipient taxpayer. In such cases, mere declaration by the recipient taxpayer to this effect with the concurrence of the transporter in the said declaration will suffice. Where the transporter's godown has been declared as the additional place of business by the recipient taxpayer, the **transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's godown** (recipient taxpayer' additional place of business). Hence, e-way bill validity in such cases will not be required to be extended.

Further, **whenever the goods are transported from the transporters' godown** , which has been declared as the additional place of business of the recipient taxpayer, to any other premises of the recipient taxpayer then, **the relevant provisions of the e-way bill rules shall apply**. Hence, whenever the goods move from the transporter's godown (i.e, recipient taxpayer's additional place of business) to the recipient taxpayer's any other

place of business, a valid e-way bill shall be required, as per the extant State-specific e-way bill rules.

Further, the obligation of the transporter to maintain accounts and records as specified in section 35 of the CGST Act read with rule 58 of the CGST Rules shall continue as a warehousekeeper. Furthermore, the recipient taxpayer shall also maintain accounts and records as required under rules 56 and 57 of the CGST Rules. Furthermore, as per rule 56 (7) of the CGST Rules, books of accounts in relation to goods stored at the transporter's godown (i.e., the recipient taxpayer's additional place of business) by the recipient taxpayer may be maintained by him at his principal place of business. It may be noted that the facility of declaring additional place of business by the recipient taxpayer is in no way putting any additional compliance requirement on the transporters.

(Circular no. 61/2018-Central tax dated 4th September 2018)

- It may be noted that the crucial factor is how to determine whether the agent is wearing the representative hat and is supplying or receiving goods on behalf of the principal. Since in the commercial world, there are various factors that might influence this relationship, it would be more prudent that an objective criteria is used to determine whether a particular principal-agent relationship falls within the ambit of the said entry or not. Thus, the key ingredient for determining 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 or not. Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of the said entry. However, it may be noted that in cases **where the invoice is issued by the agent to the customer in the name of the principal**, such **agent shall not fall within the ambit of Schedule I** of the CGST Act. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered Circular No. 57/31/2018-GST Page 3 of 4 by the said entry. In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

(Circular no. 57/2018-Central tax dated 4th September 2018)

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