Law and Provisions under CGST
Chapter 21 – MISCELLANEOUS

21.0 MISCELLANEOUS – The provisions related to Miscellaneous - Job work procedure, Presumption as to documents in certain cases, Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence, Common Portal, Deemed exports, Special procedure for certain processes, Goods and services tax compliance rating, Obligation to furnish information return, **Power to call for information,** Bar on disclosure of information, Taking assistance from an expert, Burden of proof, Persons deemed to be public servants, Protection of action taken under this Act, Disclosure of information by a public servant, Publication of information in respect of persons in certain cases, Assessment proceedings, etc., not to be invalid on certain grounds, Rectification of errors apparent on the face of record, Bar on jurisdiction of civil courts, Levy of fee, Power of Government to make rules, Power to make regulations. Laying of rules, regulations and notifications, Delegation of powers, Power to issue instructions or directions, Power of Government to extend time limit in special circumstances, Service of notice in certain circumstances, Rounding off of tax, etc, Anti profiteering measure, Removal of difficulties, Amendment of Act 32 of 1994 and Repeal and saving are covered under Chapter XXI of the CGST Act 2017 from Section 143 to Section 174.

The Central Government has appointed the 1st day of July, 2017, as the date on which the provisions of these sections came in to force vide Notification No. 09/2017-Central Tax,dt. 28-06-2017 except Section 146 and 164 which came into force w.e.f. 21.06.2017 Notification No. 01/2017-Central Tax, dated. 19-06-2017.

Chapter XXI of CGST Act 2017 – Miscellaneous	
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21.1 Job work procedure. [Section 143]

Section 143(1)	01.07.2017 to till date	A registered person (hereafter in this section referred to as the "principal") may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,— (a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years,

		respectively, of their being sent out, to any of his place of business, without payment of tax; (b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:
First Proviso	01.07.2017 to till date	**Provided that** the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his additional place of business except in a case— (i) where the job worker is registered under section 25; or (ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.
Second Proviso	01.02.2019 to till date	[1][**Provided further that** the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.] 1 Inserted w.e.f. 01.02.2019 vide Section 29 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.
Section 143(2)	01.07.2017 to till date	The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.
Section 143(3)	01.07.2017 to till date	Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.
Section 143(4)	01.07.2017 to till date	Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

Section 143(5)	01.07.2017 to till date	Notwithstanding anything contained in sub-sections (1) and (2), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.
Explanation	01.07.2017 to till date	For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

21.1.1.1 Departmental Notification – Extention of the due date for submission of details in FORM GST-ITC-04

Notification No. 53/2017 – Central Tax dated 28th October, 2017 - The Commissioner, with the approval of the Board, has extended the time limit for making the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the quarter July to September, 2017, till the 30th day of November, 2017.

Further, Notification No. 63/2017 – Central Tax dated 15th November, 2017 has amended Notification No. 53/2017 – Central Tax dated 28th October, 2017 , namely:-

In the said notification, for the words, figures and letters “the 30th day of November, 2017”, the words, figures and letters “the 31st day of December, 2017” shall be substituted.

Further, Notification No. 40/2018 – Central Tax dated 4th September, 2018 has superseded Notification No. 53/2017 – Central Tax dated 28th October, 2017, except as respects things done or omitted to be done before such supersession, the Commissioner, hereby extends the time limit for making the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to June, 2018 till the 30th day of September, 2018.

Further, Notification No. 59/2018 – Central Tax dated 26th October, 2018 has superseded Notification No. 40/2018 – Central Tax dated 4th September, 2018 , except as respects things done or omitted to be done before such supercession, the Commissioner, hereby extends the time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 till the 31st day of December, 2018.

Further, Notification No. 78 /2018 – Central Tax dated 31st December, 2018 has superseded Notification No. 59/2018 – Central Tax dated 26th October, 2018 , except as respects things done or omitted to be done before such supercession, the Commissioner, hereby extends the time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to December, 2018 till the 31st day of March, 2019.

Further, Notification No. 15/2019 – Central Tax dated 28th March ,2019 has superseded Notification No. 78 /2018 – Central Tax dated 31st December, 2018 , except as respects things done or omitted to be done before such supercession, the Commissioner, hereby extends the

time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to March, 2019 till the 30th day of June, 2019.

Further, Notification No. 32/2019 – Central Tax dated 28th June, 2019 has superseded Notification No. 15/2019 – Central Tax dated 28th March ,2019, except as respects things done or omitted to be done before such supercession, the Commissioner, hereby extends the time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to June, 2019 till the 31 st day of August, 2019.

Notification No. 38/2019 – Central Tax dated 31st August, 2019 - The Central Government, on the recommendations of the Council, has notified the registered persons required to furnish the details of challans in FORM ITC-04 under sub-rule (3) of rule 45 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), read with section 143 of the said Act, as the class of registered persons who shall follow the special procedure such that the said persons shall not be required to furnish FORM ITC-04 under subrule (3) of rule 45 of the said rules for the period July, 2017 to March, 2019:

Provided that the said persons shall furnish the details of all the challans in respect of goods dispatched to a job worker in the period July, 2017 to March, 2019 but not received from a job worker or not supplied from the place of business of the job worker as on the 31st March, 2019, in serial number 4 of FORM ITC-04 for the quarter April-June, 2019.

Notification No. 87/2020 – Central Tax dated 10th November, 2020 effective from 25th day of October, 2020 - The Commissioner, with the approval of the Board, has extended the time limit for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2020 to September, 2020 till the 30th day of November, 2020.

Notification No. 11/2021 – Central Tax dated 1st May, 2021 effective from 25th day of April, 2021. - The Commissioner, with the approval of the Board, has extended the time period upto the 31st day of May, 2021, for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker, during the period from 1 st January, 2021 to 31st March, 2021.

Further, Notification No. 26/2021 – Central Tax dated 1st June, 2021 effective from 31st day of May, 2021 has amended Notification No. 11/2021 – Central Tax dated 1st May, 2021, namely:

In the said notification, in the first paragraph, for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30 th day of June, 2021” shall be substituted.

21.1.2.1 Departmental Clarifications - Clarification on taxability of custom milling of paddy.- Circular No. 19/19/2017-GST dated 20th November 2017

Representations have been received seeking clarification on whether custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017.

2. The matter has been examined. S. No 55 of Notification 12/2017- Central Tax (Rate) exempts carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce. Agricultural produce has been defined in the notification to mean, any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. **Job work** has been defined under section 2 (68) of the CGST Act to mean any treatment or process undertaken by a person on goods belonging to another registered person. Further, under Schedule II (para 3) of the CGST Act, any treatment or process which is applied to another person's goods is a supply of service.

3. Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.

4. In view of the above, it is clarified that milling of paddy into rice is not eligible for exemption under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017 and corresponding notifications issued under IGST and UTGST Acts.

5. GST rate on services by way of **job work** in relation to all food and food products falling under Chapters 1 to 22 has been reduced from 18% to 5% vide notification No. 31/2017-CT(R) [notification No. 11/2017-CT (Rate) dated 28.6.17, S.No. 26 refers]. Therefore, it is hereby clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice).

21.1.2.2 Departmental Clarifications - Clarification on issues related to Job Work - Circular No.38/12/2018 dated 26th March, 2018

Various representations have been received regarding the procedures to be followed for sending goods for job work and the related compliance requirements for the principal and the job worker. In view of the difficulties being faced by the taxpayers and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax

Act, 2017, (hereinafter referred to as the “CGST Act”) hereby clarifies the various issues raised as below:

2. As per clause (68) of section 2 of the CGST Act, 2017, “job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the “Principal” for the purposes of section 143 of the CGST Act. The said section which encapsulates the provisions related to job work, provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and, if required, from there subsequently to another job worker and so on. Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools).

3. It may be noted that the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal. Moreover, if the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out. It may be noted that the responsibility for sending the goods for job work as well as bringing them back or supplying them has been cast on the principal.

4. With respect to the above legal requirements, various issues have been raised on the following aspects:

a. Scope / ambit of job work;

b. Requirement of registration for a principal / job worker;

c. Supply of goods by the principal from the job worker’s place of business / premises;

d. Movement of goods from the principal to the job worker and the documents and intimation required therefor;

e. Liability to issue invoice, determination of place of supply and payment of GST; and

f. Availability of input tax credit to the principal and the job worker.

5. Scope/ambit of job work: Doubts have been raised on the scope of job work and whether any inputs, other than the goods provided by the principal, can be used by the job worker for providing the services of job work. It may be noted that the definition of job work, as contained in clause (68) of section 2 of the CGST Act, entails that the job work is a treatment or process undertaken by a person on goods belonging to another registered person. Thus, the job worker is expected to work on the goods sent by the principal and whether the activity is covered within the scope of job work or not would have to be determined on the basis of facts and circumstances of each case. Further, it is clarified that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.

6. Requirement of registration for the principal/ job worker: It is important to note that the provisions of section 143 of the CGST Act are applicable to a registered person. Thus, it is

only a registered person who can send the goods for job work under the said provisions. It may also be noted that the registered person (principal) is not obligated to follow the said provisions. It is his choice whether or not to avail or not to avail of the benefit of these special provisions.

6.1 Doubts have been raised about the requirement of obtaining registration by job workers when they are located in the same State where the principal is located or when they are located in a State different from that of the principal. It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit (i.e. Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir) in case both the principal and the job worker are located in the same State. Where the principal and the job worker are located in different States, the requirement for registration flows from clause (i) of section 24 of the CGST Act which provides for compulsory registration of suppliers making any inter-State supply of services. However, exemption from registration has been granted in case the aggregate turnover of the interState supply of taxable services does not exceed Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir in a financial year vide notification No. 10/2017 – Integrated Tax dated 13.10.2017. Therefore, it is clarified that a job worker is required to obtain registration only in cases where his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit regardless of whether the principal and the job worker are located in the same State or in different States.

7. Supply of goods by the principal from job worker's place of business / premises: Doubts have been raised as to whether the principal can supply goods directly from the job worker's place of business / premises to its end customer and if yes, whether the supply will be regarded as having been made by the principal or by the job worker. It is clarified that the supply of goods by the principal from the place of business / premises of the job worker will be regarded as supply by the principal and not by the job worker as specified in section 143(1)(a) of the CGST Act.

8. Movement of goods from the principal to the job worker and the documents and intimation required therefor:

8.1 Issues: Doubts have been raised about the documents required to be issued for sending the goods (i) by the principal to the job worker, (ii) from one job worker to another job worker; and (iii) from the job worker back to the principal.

8.2 Legal provisions: Section 143 of the CGST Act provides that the principal may send and/or bring back inputs/capital goods for job work without payment of tax, under intimation to the proper officer and subject to the prescribed conditions. Rule 45 of the CGST Rules provides that the inputs, semi-finished goods or capital goods being sent for job work (including that being sent from one job worker to another job worker for further job work or those being sent directly to a job worker) shall be sent under the cover of a challan issued by the principal, containing the details specified in rule 55 of the CGST Rules. This rule has been amended vide notification No. 14/2018-Central tax dated 23.03.2018 to provide that a job worker may endorse the challan issued by the principal. The principal is also required to file FORM GST ITC-04 every quarter stating the said details. Further, as per the provisions contained in rule 138 of the CGST Rules, an e-way bill is required to be generated by every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees even in cases where such movement is for reasons other than for supply (e.g. in case of movement for job work). Further, the third proviso to rule 138(1) of the CGST Rules provides that the e-way bill shall be generated either by the principal or by the registered

job worker irrespective of the value of the consignment, where goods are sent by a principal located in one State/Union territory to a job worker located in any other State/ Union territory.

8.3 As mentioned above, rule 45 of the CGST Rules provides that inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including in cases where such goods are sent directly to a job worker. Further, rule 55 of the CGST Rules provides that the consignor may issue a delivery challan containing the prescribed particulars in case of transportation of goods for job work. It may be noted that rule 45 provides for the issuance of a challan by the principal whereas rule 55 provides that the consignor may issue the delivery challan. It is also important to note that as per the provisions contained in rule 138 of the CGST Rules, an e-way bill is required to be generated by every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees even in cases where such movement is for reasons other than for supply (e.g. in case of movement for job work). The third proviso to rule 138(1) of the CGST Rules provides that the e-way bill shall be generated either by the principal or by the registered job worker irrespective of the value of the consignment, where goods are sent by a principal located in one State/Union territory to a job worker located in any other State/ Union territory. It may also be noted that as per Explanation 1 to rule 138(3) of the CGST Rules, where the goods are supplied by an unregistered supplier to a registered recipient, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods. In other words, the e-way bill shall be generated by the principal, wherever required, in case the job worker is unregistered.

8.4 Clarification: On conjoint reading of the relevant legal provisions, the following is clarified with respect to the issuance of challan, furnishing of intimation and other documentary requirements in this regard:

(i) **Where goods are sent by principal to only one job worker**: The principal shall prepare in triplicate, the challan in terms of rules 45 and 55 of the CGST Rules, for sending the goods to a job worker. Two copies of the challan may be sent to the job worker along with the goods. The job worker should send one copy of the said challan along with the goods, while returning them to the principal. The FORM GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act, 2017.

(ii) **Where goods are sent from one job worker to another job worker**: In such cases, the goods may move under the cover of a challan issued either by the principal or the job worker. In the alternative, the challan issued by the principal may be endorsed by the job worker sending the goods to another job worker, indicating therein the quantity and description of goods being sent. The same process may be repeated for subsequent movement of the goods to other job workers.

(iii) **Where the goods are returned to the principal by the job worker**: The job worker should send one copy of the challan received by him from the principal while returning the goods to the principal after carrying out the job work.

(iv) **Where the goods are sent directly by the supplier to the job worker**: In this case, the goods may move from the place of business of the supplier to the place of business/premises of the job worker with a copy of the invoice issued by the supplier in the name of the buyer (i.e. the principal) wherein the job worker's name and address should also be mentioned as the consignee, in terms of rule 46(o) of the CGST Rules. The buyer (i.e., the principal) shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly in terms of para (i) above. In case of import of goods by the principal which are then supplied

directly from the customs station of import, the goods may move from the customs station of import to the place of business/premises of the job worker with a copy of the Bill of Entry and the principal shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly.

v) **Where goods are returned in piecemeal by the job worker**: In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker to another job worker or to the principal, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker.

(vi) **Submission of intimation**: Rule 45(3) of the CGST Rules provides that the principal is required to furnish the details of challans in respect of goods sent to a job worker or received from a job worker or sent from one job worker to another job worker during a quarter in FORM GST ITC-04 by the 25th day of the month succeeding the quarter or within such period as may be extended by the Commissioner. It is clarified that it is the responsibility of the principal to include the details of all the challans relating to goods sent by him to one or more job worker or from one job worker to another and its return therefrom. The FORM GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act.

9. **Liability to issue invoice, determination of place of supply and payment of GST:**

9.1 Issues: Doubts have been raised about the time, value and place of supply in the hands of principal or job worker as also about the issuance of invoices by the principal or job worker, as the case may be, with regard to the supply of goods from principal to the recipient from the job worker's place of business / premises and the supply of services by the job worker.

9.2 Legal provisions: As mentioned earlier, section 143 of the CGST Act provides that the inputs/capital goods may be sent for job work without payment of tax and unless they are brought back by the principal, or supplied from the place of business / premises of the job worker within a period of one / three years, as the case may be, it would be deemed that such inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) have been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out. Further, the job worker is liable to pay GST on the supply of job work services.

9.3 The provisions relating to time of supply are contained in sections 12 and 13 of the CGST Act and that for determining the value of supply are in section 15 of the CGST Act. The provisions relating to place of supply are contained in section 10 of the IGST Act, 2017. Further, the provisions relating to the issuance of an invoice are contained in section 31 of the CGST Act read with rule 46 of the CGST Rules.

9.4 On conjoint reading of all the provisions, the following is clarified with respect to the issuance of an invoice, time of supply and value of supply:

(i) Supply of job work services: The job worker, as a supplier of services, is liable to pay GST if he is liable to be registered. He shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act. The value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal. Doubts have been raised whether the value of moulds and dies, jigs and fixtures or tools which have been provided by the principal to the job worker and have been used by the latter for providing job work services would be included in the value of job work services. In this regard, attention is invited to section 15 of the CGST Act which lays down the principles for determining the value of any supply

under GST. Importantly, clause (b) of sub-section (2) of section 15 of the CGST Act provides that any amount that the supplier is liable to pay in relation to the supply but which has been incurred by the recipient will form part of the valuation for that particular supply, provided it has not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.

(ii) **Supply of goods by the principal from the place of business/ premises of job worker**: Section 143 of the CGST Act provides that the principal may supply, from the place of business / premises of a job worker, inputs after completion of job work or otherwise or capital goods (other than moulds and dies, jigs and fixtures or tools) within one year or three years respectively of their being sent out, on payment of tax within India, or with or without payment of tax for exports, as the case may be. This facility is available to the principal only if he declares the job worker's place of business / premises as his additional place of business or if the job worker is registered.

Since the supply is being made by the principal, it is clarified that the time, value and place of supply would have to be determined in the hands of the principal irrespective of the location of the job worker's place of business/premises. Further, the invoice would have to be issued by the principal. It is also clarified that in case of exports directly from the job worker's place of business/premises, the LUT or bond, as the case may be, shall be executed by the principal. Illustration: The principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made from the job worker's place of business / premises, the invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply. In case the recipient is also located in State A, it will be an intra-State supply.

(iii) **Supply of waste and scrap generated during the job work**: Sub - section (5) of Section 143 of the CGST Act provides that the waste and scrap generated during the job work may be supplied by the registered job worker directly from his place of business or by the principal in case the job worker is not registered. The principles enunciated in para (ii) above would apply mutatis mutandis in this case.

9.5 Violation of conditions laid down in section 143: As per the provisions contained in section 143 of the CGST Act, if the inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) are neither received back by the principal nor supplied from the job worker's place of business within the specified time period, the inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) would be deemed to have been supplied by the principal to the job worker on the day when such inputs or capital goods were sent out to the first job worker.

9.6 Thus, if the inputs or capital goods are neither returned nor supplied from the job worker's place of business / premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for

registration in accordance with the provisions contained in the CGST Act read with the rules made thereunder. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

10. Availability of input tax credit to the principal and job worker: Doubts have been raised regarding the availability of input tax credit (ITC) to the principal in respect of inputs / capital goods that are directly received by the job worker. Doubts have also been raised whether the job worker is eligible for ITC in respect of inputs, etc. used by him in supplying job work services. It is clarified that, in view of the provisions contained in clause (b) of sub-section (2) of section 16 of the CGST Act, the input tax credit would be available to the principal, irrespective of the fact whether the inputs or capital goods are received by the principal and then sent to the job worker for processing, etc. or whether they are directly received at the job worker's place of business/premises, without being brought to the premises of the principal. It is also clarified that the job worker is also eligible to avail ITC on inputs, etc. used by him in supplying the job work services if he is registered.

2.1.2.3 Departmental Clarifications - Changes in Circulars issued earlier i.e. Circular No. 38/12/2018 dated 26.03.2018 under the CGST Act, 2017- Circular No. 88/07/2019-GST dated 1st February, 2019 (Job Work - Relevant excerpts)

The CGST (Amendment) Act, 2018, SGST Amendment Acts of the respective States, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and the GST (Compensation to States) (Amendment) Act, 2018 (hereafter referred to as the GST Amendment Acts) have been brought in force with effect from 01.02.2019.

2. Consequent to the GST Amendment Acts, the following circulars issued earlier under the CGST Act, 2017 are hereby amended with effect from 01.02.2019, to the extent detailed in the succeeding paragraphs.

4 Circular No. 38/12/2018 dated 26.03.2018

This circular is revised in view of the amendment carried out in section 143 of the CGST Act, 2017 vide section 29 of the CGST (Amendment) Act, 2018 empowering the Commissioner to extend the period for return of inputs and capital goods from the job worker. Further on account of amendment carried out in section 9(4) of the CGST Act, 2017 vide section 4 of the CGST (Amendment) Act, 2018 done in relation to reverse charge, certain amendments to the Circular are required. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

4.1 Original Para 2.

As per clause (68) of section 2 of the CGST Act, 2017…….. Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of

business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools).

4.2 Amended Para 2.

As per clause (68) of section 2 of the CGST Act, 2017, "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the "Principal" for the purposes of section 143 of the CGST Act. The said section which encapsulates the provisions related to job work, provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and, if required, from there subsequently to another job worker and so on. Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within the time specified under section 143.

4.3 Original Para 3.

It may be noted ……. Moreover, if the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out. …. ……cast on the principal.

4.4 Amended Para 3.

It may be noted that the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal. Moreover, if the time frame specified under section 143 for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within the specified time period (under section 143) of being sent out. It may be noted that the responsibility for sending the goods for job work as well as bringing them back or supplying them has been cast on the principal.

4.5 Original Para 6.1

Doubts have been raised ……... It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit (i.e. Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir) in case both the principal and the job worker are located in the same State. ……..…However, exemption from registration has been granted in case the aggregate turnover of the inter-State supply of taxable services does not exceed Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir in a financial year vide notification No. 10/2017 – Integrated Tax dated 13.10.2017. Therefore, ……. States.

4.6 Amended Para 6.1

Doubts have been raised about the requirement of obtaining registration by job workers when they are located in the same State where the principal is located or when they are located in a State different from that of the principal. It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit as specified in sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section in case both the principal and the job worker are located in the same State. Where the principal and the job worker are located in different States, the requirement for registration flows from clause (i) of section 24 of the CGST Act which provides for compulsory registration of suppliers making any inter-State supply of services. However, exemption from registration has been granted in case the aggregate turnover of the inter-State supply of taxable services does not exceed the specified threshold limit as specified in sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section in a financial year vide notification No. 10/2017 – Integrated Tax dated 13.10.2017 as amended vide notification No 3/2019- Integrated Tax, dated 29.01.19. Therefore, it is clarified that a job worker is required to obtain registration only in cases where his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit regardless of whether the principal and the job worker are located in the same State or in different States.

4.7 Original Para 9.4.(i.)

(i) Supply of job work services: The job worker, ……..not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.

4.8 Amended Para: 9.4.(i)

(i.) Supply of job work services :The job worker, as a supplier of services, is liable to pay GST if he is liable to be registered. He shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act. The value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal. Doubts have been raised whether the value of moulds and dies, jigs and fixtures or tools which have been provided by the principal to the job worker and have been used by the latter for providing job work services would be included in the value of job work services. In this regard, attention is invited to section 15 of the CGST Act which lays down the principles for determining the value of any supply under GST. Importantly, clause (b) of sub-section (2) of section 15 of the CGST Act provides that any amount that the supplier is liable to pay in relation to the supply but which has been incurred by the recipient will form part of the valuation for that particular supply, provided it has not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker.

4.9 Original Para 9.6

Thus, if the …….. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the rules made thereunder. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

4.10 Amended Para 9.6

Thus, if the inputs or capital goods are neither returned nor supplied from the job worker's place of business / premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the rules made thereunder. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

21.1.2.4 Departmental Clarifications - Clarifications of certain issues under GST - Circular No. 48/22/2018-GST dated 14th June, 2018 (Job Work - Relevant excerpts)

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl. No.	*Issue*	*Clarification*
3.	Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized input tax credit on account of inverted duty structure under section 54(3) of the CGST Act, 2017, even if the goods (fabrics) supplied are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017?	3.1 Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies of such goods. However, in case of fabric processors, the output supply is the supply of job work services and not of goods (fabrics). 3.2 Hence, it is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics)

		supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.

21.1.2.5 Departmental Clarifications - Clarification regarding applicability of GST on various goods and services- Circular No.52/26/2018-GST dated 9th August, 2018 (Job Work - Relevant excerpts)

Representations have been received seeking clarification in respect of applicable GST rates on the following items:

(x) Bus body building as supply of motor vehicle or job work

2. The matter has been examined. The issue-wise clarifications are discussed below:

12.1 **Applicable GST rate for bus body building activity**: Representations have been received seeking clarifications on GST rates on the activity of bus body building. The doubts have arisen on account of the fact that while **GST applicable on job work services is 18%**, the supply of motor vehicles attracts GST @ 28%.

12.2 Buses [motor vehicles for the transport of ten or more persons, including the driver] fall under headings 8702 and attract 28% GST. Further, chassis fitted with engines [8705] and whole bodies (including cabs) for buses [8707] also attract 28% GST. In this context, it is mentioned that the services of bus body fabrication on job work basis attracts 18% GST on such service. Thus, fabrication of buses may involve the following two situations:

a) Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the value of the bus.

b) Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work).

12.3 In the above context, it is hereby clarified that in case as mentioned at Para 12.2(a) above, the supply made is that of bus, and accordingly supply would attract GST @28%. In the case as mentioned at Para 12.2(b) above, fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.

21.1.2.6 Departmental Clarifications - Clarification on scope of the notification entry at item (id), related to job work, under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017- Circular No. 126/45/2019-GST dated 22nd November, 2019

I am directed to say that doubts have been raised with regard to scope of the notification entry at item (id) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28- 06-2017 inserted with effect from 01-10-2019 to implement the recommendation of the GST Council to reduce rate of GST on all job work services, which earlier attracted 18 % rate, to 12%. It has been stated that the entry at item (id) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017 inserted with effect from 01-10-2019, prescribes 12% GST rate for all services by way of job work. This makes the entry at item (iv) which covers "manufacturing services on physical inputs owned by others" with GST rate of 18%, redundant.

2. The matter has been examined. The entries at items (id) and (iv) under heading 9988 read as under:

(3)	(4)	(5)
(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;	6	-
(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) and (iii) above.	9	-

3. Job work has been defined in CGST Act as under.

"Job work means any treatment or processing undertaken by a person on goods belonging to another registered person and the expression 'job worker' shall be construed accordingly."

4. In view of the above, it may be seen that there is a clear demarcation between scope of the entries at item (id) and item (iv) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017. Entry at item (id) covers only job work services as defined in section 2 (68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging to another registered person. On the other hand, the entry at item (iv) specifically excludes the services covered by entry at item (id), and therefore, covers only such services which are carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.

21.1.2.7 Departmental Clarifications - Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws - Circular No. 138/08/2020-GST dated 06th May, 2020 (Job Work - Relevant excerpts)

Circular No.136/06/2020-GST, dated 03.04.2020 and Circular No.137/07/2020-GST, dated 13.04.2020 had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). Post issuance of the said clarifications, certain challenges being faced by

taxpayers in adhering to the compliance requirements under various other provisions of the CGST Act were brought to the notice of the Board, and need to be clarified.

2. The issues raised have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies as under:

Sl. No.	Issue	Clarification
Other COVID-19 related representations.		
5.	Sub-rule (3) of that rule 45 of CGST Rules requires furnishing of FORM GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker during a quarter on or before the 25th day of the month succeeding that quarter. Accordingly, the due date of filing of FORM GST ITC-04 for the quarter ending March, 2020 falls on 25.04.2020. Clarification has been sought as to whether the extension of time limit as provided in terms of notification No. 35/2020-Central Tax dated 03.04.2020 also covers furnishing of FORM GST ITC-04 for quarter ending March, 2020	Time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020 where completion or compliance of such action has not been made within such time. Accordingly, it is clarified that the due date of furnishing of FORM GST ITC-04 for the quarter ending March, 2020 stands extended up to 30.06.2020.

21.1.2.8 Departmental Clarifications - GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS- Circular No. 153/09/2021-GST dated 17th June, 2021 (Job Work - Relevant excerpts)

Certain representations have been received seeking clarification whether composite supply of service by way of milling of wheat into wheat flour, alongwith fortification, by any person to a State Government for distribution of such wheat flour under Public Distribution System is eligible for exemption under entry No. 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, and also as regards the rate of GST on such milling, if it does not fall in said entry No. 3A. The issue has been examined by GST Council in its 43rd meeting held on 28th May, 2021.

2. Entry at Sl. No. 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts “composite supply of goods and services in which the value of supply of goods

constitutes not more than 25 per cent of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution".

3. As per the recommendation of the GST Council the issue is clarified as below.

3.1 Public Distribution specifically figures at entry 28 of the 11th Schedule to the constitution, which lists the activities that may be entrusted to a Panchayat under Article 243G of the Constitution. Hence, said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice, provided that value of goods supplied in such composite supply (goods used for fortification, packing material etc) does not exceed 25% of the value of composite supply. It is a matter of fact as to whether the value of goods in such composite supply is up to 25% and requires ascertainment on case-to-case basis.

3.2 In case the supply of service by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption under Sl. No. 3 A of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 for the reason that value of goods supply in such a composite supply exceeds 25%, then the applicable GST rate would be 5% if such composite supply is provided to a registered person, **being a job work service** (entry No. 26 of notification No. 11/2017-Central Tax (Rate) dated 28.06.2017). Combined reading of the definition of job-work [section 2(68), 2(94), 22, 24, 25 and section 51] makes it clear that a person registered only for the purpose of deduction of tax under section 51 of the CGST Act is also a registered person for the purposes of the said entry No. 26, and thus said supply to such person is also entitled for 5% rate.

21.1.2.9 Departmental Clarifications - Clarifications regarding applicable GST rates & exemptions on certain services- Circular No. 164 /20 /2021-GST dated 6th October, 2021 (Job Work - Relevant excerpts)

Representations have been received seeking clarification in respect of applicable GST rates on the following activities:

> 9. Services supplied by contract manufacture to brand owners or others for manufacture of alcoholic liquor for human consumption.

2. The issues have been examined by GST Council in the 45rd meeting of the Council held on 17th September, 2021. The issue-wise clarifications are given below:

11. Services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption

11.1 Representations have been received requesting for issuing a clarification that the job work services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption attract GST @ 5% prescribed for **job work services** in relation to food and food products, in terms of Sl. No. 26 [Item 1(i)f] of notification No. 11/2017-Central Tax (R) dated 28-6-2017. This entry prescribes GST rate of 5% on services by way of job work in relation to food and food products falling under chapters 1 to 22 in the first Schedule to the Customs Tariff Act, 1975.

11.2 The issue was placed before the GST Council in its 45th meeting held on 17th September, 2021. The Council had also deliberated upon this issue in its 39th and 40th meeting.

11.3 As recommended by GST Council, it is clarified that the expression "food and food products" in the said entry excludes alcoholic beverages for human consumption. As such, in common parlance also alcoholic liquor is not considered as food. Accordingly, services by way of **job work** in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry. GST Council recommended that such job work would attract GST at the rate of 18%.

21.2 Presumption as to documents in certain cases. [Section 144]

Section 144	01.07.2017 to till date	Where any document— (i) is produced by any person under this Act or any other law for the time being in force; or (ii) has been seized from the custody or control of any person under this Act or any other law for the time being in force; or (iii) has been received from any place outside India in the course of any proceedings under this Act or any other law for the time being in force, and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall— (a) unless the contrary is proved by such person, presume— (i) the truth of the contents of such document; (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested; (b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

21.3 Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence. [Section 145]

Section 145(1)	01.07.2017 to till date	Notwithstanding anything contained in any other law for the time being in force,— (a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or (b) a facsimile copy of a document; or (c) a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or

		(d) any information stored electronically in any device or media, including any hard copies made of such information, shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.
Section 145(2)	01.07.2017 to till date	In any proceedings under this Act or the rules made thereunder, where it is desired to give a statement in evidence by virtue of this section, a certificate,— (a) identifying the document containing the statement and describing the manner in which it was produced; (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer, shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

21.4 Common Portal [Section 146]

Section 146	22.06.2017 to till date	The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

21.4.1.1 Departmental Notification – www.gst.gov.in as the Common Goods and Services Tax Electronic Portal

Notification No. 4/2017 – Central Tax dated 19th June, 2017 effective from 22nd day of June, 2017 - The Central Government has notified www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax and electronic way bill.

Explanation.- For the purposes of this notification, “www.gst.gov.in” means the website managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (18 of 2013).

Further, Notification No. 9/2018 – Central Tax dated 23rd January, 2018 effective from 16th day of January, 2018 has superseded Notification No. 4/2017 – Central Tax dated 19th June, 2017, except as respects things done or omitted to be done before such supersession, the Central Government has notified www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns and

computation and settlement of integrated tax and www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill.

Explanation.-

(1) For the purposes of this notification, "www.gst.gov.in" means the website managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (18 of 2013); and

(2) For the purposes of this notification, "www.ewaybillgst.gov.in" means the website managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India.

Notification No. 69/2019 – Central Tax dated 13th December, 2019 effective from 1st day of January, 2020 - The Central Government, on the recommendations of the Council, has notified the following as the Common Goods and Services Tax Electronic Portal for the purpose of preparation of the invoice in terms of sub-rule(4) of rule 48 of the aforesaid rules, namely:-

(i) www.einvoice1.gst.gov.in; (ii) www.einvoice2.gst.gov.in; (iii)www.einvoice3.gst.gov.in; (iv) www.einvoice4.gst.gov.in; (v) www.einvoice5.gst.gov.in; (vi) www.einvoice6.gst.gov.in; (vii) www.einvoice7.gst.gov.in; (viii) www.einvoice8.gst.gov.in; (ix) www.einvoice9.gst.gov.in; (x) www.einvoice10.gst.gov.in

Explanation.-For the purposes of this notification, the above mentioned websites mean the websites managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (18 of 2013).

21.5 Deemed exports [Section 147]

Section 147	01.07.2017 to till date	The Government may, on the recommendations of the Council, notify$ certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

21.5.1.1 Departmental Notification – Certain supplies as deemed exports under section 147 of the CGST Act, 2017

Notification No. 48/2017-Central Tax dated 18th October, 2017 - The Central Government, on the recommendations of the Council, hereby notifies the supplies of goods listed in column (2) of the Table below as deemed exports, namely:-

Table

S.No.	Description of supply
(1)	(2)
1.	Supply of goods by a registered person against Advance Authorisation

2.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
3.	Supply of goods by a registered person to Export Oriented Unit
4.	Supply of gold by a bank or Public Sector Undertaking specified in the Notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

Explanation - For the purposes of this notification, –

1. "Advance Authorisation" means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs on pre-import basis for physical exports.

2. Export Promotion Capital Goods Authorisation means an authorisation issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015- 20 for import of capital goods for physical exports.

3. "Export Oriented Unit" means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20.

Further, Notification No. 1/2019-Central Tax dated 15th January, 2019 has amended Notification No. 48/2017-Central Tax dated 18th October, 2017 , namely:–

In the said notification,

(i) In the Table, the column number (2) against S. No.1, after the entry, the following proviso shall be inserted, namely: -

"Provided that goods so supplied, when exports have already been made after availing input tax credit on inputs used in manufacture of such exports, shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant is submitted to the jurisdictional commissioner of GST or any other officer authorised by him within 6 months of such supply,; Provided further that no such certificate shall be required if input tax credit has not been availed on inputs used in manufacture of export goods.";

(ii) In the Explanation against serial number 1 the words "on pre-import basis" shall be omitted.

21.5.1.2 Departmental Notification – The evidences required to be produced by the supplier of deemed export supplies for claiming refund under rule 89(2)(g) of the CGST rules, 2017

Notification No. 49/2017-Central Tax dated 18th October, 2017 - the Central Government hereby notifies the following, as detailed in column (2) of the Table below, as evidences which are required to be produced by the supplier of deemed export supplies for claiming refund, namely:-

S.No.	Evidence

(1)	(2)
1	Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorisation or Export Promotion Capital Goods Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
2	An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him
3	An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

21.5.2.1 Departmental Clarifications - Procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act, 2017 - Circular No. 14/14 /2017 – GST dated 6th November, 2017

In accordance with the decisions taken by the GST Council in its 22nd meeting held on 06.10.2017 at New Delhi to resolve certain difficulties being faced by exporters post GST, it has been decided that supplies of goods by a registered person to EOUs etc. would be treated as deemed exports under Section 147 of the CGST Act, 2017 (hereinafter referred to as 'the Act') and refund of tax paid on such supplies can be claimed either by the recipient or supplier of such supplies. Accordingly, Notification No. 48/2017-Central Tax dated 18.10.2017 has been issued to treat such supplies to EOU / EHTP / STP / BTP units as deemed exports. Further, rule 89 of the CGST Rules, 2017 (hereinafter referred to as 'the Rules') has been amended vide Notification No. 47/2017- Central Tax dated 18.10.2017 to allow either the recipient or supplier of such supplies to claim refund of tax paid thereon.

2. For supplies to EOU / EHTP / STP / BTP units in terms of Notification No. 48/2017- Central Tax dated 18.10.2017, the following procedure and safeguards are prescribed –

(i) The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed proforma in "Form–A" (appended herewith) bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to –

(a) the registered supplier;

(b) the jurisdictional GST officer in charge of such registered supplier; and

(c) its jurisdictional GST officer.

(ii) The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.

(iii) On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to –

(a) the registered supplier;

(b) the jurisdictional GST officer in charge of such registered supplier; and

(c) its jurisdictional GST officer

(iv) The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.

(v) The recipient EOU / EHTP / STP / BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B" (appended herewith). The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in the Form-B are mandatory, the recipient units will be free to add or continue with any additional data fields, as per their commercial requirements. All recipient units are required to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit. The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by the proper officer, whenever required. A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month (by the 10th of month) in a CD or Pen drive, as convenient to the said unit.

3. The above procedure and safeguards are in addition to the terms and conditions to be adhered to by a EOU / EHTP / STP / BTP unit in terms of the Foreign Trade Policy, 2015- 20 and the duty exemption notification being availed by such unit.

21.5.2.2 Departmental Clarifications - Manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger- Circular No.24/24/2017-GST dated 21st December, 2017

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/documents/forms pertaining to refund claims on account of inverted duty structure (including supplies in terms of notification Nos. 40/2017-Central Tax (Rate) and 41/2017-

Integrated Tax (Rate) both dated 23.10.2017), deemed exports and excess balance in electronic cash ledger shall be filed and processed manually till further orders. In this regard, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 hereby clarifies that the provisions of Circular No. 17/17/2017-GST dated 15.11.2017 shall also be applicable to the following types of refund inasmuch as they pertain to the method of filing of the refund claim and its processing which is consistent with the relevant provisions of the CGST Act, 2017 (hereafter referred to as 'the CGST Act') and the CGST Rules, 2017 (hereafter referred to as 'the CGST Rules'):-

(i) refund of unutilized input tax credit where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) of goods or services or both except those supplies which are notified by the Government on the recommendations of the Council (section 54(3) of the CGST Act refers);

(ii) refund of tax on the supply of goods regarded as deemed exports; and

(iii) refund of balance in the electronic cash ledger.

2.0 It is clarified that refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly basis in FORM GST RFD-01A.However, in case registered persons having aggregate turnover of up to Rs1.5 crorein the preceding financial year or the current financial year are opting to file FORM GSTR-1 quarterly (notification No. 57/2017-Central Tax dated 15.11.2017 refers), such persons shall apply for refund on a quarterly basis. Further, it is stated that the refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period. It is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed. Since the date of furnishing of FORM GSTR 1 from July, 2017 onwards has been extended while the dates of furnishing of FORM GSTR 2 and FORM GSTR 3 for such period are yet to be notified, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture. However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim till the same is available in FORM RFD-01Aon the common portal.

3.0 In case of refund claim arising due to inverted duty structure, the following statements - Statement 1 and Statement 1Aof FORM GST RFD-01A have to be filled:-

Statement -1 [rule 89(5)]

Refund Type: ITC accumulated due to inverted tax structure [clause (*ii*) of first proviso to section 54(3)]

(*Amount in Rs*.)

Turnover of inverted rated supply of goods	Tax payable on such inverted rated supply of goods	Adjusted total turnover	Net input tax credit	Maximum refund amount to be claimed [(1×4÷3)-2]
1	*2*	*3*	*4*	*5*

Statement-1A [rule 89(2)(h)]

Refund type: ITC accumulated due to inverted tax structure [clause (*ii*) of first proviso to section 54(3)]

Sl. No.	Details of invoices of inward supplies received			Tax paid on inward supplies			Details of invoices of outward supplies issued			Tax paid on out ward supplies		
	No.	Date	Taxable Value	Integrated Tax	Central Tax	State/Union territory Tax	No.	Date	Taxable Value	Integrated Tax	Central Tax	State / Union territory Tax
1	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*	*11*	*12*	*13*

4.0 Whereas, the Government has issued notification No. 48/2017-Central Tax dated 18.10.2017 under section 147 of the CGST Act wherein certain supplies of goods have been notified as deemed export. Further, the third proviso to rule 89(1) of the CGST Rules allows the recipient or the supplier to apply for refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017-Central Tax dated 18.10.2017 are also required to be furnished which includes an undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and that no input tax credit on such supplies has been availed of by him. The undertaking should be submitted manually along with the refund claim. Similarly, in case the refund is filed by the recipient of

deemed export supplies, an undertaking by the supplier of deemed export supplies that he shall not claim the refund in respect of such supplies is also required to be furnished manually. The procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export as laid down in Circular No. 14/14/2017-GST dated 06.11.2017 needs to be complied with.

4.1 Further, as per the provisions of rule 89(2)(g) of the CGST Rules, the following statement 5B of FORM GST RFD-01A is required to be furnished for claiming refund on supplies declared as deemed exports:-

Statement-5B [rule 89(2)(g)]

Refund type: On account of deemed exports

(*Amount in Rs*.)

Sl. No.	*Details of invoices of outward supplies in case refund is claimed by supplier/Details of invoices of inward supplies in case refund is claimed by recipient*			*Tax paid*			
	No.	*Date*	*Taxable Value*	*Integrated Tax*	*Central Tax*	*State/Union Territory Tax*	*Cess*
1	*2*	*3*	*4*	*5*	*6*	*7*	*8*

5.0 It is reiterated that para 2.5 of Circular No. 17/17/2017-GST dated 15.11.2017 may be referred to in order to ascertain the jurisdictional proper officer to whom the manual application for refund is to be submitted. Where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST RFD-1B until the FORM GST PMT-03 is available on the common portal. Further, the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Central or State Government. Thus, the refund order issued either by the Central tax authority or the State tax/UT tax authority shall be communicated to the concerned counter- part tax authority within seven working days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be. This time limit of seven working days is also applicable to refund claims in respect of zero-rated supplies being processed as per Circular No. 17/17/2017-GST dated 15.11.2017 as against the time limit of three days prescribed in

para 4 of the said Circular. It must be ensured that the timelines specified under section 54(7) and rule 91(2) of the CGST Rules for the sanction of refund are adhered to.

6.0 In order to facilitate sanction of refund amount of central tax and State tax by the respective tax authorities, it has been decided that both the Central and State Tax authority shall nominate nodal officer(s) for the purpose of liasioning through a dedicated e-mail id. Where the amount of central tax and State tax refund is ordered to be sanctioned provisionally by the Central tax authority and a sanction order is passed in accordance with the provisions of rule 91(2) of the CGST Rules, the Central tax authority shall communicate the same, through the nodal officer, to the State tax authority for making payment of the sanctioned refund amount in relation to State tax and vice versa. The aforesaid communication shall primarily be made through e-mail attaching the scanned copies of the sanction order [FORM GST RFD-04 and FORM GST RFD-06], the application for refund in FORM GST RFD-01A and the Acknowledgement Receipt Number (ARN). Accordingly, the jurisdictional proper officer of Central or State Tax, as the case may be, shall issue FORM GST RFD-05 and send it to the DDO for onward transmission for release of payment. After release of payment by the respective PAO to the applicant's bank account, the nodal officer of Central tax and State tax authority shall inform each other. The manner of communication as referred earlier shall be followed at the time of final sanctioning of the refund also.

7.0 In case of refund claim for the balance amount in the electronic cash ledger, upon filing of FORM GST RFD-01A as per the procedure laid down in para 2.4 of Circular No. 17/17/2017-GST dated 15.11.2017, the amount of refund claimed shall get debited in the electronic cash ledger.

8.0 It is also clarified that the drawback of all taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax) should not have been availed while claiming refund of accumulated ITC under section 54(3)(ii) of the CGST Act. A declaration to this effect forms part of FORM GST RFD-01A as well.

21.5.2.3 Departmental Clarifications - Departmental Clarifications - Fully electronic refund process through FORM GST RFD-01 and single disbursement - The procedure for electronic submission and processing of refund applications in supersession of earlier Circulars viz. Circular No. 17/17/2017-GST dated 15.11.2017, 24/24/2017-GST dated 21.12.2017, 37/11/2018-GST dated 15.03.2018, 45/19/2018-GST dated 30.05.2018 (including corrigendum dated 18.07.2019), 59/33/2018-GST dated 04.09.2018, 70/44/2018-GST dated 26.10.2018, 79/53/2018-GST dated 31.12.2018 and 94/13/2019-GST dated 28.03.2019. - The provisions of the said Circulars shall continue to apply for

all refund applications filed on the common portal before 26.09.2019 and the said applications shall continue to be processed manually Circular No. 125/44/2019 – GST dated 18th November, 2019

After roll out of GST w.e.f. 01.07.2017, on account of the unavailability of electronic refund module on the common portal, a temporary mechanism had to be devised and implemented wherein applicants were required to file the refund application in FORM GST RFD-01A on the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents. Further processing of these refund applications, i.e. issuance of acknowledgement of the refund application, issuance of deficiency memo, passing of provisional/final order, payment advice etc. was also being done manually. In order to make the process of submission of the refund application electronic, Circular No. 79/53/2018-GST dated 31.12.2018 was issued wherein it was specified that the refund application in FORM GST RFD01A, along with all supporting documents, shall be submitted electronically. However, various post submission stages of processing of the refund application continued to be manual.

2. The necessary capabilities for making the refund procedure fully electronic, in which all steps of submission and processing shall be undertaken electronically, have been deployed on the common portal with effect from 26.09.2019. Accordingly, the Circulars issued earlier laying down the guidelines for manual submission and processing of refund claims need to be suitably modified and a fresh set of guidelines needs to be issued for electronic submission and processing of refund claims. With this objective and in order to ensure uniformity in the implementation of the provisions of law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby lays down the procedure for electronic submission and processing of refund applications in supersession of earlier Circulars viz. Circular No. 17/17/2017-GST dated 15.11.2017, 24/24/2017-GST dated 21.12.2017, 37/11/2018-GST dated 15.03.2018, 45/19/2018-GST dated 30.05.2018 (including corrigendum dated 18.07.2019), 59/33/2018-GST dated 04.09.2018, 70/44/2018-GST dated 26.10.2018, 79/53/2018-GST dated 31.12.2018 and 94/13/2019-GST dated 28.03.2019. However, the provisions of the said Circulars shall continue to apply for all refund applications filed on the common portal before 26.09.2019 and the said applications shall continue to be processed manually as prior to deployment of new system.

Filing of refund applications in FORM GST RFD-01

3. With effect from 26.09.2019, the applications for the following types of refunds shall be filed in FORM GST RFD 01 on the common portal and the same shall be processed electronically:

a. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;

b. Refund of tax paid on export of services with payment of tax;

c. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;

d. Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;

e. Refund of unutilized ITC on account of accumulation due to inverted tax structure;

f. Refund to supplier of tax paid on deemed export supplies;

g. Refund to recipient of tax paid on deemed export supplies;

h. Refund of excess balance in the electronic cash ledger;

i. Refund of excess payment of tax;

j. Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;

k. Refund on account of assessment/provisional assessment/appeal/any other order;

l. Refund on account of "any other" ground or reason.

4. The following modalities shall be followed for all refund applications filed in FORM GST RFD-01 on the common portal with effect from 26.09.2019:

a. FORM GST RFD-01 shall be filled on the common portal by an applicant seeking refund under any of the categories mentioned above. This shall entail filing of statements/declarations/undertakings which are part of FORM GST RFD-01 itself, and also uploading of other documents/invoices which shall be required to be provided by the applicant for processing of the refund claim. A comprehensive list of such documents is provided at Annexure-A and it is clarified that no other document needs to be provided by the applicant at the stage of filing of the refund application. The facility of uploading these other documents/invoices shall be available on the common portal where four documents, each of maximum 5MB, may be uploaded along with the refund application. Neither the refund application in FORM GST RFD-01 nor any of the supporting documents shall be required to be physically submitted to the office of the jurisdictional proper officer.

b. The Application Reference Number (ARN) will be generated only after the applicant has completed the process of filing the refund application in FORM GST RFD-01, and has completed uploading of all the supporting documents/ undertaking/ statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.

c. As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer who shall be able to view it on the system. The application shall be deemed to have been filed under sub-rule (2) of rule 90 of the CGST Rules on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement or a deficiency memo, as the case may be, shall be counted from the said date. This will obviate the need for an applicant to visit the jurisdictional tax office for the submission of the refund application and /or any of the supporting documents. Accordingly, the acknowledgement for the complete application (FORM GST RFD-02) or deficiency memo (FORM GST RFD-03), as the case may be, would be issued electronically by the jurisdictional tax officer based on the documents so received from the common portal.

d. If a refund application is electronically transmitted to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically as soon as possible, but not later than three working days, from the date of generation of the ARN. Deficiency memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction.

e. It may be noted that the facility to reassign such refund applications is already available with the Commissioner or the officer(s) authorized by him.

5. The refund application in FORM GST RFD-01 filed by all taxpayers, who have already been assigned to the Centre or the State tax authorities, shall be automatically forwarded by the common portal to the concerned authority. At the same time, there might be some migrated taxpayers, who have remained unassigned so far. The refund application in FORM GST RFD-01 filed by such unassigned taxpayers shall be forwarded, for processing, by the common portal to the jurisdictional proper officer of the tax authority from which the taxpayer has originally migrated. Such officers will continue to process these applications up to the stage of issuance of final order in FORM GST RFD-06 and the related payment order in FORM GST RFD-05 even if the applicant is assigned to the counterpart tax authority while the refund claim is under processing. However, if such an applicant gets assigned to one of the tax authorities after generation of the ARN and a deficiency memo gets issued for the refund application submitted by him, then the re-submitted refund application, after correction of deficiencies, shall be treated as a fresh refund application and shall be forwarded to the jurisdictional proper officer of the tax authority to which the taxpayer has now been assigned, irrespective of which authority handled the initial refund claim and issued the deficiency memo.

6. Any refund claim for a tax period may be filed only after furnishing all the returns in FORM GSTR-1 and FORM GSTR-3B which were due to be furnished on or before the date on which the refund application is being filed. However, in case of a claim for refund filed by a composition taxpayer, a non-resident taxable person, or an Input Service Distributor (ISD) furnishing of returns in FORM GSTR-1 and FORM GSTR-3B is not required. Instead, the applicant should have furnished returns in FORM GSTR-4(along with FORM GST CMP-08), FORM GSTR-5 or FORM GSTR-6, as the case may be, which were due to be furnished on or before the date on which the refund application is being filed.

7. Since the functionality of furnishing of FORM GSTR-2 and FORM GSTR-3 remains unimplemented, it has been decided by the GST Council to sanction refund of provisionally accepted input tax credit. However, the applicants applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of section 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted electronically along with the refund claim.

8. The applicant, at his option, may file a refund claim for a tax period or by clubbing successive tax periods. The period for which refund claim has been filed, however, cannot spread across different financial years. Registered persons having aggregate turnover of up to Rs. 1.5 crore in the preceding financial year or the current financial year opting to file FORM GSTR-1 on quarterly basis, can only apply for refund on a quarterly basis or clubbing successive quarters as aforesaid. However, refund claims under categories listed at (a), (c) and (e) in para 3 above must be filed by the applicant chronologically. This means that an applicant, after submitting a refund application under any of these categories for a certain period, shall not be subsequently allowed to file a refund claim under the same category for any previous period. This principle / limitation, however, shall not apply in cases where a fresh application is being filed pursuant to a deficiency memo having been issued earlier.

Deficiency Memos

9. It may be noted that if the application for refund is complete in terms of sub-rule (2), (3) and (4) of rule 89 of the CGST Rules, an acknowledgement in FORM GST RFD-02 should be issued within 15 days of the filing of the refund application. The date of generation of ARN for FORM GST RFD-01 is to be considered as the date of filing of the refund application. Sub-rule (3) of rule 90 of the CGST Rules provides for communication of deficiencies in FORM GST RFD-03 where deficiencies are noticed within the aforesaid period of 15 days. It is clarified that either an acknowledgement or a deficiency memo should be issued within the aforesaid period of 15 days starting from the date of generation of ARN. Once an acknowledgement has been issued in relation to a refund application, no deficiency memo, on any grounds, may be subsequently issued for the said application.

10. After a deficiency memo has been issued, the refund application would not be further processed and a fresh application would have to be filed. Any amount of input tax credit/cash debited from electronic credit/ cash ledger would be re-credited automatically once the deficiency memo has been issued. It may be noted that the re-credit would take place automatically and no order in FORM GST PMT-03 is required to be issued. The applicant is required to rectify the deficiencies highlighted in deficiency memo and file fresh refund application electronically in FORM GST RFD-01 again for the same period and this application would have a new and distinct ARN.

11. It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original deficiency memo remain un-rectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

12. It is also clarified that since a refund application filed after correction of deficiency is treated as a fresh refund application, such a rectified refund application, submitted after correction of deficiencies, shall also have to be submitted within 2 years of the relevant date, as defined in the explanation after sub-section (14) of section 54 of the CGST Act.

Provisional Refund

13. Doubts get raised as to whether provisional refund would be given even in those cases where the proper officer prima-facie has sufficient reasons to believe that there are irregularities in the refund application which would result in rejection of whole or part of the refund amount so claimed. It is clarified that in such cases, the proper officer shall refund on a provisional basis ninety percent of the refundable amount of the claim (amount of refund claim less the inadmissible portion of refund so found) in accordance with the provisions of rule 91 of the CGST Rules. Final sanction of refund shall be made in accordance with the provisions of rule 92 of the CGST Rules.

14. It is further clarified that there is no prohibition under the law preventing a proper officer from sanctioning the entire amount within 7 days of the issuance of acknowledgement through issuance of FORM GST RFD-06, instead of grant of provisional refund of 90 per cent of the amount claimed through FORM GST RFD-04. If the proper officer is fully satisfied about the eligibility of a refund claim on account of zero-rated supplies, and is of the opinion that no further scrutiny is required, the proper officer may issue final order in FORM GST RFD-06 within 7 days of the issuance of acknowledgement. In such cases, the issuance of a provisional refund order in FORM GST RFD-04 will not be necessary.

15. Further, there are doubts on the procedure to be followed in situations where the final refund amount to be sanctioned in FORM GST RFD-06 is less than the amount of refund

sanctioned provisionally through FORM GST RFD-04. For example, consider a situation where an applicant files a refund claim of Rs.100/- on account of zero-rated supplies. The proper officer, after prima-facie examination of the application, sanctions Rs. 90 as provisional refund through FORM GST RFD-04 and the same is electronically credited to his bank account. However, on detailed examination, it appears to the proper officer that only an amount of Rs. 70 is admissible as refund to the applicant. In such cases, the proper officer shall have to issue a show cause notice to the applicant, in FORM GST RFD-08, under section 54 of the CGST Act, read with section 73 or 74 of the CGST Act, requiring the applicant to show cause as to why:

(a) the amount claimed of Rs. 30/- should not be rejected as per the relevant provisions of the law; and

(b) the amount of Rs. 20/- erroneously refunded should not be recovered under section 73 or section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.

16. The proper officer for adjudicating the above case shall be the same as the proper officer for sanctioning refund under section 54 of the CGST Act. The above notice shall be adjudicated following the principles of natural justice and an order shall be issued, in FORM GST RFD-06, under section 54 of the CGST Act, read with section 73 or section 74 of the CGST Act, as the case may be. If the adjudicating authority decides against the applicant in respect of both points (a) and (b) above, then an amount of Rs. 70/- will have to be sanctioned in FORM GST RFD-06, and an amount of Rs. 20/-, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of FORM GST DRC-07. Further, if the application pertains to refund of unutilized/accumulated ITC, then Rs. 30/-, i.e. the amount rejected, shall have to be re-credited to the electronic credit ledger of the applicant through FORM GST PMT-03. However, this re-credit shall be done only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same has been finally decided against the applicant. In such cases, it may be noted that FORM GST RFD08 and FORM GST RFD-06, are to be considered as show cause notice and adjudication order respectively, under both section 54 (for rejection of refund) and section 73/74 of the CGST Act as the case may be (for recovery of erroneous refund).

17. It is further clarified that no adjustment or withholding of refund, as provided under subsections (10) and (11) of section 54 of the CGST Act, shall be allowed in respect of the amount of refund which has been provisionally sanctioned. In cases where there is an outstanding recoverable amount due from the applicant, the proper officer, instead of granting refund on provisional basis, may process and sanction refund on final basis at the earliest and recover the amount from the amount so sanctioned.

Scrutiny of Application

18. In case of refund claim on account of export of goods without payment of tax, the Shipping bill details shall be checked by the proper officer through ICEGATE SITE (www.icegate.gov.in) wherein the officer would be able to check details of EGM and shipping bill by keying in port name, Shipping bill number and date. It is advised that while processing refund claims, information contained in Table 9 of FORM GSTR-1 of the relevant tax period as well as that of the subsequent tax periods should also be taken into cognizance, wherever applicable. In this regard, Circular No. 26/26/2017–GST dated 29.12.2017 may be referred, wherein the procedure for rectification of errors made while filing the returns in FORM GSTR-3B has been

provided. Therefore, in case of discrepancies between the data furnished by the taxpayer in FORM GSTR-3B and FORM GSTR-1, the proper officer shall refer to the said Circular and process the refund application accordingly.

19. Detailed guidelines laid down in subsequent paragraphs of this Circular covering various types of refund claims may also be followed while scrutinizing refund claims for completeness and eligibility.

Re-crediting of electronic credit ledger on account of rejection of refund claim

20. In case of rejection of refund claim of unutilized/accumulated ITC due to ineligibility of the input tax credit under any provisions of the CGST Act and rules made thereunder, the proper officer shall have to issue a show cause notice in FORM GST RFD-08, under section 54 of the CGST Act, read with section 73 or 74 of the CGST Act, requiring the applicant to show cause as to why:

(a) the refund amount corresponding to the ineligible ITC should not be rejected as per the relevant provisions of the law; and

(b) the amount of ineligible ITC should not be recovered as wrongly availed ITC under section 73 or section 74 of the CGST Act, as the case may be, along with interest and penalty, if any.

21. The above notice shall be adjudicated following the principles of natural justice and an order shall be issued, in FORM GST RFD-06, under section 54 of the CGST Act, read with section 73 or section 74 of the CGST Act, as the case may be. If the adjudicating authority decides against the applicant in respect of both points (a) and (b) above, then FORM GST RFD-06 shall have to be issued accordingly, and the amount of ineligible ITC, along with interest and penalty, if any, shall be entered by the officer in the electronic liability register of the applicant through issuance of FORM GST DRC-07. Alternatively, the applicant can voluntarily pay this amount, along with interest and penalty, as applicable, before service of the demand notice, and intimate the same to the proper officer in FORM GST DRC-03 in accordance with sub-section (5) of section 73 or sub-section (5) of section 74 of the CGST Act, as the case may be, read with subrule (2) of rule 142 of the CGST Rules. In such cases, the need for serving a demand notice for recovery of ineligible ITC will be obviated. In any case, the proper officer shall order for the rejected amount to be re-credited to the electronic credit ledger of the applicant using FORM GST PMT-03, only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the applicant.

22. In case of rejection of a claim for refund, on account of any reason other than the ineligibility of credit, the process described in para 20 and 21 above shall be followed with the only difference that there shall be no proceedings for recovery of ineligible ITC under section 73 or section 74, as the case may be.

23. Consider an example where against a refund claim of unutilized/accumulated ITC of Rs.100/-, only Rs.80/- is sanctioned (Rs.15/- is rejected on account of ineligible ITC and Rs.5/- is rejected on account of any other reason). As stated above, a show cause notice, in FORM GST RFD-08 shall have to be issued to the applicant, requiring him to show cause as to why the refund claim amounting to Rs.20/-should not be rejected under the relevant provisions of the law and why the ineligible ITC of Rs. 15/- should not be recovered under section 73 or section 74, as the case may be, with interest and penalty, if any. If the said notice is decided against the applicant, Rs. 15/-, along with interest and penalty, if any, shall be entered by the

officer in the electronic liability register of the applicant through issuance of FORM GST DRC-07. Further, Rs. 20/- would be recredited through FORM GST PMT-03 only after the receipt of an undertaking from the applicant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the applicant.

24. Continuing with the above example, further assume that the applicant files an appeal against this order and the appellate authority decides wholly in the applicant's favour. It is hereby clarified in such a case the petitioner would file a fresh refund claim for the said amount of Rs. 20/- under the option of claiming refund "On Account of Assessment/Provisional Assessment/Appeal/Any other order".

Application for refund of integrated tax paid on export of services and supplies made to a Special Economic Zone developer or a Special Economic Zone unit

25. It has been represented that while filing the return in FORM GSTR-3B for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero-rated supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax. They have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of FORM GSTR-3B whilst they have shown the correct details in Table 6A or 6B of FORM GSTR-1 for the relevant tax period and duly discharged their tax liabilities. Such registered persons were earlier unable to file the refund application in FORM GST RFD-01A for refund of integrated tax paid on the export of services or on supplies made to a SEZ developer or a SEZ unit on the GST common portal because of an in-built validation check in the system which restricted the refund amount claimed (integrated tax/cess) to the amount of integrated tax/cess mentioned under column 3.1(b) of FORM GSTR3B (zero rated supplies) filed for the corresponding tax period.

26. In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 30.06.2019, such registered persons shall be allowed to file the refund application in FORM GST RFD-01 on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.

Disbursal of refunds

27. Separate disbursement of refund amounts under different tax heads by different tax authorities, i.e. disbursement of Central tax, Integrated tax and Compensation Cess by Central tax officers and disbursement of State tax by State tax officers, was causing undue hardship to the refund applicants. In order to facilitate refund applicants on this account, it has now been decided that for a refund application assigned to a Central tax officer, both the sanction order (FORM GST RFD-04/06) and the corresponding payment order (FORM GST RFD-05) for the sanctioned refund amount, under all tax heads, shall be issued by the Central tax officer only. Similarly, for refund applications assigned to a State/UT tax officer, both the sanction order (FORM GST RFD04/06) and the corresponding payment order (FORM GST RFD-05) for the sanctioned refund amount, under all tax heads, shall be issued by the State/UT tax officer only.

28. The sanctioned refund amounts, as entered in the payment orders issued by the Central and State/UT tax officers, shall be disbursed through the Public Financial Management System (PFMS) of the Controller General of Accounts (CGA), Ministry of Finance, Government of India. On filing of a refund application in FORM GST RFD-01, the common

portal shall generate a master file for the applicant containing the relevant details like name, GSTIN, bank account details etc. This master file shall be shared with PFMS for validation of the bank account details provided by the applicant in the refund application. Once the bank account is validated, PFMS will create a unique assessee code (combination of GSTIN + validated bank account number) for the applicant. This unique assessee code will be used by PFMS for all refund payments made to the applicant in the said bank account. Therefore, in order to avoid repeat validations and generation of multiple unique assessee codes for the same GSTIN, it shall be advisable for the applicants to enter the same bank account details in successive refund applications submitted in FORM GST RFD-01. In cases where an applicant wishes to avail the refund in a different bank account, which has not yet been validated, a new unique assessee code (comprising of GSTIN + new bank account) will be generated by PFMS after validation of the said bank account.

29. If the bank account details mentioned by an applicant in the refund application submitted in FORM GST RFD-01 are invalidated, an error message shall be transmitted by PFMS to the common portal electronically and the common portal shall make the error message available to the applicant and the refund officers on their dashboards. On receiving such an error message, an applicant can:

a) rectify the invalidated bank account details by filing a non-core amendment in FORM GST REG-14; or

b) add a new bank account by filing a non-core amendment in FORM GST REG-14

30. The updated bank account details will be reflected in a drop-down menu on the dashboard. From this drop-down menu, the applicant can choose any bank account, including the ones rectified (option (a)) or newly added (option (b)), from the list of bank accounts available in his registration database. The chosen bank account details will again be sent to PFMS for validation. The proper officer will be able to issue the payment order in FORM GST RFD-05 only after the selected bank account has been validated.

31. By following the above process, validation errors, if any, will generally be corrected before the issuance of payment order in FORM GST RFD-05. Therefore, there should generally not be any validation errors after issuance of a payment order in FORM GST RFD-05. However, in certain exceptional cases, it is possible that a validation error occurs after issuance of the payment order. In such cases, the said payment order will be invalidated by the common portal and a new payment order will have to be issued by the proper officer after following the rectification process described in paras 29 and 30 above. The re-issued payment order will have a new reference number and shall contain the newly selected bank account details. However, there will be no change in either the original ARN or the sanction order number or the amount for which the payment order was originally issued.

32. It may be noted that the applicant, at the time of filing of refund application in FORM GST RFD-01, can select a bank account only from the list of bank accounts provided by him at the time of registration in FORM GST REG-01, or subsequently through filing a non-core amendment in FORM GST REG-14. The same account details will be auto-populated in the payment order issued in FORM GST RFD-05. Any change in these auto-populated bank account details shall not be allowed unless there is a validation error in relation to the same.

33. The disbursement status of the refund amount would be communicated by PFMS to the common portal. The common portal shall notify the same to the taxpayer by email/SMS. Such details shall also be available on the status tracking facility on the dashboard.

34. Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the applicant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the applicant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of the application till the date on which the amount is credited to the bank account of the applicant. Accordingly, all tax authorities are advised to issue the final sanction order in FORM GST RFD-06 and the payment order in FORM GST RFD-05 within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days.

35. The provisions relating to refund provide for partial as well as complete adjustment of refund against any outstanding demand under GST or under any existing law. It is hereby clarified that both partial or complete adjustment of sanctioned amount of refund against any outstanding demand under GST or under any existing law would be made in FORM GST RFD-06. Furthermore, sub-clause (b) of sub-section (6), sub-clause (a) of sub-section (7), sub-clause (a) of sub-section (8) and sub-clause (a) of sub-section (9) of Section 142 of the CGST Act provides for recovery of any tax, interest, fine, penalty or any other amount recoverable under the existing law as an arrear of tax under GST unless such amount is recovered under the existing law. It is hereby clarified that adjustment of refund amount against any outstanding demand under the existing law can be done.

Guidelines for refunds of unutilized Input Tax Credit

36. Applicants of refunds of unutilized ITC, i.e. refunds pertaining to items listed at (a), (c) and (e) in para 3 above, shall have to upload a copy of FORM GSTR-2A for the relevant period (or any prior or subsequent period(s) in which the relevant invoices have been auto-populated) for which the refund is claimed. The proper officer shall rely upon FORM GSTR-2A as an evidence of the accountal of the supply by the corresponding supplier(s) in relation to which the input tax credit has been availed by the applicant. Such applicants shall also upload the details of all the invoices on the basis of which input tax credit has been availed during the relevant period for which the refund is being claimed, in the format enclosed as Annexure-B along with the application for refund claim. Such availment of ITC will be subject to restriction imposed under sub-rule (4) in rule 36 of the CGST rules inserted vide Notification No. 49/2019-CT dated 09.10.2019. The applicant shall also declare the eligibility or otherwise of the input tax credit availed against the invoices related to the claim period in the said format for enabling the proper officer to determine the same. Self-certified copies of invoices in relation to which the refund of ITC is being claimed and which are declared as eligible for ITC in Annexure – B, but which are not populated in FORM GSTR-2A, shall be uploaded by the applicant along with the application in FORM GST RFD 01. It is emphasized that the proper officer shall not insist on the submission of an invoice (either original or duplicate) the details of which are available in FORM GSTR-2A of the relevant period uploaded by the applicant.

37. In case of refunds pertaining to items listed at (a), (c) and (e) in para 3 above, the common portal calculates the refundable amount as the least of the following amounts:

a) The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the CGST Rules [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax];

b) The balance in the electronic credit ledger of the applicant at the end of the tax period for which the refund claim is being filed after the return in FORM GSTR-3B for the said period has been filed; and

c) The balance in the electronic credit ledger of the applicant at the time of filing the refund application.

After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order:

a) Integrated tax, to the extent of balance available;

b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

38. The order of debit described above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications. However, for applications where this order is not adhered to by the applicant, no adverse view may be taken by the tax authorities. The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in FORM GST RFD-01 is generated.

39. For all refund applications where refund of unutilized ITC of compensation cess is being claimed, the calculation of the refundable amount of compensation cess shall be done separately and the amount so calculated will be entirely debited from the balance of compensation cess available in the electronic credit ledger.

40. The third proviso to sub-section (3) of section 54 of the CGST Act states that no refund of input tax credit shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of Central tax. It is clarified that if a supplier avails of drawback in respect of duties rebated under the Customs and Central Excise Duties Drawback Rules, 2017, he shall be eligible for refund of unutilized input tax credit of Central tax/ State tax/ Union Territory tax / Integrated tax/ Compensation cess. It is also clarified that refund of eligible credit on account of State tax shall be available if the supplier of goods or services or both has availed of drawback in respect of Central tax.

Guidelines for refund of tax paid on deemed exports

41. Certain supplies of goods have been notified as deemed exports vide notification No. 48/2017-Central Tax dated 18.10.2017 under section 147 of the CGST Act. Further, the third proviso to rule 89(1) of the CGST Rules allows either the recipient or the supplier to apply for refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017- Central Tax dated 18.10.2017 are also required to be furnished which includes an undertaking that the recipient of deemed export supplies shall not claim the refund in respect of such supplies and shall not avail any input tax credit on such supplies. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking shall have to be furnished by him stating that refund has been claimed only for those invoices which have been detailed in statement 5B for the tax period for which refund is being claimed and that he has not availed input tax credit on such invoices. The recipient shall also be required to declare that the supplier has not claimed refund with respect to the said supplies. The procedure

regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export as laid down in Circular No. 14/14/2017-GST dated 06.11.2017 needs to be complied with.

Guidelines for claims of refund of Compensation Cess

42. Doubts have been raised whether a registered person is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the zero-rated final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminium products, whereas cess is not levied on aluminium products. In this context, attention is invited to section 16(2) of the Integrated Goods and Services Tax Act, 2017 (hereafter referred to as the "IGST Act") which states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies. Further, section 16 of the IGST Act has been mutatis mutandis made applicable to inter-State supplies under the Cess Act vide section 11 (2) of the Cess Act. Thus, it implies that input tax credit of Compensation Cess may be availed for making zero-rated supplies. Further, by virtue of section 54(3) of the CGST Act, the refund of such unutilized ITC shall be available. Accordingly, it is clarified that a registered person making zero rated supply of aluminium products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal. Such registered persons may also make zero-rated supply of aluminium products on payment of Integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of Integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies.

43. As regards the certain issues related to refund of accumulated input tax credit of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking on which clarifications have been sought since GST roll out, the same have been examined and are clarified as below:

a) Issue: A registered person uses inputs on which compensation cess is leviable (e.g. coal) to export goods on which there is no levy of compensation cess (e.g. aluminium). For the period July, 2017 to May, 2018, no ITC is availed of the compensation cess paid on the inputs received during this period. ITC is only availed of the Central tax, State tax/Union Territory tax or Integrated tax charged on the invoices for these inputs. This ITC is utilized for payment of Integrated tax on export of goods. Vide Circular No. 45/19/2018-GST dated 30.05.2018, it was clarified that refund of accumulated ITC of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking is available even if the exported product is not subject to levy of cess. After the issuance of this Circular, the registered person decides to start exporting under bond/LUT without payment of tax. He also decides to avail (through the return in FORM GSTR-3B) the ITC of compensation cess, paid on the inputs used in the months of July, 2017 to May, 2018, in the month of July, 2018. The registered person then goes on to file a refund claim for ITC accumulated on account of exports for the month of July, 2018 and includes the said accumulated ITC for the month of July, 2018. How should the amount of compensation cess to be refunded be calculated?

Clarification: In the instant case, refund on account of compensation cess is to be recomputed as if the same was available in the respective months in which the refund of unutilized credit of Central tax/State tax/Union Territory tax/Integrated tax was claimed on account of exports made under LUT/Bond. If the aggregate of these recomputed amounts of refund of compensation cess is less than or equal to the eligible refund of compensation cess

calculated in respect of the month in which the same has actually been claimed, then the aggregate of the recomputed refund of compensation cess of the respective months would be admissible. However, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be admissible in respect of consignments exported on payment of Integrated tax. This process would be applicable for application(s) for refund of compensation cess (not claimed earlier) in respect of the past period.

b) Issue: A registered person uses coal for the captive generation of electricity which is further used for the manufacture of goods (say aluminium) which are exported under Bond/Letter of Undertaking without payment of duty. Refund claim is filed for accumulated Input Tax Credit of compensation cess paid on coal. Can the said refund claim be rejected on the ground that coal is used for the generation of electricity which is an intermediate product and not the final product which is exported and since electricity is exempt from GST, the ITC of the tax paid on coal for generation of electricity is not available?

Clarification: There is no distinction between intermediate goods or services and final goods or services under GST. Inputs have been clearly defined to include any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Since coal is an input used in the production of aluminium, albeit indirectly through the captive generation of electricity, which is directly connected with the business of the registered person, input tax credit in relation to the same cannot be denied.

c) Issue: A registered person avails ITC of compensation cess (say, of Rs. 100/-) paid on purchases of coal every month. At the same time, he reverses a certain proportion (say, half i.e. Rs. 50/-) of the ITC of compensation cess so availed on purchases of coal which are used in making zero rated outward supplies. Both these details are entered in the FORM GSTR-3B filed for the month as a result of which an amount of Rs. 50/- only is credited in the electronic credit ledger. The reversed amount (Rs. 50/-) is then shown as a 'cost' in the books of accounts of the registered person. However, the registered person declares Rs. 100/- as 'Net ITC' and uses the same in calculating the maximum refund amount which works out to be Rs. 50/- (assuming that export turnover is half of total turnover). Since both the balance in the electronic credit ledger at the end of the tax period for which the claim of refund is being filed and the balance in the electronic credit ledger at the time of filing the refund claim is Rs. 50/- (assuming that no other debits/credits have happened), the common portal will proceed to debit Rs. 50/- from the ledger as the claimed refund amount. The question is whether the proper officer should sanction Rs. 50/- as the refund amount or Rs. 25/- (i.e. half of the ITC availed after adjusting for reversals)?

Clarification: ITC which is reversed cannot be held to have been 'availed' in the relevant period. Therefore, the same cannot be part of refund of unutilized ITC on account of zerorated supplies. Moreover, the reversed ITC has been accounted as a cost which would have reduced the income tax liability of the applicant. Therefore, the same amount cannot, at the same time, be refunded to him/her in the ratio of export turnover to total turnover. However, if the said reversed amount is again availed in a later tax period, subject to the restriction under section 16(4) of the CGST Act, it can be refunded in the ratio of export turnover to total turnover in that tax period in the same manner as detailed in para 37 above. This is subject to the restriction that the accounting entry showing the said ITC as cost is also reversed.

Clarifications on issues related to making zero-rated supplies

44. Export of goods or services can be made without payment of Integrated tax under the provisions of rule 96A of the CGST Rules. Under the said provisions, an exporter is required

to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has been specified vide Circular No. 8/8/2017 –GST dated 4.10.2017. It has been brought to the notice of the Board that in some cases, such zero-rated supplies were made before filing the LUT and refund claims for unutilized input tax credit got filed. In this regard, it is emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

45. Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of Integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange. It has been reported that the exporters have been asked to pay Integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasized that exports have been zero rated under the IGST Act and as long as goods have actually been exported even after a period of three months, payment of Integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

46. It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the applicant has not been prosecuted. The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 04.10.2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 8/8/2017-GST dated 04.10.2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self–declaration with every refund claim where the exports have been made under LUT is not warranted.

47. It has also been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero-rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are meant for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export. During the processing of the refund claim, the value of the goods declared in the GST invoice and the

value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be taken into account while calculating the eligible amount of refund.

48. It is clarified that the realization of consideration in convertible foreign exchange, or in Indian rupees wherever permitted by Reserve Bank of India, is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realization Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

49. As per section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempt supply. In terms of section 2 (47) of the CGST Act, exempt supply includes non-taxable supply. Further, as per section 16(3) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund when he either makes supply of goods or services or both under bond or letter of undertaking (LUT) or makes such supply on payment of Integrated tax. However, in case of zero-rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of Integrated tax; LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any. Further, the exporter would be eligible for refund of unutilized input tax credit of Central tax, State tax, Union Territory tax, Integrated tax and compensation cess in such cases.

Refund of transitional credit

50. Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section (3) of section 54 of the CGST Act. These two scenarios are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the CGST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase ‘Net ITC’ and defines the same as “input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both”. It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of ‘Net ITC’ and thus no refund of such unutilized transitional credit is admissible.

Restrictions imposed by sub-rule (10) of rule 96 of the CGST Rules

51. Sub-rule (10) of rule 96 of the CGST Rules, restricted exporters from availing the facility of claiming refund of Integrated tax paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However, representations were received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as “EPCG Scheme”), should be allowed to avail the facility of claiming refund of

the Integrated tax paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, accorded approval to the proposal of suitably amending the said sub-rule along with sub-rule (4B) of rule 89 of the CGST Rules prospectively in order to enable such exporters to avail the said facility. Notification No. 54/2018 – Central Tax dated the 9th October, 2018 was issued to carry out the changes recommended by the GST Council. In addition, notification No. 39/2018- Central Tax dated 4th September, 2018 was rescinded vide notification No. 53/2018 – Central Tax dated the 9th October, 2018.

52. The net effect of these changes is that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13.10.2017, before the issuance of the notification No. 54/2018 – Central Tax dated 09.10.2018, shall be eligible to claim refund of the Integrated tax paid on exports. Further, exporters who have imported inputs in terms of notification Nos. 78/2017-Customs dated 13.10.2017, after the issuance of notification No. 54/2018 – Central Tax dated 09.10.2018, would not be eligible to claim refund of Integrated tax paid on exports. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13.10. 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18.10.2017, shall continue to be eligible to claim refund of Integrated tax paid on exports and would not be hit by the restrictions provided in sub-rule (10) of rule 96 of the CGST Rules.

Clarification on calculation of refund amount for claims of refund of accumulated ITC on account of inverted tax structure

53. Sub-section (3) of section 54 of the CGST Act provides that refund of any unutilized ITC may be claimed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies). Further, subsection (59) of section 2 of the CGST Act defines inputs as any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Thus, inputs do not include services or capital goods. Therefore, clearly, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized input tax credit. It is clarified that both the law and the related rules clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted tax structure.

54. There have been instances where while processing the refund of unutilized ITC on account of inverted tax structure, some of the tax authorities denied the refund of ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount as specified in rule 89(5) of the CGST Rules. The matter has been examined and the following issues are clarified:

a) Refund of unutilized ITC in case of inverted tax structure, as provided in section 54(3) of the CGST Act, is available where ITC remains unutilized even after setting off of available ITC for the payment of output tax liability. Where there are multiple inputs attracting different rates of tax, in the formula provided in rule 89(5) of the CGST Rules, the term “Net ITC" covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax.

b) The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with the help of following example:

i. Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).

ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.

iii. Further assume that the applicant supplies the output Y having value of Rs. 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be Rs. 3,000/-. Since the applicant has no other outward supplies, his adjusted total turnover will also be Rs. 3,000/-.

iv. If we assume that Input A, having value of Rs. 500/- and Input B, having value of Rs. 2,000/-, have been purchased in the relevant period for the manufacture of Y, then Net ITC shall be equal to Rs. 385/- (Rs. 25/- and Rs. 360/- on Input A and Input B respectively).

v. Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of Rs. 385/-. vi. From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs. 25/-.

Refund of TDS/TCS deposited in excess

55. Tax deducted in accordance with the provisions of section 51 of the CGST Act or tax collected in accordance with the provisions of section 52 of the CGST Act is required to be paid while discharging the liability in FORM GSTR 7 or FORM GSTR 8, as the case may be, by the deductor or the collector, as the case may be.

56. It has been reported that, there are instances where taxes so deducted or collected is deposited under the wrong head (e.g. an amount deducted as Central tax is deposited as Integrated tax/State tax), thereby creating excess balance in the cash ledger of the deductor or the collector as the case may be. Doubts have been raised on the fate of this excess balance of TDS/TCS in the cash ledger of the deductor or the collector. It is clarified that such excess balance may be claimed by the tax deductor or the collector as the excess balance in electronic cash ledger. In this case, the common portal would debit the amount so claimed as refund. However, in case where tax deducted or collected in excess is also paid while discharging the liability in FORM GSTR 7 or FORM GSTR 8, as the case may be, and the said amount has been credited to the electronic cash ledger of the deductee, the deductee can adjust the same while discharging his output liability or he can claim refund of the same under the category “refund of excess balance in the electronic cash ledger”.

Debit of electronic credit ledger using FORM GST DRC-03

57. Various representations have been received seeking clarifications on certain refund related issues, the solutions to which involve debiting the electronic credit ledger using FORM GST DRC-03. These issues are clarified as under:

Sl. No.	Issue	Clarification

1	Certain registered persons have reversed, through return in **FORM GSTR-3B** filed for the month of August, 2018 or for a subsequent month, the accumulated input tax credit (ITC) required to be lapsed in terms of notification No. 20/2018-Central Tax (Rate) dated 26.07.2018 read with circular No. 56/30/2018-GST dated 24.08.2018 (hereinafter referred to as the "said notification"). Some of these registered persons, who have attempted to claim refund of accumulated ITC on account of inverted tax structure for the same period in which the ITC required to be lapsed in terms of the said notification has been reversed, are not able to claim refund of accumulated ITC to the extent to which they are so eligible. This is because of a validation check on the common portal which prevents the value of input tax credit in Statement 1A of **FORM GST RFD-01A from** being higher than the amount of ITC availed in **FORM GSTR-3B** of the relevant period minus the value of ITC reversed in the same period. This results in registered persons being unable to claim the full amount of refund of accumulated ITC on account of inverted tax structure to which they might be otherwise eligible. What is the solution to this problem?	(*a*) As a one-time measure to resolve this issue, refund of accumulated ITC on account of inverted tax structure, for the period(s) in which there is reversal of the ITC required to be lapsed in terms of the said notification, is to be claimed under the category "any other" instead of under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure" in **FORM GST RFD-01A** It is emphasized that this application for refund should relate to the same tax period in which such reversal has been made. (*b*) The application shall be accompanied by all statements, declarations, undertakings and other documents which are statutorily required to be submitted with a "refund claim of unutilized ITC on account of accumulation due to inverted tax structure". On receiving the said application, the proper officer shall himself calculate the refund amount admissible as per rule 89(5) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"), in the manner detailed in **para 37** above. After calculating the admissible refund amount, as described above, and scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03.** Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05** (*c*) All refund applications for unutilized ITC on account of accumulation due to inverted tax structure for subsequent tax period(s) shall be filed in **FORM GST RFD-01** under the category "refund of unutilized ITC on account of accumulation due to inverted tax structure".
2	The clarification at Sl. No. 1 above applies to registered persons who have already reversed the ITC required to be lapsed in terms of the said notification through return in **FORM GSTR-3B.** What about those registered persons who are yet to perform this reversal?	It is hereby clarified that all those registered persons required to make the reversal in terms of the said notification and who have not yet done so, may reverse the said amount through **FORM GST DRC-03** instead of through **FORM GSTR-3B**

3	What shall be the consequence if any registered person reverses the amount of credit to be lapsed, in terms the said notification, through the return in **FORM GSTR-3B** for any month subsequent to August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018?	(*a*) As the registered person has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for a month subsequent to the month of August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018, he shall be liable to pay interest under sub-section (1) of section 50 of the CGST Act on the amount which has been reversed belatedly. Such interest shall be calculated starting from the due date of filing of return in **FORM GSTR-3B** for the month of August, 2018 till the date of reversal of said amount through **FORM GSTR-3B** or through **FORM GST DRC-03,** as the case may be. (*b*) The registered person who has reversed the amount of credit to be lapsed in the return in **FORM GSTR-3B** for any month subsequent to August, 2018 or through **FORM GST DRC-03** subsequent to the due date of filing of the return in **FORM GSTR-3B** for the month of August, 2018 would remain eligible to claim refund of unutilized ITC on account of accumulation due to inverted tax structure w.e.f 01.08.2018. However, such refund shall be granted only after the reversal of the amount of credit to be lapsed, either through **FORM GSTR-3B or FORM GST DRC-03,** along with payment of interest, as applicable.
4	How should a merchant exporter claim refund of input tax credit availed on supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017 (hereinafter referred to as the "said notifications")?	(*a*) Rule 89(4B) of the CGST Rules provides that where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input tax credit, availed in respect of such inputs received under the said notifications for export of goods, shall be granted. (*b*) This refund of accumulated ITC under rule 89(4B) of the CGST Rules shall be applied under the category "any other" instead of under the category "refund of unutilized ITC on account of exports without payment of tax" in **FORM GST RFD-01** and shall be accompanied by all supporting documents required for substantiating the refund claim under the category "refund of unutilized ITC on account of exports without payment of tax". After scrutinizing the application for

		completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03.** Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05**

Refund of Integrated Tax paid on Exports

58. The refund of Integrated tax paid on goods exported out of India is governed by rule 96 of the CGST Rules. The shipping bill filed by an exporter is deemed to be an application for refund in such cases, but the same is deemed to have been filed only when the export manifest or export report is filed and the applicant has filed the return in FORM GSTR-3B for the relevant period duly indicating the integrated tax paid on goods exported in Table 3.1(b) of FORM-GSTR-3B . In addition, the exporter is expected to furnish the details of the exported goods in Table 6A of FORM GSTR-1 of the relevant period. Only where the common portal is able to validate the consistency of the details so entered by the applicant, the relevant information regarding the refund claim is forwarded to Customs Systems. Upon receipt of the information from the common portal regarding furnishing of these details, the Customs Systems processes the claim for refund and an amount equal to the Integrated tax paid in respect of such export is electronically credited to the bank account of the applicant.

Clarifications on other issues

59. Notification No. 40/2017 – Central Tax (Rate) and notification No. 41/2017 – Integrated Tax (Rate) both dated 23.10.2017 provide for supplies for exports at a concessional rate of 0.05% and 0.1% respectively, subject to certain conditions specified in the said notifications. It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional. The option may or may not be availed by the supplier and / or the recipient and the goods may be procured at the normal applicable tax rate. It is also clarified that the exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him. The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure as per the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act. It may also be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of Integrated tax.

60. Sub-section (14) of section 54 of the CGST Act provides that no refund under subsection (5) or sub-section (6) of section 54 of the CGST Act shall be paid to an applicant, if the amount is less than one thousand rupees. In this regard, it is clarified that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively.

61. Presently, ITC is reflected in the electronic credit ledger on the basis of the amount of the ITC availed on self-declaration basis in FORM GSTR-3B for a particular tax period. It may happen that the goods purchased against a particular tax invoice issued in a particular month, say August 2018, may be declared in the FORM GSTR-3B filed for a subsequent month, say September 2018. This is inevitable in cases where the supplier raises an invoice, say in August, 2018, and the goods reach the recipient's premises in September, 2018. Since GST

law mandates that ITC can be availed only after the goods have been received, the recipient can only avail the ITC on such goods in the FORM GSTR-3B filed for the month of September, 2018. However, it has been reported that tax authorities are excluding such invoices from the calculation of refund of unutilized ITC filed for the month of September, 2018. In this regard, it is clarified that "Net ITC" as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been "availed" when it is entered into the electronic credit ledger of the registered person. Under the current dispensation, this happens when the said taxable person files his/her monthly return in FORM GSTR-3B. Further, section 16(4) of the CGST Act stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August, 2019, "availed" in September, 2019 cannot be excluded from the calculation of the refund amount for the month of September, 2019.

62. It has been represented that on certain occasions, departmental officers do not consider ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the grounds that these are not directly consumed in the manufacturing process and therefore, do not qualify as input. There are also instances where stores and spares charged to revenue are considered as capital goods and therefore the ITC availed on them is not included in Net ITC, even though the value of these goods has not been capitalized in his books of account by the applicant. It is clarified that the ITC of the GST paid on inputs, including inward supplies of stores and spares, packing materials etc., shall be available as ITC as long as these inputs are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies, and the ITC for such inputs is not restricted under section 17(5) of the CGST Act. Further, capital goods have been clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

21.6 Special procedure for certain processes [Section 148]

<table>
<tr>
<td>Section 148</td>
<td>01.07.2017 to till date</td>
<td>The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify[1] certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons.
<table>
<tr><td>Notes</td></tr>
<tr><td>1. The Government has notified those persons whose principal place of business or place of business lies in the erstwhile State of Jammu and Kashmir till the 30th day of October, 2019; and lies in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31st day of October, 2019 onwards, as the class of persons who shall</td></tr>
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			follow the special procedure, vide Notification No. 62/2019 – Central Tax dated 26th November, 2019.

21.6.1.1 Departmental Notification – Special procedure with respect to payment of tax by registered person supplying service by way of construction against transfer of development right and vice versa.

Notification No. 4/2018-Central Tax (Rate) dated 25th January, 2018 - The Central Government, on the recommendations of the Council, has notified the following classes of registered persons, namely :-

(a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and

(b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,

as the registered persons in whose case the liability to pay central tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above and in the form of development rights referred to in clause (b) above, shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

Further, Notification No. 23/2019-Central Tax (Rate) dated 30th September, 2019 effective from 1 st day of October, 2019 has amended Notification No. 4/2018-Central Tax (Rate) dated 25th January, 2018 , namely:-

After paragraph, the following explanation shall be inserted, namely: -

“Explanation.- Nothing contained in this notification shall apply with respect to the development rights supplied on or after 1st April, 2019.”

Notification No. 06/2019-Central Tax (Rate) dated 29th March, 2019 effective from 1st day of April, 2019 - The Central Government, on the recommendations of the Council, has notified the following classes of registered persons, namely:-

(i) a promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1 st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;

(ii) a promoter, who receives long term lease of land on or after 1 st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name),

as the registered persons in whose case the liability to pay central tax on, -

(a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);

(b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relatable to construction of residential apartments in project;

(c) the upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relatable to construction of residential apartments in the project; and

(d) the supply of construction service by him against consideration in the form of development rights or FSI(including additional FSI), -

shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

2. Explanation:- For the purpose of this notification,-

(i) The term “apartment” shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(ii) the term “promoter” shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(iii) the term “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);

(iv) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);.

(v) the term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.

(vi) the term “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.

(vii) Tax on services covered by sub-para (i) and (ii) of paragraph 1 above is required to be paid under reverse charge basis in accordance with notification No. 13/2017- Central Tax (Rate), dated 28.06.2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide GSR No. 692 (E), dated 28.06.2017, as amended.

21.6.1.2 Departmental Notification – Special procedure for quarterly tax payment and annual filing of return for taxpayers availing the benefit of Notification No. 02/2019–Central Tax (Rate), dated the 7th March, 2019

Notification No.21 /2019 – Central Tax dated 23rd April, 2019 - The Central Government, has notified the registered persons paying tax under the provisions of section 10 of the said Act or by availing the benefit of notification of the Government of India, Ministry of Finance,

Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, (hereinafter referred to as "the said notification") as the class of registered persons who shall follow the special procedure as mentioned below for furnishing of return and payment of tax.

2. The said persons shall furnish a statement, every quarter or, as the case may be, part thereof containing the details of payment of self-assessed tax in FORM GST CMP-08 of the Central Goods and Services Tax Rules, 2017, till the 18th day of the month succeeding such quarter.

3. The said persons shall furnish a return for every financial year or, as the case may be, part thereof in FORM GSTR-4 of the Central Goods and Services Tax Rules, 2017, on or before the 30th day of April following the end of such financial year.

4. The registered persons paying tax by availing the benefit of the said notification, in respect of the period for which he has availed the said benefit, shall be deemed to have complied with the provisions of section 37 and section 39 of the said Act if they have furnished FORM GST CMP-08 and FORM GSTR-4 as provided in para 2 and para 3 above.

21.6.1.3 Departmental Notification – The transition plan with respect to J&K reorganization w.e.f. 31.10.2019

Notification No. 62/2019 – Central Tax dated 26th November, 2019 - The Government has notified those persons whose principal place of business or place of business lies in the erstwhile State of Jammu and Kashmir till the 30th day of October, 2019; and lies in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31st day of October, 2019 onwards, as the class of persons who shall follow the following special procedure till the 31st day of December, 2019 (hereinafter referred to as the transition date), as mentioned below.

2. The said class of persons shall:–

(i) ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of October, 2019 and November, 2019 as below:

(a) October, 2019: 1st October, 2019 to 30th October, 2019;

(b) November, 2019: 31st October, 2019 to 30th November, 2019;

(ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from 31st October, 2019 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;

(iii) have an option to transfer the input tax credit (ITC) from the registered Goods and Services Tax Identification Number (GSTIN), till the 30th day of October, 2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31st day of October by following the procedure as below:

(a) the said class of persons shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration;

(b) the ITC shall be transferred on the basis of ratio of turnover of the place of business in the Union territory of Jammu and Kashmir and in the Union territory of Ladakh;

(c) the transfer of ITC shall be carried out through the return under section 39 of the said Act for any tax period before the transition date and the transferor GSTIN would be debiting the said ITC from its electronic credit ledger in Table 4 (B) (2) of FORM GSTR-3B and the transferee GSTIN would be crediting the equal amount of ITC in its electronic credit ledger in Table 4 (A) (5) of FORM GSTR-3B.

3. The balance of State taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from the 31st day of October, 2019, shall be transferred as balance of Union territory tax in the electronic credit ledger.

4. The provisions of clause (i) of section 24 of the said Act shall not apply on the said class of persons making inter-State supplies between the Union territories of Jammu and Kashmir and Ladakh from the 31st day of October, 2019 till the transition date.

Further, Notification No. 03/2020 – Central Tax dated 01st January, 2020 - -The Government, on the recommendations of the Council, has amended Notification No. 62/2019 – Central Tax dated 26th November, 2019, namely:–

In the said notification,–

(i) in paragraph 2, in clause (iii), for the figures, letters and words “30th day of October, 2019” and “31st day of October”, the figures, letters and words “31st day of December, 2019” and “1st day of January, 2020” shall respectively be substituted;

(ii) in paragraph 3, for the figures, letters and words “31st day of October, 2019”, the figures, letters and words “1st day of January, 2020” shall be substituted.

21.6.1.4 Departmental Notification - special procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu consequent to merger of the two UTs

Notification No. 10/2020 – Central Tax dated 21st March, 2020 - The Government has notified those persons whose principal place of business or place of business was in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the 26th day of January, 2020; and is in the merged Union territory of Daman and Diu and Dadra and Nagar Haveli from the 27th day of January, 2020 onwards, as the class of persons who shall, except as respects things done or omitted to be done before the notification, follow the following special procedure till the 31st day of May, 2020 (hereinafter referred to as the transition date) as mentioned below.

2. The said registered person shall,-

(i) ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of January, 2020 and February, 2020 as below:-

(a) January, 2020: 1st January, 2020 to 25th January, 2020;

(b) February, 2020: 26th January, 2020 to 29th February, 2020;

(ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from the 26th January, 2020 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;

(iii) who have registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu and the erstwhile Union territory of Dadra and Nagar Haveli till the 25th day of January, 2019 have an option to transfer the balance of input tax credit (ITC) after the filing of the return for January, 2020, from the registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu to the registered GSTIN in the new Union territory of Daman and Diu and Dadra and Nagar Haveli by following the procedure as below:-

(a) the said class of persons shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration;

(b) the ITC shall be transferred on the basis of the balance in the electronic credit ledger upon filing of the return in the erstwhile Union territory of Daman and Diu, for the tax period immediately before the transition date;

(c) the transfer of ITC shall be carried out through the return under section 39 of the said Act for the tax period immediately before the transition date and the transferor GSTIN shall debit the said ITC from its electronic credit ledger in Table 4(B)(2) of FORM GSTR-3B and the transferee GSTIN shall credit the equal amount of ITC in its electronic credit ledger in Table 4(A)(5) of FORM GSTR-3B.

3. The balance of Union territory taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Daman and Diu, as on the 25th day of January, 2020, shall be transferred as balance of Union territory tax in the electronic credit ledger.

Further, Notification No. 45/2020- Central Tax dated 09.06.2020 effective from 31st day of May, 2020. - The Government has amended Notification No. 10/2020 – Central Tax dated 21st March, 2020 namely:-

In the said notification, in the first paragraph, for the figures, letters and words "31st day of May, 2020", the figures, letters and words "31st day of July, 2020" shall be substituted.

21.6.1.5 Departmental Notification - Special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016

Notification No. 11/2020 – Central Tax dated 21st March, 2020 - –In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Government, on the recommendations of the Council, hereby notifies those registered persons(hereinafter referred to as the erstwhile registered person), who are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), as the class of persons who shall follow the following

special procedure, from the date of the appointment of the IRP/RP till the period they undergo the corporate insolvency resolution process, as mentioned below.

2. **Registration**.- The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration)in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP:

Provided that in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days from the commencement of this notification, with effect from date of his appointment as IRP/RP.

3. **Return.**- The said class of persons shall, after obtaining registration file the first return under section 40 of the said Act, from the date on which he becomes liable to registration till the date on which registration has been granted.

4. **Input tax credit**.-(1)The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36 of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as the said rules).

(2)Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or thirty days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-rule (4) of rule 36 of the said rules.

(5) Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP/RP to the date of registration in terms of this notification shall be available for refund to the erstwhile registration.

Explanation.- For the purposes of this notification, the terms “corporate debtor”, “corporate insolvency resolution professional”, “interim resolution professional” and “resolution professional” shall have the same meaning as assigned to them in the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

Further, Notification No. 39/2020 – Central Tax dated 5th May, 2020 - The Government has amended Notification No. 11/2020 – Central Tax dated 21st March, 2020 namely:-

In the said notification

(i) in the first paragraph, the following proviso shall be inserted, namely: -

“Provided that the said class of persons shall not include those corporate debtors who have furnished the statements under section 37 and the returns under section 39 of the said Act for all the tax periods prior to the appointment of IRP/RP.”;

(ii) for the paragraph 2, with effect from the 21st March, 2020, the following paragraph shall be substituted, namely: -

"2. Registration.- The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration)in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later:."

21.6.1.6 Departmental Notification - Special procedure for taxpayers for issuance of e-Invoices in the period 01.10.2020 - 31.10.2020.

Notification No. 73/2020 – Central Tax dated 1st October, 2020 - The Central Government, has notified 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.

21.6.1.7 Departmental Notification - Special procedure for taxpayers for issuance of e-Invoices in the period 01.10.2020 - 31.10.2020.

Notification No. 85/2020 – Central Tax dated 10th November, 2020 effective from 1st day of January, 2021. - The Central Government has notified the registered persons, notified under proviso to sub-section (1) of section 39 of the said Act, who have opted to furnish a return for every quarter or part thereof, as the class of persons who may, in first month or second month or both months of the quarter, follow the special procedure such that the said persons may pay the tax due under proviso to sub-section (7) of section 39 of the said Act, by way of making a deposit of an amount in the electronic cash ledger equivalent to, -

(i) thirty five per cent. of the tax liability paid by debiting the electronic cash ledger in the return for the preceding quarter where the return is furnished quarterly; or

(ii) the tax liability paid by debiting the electronic cash ledger in the return for the last month of the immediately preceding quarter where the return is furnished monthly:

Provided that no such amount may be required to be deposited-

(a) for the first month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability ;

(b) for the second month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the cumulative tax liability for the first and the second month of the quarter or where there is nil tax liability:

Provided further that registered person shall not be eligible for the said special procedure unless he has furnished the return for a complete tax period preceding such month.

Explanation- For the purpose of this notification, the expression “a complete tax period” means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period.

21.6.1.8 Departmental Notification - Special procedure in respect of revocation of cancellation of such registration

Notification No. 03/2023 – Central Tax dated 31st March, 2023 - The Central Government has notifies that the registered person, whose registration has been cancelled under clause (b) or clause (c) of subsection (2) of section 29 of the said Act on or before the 31st day of December, 2022, and who has failed to apply for revocation of cancellation of such registration within the time period specified in section 30 of the said Act as the class of registered persons who shall follow the following special procedure in respect of revocation of cancellation of such registration, namely:–

(a) the registered person may apply for revocation of cancellation of such registration upto the 30th day of June, 2023;

(b) the application for revocation shall be filed only after furnishing the returns due upto the effective date of cancellation of registration and after payment of any amount due as tax, in terms of such returns, along with any amount payable towards interest, penalty and late fee in respect of the such returns;

(c) no further extension of time period for filing application for revocation of cancellation of registration shall be available in such cases.

Explanation: For the purposes of this notification, the person who has failed to apply for revocation of cancellation of registration within the time period specified in section 30 of the said Act includes a person whose appeal against the order of cancellation of registration or the order rejecting application for revocation of cancellation of registration under section 107 of the said Act has been rejected on the ground of failure to adhere to the time limit specified under sub-section (1) of section 30 of the said Act.

Further, Notification No. 23/2023 – Central Tax dated 17th July, 2023 effective from 30th day of June, 2023 - The Central Government has made the following further amendments in the Notification No. 03/2023 – Central Tax dated 31st March, 2023, namely: —

In the said notification, for the words, letter and figure “30th day of June, 2023” the words, letter and figure “31st day of August, 2023” shall be substituted.

21.6.1.9 - Departmental Notifications - Amnesty scheme for deemed withdrawal of assessment orders issued under Section 62

Notification No. 06/2023 – Central Tax dated 31st March, 2023 - The Central Government, on the recommendations of the Council, has notified that the registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th day of February, 2023 under sub-section (1) of section 62 of the said Act, as the classes of registered persons, in respect of whom said assessment order shall be deemed to have been withdrawn, if such registered persons follow the special procedures as specified below, namely,-

(i) the registered persons shall furnish the said return on or before the 30th day of June 2023;

(ii) the return shall be accompanied by payment of interest due under sub-section (1) of section 50 of the said Act and the late fee payable under section 47 of the said Act,

irrespective of whether or not an appeal had been filed against such assessment order under section 107 of the said Act or whether or not the appeal, if any, filed against the said assessment order has been decided.

Further, Notification No. 24/2023 – Central Tax dated 17th July, 2023 effective from 30th day of June, 2023 - The Central Government, has made the following further amendments in the Notification No. 06/2023 – Central Tax dated 31st March, 2023, namely: —

In the said notification, for the words, letter and figure “30th day of June, 2023” the words, letter and figure “31st day of August, 2023” shall be substituted.

21.6.1.10 Departmental Notification - Special procedure to be followed by a registered person or an officer referred to in Section 107(2) of the CGST Act who intends to file an appeal against the order rejecting transitional credit.

Notification No. 29/2023 – Central Tax dated 31st July, 2023 - The Central Government, on the recommendations of the Council, hereby notifies the following special procedure to be followed by a registered person or an officer referred to in sub-section (2) of Section 107 of the said Act who intends to file an appeal against the order passed by the proper officer under section 73 or 74 of the said Act in accordance with Circular No. 182/14/2022-GST, dated 10th of November, 2022 pursuant to the directions of the Hon’ble Supreme Court in the case of Union of India v/s Filco Trade Centre Pvt. Ltd., SLP(C) No.32709-32710/2018.

2. An appeal against the order shall be made in duplicate in the Form appended to this notification at ANNEXURE-1 and shall be presented manually before the Appellate Authority within the time specified in subsection (1) of section 107 or sub-section (2) of section 107 of the said Act, as the case may be, and such time shall be computed from the date of issuance of this notification or the date of the said order, whichever is later: Provided that any appeal against the order filed in accordance with the provisions of section 107 of the said Act with the Appellate Authority before the issuance of this notification, shall be deemed to have been filed in accordance with this notification.

3. The appellant shall not be required to deposit any amount as referred to in sub-section (6) of section 107 of the said Act as a pre-condition for filing an appeal against the said order.

4. An appeal filed under this notification shall be accompanied by relevant documents including a self certified copy of the order and such appeal and relevant documents shall be signed by the person specified in subrule (2) of rule 26 of Central Goods and Services Tax Rules, 2017.

5. Upon receipt of the appeal which fulfills all the requirements as provided in this notification, an acknowledgement, indicating the appeal number, shall be issued manually in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the appeal shall be treated as filed only when the aforesaid acknowledgement is issued.

6. The Appellate Authority shall, along with its order, issue a summary of the order in the Form appended to this notification as ANNEXURE-2.

21.6.1.11 Departmental Notification - Special procedure to be followed by a registered person engaged in manufacturing of the specified goods,

Notification No. 30/2023 – Central Tax dated 31st July, 2023 as amended by Notification No. 47/2023- Central Tax dated 25.09.2023 and effective from 1st day of January 2024- The Central Government, has notified the special procedure to be followed by a registered person engaged in manufacturing of the goods, the description of which is specified in the corresponding entry in column (3) of the Schedule appended to this notification, and falling under the tariff item, sub- heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedule, namely: —

SCHEDULE

S. No	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
1.	2106 90 20	Pan-masala
2.	2401	Unmanufactured tobacco (without lime tube) - bearing a brand name
3.	2401	Unmanufactured tobacco (with lime tube) - bearing a brand name
4.	2401 30 00	Tobacco refuse, bearing a brand name
5.	2403 11 10	'Hookah' or 'gudaku' tobacco bearing a brand name
6.	2403 11 10	Tobacco used for smoking 'hookah' or 'chilam' commonly known as 'hookah' tobacco or 'gudaku' not bearing a brand name
7.	2403 11 90	Other water pipe smoking tobacco not bearing a brand name.
8.	2403 19 10	Smoking mixtures for pipes and cigarettes
9.	2403 19 90	Other smoking tobacco bearing a brand name
10.	2403 19 90	Other smoking tobacco not bearing a brand name
11.	2403 91 00	"Homogenised" or "reconstituted" tobacco, bearing a brand name
12	2403 99 10	Chewing tobacco (without lime tube)
13.	2403 99 10	Chewing tobacco (with lime tube)
14.	2403 99 10	Filter khaini
15.	2403 99 20	Preparations containing chewing tobacco
16.	2403 99 30	Jarda scented tobacco
17.	2403 99 40	Snuff
18.	2403 99 50	Preparations containing snuff
19.	2403 99 60	Tobacco extracts and essence bearing a brand name
20.	2403 99 60	Tobacco extracts and essence not bearing a brand Name
21.	2403 99 70	Cut tobacco
22.	2403 99 90	Pan masala containing tobacco 'Gutkha'
23.	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', bearing a brand name

24.	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', not bearing a brand name

***Explanation*.-**

(1) In this Schedule, "tariff item", "heading", "sub-heading" and "Chapter" shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

(3) For the purposes of this notification, the phrase "brand name" means brand name or trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.

21.6.1.12 Departmental Notification - Special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers.

Notification No. 36/2023 – Central Tax dated 4th August, 2023 effective from 1st day of October, 2023 - The Central Government has notified the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the following special procedure in respect of supply of goods made through it by the persons paying tax under section 10 of the said Act (hereinafter referred to as the said person), namely: —

(i) the electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;

(ii) the electronic commerce operator shall collect tax at source under sub-section (1) of section 52 of the said Act in respect of supply of goods made through it by the said person and pay to the Government as per provisions of subsection (3) of section 52 of the said Act; and

(iii) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.

21.6.1.13 Departmental Notification - Special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons.

Notification No. 37/2023 – Central Tax dated 4th August, 2023 effective from 1st day of October, 2023 - The Central Government, has notified the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow

the following special procedure in respect of supply of goods made through it by the persons exempted from obtaining registration (hereinafter referred to as the said person) in accordance with the notification issued under sub-section (2) of section 23 vide Notification No 34/2023-Central Tax, dated the 31st July, 2023, namely: —

(i) such persons shall not make any inter-State supply of goods;

(ii) such persons shall not make supply of goods through electronic commerce operator in more than one State or Union territory;

(iii) such persons shall be required to have a Permanent Account Number issued under the Income Tax Act, 1961 (43 of 1961);

(iv) such persons shall, before making any supply of goods through electronic commerce operator, declare on the common portal their Permanent Account Number issued under the Income Tax Act, 1961 (43 of 1961), address of their place of business and the State or Union territory in which such persons seek to make such supply, which shall be subjected to validation on the common portal;

(v) such persons have been granted an enrolment number on the common portal on successful validation of the Permanent Account Number declared as per clause (iv);

(vi) such persons shall not be granted more than one enrolment number in a State or Union territory;

(vii) no supply of goods shall be made by such persons through electronic commerce operator unless such persons have been granted an enrolment number on the common portal; and

(viii) where such persons are subsequently granted registration under section 25 of the said Act, the enrolment number shall cease to be valid from the effective date of registration.

21.6.1.14 Departmental Notification - Special procedure to be followed by the class of persons for filing appeals in certain cases

Notification No. 53/2023 – Central Tax dated 2nd November, 2023 – The Central Government, on the recommendations of the Council, has notified taxable persons who could not file an appeal against the order passed by the proper officer on or before the 31st day of March, 2023 under section 73 or 74 of the said Act (hereinafter referred to as the said order), within the time period specified in sub-section (1) of section 107 read with sub-section (4) of section 107 of the said Act, and the taxable persons whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period specified in section 107, as the class of persons (hereinafter referred to as the said person) who shall follow the following special procedure for filing appeals in such cases:

2. The said person shall file an appeal against the said order in FORM GST APL-01 in accordance with subsection (1) of Section 107 of the said Act, on or before 31st day of January 2024:

Provided that an appeal against the said order filed in accordance with the provisions of section 107 of the said Act, and pending before the Appellate Authority before the issuance of this notification, shall be deemed to have been filed in accordance with this notification, if it fulfills the condition specified at para 3 below.

3. No appeal shall be filed under this notification, unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to twelve and a half per cent. of the remaining amount of tax in dispute arising from the said order, subject to a maximum of twenty-five crore rupees, in relation to which the appeal has been filed, out of which at least twenty percent should have been paid by debiting from the Electronic Cash Ledger.

4. No refund shall be granted on account of this notification till the disposal of the appeal, in respect of any amount paid by the appellant, either on their own or on the directions of any authority (or) court, in excess of the amount specified in para 3 of this notification before the issuance of this notification, for filing an appeal under subsection (1) of Section 107 of the said Act.

5. No appeal under this notification shall be admissible in respect of a demand not involving tax.

6. The provisions of Chapter XIII of the Central Goods and Service Tax Rules, 2017 (12 of 2017), shall mutatis mutandis, apply to an appeal filed under this notification.

The Central Government has issued many other Notifications (Central Tax) in pursuance of the provisions of Section 148 of the CGST Act 2017 from time to time, These Notifications are just a klick away to be viewed – Notifications (Central Tax) issued in pursuance of Section 148 of the CGST Act 2017.

The Central Government has issued many other Notifications (Central Tax- Rate) in pursuance of the provisions of Section 148 of the CGST Act 2017 from time to time, These Notifications are just a klick away to be viewed – Notifications (Central Tax- Rate) issued in pursuance of Section 148 of the CGST Act 2017.

21.6.2.1 Departmental Clarifications - Clarification regarding optional filing of annual return under notification No. 47/2019- Central Tax dated 9th October, 2019 - Circular No. 124/43/2019 – GST dated 18th November, 2019

Attention is invited to notification No. 47/2019-Central Tax dated 9th October, 2019 (hereinafter referred to as "the said notification") issued under section 148 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the said Act") providing for special procedure for those registered persons whose aggregate turnover in a financial year

does not exceed two crore rupees and who have not furnished the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "the CGST Rules").

2. Vide the said notification it is provided that the annual return shall be deemed to be furnished on the due date if it has not been furnished before the due date for the financial year 2017-18 and 2018-19, in respect of those registered persons. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the said Act, hereby clarifies the issues raised as below:–

a. As per proviso to sub-rule (1) of rule 80 of the CGST Rules, a person paying tax under section 10 is required to furnish the annual return in FORM GSTR-9A. Since the said notification has made it optional to furnish the annual return for FY 2017-18 and 2018-19 for those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees, it is clarified that the tax payers under composition scheme, may, at their own option file FORM GSTR-9A for the said financial years before the due date. After the due date of furnishing the annual return for the year 2017-18 and 2018-19, the common portal shall not permit furnishing of FORM GSTR-9A for the said period.

b. As per sub-rule (1) of rule 80 of the CGST Rules, every registered person other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in FORM GSTR-9. Further, the said notification has made it optional to furnish the annual return for FY 2017-18 and 2018-19 for those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees. Accordingly, it is clarified that the tax payers, may, at their own option file FORM GSTR-9 for the said financial years before the due date. After the due date of furnishing the annual return for the year 2017-18 and 2018-19, the common portal shall not permit furnishing of FORM GSTR-9 for the said period.

3. Section 73 of the said Act provides for voluntary payment of tax dues by the taxpayers at any point in time. Therefore, irrespective of the time and quantum of tax which has not been paid or short paid, the taxpayer has the liberty to self-ascertain such tax amount and pay it through FORM GST DRC-03. Accordingly, it is clarified that if any registered tax payer, during course of reconciliation of his accounts, notices any short payment of tax or ineligible availment of input tax credit, he may pay the same through FORM GST DRC-03.

21.6.2.2 Departmental Clarifications - Clarification in respect of issues under GST law for companies under Insolvency and Bankruptcy Code, 2016 - Circular No.134/04/2020-GST dated 23rd March, 2020

Various representations have been received from the trade and industry seeking clarification on issues being faced by entities covered under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IBC").

2. As per IBC, once an entity defaults certain threshold amount, Corporate Insolvency Resolution Process (hereafter referred to as “CIRP”) gets triggered and the management of such entity (Corporate Debtor) and its assets vest with an interim resolution professional (hereafter referred to as “IRP”) or resolution professional (hereafter referred to as “RP”). It continues to run the business and operations of the said entity as a going concern till the insolvency proceeding is over and an order is passed by the National Company Law Tribunal (hereinafter referred to as the “NCLT”)

3. To address the aforementioned problems, notification No.11/2020- Central Tax, dated 21.03.2020 has been issued by the Government prescribing special procedure under section 148 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) for the corporate debtors who are undergoing CIRP under the provisions of IBC and the management of whose affairs are being undertaken by IRP/RP. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies various issues in the table below:-

S.No.	Issue	Clarification
1.	How are dues under GST for pre-CIRP period be dealt?	In accordance with the provisions of the IBC and various legal pronouncements on the issue, no coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date. The dues of the period prior to the commencement of CIRP will be treated as 'operational debt' and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC. The tax officers shall seek the details of supplies made / received and total tax dues pending from the corporate debtor to file the claim before the NCLT. Moreover, section 14 of the IBC mandates the imposition of a moratorium period, wherein the institution of suits or continuation of pending suits or proceedings against the corporate debtor is prohibited.
2.	Should the GST registration of corporate debtor be cancelled?	It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if need be, suspend the registration. In case the registration of an entity undergoing CIRP has already been cancelled and it is within the period of revocation of cancellation of registration, it is advised that such cancellation may be revoked by taking appropriate steps in this regard.
3.	Is IRP/RP liable to file returns of pre-CIRP period?	No. In accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date. Accordingly, it

		is clarified that IRP/RP are not under an obligation to file returns of pre-CIRP period.
During CIRP period		
4.	Should a new registration be taken by the corporate debtor during the CIRP period?	The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification No.11/2020- Central Tax, dated 21.03.2020, he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.
5.	How to file First Return after obtaining new registration?	The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period. The IRP/RP is required to ensure that the first return is filed under section 40 of the CGST Act, for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.
6.	How to avail ITC for invoices issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification No.11/2020- Central Tax, dated 21.03.2020 and no return has been filed by the IRP during the CIRP ?	The special procedure issued under section 148 of the CGST Act has provided the manner of availment of ITC while furnishing the first return under section 40. The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules. In terms of the special procedure under section 148 of the CGST Act issued vide notification No.11/2020-Central Tax, dated 21.03.2020. This exception is made only for the first return filed under section 40 of the CGST Act.
7.	How to avail ITC for invoices by persons who are availing supplies from the corporate debtors undergoing CIRP, in cases where the IRP/RP was appointed before the issuance of the notification	Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the

	No.11/2020 - Central Tax, dated 21.03.2020?	conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-rule (4) of rule 36 of the CGST Rules.
8.	Some of the IRP/RPs have made deposit in the cash ledger of erstwhile registration of the corporate debtor. How to claim refund for amount deposited in the cash ledger by the IRP/RP?	Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP / RP to the date of notification specifying the special procedure for corporate debtors undergoing CIRP, shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant FORM GSTR-3B/GSTR-1 are not filed for the said period. The instructions contained in Circular No. 125/44/2019-GST dt. 18.11.2019 stands modified to this extent.

21.6.2.3 Departmental Clarifications - Mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for period prior to merger with U.T. of Dadra & Nagar Haveli.- Circular No. 168/24/2021 – GST dated 30th December, 2021

New GSTINs with UT Code 26 were created for the taxpayers of erstwhile UT of Daman and Diu w.e.f 1 st August, 2020 on merger of the UT of Dadra & Nagar Haveli and UT of Daman & Diu. During the transition, the taxpayers have transferred their ITC balance from their electronic credit ledger of the old GSTIN (by reversing the balance amount available in electronic credit ledger through the last return in FORM GSTR 3B filed for the old GSTIN prior to merger) to the new GSTIN (by availing the ITC for the said amount in the first return in FORM GSTR 3B filed for the new GSTIN) as per procedure specified under Notification No. 10/2020-CT dated 21.03.2020.

2 Representations have now been received from the field formations and trade/industry that due to transfer of ITC from old GSTIN to new GSTIN, the taxpayers are unable to apply for refund on account of zero-rated supplies and inverted rated structure for the period prior to merger in respect of old GSTIN as they have no ITC available in the electronic credit ledger of the old GSTIN for debiting the amount from electronic credit ledger for claiming refund of unutilised ITC. Such taxpayers are also unable to apply for such refund claim from the new GSTIN because all the invoices bear the old GSTIN and the system has certain validations which do not allow the refund application to be filed from the new GSTIN for the period prior to the merger.

3 The matter has been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017, hereby prescribes the following procedure in respect of the taxpayers, registered in the erstwhile UT of Daman & Diu and who are unable to file refund claim, due to merger of UT of Dadra & Nagar Haveli and UT of Daman & Diu, to enable such taxpayers to file refund claim for the period prior to merger:

i. The application for refund shall be filed under 'Any other' category on the GST portal using their new GSTIN. In the Remarks column of the application, the applicant needs to enter the category in which the refund application otherwise would have been filed. For example, if the applicant wants to claim refund of unutilised ITC on account of export of goods/services, in remarks column, he shall enter 'Refund of unutilised ITC on account of export of goods/services without payment of tax for the period prior to merger of Daman & Diu with Dadra & Nagar Haveli'. The application shall be accompanied by all the supporting documents which otherwise are required to be submitted with the refund claim.

ii. At this stage, the applicant is not required to make any debit from the electronic credit ledger.

iii. On receipt of the claim, the proper officer shall calculate the admissible refund amount as per law. Further, upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the applicant, in writing, if required, to debit the said amount from the electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment order in FORM GST RFD-05.

iv. For the categories of refund where debit of ITC is not required, the applicant may apply for refund under the category "Any other" mentioning the reasons in the Remarks column. Such application shall also be accompanied by all the supporting documents which are otherwise required to be submitted along with the refund claim.

4. No refund claim, requiring debit from the electronic credit ledger or where the refund would result in re-credit of the amount sanctioned in the electronic credit ledger, shall be filed using old GSTIN.

21.7 Goods and services tax compliance rating [Section 149]

Section 149(1)	01.07.2017 to till date	Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act.
Section 149(2)	01.07.2017 to till date	The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.
Section 149(3)	01.07.2017 to till date	The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

21.8 Obligation to furnish information return. [Section 150]

Section 150(1)	01.07.2017 to till date	Any person, being— (a) a taxable person; or (b) a local authority or other public body or association; or (c) any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or (d) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or (e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934; or (f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted with such functions by the Central Government or the State Government; or (g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or (h) a Registrar within the meaning of the Companies Act, 2013; or (i) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or (j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or (k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or (l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or (m) an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934; or (n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or (o) a person to whom a Unique Identity Number has been granted under sub-section (9) of section 25; or (p) any other person as may be specified, on the recommendations of the Council, by the Government, who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.
Section 150(2)	01.07.2017 to till date	Where the Commissioner, or an officer authorized by him in this behalf, considers that the information furnished in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such

		further period which, on an application made in this behalf, the said authority may allow and if the defect is not rectified within the said period of thirty days or, the further period so allowed, then, notwithstanding anything contained in any other provisions of this Act, such information return shall be treated as not furnished and the provisions of this Act shall apply.
Section 150(3)	01.07.2017 to till date	Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

21.9 [1][Power to call for information]. [Section 151]

	Notes **1.** **S**ubstituted for "Power to collect statistics". w.e.f. 1st day of January, 2022 vide Section 119 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021,

Section 151(1)	01.07.2017 To 31.12.2021	The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.
Section 151(2)	01.07.2017 To 31.12.2021	Upon such notification being issued, the Commissioner, or any person authorized by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected.
[1][Section 151	01.01.2022 to till date	The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.] **1.** **S**ubstituted for section 151 w.e.f. 1st day of January, 2022 vide Section 119 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021,

21.10 Bar on disclosure of information. [Section 152]

Section 152(1)	01.07.2017 To 31.12.2021	No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.
	01.01.2022 to till date	No information [1][*****] with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act [2][without giving an opportunity of being heard to the person concerned]. 1 Omitted The words "of any individual return or part thereof" w.e.f. 1st day of January, 2022 vide Section 120 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021. 2 Inserted w.e.f. 1st day of January, 2022 vide Section 120 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021.
Section 152(2)	01.07.2017 To 31.12.2021	Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerization thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.
	01.01.2022 to till date	[1][*****] 1 Omitted sub-section (2) w.e.f. 1st day of January, 2022 vide Section 120 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021,
Section 152(3)	01.07.2017 to till date	Nothing in this section shall apply to the publication of any information relating to a class of taxable persons or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest to publish such information.

21.11 Taking assistance from an expert. [Section 153]

Section 153	01.07.2017 to till date	Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him.

21.12 Power to take samples. [Section 154]

Section 154	01.07.2017 to till date	The Commissioner or an officer authorised by him may take samples of goods from the possession of any taxable person, where he considers it necessary, and provide a receipt for any samples so taken.

21.13 Burden of proof. [Section 155]

Section 155	01.07.2017 to till date	Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.

21.14 Persons deemed to be public servants. [Section 156]

Section 156	01.07.2017 to till date	All persons discharging functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

21.15 Protection of action taken under this Act. [Section 157]

Section 157(1)	01.07.2017 to till date	No suit, prosecution or other legal proceedings shall lie against the President, State President, Members, officers or other employees of the Appellate Tribunal or any other person authorised by the said Appellate Tribunal for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.
Section 157(2)	01.07.2017 to till date	No suit, prosecution or other legal proceedings shall lie against any officer appointed or authorised under this Act for anything which is done or intended to be done in good faith under this Act or the rules made thereunder.

21.16 Disclosure of information by a public servant. [Section 158]

Section 158(1)	01.07.2017 to till date	All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings

<table>
<tr><td></td><td></td><td>before a criminal court), or in any record of any proceedings under this Act shall, save as provided in sub-section (3), not be disclosed.</td></tr>
<tr><td>Section 158(2)</td><td>01.07.2017 to till date</td><td>Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as otherwise provided in sub-section (3), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).</td></tr>
<tr><td>Section 158(3)</td><td>01.07.2017 to till date</td><td>Nothing contained in this section shall apply to the disclosure of,—
<table>
<tr><td>(a)</td><td>any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, or any other law for the time being in force; or</td></tr>
<tr><td>(b)</td><td>any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or</td></tr>
<tr><td>(c)</td><td>any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or</td></tr>
<tr><td>(d)</td><td>any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or</td></tr>
<tr><td>(e)</td><td>any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or</td></tr>
<tr><td>(f)</td><td>any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or</td></tr>
<tr><td>(g)</td><td>any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or</td></tr>
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		(h)	any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or
		(i)	any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or
		(j)	any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or
		(k)	any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or
		(l)	any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

21.17 Consent based sharing of information furnished by taxable person [Section 158A]

Notes	
1.	Inserted vide Section 158 of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.

Section 158A(1)	01.10.2023 to till date	Notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of subsection (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—

		(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44; (b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68; (c) such other details as may be prescribed.
Section 158A(2)	01.10.2023 to till date	For the purposes of sharing details under sub-section (1), the consent shall be obtained, of — (a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and (b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient, in such form and manner as may be prescribed.
Section 158A(3)	01.10.2023 to till date	Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return.

21.17.1.1 Departmental Notification - Account Aggregator as the system with which the common portal may share information based on consent

Notification No. 33/2023 – Central Tax dated 31st July, 2023 effective from 1st day of October, 2023.- The Central Government, has notified "Account Aggregator" as the systems with which information may be shared by the common portal based on consent under Section 158A of the Central Goods and Services Tax Act, 2017 (12 of 2017).

Explanation: For the purpose of this notification, "Account Aggregator" means a non-financial banking company which undertakes the business of an Account Aggregator in accordance with the policy directions issued by the Reserve Bank of India under section 45JA of the Reserve Bank of India Act, 1934 (2 of 1934) and defined as such in the Non-Banking Financial Company - Account Aggregator (Reserve Bank) Directions, 2016.

21.18 Publication of information in respect of persons in certain cases. [Section 159]

Section 159(1)	01.07.2017 to till date	If the Commissioner, or any other officer authorised by him in this behalf, is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, it may

		cause to be published such name and particulars in such manner as it thinks fit.
Section 159(2)	01.07.2017 to till date	No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.
Explanation	01.07.2017 to till date	In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, or any other officer authorised by him in this behalf, circumstances of the case justify it.

21.19 Assessment proceedings, etc., not to be invalid on certain grounds. [Section 160]

Section 160(1)	01.07.2017 to till date	No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.
Section 160(2)	01.07.2017 to till date	The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

21.20 Rectification of errors apparent on the face of record. [Section 161]

Section 161	01.07.2017 to till date	Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or

		an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:
First Proviso	01.07.2017 to till date	**Provided that** no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:
Second Proviso	01.07.2017 to till date	**Provided further that** the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:
Third Proviso	01.07.2017 to till date	**Provided also that** where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.

21.21 Bar on jurisdiction of civil courts. [Section 162]

Section 162	01.07.2017 to till date	Save as provided in sections 117 and 118, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.

21.22 Levy of fee. [Section 163]

Section 163	01.07.2017 to till date	Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed.

21.23 Power of Government to make rules. [Section 164]

Section 164(1)	22.06.2017 to till date	The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.
Section 164(2)	22.06.2017 to till date	Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.
Section 164(3)	22.06.2017 to till date	The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or

		any of them from a date not earlier than the date on which the provisions of this Act come into force.
Section 164(4)	22.06.2017 to till date	Any rules made under sub-section (1) or sub-section (2) may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

The Central Government has issued many Notifications (Central Tax) in pursuance of the provisions of Section 164 of the CGST Act 2017 from time to time, These Notifications are just a klick away to be viewed – Notifications (Central Tax) issued in pursuance of Section 164 of the CGST Act 2017.

21.24 Power to make regulations. [Section 165]

Section 165	01.07.2017 to till date	The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

21.25 Power to make regulations. [Section 166]

Section 166	01.07.2017 to till date	Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

21.26 Delegation of powers. [Section 167]

Section 167	01.07.2017 to till date	The Commissioner may, by notification, direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under this Act may be exercisable also by another authority or officer as may be specified in such notification.

21.27 Power to issue instructions or directions. [Section 168]

Section 168(1)	01.07.2017 to till date	The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit, and thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.
Section 168(2)	01.07.2017 to 31.12.2019	The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, sub-section (5) of section 66, sub-section (1) of section 143, sub-section (1) of section 151, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.
	01.01.2020 to 29.06.2020	The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, [1][sub-section (*1*) of section 44, sub-sections (*4*) and (*5*) of section 52], sub-section (5) of section 66, sub-section (1) of section 143, sub-section (1) of section 151, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board. 1 Inserted w.e.f 01.01.2020 vide Section 111 of Finance Act 2019 which comes into force vide Notification No. 01/2020 – Central Tax Dated 01st January 2020.
	30.06.2020 to 31.12.2021	The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, sub-section (*1*) of section 44, sub-sections (*4*) and

		(*5*) of section 52, [1][sub-section (1) of section 143, except the second proviso thereof], sub-section (1) of section 151, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board. 1. Substituted w.e.f. 30.06.2020 for the words, brackets and figures "sub-section (5) of section 66, sub-section (1) of section 143", vide Section 129 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 49/2020 –Central Tax dated 24th June 2020.
	01.01.2022 to 30.09.2022	The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, [1][section 44], sub-sections (*4*) and (*5*) of section 52], [sub-section (1) of section 143, except the second proviso thereof], [2][*****], clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board. 1 Substituted For the words, brackets and figures "sub-section (1) of section 44" w.e.f. 1st day of January, 2022 vide Section 121 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021. 2 Omitted the words, brackets and figures "sub-section (1) of section 151," w.e.f. 1st day of January, 2022 vide Section 121 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021.
	01.10.2022 To till date	The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, [1][*****], sub-section (6) of section 39, [[section 44], sub-sections (*4*) and (*5*) of section 52], [sub-section (1) of section 143, except the second proviso thereof], [*****], clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

		1. Omitted the words, brackets and figures "sub-section (2) of section 38," w.e.f. 01.10.2022 vide section 114 of the Finance Act, 2022 which comes into force by Notification No. 18/2022 – Central Tax dated 28.09.2022.

The Central Government has issued many Notifications (Central Tax) in pursuance of the provisions of Section 168 of the CGST Act 2017 from time to time, These Notifications are just a klick away to be viewed – Notifications (Central Tax) issued in pursuance of Section 168 of the CGST Act 2017.

21.28 [1][Power of Government to extend time limit in special circumstances. [Section 168A]

Section 168A(1)	31.03.2020 to till date	Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under this Act in respect of actions which cannot be completed or complied with due to force majeure.
Section 168A(1)	31.03.2020 to till date	The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.
Explanation	31.03.2020 to till date	For the purposes of this section, the expression "force majeure" means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.]

Notes

1. Section 168A inserted vide section 7 of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and shall be deemed to have come into force on the 31st day of March, 2020.

21.28.1.1 Departmental Notification – Extention of the due date of compliance which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020

Notification No. 35/2020 – Central Tax dated 3rd April, 2020 effective from 20th day of March, 2020 - In view of the spread of pandemic COVID-19 across many countries of the world including India, the Government, on the recommendations of the Council, hereby notifies, as under,-

(i) where, any time limit for completion or compliance of any action, by any authority or by any person, has been specified in, or prescribed or notified under the said Act, which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto the 30th day of June, 2020, including for the purposes of—

(a) completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or

(b) filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above;

but, such extension of time shall not be applicable for the compliances of the provisions of the said Act, as mentioned below –

(a) Chapter IV;

(b) sub-section (3) of section 10, sections 25, 27, 31, 37, 47, 50, 69, 90, 122, 129;

(c) section 39, except sub-section (3), (4) and (5);

(d) section 68, in so far as e-way bill is concerned; and

(e) rules made under the provisions specified at clause (a) to (d) above;

(ii) where an e-way bill has been generated under rule 138 of the Central Goods and Services Tax Rules, 2017 and its period of validity expires during the period 20th day of March, 2020 to 15th day of April, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 30th day of April, 2020.

Further, Notification No. 40/2020 – Central Tax dated 5th May, 2020 has amended Notification No. 35/2020 – Central Tax dated 3rd April, 2020, namely:-

In the said notification, in the first paragraph, in clause (ii), the following proviso shall be inserted, namely: -

“Provided that where an e-way bill has been generated under rule 138 of the Central Goods and Services Tax Rules, 2017 on or before the 24th day of March, 2020 and its period of validity expires during the period 20th day of March, 2020 to the 15th day of April, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 31st day of May, 2020.”.

Further, Notification No. 47/2020 – Central Tax dated 9th June, 2020 effective from 31st day of May, 2020 has amended Notification No. 35/2020 – Central Tax dated 3rd April, 2020, namely:-

In the said notification, in the first paragraph, in clause (*ii*), for the proviso, the following proviso shall be substituted, namely: -

"Provided that where an e-way bill has been generated under rule 138 of the Central Goods and Services Tax Rules, 2017 on or before the 24th day of March, 2020 and whose validity has expired on or after the 20th March. 2020, the validity period of such e-way bill shall be deemed to have been extended till the 30st day of June, 2020.".

Further, Notification No. 55/2020 – Central Tax 27th June, 2020 has amended Notification No. 35/2020 – Central Tax dated 3rd April, 2020, namely:-

In the said notification, in the first paragraph, in clause (i),--

(i) for the words, figures and letters "29th day of June, 2020", the words, figures and letters "30th day of August, 2020" shall be substituted;

(ii) for the words, figures and letters "30th day of June, 2020", the words, figures and letters "31st day of August, 2020" shall be substituted.

Further, Notification No. 65/2020 – Central Tax dated 01st September, 2020 has amended Notification No. 35/2020 – Central Tax dated 3rd April, 2020, namely:-

In the said notification, in the first paragraph, in clause (i), the following proviso shall be inserted, namely: -

"Provided that where, any time limit for completion or compliance of any action, by any authority, has been specified in, or prescribed or notified under section 171 of the said Act, which falls during the period from the 20th day of March, 2020 to the 29th day of November, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto the 30th day of November, 2020."

Further, Notification No. 66/2020 – Central Tax dated 21st September, 2020 has amended Notification No. 35/2020 – Central Tax dated 3rd April, 2020, namely:-

In the said notification, in the first paragraph, in clause (i), after the first proviso, the following proviso shall be inserted, namely: -

"Provided further that where, any time limit for completion or compliance of any action, by any person, has been specified in, or prescribed or notified under sub-section (7) of section 31 of the said Act in respect of goods being sent or taken out of India on approval for sale or return, which falls during the period from the 20th day of March, 2020 to the 30th day of October, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall stand extended upto the 31st day of October, 2020.".

Further, Notification No. 91/2020 – Central Tax dated 14th December, 2020 effective from 1st day of December, 2020 has amended Notification No. 35/2020 – Central Tax dated 3rd April, 2020, namely:-

In the said notification, in the first paragraph, in the proviso to clause (i),

(i) for the words, figures and letters "29th day of November, 2020", the words, figures and letters "30th day of March, 2021" shall be substituted.

(ii) for the words, figures and letters "30th day of November, 2020", the words, figures and letters "31st day of March, 2021" shall be substituted.

Further, Notification No. 34/2021 – Central Tax dated 29th August, 2021 has partially modified Notification No. 35/2020 – Central Tax dated 3rd April, 2020, and Notification No. 14/2021 – Central Tax dated 1st May, 2021 — The Government, on the recommendations of the Council, has notified that where a registration has been cancelled under clause (b) or (c) of sub-section (2) of section 29 of the said Act and the time limit for making an application of revocation of cancellation of registration under sub-section (1) of section 30 of the said Act falls during the period from the 1 st day of March, 2020 to 31st day of August, 2021, the time limit for making such application shall be extended upto the 30th day of September, 2021.

Further, Notification No. 13/2022-Central Tax dated 5th July. 2022 effective from 1st day of March, 2020 has partially modified Notification No. 35/2020 – Central Tax dated 3rd April, 2020, and Notification No. 14/2021 – Central Tax dated 1st May, 2021 — The Government, on the recommendations of the Council, hereby,-

(i) extends the time limit specified under sub-section (10) of section 73 for issuance of order under subsection (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, in respect of a tax period for the financial year 2017-18, up to the 30th day of September, 2023;

(ii) excludes the period from the 1 st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation under sub-section (10) of section 73 of the said Act for issuance of order under subsection (9) of section 73 of the said Act, for recovery of erroneous refund;

(iii) excludes the period from the 1 st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation for filing refund application under section 54 or section 55 of the said Act.

Further, Notification No. 09/2023 - Central Tax dated 31st March, 2023 has partially modified Notification No. 35/2020 – Central Tax dated 3rd April, 2020, Notification No. 14/2021 – Central Tax dated 1st May, 2021 and Notification No. 13/2022-Central Tax dated 5th July. 2022

The Government, on the recommendations of the Council, has, extended the time limit specified under subsection (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilised, relating to the period as specified below, namely:–

(i) for the financial year 2017-18, up to the 31st day of December, 2023;

(ii) for the financial year 2018-19, up to the 31st day of March, 2024;

(iii) for the financial year 2019-20, up to the 30th day of June, 2024.

Further, Notification No. 56/2023 - Central Tax dated 28th December, 2023 has partially modified Notification No. 35/2020 – Central Tax dated 3rd April, 2020, Notification No. 14/2021 – Central Tax dated 1st May, 2021, Notification No. 13/2022-Central Tax dated 5th July. 2022 and Notification No. 09/2023 - Central Tax dated 31st March, 2023

The Government, on the recommendations of the Council, has, extended the time limit specified under subsection (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilised, relating to the period as specified below, namely:–

(i) for the financial year 2018-19, up to the 30th day of April, 2024;

(ii) for the financial year 2019-20, up to the 31st day of August, 2024.

21.28.1.2 Departmental Notification – Extention of the period to pass order under Section 54(7) of CGST Act.

Notification No. 46/2020 – Central Tax dated 9th June, 2020 - In view of the spread of pandemic COVID-19 across many countries of the world including India, the Government, on the recommendations of the Council, has notified that in cases where a notice has been issued for rejection of refund claim, in full or in part and where the time limit for issuance of order in terms of the provisions of sub-section (5), read with sub-section (7) of section 54 of the said Act falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, in such cases the time limit for issuance of the said order shall be extended to fifteen days after the receipt of reply to the notice from the registered person or the 30th day of June, 2020, whichever is later.

Further, Notification No. 56/2020 – Central Tax dated 27th June, 2020 has amended Notification No. 46/2020 – Central Tax dated 9th June, 2020 , namely:-

In the said notification, in the first paragraph,--

(i) for the words, figures and letters “29th day of June, 2020”, the words, figures and letters “30th day of August, 2020” shall be substituted;

(ii) for the words, figures and letters “30th day of June, 2020”, the words, figures and letters “31st day of August, 2020” shall be substituted.

21.28.1.3 Departmental Notification – Extention of the specified compliances falling between 15.04.2021 to 30.05.2021 till 31.05.2021 in exercise of powers under section 168A of CGST Act.

Notification No. 14/2021 – Central Tax dated 1st May, 2021 effective from 15th day of April, 2021 - In view of the spread of pandemic COVID-19 across many parts of India, the Government, on the recommendations of the Council, hereby notifies, as under,-

(i) where, any time limit for completion or compliance of any action, by any authority or by any person, has been specified in, or prescribed or notified under the said Act, which falls during the period from the 15th day of April, 2021 to the 30th day of May, 2021, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto the 31st day of May, 2021, including for the purposes of—

(a) completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or

(b) filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above;

but, such extension of time shall not be applicable for the compliances of the following provisions of the said Act, namely: -

(a) Chapter IV;

(b) sub-section (3) of section 10, sections 25, 27, 31, 37, 47, 50, 69, 90, 122, 129;

(c) section 39, except sub-section (3), (4) and (5);

(d) section 68, in so far as e-way bill is concerned; and

(e) rules made under the provisions specified at clause (a) to (d) above :

Provided that where, any time limit for completion of any action, by any authority or by any person, specified in, or prescribed or notified under rule 9 of the Central Goods and Services Tax Rules, 2017, falls during the period from the 1st day of May, 2021 to the 31st day of May, 2021, and where completion of such action has not been made within such time, then, the time limit for completion of such action, shall be extended upto the 15th day of June, 2021;

(ii) in cases where a notice has been issued for rejection of refund claim, in full or in part and where the time limit for issuance of order in terms of the provisions of subsection (5), read with sub-section (7) of section 54 of the said Act falls during the period from the 15th day of April, 2021 to the 30th day of May, 2021, in such cases the time limit for issuance of the said order shall be extended to fifteen days after the receipt of reply to the notice from the registered person or the 31st day of May, 2021, whichever is later.

Further, Notification No. 24/2021 – Central Tax dated 1st June, 2021 effective from 30th day of May, 2021 has amended Notification No. 14/2021 – Central Tax dated 1st May, 2021 , namely: —

In the said notification, in the first paragraph,-

(i) in clause (i), -

a. for the figures, letters and words “30th day of May, 2021”, the figures, letters and words “29th day of June, 2021” shall be substituted;

b. for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted;

(ii) in proviso to clause (i), —

a. for the figures, letters and words “31 st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted;

b. for the figures, letters and words “15 th day of June, 2021”, the figures, letters and words “15th day of July, 2021” shall be substituted;

(iii) in clause (ii), —

a. for the figures, letters and words “30th day of May, 2021”, the figures, letters and words “29th day of June, 2021” shall be substituted;

b. for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted.

Further, Notification No. 34/2021 – Central Tax dated 29th August, 2021 has partially modified Notification No. 35/2020 – Central Tax dated 3rd April, 2020, and Notification No. 14/2021 – Central Tax dated 1st May, 2021 — The Government, on the recommendations of the Council, has notified that where a registration has been cancelled under clause (b) or (c) of sub-section (2) of section 29 of the said Act and the time limit for making an application of revocation of cancellation of registration under sub-section (1) of section 30 of the said Act falls during the period from the 1 st day of March, 2020 to 31st day of August, 2021, the time limit for making such application shall be extended upto the 30th day of September, 2021.

Further, Notification No. 13/2022-Central Tax dated 5th July. 2022 effective from 1st day of March, 2020 has partially modified Notification No. 35/2020 – Central Tax dated 3rd April, 2020, and Notification No. 14/2021 – Central Tax dated 1st May, 2021 — The Government, on the recommendations of the Council, hereby,-

(i) extends the time limit specified under sub-section (10) of section 73 for issuance of order under subsection (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, in respect of a tax period for the financial year 2017-18, up to the 30th day of September, 2023;

(ii) excludes the period from the 1 st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation under sub-section (10) of section 73 of the said Act for issuance of order under subsection (9) of section 73 of the said Act, for recovery of erroneous refund;

(iii) excludes the period from the 1 st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation for filing refund application under section 54 or section 55 of the said Act.

Further, Notification No. 09/2023 - Central Tax dated 31st March, 2023 has partially modified Notification No. 35/2020 – Central Tax dated 3rd April, 2020, Notification No. 14/2021 – Central Tax dated 1st May, 2021 and Notification No. 13/2022-Central Tax dated 5th July. 2022

The Government, on the recommendations of the Council, has, extended the time limit specified under subsection (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilised, relating to the period as specified below, namely:–

(i) for the financial year 2017-18, up to the 31st day of December, 2023;

(ii) for the financial year 2018-19, up to the 31st day of March, 2024;

(iii) for the financial year 2019-20, up to the 30th day of June, 2024.

Further, Notification No. 56/2023 - Central Tax dated 28th December, 2023 has partially modified Notification No. 35/2020 – Central Tax dated 3rd April, 2020, Notification No. 14/2021 – Central Tax dated 1st May, 2021, Notification No. 13/2022-Central Tax dated 5th July. 2022 and Notification No. 09/2023 - Central Tax dated 31st March, 2023

The Government, on the recommendations of the Council, has, extended the time limit specified under subsection (10) of section 73 for issuance of order under sub-section (9) of

section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilised, relating to the period as specified below, namely:–

(i) for the financial year 2018-19, up to the 30th day of April, 2024;

(ii) for the financial year 2019-20, up to the 31st day of August, 2024.

21.28.2.1 Departmental Clarifications - Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19) - Circular No. 136/06/2020-GST dated 3rd April, 2020

The spread of Novel Corona Virus (COVID-19) across many countries of the world, including India, has caused immense loss to the lives of people and resultantly impacted the trade and industry. In view of the emergent situation and challenges faced by taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), Government has announced various relief measures relating to statutory and regulatory compliance matters across sectors.

2. Government has issued following notifications in order to provide relief to the taxpayers:

S. No.	Notification	Remarks
1.	Notification No. 30/2020- Central Tax, dated 03.04.2020	Amendment in the CGST Rules so as to allow taxpayers opting for the Composition Scheme for the financial year 2020-21 to file their option in **FORM CMP-02** till 30th June, 2020 and to allow cumulative application of the condition in rule 36(4) for the months of February, 2020 to August, 2020 in the return for tax period of September, 2020.
2.	Notification No. 31/2020- Central Tax, dated 03.04.2020	A lower rate of interest of NIL for first 15 days after the due date of filing return in FORM GSTR-3B and @ 9% thereafter is notified for those registered persons having aggregate turnover above Rs. 5 Crore and NIL rate of interest is notified for those registered persons having aggregate turnover below Rs. 5 Crore in the preceding financial year, for the tax periods of February, 2020 to April, 2020. This lower rate of interest shall be subject to condition that due tax is paid by filing return in FORM GSTR-3B by the date(*s*) as specified in the Notification.
3.	Notification No. 32/2020- Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing returns in **FORM GSTR-3B** for the tax periods of February, 2020 to April, 2020 provided the return in FORM GSTR-3B by the date as specified in the Notification.

4.	Notification No. 33/2020- Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing the statement of outward supplies in **FORM GSTR-1** for taxpayers for the tax periods March, 2020 to May, 2020 and for quarter ending 31st March 2020 if the same are furnished on or before 30th day of June, 2020.
5.	Notification No. 34/2020- Central Tax, dated 03.04.2020	Extension of due date of furnishing statement, containing the details of payment of self-assessed tax in **FORM GST CMP- 08** for the quarter ending 31st March, 2020 till the 7th day of July, 2020 and filing **FORM GSTR-4** for the financial year ending 31st March, 2020 till the 15th day of July, 2020.
6.	Notification No. 35/2020- Central Tax, dated 03.04.2020	Notification under section 168A of CGST Act for extending due date of compliance which falls during the period from the 20th day of March, 2020 to the 29th day of June, to 30th day of June, 2020.

3. Various issues relating to above mentioned notifications have been examined. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies each of these issues as under:-

<table>
<tr><th>S. No.</th><th>Issue</th><th>Clarification</th></tr>
<tr><td>1.</td><td>What are the measures that have been specifically taken for taxpayers who have opted to pay tax under section 10 the CGST Act or those availing the option to pay tax under the notification No. 02/2019- Central Tax (Rate), dated the 7th March, 2019?</td><td>1. The said class of taxpayers, as per the notification No. 34/2020- Central Tax, dated 03.04.2020, have been allowed, to, —<table><tr><td>(i)</td><td>furnish the statement of details of payment of self- assessed tax in FORM GST CMP-08 for the quarter January to March, 2020 by 07.07.2020; and</td></tr><tr><td>(ii)</td><td>furnish the return in FORM GSTR-4 for the financial year 2019-20 by 15.07.2020.</td></tr></table>2. In addition to the above, taxpayers opting for the composition scheme for the financial year 2020-21, have been allowed, as per the notification No. 30/2020- Central Tax, dated 03.04.2020, to, —<table><tr><td>(i)</td><td>file an intimation in FORM GST CMP-02 by 30.06.2020; and</td></tr><tr><td>(ii)</td><td>furnish the statement in FORM GST ITC-03 till 31.07.2020.</td></tr></table></td></tr>
<tr><td>2.</td><td>Whether due date of furnishing FORM GSTR-3B for the months of February, March and April, 2020 has been extended ?</td><td>1. The due dates for furnishing FORM GSTR-3B for the months of February, March and April, 2020 has not been extended through any of the notifications referred in para 2 above.
2. However, as per notification No. 31/2020- Central Tax, dated 03.04.2020, NIL rate of interest for first 15 days after the due date of filing return in FORM GSTR-3B and reduced rate of interest @ 9% thereafter has been notified for those registered persons whose aggregate turnover in the preceding financial year is above Rs. 5 Crore.</td></tr>
</table>

<table>
<tr><td></td><td></td><td>For those registered persons having turnover up to Rs. 5 Crore in the preceding financial year, NIL rate of interest has also been notified.
3. Further, vide notification as per the notification No. 32/2020- Central Tax, dated 03.04.2020, Government has waived the late fees for delay in furnishing the return in FORM GSTR-3B for the months of February, March and April, 2020.
4. The lower rate of interest and waiver of late fee would be available only if due tax is paid by filing return in FORM GSTR-3B by the date(s) as specified in the Notification.</td></tr>
<tr><td>3.</td><td>What are the conditions attached for availing the reduced rate of interest for the months of February, March and April, 2020, for a registered person whose aggregate turnover in the preceding financial year is above Rs. 5 Crore?</td><td>1. As clarified at sl. no. (2) above, the due date for furnishing the return remains unchanged; i.e. 20th day of the month succeeding such month. The rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months.
2. The reduced rate of interest is subject to the condition that the registered person must furnish the returns in FORM GSTR-3B on or before 24th day of June, 2020.
3. In case the returns in FORM GSTR-3B for the said months are not furnished on or before 24th day of June, 2020 then interest at 18% per annum shall be payable from the due date of return, till the date on which the return is filed. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.</td></tr>
<tr><td>4.</td><td>How to calculate the interest for late payment of tax for the months of February, March and April, 2020 for a registered person whose aggregate turnover in preceding financial year is above Rs. 5 Crore?</td><td>1. As explained above, the rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months. The same can be explained through an illustration.
Illustration:- Calculation of interest for delayed filing of return for the month of March, 2020 (due date of filing being 20.04.2020) may be illustrated as per the below Table:
<table>
<tr><th>S. No.</th><th>Date of filing GSTR-3B</th><th>No. of days of delay</th><th>Whether condition for reduced interest is fulfilled?</th><th>Interest</th></tr>
<tr><td>1</td><td>02.05.2020</td><td>11</td><td>Yes</td><td>Zero interest</td></tr>
<tr><td>2</td><td>20.05.2020</td><td>30</td><td>Yes</td><td>Zero interest for 15 days + interest rate @9% p.a. for 15 days</td></tr>
<tr><td>3</td><td>20.06.2020</td><td>61</td><td>Yes</td><td>Zero interest for 15 days + interest rate @9% p.a. for 46 days</td></tr>
<tr><td>4</td><td>24.06.2020</td><td>65</td><td>Yes</td><td>Zero interest for 15 days + interest rate @9% p.a. for 50 days</td></tr>
</table></td></tr>
</table>

		5 | 30.06.2020 | 71 | NO | Interest rate @18% p.a. for 71 days (i.e. no benefit of reduced interest)
5.	What are the conditions attached for availing the NIL rate of interest for the months of February, March and April, 2020, for a registered person whose aggregate turnover in preceding financial year is up to Rs. 5 Crore?	1. As clarified at sl.no. (2) above, the due date for furnishing the return remains unchanged. The rate of interest has been notified as Nil for the said months. 2. The conditions for availing the NIL rate of interest is that the registered person must furnish the returns in FORM GSTR-3B on or before the date as mentioned in the notification No. 31/2020- Central Tax, dated 03.04.2020. 3. In case the return for the said months are not furnished on or before the date mentioned in the notification then interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed as explained in the illustration at sl.no (4) above, against entry 5. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.
6.	Whether the due date of furnishing the statement of outward supplies in FORM GSTR-1 under section 37 has been extended for the months of February, March and April 2020?	Under the provisions of section 128 of the CGST Act, in terms of notification No. 33/2020- Central Tax, dated 03.04.2020, late fee leviable under section 47 has been waived for delay in furnishing the statement of outward supplies in FORM GSTR-1 under Section 37, for the tax periods March, 2020, April 2020, May, 2020 and quarter ending 31st March 2020 if the same are furnished on or before the 30th day of June, 2020.
7.	Whether restriction under rule 36(4) of the CGST Rules would apply during the lockdown period?	Vide notification No. 30/2020- Central Tax, dated 03.04.2020, a proviso has been inserted in CGST Rules 2017 to provide that the said condition shall not apply to input tax credit availed by the registered persons in the returns in FORM GSTR-3B for the months of February, March, April, May, June, July and August, 2020, but that the said condition shall apply cumulatively for the said period and that the return in FORM GSTR-3B for the tax period of September, 2020 shall be furnished with cumulative adjustment of input tax credit for the said months in accordance with the condition under rule 36(4).
8.	What will be the status of e-way bills which have expired during the lockdown period?	In terms of notification No. 35/2020- Central Tax, dated 03.04.2020, Issued under the provisions of 168A of the CGST Act, where the validity of an e-way bill generated under rule 138 of the CGST Rules expires during the period 20th day of March, 2020 to 15th day of April, 2020, the validity period of such e-way bill has been extended till the 30th day of April, 2020.
9.	What are the measures that have been specifically taken for taxpayers who	Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020, the said class of taxpayers have been allowed to furnish the respective returns specified in sub-sections (3), (4) and (5) of section 39 of the said Act,

	are required to deduct tax at source under section 51, Input Service Distributors and Non-resident Taxable persons?	for the months of March, 2020 to May, 2020 on or before the 30th day of June, 2020.
10.	What are the measures that have been specifically taken for taxpayers who are required to collect tax at source under section 52?	Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020, the said class of taxpayers have been allowed to furnish the statement specified in section 52, for the months of March, 2020 to May, 2020 on or before the 30th day of June, 2020.
11.	The time limit for compliance of some of the provisions of the CGST Act is falling during the lock-down period announced by the Government. What should the taxpayer do?	Vide notification No. 35/2020- Central Tax, dated 03.04.2020, issued under the provisions of 168A of the CGST Act, except for few provisions covered in exclusion clause, any time limit for completion or compliance of any action which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, and where completion or compliance of such action has not been made within such time, has been extended to 30th day of June, 2020.

21.29 Service of notice in certain circumstances. [Section 169]

<table>
<tr>
<td>Section 169(1)</td>
<td>01.07.2017 to till date</td>
<td>Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—
<table>
<tr><td>(a)</td><td>by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or</td></tr>
<tr><td>(b)</td><td>by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or</td></tr>
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		(c)	by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
		(d)	by making it available on the common portal; or
		(e)	by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or
		(f)	if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.
Section 169(2)	01.07.2017 to till date	Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).	
Section 169(3)	01.07.2017 to till date	When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.	

21.29.1.1 Departmental Clarifications - Clarification regarding filing of application for revocation of cancellation of registration in terms of Removal of Difficulty Order (RoD) number 05/2019-Central Tax dated 23.04.2019- Circular No. 99/18/2019-GST dated 23rd April 2019

Registration of several persons was cancelled under sub-section (2) of section 29 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the said Act”) due to non-furnishing of returns in FORM GSTR-3B or FORM GSTR-4. Sub-section (2) of section 29 of the said Act empowers the proper officer to cancel the registration, including from a retrospective date. Thus registration have been cancelled either from the date of order of cancellation of registration or from a retrospective date.

2. Representations have been received that large number of persons whose registration were cancelled could not apply for revocation of the said cancellation of registration within the period of 30 days as provided in sub-section (1) of section 30 of the said Act. Accordingly, a Removal of Difficulty Order (RoD) number 05/2019-Central Tax dated the 23rd April, 2019 has been issued wherein persons whose registrations have been cancelled under sub-section (2) of section 29 of the said Act after they were served notice in the manner provided in section clause (c) and clause (d) of sub-section (1) of section 169 of the said Act and who could not

reply to the said notice and for whom cancellation order has been passed up to 31st March, 2019, have been given one time opportunity to apply for revocation of cancellation of registration on or before the 22nd July, 2019. Further, vide notification No. 20/2019-Central Tax, dated the 23rd April, 2019, two provisos have been inserted in sub-rule (1) of rule 23 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "the said Rules"). In the light of these changes and in order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the said Act, hereby clarifies the issues relating to the procedure for filing of application for revocation of cancellation of registration.

3. First proviso to sub-rule (1) of rule 23 of the said Rules provides that if the registration has been cancelled on account of failure of the registered person to furnish returns, no application for revocation of cancellation of registration shall be filed, unless such returns are furnished and any amount in terms of such returns is paid. Thus, where the registration has been cancelled with effect from the date of order of cancellation of registration, all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed. Further, in such cases, in terms of the second proviso to sub-rule (1) of rule 23 of the said Rules, all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of thirty days from the date of the order of revocation.

4. Where the registration has been cancelled with retrospective effect, the common portal does not allow furnishing of returns after the effective date of cancellation. In such cases it was not possible to file the application for revocation of cancellation of registration. Therefore, a third proviso was added to sub-rule (1) of rule 23 of the said Rules enabling filing of application for revocation of cancellation of registration, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of thirty days from the date of order of such revocation of cancellation of registration.

5 The above provisions are explained, by way of an Illustration for better clarity as below:

Return not furnished from	**Date of order of cancellation of registration**	**Cancellation of registration effective from**	**Date of filing of application for revocation of cancellation of registration as per RoD (to be filed on or before the 22nd July, 2019)**	**Returns to be furnished before filing the application for revocation of cancellation of registration**	**Date of order of revocation of cancellation of registration**	**Date of furnishing returns for period b/w date of order of cancellation of registration and date of revocation of cancellation of registration (to be filed within thirty days from the date of order of revocation of cancellation of registration)**	**Returns to be furnished within thirty days from date of order of revocation of cancellation of registration**
July, 18	01st March, 19	01st March, 19	30th May, 19	**Returns due till 01st March, 19** (i.e. July, 18 to January, 19)	01st June, 19	01st July, 19	**Returns due till 01st June, 19** (i.e. February, 19 to April, 19)
July, 18	22nd March, 19	22nd March, 19	20th June, 19	**Returns due till 22nd March, 19** (i.e. July, 18 to February, 19)	22nd June,19	22nd July, 19	**Returns due till 21st June, 19** (i.e. March, 19 to May, 19)
July, 18	01st March, 19	01st July, 18	30th May, 19	**NA**	01st June,19	01st July, 19	**Returns due till 01st June, 19** (i.e. July, 18 to April, 19)

21.30 Rounding off of tax, etc. [Section 170]

Section 170	01.07.2017 to till date	The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

21.31 Anti profiteering measure [Section 171]

Section 171(1)	01.07.2017 to till date	Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.
Section 171(2)	01.07.2017 to till date	The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.
Section 171(3)	01.07.2017 to till date	The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.
[1][Section 171(3A)	01.01.2020 to till date	Where the Authority referred to in sub-section (*2*), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (*1*), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:] **Notes** 1 Inserted w.e.f 01.01.2020 vide Section 112 of Finance Act 2019 which comes into force vide Notification No. 01/2020 – Central Tax dated 01st January 2020.
[1][First Proviso	01.01.2020 to till date	**Provided that** no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.] **Notes** 1 Inserted w.e.f 01.01.2020 vide Section 112 of Finance Act 2019 which comes into force vide Notification No. 01/2020 – Central Tax dated 01st January 2020.

[1][Explanation	01.01.2020 to till date	For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.] **Notes** 1 Inserted w.e.f 01.01.2020 vide Section 112 of Finance Act 2019 which comes into force vide Notification No. 01/2020 – Central Tax dated 01st January 2020.

21.31.1.1 Departmental Notification – Notification to empower the Competition Commission of India to examine anti-profiteering cases under CGST Act, 2017 with effect from 01.12.2022.

Notification No. 23/2022 – Central Tax dated 23rd November, 2022 effective from 1st day of December, 2022 - The Central Government, on the recommendations of the Goods and Services Tax Council, has empowered the Competition Commission of India established under sub-section (1) of section 7 of the Competition Act, 2002 (12 of 2003), to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

21.32 Removal of difficulties [Section 172]

Section 172(1)	01.07.2017 to till date	If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:
First Proviso	01.07.2017 to till date	**Provided that** no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.
	30.06.2020 to till date	**Provided that** no such order shall be made after the expiry of a period of [1][five years] from the date of commencement of this Act. 1. Substituted w.e.f. 30th June 2020 for the words "three years", vide Section 130 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 49/2020 –Central Tax dated 24th June 2020.

Section 172(2)	01.07.2017 to till date	Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

The Central Government has issued many Central Goods and Services Tax (Removal of Difficulties) Orders, in exercise of the powers conferred by section 172 of the CGST Act 2017 from time to time, These Notifications are just a klick away to be viewed – Central Goods and Services Tax (Removal of Difficulties) Orders issued in pursuance of Section 172 of the CGST Act 2017.

21.33 Amendment of Act 32 of 1994 [Section 173]

Section 173	01.07.2017 to till date	Save as otherwise provided in this Act, Chapter V of the Finance Act, 1994 shall be omitted.

21.33.1.1 Key Judicial Observations– The petition to declare the Nagar Palika Parishad Hathras (Vigyapan Kar Ka Nirdharan Aur Wasuli Viniyaman) Upvidhi, 2015 as ultra-vires of the provisions of Uttar Pradesh Goods and Service Tax Act, 2017; U.P. Municipalities Act, 1916 and Articles 14, 19, 21, 246, Seventh Schedule, List-II (State List - Entry-55 which has been amended and omitted by 101 Amendment w.e.f. 16.9.2016) and 265 of the Constitution of India.

This Court has no hesitation in holding that after the omission of Entry-55 of the List-II of the Seventh Schedule to the Constitution of India having been omitted by the 101 Amendment Act, 2016 with effect from 16.9.2016, even the State Government did not have the legislative competence to levy or collect taxes on advertisement which was earlier available under Entry-55, this coupled with the fact that the power of taxation earlier vested with the municipalities under section 128(2)(vii) of the U.P. Municipalities Act, 1916 having been omitted by virtue of Section 173 of the U.P. Goods and Service Tax Act, 2017, the municipality did not even have the statutory competence to levy, impose or collect Advertisement Tax.

Held: The Nagar Palika Parishad had no legislative competence on 19.08.2017 to promulgate the aforesaid bye-laws in view of omission of Section 128(2)(vii) of the Municipalities Act by virtue of Section 173 of the G.S.T. which was enforced on 01.07.2017 as also due to the omission of Entry 55 of List II of 7th Schedule to the Constitution of India empowering the State to make bye-laws in respect of tax on advertisement vide Section 17 of the Constitution (101st amendment) 2016 enforced w.e.f. 16.09.2016. Accordingly, the aforesaid bye-laws are

struck down as ultra-vires. Ref: Pankaj Advertising vs State Of U.P. And 7 Others - HIGH COURT OF JUDICATURE AT ALLAHABAD - WRIT TAX No. - 577 of 2018 – GW-642-2019-UP

21.33.1.2 Key Judicial Observations– The petitioners are advertising companies. They have challenged the vires of the Mathura Vrindavan Nagar Nigam (Vigyapan Kar Ka Nirdharan and Wasuli Viniyaman) Upvidhi, 2017 as ultra-vires to the provisions of the U.P. Municipal Corporation Act, 1959 Central GST Act as well as U.P. GST Act and Articles 14 and 19 of the Constitution of India.

Advertisement tax has been levied in view of Section 172 (2) (h) of the U.P. Municipal Corporation Act which stood deleted w.e.f. 1.7.2017 by virtue of Section 173 of the U.P. GST Act.

In short, the Mathura Vrindavan Nagar Nigam had no legislative competence on 6.01.2018 to promulgate the aforesaid bye-laws in view of omission of Section 172 (2) (h) of the U.P. Municipal Corporation Act by virtue of Section 173 of the U.P. G.S.T. Act which was enforced on 01.07.2017 as also due to the omission of Entry 55 of List II of 7th Schedule to the Constitution of India empowering the State to make bye-laws in respect of tax on advertisement vide Section 17 of the Constitution (101st Amendment) Act, 2016 enforced w.e.f. 16.09.2016.

In view of the above reasoning and the aforesaid decision, we hold that the Mathura Vrindavan Nagar Nigam (Vigyapan Kar Ka Nirdharan and Wasuli Viniyaman) Upvidhi, 2017 to be ultra-vires, in as much as, Entry 55 of list II of the VII Schedule to the Constitution empowering the State Government to make bye-laws in respect of tax on advertisement stood deleted vide Section 17 of the Constitution 101st (Amendment) Act w.e.f. 16.9.2016 and at the same time Section 172 (2) (h) of the U.P.Municipal Corporation Act authorizing framing of bye-laws in respect to the tax on advertisement also stood omitted by virtue of Section 173 of the U.P. GST Act w.e.f. 1.7.2017. Ref: DM Advertisers Agency & Ors. v. State of U.P. & Ors.- HIGH COURT OF JUDICATURE AT ALLAHABAD - Writ (Tax) Petition No.562 of 2018 – GW-647-2019-UP

21.33.1.3 Key Judicial Observations– As the provision to levy advertisement tax has been deleted and the U.P. Goods and Service Tax, 2017 has come into force, no advertisement tax can be levied.

There is no dispute to the fact that previously Nagar Nigam Kanpur framed U.P. Municipal Corporation (Assessment and Collection of Tax on Advertisement) Rules, 2009. These Rules were struck down by the Lucknow Bench of the Allahabad High Court in the case of *Anurag Bansal* v. *State of U.P.* 2011 (5) ADJ (LB) (FB). Thereafter, Kanpur Nagar Nigam made another set of rules for the purposes of levying advertisement tax known as Kanpur Nagar Nigam (Vigyapan Kar Ka Nirdharan Aur Wasuli Viniyam) Upvidhi, 2016 which were enforced w.e.f. 2-4-2016. The said bye laws were also struck down *vide* judgment and order dated 4-5-2017 in writ petition no. 9389 of 2017. Thereafter, no further rules or bye laws for levying advertisement

tax have been made and enforced by the Nagar Nigam, Kanpur but even then demand for advertisement tax has been raised against the petitioners.

Since the provision of section 2 (*h*) of Section 172 of the Municipal Corporation Act was omitted *vide* Section 173 of the U.P. GST Act w.e.f. 1-7-2017 and even the power of the State legislature to legislate with regard to advertisement tax stood deleted w.e.f. 12-9-2016, there is neither any power left with the State Government or the Municipal Corporation to legislate about the imposition of tax on advertisement. Ref: Selvel Media Services (P.) Ltd. vs **State of U.P. -** HIGH COURT OF JUDICATURE AT ALLAHABAD - WRIT TAX NO. 354 OF 2018 - GW-646-2019-UP

21.34 Repeal and saving [Section 174]

<table>
<tr><td>Section 174(1)</td><td>01.07.2017 to till date</td><td>Save as otherwise provided in this Act, on and from the date of commencement of this Act, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985 (hereafter referred to as the repealed Acts) are hereby repealed.</td></tr>
<tr><td>Section 174(2)</td><td>01.07.2017 to till date</td><td>The repeal of the said Acts and the amendment of the Finance Act, 1994 (hereafter referred to as “such amendment” or “amended Act”, as the case may be) to the extent mentioned in the sub-section (1) or section 173 shall not—
<table>
<tr><td>(a)</td><td>revive anything not in force or existing at the time of such amendment or repeal; or</td></tr>
<tr><td>(b)</td><td>affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or</td></tr>
<tr><td>(c)</td><td>affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts: Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or</td></tr>
<tr><td>(d)</td><td>affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or</td></tr>
<tr><td>(e)</td><td>affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings,</td></tr>
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			adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;
		(f)	affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.
Section 174(3)	01.07.2017 to till date	The mention of the particular matters referred to in sub-sections (1) and (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.	

21.34.1.1 Key Judicial Observations– does the State have the legislative competence to enact section 174 and save the past taxation events -comprising levy, assessment, and recovery -when Entry 54, List II, which is the field of legislation empowering the State, stood omitted permanently with effect from 16.09.2017?

Petitioner - Specific repeal and saving under KSGST and also the application of the General Clauses Act as per S.174 (3) is self-contradicting. In any view, S.174 (2) and 174 (3) are by themselves self-contradicting.

Held - I am afraid it is a fallacy on the petitioners' part to contend that the State lacks the legislative power to enact Section 174 of the KSGST Act. Article 246A is the special provision (if it can be called a provision) on the Goods and Services Tax. It empowers both the Union and the State, for the first time, to have simultaneous -not concurrent - powers to legislate on certain items. Indeed, concurrency yields to the doctrine of repugnancy, but simultaneous legislative power does not. That is, both the legislatures, say one from the Union and the other from the State, coexist -operate in the same sphere, subject to other constitutional safeguards.

So I reject the petitioners' plea that the State lacks the vires to engraft Section 174 into Kerala State Goods and Services Act, 2017.

Ref: M/S SHEEN GOLDEN JEWELS (INDIA) PVT LTD vs THE STATE TAX OFFICER(IB)-1, THIRUVANANTHAPURAM and others - High Court of Kerala at Ernakulam - WP(C).No. 11335 of 2018 - HC-GW-618-2019-KER.

21.34.1.2 Key Judicial Observations– Section 174 of the KSGST Act is *ultra vires* of the state's legislative power or on the ground that the demand is barred by limitation under Section 25(1) of the KVAT Act ?

All counsel agree that the issues stand squarely covered against the petitioners by judgment dated 11th January 2019 in W.P (C)NO.11335 of 2018 and connected cases.

I, therefore, dismiss the writ petitions applying the ratio of the judgment referred to above.

Ref: VAJRA WHEEL IMPEX vs THE STATE TAX OFFICER WAYANAD and others - High Court of Kerala at Ernakulam - WP(C).No. 24053 of 2018 - HC-GW-1072-2019-KER.

21.34.1.3 Key Judicial Observations– Petitioners have sought stay of proceedings and consequential penal action, initiated against the petitioners pursuant to issuance of summons under section 83 of the Finance Act, 1994, read with section 14 of the Central Excise Act, 1944 read with section 174 of the Central Goods and Services Tax Act, 2017 to tender oral / documentary evidence in respect of evasion of goods and services tax (GST).

A conjoint reading of the provisions show that though the Central Excise Act and the Finance Act, 1994 to the extent of Chapter V of the said Act have been repealed, sub-section (2) of section 174 states that the aforesaid action shall not affect any investigation, inquiry, verification (including scrutiny and audit) assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, service charge, penalty, fine etc. and other legal proceedings or recovery of arrears or remedy as may be instituted, continued or enforced and any such tax may be levied or imposed as if the aforesaid acts had not been so amended or repealed. Thus it is evident that respondent No.2 has power and authority to issue summons to the petitioners and more specifically petitioner No.2 under the provisions of the aforementioned statutes to give evidence and produce the relevant documents in inquiry.

We state that in view of the aforementioned legal position, the summons issued to the petitioners are valid and no interference is called upon. Ref: JSK Marketing Limited & Anr. Vs Union of India & Ors. - HIGH COURT OF JUDICATURE AT BOMBAY - WRIT PETITION (L) NO.5000 OF 2020 - HC-GW-67-2021-MH

21.34.1.4 Key Judicial Observations– Whether Saving clause under Section 174 of CGST Act, 2017 would save Rule 5A of the Service Tax Rules, 1994, so as to enable CAG to initiate fresh proceedings for Service Tax Audit.

The petitioner has challenged the communication issued by the Comptroller and Auditor General of India ("the CAG", for short) calling upon the petitioner to submit Service Tax audit at the hands of the officers of the CAG.

Validity of fresh proceedings for Service Tax Audit under GST Regime - whether Saving clause under Section 174 of CGST Act, 2017 would save Rule 5A of the Service Tax Rules, 1994, so as to enable CAG to initiate fresh proceedings for Service Tax Audit.

HELD - A perusal of the said clause of Sub-section (2) of Section 174 and other clauses would, prima facie, show that there was no saving of Rule 5A in such manner that fresh proceedings for audit could be initiated in exercise of powers under the said Rule. We, therefore, have serious doubts whether, with the aid of Rule 5A of the Service Tax Rules, 1994, the CAG can carry out compulsory Service Tax audit of private agencies like the petitioner.- By way of ad-interim relief, the impugned order dated 09.10.2018 is stayed. In other words, the CAG shall not carry out any further Service Tax audit of the petitioner. Ref: OWS WAREHOUSE SERVICES LLP Vs UNION OF INDIA - HIGH COURT OF GUJARAT AT AHMEDABAD - SPECIAL CIVIL APPLICATION NO. 16226 of 2018 -