

INDIRECT TAXES – moving forward from covid-19

8 May 2020

Lockdown – Measures relating to Compliances

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Notification No. 41/2020-CT

- **Annual return for FY 2018-19**
 - Timeline for filing annual return for FY 2018-19 was extended from 31 March 2020 to 30 June 2020 vide Notification No. 15/2020-CT
 - The timeline has now been further extended to **30 September 2020**

Notification No. 38/2020-CT w.e.f 21.04.2020

- **Filing GSTR 3B verified through EVC**
 - Registered person registered under provisions of Companies Act, 2013 allowed to file GSTR 3B verified through electronic verification code (EVC)
 - Applicable for GSTR 3B to be filed during 21.4.2020 to 30.6. 2020
- **Filing nil return through short messaging service facility**
 - Nil return under Section 39 in GSTR 3B can be filed through short messaging service using registered mobile number and the return shall be verified by a registered mobile based OTP facility

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 - Nil return under Section 39 in GSTR 3B can be filed through short messaging service using registered mobile number and the return shall be verified by a registered mobile based OTP facility

Lockdown - Extension of Time Limits for Compliances

Notification No. 35/2020-CT w.e.f 20.03.2020

• General Extension

- Completion of **any proceedings, order, notice**, by whatever name called by any authority, commission, tribunal, by whatever name called,
- Filing of **any appeal, reply or application or furnishing of any report, document, return or statement**, by whatever name called

Cases where extension not available

Chapter IV – Time and value of Supply	Section 10(3) - option lapsing upon exceeding threshold
Section 25 – Procedure for Registration	Section 27 – Special provisions relating to Registration
Section 31 – Issue of Tax Invoices	Section 37 – Furnishing of GSTR - 1
Section 47 – Levy of Late Fees	Section 50 – Levy of Interest
Section 69 – Power to Arrest	Section 122/129 – Penalties, Seizures & Detention

Lockdown - Time Limits for Compliances

Return	Period	Notification 32/2020 CT			
		Turnover of up to Rs. 1.5 Crores	Turnover of Rs. 1.5 Crores to Rs. 5 Crores	Turnover > Rs. 5 Crores	
Form GSTR – 3B	February 2020	Interest & Late Fees – Nil up to June 30, 2020	Interest & Late Fees – Nil if return filed by June 29, 2020	Interest Nil for first 15 days 9% thereafter If filed after June 24, 2020 interest @ 18% (from original due date)	No Late fee if returns filed by June, 24 2020
	March 2020	Interest & Late Fees – Nil up to July 07, 2020			
	April, 2020	Interest & Late Fees – Nil up to July 06, 2020			
	May, 2020	<i>Due date extended June 27, 2020 (above 5 Cr.)</i> [Notification No.36/2020-CT]			

Lockdown - Time Limits for Compliances

Return	Period	Amendment
Form GSTR-1	Monthly return for March, April and May 2020 Quarterly return for January 2020 to March, 2020	Late fee - waived if filed on or before June 30, 2020

- No extension of due dates for the filing of return in Form GSTR-1 and GSTR-3B *per se*
- Concessions in respect of interest and late fees. **Cashflow implications**
- Delayed filing of returns (due date has not been extended) implications for compliance rating?
- **Form GSTR-3B filed beyond the relaxed timelines, then, interest will be payable @ 18% p.a. from the original due date of filing of returns along with late fee**

Lockdown - Extension of Time Limits for Compliances

Return	Period	Amendment
Form GSTR- 5	March 2020 to May 2020	The said returns, to be filed by Non-Residents , are to be filed on or before June 30, 2020
Form GSTR – 6	March 2020 to May 2020	The said monthly returns, to be filed by Input Service Distributors , are to be filed on or before June 30, 2020
Form GSTR – 7	March 2020 to May 2020	The said returns, to be filed by person deducting TDS , are to be filed on or before June 30, 2020
Form GSTR - 8	March 2020 to May 2020	The said returns, to be filed by E-Commerce operators , are to be filed on or before June 30, 2020
Form GST CMP - 02	FY 2020 – 2021	Extension of time limit to allow taxpayers opting for the Composition Scheme for the financial year 2020-21 to file their option till June 30, 2020
Form ITC – 03	N.A	Declaration for reversal of ITC (in respect of exempted goods/Composite Supply) to be filed on or before June 30, 2020
Form CMP – 08	January 2020 to March 2020	Extension of due date of furnishing statement, containing the details of payment of self-assessed tax by composition dealer for the quarter ending March 31, 2020 till the July 07, 2020.
Form GSTR-4	FY 2020 – 2021	Annual return for composition taxpayers for the financial year ending March 31, 2020 is to be filed on or before July 15, 2020

ITC - Restrictions under Rule 36(4)

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- Rule 36(4) which restricts the ITC in case of unavailable / mis-match of invoices (in GSTR-2A) to the extent of 120% of matched credit was introduced in October 2019
 - Amendment in December the concessional credit was restricted to 110%
 - Insertion of proviso to Rule 36(4), March 23, 2020
 - Rule 36(4) **not** to apply for GSTR-3B returns filed for the months of February, March, April, May, June, July and August 2020
 - However, Rule 36(4) shall apply cumulatively for the **above period** and GSTR-3B **for** September 2020 shall be furnished with cumulative adjustment of ITC for the said months in accordance with the condition under Rs. 36(4)
- Proviso inserted to accommodate delay in filing of supplier's GSTR-1 due to relaxation granted for interest and late fees by Notification No. 33/2020, hence GSTR-2A will not reflect the appropriate ITC

Amendment to Refund Rules

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- **Refund of wrongly paid or tax paid in excess [Rule 86(4A)]**
 - For which debit has been made in the Electronic Credit Ledger, the said amount, if admissible, shall be recredited to the Electronic Credit Ledger by the proper officer by an order made in Form GST PMT – 03
 - Amendment provides for refund in ITC in case the tax was paid through ITC, and **not through cash**
- **Ceiling in the definition of export turnover in case of zero-rated supplies without payment of tax [Rule 89(4)]**
 - Turnover of zero-rated supply of goods for the purpose of calculating the refunds have been amended **to be lower of actual export value and 1.5 times of domestic sale value**

Amendment to Refund Rules

- **Order sanctioning Refund [Rule 92(1A)]**

- Refund of any amount other than the refund of tax paid on zero-rated supplies or deemed export
 - Refund in cash for the tax paid through cash : Order in RFD-06 sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability
 - Refund in ITC for the tax paid through ITC : Remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue Form GST PMT-03 recrediting the said amount as ITC in electronic credit ledger

- **Insertion of Explanation to Rule 96(10)**

- Explanation added to clarify restriction for refund in case of specified notifications apply only when BCD is exempted and refund allowable when IGST and Cess has been paid [Rule 96(10)]
 - LUT route no longer necessary

Amendment to Refund Rules

Recovery of refund of unutilised ITC or IGST paid on export of goods where export proceeds not realised [Rule 96B]



Amendment in GST RFD-01 to add undertaking that the amount of refund sanctioned along with interest in case of non-receipt of foreign exchange remittances as per the proviso to Section 16 of the IGST Act read with rules 96B of the CGST Rules, 2017.

- Amendment introduced restriction for goods.
- Amendment provides for mechanism for recovery of refund due to non-realization of export proceeds.
- Under FEMA the time limit for realization of export proceeds for exports made up to or on July 31, 2020, extended to 15 months from the date of export.

Clarifications by
CBIC -

Circular No.
137/07/2020-GST

Clarifications issued by CBIC

Issues & Clarification

1. Advances under service contract which subsequently is cancelled

Supplier issued Tax Invoice	Supplier to issue credit note under Section 34 and adjust tax liability. If there is no output tax liability, apply for refund as excess payment of tax
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Supplier issued Receipt Voucher	Supplier to issue refund voucher and apply for refund as excess payment of tax
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2. Sales Returns (goods) after issuance of tax invoice

Supplier to issue credit note under Section 34 and adjust tax liability where goods supplied are returned by the recipient. If there is no output tax liability, apply for **refund as excess payment of tax**

3. LUT for FY 2020-2021

- Time-limit for filing of LUT **extended till June 30, 2020** (due by March 31, 2020)
- Supplies can be made without payment of tax under LUT, provided that GST RFD-11 (bond) for FY 2020-2021 is filed by June 30, 2020

Clarifications issued by CBIC

Issues & Clarification

4. Deposit of TDS

- GSTR-7 along with deposit of TDS (say by PSU's) falling due during the period March 20, 2020 to June 29, 2020 has **been extended till June 30, 2020**
- No interest under Section 50 shall be leviable if tax deducted is deposited by June 30, 2020

5. Refund timelines

Due date for filing of refund applications for the refund falling during the period March 20, 2020 to June 29, 2020 has been extended till June 30, 2020.

Special procedure
to be followed by
Corporate Debtors
undergoing CIRP

Special procedure to be followed by Corporate Debtors undergoing CIRP

- Notification No. 11/2020-Central Tax, as amended by Notification 39/2020- Central Tax read with Circular 138/08/2020- GST
- IRP/RP treated as distinct person of corporate debtor, from the date of appointment and required to obtain separate registration
- However, such registration is not required if corporate debtor has furnished statement and returns under Section 37 and 39 of CGST Act for all the tax periods prior to the appointment of IRP/RP
- Where IPR/RP has already been appointed, registration to be obtained within 30 days from appointment of the IRP/ RP or by 30 June 2020 whichever is later
- IRP / RP to file their first their returns under Section 40 after obtaining registration
- IRP/RP eligible to avail ITC on invoices (bearing GSTIN of corporate debtor) for supplies received, from his date of appointment
- Recipients eligible to avail ITC on invoices bearing GSTIN of earlier registered person for supplies received from IRP/RP from the date of appointment of IRP/RP till date of registration or within 30 days from the notification (whichever is earlier)
- Any amount deposited in the Electronic Cash Ledger of the of the Corporate Debtor by the IRP/RP (prior to registration) shall be available for refund
- No coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date

Foreign Trade Policy 2015-2020, Customs

Extension of Foreign Trade Policy 2015-2020

- India's Foreign Trade Policy (FTP) ending March 31, 2020 has been extended by another year in wake of corona virus outbreak. Thus, the sops provided by [FTP 2015-2020](#) will thus continue till 31.03.2021
- Dates for various schemes
 - SEIS
 - Last date for filing SEIS application for FY 18-19 **extended to December 31, 2020**
 - SEIS for FY 19-20 (services provided during the FY 19-20) the eligible services under the SEIS scheme and the rate of rewards on such services will be notified separately in **Appendix 3X**
 - For services rendered from **April 01, 2020**, decision of continuation of the scheme will be taken and then notified
 - For **MEIS Application**, the shipping bills for which Let Export date is between February 01, 2019 and May 31, 2019, the applications may be filed **within a period of 15 months instead of 12 months**

Extension of Foreign Trade Policy 2015-2020

- **Ratified Norms** on or after 01.04.2015 shall be **valid for another period of 1 year** i.e. March 31, 2020
- **Exemption** from payment of **IGST** and **Cess** for imports made under AA/EPCG for physical exports has been **extended up to March 31, 2021**
- Application for **TED refund / Drawback** for the period of quarter ending March, 2019 and June, 2019 can be filed up to September 31, 2020
- For **AA / EPCG / DFIA**, having validity period expiring between February 01, 2020 to July 31, 2020 shall automatically be extended by 6 months from the date of expiry
- **Advance Authorizations** whose **export obligation period** is expiring between February 01, 2020 and March 31, 2020 the same shall be automatically **extended** by 6 months from the date of expiry
- **EPCG**: If the period for submission of **Installation Certificate** expires between February 01, 2020 to July 31, 2020, then the same shall be **extended** for further period of 6 months
- Remission of Duties and Taxes on Exported Products (**RoDTEP**) Scheme which will eventually replace MEIS has been **approved** by Cabinet. Phased inclusion

Relaxation in Customs procedures

- Waiver of **Late Fee** imposed for late filing of Bill of Entry after free time of one day
- Automated clearance wherein the Shed Superintendent/Appraiser will be able to give the Customs Compliance Verification Report to a Bill of Entry even on pending of Customs Duty
- Importers can submit undertakings electronically during the lockdown period in place of proper Bond wherever required. Proper Bonds must be furnished at a later date
- In order to minimize physical contact, MEIS/SEIS scripts received by Exporter/Importer online from DGFT can be informed to Customs electronically and registered electronically through EDI System
- Paper print outs of final Bill of Entry has been done away with and replaced with PDF versions of the same emailed immediately to Custom Broker/Importer
- The Ministry of Shipping has directed that all major ports shall ensure that no penalties, demurrage charges, rentals, fees shall be levied by major ports on the port users for any delays by reason of lockdown measures
- Electronic-sealing system deferred
- Relaxations relating to submission of Certificate of Origin

Indirect Taxes – Moving ahead..

ITC restrictions under Rule 36(4)

Period	ITC as per books of account	ITC as per GSTR 2A	ITC available in GSTR 3B
February, 2020	2,000	1,600	2,000
March, 2020	3,000	2,400	3,000
April, 2020	2,400	1,600	2,400
May, 2020	2,000	1,400	2,000
June, 2020	2,400	2,000	2,400
July, 2020	1,000	800	1,000
August, 2020	1,800	1,600	1,800
September, 2020	2,800	3,000	2,800 1,240
Total	17,400	14,400	15,840

ITC Restrictions under Rule 36(4)

Particulars		Amount in Rs.
Cumulative ITC for the period from February 2020 to September 2020 available in GSTR 2A	A	14,400
Cumulative ITC for the period from February 2020 to September 2020 as available in Books	B	17,400
ITC available for the period from February 2020 to September 2020 in terms of Rule 36(4)	C=110% of A	15,840
Excess claimed ITC. Adjustable from the return to be filed for September 2020	D=B-C	1,560
Credit as per books of account	E	2,800
Actual credit available in terms of Rule 36(4)	F = E-D	<u>1,240</u>

What about prior period un-matched invoices (not in GSTR-2A), for example those invoices pertaining to December 2019?

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