

GST GUIDE



E-Invoice Applicable for taxpayers having T/O > 100 Crore

ITC under GST can be availed on distribution of promotional products to distributors: Karnataka, AAR

Hon'ble Madras HC Permits Re-Submission of Form GSTR-3B (M/s. Sun Dye Chem v. The Assistant Commissioner)

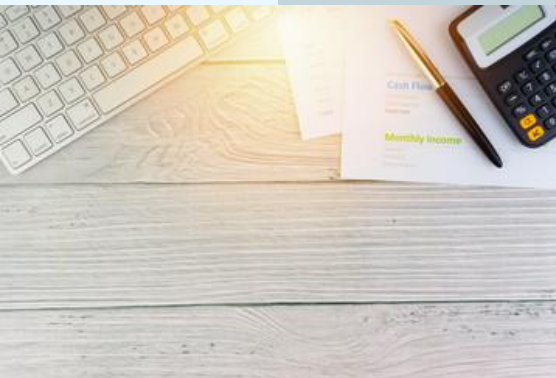
GST Audit due date for FY 2019-20 extended to 28-Feb-21

Introduction of CGST (Fourteenth Amendment) Rules, 2020

GSTR-2B Bulk Download Facility available on RAMA-IRIS



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Notifications, Circulars and Amendments to Law/Rule




Notification / Orders	Notification Highlights
No.81/2020-CT dated 10-Nov-20	<p>Finance (No. 2) Act, 2019 has notified and amendment to section 39 of CGST Act 2017 through section 97 of Finance (No. 2) Act, 2019 w.e.f 10-Nov-20</p>
No.82/2020-CT dated 10-Nov-20	<ul style="list-style-type: none"> - RTP to Furnish GSTR-3B Return quarterly for outward Supplies using Invoice Furnishing Facility (IFF) from 1st to 13th of said month for first 2 month of the Quarter. <p>Only B2B details and CN & DN related to B2B are to be reported</p> <p>Once IFF furnished no need to declare those details in GSTR1</p> <p>W.e.f 01-Jan-21, IFF invoices along with ITC of import of goods will be reflected in GSTR2A.</p> <p>Form GSTR-2B has been given legal backing.</p> <p>Rule 61 Amended, GSTR-3B has been notified as monthly and Quarterly return.</p> <p>Quarterly Return filer shall pay tax for first two months using PMT-06 by 25th of succeeding month.</p> <p>Above Amount would be credited to cash ledger and debited while filing Quarterly GSTR-3B</p> <p>Quarterly option for Apr-Jun 21 can be exercised from 01-Feb-21 to 30-Apr-21.</p> <p>A Registered person shall not be eligible to opt for furnishing quarterly return in case the last return due on the date of exercising such option has not been furnished.</p> <p>A registered person, whose aggregate turnover exceeds Rs.5 crores during the current financial year, shall opt for furnishing of return on a monthly basis, from the first month of the quarter, succeeding the quarter during which his aggregate turnover exceeds Rs.5 crores.</p> <p>HSN Codes have to be mandatorily specified in FORM GSTR-1 as per proviso to Rule 46.</p>

Notifications, Circulars and Amendments to Law/Rule

Notification / Orders	Notification Highlights
No.83/2020-CT dated 10-Nov-20	<p>W.e.f 01-Jan-21, following will be the due dates for GST Returns:-</p> <p>Monthly Filers- 11th of the succeeding month</p> <p>Quarterly Filers – 13th of the month succeeding the quarter</p>
No.84/2020-CT dated 10-Nov-20	<p>-Registered Persons having an aggregate turnover of up to Rs 5 crores in the preceding financial year and who have opted for quarterly return filing can furnish quarterly GSTR-3B provided:</p> <ol style="list-style-type: none"> 1. The return for the preceding month, as due on the date of exercising such option, has been furnished; 2. Once exercised, such option shall continue unless revised by the registered person. <p>-Default migration has been prescribed for registered persons who have furnished the return for the tax period Oct-20 on or before 30-Nov-20. Such default option can be changed from 5-Dec-20 to 31-Jan-21.</p> <p> RAMA Says:- Small taxpayers are benefitted from this scheme as there is a reduction in number of GST Returns to be filed in a year. Also their professional fees expenses towards GST return filing will be considerably reduced. However, on the other side there will be blockage of funds for those companies who deals majorly with the vendors who have availed QRMPs until they disclosed their sales through IFF on time.</p>
No.85/2020-CT dated 10-Nov-20	<p>Two options are prescribed for monthly payment of taxes in case of quarterly return filers.</p> <p><u>Fixed Sum Method:</u> - quarterly return filer can pay:-</p> <p>35% of tax paid in cash in the preceding quarter where returns filed quarterly</p> <p>Equal to tax paid in the last month if paid monthly</p> <p><u>Self-Assessment Method:</u> The taxpayer can pay tax as per the existing system i.e. net liability after adjusting input tax credit.</p> <p>Procedure defined in case if there is any excess balance lying in electronic credit / cash ledger.</p>
No.86/2020-CT dated 10-Nov-20	<p>Notification 76/2020-CT dated 15-Oct-20 notifying due dates for FORM GSTR-3B for the months from Oct-20 till Mar-21 has been rescinded.</p>

Notifications, Circulars and Amendments to Law/Rule

Notification / Orders	Notification Highlights
No.87/2020-CT dated 10-Nov-20	Due date of ITC-04 for period Jul- Sept20 is extended till 30-Nov-20.
No.88/2020-CT dated 10-Nov-20	W.e.f. 01-Jan-21, the provisions of e-invoicing shall be applicable to registered persons having turnover exceeding Rs.100 crores.
No.89/2020-CT dated 29-Nov-20	Penalty for Non-compliance with QR Code on B2C transactions waived from 01-Dec-20 till 31-Mar-21.
No.90/2020-CT dated 01-Dec-20	Taxpayer now need to mention HSN code of 8 digits on a tax invoice in case of specified supplies.
No.91/2020-CT dated 14-Dec-20	The time limit to take actions or comply with the anti-profiteering provision under section 171 is extended upto 31-Mar-21.
No.92/2020-CT dated 22-Dec-20	Seeks to bring into force Sections 119 to 124, 126,127 and 131 of Finance Act, 2020(12 of 2020) which will be effective from 01-Jan-21.  RAMA Says:- Out of the above, one of the important amendment is section 120 which says that taxpayer can now avail ITC of debit notes issued during a particular year by 30-Sept following the end of that financial year. Therefore, taxpayer need to check the date of debit note and not the date of invoice against which debit notes are issued.
No.93/2020-CT dated 22-Dec-20	The late fee payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2019-20 under section 47 of the said Act, from the 1-Nov-20 till the 31-Dec-20 has been waived for the registered person whose principal place of business is in the Union Territory of Ladakh.
No.95/2020-CT dated 30-Dec-20	Due Date for GSTR-9 and GSTR-9C for FY 2019-20 is extended to 28-Feb-21.57692168

Notifications, Circulars and Amendments to Law/Rule

CGST (Fourteenth Amendment) Rules, 2020
(Notification 94/2020 dated 22-Dec-20)

1. Input Tax Credit (Applicable from 01st Jan 2021)-

❖ **Restriction on claim of ITC as per Rule 36(4)-**

- ✓ The claim of ITC in respect of invoices not furnished by the corresponding vendors has now been restricted to 5% (currently 10%) of the credit available in GSTR-2B.

❖ **Restriction on Utilisation of ITC as per Rule 36(4)-**

- ✓ Restriction has been placed on setting off more than 99% of tax liability from ITC where the value of taxable supplies other than exempt supply and zero rated supply exceeds Rs. 50 lakhs in a month.

Few Exceptions are as follows

- ✓ Taxperson has paid income tax of more than Rs. 1 Lakh in two preceding FY
- ✓ Taxperson has received Refund exceeding Rs.1 Lakh, u/s 54 of CGST Act, 2017
- ✓ Taxperson has discharged GST Liability in Cash which cumulatively makes 1% of Total Liability up to the said month
- ✓ If Person is a Government Department, PSU, local authority or a statutory body.



➤ **RAMA Says:-** The above provisions proved to be hardship on the genuine taxpayers as they need to pay tax liability in cash even having heavy credit balances lying in the credit ledger. This may lead to open the door for new litigation.

2. GST Returns-

- ✓ GSTR-1 shall be blocked if taxpayer fails to file GSTR-3B for 2 subsequent months/Preceding Quarter for Quarterly Return Filer.
- ✓ Taxpayer who is restricted to avail ITC as per rule 86B shall also not be permitted to file GSTR 1 where he has not filed GSTR 3B for the preceding tax period.

3. GST Registration-

- ✓ Time Limit for system based registration has been increased from 3 days to 7 days.
- ✓ time limit for grant of registration shall be 30 days instead of 7 days in cases where applicant does not do Aadhaar authentication or where department feels fit to carry out physical verification.

Notifications, Circulars and Amendments to Law/Rule

- ✓ Significant deviation/anomalies between details of outward supply between GSTR 3B and GSTR1 or inward supplies (ITC) between GSTR 3B and GSTR 2B which indicate contravention of Act, department shall now serve a notice in FORM GST REG 31 to call explanation as to why GSTIN should not be cancelled. Taxpayer shall be required to submit his reply within 30 days of such notice being served to him. Cancellation of GSTIN where a taxpayer avails Input Tax Credit (ITC) exceeding than that permissible in Section 16
- ✓ No opportunity of being heard shall be given to a taxpayer for suspension of GSTIN, where the proper officer (PO) has reasons to believe that the registration of person is liable to be cancelled
- ✓ Where a GSTIN is suspended no refund u/s 54 of CGST Act 2017 can be availed by the taxpayer. This means that first GSTIN Suspension proceedings have to be closed before applying refund.



4. E-way Bill -

- One day validity shall be granted to cover a distance up-to 200 km(currently 100 km)

Advance Authority Rulings

1) Interest for delayed payment – Tolerance of an Act Vs. Addition to Consideration

Applicant: Maharashtra Appellate Authority for Advance Ruling in Bajaj Finance Ltd

Introduction:

The Appellate Authority for Advance Ruling upheld the ruling given by the Advance Ruling Authority by observing that the penal charges / penalty recovered by the Appellant from their borrowers on account of the delay in payment of EMI by borrowers are adequately covered under clause 5 (e) of the Schedule II of the CGST Act, and will attract GST.

Facts & Issue of The Case:

In this case, the applicant is a non-banking financial company. He was engaged in the services of lending money. In case of default in payment, they're charging penal interest apart from the normal interest. Notification no. 12/2017 covering the list of services exempted from GST. Entry no.27 covers the interest. The question raised, in this case, was about the applicability of this entry. Whether the penal interest falls in this entry? If it falls in this entry it will be exempted. Otherwise, it is taxable. The applicant is of view that the penal interest is in nature of additional interest. Thus, not liable for GST. The entry of 12/2017 is reproduced by the applicant.

A.2 Vide Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, the Central Government, in view of powers conferred by Section 11 of the CGST Act, has notified various intra-state supply of services which are exempt from CGST. The Serial No. 27 of the said Notification, inter alia, grants exemption to the services by way of extending loans, in so far as the consideration is represented by way of interest. The relevant portion of the said Exemption Notification is reproduced herein below:

Sl.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)		
27	Heading 9971	Services by way of (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services):	Nil	Nil

Observations & Ruling:

The AR observed that it is not a collection in the nature of interest. It is a case of tolerating the act of another party. This case is covered by entry no. 5(e) of schedule II of CGST Act. It was held by authority that this is taxable under GST at a residuary rate of 18% as it is a supply not falling in the exemption. The matter was taken to the appellate authority of advanced ruling. The same was affirmed by AAAR of Maharashtra state.

Advance Authority Rulings

➤ **RAMA Says:** The decision of AAR will be major setback for banking and non-banking industries as they are not charging GST on penal interest collected for non-payment of instalment on time. Agreements which are entered with the customers need to be drafted carefully to avoid GST liability on penal interest charged.

1) ITC under GST can be availed on distribution of promotional products to distributors

Applicant- M/s Page Industries Limited V/s. Karnataka AAR

Facts of the Case:

The applicant is engaged in the manufacture, distribution and marketing of Knitted and Woven Garments under the brand name of “Jockey”, swim-wears and Swimming Equipment under the brand name of “SPEEDO”. The applicant also gets the said garments manufactured from their job workers.

The applicant had sought a ruling on the classification of goods and services as under: -

“Whether in the facts and circumstances of the case, the promotional products/ Materials and Marketing Items used by the Applicant in promoting their brand and marketing their products can be considered as “inputs” as defined under section 2(59) of the CGST Act, 2017 and GST paid on the same can be availed as an input tax credit in terms of Section 16 of the CGST Act, 2017?”

Observations:

The applicant in the instant case disposes off the distributable goods free of cost i.e., without any consideration to two categories i.e., Franchisees (Exclusive Show Rooms) and other shops/retailers, where all brands are sold (Retailers/ All brands stores). Now we examine each category whether they become related persons to the applicant or not.

Ruling:

The ITC on GST paid on the procurement of the “distributable” products which are distributed to the distributors, franchisees are allowed as the said distribution amount to supply to the related parties which are eligible to GST. Further, the said distribution to the retailers for their use cannot be claimed as gifts to the retailers or to their customers free of cost, and hence ITC of the GST paid on such procurement is not allowed as per Section 17(5) of the GST Acts.

The GST paid on the procurement of “non-distributable” products qualify as capital goods and not as “inputs” and the applicant is eligible to claim input tax credit on their procurement, but in case if they are disposed of by writing off or destruction or lost, then the same needs to be reversed under Section 16 of the CGST Act, 2017 read with Rule 43 of the CGST Rules, 2017.

➤ **RAMA Says:** The above AAR will be quite helpful for retail industries as these companies incur major expenses on samples or gifts given to the distribution channel for free of cost once they achieve specific turnover.

Case Laws

Case Law 1: Hon'ble Madras HC Permits Re-Submission of Form GSTR-3B (M/s. Sun Dye Chem v. The Assistant Commissioner)

Facts & Issues of the Case:

The Petitioner, **M/s Sun Dye Chem** filed the monthly return for the period Aug-17 to Dec-17 in the GST portal in Form GSTR-3B. The returns were accompanied by annexures in Form GSTR-1 that reflected CGST, SGST and IGST. There was however, an inadvertent error in reporting in Form GSTR-1 in regard to the outward supplies and as a result, Intra-state sales had been erroneously reported as inter-state sales. This resulted in the CGST and SGST credit being reflected in the IGST column at customer end. This was brought to the notice of Petitioner by customers as they had difficulty in availing credits. The petitioner submitted a request for amendment of Form GSTR-1 that came to be rejected on 12-Aug-19 on the ground that there was no provision to grant the amendment sought, in any event, not after 31-Mar-19 as Notification 71/2018 had extended the time for submission of the amended GSTR-1 till 31-Mar-19, for the period 2017-18. The petitioner was thus unable to correct the error.

• Stand of the Respondents

The respondents in their Counter Affidavit, referred to Sections 37, 38 and 39 relating

to the furnishing of details of outward and inward supply and filing of returns, as well as the procedure to be followed in this regard. It was argued that the time for amendment of the details of outward supply stood extended only till 31-Mar-19. The petitioner, however approached the Officer only on 16-Aug-19 seeking rectification of the errors occasioned during the period between October and Dec-17. The officer was thus handicapped and could not grant the relief as sought for in the absence of an enabling provision.



Analysis by the Hon'ble Court

The Hon'ble High Court noted that a registered person who files a return under Section 39(1) involving intra-State outward supply is to indicate the collection of taxes customer-wise in monthly return in Form GSTR-1 and the details of tax payment therein are auto populated in Form GSTR -2-A of the buyers. Any mismatch between Form GSTR-1 and Form GSTR-2A is to be

Case Laws

notified by the recipient by way of tabulation in Form GSTR-1A. However, till date forms in GSTR-2A and GSTR-1A are yet to be notified meaning the statutory procedure contemplated for seamless ailment has been as on date, unavailable.

Ruling of the Hon'ble High Court

The Hon'ble High Court held that in the absence of an enabling mechanism, assesses should not be prejudiced from availing credit that they are otherwise legitimately entitled to. The error committed by the petitioner is an inadvertent human error and the petitioner should be in a position to rectify the same, particularly in the absence of an effective, enabling mechanism under statute.

Consequently, the Hon'ble High Court allowed the Writ Petition of the petitioner and set aside the impugned order permitting the Petitioner to re-submit the annexures to Form GSTR-3B with the correct distribution of credit between IGST, SGST and CGST.

➤ **RAMA Says:** Though the GST Law does not permit rectification in the GST Returns but this Judgement shall turn out to be very beneficial to the Tax Payers who wish to rectify the GSTR-1 after the due date.

Case Law 2- Whether interest on refund application claim be denied on the grounds that the claim attained its finality at a later date. (**Manisha Pharmo Plast LTD V Union of India**)

Facts of the case

The Appellant had filed a refund application on 12-Dec-99 but the refund was paid, without interest, only on 26th of June, 2005

The Hon'ble high court of Gujarat denied the interest on refund claim under section 11BB of the Central Excise Act, 1944 ("CEA, 1944") read with Circular no. 670/61/2002-CX dated 01-Oct-02 noting that the adjudication of the refund claim had attained finality only after dismissal of proceedings before the High Court on 18-Jul-05

Aggrieved, the Appellant filed the present appeal before the Hon'ble Supreme Court. The Supreme Court Observed that their judgement in the case of Ranbaxy Laboratories LTD V Union of India approving the Dictum of the Hon'ble High Court of Rajasthan was applicable in regards the present matter. Interest on refund claims should commence if a refund is not paid within three months of the date of refund application. This also is the starting point for calculation of Interest on refunds as envisaged under section 11BB of the CEA ,1944.

Judgement of the Hon'ble Supreme Court.

The Hon'ble Supreme Court allowed the Appellant's interest on refund claim with a direction to calculate and pay the interest amount within three months.

➤ **RAMA says** – The judgement of the Hon'able Supreme Court clarifies that interest due, if any, on the refund claims should be calculated on the expiry of three months from the date of refund application irrespective of the fact that the matter in concern is sub-judice and has attained finality at a later date. The taxpayer can take a base of this judgement and claim interest on refunds from the officers in case if any delays happen in sanctioning refunds

GST Portal Updates

a) Auto-population of e-invoice details into GSTR-1

1. E-Invoice has become applicable from 01-Oct-20 for notified taxpayers and details of such e-invoices will be auto-populated in respective tables of GSTR-1 and can be downloaded in excel file. To effect this, certain tabs/labels are being added on GSTR-1 dashboard and screens. (Those taxpayers for whom e-invoicing is not applicable may ignore these changes.)
2. Due to some unanticipated issues, there has been delay in auto-population of e-invoice details into GSTR-1.
3. The auto-population of e-invoice details pertaining to the period Dec-20 into GSTR-1 (in incremental manner on T+2 day basis) will start in the first week of December.
4. The detailed advisory with methodology of auto-population etc. is made available on the GSTR-1 dashboard ('e-invoice advisory') and also e-mailed to relevant taxpayers.

*** Please click on 'Generate Summary' button to update the tile summary after updating entries in any table completely. Avoid updating summary after making few entries.

GENERATE GSTR1 SUMMARY

E-INVOICE DOWNLOAD HISTORY ▼

☐ I acknowledge that I have reviewed the details of the preview and the information is correct and would like to submit the details. I am aware that no changes can be made after submit.

BACK

DOWNLOAD DETAILS FROM E-INVOICES (EXCEL)

SUBMIT

FILE RETURN

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Site Last Updated on 07-12-2020

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b) ***Online filing of application (Form GST EWB 05) by the taxpayer for un-blocking of E-Way Bill (EWB) generation facility***

1. In terms of Rule 138E (a) and (b) of the CGST Rules, 2017, the E-Way Bill (EWB) generation facility of a taxpayer is to be blocked, in case the taxpayer fails to file their returns in Form GSTR-3B or Statement in Form CMP-08, for two or more consecutive tax periods. For unblocking of this facility, taxpayer need to apply to jurisdictional Tax Official in Form GST EWB 05.
2. A facility has now been provided to the taxpayers on the GST Portal, from 28-Nov-20 onwards, to file an application online for unblocking of their EWB generation facility (in Form EWB-05), in case their EWB generation facility has been blocked on the EWB Portal. **Services> User services> My Applications>Application for unblocking of E-way bill” > New Application> Submit Form EWB-05**, with upload of up to 04 documents
3. The application so filed is populated to dashboard of jurisdictional tax official. The tax official can issue a Notice for personal hearing to the taxpayer. Then the taxpayer can file their reply to the notice online, along with supporting documents.

GST Portal Updates

1. At conclusion of the proceedings, the Tax Officer can issue an order (in Form EWB-06) approving the taxpayer application or reject the same.

c. GSTR-9 & 9C of FY 2019-20 is available now

Facility to file annual return in Form GSTR-9 for FY 2019-20 is now available. It is to be noted that all applicable returns of the said year have to be filed before attempting to file the said return.

d. Auto population of details in Form GSTR-3B from Form GSTR 1 & GSTR 2B

A) Auto Populated details in Form GSTR 3B: Now, auto-population of system computed details in Form GSTR-3B, has been enabled for taxpayers (filing their Form GSTR-1 on monthly basis), from Nov-20 Tax Period onwards. The same will be done based on the following:

- a. Liabilities in tables-3.1 & 3.2 of Form GSTR-3B (except Table-3.1 (d) pertaining to inward supplies liable to reverse charge), are computed by the system on the basis of details of outward supplies as filed in Form GSTR-1 for the tax period
- b. Input Tax Credit (ITC) details and details of inward supplies liable to reverse charge, to be reported in Tables-4 and 3.1 (d) respectively, are computed as per system generated Form GSTR-2B for the tax period.
- c. Such auto-populated GSTR-3B can also be downloaded in PDF format.

e. Ignore prompt on liability for inward supplies attracting reverse charge in Table-3.1 (d)

It is noticed that the system is giving alert when the taxpayer revises the auto-populated values upward by 10% in table 3.1(d) which pertains to inward supplies attracting reverse charge. This alert is erroneous.

Meanwhile, the taxpayers may kindly continue to declare their correct liability in Table-3.1(d) pertaining to liability on inward supplies attracting reverse charge and proceed to file GSTR-3B

RAMA IRIS GST / Portal Updates



- **GSTR-2B Bulk Download Facility:**

Now we can bulk download GSTR-2B report from 'GST Data' section for multiple periods by selecting 'GSTR-2B' under Return Type in one go.

- IRIS Peridot 4.0 is LIVE now bundled with features like Search GSTIN by Name / PAN, watchlist your favourite GSTIN and many more. The 4.0 Version is available on Play store for user download. For detailed features please refer our newsletter for Nov-20.

For demo enquiry, please contact –**Mr. Kapil Bansal: +91 97693 63338**

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