

**GST
Amendments
&
Relief measures**



COMPLIANCE DATES FOR –

GSTR 1 – Mar, Apr & May 2020

GSTR 3B – Feb, Mar & Apr 2020

Noti. No 31/32/33 / 2020 – CT

Compliance date of GSTR 1

Tax Period	Original Due Date	Compliance Date
March 2020	11 th April 2020	30 th June 2020
April 2020	11 th May 2020	30 th June 2020
May 2020	11 th June 2020	30 th June 2020
Jan - March 2020	30 th April 2020	30 th June 2020

Compliance date of GSTR 1

- Relief will be available only if filed on or before the compliance date.
- **Even if default of one day from compliance date, late fees applicable from original due date.**
- In case of GSTR 3B, relief given for **Feb**, March and April. In case of GSTR 1, it is for March, April and **May**.

Compliance date of GSTR 3B

Category	Interest	Late Fees	Tax Period	GSTR – 3B Compliance Date (Condition)
Aggregate Turnover > 5 Crores	9% p.a. after 15 days delay from original due date.	Nil	Feb'20, Mar'20, Apr'20.	On or before 24th June, 2020.
1.5 Crores < Aggregate Turnover > 5 Crores	Nil	Nil	Feb'20, Mar'20.	On or before 29th June, 2020.
		Nil	Apr'20	On or before 30th June, 2020.

Compliance date of GSTR 3B

Category	Interest	Late Fees	Tax Period	GSTR – 3B Compliance Date (Condition)
Aggregate Turnover < 1.5 Crores	Nil	Nil	Feb'20	On or before 30th June, 2020.
		Nil	Mar'20	On or before 3rd July, 2020.
		Nil	Apr'20	On or before 6th July, 2020.

Interest Relief - Exact date

- For Aggregate Turnover exceeding 5 Crore:

Month	Regular due date	Relief provided till
February 2020	20 th March 2020	4 th April 2020
March 2020	20 th April 2020	5 th May 2020
April 2020	20 th May 2020	4 th June 2020

Calculation of Interest – AT above 5 Crores

Due date for <u>March</u> <u>2020</u>	Actual Date of filing	No: of days delay	Whether condition fulfilled	Interest
20.04.2020	02.05.2020	11	Yes	No Interest
20.04.2020	20.05.2020	30	Yes	No Interest for 15 days + 9% for 15 days
20.04.2020	24.06.2020	65	Yes	No Interest for 15 days + 9% for 50 days
20.04.2020	30.06.2020	71	NO	No BENEFIT. Interest @ 18% for 71 days

Points to Note

- The turnover prescribed is 'Aggregate Turnover'.
- The 'Aggregate Turnover' should be of previous financial year. As a result, criteria might change between two financial years.
- **No extension of due dates.** Relief for Interest and late fees are given provided filing is done by compliance date.
- **Even if default of one day from compliance date, no relief available.** Interest & late fees applicable from original due date.

Questions

- Whether further extension possible?
- What about relief under rule 36 (4)?
- How to apply Refund?
- Interest (9% / 18%) will be on gross liability (Cash portion + Credit portion) or only on net liability?



DUE DATE EXTENSION -

MAY'2020

Notification No. 36/2020 – CT

GSTR 3B Extension – Noti 36/2020

- **Due date for GSTR 3B for the month of May 2020:**

Category	Original Due Date	Revised Due Date
Aggregate Turnover > 5 Crores	20 th June 2020	27 th June 2020
Aggregate Turnover < 5 Crores	22 nd June 2020	12 th July 2020
	24 th June 2020	14 th July 2020



DUE DATE EXTENSION - COMPOSITION TAXPAYERS

Notification No. 30/34 2020 – CT

Composition Scheme Taxpayers

Form	Description / Period	Actual Due Date	Extended Due date
CMP 02	Last date to opt Composition Scheme / FY 20 - 21	31 st March 2020	30 th June 2020
ITC 03	Reversal of ITC	31 st May 2020	31 st July 2020
CMP 08	Jan – March 2020 / Statement for Payment of Tax	18 th April 2020	7 th July 2020
GSTR 4	Annual Return	30 th April 2020	15 th July 2020



RULE 36 (4) -

CUMULATIVE APPLICATION

Notification No. 30/2020 – CT

Rule 36 (4) – Case Study

Description	Amount as per 2A
Eligible Credits	8 Lakh
Blocked Credits	2 Lakh
Ineligible Credits	1 Lakh
Total Credit as per 2A	11 Lakh

Description	Credit as per Books
Eligible Credits	10 Lakh
Reverse Charge	1 Lakh
Credit on Import of goods	1 Lakh
Total Eligible Credit as per Books	12 Lakh

Rule 36 (4)

- **Rule 36 (4) shall apply cumulatively for the period February, March, April, May, June, July and August, 2020**
- **and the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.”.**

Rule 36 (4) – ITC Restriction

Month	ITC – 2A	ITC – 3B	110% of 2A	Reversal
February	8,00,000	10,00,000	8,80,000	1,20,000
March	10,00,000	8,00,000	11,00,000	-
April	10,00,000	8,00,000	11,00,000	-
May	8,00,000	10,00,000	8,80,000	1,20,000
June	8,00,000	10,00,000	8,80,000	1,20,000
July	8,00,000	10,00,000	8,80,000	1,20,000
August	10,00,000	8,00,000	11,00,000	-
Total	62,00,000	64,00,000	68,20,000	-



BLANKET EXTENSION & E-WAY BILL

Notification No. 35/2020 – CT

Notification – 35/2020 – Central Tax

- Where, any time limit for completion or compliance of any action, by any authority or by any person,
- 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 barring few sections.

Validity of E-way bill

- Validity of E-way bill:

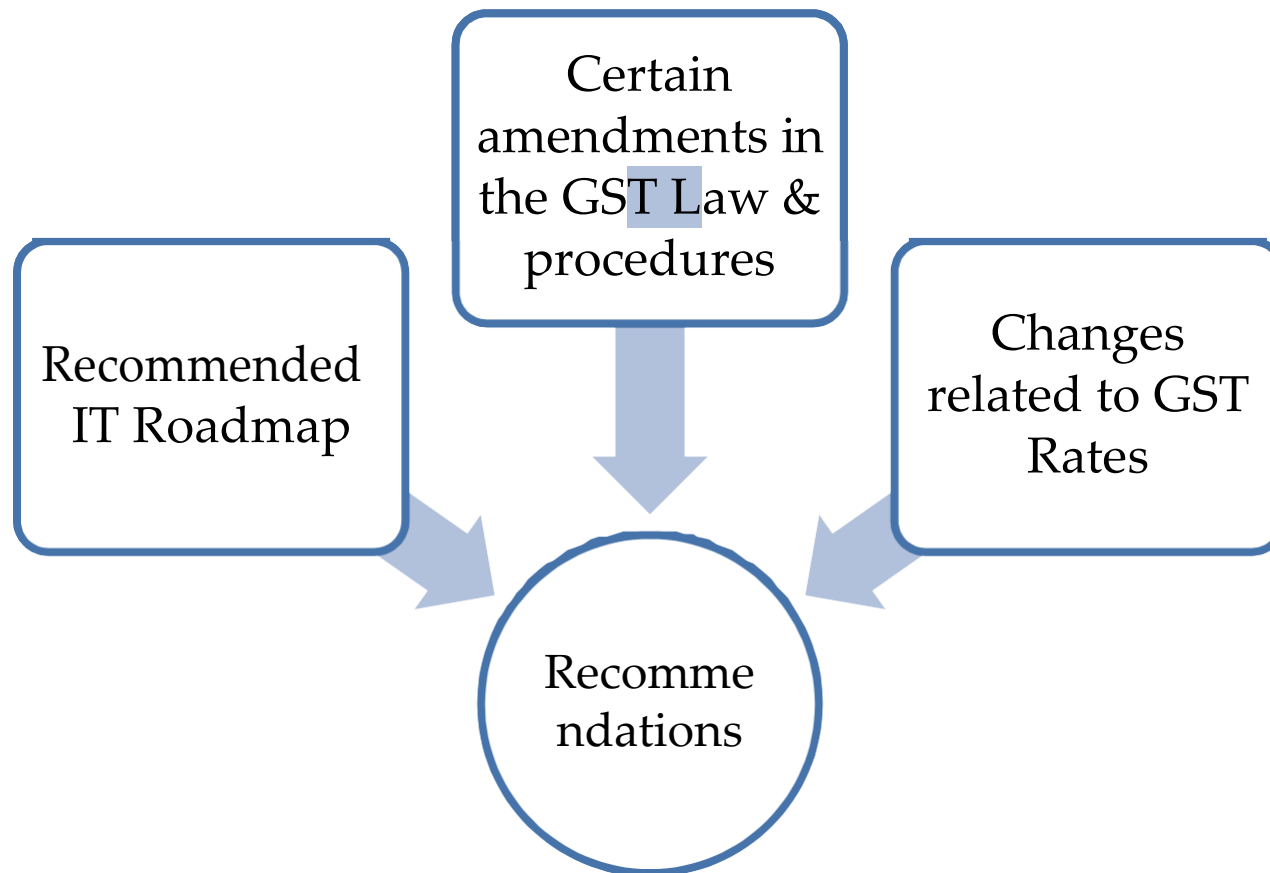
Where an e-way bill has been generated and its period of validity **expires during the period 20th day of March, 2020 to 15 th day of April, 2020,**

then the validity period of such e-way bill shall be **deemed to have been extended till the 30th day of April, 2020.**

Key announcements made in the 39th GST Council Meeting

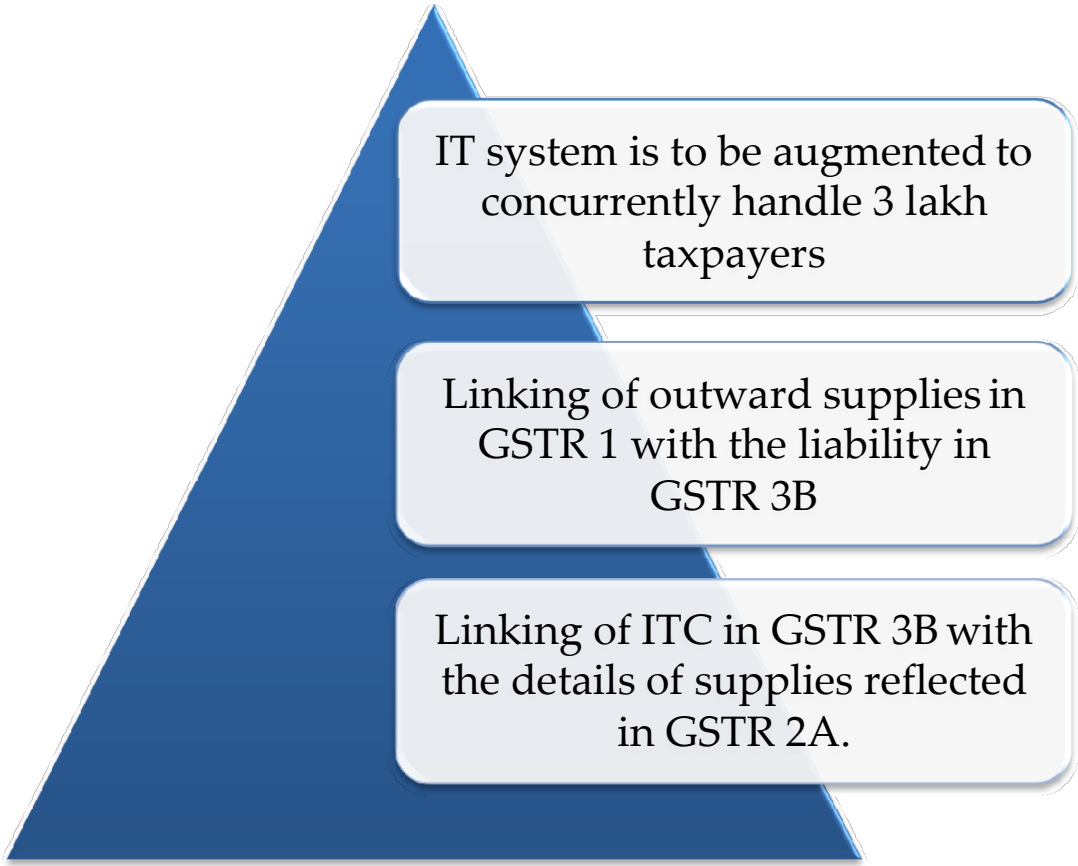
Recommendations made in GST Council Meet

The GST Council in its 39th meeting held on 14th March 2020 at New Delhi discussed and approved:



Recommended IT Roadmap

A presentation was made by Mr. Nandan Nilekani on behalf of Infosys (IT implementation partner) to bring in the following changes in the GSTN working System.



IT system is to be augmented to concurrently handle 3 lakh taxpayers

Linking of outward supplies in GSTR 1 with the liability in GSTR 3B

Linking of ITC in GSTR 3B with the details of supplies reflected in GSTR 2A.

Rationalization of GST rates

The following changes in GST rates are effective from 1st April 2020.

PARTICULARS	OLD RATES	NEW RATES	REMARKS
Mobile phones and specified parts	12%	18%	NA
Handmade matches	5%	12%	Rates made uniform to remove ambiguity in classification.
Other matches	18%	12%	
Maintenance, repair and overhaul services (MRO) on aircraft	18%	5%	<ul style="list-style-type: none">100% ITC to be availablePlace of supply has been changed from performance based to the location of recipient so that MRO services for overseas customer can qualify as export.

Key amendments in GST Law and procedure

Interest on Gross or Net tax liability

- Section 50(1) of CGST Act, 2017
- Multiple decision and multiple disputes.
- Initial press release on 22nd Dec 2018 decided to levy interest on net liability paid through cash.
- **Present council meeting** - Interest for delay in filing of GST returns shall be paid on the **net tax liability** discharged through payment by way of debit in the electronic cash ledger for the period of delay.

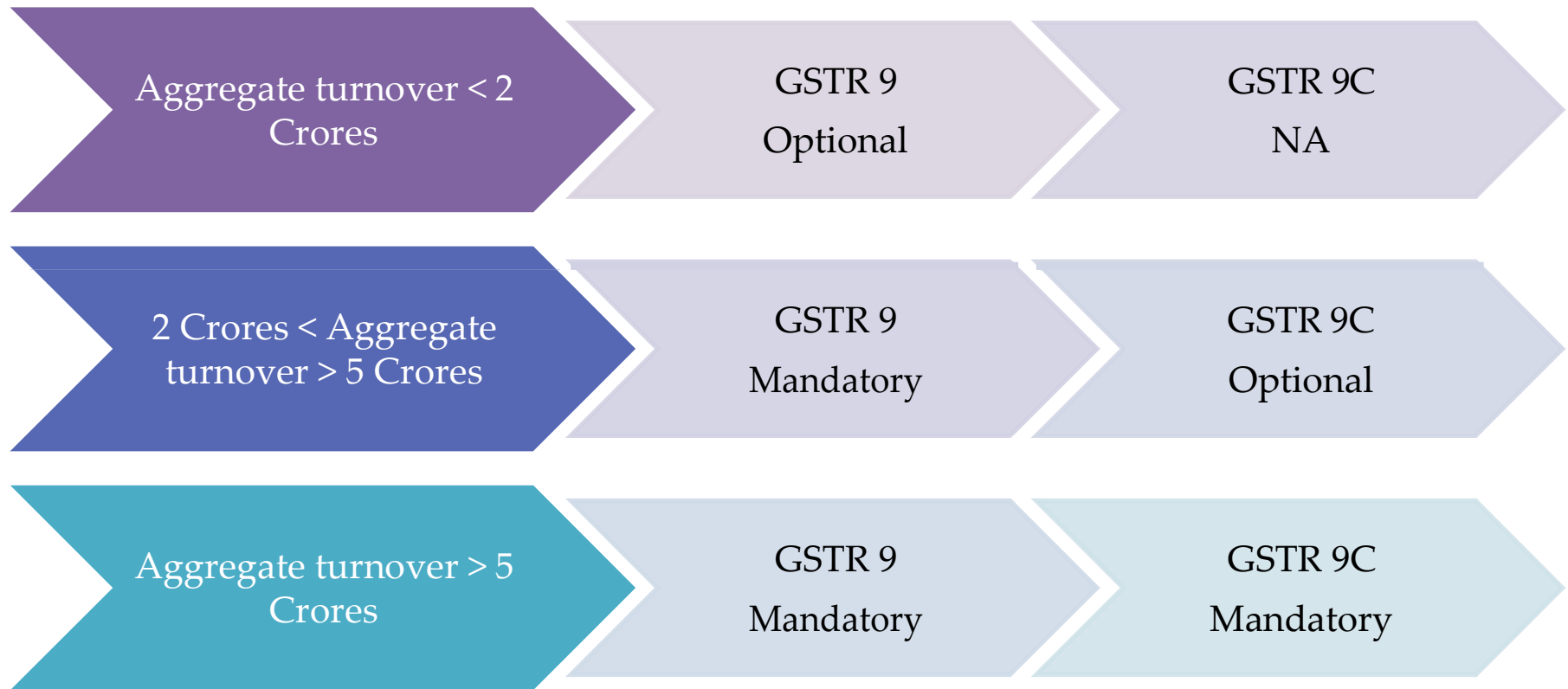
Interest on Gross or Net tax liability

- **Megha Engineering (2019) 73 GST 787 (Telangana) – Held that **Interest is payable on gross liability.****
- **The Hon'ble High Court (2019) 105 taxmann.com 354_ (Delhi) allowed interim stay in the matter of Landmark Lifestyle Cars P Ltd by order dated 27.05.2019 ordered for taking no coercive action towards non payment of interest.**
- **Madras High Court – Refex Industries Ltd – Held interest should be levied on belated cash payment.**
- **Jharkhand High Court – Mahadeo Construction Co – No interest and no recovery proceedings unless adjudicated in GST.**

GST Annual Return and GST Audit (GSTR 9 & 9C)

- Vide Notification No.15/2020 – Central Tax dated 23.03.2020, the due date for filing annual return in GSTR-9 and reconciliation statement in GSTR-9C for FY 2018-19 has been extended from 31st March 2020 to 30th June 2020.
- No Late fees for delayed filing of the Annual return for financial year 2017-18 and 2018-19 for taxpayers with aggregate turnover less than Rs. 2 crores.

GST Audit Relaxation



GST new returns

- In the 31st GST Council Meet, it was decided that a New Return System under GST would be introduced for taxpayers.
- This return system will contain simplified return forms, for ease of filing across taxpayers registered under GST and was due for implementation from 1st April 2020
- However the same has now been extended and shall be implemented from 1st October 2020.
- Thus, the existing system of furnishing **FORM GSTR-1 & FORM GSTR-3B** will be continued till September, 2020.

GST E-invoicing and Dynamic QR code

- 'E-invoicing' or 'electronic invoicing' is a system in which B2B invoices are authenticated electronically by GSTN for further use on the common GST portal.
- All invoice information will be transferred from this portal to both the GST portal and e-way bill portal on a real-time basis.
- E-invoicing and QR Code system were to be implemented from 1st April 2020.
- However, the same has been extended to **1st October 2020**.

Aadhaar Authentication

- W.e.f 1st April 2020, **an individual shall undergo authentication, of Aadhaar number**, as specified in rule 8 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in order to be eligible for registration.
- Provided that if Aadhaar number is not assigned to the said individual, he shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

Physical Verification of Business premises

- Where a person, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application.

Due Date Notified

GSTR 1 and GSTR 3B

Period Apr'2020 to Sep'2020

Due dates for filing GSTR 1 – Apr to Sep 2020

- Such class of registered persons having **aggregate turnover of more than 1.5 crore rupees** in the preceding financial year or the current financial year, for each of the months from April 2020 to September 2020 **till the 11th day of the month succeeding such month.**
- Registered persons having aggregate turnover **of up to 1.5 crore rupees** in the preceding financial year or the current financial year for the first two quarter of the financial year 2020 – 2021 shall be **31st of the month subsequent to the quarter.**

Due dates for filing GSTR 3B

- Due date for filing of GSTR – 3B from April 2020 to September 2020 is as follows:

Aggregate Turnover	States	Due date
Upto Rs. 5 Crores	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu , Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep,	22 nd of the next month
Upto Rs. 5 Crores	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi,	24 th of the next month
Above Rs. 5 Crores	Taxpayers registered in all the states	20 th of the next month

ADVANCE RULING
M/S CLAY CRAFT INDIA PVT.
LTD.

RAJ/AAR/2019-20/33

Similar Advance Ruling

***M/s Alcon Consulting Engineers (I) Pvt. Ltd.
reported as [2019 (30) G.S.T.L. 678 (A.A.R.-
GST)***

Submissions by the Applicant

- The Board of Directors consists of 6 Directors.
- The Directors are performing all duties and responsibilities as required in the law.
- Also all these directors are holding charge of procurement, production, accounting, etc.
- The Company is deducting TDS as per Income tax Act and PF laws are also applicable to their service.

Submissions by the Applicant

- Since working as an employee, they are compensated by the company by way of regular salary and other allowances as per companies policy and employment contract.
- The Salary paid to Directors is being booked under 'Income from Salary' by the Directors in their Income tax returns.

Questions for Advance Ruling?

- Whether GST is payable under Reverse charge mechanism on the salary paid to Director who is paid salary as per the contract?
- Whether the situation will change from (a) above if the Director is a part time director in other company also?

Decision of the Advance Ruling Authority

- Director is not the employee of the company and hence not covered under Schedule – III.
- The consideration paid to the Director are against the supply of services by them to the applicant company and is liable to GST under Reverse charge.

What is Advance Ruling?

- Section 95 (a) - “**advance ruling**” means a **decision** provided by the Authority or the Appellate Authority to an applicant **on matters or on questions specified in sub-section (2) of section 97** or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

Applicability of Advance Ruling?

- 103(1) - The advance ruling shall be binding only:
 - (a) on the applicant;
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.

Provisions relating to Supply:

- 7(2)(a) provides that activities or transactions specified in Schedule III shall be treated NEITHER as a supply of goods nor a supply of services.
- Schedule III – Entry (1) –
Services by an employee to the employer in the course of or in relation to his employment.

Notification No. 13/2017 – Cent. Tax (Rate)

Category of Supply Service	of Supplier of Service	of Recipient of Service
Services supplied by a director of a company or a body corporate to the said company or the body corporate	A director of a company or a body corporate	The company or a body corporate located in the taxable territory

Relevant Definitions of Companies Act

- Section 2(94) of the Companies Act, 2013 defines – **‘whole-time director’** includes a director in the whole-time employment of the company
- **‘Executive Director’** - Rule 2(1)(k) of the Companies (Specification of definitions details) Rules, 2014 defines it to mean a **‘whole Time Director’** as defined in Section 2(94) of the Companies Act, 2013.

General Circular. 24/2012 (MCA)

- The finance act 2012 has introduced service tax which is applicable to anyone who provides a service not covered under negative/exempted list.
- The Non-whole time directors of the company are presently not covered under the exempted list and as such the sitting fee/commission payable to them by the company is liable to service tax.

Provisions in Income Tax

- **Ram Prasad Vs. the Commissioner of Income Tax - (1972) 40 Comp Case 544(SC).**

The powers of the assessee have to be exercised within the terms and limitations prescribed thereunder and subject to the control and supervision of the directors which, in our view, is indicative of his being employed as a servant of the company.

Provisions in Income Tax

We would, therefore, hold that the remuneration payable to him is salary.

- TDS u/s 192 of the Income Tax Act is deducted under the head salaries and issues Form-16 to the director.

Provisions of ESI

- ***Employees State Insurance Corporation Vs. Apex Engineering Private Limited (1998) 1 SCC86.***
- It must be held that he was an employee of the company and as such could be added to the list of remaining 19 employees so as to make a total of 20

Judicial Pronouncements – Service Tax

- ***M/s Allied Blenders and Distillers Pvt. Ltd. Vs CCE & ST, Aurangabad [2019 (24) G.S.T.L. 207 (TRI.-MUMBAI)].***

It is crystal clear that the Directors who are concerned with the management of the company, were declared to all statutory authorities as employees of the company and complied with the provisions of the respective Acts, Rules and Regulations indicating the Director as an employee of the company

Judicial Pronouncements – Service Tax

The Income Tax authorities also assessed the remuneration paid to the said directors as salary, a fact cannot be ignored.

Similar judgement was pronounced by:

***Rent Works India Pvt. Ltd. Vs Commissioner of C.Ex.,
Mumbai-V [2016 (43) S.T.R. 634 (TRI.-MUM)***

**Notification No. 16/2020 –
Central Tax
Dated: 23rd March 2020**

Turnover of Zero-rated Supplies

- “Turnover of zero-rated supply of goods” is the **least** of
 - ✓ the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking **or**
 - ✓ the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier.

Turnover of Zero-rated Supplies

- For Instance:

If the export value of goods is Rs.5,00,000/- however the same is sold at Rs.2,00,000/- domestically, the refund shall be granted considering Rs.3,00,000/- as export turnover.

Export proceeds realization

Rule 96B. Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised

- Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods **has been paid** to an applicant
- but the **sale proceeds in respect of such export goods have not been realised, in full or in part**, in India within the period allowed under the FEMA,
- the person shall deposit the amount so refunded, **to the extent of non-realisation of sale proceeds**, along with interest within thirty days of the expiry of the said period.

Export proceeds realization

- In such case, provisions of section 73 or 74 will be applicable along with applicable interest under section 50.
- Where the **sale proceeds are realised** by the applicant, **in full or part**, and produces evidence about such realisation **within a period of three months** from the date of realisation of sale proceeds, the amount shall be refunded by the proper officer, to the **extent of realisation of sale proceeds**, provided the sale proceeds have been realised **within such extended period as permitted by the Reserve Bank of India.**”

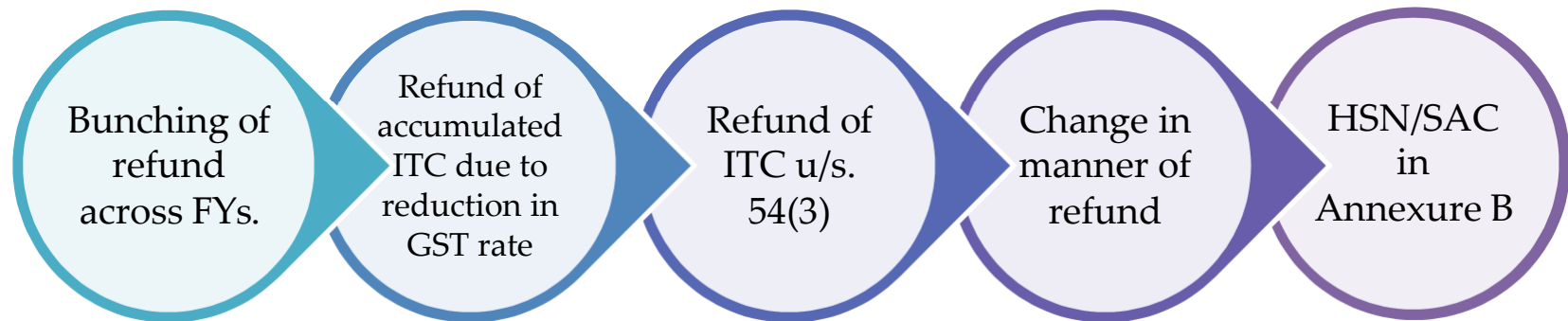
**Circular No.135/05/2020 -
GST**

Dated: 31st March 2020

Refund Provisions

ITC Refund related issues

- Clarification of following refund related issues:



Bunching Of Refund Claims

- Paragraph 8 of the Master Circular on refunds No. 125/44/2019-GST dated 18.11.2019 restricted clubbing of tax periods across different financial years for refund claim.
- For Instance: If merchant exporters receive the supplies of goods in the last quarter of a Financial Year and have made exports in the next Financial Year i.e. from April onwards, they get restricted to apply refund.

Bunching Of Refund Claims

- Hon'ble Delhi High Court in Order dated 21.01.2020, in the case of M/s Pitambra Books Pvt Ltd had stayed the rigour of paragraph 8 of Circular No. 125/44/2019.
- **Restriction on bunching of refund claims across financial years now removed.**

Refund – ITC as per 2A

- Earlier, Para 36 of Master circular on refunds No. 125/44/2019-GST dated 18.11.2019 even **allowed** the refund of ITC for invoices not reflecting in **FORM GSTR-2A**.
- However copies of such invoices were required to be uploaded.
- The refund of accumulated ITC shall be **restricted** to only those invoices which are uploaded by the supplier in **FORM GSTR-1** and are reflected in the **FORM GSTR-2A** of the applicant

Rule 36 (4) – ITC Restriction

Month	ITC – 2A	ITC – 3B	Refund Eligible
July	10 Crore	9 Crore	9 Crore
August	9 Crore	10 Crore	9 Crore
Total	19,00,000	19,00,000	18,00,000

New Requirement to mention HSN/SAC

- Presently HSN wise details of goods and services are not available in **FORM GSTR-2A**.
- **Due to above, it became difficult to distinguish ITC on capital goods and/or input services out of total ITC.**
- **A column relating to HSN/SAC Code is added in the statement of invoices relating to inward supply as provided in Annexure–B.**
- Where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply.

Manner of refund of tax paid on supplies other than zero rated supplies

- In case of Refund claims on supplies other than zero rated supplies, the total tax would normally be paid by the applicant by debiting tax amount from both electronic credit ledger and electronic cash ledger.
- At present, in these cases, the amount of admissible refund, is paid in cash even when such payment of tax or any part thereof, has been made through ITC.
- **Any such refund of tax paid will now be admissible proportionately in the respective original mode of payment.**

Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate

- Unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods are being claimed.
- It is hereby clarified that refund would not be applicable in cases where the input and the output supplies are the same.

**Circular No. 137/07/2020-
GST**

Dated: 13th April 2020

Important Clarifications

Cancellation of Advance Received – Invoice Issued

Issue 1:

- **An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns ?**

Cancellation of Advance Received – Invoice Issued

Clarification:

- The supplier is required to issue a “credit note” in terms of section 34 of the CGST Act.
- He shall declare the details of such credit notes in the return for the month during which such credit note has been issued.
- The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim.

Cancellation of Advance Received – Invoice Issued

- However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through **FORM GST RFD-01**.

Cancellation of Advance Received – Receipt Issued

Issue 2:

- **An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?**

Cancellation of Advance Received – Invoice Issued

Clarification:

- The taxpayer can apply for refund of GST paid on such advances by filing **FORM GST RFD-01** under the category “Refund of excess payment of tax”.

Cancellation of Advance Received – Receipt Issued

Issue 3:

- **Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?**

Cancellation of Advance Received – Invoice Issued

Clarification:

- The supplier is required to issue a “credit note” in terms of section 34 of the CGST Act.
- He shall declare the details of such credit notes in the return for the month during which such credit note has been issued.
- The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case.

Cancellation of Advance Received – Invoice Issued

- However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through **FORM GST RFD-01**.

Clarification - Date extension

- As per Notification No. 35/2020 Central Tax dated 03.04.2020, the requirement under the GST Law for furnishing of any report, document, return, statement or such other record falls during **between the period from 20.03.2020 to 29.06.2020, has been extended till 30.06.2020.**

LUT - Date extension

- Time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020.
- The taxpayer can continue to make the supply without payment of tax under LUT **provided** that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020.
- Taxpayers **may quote the reference** no of the LUT for the year 2019-20 in the relevant documents.

GSTR 7 (TDS) - Date extension

- The due date for furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till 30.06.2020.
- No interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020.

Refund Application - Date extension

- As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date.
- Accordingly, **if the time limit for making refund application expires between the specified period**, the due date for filing an application for refund has also been extended till 30.06.2020