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TAX TALK

GST

A Monthly Goods & Services Tax Bulletin

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Editorial...

"We do not have government by the majority. We have government by the majority who participate". As, our country is witnessing Lok Sabha Election 2019, we urge all our readers to cast their valuable votes to strengthen the country's social, economic and political system.

Several registrations were cancelled due to non receipt of reply to notices issued by the department for cancellation of registration, either from the date of order of cancellation of registration or from a retrospective date. An opportunity has been given to these persons to apply for revocation of cancellation of registration by 22.07.2019, subject to certain conditions. Procedure and conditions of the revocation of cancellation is discussed on Page 2 of this issue.

Supplier of goods or service or both, whose aggregate turnover in the preceding financial year was fifty lakh rupees or below were given an option to pay GST @ 6% (CGST - 3% & SGST - 3%) for first aggregate turnover up to fifty lakh made from 1st April in any financial year. Special procedure to be followed by such class of person for furnishing of returns and payment of tax has been notified. Circular has also been issued to clarify the manner in which such option can be exercised by existing or new taxpayer. Same is discussed on Page 2 of this issue. Order of utilisation of input tax credit has been changed from 01.02.2019. CBIC has issued circular to clarifying the manner of utilisation of input tax credit with examples which is discussed on Page 2 of this issue.

Facility for filing Form GSTR-9C (Reconciliation Statement) has been made available on GSTN portal for the Financial Year 2017-18. New functionalities in CBIC-GST Application has been enabled whereby Tax Officer can block/unblock Input Tax Credit in credit ledger and view Form GSTR-9/9A (Annual Return), Form GSTR-2X (TDS/TCS credit) and Form ITC 01 and ITC 03 filed by the new registrants (for ITC credit on input held in stocks or semi finished or finished goods) on GST portal.

GSTN has issued advisory on invoice series to be issued for the financial year 2019-20. Tax invoice and Bill of Supply should be in proper numbered as per applicable rules. Otherwise, taxpayers may face problem while generating E-Way Bill or furnishing their Form GSTR-1 or for applying for Refund. Invoice should be in proper series, in order to avoid any inconvenience. Committee has also been set up by the GST Council to look into feasibility of e-invoicing.

Changes have also been made in E-way bill system to crack down on GST evaders. The new enhanced system would come with auto-calculation of distance between the source and destination, based on the PIN codes. Besides, this multiple e-way bills based on one invoice will not be permitted. The enhanced feature would also permit extension of validity of the e-way bill when the goods are in transit/movement. These enhanced features would add value to both, businesses and tax officers as the mixed bag aims at propelling ease of doing business together with acting as a deterrent for tax evaders. Enhancement made in E-way bill system are discussed on Page 4 of this issue.

We hope this newsletter will add some value and prove to be beneficial to the readers. We highly solicit suggestion/opinions of the readers. Please feel free to convey your views at gst@goyalstax.com. You may refer all earlier issues of Tax Talk on my facebook wall.

CA Sushil Kr Goyal

DUE DATES

Particulars	Return	Period	Due date
Regular Taxpayers (annual turnover > Rs 1.5 crore)	GSTR-1	April, 2019	11^{th} May, 2019
Input Service Distributors	GSTR-6	April, 2019	13^{th} May, 2019
Regular Taxpayers	GSTR-3B	April, 2019	20^{th} May, 2019

GST UPDATES

APPLICATION FOR NEW SCHEME

Supplier of goods or service or both, whose aggregate turnover in the preceding financial year was fifty lakh rupees or below were given an option to pay GST @ 6% (CGST - 3% & SGST - 3%) for first aggregate turnover up to fifty lakh made from 1st April in any financial year. It has been clarified vide circular that a registered person who wants to opt for payment of tax @ 6% may do so by filling intimation in Form **GST CMP-02** by selecting category of registered person as *"Any other supplier eligible for composition levy"* as listed at Sl. No. 5(iii) of the said form, latest by 30.04.2019. Person who applies for registration and who wants to opt for payment of tax @ 6% may do so by indicating the option at serial no. 5 and 6.1(iii) of **FORM GST REG-01** at the time of filing of application for registration.

It is further clarified that the option exercise in respect of any place of business in any State or Union territory shall be deemed to be applicable in respect of all other places of business registered on the same Permanent Account Number. Further, the said option would be effective from the beginning of the financial year or from the date of registration in cases where new registration has been obtained during the financial year.

(Circular No. 97/2019-GST 05.04.2019)

GST RETURNS AND PAYMENTS PROCEDURE FOR SPECIFIED PERSON

Special procedure has been notified for registered persons under Composition Scheme or person opting to pay tax @6% (CGST - 3% & SGST - 3%) having annual turnover in preceding year up to fifty lakhs in the preceding financial year for first aggregate turnover up to fifty lakh from 01.04.2019.

Such persons are required to make quarterly payment of tax in **FORM GST CMP-08**, till the 18th day of the month succeeding such quarter and file an annual return in **FORM GSTR-4**, on or before the 30th day of April following the end of such financial year. No statement of inward supplies or monthly returns are required to be filed by such persons.

(Notification No. 21/2019 – CT dated 23.04.2019)

RESTRICTION ON GENERATION OF E-WAYBILL

E-Waybill facility shall not be available to a registered person who has not furnished his GST return for last two consecutive tax periods from 21.06.2019.Therefore, no person whether he is a consignor or consignee or transporter, shall be allowed to furnish information in **Part A** of the **EWB-01** as supplier or recipient if, returns have not been filed for two consecutive tax periods.

(Notification No. 22/2019 – CT dated 23.04.2019)

INPUT TAX CREDIT UTILISATION

Order of utilisation of input tax credit has been changed from 01.02.2019. Input tax credit of Integrated tax has to be utilized completely before input tax credit of Central tax/State tax can be utilized for discharge of any tax liability. It has been clarified that Input tax credit of Integrated tax can be utilized in any order and in any proportion towards the payment of Central tax and State tax/Union Territory tax, subject to the condition that the entire Input Tax Credit on account of Integrated tax is completely exhausted first before the Input Tax Credit on account of Central tax or State tax/Union Territory tax can be utilized. The order of utilization of Input Tax Credit is tabulated below:

Input Tax Credit on account of	Output liability on account of Integrated Tax	Output liability on account of Central Tax	Output liability on account of State Tax/ Union Territory Tax
Integrated Tax	(I)	(II) – In any order and in any proportion	
(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily			
Central Tax	(V)	(IV)	Not permitted
State Tax/ Union Territory Tax	(VII)	Not permitted	(VI)

It has also been clarified that till the new order of utilization is implemented on the common portal, taxpayers may continue to utilize their Input Tax Credit as per the functionality available on the common portal, which supports utilization as per pre-amended law.

(Circular No. 98/2019-GST dated 23.04.2018)

BASIS OF DETERMINATION OF CREDIT ALLOCATION FOR TAXABLE AND EXEMPT SUPPLIES

It is clarified that in case of supply of services by way of construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier, the amount of credit attributable to the taxable supplies including zero rated supplies and exempt supplies shall be determined on the basis of the area of the construction of the complex, building, civil structure or a part thereof, which is taxable and the area which is exempt. This Order shall come into force with effect from the 01.04. 2019.

(Removal of Difficulties Order No.4/2019- CT dated 29.03.2019)

TRANSFER OF INPUT TAX CREDIT IN CASE OF DEATH OF SOLE PROPRIETOR

In case of death of sole proprietor if the business is continued by any person being transferee or successor, the input tax credit which remains un-utilized in the electronic credit ledger is allowed to be transferred to the transferee as per provisions and in the manner stated below –

1. Registration liability of the transferee / successor:

The transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession, where a business is transferred to another person for any reasons including death of the proprietor. While filing application in **FORM GST REG-01** electronically in the common portal the applicant is required to mention the reason to obtain registration as *"death of the proprietor"*.

2. Cancellation of registration on account of death of the proprietor:

Legal heirs are allows to file application for cancellation of registration in **FORM GST REG-16** electronically on common portal on account of transfer of business for any reason including death of the proprietor. In **FORM GST REG-16**, reason for cancellation is required to be mentioned as *"death of sole proprietor"*. The GSTIN of transferee to whom the business has been transferred is also required to be mentioned to link the GSTIN of the transferor with the GSTIN of transferee.

3. Transfer of input tax credit and liability:

If the business is continued by any person being transferee or successor of business, it shall be construed as transfer of business. Registered person is allowed to transfer the unutilized input tax credit lying in his electronic credit ledger to the transferee, where there is specific provision for transfer of liabilities. The transferor and the transferee / successor shall jointly and severally be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business *"in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever"*. Further, where a person, liable to pay tax, interest or penalty dies, then the person who continues business after his death, shall be liable to pay tax, interest or penalty due from such person under this Act. It is therefore clarified that the transferee / successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor.

4. Manner of transfer of credit:

Registered person shall file **FORM GST ITC-02** electronically on the common portal with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason. In case of transfer of business on account of death of sole proprietor, the transferee / successor shall file **FORM GST ITC-02** in respect of the registration which is required to be cancelled on account of death of the sole proprietor. **FORM GST ITC-02** is required to be filed by the transferee/successor before filing the application for cancellation of such registration. Upon acceptance by the transferee / successor, the un-utilized input tax credit specified in **FORM GST ITC-02** shall be credited to his electronic credit ledger.

(Circular No. 96/2019-GST dated 28.03.2019)

REVOCATION OF CANCELLATION OF THE REGISTRATION

Persons whose registrations have been cancelled after they were served notice through non-convectional mode i.e. by mail or by making it available on the common portal and who could not reply to the said notice and for whom cancellation order has been passed up to 31.03.2019 have been given opportunity to apply for revocation of cancellation of registration on or before 22.07.2019.

In case, registration has been cancelled on account of failure to furnish returns, then person whose registration have been cancelled required to follow the following procedures for filing of application for revocation;

1. **Registration cancelled from the Date of Order of Cancellation of Registration:** All returns due from the date of order of cancellation till the date of such cancellation are required to be furnished before the application for revocation. Further, returns due 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 order.
2. **Registration has been cancelled with Retrospective Effect:** All the returns which are pending relating to the period from the effective date of cancellation till the date of order of revocation have to be furnished within a period of thirty days from the date of order of revocation of cancellation of registration.

(Removal of Difficulty Order No.5/2019 – GST dated 23.04.2019, Notification No. 20/2019 – CT dated 23.04.2019, Circular No.99/2019-GST dated 23.04.2019)

ENHANCEMENT IN E-WAY BILL SYSTEM

The National Informatics Centre has introduced certain new enhancements to the e-Way Bill system on 23.04.2019. The purpose of such enhancement is to ease the process of generation of e-Way bill by the consignor, consignee or the transporter. List of enhancements in the e-Way bill System are:

1. **Auto calculation of distance based on PIN Codes for generation of e-Way Bill:** The e-Way bill system has enhanced with auto calculation of distance between the source and destination, based on the PIN Codes. The e-waybill system will calculate and display the estimated motorable distance between the supplier and recipient addresses. A variation up to 10% of auto calculated figure is allowed. In case the PIN code of both source and destination are same, then the user is allowed to enter a distance of maximum 100 KMS. If wrong PIN code is entered, then the system will alert and also flag the same to the department for further review.
2. **Knowing the distance between two PIN codes:** Another way for the taxpayer to know the distance between source and destination is to go to the e-way bill system homepage and select "PIN to PIN distance" option under search tab. After entering the PIN codes for "Dispatch from" and "Ship to" approximate distance between the two locations is displayed. Route distance calculation between source and destination uses the data from various electronic sources.
3. **Blocking the generation of multiple E-Way Bills on one Invoice/Document:** If the e-way Bill is generated once with a particular invoice number, then none of the parties - consignor, consignee or transporter, can generate the e-Way Bill with the same invoice number. Therefore, one invoice, one e-Way bill policy will be followed.
4. **Extension of e-Way bill in case the consignment is in Transit/Movement:** The taxpayer or the transporter can login to e-Way bill portal and select the position of the consignment as in movement or in transit, then extend the same.
5. **Report on list of E-Way Bills about to expire:** Taxpayers or transporters can now view the list of e-Way Bills about to expire in a period of 4 days [From current date (T) then (T)-1, (T)+1, (T)+2]. They can keep track of expiry dates for each of the consignments generated.

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