Changes in GST Compliances

(From 1st January,2021)

Provisions of Finance Act, 2020

Notified to be effective from 1st January,2021.

1. Composition Scheme-

Sec. 10(2) of the CGST Act, 2017 has been amended to provide that a registered composition person

a) shall not be engaged in making any supply of services which is not leviable to tax.

b) shall not be engaged in making any inter-state outward supplies of services

c) shall not be engaged in making any supplies of services through an electronic commerce operator who is required to collect TCS

The above clauses have been amended to include services apart from restriction on goods (which was already there).

2. Time limit to take credit of GST in Debit Note-

Sec. 16(4) of the CGST Act, 2017 has been amended to provide that the ITC of a debit note will be available by due date of filing return for the month of September following the end of the FY to which such debit note pertains. Before change, the time limit was <u>based on the date of the invoice </u>to which such debit note pertained.

For example, if a supplier issues a debit note on 23/6/2019 for the invoice dated 25.3.2019 then the time limit to avail the credit of such debit note was the due date of filing return GSTR3B for the month of September,2019 as the invoice pertained to the financial year 2018-19.But with the change now,the credit of this debit note by the recipient will be due date of filing return for September ,2020 as the date of the debit note falls in the FY 2019-20.

3. Voluntary Registration Cancellation-

Sec. 29(1) of the CGST Act, 2017 has been amended to provide that the registered person who has taken voluntary registration may also opt for cancellation of registration. Earlier this specific provision didn’t exist.

4. Extension of time limit to apply for revocation of cancellation of registration-

Now the Additional/Joint Commissioner is empowered u/s 30(1) to extend the time of 30 days to condone the delay in filing the application for revocation. Further the commissioner can also extend by another 30 days. So in total 60 days delay can be condoned subject to showing sufficient cause by the registered person.

5. Power to specify time etc. for issue of tax invoice for supply of certain services-

Sec. 31(2) of the CGST Act, 2017 now empowers the Govt. to specify the time and manner in which a tax invoice shall be issued by specified class of supply of services. No such services have been specified have been specified yet.

6. Real beneficiary of Fake invoices/ITC to be penalized-

Sub-section 1A has been inserted in section 122 to state that the actual beneficiary or at whose instance fake invoicing or fake ITC is availed shall also be punishable with penalty equivalent to such tax evaded, credit availed or passed on. The amendment aims to check the cases of tax evasion where the registration is taken in the name of another person by the fradusters to take the actual benefits of fake transactions. Section 132 which deals with imprisonment has also been amended to include such real beneficieries of fake invoicing/credits.

7. Power to specify time etc. for issue of tax invoice for supply of certain services-

Sec. 31(2) of the CGST Act, 2017 now empowers the Govt. to specify the time and manner in which a tax invoice shall be issued by specified class of supply of services.No such services have been specified have been specified yet.

6. Real beneficiary of Fake invoices/ITC to be penalized-

Sub-section 1A has been inserted in section 122 to state that the actual beneficiary or at whose instance fake invoicing or fake ITC is availed shall also be punishable with penalty equivalent to such tax evaded,credit availed or passed on. The amendment aims to check the cases of tax evasion where the registration is taken in the name of a another person by the fradusters to take the benefits of fake transactions.

Changes in CGST Rules

(Notification No. 94/2020-Central Tax dated 22.12.2020

Effective from 1st January,2021.

1. Restriction on availment of ITC further increased to 5% from 10%.

Rule 36(4) of the CGST Rules, 2017 has been amended to the effect that the registered person can avail the credit of 105% the tax amount pertaining to input invoices appearing in GSTR2A/2B in that period. Earlier this restriction was of 110%.This will reduce the ITC availability of ITC to the tax payers putting further strain on working capital/cashflows. This will be applicable for the returns filed on or after 1st January,2021 (say for December 2020 return)

2. Mandatory payment for 1% from Cash Ledger-

Another rule 86B has been inserted to provide that the taxpayer will need to pay atleast 1% of his output tax liability for a period from his cash ledger. For example, if the output tax liability of a person comes to Rs.1,00,000/- in December.2020 then atleast an amount of Rs.1,000/- has to be paid in cash even though there is balance in Credit Ledger. Whole tax liability can not be debited to electronic credit ledger.

However, this requirement in rule 86B will not be applicable in the following situations-

a.the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than INR 1 lakh as income tax in each of the last two financial years for which the time limit to file the return of income has expired;

b. Such person has taken a refund of ITC in excess of Rs.1,00,000/- in the last financial year relating to zero rated supplies or Inverted duty structure.

c. If the registered person has already paid, cumulatively up to that month in the current FY, more than 1% of his output tax liability from his Cash Ledger.

d. the registered person is – (i) Government Department; or (ii) a Public Sector Undertaking; or (iii)a local authority;or (iv)a statutory body.

3. Suspension of Registration-

Rule 21 has been again amended to provide that the registration of a person may be suspended in the following cases-

(a) avails ITC in violation of the provisions of section 16 or the rules; or

(b) furnishes the details of outward supplies in FORM GSTR-1 for one or more tax periods which is in excess of the outward supplies declared by him in GSTR 3B for the said tax periods; or

(c) violates the provision of rule 86B i.e. pays less than 1% of output liability in cash.

Further the officer is empowered to suspend the registration without affording the said person a reasonable opportunity of being heard. If the registration is suspended then that person can not make any supplies or generate ewaybill.It means the business will come to standstill.

These changes are having far reaching impacts on tax payers and thus calls for very high attention to the above situations.

4. Suspension of Registration for significant differences in GSTR1 and GSTR3B

Rule 2A has been inserted to in Rule 21A to provide that the registration of a person may be suspended where -

On the comparison of data of his GSTR3B with GSTR 1 of the person in question or GSTR 1 of the vendors of such person or such other analysis show "significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder". Here also the officer is empowered to suspend the registration without affording the said person a reasonable opportunity of being heard.

If the registration is suspended, the officer shall send a communication on the portal or by email seeking the explanation for the anomalies which needs to be replied within 30 days. The suspension can be revoked only if the officer deems fit. In other words, the suspension will lead to cancellation if the officer is not satisfied with the justifications.

5. New Registrations- Physical verification and Adhaar based Biometric verification-

Rule 8 and 9 has been amended to provide for the biometric verification of Adhaar number and KYC on the portal.

Further period for grant registration has been changed to 7 days from 3 days.

Provision has been made for physical verification by the officer of the business premises if adhaar biometric verification is not done or the officer finds it necessary to carry out physical verification before granting registration. A period of 30 days has been given for granting registration in such cases.

6. Restrictions on filing GSTR1

Rule 59 has been amended to NOT permit the taxpayer to file GSTR 1 if,

(a) he has not furnished the return in FORM GSTR-3B for the preceding two months (for taxpayer filing monthly returns);

(b) he has not furnished the return in FORM GSTR-3B for preceding tax period (for taxpayer filing quarterly returns)

(c) he is required to discharge the tax liability of at least 1% by cash and he has not furnished the return in FORM GSTR-3B for preceding tax period (instead of two months under (a))

7. Changes in time period in E-waybill

Rule 138(10) has been amended to change the present time of 1 day for 100 kms to 200 kms. So now distance of 200 kms is to be covered in 1 day.

Thank You

CA Lekh Sood
Fintaxwise Solutions
Fatima Nagar,Pune
Mobile-9822015093
Mail-Lekhrsood@gmail.com