



1

वर्ष 47 अंक 11
30 नवम्बर 2017

मेवाड़ चेम्बर पत्रिका

(मेवाड़ चेम्बर ऑफ कामर्स एण्ड इण्डस्ट्री का मासिक पत्र)

उदयपुर, चित्तौड़गढ़, डूंगरपुर, बाँसवाड़ा, प्रतापगढ़
राजसमन्द एवं भीलवाड़ा का सम्भागीय चेम्बर

मेवाड़ चेम्बर ऑफ कामर्स एण्ड इण्डस्ट्री

मेवाड़ चेम्बर भवन, नागौरी गार्डन, भीलवाड़ा (राज.) 311 001 फोन : 01482-220908, 238948

E-mail : mcci@mccibhilwara.com Visit us : mccibhilwara.com



NITIN

Bringing excellence to life

The excellence of quality cotton yarns and fabrics coming out of Nitin Spinners state of the Art manufacturing units is widely accepted by the textile industry of the world to manufacture multitude of products like, High value Apparels & Garments, Shirting, Sheeting, Under Garments, Terry Towels, Woven Fabrics, Home Furnishings, Carpets, Denim, Industrial Textiles, Medial Textiles, Socks, Mattress Sticking and many more in counts ranging from ne 6 to 80's.

NITIN SPINNERS LIMITED

16-17 KM Stone, Chittor Road, Hamirgarh - 311025, Distt. Bhilwara, Rajasthan, INDIA

Ph. : +91 1482 286110-113, Fax : +91 1482 286117,

Email : nsl@nitinspinners.com, Website : www.nitinspinners.com

MEWAR CHAMBER OF COMMERCE & INDUSTRY

Mewar Chamber Bhawan, Nagori Garden Bhilwara 311 001 (Raj.) Ph. 01482-220908 Fax : 01482-238948

E-mail : mcci@mccibhilwara.com

Website : www.mccibhilwara.com

OFFICE BEARERS

	OFFICE	MOBILE
President Mr. Dinesh Nolakha dinesh@nitinspinners.com	01482-286111	98281-48111
Sr. Vice President Mr. J. K. Bagrodia jkbagrodia1@gmail.com	01482-242435	94141-10754
Vice Presidents Mr. N. N. Jindal jindalmarblepl@gmail.com	01472-240148	94147-34834
Mr. R. P. Dashora rajendra.dashora@vedanta.co.in	01483-229011	73404-33333
Mr. Rajender Gaur rajender.gaur@jindalsaw.com	01482-246188	77270-09276
Hony. Secretary General Mr. R.K. Jain mcci@mccibhilwara.com	220908, 238948	94141-10844
Hony. Joint Secretary Mr. K.K. Modi kamal_modtex@yahoo.co.in	01482-247502	98290-46497
Hony. Treasurer Mr. V. K. Mansingka mansingkav@yahoo.com	01482-253300	94141-12123
Executive Officer Mr. M.K.Jain mcci@mccibhilwara.com	01482-220908	94141-10807

AFFILIATION

AT THE INTERNATIONAL LEVEL

International Chamber of Commerce, Paris (France)

AT THE NATIONAL LEVEL

Federation of Indian Chamber of Commerce & Industry, (FICCI) New Delhi
Indian Council of Arbitration, New Delhi

National Institute for Entrepreneurship and Small Business Development (NIESBUD), New Delhi.

Confederation of All India Traders, New Delhi

AT THE STATE LEVEL

Rajasthan Chamber of Commerce & Industry, Jaipur.

The Employers Association of Rajasthan, Jaipur.

Rajasthan Textile Mills Association, Jaipur

REPRESENTATION IN NATIONAL & STATE LEVEL COMMITTEES

- All India Power loom Board, Ministry of Textile, Govt. of India, New Delhi
- National Coal Consumer Council, Coal India Ltd., Kolkata
- State Level Tax Advisory Committee, Govt. of Rajasthan, Jaipur
- State Level Industrial Advisory Committee, Govt. of Rajasthan, Jaipur
- Regional Advisory Committee, Central Excise, Jaipur
- Foreign Trade Advisory Committee, Public Grievance, Customs, Jaipur
- DRUCC/ZRUCC of North Western Railways

INDEX

विवरण	पेज नं.
Representation	4
ग्रोथ सेन्टर जीएसएस चार्ज	9
Work order - ROB RIICO Growth Centre	10
Circular	11
Goods and Services Tax (GST)	12
Changes CGST Rates for Supply of Services	13
GSTR 1 Issues and Resolutions	15
GSTR 3B Issues and Resolutions	16
Issues & Solutions In Filing GST Returns & TRAN Forms	17
E-way Bill of GST : Complete Analysis	27
Big Bang Changes In GST Laws to Ease Rules and Procedures	30
Businesses need not deduct GST on advances received for goods supply	30
Recommendations made by the GST Council in the 23rd meeting	31
Changes in Central Goods and Services Tax Rules, 2017	32
Circular - Manual filing and processing of refund claims	35
Govt to Simplify Income Tax Laws Sets Up Task Force	40
Fast track Exit / Strike-off under section 248 of Companies Act, 2013	41
Disqualification of Directors	43

REPRESENTATION

MCCI/GST/2017-2018/377

Dated 07.11.2017

The Secretary Revenue
Ministry of Finance
Govt of India,
New Delhi

Sub: Procedural problem in complying with the job work provisions of GST.

Respected Sir,

In reference to the above mentioned subject, **Mewar Chamber of Commerce & Industry**, representing Southern Rajasthan, submits that:-

Job Work in Textile Industries

There is a procedural problem in compliance with the job work provisions as provided under newly introduced GST regime. As per provisions enacted under the GST law, inputs and/or semi processed goods and/or finished products are allowed to be send without payment of GST provided that those goods whether inputs or semi processed or finished goods are send under a Job Work Challan (Delivery Challan) which should be prepared by the **Principal Manufacturer** and the delivery challan must containing therein certain prescribed particulars as provided under rule 55 of CGST, Rules, 2017. Further an **intimation must be given** to the concerned authorities in order to send goods to job worker. Job worker also has to maintain and submit the details like date and time of receipt, quantity and goods processed and delivery details etc. The above provisions are applicable to all the commodities irrespective of the nature of job work carried out by the job worker. Provisions of Job Work under GST are as under:-

JOB WORK PROCEDURE

Section 143 – Job Work Procedure

(1) A registered person (hereafter in this section referred to as the “principal”) may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,—

(a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax;

(b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

(2) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.

(3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

(4) Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

(5) Notwithstanding anything contained in sub-sections (1) and (2), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.

Explanation.—For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

CONDITIONS AND RESTRICTIONS IN RESPECT OF INPUTS AND CAPITAL GOODS SENT TO THE JOB WORKER

Rule 10 of chapter V (ITC rules) of CGST Rules, 2017– Conditions and restrictions in respect of inputs and capital goods sent to the job worker

The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker. The challan issued by the principal to the job worker shall contain the details prescribed in rule of Invoice. The details of challans in respect of goods dispatched to a job worker or received from a job worker during a tax period shall be included in FORM GSTR-1 furnished for that period. Where the inputs or capital goods are not returned to the principal within the time stipulated in section 143, the challan issued under sub-rule (1) shall be deemed to be an invoice for the purposes of the Act.

Nature of job work in textiles sector is entirely different from that of other commodities, hence present procedure followed in this sector is also different from that of other sectors. Textile Fabrics is manufactured from mainly these three processes:-

1. Yarn-manufactured by Spinning Units
2. Grey Fabrics-Manufactured by Weaving Units
3. Finished Fabrics-Manufactured or Processed by Process Houses.

Further, manufacturing process of textile fabrics may be divided in following category:-

1. Composite Units having all the facilities i.e. spinning, weaving and processing facilities
2. Independent Spinners, Weavers, and Processors
3. Traders

Process-A

Manufacturing of Grey Fabrics:-

Some of the persons are having the facility of weaving of grey fabrics in their own unit and if required they may get the grey fabrics weaved from other units on job work basis and/or may weave for others in their own units on job work basis. In case of traders, they are not having any facility of weaving, processing etc. Majority of the cases are falling under this category. They purchase the yarn which is supplied directly by the yarn supplier to the premises of job worker for manufacturing of Grey Fabrics on job work basis. In this case, goods were supplied with the cover of sale invoice with challan to the job worker on behalf of the Principal Manufacturer.

In most of the cases, yarn are directly sent to the premises of job worker for manufacturing of Grey Fabrics, hence it is not feasible to send the Job Work Challan for Job Work at the premises of Job Worker. Job worker is situated at various location and distance which may also vary from 10 to 30 KM.

Process-B

After Manufacturing of Grey Fabrics and as per the requirement of Principal Manufacturer, such Grey Fabrics are sent to various processing units in required lot size with **the Delivery Challan of Job Worker** i.e. Manufacturer of Grey Fabrics mentioning the name of the Further Job Worker (Process House) Name and Address of the Principal of Goods, Quantity and details of goods etc. On receiving the goods/fabrics at Process House, the concerned Process House, check the contents mentioned in the delivery challan of first job worker (Manufacturer of Grey Fabrics) and entered the goods in his records.

As goods are directly sent to Process Houses from the premises of First Job Worker i.e. Weaving Units. In such cases sending the Job Challan by Principal as required under new regime of GST is not feasible as the most of the weaving units are situated in a different locations and in a distance which may be 10-30 KM away from the Principal's place of business. Further, movement of Grey Fabrics is on regular basis and on some days the movement may be two or three times in a day with various process houses for further processing. Unprocessed and processed fabrics are lifted by the job worker in their own vehicles at their convenience and hence date of delivery and vehicle number is also not known before delivery and hence Job Challan cannot be prepared by the principal manufacturer at the time of transportation of goods.

Stage-III

On completion of processing activates or job work and as per requirement of Principal of Goods, the finished fabrics (in piecemeal) are sent by the processor (job worker) to the principal under the job worker's challan. The goods are dispatched/sent in piecemeal and it is not possible to prepare the challan or send the goods lot wise or challan wise from process house. However, the movement of goods always with the cover of challan of job worker.

Job work carried out by the job worker generally is of continuous nature means lot wise distinction can't be made and use of inputs cannot be specifically attributed to a particular lot. Particular kind of yarn supplied by the principal is used in various lots and in many times fabrics is made of different kind of mixed yarn supplied by different suppliers on different dates. Delivery of the semi processed fabrics and processed fabrics are also not made lot wise. In other words many times piecemeal deliveries are made of one lot. Under such circumstances mentioning the details of fabric manufactured on different challan is not practically possible.

Quantitative stock records to reflect the details of stocks with various job workers are always maintained by the Principal Manufacturer and job workers. Use of every lot of yarn can't be precisely attributed to particular lot of fabrics because job is of continuous nature. Year-end reconciliations are made and verified with the physical stocks and if found any discrepancy, it is sorted out.

Maximum persons who get the job work done are in SME sectors having their shops/offices in the market. They are neither financially sound enough to have their own manufacturing facilities and nor they have big godowns wherein all the yarn and unprocessed fabrics can be stored and then dispatched to various job workers in lots. Therefore, all the transactions are carried out directly from yarn supplier to job workers and so on till final goods reach to Principal's office/shop. Movement of goods is always through delivery challan of job workers. The very purpose of GST is to bring uniformity in various taxes and provide ease and convenience from complicated procedures. Job worker provisions as laid down in the present GST law are complicated and difficult to be complied with at least by the SME sectors. Composite sector had already been provided with concessions in the GST regime and also not to comply with complicated records procedures. Competition of the SME sector with the composite unit had already raised the question of survival before the SME sector and complicated procedural formalities would further lead them to the litigations.

In most of the cases all the concerned persons i.e. Principal, job worker and the subsequent job worker are located locally therefore, movement of goods is done through local transport where no consignment notes are prepared. Although goods are always moved under delivery challan from one place to another place containing almost more or less same particulars. Movement of inputs and semi processed goods is always recorded by the Principal Manufacturer in its stocks ledger. Location of the goods for which principal manufacturer is responsible is always reflected in the records maintained by the Principal Manufacturer. It is requested to please waive the condition for sending the goods along with principal's challan. In this case challan prepared by the job worker may please be considered for the compliance of the above provisions.

The genuine demand of the industry should be sympathetically met by the government. We are sure that your good self and your office would consider our humble request sympathetically and would extend suitable relief to save the SME sector, the large employment provider.

We shall be highly obliged for your kind consideration of the above matter.

With Best Regards

(CS R.K.Jain)

Hon'y Secretary General



MCCI/GST/2017-2018/376

Dated 07.11.2017

The Revenue Secretary
Ministry for Finance,
Government of India
New Delhi.

Sub: Request to re-consider GST rates on Marble & Granites.

Respected Sir,

In the above reference, **Mewar Chamber of Commerce & Industry**, the Divisional Chamber of South Rajasthan, representing more than 1500 marble & granite units in Chittorgarh, Rajasmand and Banswara Districts, submits that:-

Marble and granite have been put under the GST slab of 28% which is very high as compared to present tax rate of 5 to 14.5% under current tax structure. The higher rate of GST will make the survival of marble and granite industry in India, very difficult. Since last four months, after introduction of GST, the marble and granite industry in Rajasthan has virtually become stagnant. 95% of marble processing of the Country is undertaken in Rajasthan and most of the marble processing units fall under SSI (small scale industry) units and have been badly hit by 28% GST rate. Previously, these units were paying only 5% VAT and were exempted from excise duty, being in SSI sector.

Already Indian marble and granite face tight competition from imported marble and now the high GST tax rate is only going to make the situation worse. Currently 80% of Indian marble is sold on an average rate of Rs. 50 and about 90% of Indian granite

is sold on an average rate of Rs. 65- Rs. 70. Seeing the current sales price scenario, having the burden of 28% GST will kill the industry.

Now if we see the economy of Rajasthan, 30.5 % of its GDP come from industries of which mining of marble, granite and other stone is a major part. 90% of Marble extracted in India is from Rajasthan. The current tax on marble in Rajasthan is Rs. 1.10 per sq ft on marble slabs and .Rs. 75 paise per sq ft on marble tiles. Seeing this kind of history, a straight escalation of tax to 28%, the tax burden is about Rs 14/- per sq ft, which is a total injustice. Similarly on granite VAT in Rajasthan is Rs. 3.50 per sq ft which again is negligible as compared to proposed GST. Hence, we humbly request your good self to kindly consider the above submission and to reduce the GST rate on Marble & Granite @ 5% from 28%.

The entire marble and granite industry will be highly obliged for your kind consideration of the above matter.

With Best Regards

(CS R.K.Jain)

Hon'y Secretary General

- cc: 1. Hon'ble Smt. Vasundhara Raje ji, Hon'ble Chief Minister, Rajasthan, with request to kindly recommend the same to the Government of India.
2. The Chairman, CBEC, New Delhi with the above request.
3. Shri Subhash Ji Baheria, Member of Parliament, Bhilwara



MCCI/GST/2017-2018/378

Dated 07.11.2017

The Secretary Revenue
Ministry of Finance
Govt of India,
New Delhi

Sub: GST-ITC 4 Return- Procedural problem in complying with the job work provisions of GST.

Respected Sir,

Very recently it has come to our notice that the GST-ITC 4 Return is required to be submitted on quarterly basis containing therein the details of goods sent on job-work and received back or directly sent from one job-worker to another job-worker. Sir, in this connection previously also we had sent you representations stating therein practical problem in complying with certain requirements for job work in case of textile industry. Now, keeping in view the same problems and practices submitting the information in desired form GST-ITC 4 is virtually impossible and infeasible.

Nature of job-work in case of textile industry is more or less of continuous nature means lot wise distinction can't be made. Fabrics are generally made by using different yarns from different sources which are delivered on different dates. Now how the production of fabrics can be related to a specific chalan of inputs. Complete yarn is also not consumed in one lot and the balance yarn is used in the same factory with fresh yarns for subsequent production. It is virtually impossible to attribute production precisely in reference to the original delivery chalans. This practical problem exists during weaving as well as processing. The members of the industry are unable to understand how to fill in the information in GST-ITC 4. Overall details of deliveries, production and onward deliveries can be mentioned like stock ledgers can be reproduced but making challan wise distinction is impossible and infeasible.

Industry and trade wish to comply with the requirements of the law but their practical problem has to be looked into sympathetically. We are also of the view that ease of doing business should be maintained, if it does not clash with the financial impact. Secondly existing trade practices going on since inception of the trade should also be recognized which does not impact the levy of taxes.

Fabrics manufacturing sector had accepted the tax first time on the fabrics but inconvenience which causes fear should be taken care of. Therefore, it is the humble request of the trade and industry to modify the requirements suitably so that all the traders doing textile business can fulfil the requirements without any complications. We are of the view nature of job-work differs from industry to industry and hence same format which is in quantitative form cannot be applied uniformly to all the industries. You can depute the team of technical experts to discuss the practices and problems mutually so as to arrive at acceptable practices and submission of information.

Please note, maximum persons engaged in manufacturing through job-work are in SME sector that do not have adequate financial resources to have their own manufacturing facilities. Any inconvenience in compliance would discourage the practice of job-work, means closure of business in small sector.

We therefore request your goodself that till a workable solution is found out, to either dispense off with the requirement of filling GST-ITC 4 or keep it in abeyance.

We shall be highly obliged for your kind consideration of the above matter.

With Best Regards

(CS R.K.Jain)

Hon'y Secretary General



MCCI/RIP/2017-2018/380

Dated 07.11.2017

Hon'ble Smt Vasundhara Raje ji

Hon'ble Chief Minister

Govt of Rajasthan

Jaipur.

Sub: Request to introduce SGST incentive in place of VAT incentive in RIP 2014.

Respected Madam,

In a move to draw more investments and promote industrialization in the State, Rajasthan Investment Promotion Policy 2014 was declared by your goodself in which many tax incentives based on VAT were given. Now, after introduction of GST, we request your honour to revise these incentives on basis of SGST.

Under RIP 2014 following incentives were declared based on VAT:-

An eligible manufacturing enterprise shall be granted benefits and incentives as given below:

- (i) Investment subsidy of 30% of VAT and CST which have become due and have been deposited by the enterprise for seven years.
- (ii) Employment Generation Subsidy up to 20% of VAT and CST which have become due and have been deposited by the enterprise, for seven years.
- (iii) Exemption from payment of 50% of Electricity Duty for seven years, provided that for enterprises engaged in tourism sector, it shall be restricted to 25% of the Electricity Duty.

We now request that necessary amendments should be made in RIP 2014 to allow the above incentives on the basis of SGST.

We wish to submit that Telangana, Uttar Pradesh and Gujarat has already declared to offer incentives based on SGST in place of VAT effective from 1st July 2017, after GST implementation.

We hope you will very kindly consider our above submission and will order to issue necessary notifications in the matter at the earliest.

With Best Regards

(CS R.K.Jain)

Hon'y Secretary General

CC: The Secretary, Industries, Govt of Rajasthan, Jaipur

The Commissioner, Commercial taxes, Rajasthan, jaipur

The Addl. Director, Office of the Commissioner Industries, Govt of Rajasthan, Jaipur

Shri Arun Jaitley

The Hon'ble Minister for Finance
Ministry of Finance, Government of India
North Block, New Delhi – 110 011

Sub: Problem of Refund of IGST on Exports

Respected Sir,

In Rajasthan State, Bhilwara and Banswara are major manufacturing and exporting centre of man-made fibre blended yarn & fabrics, cotton yarn, denim fabrics etc. Our member textile units export goods worth more than Rs 3000 crore p.a. and many of them are star export houses. After introduction of GST, our members are facing major problem of refund of IGST on exported goods and due to non refund of the same, they are in financial crisis.

The GST Council in its 22nd Meeting had approved refund of IGST paid on Exports and it was stated that the refund for month of July, 2017 will commence w.e.f. 10.10.2017. Subsequently instructions no. 15/2017–Customs dtd. 09th October, 2017 was issued and accordingly returns in GSTR -1 & 3B for the month of July, 2017 have been filed by all the exporters.

Our members are exporting mainly from Mundra, Pipavav, JNPT etc ports and inspite of completing all the formalities and filing of returns, they have not yet received any refund of IGST paid on exported goods, contrary to the declaration of Government. They are regularly following-up with the Custom Authorities but are not getting any satisfactory response. In some cases where GST Invoices are not matching with the Shipping Bills request for manual refund was also made but still they are not getting refunds. We also wish to inform you that the details of Exports in table 6A of GSTR-1 for the Month of August, 2017 are not being uploaded due to error in the GSTN system and filing of this return is pre-requisite for refund of IGST.

In view of the above, all exporters are facing heavy financial crisis as they are facing liquidity problem and huge sum has been stuck in IGST which aggravated their liquidity and this may lead to drop in exports from the textile sector.

We therefore request your good self that in order to maintain the export momentum and to maintain the production level, necessary instruction for removal of the bottlenecks for refund of IGST and immediate refund of IGST for the month of July and for correction of error in GSTN system for filing of further returns may kindly be issued. We shall be highly obliged for your kind favourable action in the matter.

With Regards

(R.K.Jain)

Hon'y Secretary General

CC: Dr. Hasmukh Adhia, Secretary (Finance & Revenue), Ministry of Finance, Government of India, New Delhi



ग्रोथ सेन्टर जीएसएस चार्ज

हमीरगढ ग्रोथ सेन्टर के उद्यमियों को अब बिजली की कटौती व बार-बार ट्रिपिंग नहीं झेलनी पड़ेगी। अजमेर विद्युत वितरण निगम ने सेन्टर में 132 केवी ग्रीड सब स्टेशन की स्थापना करने के साथ ही इसे चार्ज कर दिया है। अब उद्यमियों को इससे कनेक्शन जोड़ दिये जाएंगे। इस ग्रीड की स्थापना के लिए गत 5 वर्षों से मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री ने अथक प्रयास किये हैं। इसके शुरु होने से इस क्षेत्र में संचालित उद्योगों को अब विद्युत संकट का सामना नहीं करना पड़ेगा।

WORK ORDER

Construction of road over Bridge at LCR No. 72/E.2 at km 144/8-144/9 on NH-79 to Swaroopganj.

With concentrated efforts of Mewar Chamber of Commerce & industry, the NWR and Govt of Rajasthan had agreed to construct ROB in place of under bridge at level crossing between highway and RIICO Growth Centre. Now, the work order for the same has been issued.

**GOVERNMENT OF RAJASTHAN
OFFICE OF THE EXECUTIVE ENGINEER, PWD DN. MANDALGARH**

No:-Actt. 2017-18/D- 1932-40

Dated:- 22.11.2017

PRL & Renu Infrastructure
Pvt. Ltd. (JV) AA Clss Contractor
102-A Mahadev Nagar Gandhi Path
Vaishali Nagar- Jaipur (Raj.)

Sub:-Work order – Construction of road over Bridge at LCR No. 72/E.2 at km 144/8-144/9 on NH-79 to Swaroopganj.

Your Tendered Dated 11.10.2017 for the above mentioned work has been accepted by Chief Engineer (Road) PWD Rajasthan Jaipur Vide Letter No.F.7(326)Sec.II/2017-18/D-472 date 13.11.2017 on behalf of the Governor of the State of Rajasthan at your Tender rate **percentage Item Rate(Words Item Rate)on schedule “G” aggregating Cost of Amounting to Rs. 20,77,61,431/- only** (In words Twenty Crore Seventy Seven Lacs Sixty One Thousand Four Hundred Thirty One only) without any condition.

You are hereby directed to start the work at once. Please note that the time allowed for carrying out the work as mentioned in the tender shall be reckoned from 10th days after the date of issue of the order to commence the work (**ie 18 Month**) including rainy season.

The letter of acceptance together with the tender submitted by you embodying all the condition there in constitute the contract agreement between you and the Governor of the Rajasthan for the aforesaid work.

You are also requested to attend the office immediately with Non Judicial stamp of Rs.15000/- to execute the agreement other wise 2 % earnest money will be forfeited.

Over all expenditure should be restricted within the Administrative & Financial Sanction.

St. Date of Commencement. : 03.12.2017

St. Date of Completion : 02.06.2019

Agreement No. / 2017-18

Encl. Schedule “G”

(B.L.Kasotiya)

Executive Engineer PWD, Division- Mandalgarh

(Signed on behalf of the Governor of State of Raj.)

No:-Actt. 2017-18/ D- 1932-40 Dated:- 22.11.2017

Copy forwarded to the following for information &N.a. :-

- 1 Accountant General (Audit) Rajasthan Jaipur
 - 2 Chief Engineer(Road) P.W.D.Raj.Jaipur
 - 3 Addl.C.E.PWD Zone Ajmer
 - 4 Superintending Engineer P.W.D. Circle Bhilwara
 - 5 Executive Engineer PWD dn. SI & QC Bhilwara
 - 6 Assistant Engineer P.W.D. Sub Dn -Suwana
 - 7 C.T.O. Bhilwara/Assistant Labour Commissioner Bhilwara.
 - 8 Mining Engineer – Bhilwara
- Encl.- Schedule G

(B.L.Kasotiya)

Executive Engineer PWD, Division- Mandalgarh

Ms. Mugdha Sinha
Managing Director
RIICO Ltd
Jaipur
Email : md@riico.co.in

Sub: Show cause notices issued to industrial units in RIICO Growth Centre Bhilwara.

Respected Madam,

We understand from member units that the RIICO Ltd Bhilwara has issued show cause notices to large number of industrial units in RIICO Growth Centre Bhilwara to show cause to cancel their allotment for non completion of construction work of building in stipulated time, while all these industrial units have been working since last more than 4-5 years and for many industrial units RIICO had even issued NOC for getting benefits under RIP and other schemes. (a copy of such show cause notice is attached herewith for your perusal)

This has caused disturbance and resentment amongst entrepreneurs. We therefore request your goodself to kindly investigate the whole matter and to resolve the issue for the satisfaction of the entrepreneurs. Your immediate action in the matter will be highly appreciated.

With Best Regards

(CS R.K.Jain)
Hon'y Secretary General



GOVERNMENT OF INDIA
MINISTRY OF TEXTILES
OFFICE OF THE TEXTILE COMMISSIONER
(POWERLOOM DEVELOPMENT CELL) MUMBAI-400 020

No.47(1)/ IE 3 Motors/Policy/PDC/132

Dated:24.10.2017

To,

1. The Powerloom Associations (As per the list enclosed at Annexure-I)
2. SRTEPC,Mumbai
3. PDEXCIL,Mumbai
4. Shri.Dhirubhai Shah,Fair Deal Textile Park,Surat
5. All Regional Office of the Textile Commissioner
6. All Powerloom Service Centers

Sub: EESL to provide energy efficient Powerloom equipment to small and medium units at no upfront cost.

Sir,

All the Powerloom Associations are requested to give wide coverage on the press release (copy enclosed), regarding Ministries of Power & Textiles joining hands under new initiative SAATHI (Sustainable and Accelerated Adoption of efficient Textile Technologies to Help small Industries).

The Energy Efficiency Services Limited (EESL) is to provide Energy Efficient Powerlooms, Motors and Rapier Kits to small and Medium units at no upfront cost. The above Scheme will be jointly implemented by EESL & Office of the Textile Commissioner on PAN India basis.

The above message may please be tweeted to the members of your associations in order to get benefits of the above said Scheme.

Encl: As above

Yours faithfully
(T.L.Balakumar)
Deputy Director

Ministries of Power & Textiles join hands under new initiative SAATHI (Sustainable and Accelerated Adoption of efficient Textile technologies to help small Industries)

EESL to provide energy efficient Power looms equipment to small and medium units at no upfront cost

Ministries of Power and Textiles have joined hands under a new initiative **SAATHI (Sustainable and Accelerated Adoption of efficient Textile technologies to help small Industries)**. Under this initiative, Energy Efficiency Services Limited (EESL), a public sector entity under the administrative control of Ministry of Power, would procure energy efficient Power looms, motors and Rapier kits in bulk and provide them to the small and medium Power loom units at no upfront cost.

The SAATHI initiative of the Government will be jointly implemented by EESL and the office of the Textile Commissioner on a pan-India basis. To kick start the implementation, cluster wise demonstration projects and workshops will be organized in key clusters such as Erode, Surat, Ichalkaranji, etc.

The use of these efficient equipments would result in energy savings and cost savings to the unit owner and he would repay in instalments to EESL over a 4 to 5 year period. This is the aggregation, bulk procurement and financing model that EESL has successfully deployed in several sectors like LED bulbs, Smart Meters and Electric Vehicles. The unit owner neither has to allocate any upfront capital cost to procure these equipments nor does it have to allocate additional expenditure for repayment as the repayments to EESL are made from the savings that accrue as a result of higher efficiency equipments and cost savings. The aggregation of demand and bulk procurement will also lead to reduction in capital cost, benefits of which will be passed on to the Power loom units so that their repayment amount and period would reduce.

The Power loom sector in India is predominantly an unorganized sector and has a large number of micro and small units which produce 57 percent of the total cloth in the country. There are 24.86 lakhs Power looms in this country, most of whom use obsolete technology. With a view to upgrading the technology, the Government of India has been implementing the INSITU upgradation of plain Power looms as part of Power Tex India under which plain Power looms are attached with process control equipment leading to higher productivity, better quality and more than 50 percent additional value realisation. So far 1.70 lakhs plain Power looms have been upgraded under the scheme, with a total Government of India subsidy of Rs. 186 crores.



GOODS AND SERVICES TAX (GST)

Goods and Services Tax (GST), introduced from July 1, 2017 is now about 150 days old and has resulted in operational and implementation issues affecting all stakeholders. GST law, as drafted and legislated, is not free from the interpretational hassles. Taxpayers have started challenging various provisions of GST laws and rules framed there under. High courts have taken a liberal stand so far in view of the fact that law is new and is yet evolving. However, CBEC may move to Supreme Court where the verdict is against the Government.

Here are few judicial pronouncements for information and guidance of various stakeholders. It is expected that the litigation is bound to go up as time passes by.

- In case the assessee was registered as sole proprietor instead of partnership firm, it was held and directed to the department that the necessary GST ID/ password in the name of partnership firm shall be issued within a period of two weeks and the registration certificate be corrected within a week thereafter.
- In case the assessee on enforcement of GST regime got itself migrated for purposes of GST as a partnership firm, but Adjudicating Authority had registered it as a sole proprietorship, it was held that Adjudicating Authority shall have to rectify this mistake.
- In case the period for applying under Composition Scheme was extended upto 30.9.2017, it was held that those assesseees who could not apply under Composition Scheme upto 16.8.2017, their applications would be accepted and shall have effect from 1.7.2017.
- In case the assessee has already paid clean energy cess on purchase of coal, it was held that the assessee may be given credit for such payment and will not be required to make any further payment under GST for effecting sales and clearances, subject to the furnishing of proof of such payment by assessee to officers.

Applicability of IGST/GST on goods transferred/sold while being deposited in a warehouse

As per **Circular No. 46/2017-Customs, Dated- 24th November, 2017** Government has clarified the Applicability of IGST/GST on goods transferred / sold while being deposited in a custom bonded warehouse. Customs Act provides for deposit of goods into a customs bonded warehouse licensed under Section 57 or 58 or 58A without payment of duty and the procedures to be followed with respect to the warehoused goods. Sub-section (5) of section 59 provides that the importer is at liberty to transfer the ownership of such goods to another person while the goods remain deposited in the warehouse.

It is to be noted that the value of imported goods, for purposes of charging customs duty, is determined as per section 14 of the Customs Act, 1962 at the time of import i.e. at the time of filing of the into-bond Bill of Entry.

Any costs incurred after the import of goods, such as, port charges / port demurrage charges or costs for customs clearing or transporting the goods from the port to the customs bonded warehouse or costs of storage at the customs bonded warehouse, cannot be added to the value of the goods, for the purpose of levy of duties of customs at the stage of ex-bonding.

Further, Section 15 (1)(b) of the Customs Act provides that the rate of duty or tariff valuation for an ex-bond Bill of Entry shall be the date on which it is filed.

There is no provision to vary the assessable value of the goods at the ex-bond stage unless they are such goods on which tariff valuation applies. Therefore, duties of customs (BCD + IGST) shall be paid on the imported goods at the stage of ex-bonding on the value determined under section 14 of the Customs Act.

However, the transaction of sale / transfer etc. of the warehoused goods between the importer and any other person may be at a price higher than the assessable value of such goods. Such a transaction squarely falls within the definition of "supply" as per section 7 of the CGST Act, 2017 and shall be taxable in terms of section 9 of the CGST Act read with section 20 of IGST Act.

It may be noted that as per sub-section (2) of section 7 of the IGST Act, any supply of imported goods which takes place before they cross the customs frontiers of India, shall be treated as an inter-State supply. Thus, such a transaction of sale/transfer will be subject to IGST under the IGST Act. The value of such supply shall be determined in terms of section 15 of the CGST Act read with section 20 of the IGST Act and the rules made there under, without prejudice to the fact that customs duty (which includes BCD and applicable IGST payable under the Customs Tariff Act) will be levied and collected at the ex bond stage.

Thus, in respect of goods stored in a customs bonded warehouse, there is a possibility that certain cases may involve an additional taxable event, if a transfer of ownership of warehoused goods takes place between the importer and another person, before clearance of the goods, whether for home consumption or for export.

In other words, when goods remain deposited in a customs bonded warehouse and are transferred by the importer to another person, the transaction will be subject to payment of IGST at the value determined as per section 20 of the IGST Act read with section 15 of the CGST Act, 2017 and the rules made there under and the tax liability shall be reckoned as per section 9 of the CGST Act, 2017.

However, it may be noted that so long as such goods remain deposited in the warehouse the customs duty to be collected shall remain deferred.

Further, it is only when such goods are ex-bonded under section 68, shall the deferred duty be collected, at the value as had been determined under section 14 of the Customs Act, 1962 in addition to IGST leviable.



CHANGES CGST RATES FOR SUPPLY OF SERVICES

The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 46/2017 - Central Tax (Rate) dated the 14th November, 2017** hereby makes amendments in the **Notification No. 11/2017- Central Tax (Rate), dated 28th June, 2017** regarding the rates of supply of services under CGST Act, 2017.

Further it has been notified that specific rate of CGST applied to the standalone restaurants is @ 2.5%, other restaurant @ 9% and for handicraft goods the rate of job work has been reduced to 2.5%. It shall come into force with effect from the 15th day of November, 2017.

EXEMPTION OF ADMISSION TO 'PROTECTED MONUMENT'

The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 47/2017 - Central Tax (Rate) dated 14th November, 2017** hereby makes amendments in the **Notification No. 12/2017- Central Tax (Rate), dated 28th June, 2017** regarding exemption to admission to 'protected monument'.

It further notifies that the Services by the way of admission to a protected monument under the Ancient Monuments and Archaeological Sites have been exempted under CGST Act with effect from 15th of November, 2017.

FURNISHING OF RETURN IN FORM GSTR-3B TILL MARCH, 2018 IS MANDATORY

The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 56/2017 - Central Tax dated 15th November, 2017** hereby specifies that the last date for filing of return in FORM GSTR-3B for the month of January, February, March 2018 are 20th February, 20th March, 20th April 2018 respectively. Moreover, every registered person furnishing the return in FORM GSTR-3B discharge his liability towards tax, interest, penalty, fees or any other amount payable by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as mentioned above on which he is required to furnish the GSTR 3B return.

QUARTERLY FURNISHING OF FORM GSTR-1

The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 57/2017 - Central Tax dated 15th November, 2017** hereby notifies that the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year shall follow the special procedure for furnishing the details of outward supply of goods or services or both in FORM GSTR-1 effected during the quarter i.e., the time period for furnishing the details in FORM GSTR-1 for the quarter July - September, 2017 is 31st December, 2017, October - December, 2017 is 15th February, 2018, January - March, 2018 is 30th April, 2018 respectively.

DUE DATES FOR THE FURNISHING OF FORM GSTR-1

The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 58/2017 - Central Tax dated 15th November, 2017** hereby extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 for 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 as per following schedule:-

Months for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
July - October, 2017	31st December, 2017
November, 2017	10th January, 2018
December, 2017	10th February, 2018
January, 2018	10th March, 2018
February, 2018	10th April, 2018
March, 2018	10th May, 2018

Notification/Circulars

EXEMPTION TO ADMISSION TO “PROTECTED MONUMENT”

The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No.49/2017-Integrated Tax (Rate) dated 14th November, 2017** hereby makes amendments in the **Notification No.**

9/2017- Integrated Tax (Rate), dated 28th June, 2017 regarding exemption to admission to 'protected monument'. It further notifies that the Services by the way of admission to a protected monument under the Ancient Monuments and Archaeological Sites have been exempted under IGST Act with effect from 15th of November, 2017. For detailed description readers may refer the above mentioned notification.

EXTENTION OF THE BENEFIT OF IGST EXEMPTION

The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 50/2017-Integrated Tax (Rate) dated 14th November, 2017** hereby makes amendments in the **Notification No.**

30/2017- Integrated Tax (Rate), dated 22nd September, 2017 regarding exemption of IGST on the supply of Skimmed milk powder, or concentrated milk for use in the production of milk. Further it has been notified that the supply of Skimmed milk powder, or concentrated milk for use in the production of milk will be exempted from IGST provided that the distribution should be done through dairy cooperatives to the companies that are registered under the Companies Act, 2013. It shall come into force on the 15th day of November 2017.

AMENDMENT IN INTEGRATED GOODS AND SERVICES TAX RULES, 2017

The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 12/2017 - Integrated Tax dated 15th November, 2017** hereby makes the following rules to amend the IGST Rules 2017 regarding apportionment of IGST with respect to advertisement services:-

The proportion of value attributable to different States or Union territories, in the case of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority, of the IGST Act, 2017, in the absence of any contract between the supplier of service and recipient of services, the value shall be determined accordingly by such State or

Union territory, as the case may be. Following are some cases listed below :-

- newspapers and publications, the amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in a State or Union territory.
- printed material like pamphlets, leaflets, diaries, calendars, T-shirts etc, the amount payable for the distribution of a specific number of such material in a particular State or Union territory
- hoardings other than those on trains, the amount payable for the hoardings located in each State or Union territory and the advertisements placed on trains, the breakup, calculated on the basis of the ratio of the length of the railway track in each State for that train, of the amount payable for such advertisements.
- advertisements over radio stations the amount payable to such radio station, which by virtue of its name is part of a State or Union territory.
- advertisements at cinema halls the amount payable to a cinema hall or screens in a multiplex, in a State or Union territory, as the case may be.



GSTR 1 Issues and Resolutions

- **Earlier date (i.e. Before GST Registration date) is not allowed to be selected for an invoice. What should I do?**
Error might be because the date mentioned in invoice is earlier than the customer's GST registration date. You should move the invoices to B2C section and delete the customer's GSTIN mentioned in these invoices. Re-compute B2C summary. Re-upload to govt portal. Please note that your customer will not be able to get input tax credit in such cases since they were not registered for GST on those invoice dates.
- **How to record the sales details in case invoice contains multiple line items with multiple tax rate?**
For invoices containing multiple line items, invoice level details like GSTIN/UIN, Invoice Number, Invoice Date and Place of Supply & Most critical Invoice value should be repeated for all the line items, in the absence of the same system will not accept those items
Taxable Value, Rate and cess amount as applicable to the line items may be different in the same invoice. The details of the single invoice must be repeated in consecutive rows
- **Offline utility does not allow file size more than 5MB?**
Break/Split the file into parts and upload each part separately.
- **Certain invoices to registered persons not uploaded and GSTR 1 Submitted. How to resolve it?**
As of now, editing GSTR-1 not enabled.
- **Getting an error as 'Process with error' while filing GSTR-1?**
This is a valid scenario while saving invoice. Has to correct the errors in invoices and upload them
- **When the user uploads the invoices through offline tool and checks through online portal, uploaded invoices count are shown lesser than uploaded count?**
Re-upload again. It might be due to system issues
- **There is no provision to upload the invoices for the following sections from the excel template to the GST Offline Tool? i.e.: -**
- **Exempt sheet - Nil Rated, Exempt, Non-GST columns**
- **Docs sheet - Documents issued column**
You have to manually enter the details for these columns directly on the GST portal. Alternatively, you may purchase GST software available in the market.
- **When the combination of HSN code and its description is not unique, an error appears on the GST Offline Tool and GST portal. How to resolve?**
This issue may occur when multiple UQCs are being used for a single HSN, and HSN Code - HSN Description combination is not unique for each UQC for a given HSN code.
- **Date Issue. How to resolve?**
Ensure the system date format of your computer is "dd/mm/yyyy or dd-mm-yyyy" , otherwise it will not get uploaded on portal.
- **Decimal Error in the amount section. How to resolve?**
Amount of data entered should be only up to 2 decimal digits.
- **'HSN Code error not entered' getting this error every-time. How to resolve?**
It is compulsory to provide HSN Summary if previous year (FY 16-17) turnover is more than 1.50 Crores. If it is below 1.50 crores then description of items is compulsorily to be given else the GSTR 1 will be treated as invalid return and penal provisions will apply.

▪ **Do we need to report inward supplies with reverse charge in GSTR-1, if yes how?**

In GSTR 1, the Outward Supplies which falls under RCM mechanism and on which recipient is to pay the tax are to be given.

▪ **How many line items can be uploaded in one Go?**

Approximately 19,000 line-items can be uploaded in one go using the java tool. In case a taxpayer has more invoice data, he can use the tool multiple times to upload the invoice data

▪ **Tax shown in the offline Java tool is different from the actual tax collected (to the extent of rounding off). What to do?**

If the tax collected or liable to be paid by the tax payer is different from the computed tax rate he can edit the tax amounts displayed in the offline java tool

▪ **Can a mistake made in GSTR-3B be rectified in GSTR-1?**

Mistake in GSTR-3B can be corrected while filing GSTR-1. Mistake in GSTR-1, can be rectified only in next month's return

GSTR 3B Issues and Resolutions

Here are some common issues and resolutions in filing GSTR 3B return. Hope these will really be helpful for all of you!

1. If wrong data submitted in 3B, whether it can be edited or revised?
 - No remedy available as on date. Currently GSTN is working on making available edit facility in 3B once successfully filed
2. Supplies subject to reverse charge shown in incorrect tab and submitted. Hence no Input tax credited availed during that month. Can we avail the ITC in next month?
 - Yes, it can be availed in the next month while filing 3B provided the tax was paid on or after 1st July 2017
3. Supplies subject to reverse charge, once discharged in cash. Can we avail the ITC on these supplies subject to reverse charge in the same month?
 - Yes, once the liability is discharged in cash. Immediately, the assessee can avail the ITC in the same month in which it is paid.
4. GST Registration started in July'17 month but the registration completed in Aug'17 and certificate date is also of Aug'17. (Since the GST registration must be done within 30 days from the date you become liable for GST payments, and the assessee did it as per the legislature). Now while filing the return the system is allowing you to file the return only from Aug Month. What to do?
 - Since Aug is your first month of filing the return under GST, you are supposed to include all the details starting July month in your Aug'17 return and discharge the liability (As per Section 40 of CGST Act)
5. GST return submitted for July'17 but not yet filed. Can it be edited?
 - Yes, the returns of all the assesses who due to some errors did not file the return but only submitted it now can make the changes and submit. This functionality is active only for July'17 month. GSTN is working on such functionality for subsequent months as well.
6. Explain cross utilization rules along with its sequence, can we adjust IGST against SGST?
 - IGST - First IGST then CGST and lastly SGST
 - CGST - First CGST then IGST
 - SGST - First SGST then IGST
7. Can we file 3B before Tran 1 is filed?
 - No, first Tran 1 has to be filed only then 3B can be filed. In case TRAN 1 is submitted but not filed, then in such a case you have to file the TRAN 1, in order to be able to file your GSTR 3B.
8. While filing 3B, we have paid the late filing Penalty under Penalty Category. But it is not getting reflected in the Category 6-Payment of Tax.
 - Penalty for late filing must be paid under 'Fees' Category and not under Penalty Category
9. In case of Composition Scheme, if registration taken in Sep month, do we need to include the sales from 1st July or from 1st Sept?
 - We need to consider the sales from 1st July since they would be deemed to have been in composition since 1st July 2017
10. While creating challan, the payment was made under wrong head (i.e. Used IGST incorrectly instead of CGST), what to do? Can we get the refund?
 - Cash deposited on the GST portal in a particular head can be utilized for payment against that particular head only. In case payment has been deposited in a wrong head, Payment of tax has to be made again in the correct head and file the 3B accordingly.
 - Simultaneously a refund application will have to be filed for the same. Currently physical application process is started. GSTN is working to get this online.

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

S. No.	Sub-Head	Issue	Resolution
1	General issues	Whether returns under GST needs to be filed only within the window of filing allotted or whether the same can also be filed later of prior to that?	No, The returns must be filed within the window allotted. If the return is not filed within the window allotted then the same can be later filed only once the filing window is again enabled for the said return.
2	General issues	Is it mandatory to file a GST Return even if it is Nil?	Yes, GST returns need to be filed every month even if it is Nil. Unlike service tax law there is no any waiver of late filing fee in case of nil returns in the GST law.
3	General issues	Whether returns can be filed for a subsequent period if the same is not filed for the previous period?	No, Returns cannot be filed for the subsequent period if the same is not filed for the previous period.
4	General issues	Can offline utility once downloaded be used for filing of GST returns for various months?	Yes, However GST law is new and the offline portal is getting updated more frequently. Therefore, it is suggested to ensure that returns filing.
5	General issues	Is submission of details of HSN summary mandatory?	Yes, since it is a part of return in GSTR 1 and GSTR 2, therefore submission of HSN summary is mandatory requirement. However, the return does not match details of total tax values as given in the HSN summary with that in the main part of the return.
6	General issues	Whether interest be applicable till the date of debit to the respective ledger or only till the date of deposit of cash in Electronic Cash ledger?	Interest shall be applicable till the date of debit to the respective ledger. In other words, interest needs to be paid till the balance deposited in cash ledger is actually off set against the actual liability.
7	General issues	Whether late filing fee is applicable for each return?	Yes, late filing fee is applicable for each return i.e. separately for GSTR 1, 2, 3 and for GSTR 3B. However, presently the late filing fee has been reduced to Rs.50 per return and Rs.20 per return in case of the Nil Return.
8	General issues	Amount deposited in electronic cash ledger as CGST/SGST instead of IGST. Now the liability is that of IGST. Can we transfer this balance in Electronic cash ledger from CGST/SGST to IGST?	No, we cannot transfer this amount. One option could be to pay the correct taxes and file the return and claim back the taxes while filing GSTR-3. Another option can be to pay the taxes as it is and correct the same while filing the actual GSTR 1, 2 and 3 and simultaneously claim the refund of wrong taxes paid in GSTR 3. Further, one can raise grievance in the GST portal and send mail to GST help desk who can do the appropriate changes at the back end.
9	General issues	What is the difference between xlsx file and CSV file?	There is no any difference, both are the offline tools to file the GST returns. However, it is seen that using CSV file is a better option in case of large data say more than 500 line items.
10	General issues	Can we file the returns even if registration is granted in August 2017 or later?	No, Returns cannot be filed in such a case. Returns can be filed only from the period for which Registration is effective.
11	General issues	In case registration is granted in the month of August 2017, then how to disclose the details of such invoices in respect of July 2017?	Return for the month of July 2017 cannot be filed when registration is granted in August 2017. However, July invoices can be included in the August Return and tax be paid.
12	General issues	If Cash is deposited under the minor head i.e. Tax/Interest/Fee/ Penalty/Others in the cash ledger then whether the amount deposited can be utilized only for payment of such Tax/Interest/ Fee/Penalty/Others liabilities or it can be utilised otherwise?	Any amount once deposited as tax, then can be utilised for payment of taxes only and the same cannot be utilised for payment of fee etc. Further, if amount is deposited as CGST, then the same can be utilised only for payment of CGST and not payment of SGST or IGST.
13	General issues	Amount is wrongly deposited as compensation cess instead of in the field of tax. Therefore, assessee is unable to file GSTR 3B. What is the course of action?	In this case, one can send an email to GSTN to make the changes in the back end. Government has recently enabled the revise option, wherein GSTRB submitted but not filed can be revised and such errors can be corrected before filing. Further, there is form PMT 04 which can be

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

			submitted to make this correction. Presently, form PMT 04 is not made online, therefore one can submit the same manually.
14	General issues	Late fee for July & Aug is waived. Therefore, if an assessee has already paid any such late fee then whether it will be again be credited as late fees only?	As per the recent clarification issues, late fee will be credited back as tax so that assessee can utilise these funds for payment of their tax liability.
15	General issues	Whether late filing fee will be also calculated for the days when the filing window is disabled by the GSTN?	Yes, late filing fee will be applicable and same will be calculated upto the date of actual filing of the GST returns.
16	General issues	In case of services, what shall be the unit of measurement to be given in HSN summary?	Ideally, there should not be any unit of measurement in case of services. However, reasonable measurement can be given based on type of service such as each no. of invoice can be one unit of measurement.
17	General issues	What precautions need to be taken while applying Digital Signature Certificate (DSC)?	<ol style="list-style-type: none"> 1. DSC should be Class II or Class III, PAN-based DSC 2. The DSC must not be expired 3. The DSC must be registered on the GST Portal 4. EM Signer version 2.6 must be installed on the computer 5. The DSC Dongle must be connected to the computer.
Issues faced in filing GSTR 1			
18	Issues in GSTR 1	Whether any changes pertaining to earlier return needs to be updated in subsequent GSTR 3B or in actual GSTR 1?	As per governments earlier circular, any aspect not covered in GSTR 3B i.e. missed invoices etc then the same needs to be considered in the final GSTR 1/ 2 and 3. However, since there is no any mechanism for filing of GSTR 2 and 3, therefore one can do the changes in subsequent GSTR 3B. It is expected that government will come up with a detailed clarification in this regard.
19	Issues in GSTR 1	In case of supply of goods by SEZ, whether the details of supply of such goods needs to be disclosed in GSTR 1?	No, since the liability to pay is in the hands of the recipient. The recipient needs to file a Bill of entry and remove the goods from SEZ premises. Therefore, the recipient shall declare the details of such goods in its GST return as imports.
20	Issues in GSTR 1	Where we need to disclose the details in respect of supply of services by SEZ?	In case of supply of services by SEZ, the same is covered under forward charge and the SEZ shall be collecting and paying GST on the same. Hence, it should be treated as an outward supply for the SEZ and accordingly disclosed in the returns.
21	Issues in GSTR 1	Where to disclose the details in respect of supply of goods or services to SEZ?	Supplies amounting to deemed exports must be disclosed in sl no.4 and not under sl no. 6A i.e. exports.
22	Issues in GSTR 1	Where to disclose the details in respect of supply of deemed exports?	Supply of goods/ services to SEZ amounts to Zero rated supply and it must be disclosed in sl no.4 and not under sl no. 6A i.e. exports.
23	Issues in GSTR 1	How to disclose the details of credit note in case of B2C small supplies?	In case of supplies to consumers are to be reported in a consolidated manner (intra-state supplies to consumer and inter-state supplies of invoice value less than INR 2.5 lakhs), the credit/debit notes are not required to be reported separately. Such supplies have to be reported in a consolidated manner net off the values of credit and debit notes.
24	Issues in GSTR 1	What if the GSTIN of customer is incorrect or if the same is not provided. How to upload the GST returns?	Such details can be submitted in B2C for the time being and once the recipient provides the proper GSTIN. The entries for the past entered in B2C can be reversed and a contra entry be entered in B2B supplies and accordingly credit can be passed on.
25	Issues in	How to enter the details in case where there are multiple tax	In case where there are multiple tax rates for the same invoice, then

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

	GSTR 1	rates for the same invoice?	GSTR 1 shall accept multiple tax rates only when the invoice value is kept same and not splitted to various tax rates.
26	Issues in GSTR 1	In case where quantity discount is given by way of a single credit note against multiple invoices. How to disclose the same?	Presently, system is not accepting allowing a single credit note against multiple invoices. Therefore, one has to either issue multiple credit notes and match it with each invoice or as an temporary solution identify any invoice which can cover the entire discount/incentive, and raise the CN in relation to that invoice. Internal communication to be documented for computation of discount/ incentive.
27	Issues in GSTR 1	What is the distinction between invoice value and taxable value?	The taxable value shall be the value as per the GST law in accordance with the GST valuation. The 'Total Invoice Value' means the invoice value inclusive of taxes.
28	Issues in GSTR 1	If invoice and advances received both fall in the same month, then whether such details need to be disclosed under the head of advances or as invoice?	Such details need to be disclosed in invoices and details of advances are not required to be disclosed again.
29	Issues in GSTR 1	Where to disclose the details of cross border transaction on which tax is paid as 'intermediary'?	Although, it is a cross border transaction, still it is liable for GST as the place of supply is in taxable territory. It must be treated as a B2C transaction as the recipient is not having GST No. and accordingly details must be disclosed in the returns.
30	Issues in GSTR 1	Upon entering GST No. of SEZ. System does not recognise the recipient as SEZ?	The respective SEZ while registering must not have updated the details properly. Therefore, we need to ask the recipient SEZ to update its GST registration and send a mail to GSTN to enable the flag of SEZ.
31	Issues in GSTR 1	Whether all the details submitted in GSTR 1 amendable/ rectified, if wrongly submitted?	No, certain details are non-amendable and the same needs to be properly entered at the first time itself, such as - Aggregate Turnover for Preceding FY / First Quarter (Table 3) - Nil/Exempted /Non GST Outward Supplies (Table 8) - HSN Summary (Table 12) - Documents issued during the tax period (Table 13)
32	Issues in GSTR 1	Whether liability to pay tax under RCM needs to be disclosed in GSTR 1 or in GSTR 2?	Liability of tax payment under RCM needs to be disclosed in GSTR 2 and do not use Table 4B of GSTR 1 to fill in Liability under RCM on Inward Supplies.
33	Issues in GSTR 1	How to report the transactions through E-commerce operators	All supplies to be reported through "other than E-commerce" tab without E-Comm GSTIN since the provisions relating to TCS have been deferred for now.
34	Issues in GSTR 1	Is shipping bill number mandatory while declaring export invoices in GSTR-1?	No, a taxpayer can furnish details of the export invoices in GSTR-1 and file the return without mentioning the shipping bill number and date, if the shipping bill details are not readily available with him. However, refund of tax paid on exports will be processed on the basis on shipping bill no. Therefore, person claiming rebate must enter the details of shipping bill.
35	Issues in GSTR 1	Whether purchases from unregistered person, which are subject to reverse charge, for which the recipient issues a tax invoice, is required to be reported?	All the purchases from unregistered person, which are subject to reverse charge, for which the recipients issues a tax invoice are to be reported in GSTR-2 (and not in GSTR-1). Further, if a consolidated invoice is raised then the same must be raised separately for intra - state RCM and inter-state RCM since system will not accept otherwise.
36	Issues in GSTR 1	We are unable to view the invoices uploaded and the same is not reflected on the summary tab?	Scroll down to the bottom of the GSTR-1, Details of outward supplies of goods or services page and click the GENERATE GSTR1 SUMMARY

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

			button. This will include the auto drafted details pending for action from recipients. Also the invoices you have added will start reflecting in the relevant section of the GSTR-1.
37	Issues in GSTR 1	If assessee has opted for composition scheme in middle. Do they need to file GSTR 1,2, 3 or they have to file GSTR 4?	Taxpayers who have opted for composition from beginning will be able to file GSTR-4 on the portal. Those who have opted in for composition later and have to file GSTR-1,2,3 for part period may wait till the facility is enabled on the portal in some time.
38	Issues in GSTR 1	In case tax is paid under wrong head (i.e. CGST/SGST instead of IGST). How to correct the same?	Any amount if it is lying excess in the cash ledger then by using Table 14 of GSTR 3 - Column 7. Once debit entry is filed there fund will be filed. Once GSTR 3 is filed it will get credited to the bank account given during registration. Further, one can raise grievance in the GST portal and send mail to GST help desk who can do the appropriate changes at the back end.
39	Issues in GSTR 1	What are the available modes of preparing GSTR-1?	GSTR-1 can be prepared using the following modes through: 1. Online entry on the GST Portal 2. Uploading of invoice and other GSTR-1 data using Returns Offline Tool 3. Using third party application of Application Software Provider (ASPs) through GST Suvidha Providers (GSPs)
40	Issues in GSTR 1	Who is not required to file the GSTR-1?	The following taxpayers are not required to file GSTR-1: Taxpayers under the Composition Scheme (Return to be filled by them in GSTR 4) Non-resident foreign tax payers (Return to be filled by them in GSTR 5) Online information database and access retrieval service provider (Return to be filled by them in GSTR 5A) Input Service Distributors (ISD) (Return to be filled by them in GSTR-6) Tax Deducted at Source (TDS) deductors (Return to be filled by them in GSTR 7) E-commerce operators deducting TCS (Return to be filled by them in GSTR 8)
41	Issues in GSTR 1	Whether DSC is mandatory for filing returns?	DSC is mandatory only in case of all Public & Private Limited Companies, Limited Liability Partnerships (LLPs), and Foreign Limited Liability Partnerships (FLLPs).
42	Issues in GSTR 1	When are Credit Notes to be reported in the return?	Credit Notes are to be reported in the return of the month in which they are issued but not later than the return of the September month following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier.
43	Issues in GSTR 1	How is the tax paid on advance payments adjusted against the invoice(s) issued in the subsequent tax period(s)?	The taxpayer has to declare the advance that has to be adjusted in the tax period in which advance is received. Subsequently when invoice is issued, then taxpayer can adjust the tax liability of the invoice issued of that tax period, in the GSTR-1 of that period. This can be shown in the advance adjustment table of GSTR-1.
44	Issues in GSTR 1	Can a registered taxpayer have multiple series of tax invoices?	Yes, a tax payer can have multiple series of tax invoices in a financial year. There is no limit on the number of series of tax invoices that one can have in a financial year.

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

45	Issues in GSTR 1	Up to how many decimal digits do different values need to be declared in GSTR-1?	Values like invoice value, taxable value and tax amounts are to be declared up to 2 decimal digits. The rounding off of the self-declared tax liability to the nearest rupee will be done in GSTR-3.
46	Issues in GSTR 1	If a taxpayer is unable to view the invoices, then what should be done?	<p>Scroll down to the bottom of the GSTR-1 – Details of outward supplies of goods or services page and click the GENERATE GSTR1 SUMMARY button. This will include the auto drafted details pending for action from recipients. Also the invoices you have added will start reflecting in the relevant section of the GSTR-1. In case you want to see the summary instantly, after you have added the invoices, you can also generate the summary by clicking the GENERATE GSTR1 SUMMARY button. However, summary can be generated only at interval of 10 minutes. In case you attempt to generate summary again (within 10 minutes of earlier generated summary), you may get an error message on top of the page.</p> <p>The summary is generated by the GST Portal automatically at an interval of every <30 minutes>.</p> <p>You can also check if any error file has been generated on upload of JSON generated from Offline Tool. If any error file is generated, you can download the error report and rectify the issues using the Offline Tool.</p>
47	Issues in GSTR 1	What are different Return application status types?	<p>1. TO BE FILED : Return due but not filed</p> <p>2. SUBMITTED BUT NOT FILED: Return Validated but pending filing</p> <p>3. FILED – VALID: Return Filed</p> <p>4. FILED - INVALID: Return Filed but tax not paid or short paid</p>
48	Issues in GSTR 1	What is the cut-off date for entry of invoices in GSTR-1 in case a normal taxpayer opts for composition scheme?	In cases where a taxpayer opts for composition scheme, GSTR-1 will be available for filing only for the period during which the taxpayer was registered as normal taxpayer. The taxpayer would be able to file GSTR-1 for the said period, even if filed with delay, for the period prior to opting to composition scheme.
Issues Faced in filing GSTR 2			
49	Issues – GSTR 2	Whether GSTR 2 needs to be filed for the period July 2017 to March 2018?	Presently, there is no clarity as to filing of GSTR 2 for the period July 2017 to March 2018. However, it is important to note that the same is also not suspended. Government has formed a committee of officers who shall look into it and suggest the action in future. Therefore, until the committee gives its report, it can be assumed that the returns need to be filed as the same has not been explicitly suspended.
50	Issues – GSTR 2	How to disclose the reversal of credit in respect of inputs and input services?	Details of reversal of credit will not be automatically calculated and the same needs to be manually calculated and updated in GSTR 2.
51	Issues – GSTR 2	How to disclose the reversal of credit in respect of Capital Goods?	Details of reversal of credit will not be automatically calculated and the same needs to be manually calculated and updated in GSTR 2. Further, in case of capital goods, if assessee has both taxable and exempt supply, then credit can be initially availed in full and the same needs to be reversed on monthly basis along with interest.
52	Issues – GSTR 2	Whether action needs to be taken on every outward supply mentioned in my GSTR 2/2A?	Yes, Action needs to be taken on every outward supply mentioned by the supplier for the purpose of filing Form GSTR-2. The taxpayer can take

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

			the action of keeping pending an invoice which hasnot been received by the recipient in the concerned tax period. The invoices kept pending are rolled over to the next tax period GSTR-2A/2.
53	Issues GSTR 2	- For how long one can keep the invoices as pending?	It can be kept as pending upto September of next financial year of filing of Annual return, whichever is earlier?
54	Issues GSTR 2	- Whether invoice need to be accepted one by one or whether the same can be accepted at once in bulk?	Invoice-wise approval of inward supplies in GSTR-2 is a time-consuming process. Currently, there is no any alternate mechanism provided. However, all invoices of one vendor can be selected and accepted together.
55	Issues GSTR 2	- What happens to an invoice if we reject it in my Form GSTR-2? Does it flow to the GSTR-1A of the supplier ?	The rejected invoices are auto-populated to the related supplier and will be available to him for acceptance of Rejection / amendment in his GSTR-1A/GSTR-1/5.
56	Issues GSTR 2	- Can a previously accepted invoice received from a supplier be modified or rejected after filing Form GSTR-2?	No, it is not possible to modify or reject (delete) an invoice once it is accepted and filed in Form GSTR-2. As per the formats given in Rules, Amendments can be made in the following month's return in Table - 6A. Online mechanism of the same should be available from Aug'17.
57	Issues GSTR 2	- If any invoice is accidently rejected, then what is the recourse action to accept the invoice now?	As a recipient, a request must be made to the supplier to either accept the rejection or amend the invoices rejected. In case of acceptance of rejection, the invoice can be added by supplier as a new invoice or by the recipient as missing invoice. In case of amendment of invoices, it will be populated to the recipient as modified invoices to accept/ reject the amendment.
58	Issues GSTR 2	- Can input tax credit claimed in my form GSTR-2 even if supplier has not filed its Form GSTR-1?	Yes, input tax credit can be claimed in form GSTR-2 to discharge the liabilities. However, it is important to note that in the event of any reversal of ITC in future due to mismatch resulting from the fact that return is not filed or tax is not paid by the supplier, interest will be levied on the excess ITC claimed by a receiver taxpayer from the date of filing of GSTR-3 to the day the receiver taxpayer discharges the excess liability along with interest.
59	Issues GSTR 2	- Can the status be changed from modify, accept, reject any number of times till submission?	Yes, until the return is submitted the status of the invoice can be changed from modify, accept, reject any number of times. However, once the invoice has been modified and if we wish to revert to original details, then it needs to first Reject the modified invoice. Once the status is changed to rejected with original details then the same can be later accepted.
60	Issues GSTR 2	- Can we file GSTR 2 before filing of GSTR 1?	Yes, GSTR 2 can be filed before filing of GSTR 1. In such a scenario, the details declared in GSTR-2 gets auto populated to GSTR-1 and the supplier is expected to take action. (Accept/Reject/Pending for action) on such details before filing of his GSTR-1.
61	Issues GSTR 2	- How the calculation of reversal of ITC be done if there is no any turnover in the current tax period.	In such a case, reversal needs to be calculated based on the turnover reported in the previous tax period.
62	Issues GSTR 2	- What are the different matching differences noted in GSTR 2 reconciliation with books of accounts?	1. Records Fully Matched & but in a different Tax Period (Pending) 2. Records in Books of Accounts but NOT in GSTR 2A (Missing) 3. Records in GSTR 2A, but NOT in Books of Accounts (Additional /Reject) 4. Partly Matched and there could be difference in Invoice Date, Invoice

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

			Number, Taxable Value, Tax Amount, Place of Supply.
63	Issues GSTR 2 -	In case assessee is not eligible to avail the input tax credit, then whether the action as 'rejected' must be taken?	No, the action of 'rejection' must be taken only in a scenario where the invoice does not belong to the assessee. If it is a valid purchase, then such invoice must be initially accepted and later the same must be flagged as 'ineligible'.
64	Issues GSTR 2 -	What if credit is deemed ineligible because supplier has entered wrong PoS and invoice is having a location of supplier and place of supply in a different state, as it is a credit of CGST/ SGST of another state. How one can avail this credit?	Such invoice must be rejected and add the same invoice as missing invoice with correct POS.
65	Issues GSTR 2 -	Registration for GST is taken on July 25, 2017. However, invoice pertains to the date July 13, 2017. Whether credit in respect of such pre-registration dated invoice be taken?	No, Such credit will not be available. Although, law allows the pre-registration credit if registration is done within 30 days but the system is configured in a way that the credit is not being made available. However, we can ask supplier to post such details in B2C and reverse the same by way of a credit note and issue a new invoice dated registration period. Such new invoice details can be entered in B2B by the supplier with our valid GST No.
66	Issues GSTR 2 -	Supplier has registered in the month of August 2017 and issued invoice in respect of July 2017 in the month of August 2017. Can recipient claim this credit in July or does he mandatorily claim only in August as supplier will be filing the return in August?	Since, supplier cannot file the July 2017 return and it can be filed only for the month of August, therefore credit will be available to the recipient only in the month of August.
Issues faced in filing GSTR 3 and 3B			
67	Issues in GSTR 3	In case tax is paid under wrong head (i.e. CGST/ SGST instead of IGST). How to correct the same?	Use Table 14 of GSTR 3 - Column 7 - Debit Entry No's to claim refund of it. Once GSTR 3 is filed it will get credited to the bank account given during registration. Further, one can raise grievance in the GST portal and send mail to GST help desk who can do the appropriate changes at the back end.
68	Issues in GSTR 3B	Do we need to disclose the details of purchases from unregistered dealers as exempt inward supplies?	Yes, details of URD purchases need to be disclosed in the exempt inward supplies tab as the same is exempted by way of an exemption notification.
69	Issues in GSTR 3B	While filing GSTR 3B, assessee has missed to include any details or have entered the details wrongly. For ex: Non submission of details of certain invoices Non inclusion of Debit Notes (DNs) & Credit Notes (CNs) Same invoices/DNs/CNs considered more than once Treating Exports as Nil rated instead of Zero rated.	As per government's earlier circular, any aspect not covered in GSTR 3B i.e. missed invoices etc and then the same needs to be considered in the final GSTR 1/ 2 and 3. However, since there is no any mechanism for filing of GSTR 2 and 3, therefore one can do the changes in subsequent GSTR 3B. It is expected that government will come up with a detailed clarification in this regard.
70	Issues in GSTR 3B	Is there any order of utilisation in case where CGST and SGST Credit is available and same is to be utilised for the payment of IGST liability?	No, there is no such utilisation sequence given in law in this regard. However, design of portal is not in accordance with the law. Writ petition has been filed in this regard and interim relief is granted to the assessee.
71	Issues in	Does GSTR 3B automatically apply the set-off mechanism as per law or do we need to manually apply the set-off	System applies the set-off mechanism automatically and allows off-set only in the manner prescribed in the law. However, if funds are deposited

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

	GSTR 3B	sequence as per the law?	as wrong tax then fund to such extent gets blocked and additional funds needs to be deposited as correct tax to ensure off-set and filing of returns thereon.
72	Issues in GSTR 3B	GSTR 3B is wrongly filled and the same is submitted for the month of July 2017 but not filed. What is the recourse available?	The option is given i.e. reset the submitted returns to those who has submitted the return but could not be filed for the month of July 2017. Further, government has recently also come up with the option to edit the submitted returns.
73	Issues in GSTR 3B	Inability to file GSTR 3B if TRAN 1 is submitted but not filed?	This is the peculiar problem being faced wherein if the TRAN 1 is submitted but not filed then tax payers were not able to file the GSTR 3B unless the TRAN 1 is filed.
74	Issues in GSTR 3B	Will there be any invoice matching in GSTR-3B?	No, all the details in GSTR-3B will be self declared in summary manner and the taxes will be paid based on the table 6 of GSTR-3B (refer to the Rules as available on the GST Council or CBEC website, applicable for GSTR-3B Form).
75	Issues in GSTR 3B	Whether we need to give the details of inward taxable supplies?	No, we are not required to enter all details of inward taxable supply in GSTR 3B. Only details of Eligible and Ineligible ITC need to be declared in table 4.
Issues faced in filing TRAN Forms			
76	Issues - TRAN Form	Can bulk data for filing of Form TRAN 1 be uploaded through any offline utility?	The offline utility upload to enter the bulk data in form TRAN 1 is available only in case of submission of details of statutory forms received. However, recently GST portal has also enabled the bulk data submission through csv file for the following functionalities i.e. Capital goods credit, job work challans and details of goods/ services in transit. However, offline data filing is not available for availing invoice wise credit u/s 142(11)(c).
77	Issues - TRAN Form	Whether form TRAN 1 filed can be revised?	Yes, the same can be revised and refiled upto Nov 30, 2017.
78	Issues - TRAN Form	In serial No. 11 while taking credit u/s 142(11)(c), system does not take invoice date for the period later than one year. How to submit the said information?	This is a flaw in the design of portal. The restriction is placed although there is no any such restriction in the law. In case the invoice/ document date is prior to 1 year (this is general restriction provided for Credit on Stock), we may update the information under the field July 1, 2016 and submit the same. A letter intimating the same can be submitted to the department.
79	Issues - TRAN Form	Invoice no. and date is required to be submitted in case of claiming credit u/s 142(11)(c). However, builders never issued any invoices. In such scenario, what details must be submitted to avail credit u/s 142(11)(c)?	Demand letter number, if any can be considered as invoice and accordingly such details can be submitted. If no number is assigned to a demand letter, then a unique number can be now assigned for each demand letter and accordingly the details can be submitted.
80	Issues - TRAN Form	In serial no. 7(c), while availing VAT credit on stocks, what details need to be entered in the number field? Does that	No, it is not invoice number as stock details are not required to be given invoice wise. It can be merely the serial no. and not invoice number.

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

		mean invoice no?	Stock details need to be submitted Description-wise.
81	Issues - TRAN Form	Do we need to mandatorily submit the details of all pending statutory forms?	No, details of pending statutory forms need to be submitted only in those cases where after adjusting the pending forms, the VAT credit is still carried forward. However, if the position is that of payable after adjusting the balance credit then the details of statutory forms received is not required to be submitted. If details of all pending statutory forms is entered even if no carry forward of credit is there, then the credit would be negative and display as tax payable in electronic liability ledger.
82	Issues - TRAN Form	GSTR 3B is wrongly filled and the same is submitted for the month of July 2017 but not filed. What is the recourse available?	The option is given i.e. reset the submit to all the assesses who has submitted the return but could not be filed for the month of July 2017.
83	Issues - TRAN Form	In case of centralised registration, what shall be the calculation basis for computing and transferring of ITC to other locations?	As per section 140(8), the same would be prescribed but as of date nothing has been prescribed in this regard. Therefore, since no mechanism is prescribed in law, distribution can be on reasonable basis.
84	Issues - TRAN Form	Transfer of credit through centralised registration number asks for invoice/ document no. and date. What details need to be entered since no invoice is issued in this regard?	This is not a distribution by virtue of ISD and therefore there is no requirement to raise invoice in first place in such cases. However, since it is a mandatory field to be entered, one can create a manual invoice / document for such transfer and submit the details.
85	Issues - TRAN Form	In case of TRAN 1, certain invoice does not get processed and an error message as "Invoices processed with error" . How to tackle this error.	The form should not be submitted till such error is rectified & remark of processed invoices is displayed. This error is mainly due to non-submission of the earlier registration number (such as CE/ST/VAT) from where the credits are transferred. This error can be rectified by amending the non-core fields to that extent and updating the earlier existing registration numbers. Once updated, this error should not be displayed.
86	Issues - TRAN Form	Whether credit in respect of RCM paid after June 30, 2017 can be disclosed in form TRAN 1 and transferred?	If return for the earlier law is not filed then such credit must be disclosed in the earlier law returns. However, if the returns under earlier law is already filed then the date for revising the return is also lapsed. The assessee has the option to claim the credit in Trans-1. Dept may raise a query on this therefore another option would be to apply for refund under earlier law.
87	Issues - TRAN Form	In case where credit reversed under earlier law due to payment not made within 3 months. Whether such credit can be taken in TRAN forms?	No, such credit cannot be taken in TRAN 1 form as no specific field/ functionality is provided for the same. One has to avail such credit directly in the GSTR 2 in the GST regime.
88	Issues - TRAN Form	Whether credit in respect of Capital goods in transit can be availed in Form TRAN 1?	The same can be availed under the tile for Capital goods u/s 140(2). It is suggested that the same is also intimated to the department.
89	Issues - TRAN Form	Whether credit of stocks can be availed based on the value of semi-finished goods/ finished goods?	No, Credit not allowed on the value of semi-finished goods/ finished goods. It is merely available on the inputs portion involved in such value. Credit not available on conversion charges.
90	Issues -	If the product is unconditionally exempt from excise or nil rated in excise then whether benefit of deemed credit	No, in such a case a trader cannot claim the benefit of standard credit @ 40%/ 60%. However, benefit can be availed even if product covered

ISSUES & SOLUTIONS IN FILING GST RETURNS & TRAN FORMS

	TRAN Form	scheme is available for traders?	under concessional rate of excise duty - 1%/ 2%/ 6%.
91	Issues - TRAN Form	How to avail the balance of advance service tax paid, PLA balance, security deposit etc?	The same cannot be availed by virtue of TRAN form. Refund needs to be applied for the same.
92	Issues - TRAN Form	Will Electronic Credit Ledger get updated based on information filled in my Form GST TRAN - 3?	No, ledgers will not be updated with ITC based on Form GST TRAN - 3 filed. It may be updated post-verification process.
93	Issues - TRAN Form	Credit is not appearing in electronic credit ledger even after filing of Form TRAN 1?	Assessee has successfully filed Trans-1 but the ITC is not appearing in the electronic credit ledger. The same can be resolved by following up with GST help desk to make updation at the back end and sorted.
94	Issues - TRAN Form	In case of same C-form having different rates i.e. 5%, 13.5 etc. then system is not accepting and throwing the error as 'different rate not accepted'.	In this scenario, one can prefix 'zero' to the c form and submit in which case system should accept the same.
95	Issues - TRAN Form	In TRAN 2 credit can be availed based on the stock supplied. However, if such stock supplied is returned back, whether standard credit availed also needs to be reversed?	Presently, no such obligation is placed in law to reverse the credit in case the stock supplied is returned back.
96	Issues - TRAN Form	Whether Transitional credit in respect of stocks can be availed for the stocks beyond one year?	No, as per the condition prescribed in the said section, the credit is not available. However, a writ petition challenging such claim has been filed in the Delhi High court which is accepted for hearing, interim order is not passed yet.
97	Issues - TRAN Form	Whether traders can avail credit more than 40%/ 60%?	No, as per the condition prescribed in the said section, the additional credit is not available. However, a writ petition challenging such claim has been filed in the High court which is accepted for hearing. However, the interim order is not passed yet.
98	Issues - TRAN Form	Do we need to attach any document along with transition Form GST TRAN - 1?	There is no requirement for uploading any documents as an attachment along with transition Form GST TRAN - 1. Wherever details are beyond a limit the same will be uploaded to the portal through an Offline Utility tool.
99	Issues - TRAN Form	Why do we need to file Transition Form GST TRAN - 3?	Every registered person who was registered under Central Excise Act' 1944 and has issued Credit Transfer Document (CTD) and every registered person who is making use of 'Credit Transfer Document' to avail transitional credit is required to file 'Form GST TRAN - 3' within 60 days of the appointed date.
100	Issues - TRAN Form	Can we modify the details once submitted in the Form GST TRAN - 3?	No, Once the details are submitted in Form GST TRAN - 3, the details cannot be modified.

E-way Bill of GST : Complete Analysis

What is an E-way bill?

E-way bill is an electronic way bill for movement of goods which can be generated online through the GST portal. The facility of generation and cancellation of e-way bill may also be made available through SMS.

A 'movement' of goods of **more than Rs 50,000** in value cannot be made by a registered person without an e-way bill. When an e-way bill is generated a unique e-way bill number (EBN) is allocated and is available to the supplier, recipient, and the transporter.

The E-way bill **generated in one State** will be **valid in all the States and Union Territories**.

When should be E-way bill be generated?

The movement of goods may be:

- in relation to supply; or
- for reasons other than supply; or
- due to inward supply from an unregistered person

When is E-way bill not required?

E-Way Bill is not required in the following cases where the goods are transported:

- for a distance of less than 10 km within the State or Union Territory when the transportation is by road.
- is specified in the Annexure to the rules (e.g. poultry, meat, live animals, various exempt goods, etc.)
- by a non-motorized conveyance;
- from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
- within such areas as notified by the concerned State.

What is a 'supply' in case of an e-way bill?

For this purpose, a supply may be either of the following:

- A supply made for a consideration (payment) in the course of business
- A supply made for a consideration (payment) which may not be in the course of business
- A supply without consideration (without payment)

Who can generate an e-way bill?

- E-way bill must be generated when there is a movement of goods of more than Rs 50,000 in value to or from a Registered Person. A Registered person or the transporter may choose to generate and carry e-way bill even if the value of goods is less than Rs 50,000.
- Unregistered persons or their transporters may also choose to generate an e-way bill.

This means that an **E-way bill can be generated by both Registered and Unregistered persons**.

List of People Who Can Generate an E-Way Bill

Who	When	Part	Form
Every Registered person under GST	Before movement of goods	Fill Part A	Form GST EWB-01
Registered person is consignor or consignee (mode of transport may be owned or hired) OR is recipient of goods	Before movement of goods	Fill Part B	Form GST EWB-01
Registered person is consignor or consignee and goods are handed over to transporter of goods	Before movement of goods	Fill Part B	The registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01
Transporter of goods	Before movement of goods		Generate e-way bill on basis of information shared by the registered person in Part A of FORM GST EWB-01

Who	When	Part	Form
An unregistered person under GST and recipient is registered	Compliance to be done by Recipient as if he is the Supplier.		<ol style="list-style-type: none"> 1. If the goods are transported for a distance of ten kilometers or less, within the same State/Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01. 2. If supply is made by air, ship or railways, then the information in Part A of FORM GST EWB-01 has to be filled in by the consignor or the recipient

What is the validity of an e-way bill?

An e-way bill is valid for periods as listed below, which is based on the distance traveled by the goods. Validity is calculated from the date and time of generation of e-way bill-

Distance	Valid from	Valid for
Up to 100km	Date & time at which e-way bill is generated	1day
For every 100 km after that	Date & time at which e-way bill is generated	An extra day

The details of e-way bill generated shall be made available to the recipient, if registered, on the common portal, who shall **communicate his acceptance or rejection within 72 hours of the details being made available to him** on the common portal. Otherwise, it shall be deemed that the recipient has accepted the said details.

What to be done when goods are transferred from one conveyance to another conveyance?

When the goods are **transferred from one conveyance to another conveyance**, the transporter is required to **update the details of conveyance** in e-way bill.

In case of **multiple consignments** carried **in one conveyance**, the transporter may generate a **consolidated e-way bill** in **Form GST EWB 2** indicating the serial numbers of e-way bills for each of the consignments

What to be carried by Person in charge?

The person in charge of a conveyance shall carry:

the invoice or bill of supply or delivery challan, as the case may be; and

a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device ('RFID') embedded on to the conveyance. Certain category of transporters may be notified to obtain a unique RFID and get the said device embedded on to the conveyance and map the e-way bill to the RFID prior to the movement of goods.

Who verifies E-Way bills?

The Government may authorize a proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra-state movement of goods.

20 Things you must know about E-Way Bills in GST law

- 1) **Who shall furnish details:** Every registered person who causes movement of goods shall furnish information relating to the said goods in Part A of FORM GST EWB-01, electronically, on the common portal, before the commencement of such movement.
- 2) **When to submit:** If the consignment value of such goods exceeds Rs.50,000/-. Option is given to generate and carry e-way bill even if the consignment value is less than Rs.50,000/-
- 3) **When to submit:** If movement is in relation to a supply or for reasons other than supply or due to inward supply from an unregistered person.

For example, if movement is for:

Supply; Export or Import; Job Work; Removal in SKD or CKD form; Line Sales; Sales Return; Exhibition or fairs ; For own use (stock transfers etc.)

- 4) **Supply by unregistered person:** In case of supply by an unregistered person to a registered recipient, then the movement shall be said to be caused by the registered recipient if such recipient is known at the time of commencement of the movement of goods.

- 5) **When not required:** Generation of e-way bill is not required in the following cases:
 - a) In case where the goods are transported for a distance of less than 10 Kms intra-state from the place of business of the consignor.
 - b) Where the goods being transported are specified in the annexure to the Notification no 27/2017. (mainly it covers category of goods that are exempted/ nil rated)
 - c) Where the goods are being transported by a non-motorized conveyance;
 - d) Where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; or
 - e) In respect of movement of goods within such areas as are notified under rule 138(14)(d) of the Goods and Services Tax Rules of the concerned State.
- 6) **Who should enter details in Part B and Generate the E-way bill:** If goods are transported by the registered person himself as a consignor or as a consignee through own conveyance or a hired one or by railways or by air or by vessel The consigner/ consignee as the case may be If goods are handed over to a transporter for transportation by road The registered person shall only furnish the information relating to the transporter in Part B and the e-way bill shall be generated by the transporter. When movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter. The unregistered person or the transporter may, at their option, generate the e-way bill.
- 7) **When details of conveyance not required:** Details of conveyance in Part B is not required to be provided if goods are transported for a distance of less than ten kms within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation.
- 8) **EBN Number:** Upon generation of e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.
- 9) **Acceptance or rejection of e-way bill:** The details of e-way bill generated shall be made available to the recipient, if registered who shall communicate his acceptance or rejection of the consignment. Where no communication is made within 72 hours, then it shall be deemed that he has accepted the said details.
- 10) **Transferring goods in transit:** If a transporter is transferring goods from one conveyance to another in the course of transit then he shall update the details of conveyance in the e-way bill before such transfer and further movement of goods.
- 11) **Multiple consignments:** If multiple consignments are intended to be transported in one conveyance, then the transporter may indicate the serial number of e-way bills of each consignment and a consolidated e-way bill may be generated by him prior to the movement of goods.
- 12) **If goods not transported as per e-way bill generated:** Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-way bill, then the e-way bill may be cancelled within 24 hours of generation of the e-way bill.
- 13) **Validity of e-way bill:** Any e-way bill which is generated shall be valid in every State and Union territory. However, the periodicity of validity shall be as under:
 - i. Upto 100 Km - 1 day
 - ii. For every 100 km or part thereof thereafter - One additional day

The period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as twenty-four hours.
- 14) **Exceptional circumstances:** If goods cannot be transported within the validity period of the e-way bill due to circumstances of an exceptional nature, then the transporter may generate another e-way bill after updating the details in Part B.
- 15) **Documents to be carried:** The person in charge of a conveyance shall carry the following: a. the invoice or bill of supply or delivery challan, as the case may be; and b. a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.
- 16) **Mandatory device in the conveyance:** Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded onto the conveyance for mapping the e-way bill to the said device.
- 17) **Interception of any conveyance:** The Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intrastate movement of goods.

- 18) Report of inspection:** A summary report of every inspection of goods in transit shall be recorded online by the proper officer within 24 hours of inspection and the final report shall be recorded within 3 days of such inspection.
- 19) Physical verification of goods:** No further physical verification of the said conveyance shall be carried out again in the state, if the physical verification of goods being transported has been done during transit at one place within the State or in any other State, unless specific information relating to evasion of tax is made available subsequently.
- 20) Vehicle intercepted for more than 30 minutes:** If a vehicle has been intercepted and detained for a period exceeding thirty minutes, then transporter may upload the said information in FORM GST EWB-04 on the common portal.



BIG BANG CHANGES IN GST LAWS TO EASE RULES AND PROCEDURES

GST Council to discuss law advisory group's recommendations

After reducing rates on about 300 items since the implementation of Goods and Services Tax (GST) from July 1, the government may now propose significant changes in the laws and rules, to simplify procedures and ease rules for the business. The changes could include simplifying the tax return filing process and the composition scheme, apart from the decision on whether to continue with reverse charge mechanism (RCM), tax deducted at source (TDS) and tax collected at source (TCS). The Goods and Services Tax (GST) Council--the apex body for decision making headed by finance minister Arun Jaitley—is likely to consider the big bang recommendations of the law advisory group in its next meeting on the first week of January in New Delhi.

The law advisory committee will submit its report on January 1, with key recommendations pertaining to amendments in laws and rules to make the new tax system simple, one of the officials said.

However, certain changes could also require amendments in some of the five GST laws--Central GST (CGST), State GST (SGST), Integrated (IGST), Union Territory GST (UTGST) and GST (Compensation to states). The amendments will be done after the announcement of the Union Budget in February.

Since its implementation from July 1, the new indirect tax system has faced criticism owing to the teething troubles including lack of clarity on return filing, errors in invoice matching, and major technical snags on the information technology portal GST Network (GSTN), among others.

The government has also, time and again, extended return filing dates. In a bid to ease compliance and simplifying procedures, earlier this month, the Council allowed tax assesseees to file only two sets of forms—GSTR1 (for outward supplies or goods that they sell) and GSTR 3B (summary form)—instead of four earlier.

While small taxpayers with an annual turnover of less than Rs 1.5 crore will file quarterly returns (once in three months), those with a higher turnover will file monthly returns.

The return filing process may be changed completely as the concept of invoice matching may not exist. Similarly, whether concepts such as RCM, TDS and TCS should be there under GST or not will be decided the advisory group. The Council has currently deferred the implementation of all these concepts to March 31, 2018.



Businesses need not deduct GST on advances received for goods supply: CBEC

The government has exempted businesses from deducting GST on advances received for supplying goods in future, a move which will help unblock working capital of firms.

The government has also allowed exporters to manually file before tax officers claims for GST refunds as it looks to fast track clearance of dues to ease liquidity stress faced by them.

Now exporters of services who paid IGST and those making zero rated supplies to SEZ units as well as those merchant exporters who want to claim refunds for input credit can approach their jurisdictional commissioner with their refund form.

The Central Board of Excise and Customs (CBEC) last month said that businesses with turnover up to Rs 1.5 crore are exempt from deducting Goods and Services Tax (GST) on advance payment for supply of goods.

The CBEC, through a notification, has now extended this exemption to all businesses, except for those who have opted for composition scheme under the new indirect tax regime.

The composition scheme can be availed by businesses with turnover up to Rs 1 crore and they can pay taxes at a lower rate of 1 per cent, while for restaurants the rate is 5 per cent.

However, service providers will have to continue to deduct GST on any advance received as payment, in line with the provisions under erstwhile service tax laws.

Recommendations made by the GST Council in the 23rd meeting at Guwahati on 10th November, 2017

The GST Council, in its 23rd meeting held at Guwahati on 10th November 2017, has recommended the following facilitative measures for taxpayers:

Return Filing

- a) The return filing process is to be further simplified in the following manner:
- i. All taxpayers would file return in FORM GSTR-3B along with payment of tax by 20th of the succeeding month till March, 2018.
 - ii. For filing of details in FORM GSTR-1 till March 2018, taxpayers would be divided into two categories. Details of these two categories along with the last date of filing GSTR 1 are as follows:
 - (a) Taxpayers with annual aggregate turnover upto Rs. 1.5 crore need to file GSTR-1 on quarterly basis as per following frequency:

Period	Dates
Jul- Sep	31st Dec 2017
Oct- Dec	15th Feb 2018
Jan- Mar	30th April 2018

- (b) Taxpayers with annual aggregate turnover more than Rs. 1.5 crore need to file GSTR-1 on monthly basis as per following frequency:

Period	Dates
Jul - Oct	31st Dec 2017
Nov	10th Jan 2018
Dec	10th Feb 2018
Jan	10th Mar 2018
Feb	10th Apr 2018
Mar	10th May 2018

- iii. The time period for filing GSTR-2 and GSTR-3 for the months of July, 2017 to March 2018 would be worked out by a Committee of Officers. However, filing of GSTR-1 will continue for the entire period without requiring filing of GSTR-2 & GSTR-3 for the previous month / period.
- b) A large number of taxpayers were unable to file their return in FORM GSTR-3B within due date for the months of July, August and September, 2017. Late fee was waived in all such cases. It has been decided that where such late fee was paid, it will be re-credited to their Electronic Cash Ledger under “Tax” head instead of “Fee” head so as to enable them to use that amount for discharge of their future tax liabilities. The software changes for this would be made and thereafter this decision will be implemented.
- c) For subsequent months, i.e. October 2017 onwards, the amount of late fee payable by a taxpayer whose tax liability for that month was 'NIL' will be Rs. 20/- per day (Rs. 10/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts).

Manual Filing

- d) A facility for manual filing of application for advance ruling is being introduced for the time being.

Further benefits for service providers

- e) Exports of services to Nepal and Bhutan have already been exempted from GST. It has now been decided that such exporters will also be eligible for claiming Input Tax Credit in respect of goods or services used for effecting such exempt supply of services to Nepal and Bhutan.
- f) In an earlier meeting of the GST Council, it was decided to exempt those service providers whose annual aggregate turnover is less than Rs. 20 lakhs (Rs. 10 lakhs in special category states except J & K) from obtaining registration even if they are making inter-State taxable supplies of services. As a further measure towards taxpayer facilitation, it has been

decided to exempt such suppliers providing services through an e-commerce platform from obtaining compulsory registration provided their aggregate turnover does not exceed twenty lakh rupees. As a result, all service providers, whether supplying intra-State, inter-State or through e-commerce operator, will be exempt from obtaining GST registration, provided their aggregate turnover does not exceed Rs. 20 lakhs (Rs. 10 lakhs in special category States except J & K).

Extension of dates

- g) Taking cognizance of the late availability or unavailability of some forms on the common portal, it has been decided that the due dates for furnishing the following forms shall be extended as under:

Sr.	FORM and Details	Original due date	Revised due date
1	GST ITC-04 for the quarter July-September, 2017	25.10.2017	31.12.2017
2	GSTR-4 for the quarter July-September, 2017	18.10.2017	24.12.2017
3	GSTR-5 for July, 2017	20.08.2017 or 7 days from the last date of registration whichever is earlier	11.12.2017
4	GSTR-5A for July, 2017	20.08.2017	15.12.2017
5	GSTR-6 for July, 2017	13.08.2017	31.12.2017
6	TRAN-1	30.09.2017	31.12.2017 (One-time option of revision also to be given till this date)

Revised due dates for subsequent tax periods will be announced in due course.

Benefits for Diplomatic Missions/UN organizations

- h) In order to lessen the compliance burden on Foreign Diplomatic Missions / UN Organizations, a centralized UIN will be issued to every Foreign Diplomatic Mission / UN Organization by the Central Government and all compliance for such agencies will be done by the Central Government in coordination with the Ministry of External Affairs.
2. Relevant notifications for all of the above decisions will be issued shortly, so as to be effective from 15.11.2017.



CHANGES IN CENTRAL GOODS AND SERVICES TAX RULES, 2017

Vide Notification dated 15.11.2017 the Central Government made the 'Central Goods and Services Tax (Twelfth Amendment) Rules, 2017 in exercise of the powers conferred under section 164 of the Central Goods and Services Tax Act, 2017. The amendment brings facility of filing refund manually whereas in the original act and rules it has been provided for online refund. This amendment came into effect from 15.11.2017.

Amendment to Rule 43

Rule 43 provides for the manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases. Clause 2(i) of the Amendment Rules inserted the explanation after Rule 43(2). The newly inserted explanation provides that for the purposes of rule 42 and Rule 43, the Central Government clarified that the aggregate value of exempt supplies shall include the value of supply of services specified in the notification No. 42/2017-Integrated Tax (Rate), dated 27.10.2017.

Notification No. 42/2017-Integrated Tax (Rate), dated 27.10.2017 specified the supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees are exempted. The aggregate value shall also include this exemption according to the explanation newly inserted.

Amendment to Rule 54(2)

Rule 54 provides for the issue tax invoices in special cases. Rule 54 (2) provides that where the supplier of taxable service is an insurer or a bank company or a financial institution, including a non banking financial company the said **supplier shall issue** a tax invoice or any other document in lieu thereof, by whatever name called, whether issued or made available, physically or electronically whether or not serially numbered and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46.

As per existing section 54 (2) the issue of tax invoice is mandatory. Clause 2(ii) of Amendment rules substituted the word '**supplier shall issue**' for 'supplier may issue'.

Amendment to Rule 97

Rule 97 deals with the Consumer welfare fund. Clause 2(iii) inserted Rule 97A after Rule 97. Rule 97A provides for manual filing and processing. The new Rule 97A provides that notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal, in respect of that process or procedure, **include manual filing** of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such forms as appended to these rules.

Amendment to Rule 107

Rule 107 provides the procedure for Advance Ruling. Clause 2(iv) of the Amendment Rules provides for the insertion of new rule 107A after rule 107. The newly inserted Rule 107A provides that notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure **include manual filing** of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.

Amendment to Rule 109

Rule 109 provides for the application to be filed to the Appellate Authority. Clause 2(v) of the Amendment Rules provide for insertion of Rule 109A after **Rule 109**. The newly inserted Rule 109A provides for the appointment of Appellate Authority.

Rule 109A(1) provides that any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to-

- ☐ the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;
- ☐ the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent.

The appeal shall be filed within three months from the date on which the said decision or order is communicated to such person.

Rule 109A (2) provides that an officer directed under section 107(2) (appeal by Revenue) to appeal against any decision or order passed under this Act or SGST Act or UTGST Act may appeal to-

- ☐ the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;
- ☐ the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent

The appeal should be filed within six months from the date of communication of said decision or order.

Amendment to Rule 124

- ☐ Rule 124 deals with the anti profiteering procedure. The second proviso to Rule 124 (4) provides that upon the recommendations of the Council and subject to an opportunity of being heard, the Central Government may terminate the appointment of the Chairman at any time. Clause 2(vi)(a) of the Amendment Rules substituted the above proviso for the new proviso. The new proviso provides that the Central Government with the approval of the Chairperson of the Council may terminate the appointment of the Chairman at any time.
- ☐ The second proviso to Rule 124 (5) provides that Clause 2(vi)(b) of the amendment rules substituted the above proviso for the new proviso. The new proviso provides that the Central Government with the approval of the Chairperson may terminate the appointment of Technical Member at any time.

Application for refund – manual

Clause 2(vii) of the amendment rules inserted after Form GST RFD – 01, the following forms-

- ☐ Form GST RFD – 01A – applicable for casual taxable person or non resident taxable person, tax deduction, tax collector and other registered taxable person;
- ☐ Form GST RFD – 01B – refund order details.

Form GSTRFD – 01A

This form is to be used for the refund under rule 89 and Rule 97A. The following information is to be furnished by the person who seeks refund by manual filing-

- ☐ GSTIN/Temporary ID;
- ☐ Legal Name
- ☐ Trade Name, if any
- ☐ Address
- ☐ Tax period

- ☐ Amount of refund claimed in respect of central tax, State Tax, Integrated tax, UT tax, cess
- ☐ Grounds of refund claim (select from drop down)
- ☐ Excess balance in Electronic Cash Ledger;
- ☐ Exports of services with payment of tax;
- ☐ Exports of goods/services – without payment of tax (accumulated input tax credit);
- ☐ ITC accumulated due to inverted tax structure, under clause (ii) of first proviso to section 54(3);
- ☐ On account of supplies made to SEZ unit/SEZ developer (without payment of tax)
- ☐ Recipient of deemed export.
- ☐ Declaration under-
- ☐ Second proviso to Section 54(3);
- ☐ Section 54(3(ii);
- ☐ Rule 89(2)(f)
- ☐ Rule 89(2)(l)
- ☐ Verification
- ☐ Annexure – I
- ☐ Statement – 1 (Rule 89(5) – Refund type – ITC accumulated due to inverted tax rate structure[clause (ii) of first proviso to section 54(3)]
- ☐ Statement – 3A [rule 89(4)] – Refund type – Export without payment of tax (accumulated ITC) – calculation of refund amount;
- ☐ Statement -5A [Rule 89(4)] – Refund type – On account of supplies made to SEZ unit/SEZ developer without payment of tax (accumulated ITC) – calculation of refund amount.

Form *GSTRFD 01B*

- ☐ This form is under rule 91(2), 92(1), 92(3), 92(5) and 97A;
- ☐ This form contains refund order details;
- ☐ The following information is available in this form-
- ☐ ARN
- ☐ GSTIN/Temporary ID
- ☐ Legal Name
- ☐ Filing date
- ☐ Reason for refund
- ☐ Financial year
- ☐ Month
- ☐ Order No.
- ☐ Order issuance date
- ☐ Payment advice No.
- ☐ Payment advice date
- ☐ Refund issued to- Tax payer/Consumer Welfare fund
- ☐ Issued by
- ☐ Type of order
- ☐ Details of refund amount-
- ☐ Refund amount claimed
- ☐ Refund sanctioned on provisional basis;
- ☐ Remaining amount;
- ☐ Refund amount inadmissible;
- ☐ Gross amount to be paid;
- ☐ Interest (if any);
- ☐ Amount adjusted against outstanding demand under the existing law or under the act;
- ☐ Net Amount to be paid.

F. No. 349/169/2017-GST
Government of India Ministry of Finance Department of Revenue
Central Board of Excise and Customs GST Policy Wing

New Delhi, Dated the 15th November, 2017

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners

/ Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Sub – Manual filing and processing of refund claims in respect of zero-rated supplies - reg.

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/ documents/ forms pertaining to refund claims on account of zero-rated supplies shall be filed and processed manually till further orders. Therefore, in exercise of the powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') and for the purpose of ensuring uniformity, the following conditions and procedure are laid down for the manual filing and processing of the refund claims:

As per sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as 'the IGST Act') read with clause (i) of sub-section (3) and sub-section (6) of section 54 of the CGST Act and rules 89 to 96A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'), a registered person may make zero-rated supplies of goods or services or both on payment of integrated tax and claim refund of the tax so paid, or make zero-rated supplies of goods or services or both under bond or Letter of Undertaking without payment of integrated tax and claim refund of unutilized input tax credit in relation to such zero rated supplies.

The refund of integrated tax paid on goods exported out of India is governed by rule 96 of the CGST Rules. The shipping bill filed by an exporter shall be deemed to be an application for refund in such cases. The application shall be deemed to have been filed only when export manifest or export report is filed and the applicant has furnished a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be. Upon receipt of the information regarding furnishing of a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be, from the common portal, the system designated by the Customs shall process the claim for refund and an amount equal to the integrated tax paid in respect of such export shall be electronically credited to the bank account of the applicant. Any order regarding withholding of such refund or its further sanction respectively in PART-B of **FORM GST RFD-07** or **FORM GST RFD-06** shall be done manually till the refund module is operational on the common portal.

The application for refund of integrated tax paid on zero-rated supply of goods to a Special Economic Zone developer or a Special Economic Zone unit or in case of zero-rated supply of services (that is, except the cases covered in paragraph 2.2 above and para 2.4 below) is required to be filed in **FORM GST RFD-01A** (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) by the supplier on the common portal and a print out of the said form shall be submitted before the jurisdictional proper officer along with all necessary documentary evidences as applicable (as per the details in statement 2 or 4 of Annexure to **FORM GST RFD – 01**), within the time stipulated for filing of such refund under the CGST Act.

The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in **FORM GST RFD- 01A** on the common portal and the amount claimed as refund shall get debited in accordance with sub-rule (3) of rule 86 of the CGST Rules from the amount in the electronic credit ledger to the extent of the claim. The common portal shall generate a proof of debit (ARN- Acknowledgement Receipt Number) which would be mentioned in the **FORM GST RFD-01A** submitted manually, along with the print out of **FORM GST RFD-01A** to the jurisdictional proper officer, and with all necessary documentary evidences as applicable (as per details in statement 3 or 5 of Annexure to **FORM GST RFD-01**), within the time stipulated for filing of such refund under the CGST Act.

The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner of State Tax. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central

Government in the earlier regime.

Once such a refund application in **FORM GST RFD-01A** is received in the office of the jurisdictional proper officer, an entry shall be made in a refund register to be maintained for this purpose with the following details –

Table 1

Sr.	Applicant's Name	GSTIN	Date of receipt of application	Period to which the claim pertains	Nature of refund-Refund of integrated tax paid/Refund of unutilized ITC	Amount of refund claimed	Date of issue of acknowledgment in FORM GST RFD-02	Date of receipt of complete application (as mentioned in FORM GST RFD-02)
1	2	3	4	5	6	7	8	9

Further, all communication in regard to the FORMS mentioned below shall be done manually, within the timelines as specified in the relevant rules, till the module is operational on the common portal, and all such communications shall also be recorded appropriately in the refund register as discussed in the succeeding paragraphs –

Sr.	FORM	Details	Relevant provision of the CGST Rules, 2017
1.	FORM GST RFD-02	Acknowledgement	Rules 90(1) and 90(2)
2.	FORM GST RFD-03	Deficiency memo	Rule 90(3)
3.	FORM GST RFD-04	Provisional refund order	Rule 91(2)
4.	FORM GST RFD-05	Payment advice	Rules 91(3), 92(4), 92(5) and 94
5.	FORM GST RFD-06	Refund sanction/Rejection order	Rules 92(1), 92(3), 92(4), 92(5) and 96(7)
6.	FORM GST RFD-07	Order or complete adjustment/withholding of sanctioned refund	Rules 92(1), 92(2) and 96(6)
7.	FORM GST RFD-08	Notice for rejection of application for refund	Rule 92(3)
8.	FORM GST RFD-09	Reply to show cause notice	Rule 92(3)

The processing of the claim till the provisional sanction of refund shall be recorded in the refund register as in the table indicated below -

Table 2

Date of issue of Deficiency Memo in FORM GST RFD-03	Date of receipt of reply from the applicant	Date of issue of provisional refund order in FORM GST-RFD-04	Amount of refund claimed	Amount of provisional refund sanctioned				Date of issue of Payment Advice in FORM GST RFD-05
				CT	ST/UTT	IT	Cess	
1	2	3	4	5	6	7	8	9

After the sanction of provisional refund, the claim shall be processed and the final order issued within sixty days of the date of receipt of the complete application form. The process shall be recorded in the refund register as in the table indicated below -

Date of issue of notice, if any for rejection of refund in FORM	Date of receipt of reply, if any to SCN in FORM	Date of issue of Refund sanction/ rejection order in FORM GST RFD-06	Total amount of refund sanctioned				Date of issue of Payment Advice in FORM GST RFD- 05	Amount of refund rejected				Date of issue of order for adjustment of sanctioned refund/ withholding
GST RFD- 08	GST RFD- 09											refund in FORM GST RFD-07
			CT	ST/UTT	IT	Cess		CT	ST/UTT	IT	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13

After the refund claim is processed in accordance with the provisions of the CGST Act and the rules made thereunder and where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-03**. The amount would be credited by the proper officer using **FORM GST RFD-01B** (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) subject to the provisions of rule 93 of the CGST Rules.

For the sake of clarity and uniformity, the entire process of filing and processing of refunds manually is tabulated as below:

Filing of Refund Claims:

Sr.	Category of Refund	Process of Filing
1	Refund of IGST paid on export of goods	No separate application is required as shipping bill itself will be treated as application for refund
2	Refund of IGST paid on export of services / zero rated supplies to SEZ units or SEZ developers	Printout of FORM GST RFD- 01A needs to be filed manually with the jurisdictional GST officer (only at one place - Centre or State) along with relevant documentary evidences, wherever applicable.
3	Refund of unutilized input tax credit due to the accumulation of credit of tax paid on inputs or input services used in making zero-rated supplies of goods or services or both	FORM GST RFD-01A needs to be filed on the common portal. The amount of credit claimed as refund would be debited in the electronic credit ledger and proof of debit needs to be generated on the common portal. Printout of the FORM GST RFD-01A needs to be submitted before the jurisdictional GST officer along with necessary documentary evidences, wherever applicable.

Steps to be followed for processing of Refund Claims:

Three different refund registers are to be maintained for record keeping of the manually sanctioned refunds – for receipts, sanction of provisional refunds and sanction of final refunds. The steps are as follows:

Step No.	Action to be Taken
Step-1	Entry to be made in the Refund register for receipt of refund applications
Step-2	Check for completeness of application as well as availability of the supporting documents in totality. Once completeness in all respects is ascertained, acknowledgement in FORM GST RFD-02 shall be issued within 15 days from the date of filing of the application and entry shall be made in the Refund register for receipt of refund applications
Step-3	<input type="checkbox"/> All communications (issuance of deficiency memo, issuance of provisional and final refund orders, payment advice etc.) shall be done in the format prescribed in the Forms appended to the CGST Rules, and shall be done manually (i.e. not on the common portal) within the timelines prescribed in the rules; <input type="checkbox"/> Processing for grant of provisional refund shall be completed within 7 days as per the CGST Rules and details to be maintained in the register for provisional refunds. Bifurcation of the taxes to be refunded under CGST (CT) /SGST (ST) /UTGST (UT) /IGST (IT) /Cess shall be maintained in the register mandatorily; <input type="checkbox"/> After the sanction of the provisional refund, final order is to be issued within sixty days (after due verification of the documentary evidences) of the date of receipt of the complete application form. The details of the finally sanctioned refund and rejected portion of the refund along with the breakup (CT / ST / UT / IT / Cess) to be maintained in the final refund register; The amount not sanctioned and eligible for re-credit is to be re- credited to the electronic credit ledger by an order made in FORM GST PMT-03. The actual credit of this amount will be done by the proper officer in FORM GST RFD-01B.

Detailed procedure for manual processing of refund claims:

The detailed procedure for disposal of Refund claims filed manually is as under:

MANUAL PROCESSING OF REFUND		
STEPS	REMARKS	LEGAL PROVISIONS
Filing of refund application in FORM GST RFD-01A online on the common portal (only when refund of unutilized ITC is claimed)	<input type="checkbox"/> The corresponding electronic credit ledger of CT / ST / UT / IT/ Cess would get debited and an ARN number would get generated.	Rule 89
Filing of printout of FORM GST RFD-01A	<input type="checkbox"/> The printout of the ARN along with application of refund shall be submitted manually in the appropriate jurisdiction. <input type="checkbox"/> This form needs to be accompanied with the requisite documentary evidences. This Form shall contain the debit entry in the electronic credit ledger of the amount claimed as refund in FORM GST RFD-01A .	Rule 89(1) – Application Rule 89(2) – Requisite Documents
		Rule 89(3)–Debiting of electronic credit ledger
Initial scrutiny of the Documents by the proper officer	<input type="checkbox"/> The proper officer shall validate the GSTIN details on the portal to validate whether return in FORM GSTR-3 or FORM GSTR- 3B , as the case may be, has been filed. A declaration is required to be submitted by the claimant that no refund has been claimed against the relevant invoices. <input type="checkbox"/> Deficiencies, if any, in documentary evidences are to be ascertained and communicated in FORM GST RFD-03 within 15 days of filing of the refund application. <input type="checkbox"/> Deficiency Memo should be complete in all respects and only one Deficiency Memo shall be given. <input type="checkbox"/> Submission of application after Deficiency Memo shall be treated as a fresh application. <input type="checkbox"/> Resubmission of the application, after rectifying the deficiencies pointed out in the Deficiency memo, shall be made by using the ARN and debit entry number generated originally. If the application is not filed afresh within thirty days of the communication of the deficiency memo, the proper officer shall pass an order in FORM GST PMT-03 and re-credit the amount claimed as refund through FORM GST RFD-01B .	Rule 90 (2) – 15 day time for scrutiny Rule 90(3)– Issuance of Deficiency memo Rule 90(3) – Fresh refund application requirement Rule 93(1) – re-credit of refund amount applied for
Issue acknowledgement manually within 15 days in FORM GST RFD-02	The date of submission of application for which acknowledgement has been given will be considered as the date for ensuring whether the refund application has been sanctioned within the stipulated time period.	Rule 90 (2)-
Grant of provisional refund within seven days of issue of acknowledgement	<input type="checkbox"/> The amount of provisional refund shall be calculated taking into account the total input tax credit, without making any reduction for credit being provisionally accepted. <input type="checkbox"/> Provisional refund shall be granted separately for each head CT / ST / UT/ IT/ Cess within 7 days of acknowledgement in FORM GST RFD-04 . <input type="checkbox"/> Before sanction of the refund a declaration shall be obtained that the applicant has not contravened rule 91(1). <input type="checkbox"/> Payment advice to be issued in FORM GST RFD-05 . <input type="checkbox"/> Refund would be made directly in the bank account mentioned in the registration.	Rule 91 (1)– Requirement of no prosecution for last 5 years Rule 91(2) – Prima facie satisfaction, seven day requirement Rule 91(3) – Payment advice, electronic credit to bank account

MANUAL PROCESSING OF REFUND		
STEPS	REMARKS	LEGAL PROVISIONS
Detailed scrutiny of the refund application along with submitted documents	<input type="checkbox"/> The officer shall validate refund statement details with details in FORM GSTR 1 (or Table 6A of FORM GSTR-1) available on the common portal. <input type="checkbox"/> The Shipping bill details shall be checked by officer through ICEGATESITE (www.icegate.gov.in) whereie the officer would be able to check details of EGM and shipping bill by keying in port name, Shipping bill number and date. <input type="checkbox"/> Further, details of IGST paid also needs to be verified from FORM GSTR-3 or FORM GSTR- 3B, as the case may be, filed by the applicant and it needs to be verified that the refund amount claimed shall be less than the tax paid on account of zero rated supplies as per FORM GSTR-3 or FORM GSTR- 3B, as the case may be. <input type="checkbox"/> Ascertain what amount may be sanctioned finally and see whether any adjustments against any outstanding liability is required (FORM GST RFD-07 - Part A). <input type="checkbox"/> Ascertain what amount of the input tax credit is sanction-able, and amount of refund, if any, liable to be withheld. <input type="checkbox"/> Order needs to be passed in FORM GST RFD-07 - Part B.	Rule 89(4) – Refund Amount Calculation Rule 92(1) – Any adjustments made in the amount against existing demands Rule 92(2) – reasons for with holding of refunds
If the sanction-able amount is less than the applied amount	<input type="checkbox"/> Notice has to be issued to the applicant in FORM GST RFD-08. <input type="checkbox"/> The applicant has to reply within 15 days of receipt of the notice in FORM GST RFD-09. <input type="checkbox"/> Principles of natural justice to be followed before making the final decision. <input type="checkbox"/> Final order to be made in FORM GST RFD- 06.	Rule 92(3) – Notice for refund not admissible / payable Rule 92(3) – Require ment of reply to the notice within 15 days Rule 92(3), 92(4), 92(5) – Sanction of Refund order
Pre-Audit	<input type="checkbox"/> Pre-audit of the manually processed refund applications is not required to be carried out, irrespective of the amount involved, till separate detailed guidelines are issued. <input type="checkbox"/> Post-audit of the orders may however continue on the basis of extant guidelines.	
Final sanction of refund	<input type="checkbox"/> The proper officer shall issue the refund order manually for each head i.e. CT/ST/UT/IT/Cess. <input type="checkbox"/> Amount paid provisionally needs to be adjusted accordingly. <input type="checkbox"/> Payment advice is to be made in FORM GST RFD-05. <input type="checkbox"/> The amount of credit rejected has to be re- credited to the credit ledger by an order in FORM GST PMT- 03 and shall be intimated to the common portal in FORM GST RFD-01B. <input type="checkbox"/> Refund, if any, will be paid by an order with payment advice in FORM GST RFD-05. <input type="checkbox"/> The details of the refund along with taxpayer bank account details shall be manually submitted in PFMS/[States'] system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to PAO office for release of payment.	Rule 92(3), 92(4), 92(5) – Sanction of Refund order Rule 92(4), 92(5) – Payment advice issue
Payment of interest if any	<input type="checkbox"/> Amount, if any, will be paid by an order with payment advice in FORM GST RFD-05 .	Rule 94

3. The refund application for various taxes i.e. CT/ST/UT/IT/Cess can be filed with any one of the tax authorities and shall be processed by the said authority, however the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Centre or State government. In other words, the payment of the sanctioned refund amount in relation to CT / IT / Cess shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to ST / UT would be made by the State tax/Union territory tax authority. It therefore becomes necessary that the refund order issued either by the Central tax authority or the State tax/UT tax authority is communicated to the concerned counter-part tax authority within three days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be.
4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
5. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)



GOVT TO SIMPLIFY INCOME TAX LAWS, SETS UP TASK FORCE UNDER TAXMAN ARBIND MODI TO STUDY OVERHAUL

After overhauling indirect taxes, the government formed a task force to draft a new direct tax law to replace the existing Income Tax Act, which has been in force since 1961.

Eight years after he first helped draft a new direct tax code for India, top taxman Arbind Modi has been asked to do the task again to meet the contemporary economic needs of the country.

Modi, Member, Central Board of Direct Taxes (CBDT), will steer a six-member panel on the issue, an official press statement said. Arvind Subramanian, chief economic advisor will be a permanent special invitee on the panel.

The move, which is aimed to make direct taxes - income and corporate - simple, comes ahead of BJP-led government's last full Budget.

Prime Minister Narendra Modi, during the annual conference of tax officers in September, had observed that the Income-tax Act, 1961 was drafted more than 50 years ago and it needs to be redrafted.

Other members of the task force include Girish Ahuja (chartered accountant), Rajiv Memani (Chairman and Regional Managing Partner of EY), Mukesh Patel (Practicing Tax Advocate), Mansi Kedia (Consultant, ICRIER) and G C Srivastava (retired IRS and Advocate).

The task force, which will submit its report to the government within six months, would draft direct tax laws in line with tax laws prevalent in other countries, incorporating international best practices, and keeping in mind the economic needs of the country.

Former finance minister P Chidambaram had in 2009 proposed the original direct taxes code to replace the cumbersome IT law with a clean new law and to embody the principle of keeping taxes low and removing exemptions.

Modi had assisted the former finance minister in preparing the code. However, the bill, that underwent many changes subsequently was not passed by Parliament.

The Direct Taxes Code (DTC) Bill, 2010, which was introduced in Parliament in 2010, lapsed with the dissolution of the 15th Lok Sabha.

The Bill had proposed annual I-T exemption limit at Rs 2 lakh, and levying 10 per cent tax on income between Rs 2 lakh and Rs 5 lakh, 20 per cent on Rs 5-10 lakh and 30 per cent above Rs 10 lakh. For domestic companies, it suggested tax rate of 30 per cent of business income.

The NDA government, since coming to power in 2014, has already implemented general anti-avoidance rules GAAR. In 2016, Finance Minister Arun Jaitley also promised to lower corporate tax rate to 25 per cent in 5 years.

Currently, income up to Rs 2.5 lakh per annum is exempt from tax for individuals.

Direct Taxes Code advocated the removal of profit-linked deductions, which have already been announced under Income-tax Act.

Fast track Exit / Strike-off under section 248 of Companies Act, 2013 read with Companies (Removal of Name of companies) Rules, 2016

PROCEDURE FOR FTE :-

1. ROC has the power to remove the name of companies from Register of companies under section 248 of companies act, 2013. ROC can suo-motu or on application of a company issue notice for strike off of name of companies on following reasons/causes:
 - (a) If a company has failed to commence its business within one year of its incorporation, or
 - (b) The subscribers to the memorandum have not paid the subscription which they had undertaken to pay within a period of one hundred and eighty (180) days from the date of incorporation of a company and a declaration under section 11(1) to this effect has not been filed within one hundred eighty (180) days of its incorporation;
 - (c) A company is not carrying on any business or operation for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company under section of 455.

Exceptions:-

Following categories of companies shall not be removed from the register of companies under section 248 read with rule 3 and 4 of companies (Removal of name of companies from register of companies) Rules 2016, namely:-

- (i) listed companies;
- (ii) companies that have been delisted due to non-compliance of listing regulations or listing agreement or any other statutory laws;
- (iii) vanishing companies;
- (iv) companies where inspection or investigation is ordered and being carried out or actions on such order are yet to be taken up or were completed but prosecutions arising out of such inspection or investigation are pending in the Court;
- (v) companies where notices under section 234 of the Companies Act, 1956 (1 of 1956) or section 206 or section 207 of the Act have been issued by the Registrar or Inspector and reply thereto is pending or report under section 208 has not yet been submitted or follow up of instructions on report under section 208 is pending or where any prosecution arising out of such inquiry or scrutiny, if any, is pending with the Court;
- (vi) companies against which any prosecution for an offence is pending in any court;
- (vii) companies whose application for compounding is pending before the competent authority for compounding the offences committed by the company or any of its officers in default;
- (viii) companies, which have accepted public deposits which are either outstanding or the company is in default in repayment of the same;
- (ix) companies having charges which are pending for satisfaction; and
- (x) companies registered under section 25 of the Companies Act, 1956 or section 8 of the Act.

Explanation: For the purposes of clause (iii), the expression “vanishing company” means a company, registered under the Act or previous company law or any other law for the time being in force and listed with Stock Exchange which has failed to file its returns with the Registrar of Companies and Stock Exchange for a consecutive period of two years, and is not maintaining its registered office at the address notified with the Registrar of Companies or Stock Exchange and none of its directors are traceable.

Restrictions on making application under section 248 in certain situations: – (Section 249)

- (1) An application under sub-section (2) of section 248 on behalf of a company shall not be made if, at any time in the previous three months, the company –
 - (a) has changed its name or shifted its registered office from one State to another;
 - (b) has made a disposal for value of property or rights held by it, immediately before cesser of trade or otherwise carrying on of business, for the purpose of disposal for gain in the normal course of trading or otherwise carrying on of business;
 - (c) has engaged in any other activity except the one which is necessary or expedient for the purpose of making an application under that section, or deciding whether to do so or concluding the affairs of the company, or complying with any statutory requirement;
 - (d) has made an application to the Tribunal for the sanctioning of a compromise or arrangement and the matter has not been finally concluded; or
 - (e) is being wound up under Chapter XX, whether voluntarily or by the Tribunal.
 - (2) If a company files an application under sub-section (2) of section 248 in violation of sub-section (1), it shall be punishable with fine which may extend to one lakh rupees.
 - (3) An application filed under sub-section (2) of section 248 shall be withdrawn by the company or rejected by the Registrar as soon as conditions under sub-section (1) are brought to his notice.
2. ROC shall send a notice in Form STK-1 to the company and all the directors of the company, of his intention to remove the name of the company from the register of companies and requesting them to send their representations along with copies of the relevant documents, if any, against the proposed action within a period of thirty (30) days from the date of notice (as per section 248(1)).
 3. A company may after extinguishing all its liabilities, by a special resolution or consent of seventy five (75%) per cent. Members in terms of paid-up share capital, file an application in the prescribed manner i.e. STK-2 along with the fee of five thousand (Rs. 5000) to registrar (ROC) for removing the name of the company from the register of companies on all or any of the ground specified in sub-section (1) and the Registrar shall, on receipt of such application, cause a public notice to be issued in the prescribed manner (as per section 248(1) read with rule 4).

Company will call the Board Meeting as per SS-1 to pass a Board Resolution for the purpose of strike off of the company and to authorize any director of the company to file the application with the Registrar of Companies.

Provided that in the case of a company regulated under a special act, approval of the regulatory body constituted or established under that act shall also be obtained and enclosed with the application.

As per Rule 4(2), Every application under rule 4(1) shall accompany a No Objection Certificate (NOC) from appropriate Regulatory Authority concerned in respect of following companies, namely: –

- (i) companies which have conducted or conducting non-banking financial and investment activities as referred to in the Reserve Bank of India Act, 1934 (2 of 1934) or rules and regulations thereunder;
- (ii) housing finance companies as referred to in the Housing Finance Companies (National Housing Bank) Directions, 2010 issued under the National Housing Bank Act, 1987 (53 of 1987);
- (iii) insurance companies as referred to in the Insurance Act, 1938 (4 of 1938) or rules and regulations thereunder;
- (iv) companies in the business of capital market intermediaries as referred to in the Securities and Exchange Board of India Act, 1992 (15 of 1992) or rules and regulations thereunder;
- (v) companies engaged in collective investment schemes as referred to in the Securities and Exchange Board of India Act, 1992 (15 of 1992) or rules and regulations thereunder;
- (vi) asset management companies as referred to in the Securities and Exchange Board of India Act, 1992 (15 of 1992) or rules and regulations thereunder;
- (vii) any other company which is regulated under any other law for the time being in force.

4. Other attachments with STK-2:-

As per rule 4(3), the application in Form STK 2 shall be accompanied by –

- (i) Indemnity bond duly notarized by every director in Form STK 3 and if the person is a foreign national or non- resident Indian, the indemnity bond, and declaration shall be notarised or appostilised or consularised (as per rule 8);
- (ii) a statement of accounts containing assets and liabilities of the company made up to a day, not more than thirty (30) days before the date of application and certified by a Chartered Accountant;
- (iii) An affidavit in Form STK 4 by every director of the company;
- (iv) a copy of the special resolution duly certified by each of the directors of the company or consent of seventy five per cent of the members of the company in terms of paid up share capital as on the date of application;
- (v) a statement regarding pending litigations, if any, involving the company (it should be given in affidavit format).

5. Form Authentication

As per Rule 5(1), Application in Form STK-2 shall be signed by a director duly authorised by the Board in their behalf. And where the director concerned does not have a registered DSC, a physical copy of the form duly filled in shall be signed manually by the directors duly authorised in that behalf and shall be attached with the Form STK-2 while uploading the form as per Rule 5(2)

6. Certification of Form STK-2

As per Rule 6, The Form STK-2 shall be certified by a CA in whole time practice or CS in whole time practice or CMA in whole time practice, as the case may be.

7. Manner of publication of notice:-

As per Rule 7 of Companies (Removal of Name of Companies from Register of Companies) Rules, 2016:

- (i) The notice under sub-section (1) or sub-section (2) of section 248 shall be in Form STK 5 or STK 6, as the case may be, and be –
- (ii) placed on the official website of the Ministry of Corporate Affairs on a separate link established on such website in this regard;
- (iii) published in the Official Gazette;
- (iv) published in English language in a leading English newspaper and at least once in vernacular language in a leading vernacular language newspaper, both having wide circulation in the State in which the registered office of the company is situated.

Provided that in case of any application made under sub-section (2) of section 248 of the Act, the company shall also place the application on its website, if any, till the disposal of the application.

- (2) The Registrar of Companies shall, simultaneously intimate the concerned regulatory authorities regulating the company, viz, the Income-tax authorities, central excise authorities and service-tax authorities having jurisdiction over the company, about the proposed action of removal or striking off the names of such companies and seek objections, if any, to be furnished within a period of thirty days from the date of issue of the letter of intimation and if no objections are received within thirty days from the respective authority, it shall be presumed that they have no objections to the proposed action of striking off or removal of name.

8. Undertaking by Directors:- Discharge of liability

The Registrar, if feel necessary, obtain necessary undertakings from the managing director, director or other persons in charge of the management of the company that sufficient provision(s) has been made for the realization of all amount due to the company and for the payment or discharge of its liabilities and obligations by the company.

9. Declaration from Director:-

The will give following below mentioned declaration:

- i. The application has been in accordance with the conditions mentioned under sub-section (1) and (2) of section 248 and sub-section

- (1) of section 249.
- ii. There is no inspection or investigation order and carried out or yet to be carried out or being carried out against the company and where inspection or investigation have been carried out, no prosecution pending in any court arising out of such inspection or investigation.
 - iii. The company is neither having any public deposit which are outstanding nor the company in default in its repayment or interest thereon.
 - iv. The company does not have any outstanding loans, secured or unsecured.
 - v. The company does not have any dues towards income tax .VAT, excise duty, service tax or any other duty, by whatever name called, payable to the central government or state government, statutory authority or local authority.
 - vi. All other liabilities of the company have been settled or discharged or extinguished.
 - vii. All the requirements of the act and rules made thereunder relating to removing the name of the company from the register of companies and matters incidental or supplemental thereto have been complied with.
 - viii. To the best of my knowledge and belief, the information given in this application and its attachment is correct and complete.
 - ix. The requisite fee has been paid.

10. Issue Notice of Striking off and dissolution of companies:-

The Registrar (ROC) shall cause a notice under sub-section (5) of section 248 of striking off the name of the company from the register of companies if no objections received and its dissolution to be published in the Official Gazette in Form STK 7 and the same shall also be placed on the official website of the Ministry of Corporate Affairs (as per rule 9).

11. Liability of Directors:-

The liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved under sub-section (5), shall continue and may be enforced as if the company had not been dissolved.

12. Applications or forms pending before Central Government:-

Any application or pending proceeding for striking off or Form-FTE filed with the Registrar of Companies prior to the commencement of these rules but not disposed of by such authority for want of any information or document shall, on its submission, to the satisfaction of the authority, be disposed of in accordance with the rules made under the Companies Act, 1956 (1 of 1956) (as per rule 10).

13. Fraudulent application for removal of name:-

As per section 251(1), Where it is found that an application by a company under sub-section (2) of section 248 has been made with the object of evading the liabilities of the company or with the intention to deceive the creditors or to defraud any other persons, the persons in charge of the management of the company shall, notwithstanding that the company has been notified as dissolved –

- (a) be jointly and severally liable to any person or persons who had incurred loss or damage as a result of the company being notified as dissolved; and
- (b) be punishable for fraud in the manner as provided in section 447.

As per section 251(2), without prejudice to the provisions contained in sub-section (1), the Registrar may also recommend prosecution of the persons responsible for the filing of an application under Sub-section (2) of section 248.

14. Appeal to Tribunal:-

Any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal (NCLT) within a period of **three years (3 years)** from the date of the order of the Registrar and if the Tribunal is of the opinion that the removal of the name of the company from the register of companies is not justified in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the register of companies.



DISQUALIFICATION OF DIRECTORS : A NEW MYSTERY!!!

In the corporate realm, where several laws are in operation, implementation receives a blow when it comes to interpretation and understanding the spirit and purpose of any particular law that may have been designed and promulgated for meeting a particular purpose in the light of the anomalies prevalent in the sector at any given point of time.

Recently Ministry of Corporate Affairs has cancelled the registration of around 2.10 lakh defaulting companies and subsequent direction of the Ministry of Finance to banks to restrict operations of bank accounts of such companies by the directors of such companies or their authorized representatives, the Ministry of Corporate Affairs identified approx 1,06,578 Directors for disqualification under Section 164(2)(a) of the Companies Act, 2013. Further, the Ministry may come up with another list of such disqualified directors.

The Ministry of Corporate Affairs said that this exercise was necessary to create an atmosphere of confidence and faith in the system paving the way for ease of doing business in India. The Ministry is monitoring these cases on priority basis and taking up a concerted action with the help of other departments. Further, the money laundering activities performed under the aegis of shell companies are also under scanner.

MOS (CA) Shri Chaudhary said that “The present Government has vowed to fight Black Money and fighting the menace of Shell Companies is an imperative element of such fight.

Few weeks back, the market regulator Securities and Exchange Board of India (SEBI) had also directed stock exchanges to take action against 331 *suspected shell companies* that are listed on their platforms. As part of efforts to curb black money menace, SEBI has banned scripts of these companies and were not available for trading thereafter. Most of those companies had filed appeal with SAT against the said impugned order and SAT has set aside the order on the ground that SEBI has passed its impugned order without any investigation into the affairs of the companies. It seems that the same story is going to be repeated with the order of MCA, which deals with disqualification of directors, as various writ petitions are already been filed and admitted in the various High Courts of India.

STATUTORY PROVISIONS UNDER COMPANIES ACT, 2013

Section 164 of the Companies Act, 2013 deals with disqualification of directors. As per the provisions of section 164(2)(a), a director in a company that has not filed financial statements or annual returns for three financial years continuously would not be eligible for re-appointment in that company or for appointment in any other company for five years from the date on which the said company fails to do so.

Section 164(1) : Grounds due to which a person shall not be eligible for appointment as a director of a Company:

- (a) If declared by a competent court as a person of unsound mind;
- (b) If he is an undercharged insolvent;
- (c) His application to be adjudged as an insolvent is pending;
- (d) He has been sentenced to imprisonment: (1) for not less than six months - disqualification shall continue till five years after expiry of the sentence; or (2) for seven years or more - disqualification shall be permanent;
- (e) If otherwise disqualified by a court or a Tribunal till the order is in force; (f) He has failed to pay the call money on shares within a period of six months from the last date fixed for payment;
- (g) If the person has been convicted for offence under section 188 dealing with 'Related Party Transactions';
- (h) He does not have a Directors Identification Number (DIN). Sub-section (2) of the section 164 makes a director ineligible for re-appointment in a company or for appointment in any other company if he is or has been a director of a company which:
 - (a) has not filed financial statements or annual returns for any continuous period of three financial years; or
 - (b) has failed to repay the deposits or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more.

The disqualification shall continue for a period of five years from the date on which the said company fails to do either of the acts.

Sub-section (3) of the section 164 provides that a private company may by its articles provide additional grounds for disqualification.

MCA HAS PROPOSED AMENDMENTS UNDER COMPANIES ACT, 2013

The proviso to Section 164 says that the disqualification incurred by a person, due to his conviction for imprisonment or due to an order of a tribunal/court or due to conviction for violating provisions under section 188, shall remain suspended during the period in which appeal has been preferred and is pending before a higher forum. However, the proposed amendment by 2016 bill provides that the disqualification shall continue even if appeal or petition has been filed against order of conviction.

Further, a proviso to sub-section (2) is proposed to be added which will provide that a disqualification for non-filing of financial statements or failure to redeem debentures/payments of deposits shall not be incurred by a director for a period of six months from date of his appointment. This time period shall provide a breathing period to the directors for making good the default of a company.

DISQUALIFICATION OF DIRECTORS UNDER S. 164(2)

Section 164(2) disqualifies a director for reappointment in the same company or for appointment in any other company if either of the two specified defaults have been committed by the company in which he is a director. The first default is non-filing of financial statements or annual Returns for a continuous period of three financial years. The second default is failure to repay the deposits for period of 1 year.

REMOVAL OF DISQUALIFICATION UNDER SECTION 164(2)

The provisions of section 164 (2) have to be read with Rule 14 of the Companies (Appointment and Qualification of Directors) Rules, 2014. As per Rule 14, every director is duty bound to inform the company in form DIR-8 about his disqualification under sub-section 2 of section 164 before his appointment or reappointment. Similarly, a duty has been cast on the company, which fails to file the financial statements or fails to repay any deposits as specified under sub-section 2 of section 164, to furnish the names and addresses of all directors of that company in form DIR-9. If the company fails to file form DIR-9 then officers of the company shall be the officers-in-default.

The Rule 14 also provides for the removal of disqualification of directors suffered under sub-section 2 of section 164. It states that an application for removal of disqualification of directors can be made in Form DIR 10. The application for removal of disqualification can be filed with the Registrar of Companies. However, it is important to note that there is no statutory provision under the Companies Act, 2013 which empowers the Registrar of Companies to remove disqualification of directors. Thus, the legal sanctity of Rule 14 has to stand the test of time.

Further, the Section 164 of the Act only provides for the Disqualification of Directors for 5 years without any reference to the penalty / prosecution on the concerned directors. Going by the plain reading one can say, such director shall be eligible to be appointed as

director on the Board of any Indian Company, only after 5 year and has to apply for removal of disqualification in form DIR - 10 as stated in the applicable Rules.

We are also of the view that the disqualification as prescribed under Section 164 can neither be removed by compounding of offence for non filing of past financial & annual return nor by restoration of name of the Company under the provisions of the Section 252 of the Act by the order of the Hon'ble NCLT as these offence are covered under different provisions of the Act and has nothing to do with the disqualification of Directors.

RETROSPECTIVE OPERATION OF PROVISIONS OF SECTION 164(2)

It is a cardinal rule in law that every statute is prospective unless it is expressly or by necessary implication made to have retrospective operation.

The provisions of section 274 (1) (g) which were inserted by the amending act of 2000 in the Companies Act 1956 were retrospective in operation. This provision is akin to the section 164(2) of the Companies Act, 2013. Further, while interpreting the provisions of section 164(2) the National Company Law Tribunal in *Vikram Ahuja v. Greenstone Investments (P.) Ltd.* [2017] 136 CLA 131 (NCLT) held that the provisions of Section 164 are not retrospective in nature.

The Tribunal held that non-filing of financial statements before this enactment would not tantamount to disqualification to become director or to continue as director. New enactment has made non-filing of financial statements for three consecutive years as disqualification and amounts to an offence only to the act after 1st April, 2014. If this disqualification is construed as applicable to the past acts, it is obviously unfair to the people conducting the affairs of the company under the impression that non-filing of financial statements for three years is not a default and not an offence. Therefore, this provision has to be read as applicable to the situations where non-filing has started, at the most in the past and is continuing while this enactment has come to into existence and also to future non-filings but not to be considered as applicable to the past acts for it is an established proposition that an Act has to be considered retrospective only when it has been explicitly mentioned in the Act.

GENERAL CIRCULAR 41/2014 DATED 15.10.2014

Before interpreting the provisions of Section 164(2) and its applicability as prospective or retrospective, it would be important to refer to the General Circular 41/2014 dated 15.10.2014 issued by Ministry of Corporate Affairs.

The said circular dated 15.10.2014 was issued by the MCA on the clarification been sought by the Stakeholders that whether the directors of the Companies who have filed their (past) balance sheets or annual returns after 01.04.2014 but before the Company Law Settlement Scheme 2014 (CLSS-2014) [15.08.2014] will get immunity from disqualification under Section 164(2)(a). As per the said circular, the MCA has clarified that the disqualification will be applicable for the prospective defaults of such companies directors who have filed their Balance Sheets and Annual returns on or after 01.04.2014 but before CLSS-2014 i.e. before 15.08.2014.

In other words, it can be said that the provisions of Section 164 (2) are not prospective in nature that is the three financial years will not be counted from 01.04.2014 (the day the section became effective) but even in case where the balance sheets or annual returns of previous years i.e. prior to 01.04.2014 have not been filed for consecutive period of three years and such default continues after 01.04.2014, the directors of such companies will be considered as disqualified. The prospective effect of disqualification will be applicable on such companies who have prior to 15.08.2014 have complied with filing of its past balance sheets or annual return as the case may be.

Going by the same methodology, MCA has notified 3 separate list (block of 3 years i.e 2011-2012 to 2013-2014, 2012-2013 to 2014-2015 & 2013-

2014 to 2015-2016) of disqualified directors of such companies which have not filed their financials starting from the financial year 2011-2012.

CLASH BETWEEN THE PROVISIONS OF SECTION 164 READ WITH 167

Section 167 talks about vacation of office of a director. Sub-section (1) of section 167 states that the office of a director shall become vacant if he incurs any of the disqualifications specified in section 164. The basic difference between these two sections is that section 164 talks about the grounds for disqualification and section 167 provides for grounds of vacation of office. Thus, section 164 becomes applicable at the time of appointment or reappointment of a person as a director of any company whereas section 167 becomes applicable to person who is already a director.

Now, the question which arises is weather section 164(2) can be read with section 167 or not ? It is submitted that the provisions of sub-section (2) of section 164 are different provisions which contain consequences of the disqualification in the provision itself. Thus, section 167 will be applicable in cases covered by sub-section (1) of section 164 and it would not apply to grounds covered by sub-section (2) of section 164.

It is a well-established rule of interpretation that provisions of the statute should be read so as to harmonies with each other. If we apply these rules of statutory interpretation, it would appear that the consequence of vacation of office under section 167(1)(a) cannot apply in respect of the disqualification stated in subsection (2) of section 164, because subsection

- (2) itself specifically provides the consequence of the disqualification, namely that a director of the defaulting company shall not be eligible for re- appointment as a director of the defaulting company and for appointment of any other company for a period of five years from the date on which the said company fails to do so.

The provision in section 164(2) can be said to be a special provision as against section 167(1)(a) which is a general provision and hence the former should override the latter. Accordingly, while the provision in section 167(1)

- (a) would apply in the cases covered by section 164(1), it would not apply in the cases covered by section 164(2).

Thus, the apparent conflict between the two sections can be resolved by applying the rule of statutory interpretation that when there is a conflict between a special provision and a general provision, the special provision prevails over the general provision; the general provision applies only to such cases which are not covered by the specific provision; the rule applies to resolve conflict between different provisions in different statutes as well as in same statute.

OTHER EVENTS ATTRACTING DISQUALIFICATION

Through Articles of Association

A Private Company can provide additional grounds for disqualifications in the Articles of Association. Such articles have an overriding effect over provisions of the Companies Act including s. 274 (now s. 164).

Default In Repaying Deposits

No person who is or has been a director of the Company which has failed to repay deposits accepted by it or interest thereon etc. for one year or more

By operation of the law

The disqualification for default in paying deposit and default in filing annual statements was inserted under section 274 (now 164) of the Companies Act, 1956 by way of amendment in 2000. In Nabendu Dutta's case, while discussing the retrospective operation of this provision, the High Court of Calcutta held that language of the provision makes it implicit that the Legislature intends retrospective operation. Thus, it is evident from the language of clause (g) of sub-section (1) of section 274 (now 164(2)) that on the date of commencement of the Amending Act, any person who has been director in a defaulting company will be affected by the sub-section.

Scheme of Compromise and Arrangement on Default in Repaying Deposits

The scheme of compromise and arrangement sometimes defers the payment of deposits. In such cases, the default on repayment of deposits begins from the date of original default. It cannot be postponed or deferred on assumption that if the scheme would be sanctioned, the date of redemption would be different.

AFTER EFFECTS OF DISQUALIFICATION OF DIRECTORS

A person who's name is mentioned in the Order as disqualified director, has to go through the after effects, which might stay for next 5 years (effectively 4 years, as disqualification is effective retrospectively from 01-11-2016). DIN of the all such directors are blocked for 5 years and cannot be used to file any e-form including Annual Filing forms, even if the financials are being signed by such directors. The problem is worse for the active Companies which has complied with the provisions of the Act and having only 2 directors who are named in the list of disqualified directors. In all those cases power to appoint new director on the Board is either with the Central Government or with the Shareholders who can appoint any new person as director and approach respective ROC to add the name in the list of signatory from backend manually.

RECENT JUDICIAL PRONOUNCEMENTS W.R.T. DISQUALIFICATION OF DIRECTORS

DR. REDDY'S RESEARCH FOUNDATION V. MINISTRY OF CORPORATE AFFAIRS (ORDER HIGH COURT OF HYDERABAD – Oct 6, 2017)

The Hon'ble High Court of Hyderabad, held that the Rule 14 of the Companies (Appointment and Qualification of Directors) Rules, 2014, inter-alia provides for rectifying the defect by enabling the defaulting companies to file their returns, **however, the said Rule does not provide what is required to be done by the respective authorities**. The reliance was placed on the report of the Companies Law Committee, submitted to the Hon'ble Union Minister of Finance, Corporate Affairs, discloses that the irregularity in relation to the same, particularly, with regard to the disqualification that is earned by an individual not only with respect to the defaulting company, but also with respect to the other companies, is noticed and the **prima facie opinion of the Committee is that a rectification is required to be made restricting the scope of disqualification to the defaulting Company**.

In the light of the fact that a defaulting company is allowed to rectify the defect by filing the returns which have not been filed earlier and to restore the DIN Numbers of petitioners so as to enable them to submit annual returns for the years 2011-12 to 2015-16 and further financial statements for the years 2012-13 to 2015-16.

SRINIVASAN SANDILYA & ORS V. UNION OF INDIA & ORS (DELHI HIGH COURT – OCT 10, 2017)

The Hon'ble Delhi High Court, has stated that **prima facie, it appears that the provision under section 164(2) does not provide for immediate disqualification of Directors from all existing companies**. The direction / order disqualifying the petitioners from acting as Directors of companies was stayed till the next date of hearing.

BHAGVAN DAS DHANANJAYA DAS V. UNION OF INDIA (HIGH COURT OF MADRAS – 21.09.2017)

The Hon'ble court of Madras has decided that order dated 08.09.2017 uploaded in the website of Ministry of Corporate Affairs, so far as the petitioner is concerned, **quash the same as illegal, arbitrary and devoid of merit and consequently direct the respondent (ROC) to permit petitioner to get reappointed as Director of any Company** or appointed as Director in any company without any hindrance thereby staying the operation of the order w.r.t. the petitioner.

CONCLUSION

The above discussion has left various questions unanswered, which are yet to be answered by one of the main pillar of the Constitution of India i.e. Indian Judiciary in near future unless there is another circular clarifying the position from the MCA.

With Best Compliments From

A INFRASTRUCTURE LIMITED

(Formerly Shree Pipes Limited)
(An ISO-9001-2000 certified company)

Manufactures of best quality ISI marked
A.C. Pressure Pipes A.C. Roofing Sheets
A.C. Tree Guards

REGD. OFFICE & WORKS

P.O. Hamirgarh, 311 025
Dist. Bhilwara, Rajasthan
Phone : (01482) 286102, 3, 5, 6, 7
Fax : (01482) 286104
e-mail : raju.l@kanoria.org

MARKETING OFFICE (Pipe Division)

Shalimar Complex
411, IIIrd Floor, Church Road
Jaipur, 302 001
Phone : (0141) 2370566, 2369691
Fax : (0141) 4019691
e-mail : jaipur@kanoria.org

FACTORY

P.O. Digvijay Nagar
Ranip, Kalegan
Ahmedabad, 382 470
e-mail : ahmedabad@kanoria.org



शहर हमारा जिम्मेदारी भी हमारी



पर्यावरण संरक्षण -
हमें ही सुनिश्चित करना है।

- पौधारोपण को बढ़ावा दें अथवा अपने घरों आवासीय कॉलानी एवं शहर में पौधारोपण करें।
- कृपया पेड़ ना काटें-अपने शहर को हरा-भरा रखें।
- प्लास्टिक की थैलियों का उपयोग ना करें, इससे वातावरण दूषित होता है।
- आवश्यकता होने पर ही कागज का उपयोग करें।

प्रकृति-प्रगति-उन्नति
हमारा शहर - हमारा गौरव



यह विज्ञापन
हिन्दुस्तान जिंक (विदन्ता ग्रुप)
द्वारा जनहित में जारी