



## GST Update on New Notifications & Clarifications issued on 9<sup>th</sup> June, 2020

### 1. Filing of GST return through SMS:

Registered person **who is required to furnish a Nil return** (mean there should be **“nil” or “no entry” in all the tables in Form GSTR-3B**) under S. 39 in FORM GSTR-3B for a tax period, can file return in Form GSTR-3B, either through electronic furnishing on the portal of GSTIN or **it can also be filed through a short messaging service (SMS)** by using the registered mobile number. The said return shall be verified by a registered mobile number based One Time Password. This facility is available to taxpayers **from 8<sup>th</sup> June, 2020**.

[N. No. 44/2020 – Central Tax, dated 8<sup>th</sup> June, 2020]

### 2. Tax payers whose principal place of business in UT of Daman and Diu:

Those persons whose principal place of business or place of business was in the erstwhile UT of Daman and Diu or in the erstwhile UT of Dadra and Nagar Haveli **till the 26th January 2020** & in the **merged** UT Daman and Diu and Dadra and Nagar Haveli **from the 27th January, 2020 onwards**, shall **follow the following special procedure, as provided below. Due date for furnishing returns and payment of taxes has been extended from 31<sup>st</sup> May, 2020 to 31st July 2020.**

#### I. Tax period has been specified for filing return are as follows:

- (a) January, 2020: 1<sup>st</sup> January, 2020 to 25<sup>th</sup> January, 2020
- (b) February, 2020: 26<sup>th</sup> January 2020 to 29<sup>th</sup> February, 2020

II. Irrespective of tax charged in invoices or in other documents raised from 26th January 2020 till the transition date, pay applicable tax in return.

III. An option has been provided to transfer ITC from erstwhile union territory to new union territory after filing return for the month of Jan 2020.

[N. No. 45/2020 – Central Tax, dated 9<sup>th</sup> June, 2020]

### 3. Time limit for issuance of Refund Order:

In cases where a notice has been issued for rejection of refund claim, in full or in part & where time limit for issuance of order (i.e. 60 days From receipt of application) falls during the period from 20<sup>th</sup> March 2020 to 29<sup>th</sup> June 2020, in such cases the **time limit for issuance of said order shall be extended to 15 days after receipt of reply of notice from registered person or 30<sup>th</sup> June 2020, whichever is later.**

In other words, if refund order date falls between 20<sup>th</sup> March 2020 to 29<sup>th</sup> June 2020, in such cases, refund order can be issued within 75 days (i.e. 60 + 15 Days) of receipt of reply of notice or 30<sup>th</sup> June 2020, whichever is later.

[N. No. 46/2020 – Central Tax, dated 9<sup>th</sup> June, 2020]

### 4. Extended time limit for E-way bill:

Where an e-way bill has been generated under rule 138 of the Central Goods and Services Tax Rules, 2017, **goods must have to be reached to the destination within the time limit provided under sub rule (10).** This validity period has been **extended on the bases of issuance of EWB,** as under –

Generation of E-way Bill	Period of validity of EW expires between	Extension of time	Notification No.
After 24-03-2020	20-03-2020 to 15-04-2020	30-04-2020	35/2020 – CT, dated 03-04-2020
<b>On or before 24-03-2020</b>	20-03-2020 to 15-04-2020 <b>On or after 20-03-2020</b>	31-05-2020 <b>30-06-2020</b>	40/2020 – CT, dated 05-05-2020 47/2020 – CT, dated 09-06-2020, applicable from 31-05-20.

[N. No. 47/2020 – Central Tax, dated 9<sup>th</sup> June, 2020]

## 5. Clarification on refund of accumulated credits in Electronic Credit Ledger:

**Refund of ITC** availed in respect of invoices (Taxes paid on inputs and input services) **not reflected** in FORM GSTR-2A was admissible and copies of such invoices were required to be uploaded as clarified by the Board vide Circular No. 125/44/2019 – GST, dated 18-11-2019. However, Board has **again clarified** the matter in view of insertion of Rule 36(4) that refund of accumulated ITC **shall be restricted** to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant, vide Circular No. 135/05/2020 – GST, dated 31-03-2020.

**Refund sanctioning authorities have rejected** the refund of **accumulated ITC in respect of ITC availed on Imports, ISD invoices, RCM etc.** citing the above-mentioned Circular on the basis that the details of the said invoices/ documents are not reflected in FORM GSTR-2A of the applicant.

Accordingly, now it is clarified that the treatment of refund of such ITC relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) will continue to be same as it was before the issuance of Circular No. 135/05/2020-GST dated 31<sup>st</sup> March, 2020. **Hence, while granting refund, applicant would be eligible for refund of amount reflected in GSTR-2A, taxes paid on import of goods or services, taxes paid under RCM and ISD invoices.**

[Circular No. 139/09/2020 – GST, dated 10-06-2020]

## 6. Levy of GST on Director's remuneration:

At present, lot of uncertainty prevails as regards applicability of GST on the remuneration paid by the Companies to their directors especially after the pronouncements by Authority of Advance Ruling in the matter of Alcon Consulting Engineers (I) Private Limited [2019 (30) G.S.T.L. 678 – Karnataka] and Clay Crafts India Private Limited [Appeal No. RAJ/AAR/2019-20/33, dated 20-02-2020 - Rajasthan]. Hon'ble AAR upheld that remuneration paid to directors will not cover within the ambit of clause (1) of Schedule III to CGST Act. **Accordingly, company is liable to discharge tax liability under RCM pursuant to S. No. 6 of N. No. 13/2017 – CTR.**

It is clarified by the Board as under –

- (i) Directors who are not the employees of the company, the services provided by them to the Company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. In terms of entry at Sl. No. 6 of the Table annexed to notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017, the recipient of the said services i.e. the Company, is liable to discharge

the applicable GST on it on reverse charge basis. **Hence, independent directors or those directors, by whatever name called, who are not employees of the company, is taxable in the hands of company, on reverse charge basis;** and

- (ii) Director's remuneration which are **declared as "Salaries"** in the books of a company and subjected to TDS under Section 192 of the IT Act, **are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Clause (1) to Schedule III of the CGST Act, 2017.** It is further clarified that the part of employee Director's remuneration which is declared separately **other than "salaries"** in the Company's accounts and **subjected to TDS under Section 194J of the IT Act** as Fees for professional or Technical Services shall be treated as consideration for providing services which are **outside the scope of Schedule III of the CGST Act**, and is therefore, taxable. Further, in terms of notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017, **the recipient of the said services i.e. the Company, is liable to discharge the applicable GST on it on reverse charge basis.**

Hence, while determining the nature of activity carried out by the director, **it is pertinent to examine whether all the activities performed by the directors are in the course of employer – employee relation i.e. contract of service or is there any other manner i.e. contract for service.** If activity ascertained to contract of service, GST would not be applicable but if it is contract for service, GST would be applicable on company and tax have to be discharged under RCM.

[Circular No. 140/10/2020 – GST, dated 10<sup>th</sup> June, 2020]

*Mehta & Shah*

Chartered Accountants

Office No. 23 & 24 | Mezzanine Floor | Satyam Shopping Centre | M. G. Road | Ghatkopar (East)  
Mumbai – 400 077 | +91 22 2102 4560 | +91 22 4176 4411 | Email: info@mehtanshah.com