



**Dec,
2020**



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Tax Notifications

Sl No	Subject	Central Tax Notification	State Tax Notification
1.	Mandatory requirement to mention eight-digits of HSN Codes in a tax invoice by a registered person in respect of supply of chemicals as notified (amendment to Notification no. 12/2017-Central Tax dated 28.06.2017)	<u>90/2020-CT</u> <u>dt 01.12.2020</u>	<u>966-F.T.</u> <u>dt 15.12.2020</u>
2	Due date of completion or compliance of any action in respect of anti profiteering measure under section 171 which falls during the period from 20.03.2020 to 30.03.2021 is extended up to 31.03.2021	<u>91/2020-CT</u> <u>dt 14.12.2020</u>	<u>937-FT</u> <u>dt. 02-12-2020</u>
3	01.01.2021 appointed as the effective date of amendment in the provisions of sections 10, 16, 29, 30, 31, 51, 122, 132 & Schedule - II of the CGST Act, 2017 vide Finance Act, 2020 (12 of 2020)	<u>92/2020-CT</u> <u>dt 14.12.2020</u>	----
4	Late fee waived for delay in furnishing of FORM GSTR-4 for the Financial Year 2019-20 from 01.11.2020 till 31.12.2020 for a registered person whose principal place of business is in the UT of Ladakh	<u>93/2020-CT</u> <u>dt 22.12.2020</u>	----

Tax Notifications contd.

Sl No	Subject	Central Tax Notification	State Tax Notification
5	WBGST/CGST (Fourteenth Amendment) Rules, 2020 in respect of the following:	94/2020-CT dt 22.12.2020 corrigendum	07-F.T. dt 04.01.2021

Substitution of sub-rule (4A) of Rule 8 (with effect from a date to be notified):

Every application of registration under rule 8(4) [other than persons exempted u/s 25(6D)] shall be followed by—

- ✓ biometric-based Aadhaar authentication and taking photograph if he has opted for Aadhaar authentication;
- ✓ taking biometric information, photograph and verification of such other KYC documents, as notified, if he has not opted for Aadhaar authentication

Of the individual applicant/individuals in relation to the applicant as notified u/s 25(6C) along with verification of original copies of documents uploaded with Form GST REG 01.

The application shall be deemed to be completed only after completion of the above process

Tax Notifications contd.

WBGST/CGST (Fourteenth Amendment) Rules, 2020 (contd.)

Amendment in Rule 9(1):

✓ Period of approval for the grant of registration to an applicant is extended to **seven working days** from the date of submission of the application (instead of three working days, previously)

Substitution of the proviso to Rule 9(1):

✓ Provision for grant of registration within **thirty days** of submission of application after physical verification of the place of business in presence of the applicant & verification of such documents as deemed fit by the proper officer where-

- a person, [other than persons notified u/s 25(6D)] , fails to undergo authentication of Aadhaar number or, does not opt for authentication of Aadhaar number or,
- the proper officer, with approval of the competent authority deems it fit to carry out physical verification of places of business

Date of effect: 22.12.2020

Amendment in Rule 9(2):

✓ Time Limit for issuance of Form GST REG 03 extended to **seven working days** from the date of submission of the application (instead of three working days, previously)

Substitution of the proviso to Rule 9(2):

- ✓ Time Limit of **thirty days** is provided for issuance of Form GST REG 03 to
- a person, [other than persons notified u/s 25(6D)] who fails to undergo authentication of Aadhaar number or, does not opt for authentication of Aadhaar number or,
 - the proper officer, with approval of the competent authority deems it fit to carry out physical verification of places of business.

Date of effect: 22.12.2020

Tax Notifications contd.

WBGST/CGST (Fourteenth Amendment) Rules, 2020 (contd.)

Substitution of sub-rule (5) of Rule 9: [Time Limit for the proper Officer to take action on an application for registration]

- ✓ Where an applicant is not covered under proviso to rule 9(1): within **7 working days** from the date of submission of the application for registration
- ✓ Where an applicant is covered under proviso to rule 9(1): within **30 days** from the date of submission of the application for registration
- ✓ Where FORM GST REG-03 is issued to the applicant: within **7 working days** from the date of the receipt of the clarification, information or documents furnished by the applicant

If the proper officer fails to take action within the aforesaid time limit, the application for grant of registration shall be deemed to have been approved

Date of effect: 22.12.2020

Amendment in Rule 21: (Registration to be cancelled in certain cases): New clauses (e), (f) & (g) inserted:

✓ The registration granted to a person is liable to be cancelled, if the said person,-

.....

- avails ITC in violation of the provisions of section 16 or
- furnishes the details of outward supplies in FORM GSTR-1 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return for the said tax periods; or
- violates the provision of rule 86B.

Date of effect: 22.12.2020

Tax Notifications contd.

WBGST/CGST (Fourteenth Amendment) Rules, 2020 (contd.)

Amendment in Rule 21A(2):

✓ Provision amended to allow for suspension of registration of a person **without affording the said person a reasonable opportunity of being heard** where the proper officer has reasons to believe that the registration is liable to be cancelled u/s 29 or u/r 21

Date of effect: 22.12.2020

New Sub-rule (2A) to Rule 21A:

✓ Provision for **suspension of registration** by issuance of intimation for suspension & notice for cancellation of registration in FORM GST REG-31 or seeking explanation from him within 30 days as to why his registration shall not be cancelled **in case of significant differences or anomalies** upon

▪ **comparison of returns furnished**

- with the details of **outward supplies** in Form GSTR 1 or
- details of **inward supplies** derived based on details of outward supplies furnished by his suppliers in Form GSTR 1 or

▪ Such other analysis as may be recommended by Council

Date of effect: 22.12.2020

Tax Notifications contd.

WBGST/CGST (Fourteenth Amendment) Rules, 2020 (contd.)

New Sub-rule (3A) to Rule 21A:

A registered person, whose **registration** has been **suspended** under sub-rule (2) or sub-rule (2A), shall not be **granted any refund** under section 54, during the period of suspension of his registration

Date of effect: 22.12.2020

•Consequential Amendment in sub-rule (4) to Rule 21A due to insertion of new sub-rule 2A:

•New proviso in sub-rule (4) to Rule 21A:

The suspension of registration may be revoked by the proper officer any time during the pendency of the proceedings for cancellation if he deems fit.

Date of effect: 22.12.2020

•Consequential Amendment in sub-rule 3 of Rule 22 to allow a proper officer to issue an order of cancellation of registration in FORM GST REG-19 within a period of 30 days from the issuance of notice under sub-rule 2A of Rule 21A.

•Consequential Amendment in sub-rule 4 of Rule 22 to allow a proper officer to drop the proceedings of cancellation of registration & pass an order in FORM GST REG-20 if the response to the notice issued under sub-rule 2A of Rule 21A is found to be satisfactory by him.

Date of effect: 22.12.2020

Tax Notifications contd.

WBGST/CGST (Fourteenth Amendment) Rules, 2020 (contd.)

Amendments in Rule 36(4):

An RTP can avail of ITC in respect of invoices or debit notes whose details have not been furnished by the suppliers up to the extent of 5% [instead of 10% previously] of the eligible credit available in respect of details of invoices or debit notes that have been furnished by the suppliers

Date of effect: 01.01.2021

New Sub-rule (5) to Rule 59:

Provision to disallow:

- ✓ a registered person to furnish the details of outward supplies in FORM GSTR-1 who has not furnished the return in FORM GSTR-3B for preceding two months
- ✓ a registered person under the QRMP scheme to furnish the details of outward supplies in FORM GSTR-1 or using the IFF who has not furnished the return in FORM GSTR-3B for preceding tax period
- ✓ a registered person who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of 99% of such tax liability under rule 86B to furnish the details of outward supplies in FORM GSTR-1 or using the IFF if he has not furnished the return in FORM GSTR-3B for preceding tax period

Date of effect: 22.12.2020

Tax Notifications contd.

WBGST/CGST (Fourteenth Amendment) Rules, 2020 (contd.)

New Rule 86(B): Restrictions on use of amount available in electronic credit ledger:

✓ A registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds Rs 50 lakh

Date of effect: 01.01.2021

☐ The restriction shall not apply where –

• the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than Rs 1 lakh as income tax in each of the last two financial years for which the time limit to file return of income under section 139(1) of the I. T Act has expired; or

Date of effect: 01.01.2021

Tax Notifications contd.

WBGST/CGST (Fourteenth Amendment) Rules, 2020 (contd.)

New Rule 86(B) (contd.): *Restrictions on use of amount available in electronic credit ledger:*

The restriction shall not apply where –

- the registered person has received a refund amount of more than Rs 1 lakh in the preceding financial year on account of unutilised ITC under clause (i) of first proviso of section 54(3) or
 - the registered person has received a refund amount of more than Rs 1 lakh in the preceding financial year on account of unutilised ITC under clause (ii) of first proviso of section 54(3) or
 - the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or
 - the registered person is –
Government Department/ a Public Sector Undertaking /a local authority/ a statutory body:
- The Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

Date of effect: 01.01.2021

Tax Notifications contd.

WBGST/CGST (Fourteenth Amendment) Rules, 2020 (contd.)

Amendment in Rule 138(10):

Validity period of e-way bill amended as follows:

Date of effect: 01.01.2021

Sl No	Distance	Validity period
1	Up to 200 km	One day in cases other than Over Dimensional Cargo
2	Up to 200 km	One additional day other than Over Dimensional Cargo

Amendment in Rule 138E:

✓ Disallowance of furnishing of information in PART A of FORM GST EWB-01 in case of a person :

- **Clause (b):** other than in composition scheme who has not furnished returns for a consecutive period of two tax periods (instead of two months previously)
- **New Clause (d):** whose registration has been suspended.

Date of effect: 22.12.2020

Format of FORM GST REG-31 notified

Date of effect: 22.12.2020

Sl No	Subject	Central Tax Notification	State Tax Notification
6	Due date for furnishing of the annual return for the financial year 2019-20 has been extended till 28.02.2021 .	<u>95/2020-CT</u> dt 30.12.2020	<u>16/2020- C.T./GST</u> dt 31/12/2020

Circulars

Sl No	Subject	Central Circular	State Circular
1	Requirement of recording of UIN on the invoices issued by the retailers/suppliers, to UIN entities pertaining to the refund claims from April 2020 to March 2021, waived off subject to the condition that the copies of such invoices are attested by the authorized representative of the UIN entity and the same is submitted to the jurisdictional officer.	<u>144/14/2020</u> <u>dt 15-12-2020</u>

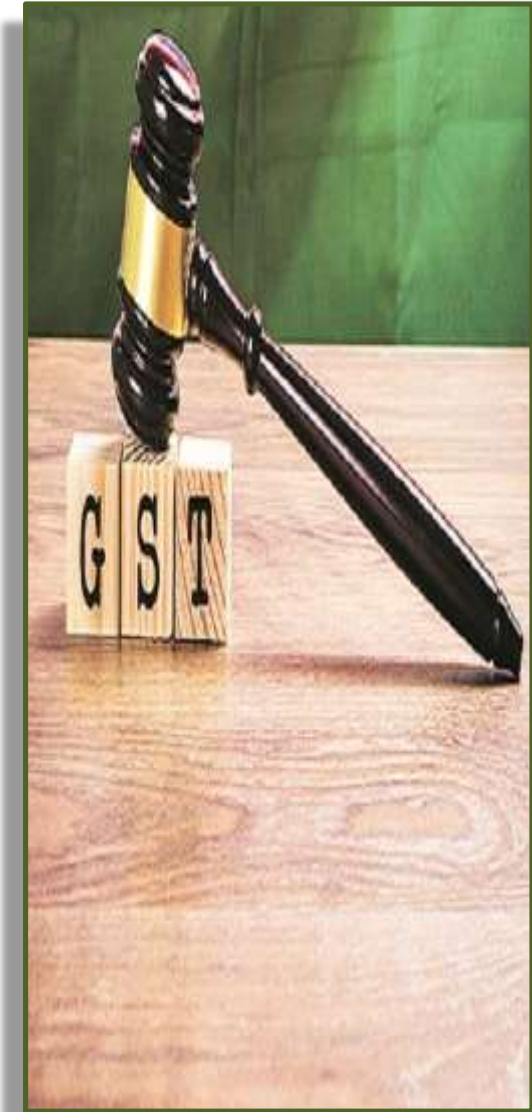
Court Judgement

❑ **HIGH COURT OF GUJARAT M/s S S INDUSTRIES Vs UNION OF INDIA- 2020-TIOL-2228-HC-AHM-GST**

❑ Issue relates to the true interpretation of Rule 86A as well as scope of exercise of power under the same rule;

Whether the authority concerned is empowered to retain any amount deposited by a registered person during any inquiry or investigation in the absence of any confirmed liability against the assessee & more particularly, without issuance of a show-cause notice and assessment/adjudication order imposing any tax liability on the assessee?

Whether the authorities could have debited any amount from the credit ledger thereby debiting the ITC availed by the writ applicant on various inputs and input services without there being any demand or any final assessment order.



Court Judgement

HIGH COURT OF GUJARAT M/s S S INDUSTRIES Vs UNION OF INDIA- 2020-TIOL-2228-HC-AHM-GST (Contd.)

□ The Judgement:

- ✓ The invocation of rule 86A of the rules for the purpose of blocking the ITC may be justified if the concerned authority or any other authority, empowered in law, is of the prima facie opinion based on some cogent materials that the ITC is sought to be availed based on fraudulent transactions like fake/bogus invoices etc.
- ✓ However, the subjective satisfaction should be based on some credible materials or information & also should be supported by supervening factor.
- ✓ The power conferred upon the authority under rule 86A of the rules for blocking the ITC could be termed as a very drastic and far-reaching power. Such power should be used sparingly and only on subjective weighty grounds & reasons. The power under rule 86A of the rules should neither be used as a tool to harass the assessee nor should it be used in a manner which may have an irreversible detrimental effect on the business of the assessee.
- ✓ The aspect of availing the credit and utilization of credit are two different stages. The utilization of credit is a vested right. No vested right accrues before taking credit.
- ✓ The Government needs to apply its mind for the purpose of laying down some guidelines or procedure for the purpose of invoking rule 86A of the rules.
- ✓ Both the writ applications fail and are hereby rejected with appropriate observations.

Rulings by WBAAR

The applicant is a supplier of building structure, railway bridge equipment, technical structure, blast furnace shell, civil structure. Apart from supplying items, the applicant does job work on the materials and design belonging to another registered person. The applicant wants to know the applicable rate of tax in terms of Sl No. 26 of Notification No. 11/2017- CT (R) dt 28/06/2017

The applicant supplies a mixed supply constituting of the job work of fabrication of steel structures and the works contract of applying paint to the erected steel structures. It is taxable @ 12% in terms of the provisions under section 8(b) of the GST Act.

Order No & Dt:
14/WBAAR/2020-21
dt. 04/12/2020

Name of the
Applicant:
Vrinda Engineers
Private Limited

New Functionalities in GSTN Portal

REGISTRATION

❖ Aadhaar Authentication during registration, for all types of taxpayer (except PSU, Govt Bodies, Statutory Body and Local Authority):

✓ If a taxpayer opts for Aadhaar Authentication then the authentication would be required to be done only for one Primary authorized signatory & one Promoter/Partner, (instead of all Authorized Signatories and Partners / Promoters , hitherto).

✓ If Taxpayer has not opted for Aadhaar Authentication and if a SCN is raised by Tax-officer, on Aadhaar Authentication tab, the taxpayer will be able to upload E-KYC documents while filing clarification. This upload of E-KYC documents can also be done by the Tax Official (on behalf of the taxpayer) doing site verification.

❖ Filing of an application for cancellation of registration by GST Practitioner (Form GST PCT -06)

✓ A registered GST Practitioner can now file an application for cancellation of their Registration, in Form GST PCT-06 (& the Tax Officials would also be able to pass an order on this application in Form GST PCT-07).

New Functionalities in GSTN Portal *contd.*

RETURN

❖ Quarterly Return Monthly Payment Scheme

- ✓ All Registered Taxpayers who file FORM GSTR-3B & whose annual aggregate turnover (AATO) in the previous/ current FY is up to Rs 5 crore would be eligible for the QRMP scheme from 01.01.2021.
- ✓ Default migration has been effected in the system for existing registered persons whose AATO for FY 2019-20 was up to Rs 5 Cr & who have furnished FORM GSTR-3B for Oct,2020 by 30.11.2020
- ✓ A profiling option has been enabled on the GST portal for all such tax payers to choose between quarterly/monthly option for a quarter as per the scheme.
- ✓ This scheme can be availed GSTIN wise by an eligible tax payer. So, few GSTINs under the same PAN can opt for the scheme & remaining can remain out of the scheme.

❖ For details:-

<https://www.gst.gov.in/newsandupdates/read/417>

https://tutorial.gst.gov.in/userguide/returns/index.htm#t=manual_change_profile.htm

https://tutorial.gst.gov.in/userguide/returns/index.htm#t=FAQs_change_profile.htm_change_profile.htm

❖ Import of e-invoice data into Form GSTR-1

- ✓ The details from the e-invoices, as uploaded by the taxpayers in Invoice Registration Portal (IRP) (for whom it is mandatory), will get auto-populated in their Form GSTR-1.

❖ For details:-

<https://www.gst.gov.in/newsandupdates/read/421>

New Functionalities in GSTN Portal *contd.*

RETURN *contd.*

❖ Authentication through EVC, for filing of returns through GST Subidha Providers (GSPs), for taxpayers for whom DSC is not mandatory for filing of return:

✓ DSC is required to be used by GSPs only if the taxpayer is required to file their returns on GST Portal through DSC, otherwise GSPs can now file return through EVC for other taxpayers.

REFUND

❖ New validation in case of refund of Unutilised ITC:

✓ Validation introduced in respect of turnover declared in Statement-1, 3A & 5A (as the case may be) in respect of refund on account of accumulated ITC due to inverted tax structure/ zero rated supply without payment of tax vis a vis the turnover value entered in the refund application.

❖ Allowing ICEGATE validated invoices while filing refund:

✓ Taxpayers while applying for refund on account of 'Export of goods & services without payment of tax', would now be disallowed to enter the invoices in the statement, if the invoices have been returned from the ICEGATE System with an error.

New Functionalities in GSTN Portal *contd.*

MISCELLANEOUS

❖ New Facility of Communication between Recipients & Suppliers on GST portals

✓ Now all registered taxpayers (excepting registered TDS deductors, TCS collectors, NRTP) can communicate amongst themselves regarding missing documents, any shortcomings or other issues related to a supply or receipt through the GST portal.

✓ Taxpayers can send notifications, view notifications, send reply to such notifications and view the same in the dashboard after login.

✓ An e-mail & an sms would be sent to the registered e-mail id & mobile number of the recipient of the notification. An alert would also be generated when the recipient of the notification logs into the portal.

✓ An RTP can send a maximum of 100 notifications to a GSTIN during a particular tax period. Up to 50 documents may be added. The sender can also provide remarks.

✓ The recipient of a supply can upload the details of the missing documents not uploaded by the supplier in their FORM GSTR-1 & send a notification to the supplier informing him of the said oversight. The supplier can add such documents directly in GSTR-1 if not reported earlier.

✓ The functionality to upload and download the documents will be made available soon.

❖ For details:-

<https://www.gst.gov.in/newsandupdates/read/433>

Thank
you



Image courtesy:
<https://www.google.co.in/imghp?hl=en&tab=ri&ogbl>

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