

**GOVERNMENT OF WEST BENGAL  
DIRECTORATE OF COMMERCIAL TAXES  
14, BELIAGHATA ROAD, KOLKATA-700015**

**TRADE CIRCULAR No. 05/2021**

*(Corresponding Central Circular No. 138/08/2020-GST)*

**DATED: 06.05.2021**

**Subject: Further clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws.**

Trade Circular No. 03/2021, dated 06.05.2021 and trade Circular No. 04/2021, dated 06.05.2021, had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the “WBGST Act”) on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). Post issuance of the said clarifications, certain challenges being faced by taxpayers in adhering to the compliance requirements under various other provisions of the WBGST Act were brought to the notice of the Commissioner, and need to be clarified.

2. The issues raised have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Commissioner, in exercise of his powers conferred under section 168 of the WBGST Act hereby clarifies as under:

Sl. No.	Issue	Clarification
<b>Issues related to Insolvency and Bankruptcy Code, 2016</b>		
1.	Notification No. 439-F.T., dated 03.04.2020 issued under section 148 of the WBGST Act provided that an IRP / CIRP is required to take a separate registration within 30 days of the issuance of the notification. It has been represented that <b>the IRP/RP are facing difficulty in obtaining registrations during the period of the lockdown and have requested to increase the time for obtaining registration from the present 30 days limit.</b>	Vide notification No. 493-F.T., dated 13.05.2020, the time limit required for obtaining registration by the IRP/RP in terms of special procedure prescribed vide notification No. 439-F.T., dated 03.04.2020 has been extended. Accordingly, IRP/RP shall now be required to obtain registration <b>within thirty days of the appointment of the IRP/RP or by 30<sup>th</sup> June, 2020, whichever is later.</b>

2.	<p>The notification No. 439-F.T., dated 03.04.2020 specifies that the IRP/RP, in respect of a corporate debtor, has to take a new registration with effect from the date of appointment. <b>Clarification has been sought whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor</b> (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing.</p>	<p>i. The notification No. 439-F.T., dated 03.04.2020 was issued to devise a special procedure to overcome the requirement of sequential filing of <b>FORM GSTR-3B</b> under GST and to align it with the provisions of the IBC Act, 2016. The said notification has been amended vide notification No. 493-F.T., dated 13.05.2020 so as to specifically provide that corporate debtors who have not defaulted in furnishing the return under GST would not be required to obtain a separate registration with effect from the date of appointment of IRP/RP.</p> <p>ii. Accordingly, it is clarified that IRP/RP would <u>not be required to take a fresh registration</u> in those cases where statements in <b>FORM GSTR-1</b> under section 37 and returns in <b>FORM GSTR-3B</b> under section 39 of the WBGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor (earlier GSTIN).</p>
3.	<p>Another doubt has been raised that the present notification has used the terms IRP and RP interchangeably, and in cases <b>where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP</b>, or both will need to take fresh registration.</p>	<p>i. In cases where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out by <u>an amendment in the registration form</u>. Changing the authorized signatory is a non- core amendment and does not require approval of tax officer. However, if the previous authorized signatory does not share the credentials with his successor, then the newly appointed person can get his details added through the Jurisdictional authority as Primary authorized signatory.</p> <p>ii. The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment.</p>

		Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.
<b>Other COVID-19 related representations.</b>		
4.	As per notification no. 1874-F.T. dated 23.10.2017, a registered supplier is allowed to supply the goods to a registered recipient (merchant exporter) at 0.1% provided, <i>inter-alia</i> , that the merchant exporter exports the goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier. Request has been made to clarify the provision vis-à-vis the exemption provided vide notification no. 431-F.T., dated 31.03.2021.	<p>i. Vide notification No. 431-F.T., dated 31.03.2021, time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020, where completion or compliance of such action has not been made within such time.</p> <p>ii. Notification No. 1874-F.T. dated 23.10.2017 was issued under powers conferred by section 11 of the WBGST Act, 2017. The exemption provided in notification No. 431-F.T., dated 31.03.2021 is applicable for section 11 as well.</p> <p>iii. Accordingly, it is clarified that the said requirement of exporting the goods by the merchant exporter within 90 days from the date of issue of tax invoice by the registered supplier gets extended to 30<sup>th</sup> June, 2020, provided the completion of such 90 days period falls within 20.03.2020 to 29.06.2020.</p>
5.	Sub-rule (3) of that rule 45 of WBGST Rules requires furnishing of <b>FORM GST ITC-04</b> in respect of goods dispatched to a job worker or received from a job worker during a quarter on or before the 25th day of the month succeeding that quarter. Accordingly, the due date of filing of <b>FORM GST ITC-04</b> for the quarter ending March, 2020 falls on 25.04.2020. Clarification has been sought as to whether the extension of time limit as provided in terms of	Time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020 where completion or compliance of such action has not been made within such time. Accordingly, it is clarified that the due date of furnishing of <b>FORM GST ITC-04</b> for the quarter ending March, 2020 stands extended up to 30.06.2020.

	notification No. 431-F.T., dated 31.03.2021 also covers furnishing of <b>FORM GST ITC-04</b> for quarter ending March, 2020	
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4. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Commissioner.
5. This Trade Circular shall be deemed to have come into force w.e.f. 06.05.2020.

Sd/-  
(Khalid Aizaz Anwar)  
Commissioner, State Tax,  
West Bengal

Memo. – 131 CT/PRO  
3C/PRO/2021

Date: 07.05.2021

Copy forwarded to the Additional CST/ISD for information and for uploading it on the official website of the Directorate for information of all concerned.

Sd/-  
(Nabanita Pal)  
Additional CST & PRO