

## **12 important things under GST for New Year 2020: Taxpayers must pay caution!!**

Along with new hopes and aspirations, New Year 2020 also ushers in certain new changes under the GST, which are important to be considered by the taxpayers.

This article briefly discusses such top 12 things/changes under the GST applicable for New Year 2020:

- 1. Restriction on claim of ITC:** To give effect to the decisions taken in the 38<sup>th</sup> GST Council Meeting, Central Board of Indirect Taxes & Customs (“**CBIC**”) vide **Notification No. 75/2019 - Central Tax dated December 26, 2019** has notified a specific amendment in Central Goods and Services Tax Rules, 2017 (“**CGST Rules**”) reducing the percentage of eligible ITC available for Availment, the details of which have not been shown by the supplier in GSTR-1.

The CBIC had earlier, vide **Notification No. 49/2019 – Central Tax dated October 9, 2019, inter alia**, inserted a new sub-rule (4) to Rule 36 of the **CGST Rules** which states that a registered person can claim ITC in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-01 (i.e. not getting reflected in Form GSTR-2A) **only to the extent of 20% of the eligible credit available in respect of invoices or debit notes, the details of which have been uploaded by the suppliers.**

However, now, in Rule 36(4) of the CGST Rules, the figures & words “10 per cent” have been substituted for the original figures & words of “20 per cent” w.e.f January 1<sup>st</sup>, 2020.

Therefore now, the facility to avail ITC in respect of invoices or debit notes, the details of which have not been uploaded by suppliers in GSTR-1 has been further restricted to only 10% of the total eligible credit.

- 2. Powers of Commissioner to block ITC under new Rule 86A:** The new Rule 86A of the CGST Rules, inserted vide **Notification No. 75/2019- Central Tax dated December 26, 2019**, grant powers to a Commissioner to decide or vary the conditions for use of ITC available in the electronic credit register. As per the amendment, a Commissioner may not allow debiting of amount in the electronic credit register for discharge of tax liabilities or claim of a refund of any unutilised amounts in the tax register if, he has reasons to believe, that such tax credit is:

- Availed fraudulently based on invoices from a non-existing person or from a person not conducting any business from any place for which registration has been obtained.
- Availed without receipt of goods or services.
- Availed on the strength of tax invoices etc., the tax charged in respect of which has not been paid to the Government.

3. **Blocking of generation of E-way Bill, if GSTR-1 not filed:** Vide ***Notification No. 75/2019 – Central Tax dated December 26, 2019***, Rule 138E of the CGST Rules is amended to provide that w.e.f. January 11, 2020, non-filing of GSTR-1 for two consecutive months/quarters would also block generation of E-way Bill. Thus, regular filing of GSTR-1 and GSTR-3B in year 2020 should go hand in hand.

4. **Mandatory E-Invoicing under GST:** In terms of ***Notification No. 70/2019 – Central Tax dated December 13, 2019***, w.e.f. April 01, 2020, every registered person whose aggregate turnover (including exempt supplies) on PAN India basis exceeds Rs. 100 crores in a financial year, shall mandatorily generate e-invoices in the case of B2B supplies and report to the notified common portals of GST, which are:

- (i) [www.einvoice1.gst.gov.in](http://www.einvoice1.gst.gov.in);
- (ii) [www.einvoice2.gst.gov.in](http://www.einvoice2.gst.gov.in);
- (iii) [www.einvoice3.gst.gov.in](http://www.einvoice3.gst.gov.in);
- (iv) [www.einvoice4.gst.gov.in](http://www.einvoice4.gst.gov.in);
- (v) [www.einvoice5.gst.gov.in](http://www.einvoice5.gst.gov.in);
- (vi) [www.einvoice6.gst.gov.in](http://www.einvoice6.gst.gov.in);
- (vii) [www.einvoice7.gst.gov.in](http://www.einvoice7.gst.gov.in);
- (viii) [www.einvoice8.gst.gov.in](http://www.einvoice8.gst.gov.in);
- (ix) [www.einvoice9.gst.gov.in](http://www.einvoice9.gst.gov.in);
- (x) [www.einvoice10.gst.gov.in](http://www.einvoice10.gst.gov.in).

For the sake of adaptability by the taxpayers and integration of common portal with ASP & GSP, these websites will be active w.e.f. January 01, 2020. Therefore, the taxpayers should make necessary changes in their system and IT infrastructure to enable them to generate e-invoices and have smooth transition to the new system of e-invoicing.

5. **Creating QR codes for B2C supplies:** In terms of *Notification No. 71/2019 – Central Tax and Notification No. 72/2019 – Central tax, both dated December 13, 2019, w.e.f. April 01, 2020*, Quick Response Code (“QR Code”) shall be mandatory in the case where invoice is issued by a registered person, whose aggregate turnover in a financial year exceeds Rs. 500 crore, to an unregistered person (B2C invoice).

However, where such registered person makes a Dynamic QR Code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic QR Code, shall be deemed to be having QR Code.

6. **New GST Returns system:** The GST Council in its 31<sup>st</sup> meeting had decided that a new GST return system will be introduced for taxpayers. New simplified auto-mated GST returns would be implemented from April 1, 2020 for all taxpayers. This new return system will increase compliance and reduce tax evasion to a larger extent. In order to smoothen the transition to the new return system, a transition plan was approved by the Council and the same was released for information vide a press release dated June 11, 2019.

Under this New Return System, two new forms have been introduced i.e., GST FORM ANX- 1 and GST FORM ANX- 2 which will be effective from April 1, 2020. These forms will be the annexures to the main return GST RET-1/ RET-2/ RET-3, as applicable. GST ANX- 1 (Annexure of supplies) will have the details of outward supplies, import of goods and services and inward supplies liable to reverse charge, meaning thereby where you are going to discharge your tax liability. GST ANX-2 (Annexure of inward supplies) will contain details of inward supplies from registered persons, imports made, and supplies received from an SEZ unit/developer.

7. **Quoting of DIN Mandatory by the Department in all Communications:** In keeping tune with the government’s objectives of transparency and accountability in indirect taxation through widespread use of information technology, the CBIC has

implemented a system for electronic (digital) generation of Document Identification Number (“DIN”).

The CBIC vide **Circular No. 122/41/2019- GST dated November 5, 2019** mandated generation and quoting of DIN on specified documents w.r.t search authorisations, summons, arrest memos, inspection notices, etc., to begin with. However, the CBIC vide **Circular No. 128/47/2019- GST dated December 23, 2019** has directed that electronic generation and quoting of DIN shall be done in respect of all communications (including e-mails) sent to taxpayer and other concerned persons by any office of the CBIC across the country and would be effective from December 24, 2019.

Communications issued without DIN which are not covered in the exception cases mentioned in Paragraph 3 of the Circular No. 122/41/2019- GST dated November 5, 2019 shall be treated as invalid and shall be deemed to have never been issued.

8. **SOP for Non-Filers of GST Return:** The tax officers have been following divergent practices when it comes to the appropriate procedure to be followed in case of non-furnishing of returns by a registered person (“defaulter”) under Section 39 or 44 or 45 of the CGST Act, 2017 (“CGST Act”). Hence, the CBIC vide **Circular No. 129/48/2019 - GST dated December 24, 2019** has provided the following guidelines to ensure uniformity in the implementation of provisions of law across field formations –
1. A system-generated message be sent to registered persons 3 days before return filing due date to nudge them to file their returns for the tax period by the due date.
  2. A system generated mail/message be sent immediately to all defaulters conveying that the return for the relevant tax period has not been furnished once the due date for furnishing return under Section 39 of the CGST Act is over.
  3. A notice in form GSTR-3A is issued electronically 5 days after the due date of furnishing return to any person who has failed to furnish return under Section 39 of the CGST Act requiring him to furnish such return within 15 days.
  4. In case the return is still not filed by the defaulter within 15 days of the said notice, then the proper officer may proceed to assess the liability of the said person under Section 62 of the CGST Act to the best of his judgment taking into account all the

relevant material which is available or which he has gathered and issued order under Rule 100 of the CGST Rules in FORM GST ASMT-13. The proper officer would then be required to upload the summary thereof in FORM GST DRC-07.

5. For the purpose of assessment of liability under Section 62 of the CGST Act, the proper officer may consider:
  - The details of the outward supplies available in a statement furnished under Section 37 of the CGST Act (FORM GSTR-1),
  - The details of supplies auto-populated in FORM GSTR-2A,
  - The information available from E-way bills,
  - Or any other information available from any other source, including from inspection under Section 71 of the CGST Act.
6. In case the defaulter furnishes a valid return within 30 days of service of assessment order in FORM GST ASMT-13 then the said assessment order shall be deemed to have been withdrawn as per Section 62(2) of the CGST Act. However, if the said return remains unfurnished within the period of 30 days from the issuance of an order in FORM GST ASMT-13 then the proper officer may initiate proceedings under Section 78 and recovery under Section 79 of the CGST Act.

In deserving cases, based on facts of the case, the Commissioner may resort to the provisional attachment to protect revenue under Section 83 of the CGST Act before issuance of FORM GST ASMT-13.

Further, the proper officer would initiate action under sub-section (2) of Section 29 of the CGST Act for cancellation of registration in cases where the return has not been furnished for the period specified in Section 29.

9. **Reverse Charge (RCM) on Renting of Motor Vehicles:** Serial No. 15 of the **Notification No. 13/2017-Central Tax (Rate) dated June 28, 2017 (“RCM Notification”)** has been amended vide **Notification No. 29/2019-Central Tax (Rate) dated December 31, 2019**, to provide that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfils all the following conditions:—

- (a) is other than a body-corporate;
- (b) does not issue an invoice charging GST @12% from the service recipient; and
- (c) supplies the service to a body corporate located in taxable territory.

Vide *F. No. 354/189/2019-TRU*, it is clarified that the above amendment of the RCM Notification is merely clarificatory in nature and, therefore, shall also apply for the period October 1, 2019 to December 31, 2019.

**Apart from the above changes and new systems getting operational in the New Year 2020, this new year holds importance for the following events as well, being carried forward from 2019:**

- 10. Extension of last date for filing of TRAN-1 & TRAN-2:** The due dates for furnishing Form TRAN-1 and Form TRAN-2 by the registered taxpayers has been extended to March 31, 2020 and April 30, 2020 respectively, vide ***Notification No. 02/2020 – Central Tax dated January 1, 2020.***
- 11. Waiver of late fees for Non-filing of GSTR-1:** In terms of ***Notification No. 74/2019 – Central Tax dated December 26, 2019,*** if any taxpayer who had failed to file Form GSTR-1 i.e. details of outward supplies of goods or services, from July 2017 to November 2019, then such taxpayers can file such returns till January 10, 2020 and the late fees for the same has been waived of.
- 12. GST Audit and Annual Return for F.Y 17-18 & F.Y 18-19:** The due date for filing GST Annual Return i.e. GSTR - 9 and Audit Report, Reconciliation Statement i.e. GSTR – 9C for the F.Y. 2017-18 has been further extended to January 31, 2020.

Further, the due date for filing GSTR - 9 and GSTR – 9C for the F.Y 2018-19 has been extended to March 31, 2020.

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