

CNK & Associates LLP

Recent Update – Notification No. 94/2020-CT dated 22nd December 2020

In Brief – Amendment to CGST Rules, 2017 vide Central Goods and Services Tax (Fourteenth Amendment) Rules, 2020

The Notification No. 94/2020-CT dated 22nd December 2020 has been released by the Government to introduce certain amendments in CGST Rules and empower the GST officials to take action in case fraudulent transactions are identified. These amendments shall be applicable from the date of issue of the Notification unless otherwise provided. The amendments are listed below.

1. Invoices not furnished by Supplier - claim of eligible ITC reduced from 10% to 5% (w.e.f. 01.01.2021):

Claim of ITC is now reduced from 10% to 5% for invoices/ debit notes that are not furnished by the supplier. Therefore, from 1st January 2021, a recipient can avail ITC only to the extent of 105% of the eligible ITC that is reflected in GSTR-2B of the month.

2. New Rule 86B - Restriction on use of ITC Balance in Electronic Credit Ledger (ECL) for discharging Output Tax Liability (w.e.f. 01.01.2021):

Rule 86B has been inserted with a non-obstante clause stating that a registered person shall not utilize the amount available in ECL for payment of his tax liability in excess of 99% of such tax liability, where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees.

The above restriction shall not apply where:

- a) A registered person or a proprietor or any two partners/directors/members have paid income tax of more than one lakh rupees in last two financial years;
- b) A registered person has received a refund of more than one lakh rupees in the preceding financial year on account of unutilized ITC;
- c) A registered person has discharged his output tax liability through Electronic Cash Ledger in excess of 1% of the total output tax liability cumulatively upto the said month;
- d) The Registered Person is a -
 - i) Government Department
 - ii) a PSU
 - iii) a Local Authority
 - iv) a Statutory Body.

CNK Comments: *In other words, if a registered person has a taxable turnover (other than zero rated supplies) of more than fifty lakh rupees in a month, he needs to pay atleast 1% of his tax liability in cash irrespective of the balance available in ECL.*

3. Blocking of GSTR 1 for Non-filing of GSTR-3B:

If GSTR3B is not filed for preceding two months or for preceding tax period (in case of quarterly return filing), a registered person shall not be allowed to file GSTR-1 or use invoice furnishing facility (IFF).

The above condition also applies to a registered person who is restricted from using ITC to discharge his tax liability in excess of 99% of such liability as per Rule 86B.

4. Time limit for verification and approval of application for GST registration increased:

The time limit for verification of registration application/ issuing notice in Form GST REG-03 is increased from three days to seven days from the date of submission of application.

Further, the time limit for approval of registration is increased from seven days to thirty days from the date of submission of application in case where approval of registration is after physical verification by officer.

5. Cancellation of Registration in certain circumstances:

The registration of a registered person may be cancelled if he –

- avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder or
- reports lower outward supplies in GSTR-3B than in GSTR-1 for one or more tax periods or
- violates the provisions of rule 86B.

6. Suspension of Registration:

No opportunity of being heard shall be given before suspending registration of a registered person where, significant differences are observed in details of taxable supply shown in GSTR 1 and GSTR 3B or in ITC claimed in GSTR 3B and that reflected in GSTR 2A/2B or such other anomalies indicating contravention of the provision of the Act.

However, the registered person shall be intimated in Form GST REG-31 highlighting the differences and anomalies and giving him an opportunity to explain the differences within thirty days before cancelling the registration.

A registered person, during the period of suspension, shall not be granted any refund and shall not be allowed to furnish the information in Part A of Form GST EWB-01.

7. The distance for which an E-Way Bill shall be valid per day increased to 200 km from 100 km except in cases of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship (w.e.f. 01.01.2021).

8. New Biometric-based Aadhaar Authentication/ Verification for GST Registration: (effective date to be notified)

Every application of registration, unless specifically exempted, shall be followed by –

- a) biometric-based Aadhaar authentication and taking photograph, if he has opted for authentication of Aadhaar number or
- b) taking biometric information, photograph and verification of such other KYC documents, as notified, if he has opted not to get Aadhaar authentication done.

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