



INPUT TAX CREDIT

Amendments in Rule 42 & Rule 43

Calculation of Value of Exempt supply and Total Turnover for Rule 42 & 43

Prior Amendment : the value of exempt supplies and the total turnover excluded central excise duty, State excise duty and VAT as levied under **entry 84** of List I and **entries 51 and 54** of List II of Seventh Schedule.

After Amendment : With effect from 01.02.2019, the value of exempt supplies and the total turnover under rules 42 and 43 will exclude the amount of any duty or tax levied under **entry 84 and entry 92A** of List I of the Seventh Schedule to the Constitution and **entry 51 and 54** of List II of the said Schedule.

Impact : In other words, apart from excise duty, State excise duty and VAT, the value of exempt supplies and the total turnover as provided under rules 42 and 43 would **now exclude central sales tax also**.

Other miscellaneous amendments in rule 42 and 43

S.N.	Rule	Particulars	Amendment	
1	42(1)(g)	T1, T2, T3, T4 should be declare and determine	Old	On the basis of GSTR-2
			New	On the basis of GSTR-2 & at summary level in GSTR-3B
2	42(1)(l)	C3 is computed	Old	Separately for ITC of CGST, SGST/UTGST & IGST
			New	C3, D1 & D2 should be computed separately for ITC of CGST SGST/UTGST & IGST and declare in GSTR 3B or through prescribe form
3	42(1)(m)	Amount equal to aggregate of D1 and D2	Old	Added to the output tax liability of a registered person
			New	Reversed by the registered person in GSTR 3B or in the prescribed form
4	41(2)(a)	Aggregate amount calculated finally in D1and D2 (annual basis) exceed aggregate amount in rule 41(1) in respect of D1 & D2	Old	Added to the output tax liability of a registered person not later than September following the end of financial year
			New	Reversed by the registered person in GSTR 3B or in the prescribed form not later than September following the end of financial year
5	43(1)(a)	Amount of ITC in respect of Capital goods used or intend to be used exclusively for non business purposeor exempt supplies	Old	In GSTR-2 and not credited to his electronic credit ledger
			New	In GSTR-2 and GSTR 3B and not credited to his electronic credit ledger
6	43(1)(b)	Amount of ITC in respect of Capital goods used or intend to be used exclusively for taxable supply including zero rated supply	Old	In GSTR-2 and credited to his electronic credit ledger
			New	In GSTR-2 and GSTR 3B and credited to his electronic credit ledger
7	43(1)(g)	F stand for	Old	Total turnover
			New	Total turnover in a state Important
8	43	The amount T _e should be computed	Old	Separately for ITC of CGST, SGST/UTGST & IGST
			New	Separately for ITC of CGST, SGST/UTGST & IGST & declared in GSTR 3B

SEC 20 : MANNER OF DISTRIBUTION OF CREDIT BY INPUT SERVICE DISTRIBUTOR.

Value of turnover for the purpose of pro rata distribution of ITC by an ISD to exclude central sales tax also [Section 20 of the CGST Act]

Prior Amendment : As per explanation to **sec 20 clause (c) Value of turnover means** supply of taxable goods as well as goods not taxable under this Act to mean the value of turnover, reduced by the amount of any duty or tax levied under **entry 84** of List I of the Seventh Schedule to the Constitution and **entries 51 and 54** of List II of the said Schedule.

After Amendment : With effect from 01.02.2019, As per explanation to **sec 20 clause (c) Value of turnover means** the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under **entries 84 and 92A** of List I of the Seventh Schedule to the Constitution and **entries 51 and 54** of List II of the said Schedule.

Impact : In other words, apart from excise duty, State excise duty and VAT, the value of turnover would now exclude central sales tax also. It may be noted that the power to levy central sales tax is derived from the **entry 92A** of the List I of the VII Schedule to the Constitution.

Sec 16 : Eligibility and conditions for taking input tax credit.

Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s [New sub-rule (4) inserted in rule 36 of the CGST Rules]

Rule 36. Documentary requirements and conditions for claiming input tax credit.-

- (1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-
 - (a) an invoice issued by the supplier of goods or services or both.
 - (b) an invoice issued by recipient (receiving goods and/or services from unregistered supplier) along with proof of payment of tax (in case of reverse charge)
 - (c) a debit note issued by a supplier
 - (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 for the assessment of integrated tax on imports;
 - (e) Revised invoice
 - (f) Documents issued by input service distributor.

- (2) Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person.

Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person (Inserted via N/N 39/2018 dt 04/09/2018)

- (3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud willful misstatement or suppression of facts

- (4) *Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under section 37(1), shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under section 37(1). [Notification No. 49/2019 CT dated 09.10.2019]*

This can be further understood as under-

Case	Amount of ITC to be claimed by recipient
Where invoice/debit note has been uploaded by the supplier in his GSTR-1	Full ITC, if all other conditions of availing ITC are fulfilled
Where invoice/debit note has not been uploaded by supplier in his GSTR-1	20% of the eligible ITC available in respect of the uploaded invoices/debit notes. However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded.

Illustration 1

Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakh, from various suppliers during the month of October 20XX.

Compute the ITC that can be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX in the following independent cases assuming that GST of Rs. 10 lakh is otherwise eligible for ITC:

Case I

Out of 100 invoices, 80 invoices involving GST of Rs. 6 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case II

Out of 100 invoices, 75 invoices involving GST of Rs. 8.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Answer

As per sub-rule (4) of rule 36, ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-1, cannot exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1.

Case I

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX will be computed as under-

Invoice	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
In respect of 80 invoices uploaded in GSTR - 1	6 Lakh	₹6 lakh [Refer Note 1 below]
In respect of 20 invoices not uploaded in GSTR - 1	4 Lakh	₹1.2 lakh [Refer Note 1 below]
Total	10 Lakh	7.2 Lakh

Notes:

- (1) In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
- (2) The ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. Thus, in respect of 20 invoices not uploaded in GSTR-1s, the ITC has been restricted to Rs. 1.2 lakh [20% of Rs. 6 lakh].

Case II

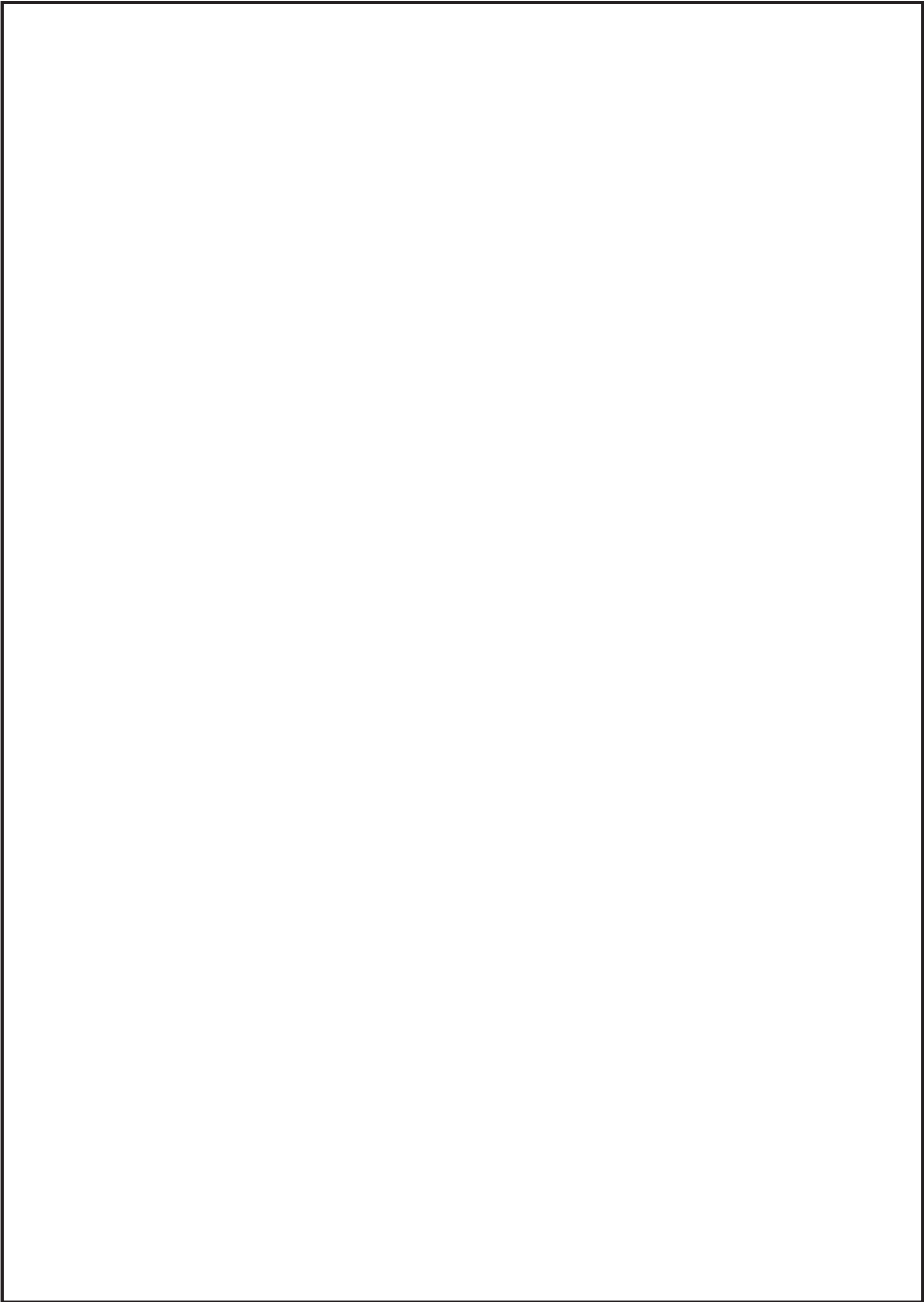
ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX will be computed as under-

Invoice	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
In respect of 75 invoices uploaded in GSTR - 1	8.5 Lakh	₹ 8.5 lakh [Refer Note 1 below]
In respect of 25 invoices not uploaded in GSTR - 1	1.5 Lakh	₹1.5 lakh [Refer Note 1 below]
Total	10 Lakh	10 Lakh

Notes:

- (1) In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
- (2) The ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. However, since in this case, the actual ITC [Rs. 1.5 lakh] in respect of 25 invoices not uploaded in GSTR-1 does not exceed 20% of the eligible ITC in respect of invoices uploaded in GSTR-1s [Rs. 1.7 lakh (20% of Rs. 8.5 lakh)], actual amount of ITC can be availed.







PAYMENT OF TAX

Rule 87:- Electronic Cash Ledger

Utilization of Electronic Cash Ledger

The amount available in the **electronic cash ledger** may be used for making any payment towards

- tax, ➤ interest, ➤ penalty, ➤ fees or
- any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed

Major Head	Minor Head				
IGST	Tax	Interest	Penalty	Fee	Other
CGST	Tax	Interest	Penalty	Fee	Other
SGST/UTGST	Tax	Interest	Penalty	Fee	Other
CESS	Tax	Interest	Penalty	Fee	Other

Note : The amount available in the Electronic Cash Ledger can be utilised for payment of any liability for the respective major and minor heads. For example, liability for the tax under SGST/UTGST can be settled only from the available amount of cash under SGST/UTGST Major head.

N/N 31/2019 CT dt 28/06/2019

Newly Inserted N/N 31/2019
CT dt 28/06/2019

➤ A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for Integrated tax, Central tax, State tax or Union territory tax or cess in **FORM GST PMT-09**.

RULE 87 - TAX PAYMENT CHALLAN

➤ Any amount deducted under section 51 or collected under section 52 and claimed in ~~FORM GSTR-02~~ by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger ~~in accordance with the provisions of rule 87~~

Omitted by N/N 31/2019
dt 28/06/2019





TDS & TCS

Sec 51 : Tax Deducted at Source

Provisions related to deductor

- 4 **Failure to give TDS Certificate :** If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a *late fee, a sum of ₹100 per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees*

Rule 66 : Form and manner of submission of return by a person required to deduct tax at source.-

- | | |
|-----|--|
| (1) | Every registered person required to deduct tax at source under section 51 (hereafter in this rule referred to as deductor) shall furnish a return in FORM GSTR-7 electronically through the common portal either directly or from a Facilitation Centre notified by the Commissioner. |
| (2) | The details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the deductee suppliers in Part C of FORM GSTR-2A and FORM GSTR-4A on the common portal after the due date of filing of FORM GSTR-7. Omitted |
| (3) | The certificate referred to in sub-section (3) of section 51 shall be made available electronically to the deductee on the common portal in FORM GSTR-7A on the basis of the return furnished under sub-rule (1). |

Sec 52 : Tax Collection at Source

- 4 **Monthly Statement :** Every operator who collects the amount specified in sub-section (1) *shall furnish a statement, electronically*, containing
- the details of outward supplies of goods or services or both effected through it,
 - including the supplies of goods or services or both returned through it, and
 - the amount collected under sub-section (1) during a month,
- in such form and manner as may be prescribed (**GSTR-8**), *within ten days after the end of such month*

Rule 67 : Form and manner of submission of statement of supplies through an e-commerce operator.-

- (1) Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in **FORM GSTR-8** electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under Sec 52(1)
- (2) The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers in ~~Part C of FORM GSTR-2A~~ on the common portal after the ~~due date of~~ filing of **FORM GSTR-8** *for claiming the amount of tax collected in his electronic cash ledger after validation.* **Newly inserted by N/N 31/2019 CT dt 28/06/2019**

Manner of furnishing the details of State/UT in application for registration by TDS deductor / a TCS collector in a State where he doesn't have a physical presence [Rule 12(1A) of the CGST Rules][Notification No. 74/2018 CT dated 31.12.2018] [Notification No. 33/2019 CT dated 18.07.2019]

When a person is applying for registration to **deduct or** collect tax in accordance with provisions of **sec 51 (TDS) or as the case may be**, sec 52 (TCS) in a State/UT where he does not have a physical presence, he shall mention name of said State/UT in Part A of prescribed application form for registration. Further, the name of the State/UT in which his principal place of business is located is to be mentioned in Part B of the application form. States/UTs mentioned in Part A and Part B of the application form may be different.



REGISTRATION

Sec 24 : Compulsary Registration in Certain cases

- (x) every electronic commerce operator, who is required to collect tax at source under sec 52 **Amended**



Prior Amendment:- every electronic commerce operator was required to take compulsory registration irrespective of his turnover limit

Amendment :- every electronic commerce operator, who is required to collect tax at source under **sec 52** of the CGST Act would only be required to take compulsory registration

Impact:- Small e-commerce operators who are not required to collect tax at source under **sec 52** would now be eligible for availing the threshold exemption limit benefit for registration purposes.

- (ix) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52

Exemption from registration (N/n 65/2017- CT date 15-11-2017) :

Person making supply of services, other than supplies specified under sec 9(5) of the said Act through E-commerce operator who is required to collect TCS under Sec 52 of the said Act, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of ₹ 20 lakhs **first proviso to sec 22(1) of CGST Act read with clause (iii) explanation to the sec 22** in F.Y. as the category of person exempted from obtaining registration under the said Act.

Newly Inserted via N/N 6/2019-CT dt 29/01/2019

New Rules Inserted

Rule 10A -Furnishing of Bank Account Details

Newly Inserted by N/N
31/2019 CT dt 28/06/2019

Any registered person other than person registered under rule 12 or rule 16 as the case may be within 45 days from the date of grant of certificate of registration in FORM GST REG-06 or the date on which the return required under section 39 is due to be furnished, whichever is earlier, furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision.

Rule 41A (CGST Rules, 2017) - Transfer of unutilised ITC

Newly Inserted

How to transfer unutilised ITC to any or newly registered place of business within a state?

Solution:- As per rule 41A inserted via N/N 3/2019-CT dt 29/01/2019

A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 **and**

who intends to transfer, either *wholly or partly, the unutilized input tax credit* lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish **within a period of thirty days** from obtaining such separate registrations,

the details in **FORM GST ITC-02A** electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:

Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.

Explanation.-

- (1) 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.
- (2) The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilized input tax credit specified in FORM GST ITC-02A shall be credited to his electronic credit ledger."

Cancellation of Registration

Cancellation of Proper Officer

1. Following contraventions done by the registered person:

- (i) He does not conduct any business from the declared place of business, or
- (ii) He issues invoice/bill without supply of goods/ services in violation of the provisions of this Act, or the rules made thereunder.
- (iii) If he violates the provisions of section 171 of the CGST Act.*

(iv) Violates the provision of Rule 10A

Newly Inserted by N/N
31/2019 CT dt 28/06/2019

* Section 171 of the CGST Act, 2017 contains provisions relating to antiprofeetering measure.

2. Not filing of Return :

- ⇒ A registered person has not filed returns for continuous 6 months.

Note : 3 consecutive tax periods in case of a person who opted for composition levy

3. Voluntarily registered person has not commenced the business within 6 months from the date of registration

4. Registration by fraud etc. : Registration was obtained by means of fraud, wilful misstatement or suppression of facts

As per proviso sec 29(2), provided that during pendency of proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period in such manner as may be prescribed.

Newly Inserted

Suspension by Proper Officer

Rule 21A (CGST Rules, 2017): Suspension of registration – (Rule 21A inserted via N/N 3/2019 – CT dt 29/1/2019)

1. Where a registered person applies for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the **date from which the cancellation is sought, whichever is later**, pending the completion of proceedings for cancellation of registration
2. In case of proceeding for cancellation initiated by dept, the proper officer, may, after giving hearing, suspend the registration w.e.f date to be determined by him
3. Such Person shall not make any taxable supply during the period of suspension & shall not be required to file any returns under Sec 39 of CGST Act

Explanation.-For the purposes of this sub-rule, the expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension

Newly Inserted by N/N
49/2019 CT dt 09/10/2019

Newly Inserted

4. The suspension of registration under sub-rule (1) or sub-rule (2) shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect

5. Where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

Newly Inserted by N/N
49/2019 CT dt 09/10/2019



Significant Notifications/ Circulars/ Orders

Pending returns to be filed before revocation of cancellation of registration [Rule 23 of the CGST Rules] [Notification No. 20/2019 CT dated 23.04.2019 read with Circular No. 99/18/2019 GST dated 23.04.2019]

Rule 23 of the CGST Rules provides the procedure for revocation of cancellation of registration. First proviso to section 23(1) provided that if the registration has been cancelled on account of failure of the registered person to furnish returns, no application for revocation of cancellation of registration shall be filed, unless such returns are furnished and any amount in terms of such returns is paid.

Two newly inserted provisos provide as follows:

All returns due for the period from the *date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of 30 days* from the date of order of revocation of cancellation of registration.

However, where the registration has been **cancelled with retrospective** effect, the registered person shall furnish all returns relating to period from the *effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of 30 days* from the date of order of revocation of cancellation of registration.

From the combined reading of aforesaid provisions, it can be inferred that where the registration has been cancelled with effect from the date of order of cancellation of registration,

- (i) all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed and
- (ii) all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of 30 days from the date of the order of revocation.

However, where the registration has been cancelled with retrospective effect, the application for revocation of cancellation of registration can be filed,

subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.

Issue:- Whether transfer/change in the ownership of business to include the transfer /change in the ownership of business due to death of the sole proprietor [Circular No. 96/15/2019 GST dated 28.03.2019]

Clarification -

1. Section 29(1)(a) of the CGST Act provides that reason of transfer of business includes "death of the proprietor".
2. Similarly, for uniformity and for the purpose of section 22(3) of the said Act, it is clarified that transfer or change in the ownership of business under said section will include transfer/change in the ownership of business due to death of the sole proprietor.

Registration of SEZ Unit

As per proviso to sec 25 (1) *Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone developer*

shall have to apply for separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.

Newly Inserted by CGST Amendment Act, 2018

Author's Note: - Earlier the said provision was contained only in CGST rules in order to rationalise such provision, the empowering provision is now given in the act, As per the CGST Amendment act, 2018

Application for registration by Special Economic Zone (SEZ) [Proviso to rule 8(1) of the CGST Rules, 2017]:

A person having unit in SEZ/SEZ developer will make a separate application for registration as a business vertical distinct from his other units located outside SEZ.

Omitted by N/N 3/2019
CT dt 29/01/2019