L&S UPDATE
An e-update to clients from Lakshmikumaran & Sridharan

20 MAY 2021

INDIRECT TAX

CGST Rules amended – Changes relating to GST refund, revocation of cancellation of registration and e-way bill restrictions *[Notification No. 15/2021-CT]*

UPDATE NO. 14 OF 2021

Lakshmikumaran
& Sridharan
attorneys

exceeding expectations
SINCE 1985

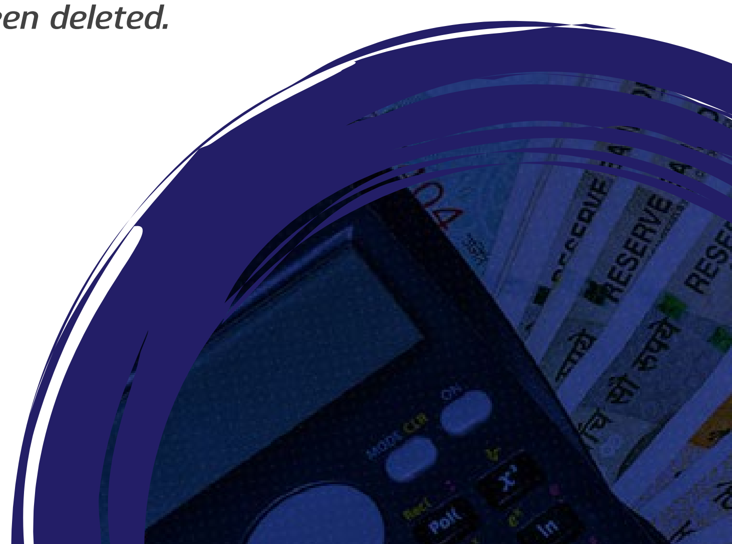
- **Power to withdraw application filed for refund *[Insertion of Rule 90(5) and 90(6)]***
  - Refund application filed in Form GST RFD-01 may be withdrawn by filing an application in Form GST RFD-01W at any time before issuance of :
    - provisional refund sanction order in Form GST RFD-04 or
    - final refund sanction order in Form GST RFD-06 or
    - payment order in Form GST RFD-05 or
    - refund withhold order in Form GST RFD-07 or
    - notice in Form GST RFD-08
  - Any amount debited from electronic credit ledger or electronic cash ledger while filing of refund application in Form GST RFD-01 shall be credited back on submission of application for withdrawal of refund in Form GST RFD-01W.

- **Exclusion of time period for calculating time limit for filing of refund application *[Insertion of proviso to Rule 90(3)]***
  Time period from the date of filing of refund claim in Form GST RFD-01 till date of issuance of deficiency memo in Form GST RFD-03 shall not be counted for time limit of 2 years in respect of any fresh refund claim filed after rectification of the deficiencies.

L&S Comments:

Writs have been filed in past contending that Rule 90(3) of the CGST Rules should be read down to the effect that the rectification of deficiencies shall not be treated as submission of fresh application for the purpose of computing limitation of applying for refund. This amendment seeks to remove this anomaly by extending the limitation period.

- **Order for adjustment of refund not required *[Deletion of proviso to Rule 92(1)]***
  Requirement for issuance of an order in Part A of Form GST RFD-07 giving details of adjustment of refund amount against any outstanding demand under the Act or under any existing law ***has been deleted.***



- **Order for withholding and release of refund *[Amendment to Rule 92(2) and insertion of proviso to Rule 92(2)]***
  - Proper officer or the Commissioner shall pass an order in *Part A* of Form GST RFD-07 informing the reasons for withholding of refund.
  - Earlier order was required to be passed in *Part B* of Form GST RFD-07.
  - Proper officer or the Commissioner may pass an order for release of withheld refund in Part B of Form GST RFD-07 where the proper officer or the Commissioner is satisfied that the refund is no longer liable to be withheld.
- **Similar changes in respect of Form GST RFD-07 have also been made in respect of refund of integrated tax paid on goods or services exported out of India *[Amendment to Rule 96(6) and 96(7)]***
- **Power to extend the period for filing an application for revocation of cancellation of registration *[Amendment to Rule 23(1) and Form GST REG-21]***
  - Additional Commissioner or the Joint Commissioner or the Commissioner may extend the time period for submitting an application for revocation of cancellation of registration in Form GST REG-21 in exercise of the powers provided under the proviso to Section 30(1) wherein registration has been cancelled by the proper officer on his own motion.
  - Corresponding amendment has been made in Form GST REG-21.
- **Restriction on furnishing of information in Part A of Form GST EWB-01 *[Amendment in Rules 138E]***
  - Restriction on furnishing of information in PART A of Form GST EWB-01 by any person ***in respect of any outward movement of goods of a registered person*** who has defaulted in complying with the provision of GST law as prescribed in Rule 138E ('defaulting party').
  - Earlier restriction was 'in respect a registered person, whether as a supplier or a recipient'.

L&S Comments:

- Prior to amendment, E-way bill was not allowed to be generated for inward as well as outward movement in respect of a defaulting party.
- Amendment aims to limit the restriction on generation of E-way bill only for outward movement in respect of defaulting party.

LOCATIONS

NEW DELHI

5 Link Road, Jangpura Extension,
New Delhi 110 014
PHONE: 011-4129 9800

B-6/10, Safdarjung Enclave,
New Delhi 110 029
PHONE: 011-4129 9900
E-MAIL: Lsdel@lakshmisri.com

MUMBAI

2nd Floor, CNERGY IT Park,
Old Standard Mill,
Appa Saheb Marathe Marg,
Prabhadevi,
Mumbai 400 025
PHONE: 022-2439 2500
E-MAIL: Lsbom@lakshmisri.com

CHENNAI

2, Wallace Garden, 2nd Street,
Chennai 600 006
PHONE: 044-2833 4700
E-MAIL: Lsmds@lakshmisri.com

BENGALURU

World Trade Center,
No. 404-406, 4th Floor, South Wing,
Brigade Gateway Campus,
No. 26/1 Dr. Rajkumar Road,
Malleswaram West,
Bengaluru 560 055
PHONE: 080-4933 1800
E-MAIL: Lsblr@lakshmisri.com

HYDERABAD

'Hastigiri', 5-9-163, Chapel Road,
Opp. Methodist Church, Nampally,
Hyderabad 500 001
PHONE: 040-2323 4924
E-MAIL: Lshyd@lakshmisri.com

AHMEDABAD

B-334, SAKAR-VII,
Nehru Bridge Corner, Ashram Road,
Ahmedabad 380 009
PHONE: 079-4001 4500
E-MAIL: Lsahd@lakshmisri.com

PUNE

607-609, Nucleus,
1 Church Road, Camp
Pune 411 001
PHONE: 020-6680 1900
E-MAIL: Lspune@lakshmisri.com

KOLKATA

2nd Floor, Kanak Building,
41, Chowringhee Road,
Kolkata 700 071
PHONE: 033-4005 5570
E-MAIL: Lskolkata@lakshmisri.com

CHANDIGARH

SCO No. 59, 1st Floor,
Sector 26, Madhya Marg,
Chandigarh 160 026.
PHONE: 0172-492 1700
E-MAIL: Lschd@lakshmisri.com

GURUGRAM

OS2 & OS3, 5th Floor,
Corporate Office Tower,
AMBIENCE Island, Sector 25-A,
Gurugram 122 001
PHONE: 0124-477 1300
E-MAIL: Lsgurgaon@lakshmisri.com

PRAYAGRAJ (ALLAHABAD)

3/1A/3, (Opp. Auto Sales)
Colvin Road, Lohia Marg,
Prayagraj 211 001
PHONE: 0532-242 1037/242 0359
E-MAIL: Lsallahabad@lakshmisri.com

KOCHI

1st Floor, PDR Bhavan,
Palliyil Lane, Foreshore Road,
Ernakulam, Kochi 682016
PHONE: 0484-486 9018/486 7852
E-MAIL: Lskochi@lakshmisri.com

JAIPUR

2nd Floor (Front side),
Unique Destination, Tonk Road,
Near Laxmi Mandir Cinema Crossing,
Jaipur, Rajasthan 302 015
PHONE: 0141-456 1200
E-MAIL: Lsjaipur@lakshmisri.com

NAGPUR

1st Floor, HRM Design Space,
90-A, Next to Ram Mandir,
Ramnagar, Nagpur 440033
PHONE: +91-712-2959038/2959048
E-MAIL: Lsnagpur@lakshmisri.com

Lakshmikumaran & Sridharan
attorneys

exceeding expectations
SINCE 1985

www.lakshmisri.com