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

4 JUNE 2021

INDIRECT TAX

Notifications giving effect to decisions taken in 43rd GST Council Meeting

UPDATE NO. 18 OF 2021

Lakshmikumaran & Sridharan attorneys

exceeding expectations
SINCE 1985

EXTENSION OF TIME LIMIT FOR COMPLIANCES
NOTIFICATION NO. 24/2021-CENTRAL TAX W.E.F. 31 MAY 2021

A. General Extension

Time limit falling between 15 April 2021 and 29 June 2021 extended to 30 June 2021 for

i. completion of any proceedings, order, notice, by whatever name called, by any authority, commission, tribunal, by whatever name called
ii. filing of any appeal, reply or application or furnishing of any report, document, return or statement, by whatever name called

Earlier the extension was granted up to 31 May 2021 *vide* Notification No. 14/2021-CT w.e.f. 15 May 2021

B. Specific actions / orders covered in notification

Rule 9: Verification of registration application and approval

- Where time limit for completion of any action, by any authority or by any person, specified in Rule 9 of the CGST Rules, 2017, which falls between 1 May 2021 and 30 June 2021, and
- where such action has not been taken within such time, then,
- the time limit for such action, shall be extended up to 15 July 2021.

Earlier the extension was granted up to 15 June 2021 *vide* Notification No. 14/2021-CT w.e.f. 15 April 2021

Section 54(5)/54(7): Order of Refund

- Where a notice has been issued for rejection of refund claim in full or in part and
- Where the time limit for issuance of order under section 54(5) and section 54(7) of the CGST Act falls between 15 April 2021 and 29 June 2021,
- the time limit for issuance of the said order shall be extended to 15 days from the receipt of the reply to the notice from the registered person or 30 June, 2021, whichever is later.

Earlier the extension was granted up to 31 May 2021 *vide* Notification No. 14/2021-CT w.e.f. 15 May 2021

RELAXATIONS BY NOTIFICATION NO. 27/2021-CENTRAL TAX

A. Cumulative Application of 5% provisional ITC under Rule 36(4) of the CGST Rules

- Rule 36(4) shall apply cumulatively for the period April 2021, May 2021 and June 2021
- GSTR-3B for June 2021 shall be furnished by availing ITC with **cumulative application** of rule 36(4).

B. Return through EVC

- Registered person under Companies Act, 2013 can file their Form GSTR-1 and GSTR-3B or furnish details in IFF using EVC method on GST Portal.
- This relaxation is allowed for the period from 27 April 2021 to 31 August 2021
- Earlier the relaxation was allowed up to 31 May 2021 *vide* Notification No. 07/2021-CT, dated 28 April 2021

OTHERS RELAXATIONS

A. Exemption from E-invoice ***(Notification No. 23/2021-Central Tax)***

- Government Department and local authority are excluded from the requirement of issuance of E-invoice as prescribed under Rule 48(4) of the CGST Rules

B. Section 112 of Finance Act, 2021 shall come into force from 1 June 2021 providing retrospective applicability of Proviso to Section 50 ***(Notification No. 16/2021-Central Tax)***

- Section 50 of the CGST Act deals with levy of interest on delayed remittance of the output GST liability. Section 112 of the Finance Act, 2021 has substituted a Proviso to Section 50 which stated that interest on tax payable declared in the return which is furnished after the due date for filing returns, is leviable only on that portion of output liability which is discharged by way of cash.
- Amendment in Section 50 of the CGST Act, providing for retrospective applicability of above-mentioned Proviso with effect from 1 July 2017, has come into force from 1 June 2021

CHANGE IN RATE FOR SUPPLY OF GOODS
NOTIFICATION NO. 1/2021-CENTRAL TAX (RATE)

- **Change in rate for supply of goods**
    - Toy balloons made of natural rubber latex falling under HSN 4016 - GST Rate has been increased from 5% to 18%.
    - Diethylcarbamazine - GST rate has been reduced from 12% to 5%. Diethylcarbamazine has been inserted under Sl. No. 180 of Schedule I of Notification No. 1/2017-Central Tax (Rate)

RATE CHANGE IN RELATION TO MRO SERVICE
NOTIFICATION NO. 02/2021-CENTRAL TAX (RATE)

Description	HSN	Existing Rate	New Rate
Maintenance, repair or overhaul services in respect of ships and other vessels, their engines and other components or parts	9987	18%	5% (Clause (ib) inserted under S.No. 25 of the Table under NN. 11/2017-CTR)

CHANGE IN PLACE OF SUPPLY IN RELATION TO MRO SERVICE
NOTIFICATION NO. 03/2021-INTEGRATED TAX

Category	Description	Current Provision	New Provision w.e.f. 2 June 2021
Place of supply of service where location of supplier or recipient is outside India and other components or parts	Supply of maintenance, repair or overhaul service in respect of ships and other vessels, their engines and other components or parts supplied to a person for use in the course or furtherance of Business	Location where the services are actually performed - Section 13(3)(a) of IGST Act.	Location of recipient of service

L&S Comments

A. Impact on Domestic Shipping Lines receiving services from Foreign MROs.

- Double taxation disputes may arise due to payment of IGST under Section 3(7) of CTA on import of repaired goods and payment of IGST as import of service under this notification

B. Impact on Domestic MROs

- Domestic MROs are given level playing field with Foreign MROs
- Benefit of concessional rate of 5% with ITC benefit
- Services to Foreign Shipping lines would amount to export of services

CHANGE IN RATE FOR SUPPLY OF SERVICE
NOTIFICATION NO. 2/2021-CENTRAL TAX (RATE)

A. Utilization credit by Landowner-Promoter

- The landowner-promoter shall be eligible to use the credit of tax charged to him by the developer-promoter for payment of tax on apartments supplied by the landowner-promoter in such project. (Insertion of Explanation in Fourth proviso to Entry 3(i) to 3(id) of Notification No. 11/2017-CT(R))

L&S Comments

Fourth proviso to conditions of S. No. 3(i) to 3(id) of Notification No. 03/2019-CTR (New Rates) provided that Landowner-Promoter can avail ITC for the GST charged by Developer-Promoter, however, first proviso to conditions of new rates provided that ITC cannot be used for payment of tax at new rates. The above amendment appears to remove this anomaly.

Points to Ponder:

Whether the aforesaid amendment can be said to be clarificatory in nature?

NOTIFICATION NO. 3/2021-CENTRAL TAX (RATE)

A. Payment of GST before or at the time of issuance of completion certificate or first occupation whichever is earlier

- The registered person shall pay tax in a tax period not later than the tax period in which the date of issuance of the completion certificate for the project, where required, by the competent authority, or the date of its first occupation, whichever is earlier, falls in relation to supply of following:
  - supply of development rights or FSI
  - long term lease of land relatable to construction of residential apartments
  - supply of construction service

- Previously, liability to pay tax arises on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

L&S Comments

Amendment aims to allow registered person to pay GST any time before issuance of completion certificate or first occupation whichever is earlier so as to ensure that ITC can be utilized towards payment of taxable supply of construction service before receipt of completion certificate or first occupation whichever is earlier

Points to Ponder:

Whether the aforesaid amendment can be said to be clarificatory in nature?

RATIONALIZATION OF LATE FEE IMPOSED UNDER SECTION 47 OF THE CGST ACT PROSPECTIVELY

- For taxpayers having aggregate turnover in the preceding FY

(Amounts in INR)

Return / Statement	Category	Annual Aggregate Turnover (Preceding year)	Late fee[1] capped per day (per return)	Maximum Late Fee Capped (per return)	Notification No.
Form GSTR-3B & Form GSTR-1	**GSTR 3B:** Summary ofoutward and inward supplies	More than 1.5 crores and upto 5 crores	50	5000	NN 19/2021-CT NN 20/2021-CT
	GSTR-1: Details of outward supplies of goods or services	Up to INR 1.5 crore	50	2000	
Form GSTR-4	Return for registered person opting for composition levy	-	50	2000	NN 21/2021-CT
Form GSTR-7	Return for Tax Deducted at Source	-	50	2000	NN 22/2021-CT

- However, Late fee is to be capped at INR 500 (CGST + SGST) per return in following cases:
    - Nil outward supplies in Form GSTR-1 (NN 19/2021 - CT)
    - Nil Tax liability in Form GSTR-3B (NN 20/2021 - CT)
    - Nil Tax liability in Form GSTR-4 (NN 21/2021 - CT)

[1]This includes CGST and SGST both

RELAXATION OF INTEREST AND LATE FEE

- For taxpayers having an aggregate turnover in the preceding FY

Class of Registered person	Return	Tax period	Due date	Relief in respect of Interest	Relief in respect of Late Fee	Notification No.
Aggregate turnover more than INR 5 Crore	GSTR-3B	May 2021	20 June 2021	• **9%** - Return filed within first 15 days from due date.	**No late fee** - Return filed within first 15 days from due date Late fee shall be payable from the due date of return in case the return is not filed within 15 days from due date	
Aggregate turnover upto INR 5 Crore		March 2021	**GSTR 3B:** 20 April 2021 **PMT 06:** 22 April 2021[3] / 24 April 2021[4]	• **Nil –** Return filed within first 15 days from due date • **9% p.a-** Return filed after 15th day but before 60th day	**No late fee** - Return filed within first 60 days from due date Late fee shall be payable from the due date of return in case the return is not filed within 60 days from due date	NN 18/2021 - CT NN 19/2021 – CT[2]
	GSTR-3B & PMT - 06 challan	April 2021	**GSTR 3B:** 20 May 2021 **PMT 06:** 25 May 2021	• **Nil –** Return filed within first 15 days from due date • **9% p.a. –** Return filed after 15th day but before 45th day	**No late fee** - Return filed within first 45 days from due date Late fee shall be payable from the due date of return in case the return is not filed within 45 days from due date	

[2]Notification No 18/2021 - CT shall be deemed have come into force with effect from the 18 May 2021.
[3]For registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.
[4]For registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.

Class of Registered person	Return	Tax period	Due date	Relief in respect of Interest	Relief in respect of Late Fee	Notification No.
		May 2021	**GSTR 3B:** 20 June 2021 **PMT 06:** 25 June 2021	• **Nil –** Return filed within first 15 days from due date • **9% p.a-** Return filed after 15th day but before 30th day	**No late fee** - Return filed within first 30 days from due date Late fee shall be payable from the due date of return in case the return is not filed within 30 days from due date	
	CMP-08	Quarter ending March 2021	18 April 2021	• **Nil –** Return filed within first 15 days from due date • **9% p.a-** Return filed after 15th day but before 60th day	None	NN 18/2021 - CT

AMNESTY SCHEME REGARDING LATE FEE FOR PENDING RETURNS (NN 19/2021-CT)

- **Waiver/ Reduction in late fee for non-furnishing of return in Form GSTR-3B for all categories of taxpayers**
  For the tax period ***July 2017 to April 2021,*** late fee will be levied as under:
  I. **Maximum Rs 500 (CGST + SGST) per return** - If there is no tax liability
  II. **Maximum Rs. 1000 (CGST+SGST) per return** - If there is any tax liability

  Above rate will be applicable only if Form GSTR-3B is filed between 1 June 2021 to 31 August 2021.

EXTENSION OF DUE DATES

Form	Tax Period	Due Date	Extended Due Date	Notification No.
GSTR-4	FY 2020-21	31 May 2021	31 July 2021	25/2021-CT[5]
ITC -04	Quarter ending March 2021	31 May 2021	30 June 2021	26/2021-CT[6]
GSTR-1	May 2021	11 June 2021	26 June 2021	17/2021-CT
Invoice Furnishing Facility	May 2021	13 June 2021	28 June 2021	27/2021-CT

[5]Notification No 25/2021 - CT shall be deemed have come into force with effect from the 31 May 2021.
[6]Notification No 26/2021 - CT shall be deemed have come into force with effect from the 31 May 2021

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