LKS UPDATE

5 APRIL 2023

An e-update to clients from Lakshmikumaran & Sridharan

INDIRECT TAX

GST Update on changes in CGST Rules and various notifications

UPDATE NO. 22 OF 2023

Lakshmikumaran & Sridharan attorneys

exceeding expectations
SINCE 1985

The following amendments have been made to Central Goods and Services Tax Rules, 2017 (**'CGST Rules'**), various notifications have been introduced and previous notifications have been amended pursuant to the recommendations made by the 49th GST Council Meeting.

The changes are as follows:

A. Special procedure for revocation of cancellation of registration (w.e.f. 31 March 2023)
[Notification No. 03/2023-Central Tax dated 31 March 2023]

- Special procedure has been prescribed for registered persons whose registration has been cancelled for non-furnishing of returns under clauses (b) or (c) of Section 29(2) of the Central Goods and Services Tax Act, 2017 (**'CGST Act, 2017'**) on or before 31 December 2022 and who have failed to apply for revocation of cancellation of such registration within 30 days from the date of cancellation by the proper officer.

- To avail the benefit under the above notification,
    1. Registered person may apply for revocation of cancellation of such registration up to 30 June 2023,
    2. Returns due up to effective date of cancellation of registration should have been furnished,
    3. Payment of tax due, along with interest, penalty and late fee should have been paid,
    4. No further extension of time period available for filing the said application,

- The aforesaid benefit extends to the following persons:
    1. Persons who failed to apply for revocation of cancellation of registration within time specified in Section 30 and
    2. A person whose appeal against the order of cancellation of registration or order rejecting application for revocation of cancellation of registration has been rejected on ground of failure to adhere to time limit specified under Section 30(1).

LKS COMMENTS

The aforesaid extension in filing for revocation of cancellation of registration has been introduced pursuant to the recommendations of the GST Council in the 49th Meeting.

B. Extension of time limit to issue order under Section 73(10) (w.e.f. 31 March 2023)

- Notification No. 09/2023-Central Tax dated 31 March 2023 extends the time limit under Section 73(10) of the CGST Act, 2017 for issuance of order for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized under 73(9) relating to the period as specified below, namely-

FY	Extended Upto
2017-18	31 December 2023
2018-19	31 March 2024
2019-20	30 June 2024

C. Special Procedure for non-filers of returns (w.e.f. 31 March 2023)

- The Central Government by Notification No. 06/2023-Central Tax, dated 31 March 2023 notifies that the registered persons who failed to furnish a valid return within a period of 30 days from service of assessment order issued on or before 28 February 2023 under Section 62(1), as the classes of registered persons, in respect of whom said assessment order shall be deemed to have been withdrawn if:
    1. registered persons furnished the said return on or before the 30 June 2023,
    2. return is accompanied by payment of interest under Section 50(1) and late fee payable under Section 47,

- The same shall be available irrespective of whether or not an appeal had been filed against such assessment order under Section 107 of the CGST Act or whether or not the appeal, if any, filed against the said assessment order has been decided.

D. Amnesty Scheme for failure to furnish Annual Return (w.e.f. 31 March 2023)

- Notification No. 07/2023-Central Tax dated 31 March 2023 waives the amount of late fee referred to in Section 47 in respect of GSTR-9 for the FY 2022-23 onwards, which is in excess of amount as specified in Column (3) of the Table below, for the classes of registered persons mentioned in the corresponding entry in Column (2) of the Table below, who fail to furnish the return by the due date:

Sl.No	Class of registered persons	Amount
(1)	(2)	(3)
1	Registered persons having an aggregate turnover of up to INR 5 crore in the relevant FY.	INR 25 per day, subject to a maximum of an amount calculated at 0.02 per cent. of turnover in the State or Union territory.
2	Registered persons having an aggregate turnover of more than INR 5 crore and up to INR 20 crore in the relevant FY.	INR 50 per day, subject to a maximum of an amount calculated at 0.02 per cent. of turnover in the State or Union territory.

- It has been further provided that the registered persons who fail to furnish GSTR-9 for any of the FY 2017-18, 2018-19, 2019-20, 2020-21 or 2021-22, but furnish the said return between the period from 1 April 2023 to 30 June 2023, the total amount of late fee payable in respect of the said return, shall stand waived which is in excess of INR 10,000.

LKS COMMENTS

The aforesaid scheme has been introduced pursuant to the recommendations of the GST Council in the 49th Meeting.

E. Conditional waiver of late fee on failure to furnish GSTR-10 (w.e.f. 31 March 2023)

- Notification No. 08/2023-Central Tax dated 31.03.2023 waives the amount of late fee referred in Section 47, which is in excess of INR 500 for the registered persons who fail to furnish the final return in Form GSTR-10 by the due date but furnish the said return between 1 April 2023 to 30 June 2023.

LKS COMMENTS

The aforesaid conditional waiver has been introduced pursuant to the recommendations of the GST Council in the 49th Meeting.

F. Authentication of Aadhaar number (w.e.f. 26 December 2022)

[Notification No. 04/2023 - Central Tax dated 31.03.2023]

- Central Goods and Services Tax (Amendment) Rules, 2023 has substituted sub-rule (4A) to Rule 8 of the CGST Rules, 2017 to provide that where an applicant, other than a person notified under Section 25(6D), opts for authentication of Aadhaar number, he shall, while submitting the application under Rule 8(4), undergo authentication of Aadhaar number.

- The date of submission of the application in such cases shall be the date of authentication of the Aadhaar number or 15 days from the submission of application in Part B of Form GST REG-01 under Rule 8(4), whichever is earlier.

- The biometric based Aadhaar authentication and verification procedures introduced by Notification No. 26/2022-Central Tax dated 26 December 2022 to Rule 8 w.r.t. person who has opted for authentication of Aadhaar number and is identified on common portal, based on data analysis and risk parameters, now form a part of the proviso to Rule 8(4A).

- Parallel changes have been brought to sub-rule (4B) to Rule 8 where the words, "provisions of", have been substituted by 'proviso to'.

- Similarly, the above amendments have been brought in Notification No. 27/2022 by Notification No. 05/2023-Central Tax dated 31 March 2023 (w.e.f. 26 December 2022) issued in exercise of powers under Rule 8(4B).

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LKS COMMENTS

The said amendment generally provides for the requirement of undergoing authentication of Aadhaar Number by persons who have opted for the same.

G. Conditional waiver of late fee on failure to furnish GSTR-4

- Late fee payable under Section 47 for failure to furnish GSTR-4 has been waived to the extent that the same is in excess of INR 250 and shall stand fully waived where the total amount of central tax payable in the said return is nil, for the registered persons who fail to furnish the return in Form GSTR-4
  1. for the quarters from July, 2017 to March 2019 or
  2. for the FY from 2019-20 to 2021-22 by the due date

  but furnish the said return between the period from 1 April 2023 to 30 June 2023.

- Notification 73/2017-Central Tax has been amended by Notification No. 02/2023-Central Tax dated 31 March 2023 (w.e.f. 31 March 2023) to insert proviso 7 to the same.

LKS COMMENTS

The aforesaid conditional waiver has been introduced pursuant to the recommendations of the GST Council in the 49th Meeting.

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

www.lakshmisri.com

Lakshmikumaran & Sridharan
attorneys

exceeding expectations
SINCE 1985