L&S UPDATE

An e-update to clients from Lakshmikumaran & Sridharan

30 SEPTEMBER 2022

INDIRECT TAX

GST Update on changes effective from 1 October 2022

UPDATE NO. 48 OF 2022

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exceeding expectations
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I. WITH EFFECT FROM 1 OCTOBER 2022, FOLLOWING AMENDMENTS HAVE BEEN CARRIED OUT IN CGST RULES[1]

[Notification No. 19/2022-Central Tax, dated 28 September 2022]

A. Cancellation of GST Registration [Insertion of clause (h) in Rule 21]

- Registration granted to a person is liable to be cancelled under the following additional circumstances:
    - Registered person has not furnished the **monthly return** in Form GSTR-3B, as prescribed under sub-section (1) of Section 39 of CGST Act[2], for a continuous period of six months.
    - Registered person has not furnished the **quarterly return** in Form GSTR-3B, as prescribed under proviso to sub-section (1) of Section 39 of the CGST Act, for a continuous period of two tax periods.

B. Clarificatory amendments in respect of Form GSTR-2

- **Omission of reference of Form GSTR-2 [Amendments in Rules 36(2), 38, 42 & 43]**
    - Previously, Rule 36(2) provided that 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.**
    - In line with the amendments made by the Finance Act, 2022, Rule 36(2) has been amended to remove the reference of Form GSTR-2.
    - Similar amendment has also been carried out in **Rule 38** (Claim of credit by a banking company or a financial institution), **Rule 42** (Manner of determination of input tax credit in respect of inputs or input services and reversal thereof) and **Rule 43** (Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases).

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[1]Central Goods and Services Tax Act, 2017

[2]Central Goods and Services Tax Act, 2017

- **Clarificatory amendment in Rule 36(4)**
    - Clause (b) of Rule 36(4) has been amended to provide that the details of **input tax credit in respect of** such invoices or debit notes have been communicated to the registered person in Form GSTR-2B under sub-rule (7) of Rule 60.
    - Previously, the term "input tax credit in respect of" was not mentioned.
- **Consequential omission of certain Rules [Omission of Rule 69, 70, 71, 72, 73, 74, 75, 76, 77 and 79]**
    - Finance Act, 2022 has removed the requirement of furnishing details of inward supplies (Form GSTR-2)
    - Consequently, the corresponding rules relating to matching, acceptance and communication of discrepancy in respect of input tax credit and output tax liability have also been omitted.
- **Form GSTR-1A, Form GSTR-2 and Form-3 have been omitted.**
- **Reference of Form GSTR-3 has been omitted in Rule 96 [Refund of integrated tax paid on goods or services exported out of India].**

C. Reversal of input tax credit in the case of non-payment of consideration [Amendment in Rule 37]

- Rule 37(1) has been amended to provide that a registered person who fails to pay the amount towards the value of supply along with the tax payable thereon to the supplier, within a period of one hundred and eighty days from the date of issue of invoice by the supplier, shall pay an amount equal to the input tax credit availed in respect of such supply along with interest payable thereon under Section 50, while furnishing the return in Form GSTR-3B for the tax period immediately following the period of one hundred and eighty days from the date of the issue of the invoice.
- Consequential omission of Rule 37(3) has been done which previously provided for payment of interest at the rate notified under sub-section (1) of Section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid.

L&S comments:

The dispute regarding the payment of interest under Section 50(1) has been put to rest. However, the amended Rule has not clarified the manner of computation of interest. It is to be analysed if interest is payable even when the input tax credit has not been utilised.

D. Electronic Liability Register [Amendment in Rule 85]

- Previously, Rule 85(2) provided that the electronic liability register of the person shall *inter-alia* be debited by the amount of tax and interest payable as a result of mismatch under Section 42 or Section 43 or Section 50.

- Now, such requirement has been omitted as the provisions relating to matching, reversal and reclaim / reduction of input tax credit and output tax liability have been omitted *vide* the Finance Act, 2022.

E. Refund under Section 49(6) [Amendment in Rule 89(1)]

- The person claiming refund of any balance in the electronic cash ledger, after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules, is required to furnish Form GST RFD-01.

L&S comments:

The refund was earlier linked to GSTR-3/4/7. The provision is amended to allow refund claims by furnishing the application in form GST RFD-01.

II. RESCINDING OF NOTIFICATION 20/2018-CENTRAL TAX

[Notification No. 20/2022-Central Tax, dated 28 September 2022]

- Notification No. 20/2018-Central Tax notifies the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, before the expiry of eighteen months from the last date of the quarter in which such supply was received.

- Further, the notification has defined the specified persons as any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries and any other person or class of persons as may be specified.

- Now, such Notification has been rescinded by the Government with effect from 1 October 2022.

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