LKS UPDATE

An e-update to clients from Lakshmikumaran & Sridharan

30 DECEMBER 2022

INDIRECT TAX

Amendments to CGST Rules, 2017 and Circulars Nos. 184 and 188

UPDATE NO. 55 OF 2022

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exceeding expectations
SINCE 1985

Notification No. 26/2022-Central Tax dated 26 December 2022 has been issued (w.e.f. 26 December 2022) to implement the recommendations made by the GST Council in its 48th meeting held on 17 December 2022 by way of amendments to the Central Goods and Services Tax Rules, 2017 ('**CGST Rules**').

The amendments as brought out in the CGST Rules, are as follows:

A. Verification of PAN through OTP (Part A of REG-01)

- Earlier, Rule 8(2)(a) of the CGST Rules provided that the Permanent Account Number ('PAN') of the applicant was to be verified by a One Time Password ('OTP') received on the mobile number and e-mail address which was provided by the applicant.
- The rule has been amended to state that the PAN shall be verified through separate OTPs sent to the mobile number and e-mail address which are "linked to the PAN".
- Parallelly, reference of certain words under sub-rule (1) and Clauses (b) and (c) to sub-rule (2) have been deleted as a consequence to the said amendment.

LKS COMMENTS

The said changes have been made in line with the recommendations of the 48th GST Council Meeting to capture PAN-linked mobile number and e-mail address from database maintained by CBDT and record in FORM REG-01 at the time of GST registration.

B. Biometric based Aadhaar Authentication

- Rule 8(4A) has been substituted to provide that the applicant who has submitted an application in Part B of REG-01, has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be required to undergo:
  - biometric-based Aadhaar authentication and taking photograph of the applicant.
  - verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner
  - Further, the application shall be deemed to be complete only after completion of the above process.
  - Rule 8(4B) has been inserted to provide that the Central Government may, on the recommendations of the Council, by notification specify

the States or Union territories wherein the provisions of sub-rule (4A) shall not apply.
- The words "*or sub-rule (4A)*" have been inserted in Rule 8(5) to state that on receipt of application in Part B of REG-01 under sub-rule (4) or (4A), an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.

LKS COMMENTS

- The said changes have been made in line with the recommendations of the 48th GST Council.
- Notification issued in this respect is discussed in the subsequent update.

C. Physical Verification of place of business

Insertion of Proviso (aa) to Rule 9(1) and Rule 9(2)

Proviso (aa) has been inserted to provide that after physical verification of the place of business, and verification of documents where person who has undergone Aadhaar authentication according to Rule 8(4A) and is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business

- Shall either be granted registration, or
- Notice in FORM GST REG-03 may be issued if such application is found to be deficient, or the proper officer requires any clarification with regard to any information provided

within 30 days (and not 7 days) of submission of application,

D. Cancellation of Registration for registered persons required to collect/deduct tax under Section 52/51

Rule 12(3) has been amended to give an option to such persons collecting or deducting tax under Section 51/52 to make a request in writing to the proper officer for cancellation of registration to such persons to whom a certificate of registration in Form REG-06 has been issued under rule 12(2).

E. Reversal of ITC on non payment of consideration within 180 days

Amendment in Rule 37(1) of the CGST Rules

- Rule 37 has been amended retrospectively w.e.f. 1 October 2022 to insert certain words and provide as follows:

(1) A registered person, who has availed of input tax credit on any inward supply of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, but fails to pay to the supplier thereof, the amount towards the value of such supply ***[, whether wholly or***

partly,] *along with the tax payable thereon, within the time limit specified in the second proviso to sub-section(2) of section 16, shall pay* ***[or reverse]*** *an amount equal to the input tax credit availed in respect of such supply?* ***[, proportionate to the amount not paid to the supplier,]*** *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:*

LKS COMMENTS

- It is a welcome amendment whereby the existing dispute as to whether ITC can be availed in proportion to amount paid to the supplier will be put to rest. This amendment is in line with the Rule prevalent prior to 1st October 2022.
- Also, an option to reverse equivalent amount of ITC pertaining to unpaid amount has been specifically incorporated under the provision. This would sort ambiguities with respect to the mechanism for reversing ITC under the said provision.

F. Reversal of ITC in case of non payment of tax by the supplier and re-availment thereof

Rule 37A inserted

- Where ITC in respect of invoice or debit note has been availed, the details of which have been furnished by supplier in GSTR-1 but his GSTR-3B has not been furnished till 30th September of following FY in which ITC in respect of such invoice or debit note has been availed, the said amount of ITC shall be reversed in GSTR-3B on or before 30th day of November following the end of such FY.
- The first proviso to the rule states that where said amount of ITC is not reversed by 30th day of November, such amount shall be payable by the said person along with interest thereon under Section 50.
- If supplier subsequently furnishes the GSTR-3B for the said tax period, the recipient may re-avail the amount of such ITC for a tax period thereafter.

LKS COMMENTS

- Insertion of above rule is in line with the recommendation of the 48th GST Council Meeting. It provides the mechanism for reversal and re-availment of credit in the light of Section 41 read with Section 16(2)(c) of the CGST Act.

- The recipient will have to keep a check on the filing status of GSTR-3B of the supplier.
- The applicability of the said provision is to be seen in those cases where the supplier has filed the GSTR-3B with part payment of tax.
- Further, there is also a need to examine the applicability of time limit in cases where ITC has been availed by the recipient in the next FY succeeding the FY to which such invoice pertains (within the time limit as given under CGST Act).
- It may be noted that if such ITC is reversed on or before 30th November, then no interest would be applicable on such reversal. However, interest would be applicable if reversal is made after such date.
- There is no mechanism to reclaim the interest amount which was paid at the time of reversal, if any.

G. Particulars of a tax invoice to an unregistered recipient

Proviso to Rule 46(f) inserted

- Tax invoice issued by registered person to an unregistered recipient, irrespective of value of such supply shall contain the name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient where taxable service is supplied:
  - By or through electronic commerce operator ('ECO') or
  - By a supplier of online information and database access or retrieval services

LKS COMMENTS

The provision may have an impact in determination of the place of supply in terms of the provisions of IGST Act.

H. Particulars of Invoice-cum-bill of supply

Proviso to Rule 46A inserted

Single invoice-cum-bill of supply shall contain particulars specified under:

- Rule 46 or Rule 54, as the case may be,
- And Rule 49

LKS COMMENTS

Hence, such invoice-cum-bill of supply shall contain particulars prescribed for both tax invoice and bill of supply.

I. Manner of dealing with differential liability between Form GSTR-1 and GSTR-3B

Rule 88C inserted to provide as follows

- Where tax payable for a tax period under GSTR-1 exceeds the amount of tax payable under GSTR-3B, by such amount and such percentage as may be recommended by the Council, an intimation in Part A of Form DRC-01B of such difference shall be given on the common portal and e-mail directing to:
  - Pay the differential tax liability with interest under Section 50 through Form DRC-03, or
  - Explain the aforesaid difference in tax payable on the common portal.
- On receipt of DRC-01B, registered person shall within a period of 7 days,
  - Either pay such differential tax liability fully or partially with interest and furnish details thereof and furnish the same in Part B of Form DRC-01B electronically on the common portal, or
  - Furnish a reply electronically on common portal incorporating reasons in respect of unpaid differential liability, if any, in Part B of Form DRC-01B.
- In case, differential tax liability is not paid within period specified, or where no explanation or reason is furnished by registered person or where such reason is not found to be acceptable by proper officer, the said amount shall be recoverable in accordance with Section 79 of the CGST Act.
- A new form DRC-01B has also been inserted for the said purposes.

LKS COMMENTS

The insertion is in line with the recommendations of the 48^{th} GST Council. Further, the same is in line with Section 75(12) and explanation to the same.

J. Insertion of clause (d) to Rule 59(6)

In case intimation is received under Rule 88C, such person shall not be allowed to furnish GSTR-01 for a subsequent tax period, unless he has either deposited the amount specified in intimation or has furnished a reply explaining the reasons for any amount remaining unpaid under Rule 88C(2).

LKS COMMENTS

The amendment is in line with the recommendations of the 48th GST Council.

K. Insertion of proviso to Rule 87(8)

A proviso has been inserted to the Rule 87(8) to provide that where the bank fails to communicate details of Challan Identification Number ('CIN') to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the Reserve Bank of India in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.

L. Substitution of Form DRC-03

Row 3A has been inserted in the substituted Form DRC-03 for intimation of payment of tax on account erroneous refund on export of goods. In this regard, the following details shall also be intimated:

- Shipping Bill/Bill of Export No. & Date
- Amount of IGST paid on export of goods:
- Notification No. used for procuring inputs at concessional rate or exemption:
- Date of notification:
- Amount of refund received:
- Amount of erroneous refund to be deposited:
- Date of credit of refund in Bank Account

LKS COMMENTS

The said row has been inserted in the Form DRC-03 to specifically provide for a ground of payment of tax in cases where erroneous refund was sanctioned.

M. Amendment to Form REG-19

Form REG-19 for the order for cancellation of registration has been substituted.

N. Refund of Tax to Unregistered Persons upon Cancellation of Services

- Amendment in Rule 89 of the CGST Rules:
    - Clauses (ka) and (kb) have been inserted in sub-rule (2) of rule 89 to prescribe the documentary evidence to be submitted in Annexure-01 of Form GST RFD-01 for cancellation of services.
    - The following documents have been prescribed under clause (ka):
        (i) a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices,
        (ii) proof of making such payment to the supplier,
        (iii) the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service,
        (iv) the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service,
        (v) details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof
- Further, clause (kb) prescribes for requirement of a certificate issued by the supplier to the effect that
    - he has paid tax in respect of the invoices on which refund is being claimed by the applicant;
    - that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also,
    - that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated
- There is no requirement to furnish certificate issued by CA/cost accountant [in Annexure 2 of Form GST RFD-01 as prescribed under clause (m) for declaring that incidence of tax has not been passed where refund claim exceeds two lakh rupees] by the unregistered person who has borne the incidence of tax. A second proviso has been inserted after proviso in clause (m) to exempt requirement of such certificate in case of unregistered person.
- Statement-8 has been inserted in Annexure 1 to the Form GST RFD-01 for providing the details of tax paid and refund to be claimed by unregistered persons.
- Circular No. 188/20/2022-GST dated 27 December 2022 (Circular No. 188): Prescribing manner of filing an application for refund by unregistered persons
    - Circular No. 188 states that an unregistered person can claim refund under section 54(1) read with Section 54(8)(e), who has borne the incidence of tax.

- The following procedure for claiming refund has been prescribed:-
    - A new functionality has been made available on the common portal which allows unregistered persons to take a temporary registration and apply for refund under the category '***Refund for Unregistered person***'.
    - The unregistered person shall obtain a temporary registration on the common portal using his Permanent Account Number (PAN).
        - Registration is to be obtained in the Same State/UT where the supplier is registered.
        - Where the suppliers are registered in different State/UT, temporary registration is to be obtained in each of the concerned State/UT.
    - Aadhar authentication (as prescribed under rule 10B) has to be done.
    - Bank account details in which refund is required is to be entered. The details of the bank account which is in his name and has been obtained on his PAN should be provided.
    - Application is to be filed in RFD-01 and Statement 8 (in pdf format) is to be uploaded with all requisite documents including certificate issued by supplier in terms of clause (kb) of Rule 89(2) of the CGST Rules.
    - Separate applications have to be filed for different suppliers.
- The Circular No. 188 has also clarified that:
    - <u>Claim is to be filed only on expiry of time limit for issuance of credit note:</u> The refund claim can be filed only in those cases where at the time of cancellation/termination of agreement/contract, the time period for issuance of credit note under section 34 of the CGST Act has already expired. In case time period for issuance of credit note has not expired, the supplier has to issue credit note and refund the amount of tax collected from unregistered customer.
    - <u>The refund claim is to be filed within two years from the date of cancellation:</u> The date of issuance of letter of cancellation of the contract/ agreement for supply by the supplier will be considered as the date of receipt of the services by the applicant for the purpose of section 54(2)(g) of the CGST Act. The time period of two years has to be calculated from such date.
    - <u>No refund shall be paid where amount is less than 1000 rupees</u> [in terms of section 54(14) of the CGST Act].
    - <u>Tax amount proportionate to the amount paid by the supplier to the recipient shall be refunded:</u> In case where the amount paid back by the supplier to the unregistered person is less than amount paid by such person to the supplier, then only the proportionate amount of tax involved in such amount paid back shall be refunded to the unregistered person.

LKS COMMENTS

- In various decisions, the tribunals/authorities had held that the relevant date for computing time period for filing refund application should be calculated from the date of cancellation of service. The circular seems to be in line with such decisions.
- It has to be examined whether refund can also be claimed by unregistered persons in respect of other services.
- Though from the literal interpretation of Section 34, the situation of cancellation of service contract does not appear to be a fit case for issuance of credit note, the Circular seems to extend the benefit even in such cases. Similar guidance in this regard was earlier issued through FAQ for real estate sector in past.
- Eligibility to claim refund in the hands of supplier may have to be examined in those cases where recipient has made part payment of the invoice value to the supplier and supplier has discharged GST on the full invoice value and the contract is cancelled subsequently.
- It has to be examined whether eligibility to issue credit note vis-à-vis refund has to be seen at invoice level or agreement level.

- **Amendment in Rule 108(3) and Rule 109 of CGST Rules, 2017**
  - Rule 108 mandated filing of certified copy of decision or order appealed against.
  - Amendment has been made in Rule 108 to do away with the requirement of filing of certified copy of decision/order.
  - After amendment the date of issuance of provisional acknowledgement shall be considered as the date of filing of appeal in the following cases:
    - The decision or order appealed against is uploaded on the common portal.
    - A self-certified copy is filed within a period of 7 days from the date of filing of Form APL-01 where the decision or order appealed against is not uploaded on the common portal.
  - In case the self-certified copy is not filed within 7 days of filing of Form APL-01, then date of submission of such copy shall be considered as the date of filing of appeal.
  - Rule 109 prescribed the procedure for filing of such appeal/application by department against decision of adjudicating authority. Procedural changes similar to Rule 108(3) have also been made for filing such application by department by way of amendment in Rule 109.

LKS COMMENTS

- The taxpayers were facing difficulties in obtaining and filing certified copy of the orders resulting into expiry of time limit for filing the appeal. Petitions were also filed in High Court for condonation of delay on account of non-submission of certified copy of orders [Refer: M/s. Atlas PVC Pipes Limited vs State of Orissa & Others reported at 2022 (7) TMI 130].
- The amendment to do away with requirement of submission of certified copy of order is a welcome relief for taxpayers and shall help in timely filing and processing of appeals and ease the compliance burden on the appellants.

- **Facility for Withdrawal of an Application of Appeal**
  - The newly inserted Rule 109C allows appellants to withdraw their appeal at any time before issuance of show cause notice or order under Section 107(11) by filing application for withdrawal in Form GST APL-01/03W.
  - The withdrawal is subject to the approval of the appellate authority in a case where the final acknowledgment in Form GST APL-02 has been issued on filing the appeal. The appellate authority has to decide on allowing withdrawal within 7 days of filing of the application.
  - The reasons for withdrawal to be mentioned in Form GST APL-01/03W, are as under:
    - i. Acceptance of order of the adjudicating authority.
    - ii. Acceptance of order of a Higher Appellate Authority/ Court on similar subject matter.
    - iii. Need to file appeal again after rectification of mistakes/omission in the filed appeal.
    - iv. Amount involved in appeal is less than the monetary limit fixed for Appeal by the Board/Commissioner.
    - v. Any other reason.
  - Any fresh appeal after withdrawal shall be filed within the time limit prescribed under Section 107.

LKS COMMENTS

The above amendment provides a procedure for withdrawal of appeal under GST law itself.

Miscellaneous changes

Amendment in Rule 138

- No e-way bill is required for transportation of goods specified in Annexure to sub-rule (14) of Rule 138, which inter-alia specified '*Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)*'in S. No. 5 of the Annexure.

LKS COMMENTS

Amendment is made to exclude 'imitation jewellery (7117)' from the above specified list. Thus, e-waybill would be required for movement of imitation jewellery.

Amendment in Rule 161

- Rule 161 has been amended to substitute the reference of 'order' with 'intimation or notice' for the reduction or enhancement of any demand under Section 84 shall be issued in FORM GST DRC- 25.

Amendment in GSTR-1

- In furtherance of the proposal of the Council to provide for reporting of details of supplies made by the supplier through E-Commerce Operators (ECOs) which are covered under Section 52 and Section 9(5) of CGST Act, 2017, the following amendments have been made:
    - Tables 14 and 14A have been inserted for furnishing details and amendments in the details of supplies made through e-commerce operators ('ECO') on which ECO are liable to collect tax under Section 52 or liable to pay tax under Section 9(5). These details are to be furnished by the suppliers making supplies through ECO.
    - Table 15 has been inserted for furnishing details of supplies made through ECO on which ECO is liable to pay tax under Section 9(5). These details are to be furnished by the ECO. Separate fields are provided for furnishing details of supplies made by registered and unregistered suppliers making supplies through ECO.

- Tables 15A(I) and 15A(II) have been inserted for amendment to details of supplies made by registered and unregistered suppliers, respectively, through ECO, on which ECO is liable to pay tax under Section 9(5).

- The amended Form GSTR-1 highlighting the changes is as under:

GST Form GSTR-1

[See Rule (59(1)]

Details of outward supplies of goods or services

1.		**GSTIN**	
2.	a.	Legal name of the registered person	
	b.	Trade name, if any	
3.	a.	ARN	<Auto>
	b.	Date of ARN	<Auto>

4. Taxable outward supplies made to registered persons (including UIN-holders) other than supplies covered by Table 6

(Amount in Rs. For all Tables)

GSTIN/ UIN	Invoice details			Rate	Taxable	Amount				Place of Supply (Name of State/UT)
	No.	Date	Value			Integrated Tax	Central Tax	State/ UT Tax	Cess	
1	2	3	4	5	6	7	8	9	10	11
4A. Supplies other than those " attracting reverse charge (including supplies made through e-commerce operator attracting TCS)" shall be substituted;										
4B. Supplies attracting tax on reverse charge basis										

5. Taxable outward inter-State supplies to un-registered persons where the invoice value is more than ₹ 2.5 lakh

Place of Supply (State/UT)	Invoice details			Rate	Taxable Value	Amount	
	No.	Date	Value			Integrated Tax	Cess
1	2	3	4	5	6	7	8
5A. Outward supplies (including supplies made through e-commerce operator, rate wise)							

[2][6. Zero rated supplies and Deemed Exports

GSTIN of recipient	Invoice details			Shipping bill/ Bill of export		Integrated Tax			Central Tax			State / UT Tax			Cess
	Rate	Taxable value	Amt.	No.	Date	Rate	Taxable value	Amt.	Rate	Taxable value	Amt.	Rate	Taxable value	Amt.	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
6A. Exports															
6B. Supplies made to SEZ unit or SEZ Developer															
6C. Deemed exports															

7. Taxable supplies (Net of debit notes and credit notes) to unregistered persons other than the supplies covered in Table 5

Rate of tax	Total Taxable value	Amount			
		Integrated	Central	State Tax/UT Tax	Cess
1	2	3	4	5	6
7A. Intra-State supplies					

Rate of tax	Total Taxable value	Amount			
7A. Intra-State supplies					
7A Consolidated rate wise outward supplies [including supplies made through e-commerce operator attracting TCS]					
7B. Inter-State Supplies where invoice value is upto upto Rs 2.5 Lakh [Rate wise]– Consolidated rate wise outward supplies [including supplies made through ecommerce operator attracting TCS]					
7B Place of Supply (Name of State)					

8. Nil rated, exempted and non GST outward supplies

Rate of tax	Nil Rated Supplies	Exempted (Other than Nil rated/ non-GST Supply	Non-GST Supplies
1	2	3	4
8A. Inter-State supplies to registered persons			
8B. Intra- State supplies to registered person			
8C. Inter-State supplies to unregistered persons			
8D. Intra-State supplies to unregistered persons			

9. Amendments to taxable outward supply details furnished in returns for earlier tax periods in Table 4, 5 and 6 [including debit and credit notes issued during current period and amendments thereof]

Details of original document			Revised details of document or details of original Debit or Credit Notes						Rate	Taxable Value	Amount				Place of supply
GSTIN	No.	Date	GSTIN	Document		Shipping Bill		Value			Integrated Tax	Central Tax	State/ UT Tax	Cess	
				No.	Date	No.	Date								
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
9A. Amendment of invoice/Shipping bill details furnished earlier															
9B. Debit Notes/Credit Notes/ [original]															
9C. Debit Notes/Credit Notes/ [original]															

10. Amendments to taxable outward supplies to unregistered persons furnished in returns for earlier tax periods in Table 7

Rate of tax	Total Taxable value	Amount			
		Integrated	Central	State/UT Tax	Cess
1	2	3	4	5	6
Tax period for which the details are being revised <Month/Quarter>					
10A. Intra-State Supplies [including supplies made through e-commerce operator attracting TCS] [Rate wise]					
10B. Inter-State Supplies [including supplies made through e-commerce operator attracting TCS] [Rate wise]					
Place of Supply (Name of State)					

11. Consolidated Statement of Advance Received/Advance adjusted in the current tax period/Amendments of information furnished in earlier tax period (Net of refund vouchers, if any)

Rate	Gross Advance Received/adjusted	Place of supply	Amount			
			Integrated	Central	State/UT Tax	Cess
1	2	3	4	5	6	7
I information for the current tax period						
11A. Advance amount received in the tax period for which invoice has not been issued (tax amount to be added to output tax liability)						
11A (1). Intra-State supplies (Rate Wise)						
11A (2). Inter-State Supplies (Rate Wise)						
11B (1). Intra-State Supplies (Rate Wise)						
11 (2). Inter-State Supplies (Rate Wise)						
II Amendment of information furnished in Table No. 11[1] in GSTR-1 statement for earlier tax periods [Furnish revised information]						

Month	Amendment relating to information furnished in S. No. (Select)	11A(1)	11A(2)	11B(1)	11B(2)

12. HSN-wise summary of outward supplies

Sr. No.	HSN	Description	UQC	Total Quantity	[3][Rate of Tax]	Total Taxable Value	Amount			
							Integrated Tax	Central Tax	State/ UT Tax	Cess
1	2	3	4	5	6	7	8	9	10	11

13. Documents issued during the tax period

Sr. No.	Nature of document	Sr. No.		Total Number	Cancelled	Net Issued
		From	To			
1	**2**	**3**	**4**	**5**	**6**	**7**
1	Invoices for outward supply					
2	Invoices for inward supply from unregistered person					
3	Revised Invoice					
4	Debit Note					
5	Credit Notes					
6	Receipt Voucher					
7	Payment Voucher					
8	Refund voucher					
9	Delivery Challan for job work					
10	Delivery Challan for supply on approval					
11	Delivery Challan in case of liquid gas					
12	Delivery Challan in cases other than by way of supply (excluding at S no. 9 to 11)					

14. Details of the supplies made through e-commerce operators on which e-commerce operators are liable to collect tax under section 52 of the Act or liable to pay tax u/s 9(5) [Supplier to report]

Nature of supply	GSTIN of e-commerce operator	Net value of supplies	Tax amount			
			Integrated tax	Central tax	State/ UT tax	Cess
1	**2**	**3**	**4**	**5**	**6**	**7**
(a) Supplies on which e- commerce operator is liable to collect tax u/s 52						
(b) Supplies on which e- commerce operator is liable to pay tax u/s 9(5)						

14A. Amendment to details of the supplies made through e-commerce operators on which e-commerce operators are liable to collect tax under section 52 of the Act or liable to pay tax u/s 9(5) [Supplier to report]

Nature of supply	Original details		Revised details	Net value of supplies	Amount			
	Month/ Quarter	GSTIN of e-commerce operator	GSTIN of e-commerce operator		Integrated Tax	Central Tax	State/ UT Tax	Cess
1	2	3	4	5	6	7	8	9
(a) Supplies on which e-commerce operator is liable to collect tax u/s 52 (b) Supplies on which e-commerce operator is liable to pay tax u/s 9(5)								

15. Details of the supplies made through e-commerce operators on which e-commerce operator is liable to pay tax u/s 9(5) [e-commerce operator to report]

Type of supplier	Type of recipient	GSTIN of supplier	GSTIN of recipient	Doc. No.	Doc. Date	Rate	Value of Supplies made	Tax Amount				Place of Supply
								Integrated Tax	Central Tax	State/ UT Tax	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13
Registered	Registered											
Un-registered	Un-registered											

15A (I). Amendment to details of the supplies made through e-commerce operators on which e-commerce operator is liable to pay tax u/s 9(5) [e-commerce operator to report, for registered recipients]

Type of supplier	Original details				Revised details				Rate	Value of supplies made	Tax amount				Place of supply
	GSTIN of supplier	GSTIN of recipient	Doc. No.	Doc. Date	GSTIN of supplier	GSTIN of recipient	Doc. No.	Doc. Date			Integrated Tax	Central Tax	State/ UT Tax	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Registered Un-registered															

15A (II). Amendment to details of the supplies made through e-commerce operators on which e-commerce operator is liable to pay tax u/s 9(5) [e-commerce operator to report, for unregistered recipients]

Type of supplier	Original details		Revised details	Rate	Value of supplies made	Amount				Place of supply
	GSTIN of supplier	Tax period	GSTIN of supplier			Integrated Tax	Central Tax	State/ UT Tax	Cess	
1	2	3	4	5	6	7	8	9	10	11
Registered										
Un-registered										

Verification

I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed there from and in case of any reduction in output tax liability the benefit thereof has been/will be passed on to the recipient of supply.

Signature
Name
Place
of Authorised Signatory.....................................

Date
Designation /Status...

LKS COMMENTS

- Table 3.1.1. was inserted in Form GSTR-3B vide Notification No. 14/2022–Central Tax dated 05.07.2022. The supplier and ECO were required to report supplies on which ECO is liable to pay tax under Section 9(5) in the said table. Corresponding amendments have now been made in Form GSTR-1.
- It may be noted that ECO as a deemed supplier in respect of supplies notified under Section 9(5) is required to report such supplies in GSTR-1 also. However, there was no specific table for furnishing the details of such supplies in GSTR-1 and such details could have been reported only in Table 4 along with other taxable supplies made by ECOs, thereby making it a part of the outward supplies of the ECO.
- Vide the above amendment, clear bifurcation have been made in respect of supplies made by ECO and supplies in respect of which ECO is merely liable to pay tax under Section 9(5).

Circular No. 184/16/2022-GST dated 27 December 2022

- Clarification on Place of Supply of Services of Transportation of Goods
  - Clarification has been issued on entitlement of input tax credit where the place of supply of services of transportation of goods falls outside India in terms of the proviso to sub-section (8) of section 12 of the Integrated Goods and Services Tax Act, 2017.

Sr. No.	Issue	Clarification
1	In case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, what would be the place of supply of the said services?	It has been clarified that in case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, the place of supply is the concerned foreign destination where the goods are being transported, in accordance with the proviso to the sub-section (8) of section 12 of IGST Act, which was inserted vide the Integrated Goods and Services Tax (Amendment) Act, 2018 w.e.f. 1 February 2019.
2	Whether the supply of services will be treated as inter-State supply or intra-State supply?	It has been clarified that the aforesaid supply of services would be considered as inter-State supply in terms of sub-section (5) of section 7 of the IGST Act since the location of the supplier is in India and the place of supply is outside India. Therefore, IGST would be chargeable.

Sr. No.	Issue	Clarification
3	Whether the recipient of service of transportation of goods would be eligible to avail input tax credit in respect of the said input service of transportation of goods?	It has been clarified that Section 16 of the CGST Act lays down the eligibility and conditions for taking input tax credit whereas, Section 17 of the CGST Act provides for apportionment of credit and blocked credits under circumstances specified therein. The said provisions of law do not restrict availment of input tax credit by the recipient located in India if the place of supply of the said input service is outside India. Thus, the recipient of service of transportation of goods shall be eligible to avail input tax credit in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in Section 16 and 17 of the CGST Act.
4	What state code has to be mentioned by the supplier of the said service of transportation of goods, where the transportation of goods is to a place outside India, while reporting the said supply in FORM GSTR-1?	The supplier of service shall report place of supply of such service by selecting State code as '96- Foreign Country' from the list of codes in the dropdown menu available on the portal in FORM GSTR-1.

LKS COMMENTS

- This is a welcome clarification whereby the ongoing dispute with respect to eligibility to claim input tax credit of such transportation services where the supplier and recipient are located in India but the place of supply of service falls outside India will be put to rest.
- It is to be seen if the clarification in Sl. No. 3 can also be helpful to settle the disputes raised on eligibility to claim input tax credit for domestic transactions where the place of supply for inward supplies is different from the State where recipient is located.
  Omission of proviso to Section 12(8) of the IGST Act as recommended by the 48th GST Council meeting may be brought out through the amendment in Finance Act during the upcoming budget.

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