



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

PROFESSIONAL PROGRAMME (OLD SYLLABUS)

SUPPLEMENT FOR ADVANCE TAX LAWS AND PRACTICE

(PART B- CUSTOMS, GOODS AND SERVICES TAX)

MODULE 3-PAPER 7

Disclaimer-

This document has been prepared purely for academic purposes only and it does not necessarily reflect the views of ICSI. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.

Students appearing in December, 2020 Examination shall note the following:

1. For Direct taxes, Finance Act, 2019 is applicable.
2. Applicable Assessment year is 2020-21 (Previous Year 2019-20).
3. For Indirect Taxes:
 - i) Goods and Services Tax 'GST' & Customs Law is applicable for Professional Programme (Old Syllabus)

Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBIC & Central Government, on or before six months prior to the date of the examination.

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Lesson 5

Customs Laws: Introduction and Basic Concepts, Valuation, Assessment of Imported and Export Goods and Procedural Aspects

Notification to exempt specified goods from Health Cess imposed on the medical devices falling under heading 9018 to 9022 in terms of clause 139 of the Finance Bill, 2020

Notification No. 8/2020 –Customs, dated 2nd February, 2020

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) read with clause 139 of the Finance Bill, 2020, which, by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931), has the force of law, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (2) of the Table below and falling within the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), from the whole of the Health Cess leviable thereon under the said clause of the Finance Bill:

Provided that in case of goods specified in the said Table, the exemption under this notification shall be subject to the condition, if any, specified under the respective exemption notifications mentioned therein.

Table

Sl No.	Description of goods
(1)	(2)
1.	All goods falling under heading 9022, other than those for medical, surgical, dental or veterinary uses.
2.	All goods on which exemption is claimed and allowed under the following notifications, namely: - (i) Notification No. 74/2005-Customs, dated the 22 nd July, 2005, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 499(E), dated the 22 nd July, 2005; (ii) Notification No.10/2008-Customs, dated the 15 th January, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 33(E), dated the 15 th January, 2008; (iii) Notification No. 152/2009-Customs, dated the 31 st December, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 943(E), dated the 31 st December, 2009;

	<p>(iv) Notification No. 46/2011-Customs, dated the 1st June, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 423(E), dated the 1st June, 2011;</p> <p>(v) Notification No. 53/2011-Customs, dated the 1st July, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 499(E), dated the 1st July, 2011; and</p> <p>(vi) Notification No. 69/2011-Customs, dated the 29th July, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 593(E), dated the 29th July, 2011.</p>
3.	All goods covered under S. Nos. 216, 216A, 561, 562, 564, 565, 566, 567, 568, 570, 571, 573, 574, 578, 578A, 580 and 581 of the Table annexed to the Notification No. 50/2017-Customs, dated the 30 th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 785(E), dated the 30 th June, 2017.

Notification regarding exemption of duties of Customs against scrips issued under the 2% Additional ad hoc incentive for mobile phones

Notification No. 14/2020 –Customs, dated 14th February, 2020

The Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 24/2015- Customs, dated the 8th April, 2015, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R. 269 (E), dated the 8th April, 2015, namely:-

In the said notification,-

(a) in the opening paragraph, after clause (b), the following proviso shall be inserted, namely:-

“Provided that the said scrip, against which goods when imported into India are exempted from duties mentioned in clauses (a) and (b) above, may include duty credit provided under the 2% Additional Ad Hoc Incentive in terms of paragraph 3.25 of the Foreign Trade Policy.”;

(b) in paragraph 2, in condition (1), after clause (b), the following proviso shall be inserted, namely:-

“Provided that the duty credit in the said scrip under the 2% Additional Ad Hoc Incentive shall be issued against export of following goods, namely:-

- (i) Mobile phones, other than push button type; and
- (ii) Mobile phones, push button type,

falling under HS Codes/tariff lines 85171211 and 85171219 respectively of ITC (HS) 2017 with let export order dates from the 1st January 2020 to the 31st March 2020.

Notification to amend notification No. 8/2020-Customs dated 02.02.2020 to make changes consequential to enactment of Finance Act, 2020

Notification No. 19/2020 – Customs, dated 9th April, 2020

The Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notifications of the Government of India in the Ministry of Finance (Department of Revenue), No. 08/2020-Customs, dated the 2nd February, 2020, published in the Gazette of India, Extraordinary, vide number G.S.R. 68 (E), dated the 2nd February, 2020, namely:-

In the said notification, -

(i) for the words, figures and brackets “clause 139 of the Finance Bill, 2020, which, by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931), has the force of law”, the words, figures and brackets, “section 141 of Finance Act, 2020 (12 of 2020)” shall be substituted;

(ii) for the words “under the said clause of the Finance Bill”, the words “under the said section of the said Finance Act” shall be substituted.

Notification to further amend notification No. 50/2017-Cus dated 30.06.2017 so as to withdraw the concessional rate of 10% available to the import of Bamboo for the manufacture of Agarbattis, and to levy a uniform rate of 25% on import of Bamboos

Notification No. 27/2020 – Customs, dated 9th June, 2020

The Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 50/2017- Customs, dated the 30th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 785(E), dated the 30th June, 2017, namely:-

In the said notification, in the Table, for serial number 55 and the entries relating thereto, the following serial number and entries shall be substituted, namely: -

(1)	(2)	(3)	(4)	(5)	(6)
“55	1401 10 00	Bamboos	25%	-	-”

For more details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs27-2020.pdf;jsessionid=4BDF8E8D29ABA9B59B44C2047DEFAF71>

Lesson 6

Customs Law: Arrival or Departure and Clearance of Imported or Export Goods, Warehousing, Duty Drawback, Baggage and Miscellaneous Provisions

Notification to prescribe the manner and modalities in respect of WTO committed in-quota tariffs on specified items

Notification No. 28/2020 – Customs, dated 23rd June, 2020

The Central Government, so to do, hereby exempts the goods of the description specified in column (3) of the Table below, and falling within the sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as are specified in the corresponding entry in column (2) of the said Table in such quantity of total imports of such goods in a financial year, as specified in column (4) below (herein after referred to as the ‘tariff rate quota (TRQ) quantity’), when imported into India, from so much of the duty of customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the rate specified in the corresponding entry in column (5) of the said Table (herein after referred to as the In-quota tariff rate), subject to any of the conditions, specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column (6) of the said Table; namely: -

Table

S. No.	Sub-heading or tariff item	Description of goods	Tariff rate quota Quantity	In-quota tariff rate	Condition No.
(1)	(2)	(3)	(4)	(5)	(6)
1.	0402 10 or 0402 21 00	Milk and cream in powder, granules or other solid forms, (a) of a fat content by weight not exceeding 1.5%; (b) of a fat content, by weight, exceeding 1.5% - not containing added sugar or other sweetening matter	10000 MT	15 per cent	(i)

For more details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs28-2020.pdf>

Lesson 8

Advance Ruling, Settlement Commission and Appellate Procedure

Notification to amend the notification No. 62/2019-CT dated 26.11.2019 to amend the transition plan for the UTs of J&K and Ladakh

Notification No. 3/2020 – Central Tax, dated 1st January, 2020

The Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 62/2019–Central Tax, dated the 26th November, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 879(E), dated the 26th November, 2019, namely:–

In the said notification,–

(i) in paragraph 2, in clause (iii), for the figures, letters and words “30th day of October, 2019” and “31st day of October”, the figures, letters and words “31st day of December, 2019” and “1st day of January, 2020” shall respectively be substituted;

(ii) in paragraph 3, for the figures, letters and words “31st day of October, 2019”, the figures, letters and words “1st day of January, 2020” shall be substituted.

Notification to appoint Revisional Authority under CGST Act, 2017

Notification No. 5/2020 – Central Tax, dated 13th January, 2020

The Central Board of Indirect Taxes and Customs hereby authorises –

(a) the Principal Commissioner or Commissioner of Central Tax for decisions or orders passed by the Additional or Joint Commissioner of Central Tax; and

(b) the Additional or Joint Commissioner of Central Tax for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax,

as the Revisional Authority under section 108 of the said Act.

Circular to issue clarification in respect of appeal in regard to non-constitution of Appellate Tribunal

Circular No. 132/2/2020 – CGST, dated 18th March, 2020

The prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office. The appellate authority while passing order may

mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office. Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/circular-cgst-132.pdf>

Lesson 11

Central Goods and Services Tax Law “CGST”

Notification to extend the one-time amnesty scheme to file all FORM GSTR-1 from July 2017 to November, 2019 till 17th January, 2020

Notification No. 4/2020 –Central Tax, dated 10th January, 2020

The Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 4/2018– Central Tax, dated the 23rd January, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 53(E), dated the 23rd January, 2018, namely:–

In the said notification, in the third proviso for the figures, letters and word “10th January 2020”, the figures, letters and word “17th January, 2020” shall be substituted.

Notification to extend the last date for furnishing of annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for the period from 01.07.2017 to 31.03.2018

Notification No. 6/2020 –Central Tax, dated 3rd February, 2020

In exercise of the powers conferred by sub-section (1) of section 44 of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with rule 80 of the Central Goods and Services Tax Rules, 2017, the Commissioner, hereby extends the time limit for furnishing of the annual return specified under section 44 of the said Act read with rule 80 of the said rules, electronically through the common portal, in respect of the period from the 1st July, 2017 to the 31st March, 2018, for the class of registered persons.

For further details please visit : <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-06-central-tax-english-2020.pdf>

Notification issued to prescribe due dates for filing of return in FORM GSTR-3B in a staggered manner

Notification No. 7/2020 –Central Tax, dated 3rd February, 2020

The Commissioner hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019, namely:–

In the said notification, after the third proviso, the following provisos shall be inserted, namely:-

“Provided also that the return in FORM GSTR-3B of the said rules for the months of January, 2020, February, 2020 and March, 2020 for taxpayers having an aggregate turnover of up to rupees five crore (Rs. 5 crore) in the previous financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep shall be furnished electronically through the common portal, on or before the 22nd February, 2020, 22nd March, 2020, and 22nd April, 2020, respectively.

Provided also that the return in FORM GSTR-3B of the said rules for the months of January, 2020, February, 2020 and March, 2020 for taxpayers having an aggregate turnover of up to rupees five Crore in the previous financial year, 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 or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi shall be furnished electronically through the common portal, on or before the 24th February, 2020, 24th March, 2020 and 24th April, 2020, respectively.”

Notification to exempt foreign airlines from furnishing reconciliation Statement in FORM GSTR-9C

Notification No. 9/2020 –Central Tax, dated 16th March, 2020

The foreign company which is an airlines company shall not be required to furnish reconciliation statement in FORM GSTR-9C to the Central Goods and Services Tax Rules, 2017 under subsection (2) of section 44 of the said Act read with sub-rule (3) of rule 80 of the said rules.

Provided that a statement of receipts and payments for the financial year in respect of its Indian Business operations, duly authenticated by a practicing Chartered Accountant in India or a firm or a Limited Liability Partnership (LLP) of practicing Chartered Accountants in India is submitted for each GSTIN by the 30th September of the year succeeding the financial year.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-09-central-tax-english-2020.pdf>

Notification to provide special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016

Notification No. 11/2020 – Central Tax, dated 21st March, 2020

The Government notified that those registered persons, who are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 , undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by Interim Resolution Professionals (IRP) or Resolution Professionals (RP), as the class of persons who shall follow the following special procedure, from the date of the appointment of the IRP/RP till the period they undergo the corporate Insolvency Resolution Process, as mentioned below.

Registration- The said class of persons shall, with effect from the date of appointment of IRP/RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP:

Provided that in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days from the commencement of this notification, with effect from date of his appointment as IRP/RP.

Return- The said class of persons shall, after obtaining registration file the first return under section 40 of the said Act, from the date on which he becomes liable to registration till the date on which registration has been granted.

Input Tax Credit-The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made there under, except the provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36 of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as the said rules).

For more details please visit : <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-11-central-tax-english-2020.pdf;jsessionid=5F5EAD4C0161648F74159C2463955E6A>

Notification to make third amendment (2020) to CGST Rules

Notification No. 16/2020 – Central Tax, dated 23rd March, 2020

The Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Third Amendment) Rules, 2020.
- (2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 8, after sub-rule (4), the following sub-rule shall be inserted, namely:-

“(4A) The applicant shall, while submitting an application under sub-rule (4), with effect from 01.04.2020, undergo authentication of Aadhaar number for grant of registration.”.

3. In the said rules, in rule 9, in sub-rule (1), with effect from 01.04.2020, the following subrule shall be inserted, namely:-

“Provided that where a person, other than those notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases.”.

For more details please visit : <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-16-central-tax-english-2020.pdf>

Notification to specify the class of persons who shall be exempted from aadhaar authentication

Notification No. 17/2020 – Central Tax, dated 23rd March, 2020

The Central Government, on the recommendations of the Council, hereby notifies that the provisions of sub-section (6B) or subsection (6C) of the said Act shall not apply to a person who is not a citizen of India or to a class of persons other than the following class of persons, namely:-

- (a) Individual;
- (b) authorised signatory of all types;
- (c) Managing and Authorised partner; and
- (d) Karta of a Hindu Undivided Family(HUF).

2. This notification shall come into effect from the 1st day of April 2020.

Circular on Clarification on refund related issues

Circular No. 135/2/2020 –CGST, dated 31st March, 2020

The applicant, at his option, may file a refund claim for a tax period or by clubbing successive tax periods. The period for which refund claim has been filed, however, cannot spread across different financial years. Registered persons having aggregate turnover of up to Rs.1.5 crore in the preceding

financial year or the current financial year opting to file FORM GSTR-1 on quarterly basis, can only apply for refund on a quarterly basis or clubbing successive quarters as aforesaid. However, refund claims under categories listed at (a), (c) and (e) in para 3 above must be filed by the applicant chronologically. This means that an applicant, after submitting a refund application under any of these categories for a certain period, shall not be subsequently allowed to file a refund claim under the same category for any previous period. This principle / limitation, however, shall not apply in cases where a fresh application is being filed pursuant to a deficiency memo having been issued earlier.

It has been decided to remove the restriction on clubbing of tax periods across Financial Years. Accordingly, circular No. 125/44/2019-GST dated 18.11.2019 stands modified to that extent i.e. the restriction on bunching of refund claims across financial years shall not apply

For more details please visit: https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular_Refund_135_5_2020.pdf;jsessionid=C6FFA7350834970CB5BE787BEC8791C1

Notification to give effect to the provisions of rule 87 (13) and FORM GST PMT-09 of the CGST Rules, 2017

Notification No. 37/2020 – Central Tax, dated 28th April, 2020

In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with clause (c) of rule 9 and rule 25 of the Central Goods and Services Tax (Fourth Amendment) Rules, 2019 (hereinafter referred to as the rules), made vide notification No. 31/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 457(E), dated the 28th June, 2019, the Government, hereby appoints the 21st day of April, 2020, as the date from which the said provisions of the rules, shall come into force.

Notification to make fifth amendment (2020) to CGST Rules

Notification No. 38/2020 – Central Tax, dated 5th May, 2020

The Central Government, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: -

1. (1) These rules may be called the Central Goods and Services Tax (Fifth Amendment) Rules, 2020.
- (2) Save as otherwise provided, they shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), with effect from the 21st April, 2020, in rule 26 in sub-rule (1), after the proviso, following proviso shall be inserted, namely: -

“Provided further that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 21st day of April, 2020 to the 30th day of June, 2020, also be allowed to furnish the return under section 39 in **FORM GSTR3B** verified through electronic verification code (EVC).”.

For more details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-38-central-tax-english-2020.pdf;jsessionid=5573A2DBB4031A82705734141A3706C1>

Notification to make amendments to special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016

Notification No. 39/2020 – Central Tax, dated 5th May, 2020

The Government, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.11/2020- Central Tax, dated the 21st March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 194(E), dated the 21st March, 2020, namely:-

In the said notification

(i) in the first paragraph, the following proviso shall be inserted, namely: - “Provided that the said class of persons shall not include those corporate debtors who have furnished the statements under section 37 and the returns under section 39 of the said Act for all the tax periods prior to the appointment of IRP/RP.”;

(ii) for the paragraph 2, with effect from the 21st March, 2020, the following paragraph shall be substituted, namely: -

“2. Registration.- The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later:.”.

Notification to bring into force Section 128 of Finance Act, 2020 in order to bring amendment in Section 140 of CGST Act w.e.f. 01.07.2017

Notification No. 43/2020 - Central Tax, dated 16th May, 2020

The Central Government has appointed the 18th day of May, 2020, as the date on which the provisions of section 128 of the said Act, shall come into force.

For more details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-43-central-tax-english-2020.pdf;jsessionid=90CD25E17F2F8C67EDDF6385EEF8949E>

Notification to give effect to the provisions of Rule 67A for furnishing a nil return in FORM GSTR-3B by SMS

Notification No. 44/2020 - Central Tax, dated 8th June, 2020

In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with rule 3 of the Central Goods and Services Tax (Fifth Amendment) Rules, 2020 (hereinafter referred to as the rules), made vide notification No. 38/2020 – Central Tax, dated the 5th May, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 272(E), dated the 5th May, 2020, the Government, hereby appoints the 8th day of June, 2020, as the date from which the said provisions of the rules, shall come into force

Circular on Clarification on refund related issues

Circular No. 139/09/2020 –CGST, dated 10th June, 2020

The issue relating to refund of accumulated ITC in respect of invoices whose details are not reflected in the FORM GSTR-2A of the applicant has been clarified by the Government. In order to clarify Refund related issues and to ensure uniformity in the implementation of the provisions of law in this regard across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017, hereby clarifies the issues detailed hereunder:

Circular No.135/05/2020 – GST dated the 31st March, 2020 states that:

“5. Guidelines for refunds of Input Tax Credit under Section 54(3)

5.1 In terms of para 36 of circular No. 125/44/2019-GST dated 18.11.2019, the refund of ITC availed in respect of invoices not reflected in FORM GSTR-2A was also admissible and copies of such invoices were required to be uploaded. However, in wake of insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017 vide notification No. 49/2019-GST dated 09.10.2019, various references have been received from the field formations regarding admissibility of refund of the ITC availed on the invoices which are not reflecting in the FORM GSTR-2A of the applicant.

5.2 The matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in

FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant. Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to that extent.”

For more details please visit: https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular_Refund_139_9_2020.pdf;jsessionid=8179FA92B7B4115F0230D1A3CCFE0748

Circular on Clarification in respect of levy of GST on Director’s Remuneration

Circular No. 140/09/2020 –CGST, dated 10th June, 2020

Doubts have been raised as to whether the remuneration paid by companies to their directors falls under the ambit of entry in Schedule III of the Central Goods and Services Tax Act, 2017 i.e. “services by an employee to the employer in the course of or in relation to his employment” or whether the same are liable to be taxed in terms of notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017 (entry no.6).

The issue of remuneration to directors has been examined under following two different categories:

- (i) leviability of GST on remuneration paid by companies to the independent directors defined in terms of section 149(6) of the Companies Act, 2013 or those directors who are not the employees of the said company; and
- (ii) leviability of GST on remuneration paid by companies to the whole-time directors including managing director who are employees of the said company.

In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies the issue as below:

Leviability of GST on remuneration paid by companies to the independent directors or those directors who are not the employee of the said company

The primary issue to be decided is whether or not a ‘Director’ is an employee of the company. In this regard, from the perusal of the relevant provisions of the Companies Act, 2013, it can be inferred that:

- a. the definition of a whole time-director under section 2(94) of the Companies Act, 2013 is an inclusive definition, and thus he **may be a person who is not an employee** of the company.
- b. the definition of ‘ independent directors’ under section 149(6) of the Companies Act, 2013, read with Rule 12 of Companies (Share Capital and Debentures) Rules, 2014 makes it amply clear that **such director should not have been an employee** or proprietor or a partner of the said company, in

any of the three financial years immediately preceding the financial year in which he is proposed to be appointed in the said company.

For more details please visit: https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular_Refund_140_10_2020.pdf;jsessionid=2DF7A1B0A1663CF0373C5B2D3E366654

Notification to make sixth amendment (2020) to CGST Rules

Notification No. 48/2020 - Central Tax, dated 19th June, 2020

A registered person registered under the provisions of the Companies Act, 2013 shall, during the period from the 21st day of April, 2020 to the 30th day of September, 2020, be allowed to furnish the return under section 39 in FORM GSTR-3B verified through electronic verification code (EVC).

For more details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-48-central-tax-english-2020.pdf;jsessionid=9C7F85B5A002A4363DB2470E3DA1090C>

Notification to make seventh amendment (2020) to CGST Rules

Notification No. 50/2020 - Central Tax, dated 24th June, 2020

In the Central Goods and Services Tax Rules, 2017, in rule 7, for the Table, the following Table shall be substituted, namely:-

Table

Sl. No.	Section under which composition levy is opted	Category of registered persons	Rate of tax
(1)	(1A)	(2)	(3)
1.	Sub-sections (1) and (2) of section 10	Manufacturers, other than manufacturers of such goods as may be notified by the Government	half per cent. of the turnover in the State or Union territory
2.	Sub-sections (1) and (2) of section 10	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	two and a half per cent. of the turnover in the State or Union territory
3.	Sub-sections (1) and (2) of section 10	Any other supplier eligible for composition levy under sub-sections (1) and (2) of section 10	half per cent. of the turnover of taxable supplies of goods and services in the State or Union territory

4.	Sub-section (2A) of section 10	Registered persons not eligible under the composition levy under subsections (1) and (2), but eligible to opt to pay tax under sub-section (2A), of section 10	three per cent. of the turnover of taxable supplies of goods and services in the State or Union territory.”.
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For more details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-50-central-tax-english-2020.pdf>

Lesson 15

Integrated Goods and Services Tax Act, 2017

Notification to bring into force certain provisions of the Finance (No. 2) Act, 2019 to amend the IGST Act, 2017

Notification No. 1/2020 –Integrated Tax, dated 1st January, 2020

In exercise of the powers conferred by sub-section (2) of section 1 of the Finance (No. 2) Act, 2019 (23 of 2019), the Central Government hereby appoints the 1st day of January, 2020, as the date on which the provisions of section 114 of the Finance (No. 2) Act, 2019 (23 of 2019) shall come into force.

Lesson 16

The Union Territory Goods and Service tax Act, 2017

Notification to provide special procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu consequent to merger of the two UTs

Notification No. 10/2020 – Central Tax, dated 21st March, 2020

The Government, notified those persons whose principal place of business or place of business was in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the 26th day of January, 2020; and is in the merged Union territory of Daman and Diu and Dadra and Nagar Haveli from the 27th day of January, 2020 onwards, as the class of persons who shall, except as respects things done or omitted to be done before the notification, follow the following special procedure till the 31st day of May, 2020 as mentioned below.

2. The said registered person shall,-

(i) ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of January, 2020 and February, 2020 as below:-

(a) January, 2020: 1st January, 2020 to 25th January, 2020;

(b) February, 2020: 26th January, 2020 to 29th February, 2020;

(ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from the 26th January, 2020 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;

For more details please visit : <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-10-central-tax-english-2020.pdf>
