

EY Tax Alert

CBIC amends CGST Rules and prescribes format of annual return

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Executive summary

Central Board of Indirect Taxes and Customs (CBIC) has issued a Notification^[1] amending the Central Goods and Services Tax Rules, 2017.

The Notification, *inter alia*, amends the following:

- ▶ The definition of adjusted total turnover (for calculation of refund amount in case of zero-rated supplies) under Rule 89(4)(E)
- ▶ Provisions restricting refund of tax paid on exports if Export Oriented Unit or suppliers holding Advance Authorization and Export Promotion Capital Goods license have availed certain exemptions, while importing goods

The Notification further prescribes the format of annual return for taxpayers filing regular returns and the returns under composition scheme.

^[1] Notification No. 39/2018 - Central Tax dated 4 September 2018

Background

- ▶ In response to the concerns raised by the stakeholders and to increase operational efficiency in implementation of GST law, the Central Board of Indirect Taxes and Customs (CBIC), by virtue of the powers conferred by Section 164 of the Central Goods and Services Tax (CGST) Act 2017, has made amendments to the CGST Rules.

Key amendments

Definition of Adjusted Total Turnover

- ▶ The definition of adjusted total turnover under Rule 89(4)(E) has been amended to exclude the turnover of services (on accrual basis) and include the zero rated supply of services (as calculated in the numerator i.e. on receipt basis) and non-zero rated supply of services (i.e. domestic turnover on accrual basis).
- ▶ Post amendment, 'Adjusted Total Turnover' means the sum total of the value of-
 - ▶ Turnover in a State or a Union territory, as defined under Section 2(112) of CGST Act, excluding the turnover of services and
 - ▶ Turnover of zero-rated supply of services determined in terms of Rule 89(4) (D) and non-zero-rated supply of services.
- ▶ The above excludes the value of exempt supplies (other than zero-rated supplies) and the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B).

Restriction for claiming refund of tax paid on exports under Rule 96(10)

- ▶ Earlier, Rule 96(10) provided that a person cannot claim refund of tax paid on exports **if he has received supplies on which the supplier has availed the benefit of specified notifications**^[2].
- ▶ As per the recent amendment, a person cannot claim refund of tax paid on exports if it has:
 - ▶ **received supplies on which the benefit** of Notification No. 48/2017-Central Tax or Notification No. 40/2017-Central Tax (Rate) or Notification No. 41/2017-Integrated Tax (Rate) **has been availed, or**
 - ▶ **availed the benefit** under Notification Nos. 78 and 79/2017-Customs.
- ▶ Notification Nos. 78 and 79/2017 - Customs provides for exemption from Integrated tax and Compensation Cess on imports made by Export Oriented Units (EOUs), Advance Authorisation (AA) and Export Promotion Capital Goods (EPCG) holder.

- ▶ Therefore, EOU or AA and EPCG license holders who have availed exemption from IGST and Cess under Notification Nos. 78 and 79/2017-Customs while importing goods cannot claim the refund of tax paid on exports.
- ▶ The above rule is amended with retrospective effect from 23 October 2017.

No cancellation of registration if pending returns are filed with payment of tax dues

- ▶ A proviso to Rule 22(4) of CGST Rules has been inserted to allow the proper officer to drop the proceedings for cancellation of registration on account of non-furnishing of returns if the taxpayer furnishes all the pending returns and make full payment of the tax dues along with applicable interest and late fee.

Mandatory particulars of document for claiming Input Tax Credit (ITC) relaxed

- ▶ A proviso to Rule 36(2) has been inserted to provide that a registered person may claim ITC even if the document does not contain all the specified particulars but contains the following details:
 - ▶ Amount of tax charged
 - ▶ Description of goods or services
 - ▶ Total value of supply of goods or services
 - ▶ GSTIN of the supplier and recipient
 - ▶ Place of supply in case of inter-state supply

Bill of entry required for transportation of imported goods

- ▶ In case of transportation of imported goods, the person in charge of a conveyance shall carry a copy of the bill of entry filed by the importer along with E-way Bill.
- ▶ The number and date of the bill of entry has to be indicated in Part A of Form GST EWB-01.

Annual Return

- ▶ The format of annual return in Form GSTR-9 (for regular taxpayers) and Form GSTR-9A (for Composition taxpayer) has been prescribed.
- ▶ As per section 44 of CGST Act, the due date for filing annual return is 31 December following the end of the financial year.

^[2] Notification No. 48/2017-Central Tax dated 18 October, 2017, Notification No. 40/2017-Central Tax (Rate) 23 October 2017, Notification No. 41/2017-Integrated Tax (Rate) dated 23 October 2017, Notification Nos. 78 and 79/2017-Customs dated 13 October 2017

Comments

The earlier formula to compute refund in case of zero-rated supplies had given rise to a conflicting situation where the turnover of such supply of services in the numerator was based on the amounts received against the supplies whereas the turnover was required to be reported on accrual basis in the denominator. The amended formula has addressed the same and it also closely aligned the formula under GST with the erstwhile Rule 5 of CENVAT Credit Rules, 2004.

By amending Rule 96(10) of CGST Rules retrospectively, the ambiguity of restriction on claiming refund of tax paid on exports by EOU/ AA/ EPCG license holder importing the goods, has been now put to rest.

The government has prescribed the much awaited format of annual return. This may help the industry to file the return within the time limit and avoid late fee.

The step of dropping the cancellation of registration of a taxpayer, upon furnishing the pending returns and payment of tax, is a welcome step and might improve the ease of doing business.

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