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Recent Changes in GST Return Filing Process

When GST was implemented in July 2017, the GST Return procedures were implemented with an aim of complete invoice wise matching of input credit claimed by the recipient of supply vis-à-vis output liability paid by the supplier. With this concept in mind, GSTR 2 Return Form was introduced which would capture the input tax credit directly from the GSTR 1 Return Form which is a summary of invoice wise outward supplies. Mismatch Forms were also introduced to enable recipient to inform the supplier through the GSTN portal in case of non-receipt of credit against valid tax invoices.

However, the entire matching concept failed as the Form GSTR 2 and corresponding Mismatch Forms could not be actually implemented as the GSTN system was not technically equipped. Therefore, initially Input Tax Credit (or ITC) under GST was being claimed on the basis of actual invoices received by the recipient and no matching from the portal was feasible.

In February, 2019 – GSTR 2A was introduced to enable the matching of ITC in books of accounts vis-à-vis the ITC auto populated through GSTR 1 being filed by the supplier. In October, 2019 ITC being availed was sought to be restricted to 120% of the ITC as reflected in GSTR 2A. This amount was further reduced to 110% in January, 2020. Taking the concept of matching a notch higher, new system of return filing and matching is being introduced from January, 2021. This newsletter summarises the important changes notified. We are also laying down the salient features of the QRMP Return filing scheme in this Newsletter.

IN THIS ISSUE

QRMP Scheme

Minimum 1% of output GST to be paid through the cash ledger (Rule 86B)

Cancellation of registration

Suspension of registration

ITC claim further restricted to 105% of GSTR-2A

Restriction on filing of GSTR-1 if GSTR-3B is not filed timely

Validity of e-way bill reduced

QRMP Scheme

Circular No. 143/13/2020-GST and Notifications No 81, 82, 84 and 85/2020 – Central Tax dated 10.11.2020 have rolled out quarterly return filing system for small taxpayers to be implemented w.e.f. **1st January, 2021.**

The Salient Features of the QRMP Scheme are as follows:

Effective Date	1 st January, 2021	
Eligibility	<ol style="list-style-type: none"> Aggregate Turnover in previous FY should be less than 5 crores Once, turnover in the current FY exceeds Rs, 5 crores, the scheme ceases to be applicable from the next upcoming quarter 	<i>Aggregate Turnover needs to be computed on PAN basis and not GSTIN basis. Therefore, even if turnover is below 5 crores for a particular GST Number, but above 5 crores when calculated on the basis of the PAN, the Registered Tax Payer (RTP) will not be eligible to claim the benefit of the QRMP Scheme.</i>
Return Filing	GSTR 1 and GSTR 3B needs to be filed quarterly	
Tax Payment	Taxes to be paid Monthly	Though, the returns may be filed quarterly, taxes will have to be paid monthly.
Exercising Option	<ol style="list-style-type: none"> A registered person can opt in or opt out for any quarter from first day of second month of preceding quarter to the last day of the first month of the quarter. The registered person must have furnished the last return, as due on the date of exercising such option Option need not be exercised every quarter unless it needs to be revised. 	<p>For example: A registered person intending to avail of the Scheme for the quarter 'July to September' can exercise his option during 1st of May to 31st of July.</p> <p>If he is exercising his option on 27th July for the quarter (July to September), in such case, he must have furnished the return for the month of June which was due on 22/24th July.</p> <p>Option to avail the QRMP Scheme is GSTIN wise and therefore, some GSTINs for a PAN can opt for the QRMP Scheme and remaining GSTINs may not opt for the Scheme.</p>

Default Option	<p>For the quarter January, 2021 to March, 2021,</p> <ul style="list-style-type: none"> RTP whose aggregate turnover for the FY 2019-20 is up to 5 crore rupees and who have furnished the return in FORM GSTR-3B for the month of October, 2020 by 30th November, 2020, <p>shall be migrated on the common portal as below</p> <table border="1" data-bbox="354 531 1024 1129"> <thead> <tr> <th></th> <th>Class of registered person</th> <th>Default Option</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>RTP having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on quarterly basis in FY 2020-21</td> <td>Quarterly return</td> </tr> <tr> <td>2</td> <td>RTP having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on monthly basis in FY 2020-21</td> <td>Monthly Return</td> </tr> <tr> <td>3</td> <td>RTP having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in FY 2019-20</td> <td>Quarterly return</td> </tr> </tbody> </table>		Class of registered person	Default Option	1	RTP having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on quarterly basis in FY 2020-21	Quarterly return	2	RTP having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on monthly basis in FY 2020-21	Monthly Return	3	RTP having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in FY 2019-20	Quarterly return	<p>Above default option has been provided for the convenience of the RTP.</p> <p>The RTP is free to change the option from 5th of December, 2020 to 31st of January, 2021.</p> <p>Any RTP whose aggregate turnover has exceeded 5 crore rupees in the financial year 2020-21, shall not be eligible for the Scheme.</p>
	Class of registered person	Default Option												
1	RTP having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on quarterly basis in FY 2020-21	Quarterly return												
2	RTP having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on monthly basis in FY 2020-21	Monthly Return												
3	RTP having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in FY 2019-20	Quarterly return												
Furnishing Outward Supplies under QRMP Scheme	<ol style="list-style-type: none"> GSTR 1 shall be filed on quarterly basis Invoice Furnishing Facility- IFF available to allow furnishing of invoices related to outward supplies to a registered person on a monthly basis IFF for a month can be filed only till 13th of the succeeding month 													

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Notification No 94/2020 – Central Tax dated 22nd December, 2020 notifies the new return filing process in addition to certain other changes. These changes have been discussed in detail as follows.

Minimum 1% of output GST to be paid through the cash ledger (Rule 86B)

The registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees.

Therefore, in case where taxable value of domestic supply exceeds Rs. 50 lakhs, the tax payer will have to mandatorily pay 1% of the output tax liability through cash ledger.

The said restriction shall **not apply** where –

- (a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have **paid more than one lakh rupees as income tax** under the Income-tax Act, 1961 (43 of 1961) **in each of the last two financial years** for which the time limit to file return of income under sub-section (1) of section 139 of the said Act has expired;
- (b) the registered person has **received a refund amount of more than one lakh rupees** in the preceding financial year on account of unutilised input tax credit under zero rated supplies without payment of tax; or
- (c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under inverted duty structure;
- (d) the registered person has **discharged his liability** towards output tax through the electronic cash ledger for an amount which is **in excess of 1% of the total output tax liability, applied cumulatively**, upto the said month in the current financial year; or
- (e) the registered person is –
 - (i) Government Department; or
 - (ii) a Public Sector Undertaking; or
 - (iii) a local authority; or
 - (iv) a statutory body;

- Therefore, mandatory cash payment of 1% of output liability is applicable only if the taxable domestic supply exceeds Rs 50 lakhs in a month.
- The same will be checked month wise.
- The restriction will not be applicable if the taxpayer falls in any of the 5 exempted categories

Wider power to department for cancellation of registration (Rule 21)

Registration to be cancelled in cases where the taxpayer

- (a) avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder;
or
- (b) furnishes the details of outward supplies in FORM GSTR-1 which is in excess of the outward supplies declared by him in GSTR 3B or
- (c) Violates the provision of rule 86B - Restriction on use of amount available in electronic credit ledger.

- Previously the Commissioner did not have powers for cancelling the registration in case of Sec 16 violation or when there was a major difference between outward tax liability as per GSTR 3B and outward tax liability as per GSTR 1.
- Now with the insertion of clauses (e) & (f) in Rule 21, the Commissioner shall also have the prescribed powers to cancel GST Registration in case there is a non-compliance with respect to availment of input tax credit.
- It is important to note Sec 16(2)(c) which requires proof of payment of tax by the supplier. Therefore, in case the amount of GST paid by the recipient to the supplier is ultimately not paid to the Govt., the department has the authority to invoke Rule 21.

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Suspension of Registration made more stringent (Rule 21A)

In cases, where the proper officer has reasons to believe that the registration of a person is liable to be cancelled he has the power to suspend the registration of such person.

The powers of suspension have been increased and the reason for the same now includes the following:

Where,

- a) a comparison of the outward supplies furnished in GSTR 3B with GSTR 1 or
- b) Input Tax credit between GSTR 2A and GSTR 3B

shows that there are **significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder**, leading to cancellation of registration of the said person, his registration shall be suspended.

The registered tax payer shall be **intimated in FORM GST REG-31** highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.

A registered person, whose registration has been suspended **shall not be granted any refund under section 54, during the period of suspension of his registration.**

- The suspension of registration can be done even without a hearing.
- The Rule 21A(2A) is a stringent Rule whereby in case of significant differences between GSTR 2A & GSTR 3B or between GSTR 1 & GSTR 3B, suspension of GST Registration can be invoked immediately and in future cancellation of GST Registration too can be invoked.
- It is important to note that the Refund process automatically gets stuck once registration is suspended.
- Further, the rules stipulate suspension in case of “significant” differences indicating “contravention” of the provisions of the statute. However, to what extent the difference will be constituted as significant has not been defined anywhere. Therefore, it is left to the discretion of the GST officers to determine what may be a significant difference. Such discretion would invariably lead to a plethora of notices and unnecessary suspensions even in genuine cases.

ITC claim further restricted to 105% of GSTR-2A (Rule 36(4))

Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers in FORM GSTR-1 or using the invoice furnishing facility, shall not exceed 5 per cent. of the eligible credit available in respect of invoices or debit notes as reflected in GSTR 2A.

- The input tax credit is now reduced to 105% from 110% of the credit as reflected in GSTR 2A.
- With the introduction of GSTR 2B, there would be now be another added requirement of reconciliation of GSTR 2A vis-à-vis GSTR 2B.

Restriction on filing of GSTR-1 if GSTR-3B is not filed timely (Rule 59)

- a registered person shall not be allowed to furnish the details of outward supplies in FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for preceding two months;
- under QRMP scheme, a registered person, shall not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period;
- a registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period.

- Critical to note here that in case last period's GSTR 3B is not filed, the current GSTR 1 cannot be filed. Hence only after tax payment of last period would the supplier be eligible to issue invoices.
- In this case it is important for recipients to ensure that the GSTR 3B of their suppliers is filed and the amount of GST is reflecting in their GSTR 2A before they may payment of the GST amount to the suppliers

Validity of e-way bill reduced- Rule 138(10)

W.e.f. 01.01.2021, E-way Bill shall remain valid for 1 day for distance up to 200 Kms (increased from the existing 100 Kms) and additional 1 day for every 200Kms or part thereof.

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