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# **GST Newsletter**

## **December 2019**

## 1. Notifications on Jammu and Kashmir

With effect from 31 October 2019, the state of Jammu and Kashmir has been divided into two parts:

- a. UT of Jammu & Kashmir (J & K), a union territory with state legislature, i.e. it can elect its own representative, and
- b. UT of Ladakh, a union territory without state legislature, i.e. it will be run by an administration led by a lieutenant governor.

### Transition Plan with respect to Jammu & Kashmir from 31 October 2019 to 31 December 2019

- The existing registered person will be required to apply for another registration in UT of J&K and UT of Ladakh.
- During the transition period, tax is to be paid as treating J & K and Ladakh as separate union territories. For e.g. an invoice is issued on 31 October 2019 charging CGST and SGST, for a supply made from UT of J & K to UT of Ladakh, then irrespective of tax charged in invoice, the taxpayer has to deposit it as IGST in the return.
- The registered person has an option to transfer the input tax credit (ITC) available as on 30 October 2019 from the existing Goods and Services Tax Identification Number (GSTIN) to the new GSTIN. *[Notification No. 62/2019 – Central Tax dated 26 November 2019].*

### Due Dates of Form GSTR-1 and GSTR-3B

CBIC has extended due dates for filing form GSTR-1 and GSTR-3B for registered persons having place of business in Jammu and Kashmir as under:

- Due date of Form GSTR-1 for taxpayers having aggregate turnover more than 1.5 crores, for the months of July, 2019 to October, 2019 to 20 December 2019. *[Notification No. 63/2019 and 64/2019- Central Tax dated 12 December 2019]*

- Due Date of Form GSTR-3B for the months of July, 2019 to October, 2019 to 20 December 2019. *[Notification No. 66/2019 and 67/2019- Central Tax dated 12 December 2019]*

## 2. Central Goods and Services Tax (Seventh Amendment) Rules, 2019

The Central Government has further amended Central Goods and Service Tax Rules, 2017, i.e. Central Goods and Services Tax (Seventh Amendment) Rules, 2019 to simplify Annual Return/Reconciliation Statement.

The highlights are as under:

- Optional bifurcation of ITC on inputs, input services and capital goods in the Annual Return.
- Optional reporting of HSN summary of inward and outward supplies in the Annual Return.
- Optional reporting of ITC reconciliation and Expense wise ITC reconciliation in Form GSTR-9C.
- The Turnover adjustments may be reported under “Other adjustments” only.
- In the GST Audit Report Certificate the words “True and Correct” have been replaced by “True and Fair”. *[Notification No. 56/2019 – Central Tax dated 14 November 2019]*

## 3. Circulars

### Generation and quotation of DIN

Central Board of Indirect Taxes and Customs mandates quoting of Document Identification Number (DIN) on any communication issued by the officers of CBIC to tax payers and other concerned persons. Hence, any communication not bearing DIN will not be treated as valid.



*[Circular No.-122/2019/CGST dated 5 November 2019]*

### **Optional Filing of Annual Return**

- Taxpayers having turnover not exceeding INR 2 crores or under composition scheme may opt to file FORM GSTR 9A/9 for FY-2017-18 & 2018-19.
- The taxpayers shall not be allowed to furnish the Annual Return at the common portal for FY 2017-18 and FY 2018-19, after the due date.
- The taxpayers may self-ascertain tax amount not paid or the amount of ineligible ITC availed and pay it through form GST DRC-03.

*[Circular No. 124/2019/CGST dated 18 November 2019]*

### **Fully electronic refund process w.e.f 26 September 2019**

- Refund applications to be filed by the taxpayers in Form GST RFD-01 and will be processed electronically/online.
- Refund amount will be disbursed by accredited bank of CBIC through the Public Financial Management System (PFMS) after bank account validation. After processing the refund application, the tax officials will issue payment order online and the amount will be refunded/ credited to taxpayer's account, as mentioned in their refund application.
- In case validation of bank account number fails, intimation will be sent to taxpayer and the taxpayer will be required to correct bank account details.
- Taxpayers can view various stages of processing of their refund application and can give replies to notice, if any, online on the GST Portal. They will also be given information via SMS and Email.

*[Circular No. 125/2019 dated 18 November 2019]*

## **4. Judgements & Rulings**

### **Unutilized credit of duty/tax paid under erstwhile Acts is a vested right, thus petitioner is permitted to file Tran-1**

It has been held that, unutilized credit of duty/tax paid under erstwhile acts cannot be denied merely on the ground of non-filing of Tran-1 by the due

date i.e. 27 December 2017, as it is vested right and cannot be taken away on procedural or technical grounds.

*[Adfert Technologies (P) Ltd. Vs. Union Of India (HC Punjab and Haryana) – Writ Petition CWP No.30949 of 2018]*

### **Assessee entitled to carry forward accumulated Credit of Education Cess (EC), Secondary and Higher Education Cess (SHEC) and Krishi Kalyan Cess (KKC) in GST**

It has been held that, the assessee is entitled to transition accumulated credit of EC, SHEC and KKC to GST. Further, under the erstwhile law, EC, SHEC and KKC can be utilized only towards the payment of EC, SHEC and KKC respectively. Thus the unutilized portion of EC, SHEC and KKC will remain in the electronic credit ledgers of assesses but cannot be practically utilized in the absence of an enabling provision to utilize the same.

*[Sutherland Global Services (P) Ltd. Vs. Assistant Commissioner CGST & Central Excise, Chennai (Madras HC) - Writ Petition No. 4773 of 2018]*



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