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Revised Format/Schema for e-Invoice under GST, Exemption to SEZ & Eligibility of E-Invoice

The Central Government vide Notification No. 60/2020- Central Tax dated 30th July, 2020 has substituted the "FORM GST INV-01" with new "FORM GST INV - 1" & vide Notification No. 61/2020- Central Tax dated 30th July, 2020 and made it applicable for registered persons having aggregate turnover above 500 crore rupees (with enhanced aggregate turnover) in a financial year w.e.f 1st Oct, 2020. Further **SEZ units have been excluded from the requirement of issuance of E-invoice.**

Earlier it was made applicable to the registered persons whose aggregate turnover in a financial year exceeds 100 crore rupees.

[Notification No. 60/2020- Central Tax dated 30th July, 2020] & [Notification No. 61/2020- Central Tax dated 30th July, 2020]

Extension of due date for filing FORM GSTR-4 for financial year 2019-2020

The Central Government vide Notification No. 59/2020- Central Tax dated 13th July, 2020 has **further extended** the due date of filing of **GSTR-4** for the year ending 31st March, 2020 **till 31st August, 2020.**

[Notification No. 59/2020- Central Tax dated 13th July, 2020]

2nd phase of All India roll-out of Faceless Assessment & Specification of the jurisdiction of Commissioner (Appeals)

The CBIC vide Circular No. 34/2020-Customs dated 30th July, 2020 has **decided to begin the 2nd phase of All India roll-out of Faceless Assessment w.e.f. 03.08.2020 by including Delhi and Mumbai Customs Zones and extending the scope of Faceless Assessment at Chennai and Bangalore Customs Zones.** Board has reviewed the 1st phase of Faceless Assessment at Bengaluru and Chennai and resolved few technical and administrative issues that arose. Board also noted that on expected lines the Faceless Assessment ushered in a smooth and faster clearance process with uniformity in assessment.

- It is clarified that the Customs Zones and the imports already covered under the 1st Phase would continue and be treated as subsumed under the 2nd phase. Thus, the 2nd phase of Faceless Assessment will cover the following specified Customs Zones and the imports primarily under the specified Chapters of the Customs Tariff Act, 1975:-

| S.No. | Chapter(s) of the Customs Tariff Act, 1975 | Appraisement Group | Customs Zones | Remarks |
|-------|--|--------------------|---------------|-----------------------|
| 1. | 84 | 5 | Bengaluru, | Bengaluru and Chennai |

| | | | | |
|----|----------|----|------------------------------------|--|
| | | | Chennai, and Delhi | Zones were covered in 1st phase. Delhi Zone is newly covered. |
| 2. | 85 | 5A | Bengaluru, Chennai, and Delhi | |
| 3. | 89 to 92 | 5B | Bengaluru, Chennai, and Delhi | Pilot programme has been running in Delhi Zone since September 2019 and now Bengaluru and Chennai are newly covered. |
| 4. | 50 to 71 | 3 | Bengaluru, Chennai, and Delhi | Pilot programme has been running in Chennai Zone since September 2019 and now Bengaluru and Delhi are newly covered. |
| 5. | 29 | 2A | Mumbai I, Mumbai II and Mumbai III | Newly introduced Zones |

- Further, the Central Government vide Notification No.63/2020-Customs (N.T.) dated 30.07.2020 has amended Notification No.92/2017-Customs (NT), dated 28.09.2017 to specify the jurisdiction of Commissioner (Appeals) to assessment orders passed by Faceless Assessment Groups .

[Circular No. 34/2020-Customs dated 30th July ,2020]

[Notification No.63/2020-Customs (N.T.) dated 30.07.2020]

[Effecting the provisions of Rule 67A for furnishing a nil return in FORM GSTR-3B by SMS](#)

The Central Government vide [Notification No. 44/2020- Central Tax](#) dated 8th June, 2020 has appointed the 8th day of June, 2020, as the date from which **Rule 67A** (Manner of furnishing of return by short messaging service facility) shall come into force to allow the registered person to furnish a **Nil return** in **FORM GSTR-3B** for a tax period, through a short messaging service (**SMS**) using the registered mobile number and the said return shall be verified by a registered mobile number based One Time Password facility(**OTP**).

Explanation. - For the purpose of this rule, a Nil return shall mean a return under section 39 for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B.”.

[[Notification No. 44/2020- Central Tax](#) dated 8th June, 2020]

[1st phase of All India roll-out of Faceless Assessment](#)

The Central Board of Indirect Taxes and Customs vide [Circular No.28/2020-Customs \(N.T.\) dated 5th June, 2020](#) has clarified the following:-

The Board has decided to begin Faceless Assessment in phases beginning with Customs stations which already have the experience of the pilot programmes. Therefore, **the first**

phase would begin from 8th June 2020 at Bengaluru and Chennai for items of imports primarily covered by Chapters 84 and 85 of the Customs Tariff Act, 1975. The phased rollout plan envisages that Faceless Assessment shall be the norm pan India by 31st December 2020.

In order to introduce Phase 1 of Faceless Assessment at Bengaluru and Chennai from 8 th June 2020 for imports primarily made under Chapters 84 and 85 of the Customs Tariff Act, 1975 at these Customs stations, Board has issued two notifications, as follows:

- I. [Notification No.50/2020-Customs \(N.T.\) dated 05.06.2020](#) implements Faceless Assessment across different Principal Chief Commissioner/Chief Commissioner Zones. This notification enables an assessing officer (proper officer under Sections 17 and 18 of the Customs Act, 1962), who is physically located in a particular jurisdiction to assess a Bill of Entry pertaining to imports made at a different Customs station, whenever such a Bill of Entry has been assigned to him in the Customs Automated system. However, it is clarified that in the first phase of the roll-out, this notification will be applied only for inter-linking of Bengaluru and Chennai Customs zones for the purpose of Faceless Assessment. Thus, w.e.f. 8 th June, 2020 the Customs Automated System will assign the non-facilitated Bills of Entry filed for imports of articles primarily falling under Chapters 84 and 85 of the Customs Tariff Act, 1975, at any of the Customs stations at Bengaluru and Chennai to the officers of the concerned Faceless Assessment group on a first-cum-first basis for assessment. In other words, irrespective of whether the goods are imported at any Customs station falling under the jurisdiction of Bengaluru or Chennai Customs Zone, the Bills of Entry pertaining primarily to the said two chapters will be marked by the Customs Automated System to the nominated Faceless Assessment group for assessment.
- II. [Notification No.51/2020-Customs \(N.T.\) dated 05.06.2020](#) is issued for the purpose of empowering the jurisdictional Commissioners of Customs (Appeals) at Bengaluru and Chennai to take up appeals filed in respect of Faceless Assessments pertaining to imports made in their jurisdictions even though the assessing officer may be located at the other Customs station. To illustrate, Commissioners of Customs (Appeals) at Bengaluru would decide appeals filed for imports at Bengaluru though the assessing officer is located at Chennai. This has been done to ensure the trade is not put to any hardship and can get their appeals heard locally, as at present.

Further, as one of the main objectives of Faceless Assessment is speedy and uniform assessment practices, in Phase 1 of Faceless Assessment, Board hereby nominates Principal Commissioner/Commissioner of Customs, Bengaluru City, Bengaluru, Principal Commissioner/Commissioner of Customs, Airport and Air Cargo Complex, Bengaluru, Principal Commissioner/Commissioner of Customs (II), Chennai and Principal Commissioner/Commissioner of Customs (VII), Air Cargo Complex Chennai to act as nodal Commissioners for the purpose of administratively monitoring the assessment practice in respect of imported goods which are assigned in the Customs Automated System to the officers of the Faceless Assessment Groups in Bengaluru and Chennai, for articles primarily falling under Chapters 84 and 85, of the Customs Tariff Act, 1975. The said nodal Commissioners would work in a coordinated manner. This arrangement would pave the path to establish National Assessment Commissionerates (NACs) with the mandate to examine the assessment practices of imported articles across Customs stations and suggest measures to bring about uniformity and enhanced quality of assessments. The NACs would be put in place as and when Faceless Assessment is rolled out in phases across the country.

The Principal Chief Commissioners/ Chief Commissioners concerned shall set up dedicated cells called Turant Suvidha Kendras, in every Customs station manned by custom officers to cater to varied functions and roles which are clarified in Instruction No.09/2020 dated 05.06.2020. The Turant Suvidha Kendra is for facilitation of the trade in completing various formalities relating to the Customs procedures in the new regime of Faceless Assessment. The details of functions, roles, location and timing of the Turant Suvidha Kendras shall be intimated by the local Customs administration to all stakeholders.

Turant Suvidha Kendra would be a dedicated cell in every Customs port of import and will be manned by Custom officers to cater to functions and roles such as :

- I. Accept Bond or Bank Guarantee;
- II. Carry out any other verifications that may be referred by Faceless Assessment Groups;
- III. Defacing of documents/ permits licences, wherever required;
- IV. Debit of documents/ permits/ licences, wherever required; and
- V. Other functions determined by Commissioner to facilitate trade.

Principal Chief Commissioner of Customs, Chennai and Chief Commissioner of Customs, Bengaluru are requested to issue Public Notices and guide the trade suitably to ensure the smooth roll out of Phase 1 of Faceless Assessment. In this regard reference may also be made to the detailed instructions issued vide [Board's Instruction No.09/2020 Customs dated 05.06.2020](#).

Extension of the date for transition under GST on account of merger of erstwhile Union Territories of Daman and Diu & Dadar and Nagar Haveli.

The Central Government vide [Notification No. 45/2020- Central Tax dated 9th June, 2020](#) **has extended the transition date** for compliance of special procedures under GST as notified vide [Notification No. 10/2020 – Central Tax dated 21st March ,2020](#) on account of merger of erstwhile Union Territories of Daman and Diu & Dadar and Nagar Havel from 31st day of May,2020 to **31st day of July,2020.**

[Notification No. 45/2020- Central Tax dated 9th June, 2020]

Extension of period to pass order under Section 54(7) of CGST Act.

The Central Government vide [Notification No. 46/2020- Central Tax dated 9th June, 2020](#) has notified that w.e.f. 20th March,2020, that in cases **where a notice has been issued for rejection of refund claim**, in full or in part and where the time limit for issuance of order in terms of the provisions of sub-section (5), read with sub-section (7) of section 54 of the said Act falls during the period from ~~the 20th day of March, 2020 to the 29th day of June, 2020,~~ in such cases **the time limit for issuance of the said order shall be extended to fifteen days after the receipt of reply to the notice from the registered person or the 30th day of June, 2020, whichever is later.**

[Notification No. 46/2020- Central Tax dated 9th June, 2020]

Extension of validity of e-way bill generated on or before 24.03.2020

The Central Government vide [Notification No. 47/2020- Central Tax dated 9th June, 2020](#) has further amended [Notification No.35/2020-Central Tax, dated the 3rd April, 2020](#),to **further extend the validity period of e-way bill** generated on or before the 24th day of March, 2020 and whose validity has expired on or after the 20th March, 2020, **till the 30th day of June, 2020.**

[Notification No. 47/2020- Central Tax dated 9th June, 2020]

Clarification on Refund Related Issues

The Central Board of Indirect Taxes and Customs vide [Circular No. 139/09/2020-GST dated 10th June,2020](#) has issued the following clarifications regarding 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 :-

- It was decided vide Circular No.135/05/2020-GST dated the 31st March, 2020 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 was modified to that extent."
- Representations have been received that **in some cases, refund sanctioning authorities have rejected the refund of accumulated ITC in respect of ITC availed on Imports, ISD invoices, RCM etc. citing the above-mentioned Circular** on the basis that the details of the said invoices/ documents are not reflected in FORM GSTR-2A of the applicant.
- In this context it is noteworthy that before the issuance of Circular No. 135/05/2020-GST dated 31st March, 2020, refund was being granted even in respect of credit availed on the strength of missing invoices (not reflected in FORM GSTR-2A) which were uploaded by the applicant along with the refund application on the common portal. However, vide Circular No.135/05/2020-GST dated the 31st March, 2020, the refund related to these missing invoices has been restricted. **Now, the refund of accumulated ITC shall be restricted to the ITC available on 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.**
- **The aforesaid circular does not in any way impact the refund of ITC availed on the invoices / documents relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) etc.. It is clarified that the treatment of refund of such ITC relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) will continue to be same as it was before the issuance of Circular No. 135/05/2020-GST dated 31st March, 2020.**

[Circular No. 139/09/2020-GST dated 10th June,2020]

Clarification in respect of levy of GST on Director's Remuneration

The Central Board of Indirect Taxes and Customs vide [Circular No. 140/10/2020-GST dated 10th June,2020](#) has issued the following clarifications on levy of GST on Director's remuneration paid by companies to their directors:-

The issue of remuneration to directors has been examined & clarified under following two different categories 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.
- Therefore, **in respect of such directors who are not the employees of the said company**, the services provided by them to the Company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. In terms of entry at Sl. No. 6 of the Table annexed to notification No. **13/2017-Central Tax (Rate)** dated 28.06.2017, the recipient of the said services i.e. **the Company, is liable to discharge the applicable GST on it on reverse charge basis.**
- Accordingly, **it is hereby clarified that the remuneration paid to such independent directors, or those directors, by whatever name called, who are not employees of the said company, is taxable in hands of the company, on reverse charge basis.**

Leviability of GST on remuneration paid by companies to the directors, who are also an employee of the said company

- Once, it has been ascertained whether a director, irrespective of name and designation, is an employee, it would be pertinent to examine whether all the activities performed by the director are in the course of employer-employee relation (i.e. a "contract of service") or is there any element of "contract for service". The issue has been deliberated by various courts and it has been held that a director who has also taken an employment in the company may be functioning in dual capacities, namely, one as a director of the company and the other on the basis of the contractual relationship of master and servant with the company, i.e. under a contract of service (employment) entered into with the company.
- It is also pertinent to note that similar identification (to that in Para 5.1 above) and treatment of the Director's remuneration is also present in the Income Tax Act, 1961 wherein the salaries paid to directors are subject to Tax Deducted at Source ('TDS') under Section 192 of the Income Tax Act, 1961 ('IT Act'). However, in cases where the remuneration is in the nature of professional fees and not salary, the same is liable for deduction under Section 194J of the IT Act.
- Accordingly, it is clarified that the part of **Director's remuneration which are declared as 'Salaries'** in the books of a company and subjected to TDS under Section 192 of the IT Act, **are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in**

terms of Schedule III of the CGST Act, 2017.

- It is further clarified that the part of employee Director's remuneration which is declared separately other than 'salaries' in the Company's accounts and subjected to TDS under Section 194J of the IT Act as *Fees for professional or Technical Services* shall be treated as consideration for providing services which are outside the scope of Schedule III of the CGST Act, and is therefore, taxable. Further, in terms of notification No. 13/2017-Central Tax (Rate) dated 28.06.2017, the recipient of the said services i.e. the Company, is liable to discharge the applicable GST on it on reverse charge basis.

[Circular No. 140/10/2020-GST dated 10th June,2020]

Recommendations of GST council related to Law & Procedure

➤ Measures for Trade facilitation:

a. Reduction in Late Fee for past Returns:

As a measure to clean up pendency in return filing, late fee for non-furnishing FORM GSTR-3B for the tax period from July, 2017 to January, 2020 has been reduced / waived as under: -

- i. 'NIL' late fee if there is no tax liability;
- ii. Maximum late fee capped at Rs. 500/- per return if there is any tax liability.

The reduced rate of late fee would apply for all the GSTR-3B returns furnished between 01.07.2020 to 30.09.2020

b. Further relief for small taxpayers for late filing of returns for February, March & April 2020 Tax periods:

For small taxpayers (aggregate turnover upto Rs. 5 crore), for the supplies effected in the month of February, March and April, 2020, the rate of interest for late furnishing of return for the said months beyond specified dates (staggered upto 6th July 2020) is reduced from 18% per annum to 9% per annum till 30.09.2020.

In other words, for these months, small taxpayers will not be charged any interest till the notified dates for relief (staggered upto 6th July 2020) and thereafter 9% interest will be charged till 30.09.2020.

c. Relief for small taxpayers for subsequent tax periods (May, June & July 2020):

In wake of COVID-19 pandemic, for taxpayers having aggregate turnover upto Rs. 5 crore, further relief provided by **waiver of late fees**

and interest if the returns in **FORM GSTR-3B** for the supplies effected in the **months of May, June and July, 2020** are **furnished by September, 2020** (staggered dates to be notified).

d. One time extension in period for seeking revocation of cancellation of registration:

To facilitate taxpayers who could not get their cancelled GST registrations restored in time, an opportunity is being provided for filing of application for revocation of cancellation of registration up to **30.09.2020**, in all cases where registrations have been cancelled till 12.06.2020.

- Certain clauses of the Finance Act, 2020 amending CGST Act 2017 and IGST Act, 2017 to be brought into force from **30.06.2020**.

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