



# IMPORTANT CHANGES IN CGST RULES W.R.T REGISTRATION, RETURNS, INPUT TAX CREDIT AND E-WAY BILLS

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**C**IC has issued **Notification No 94/2020 – Central Tax Dated 22<sup>nd</sup> December, 2020** for amendment in CGST rules vide Central Goods and Services Tax (Fourteenth Amendment) Rules, 2020. These rules amend the provisions relating to –

- A. GST Registration
- B. Power to suspend or cancel GST Registration
- C. Manner and extent of utilization of Input Tax Credit
- D. GST Return Related
- E. E-Way Bills.

The changes has been discussed below in lucid manner for better understanding:

## **A. Changes in GST Registration Process –**

Earlier with effect from 21<sup>st</sup> August, 2020 several changes were brought into GST Registration process including Aadhar Authentication, time limits were fixed for granting of registration and grant of deemed registration on expiry of period for issuance of SCN by department (You may download the notification -**62/2020 – Central Tax dated 20<sup>th</sup> August 2020**)

Now, again the said process is modified and additional checks has been implemented in GST Registration process.

### **i. Grant of Registration (Rule 8) –**

Category of person seeking registration	Opting for Aadhar Authentication	Not Opting for Aadhar Authentication
Individual or Karta, MD, whole time Director, Partners, Members of Managing Committee of Association, Board of Trustees, authorised representative or authorised signatory	Biometric based Aadhar authentication and taking photo	Biometric information, photograph and verification of other KYC documents

Category of person seeking registration	Process of Registration
Other than individual	<ul style="list-style-type: none"> <li>- Apply for registration on GST Portal</li> <li>- Upload documents in support of registration</li> <li>- Get the uploaded documents verified with original at one of the facilitation centres</li> </ul> Grant of registration only after following aforesaid process

ii. **Verification of Application and Approval (Rule 9) –**

a. **Time limit for Grant of Registration -**

Sl. No.	Category	Proposed time for grant of registration	Remarks
1	On Successful Authentication of Aadhar	Approval in 7 days	Earlier, the said time limit was 3 working days
2	On not opting for Authentication of Aadhar or failure to get Aadhar Authenticated	Approval in 30 days of submission of application after conducting physical verification of premises	Verification of premises if the officer deems fit to carry out physical verification

b. **Time limit for issuance of SCN –**

Tax Officer can issue SCN within the period specified for grant of registration

- (i) In case of successful Aadhar authentication - 07 working days (Earlier 3 working days)
- (ii) In cases when taxpayer do not opt or Aadhar authentication fails – 30days (Earlier 21 days)

c. **Deemed approval of GST registration –**

Application shall be deemed to have been approved in below cases on expiry of timelines –

Cases where physical verification is not to be conducted	Cases where physical verification is conducted	On receipt of clarification, information or documents
7 workings days	30 days	7 workings days

B. **Cancellation or suspension of Registration-**

I. **Additional clauses for cancellation of GST Registration (Rule 21) -**

Three (3) additional clause has been inserted for reasons for cancellation of Registration.

1. Availment of ITC in violation of Sec 16 of CGST Act, 2017 or Rules thereunder;
2. Furnishes the details in **FORM GSTR-1** for one or more tax periods which is in excess of the outward supplies declared by him in his valid return in **Form GSTR 3B** for the said tax periods;
3. Violates the provision of rule 86B – Restriction on use of ITC in Credit Ledger in excess of 99% (details in subsequent para)

Hence, mismatch of outward supplies reported in returns as well as excess availment of ITC over and above prescribed limit may lead to cancellation of registration.

II. **Suspension of Registration (Rule 21A Sub Rule 2) -**

i. **Suspension of GST Registration without providing opportunity of being heard -**

Omission of the words – **“after affording the said person a reasonable opportunity of being heard”**

Now the proper officer may suspend the registration **without providing an opportunity of being heard** to the taxpayer on grounds mentioned in Section 29 of CGST Act, 2017 or CGST Rules, 2017

Grounds for cancellation **under Section 29** of CGST Act, 2017

- a. Business has been discontinued
- b. transferred fully on death of proprietor
- c. Amalgamated, demerged or disposed of
- d. Change in constitution of business

- e. Person no longer liable to be registered
- f. Contravention of provisions of the Act or the Rules
- g. Non furnishing of returns
- h. Obtained voluntary registration and not commenced business within 6 months
- i. Registration obtained by fraud, wilful misstatement or suppression of facts

Grounds for cancellation **under Rule 21** of CGST Rules, 2017

- a. Does not conduct any business from declared place of business
- b. issues invoice or bill without supply of goods or services of both in violation of the provisions of this Act, or the rules made thereunder
- c. violates the provisions of section 171 of the Act (Anti profiteering provisions)
- d. Violates the provision of rule 10A Contravention of provisions of the (furnishing of details of bank account on GST Portal)
- e. Availment of ITC in violation of Sec 16 of CGST Act, 2017 or Rules thereunder;
- f. Furnishes the details in **FORM GSTR-1** for one or more tax periods which is in excess of the outward supplies declared by him in his valid return in **Form GSTR 3B** for the said tax periods;
- g. Violates the provision of rule 86B – Restriction on use of ITC in Credit Ledger in excess of 99%

Sweeping powers have been granted to the authorities for suspension of registration. More so, the opportunity of being heard is well enshrined in the principals of natural justice which is being curtailed here. Department action may disrupt business operations by suspending the GST Registration of even the genuine taxpayers.

ii. **Suspension of GST Registration on Comparison of returns or Significant differences or anomalies indicating contravention of provisions (Sub Rule 2A in Rule 21A of CGST Rules, 2017) –**

- a. On comparison of Outward supplies reported by Taxpayer in Form GSTR 1 and GSTR 3B; or
- b. Details populated in GSTR 2A and ITC availed in GSTR 3B; or
- c. such other analysis, as may be carried out

which show significant differences or anomalies indicating contravention of the GST provisions, leading to cancellation of registration of the said person, his registration shall be suspended

The person shall be intimated in FORM GST REG-31, or by sending a communication to his e-mail address, 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

III. **No Refund during period of Suspension of GST Registration (Sub Rule 3A in Rule 21A of CGST Rules, 2017)**

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

IV. **Revocation of suspension (Proviso to Rule 4 in Rule 21A of CGST Rules, 2017)**

Suspension of registration may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, **if he deems fit**.

C. **Manner and extent of utilization of Input Tax Credit**

- I. **Changes in Rule 36(4)** of the CGST Rules, 2017 **with effect from 1st January, 2021-**
  - a. **ITC only on invoices for which return has been filed and not uploaded** (the word **“uploaded”** replaced by the word **“furnished”**).

- b. **Invoices reported through Invoice Furnishing Facility (IFF)** – to accommodate the mechanism of availment of ITC for invoices reported through Invoice Furnishing Facility (IFF) this amendment has been made.
- c. **Reduction of margin of availment of ITC from 10% to 5%** - Now, ITC in excess of 5% in addition to ITC appearing in GSTR 2A can only be availed w.e.f. 1<sup>st</sup> January 2021. The restriction has been gradually reduced from 20% to 10% and now 5%.

## II. **Extent of Utilization of Electronic Credit Ledger - Rule 86B with effect from 1<sup>st</sup> January 2021-**

Restriction has been placed on usage of amounts available in electronic credit ledger(ECL) to discharge liability towards output tax in excess of **ninety-nine per cent. (99%)** of such tax liability, where the value of taxable supply (other than exempt supply and zero-rated supply), in a month **exceeds fifty lakh rupees (Rs 50 Lakhs)**

Aforesaid restriction of usage shall not apply in below cases -

1. Value of Taxable supply (other than exempt supply and zero-rated supply), in a month **does not exceed** fifty lakh rupees (Rs 50 Lakhs)
2. Payment of more than One Lakh rupees as Income tax in in each of the last two financial years by the Registered 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.
3. Receipt of Refund amount of more than one lakh rupees in the preceding FY on account of unutilised input tax credit for ZERO rated supplies without payment of tax or under Inverted Duty Structure.
4. Discharge liability 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 FY
5. Registered person is
  - a. Government Department; or
  - b. a Public Sector Undertaking; or
  - c. a local authority; or
  - d. a statutory body

### D. **GST Return Related Changes (Insertion of Sub Rule 5 in Rule 59)-**

I. Blocking of facility to file GSTR 1 in certain cases -

- a. **Monthly filers** – GSTR 1 shall not be allowed to be furnished if the person has not furnished the return in FORM GSTR-3B for **preceding two months**
- b. **Quarterly Filers** - GSTR 1 or Invoice Furnishing Facility (IFF) shall not be allowed to be furnished if the person has not furnished the return in FORM GSTR-3B for **preceding tax period.**
- c. a registered person, who is **restricted from using the Electronic Credit Ledger under rule 86B**, shall not be allowed to furnish FORM GSTR-1 or using the invoice furnishing facility IFF), if he has not furnished the return in FORM GSTR-3B for preceding tax period.

### E. **E-Way Bill related changes (Rule 138) -**

1. **Enhancement of distance for computing validity of E-way bill (with effect from 1<sup>st</sup> Jan 2021) -** The earlier limit per day of 100 Kms has been enhanced to 200 kms per day with effect from 1<sup>st</sup> Jan 2021. It means per day validity of any e-way bill generated from 1<sup>st</sup> Jan 2021, shall be computed for 200 Kms.
2. **Restriction on usage of E-Way Bill facility** – Any person whose registration has been suspended under the provisions of rule 21A shall not be allowed to use E-Way Bill facility