

CGST

Circular No. – 96/2019

Date – 28.03.2019

Seeks to clarify issues in respect of transfer of input tax credit in case of death of sole proprietor

Doubts have been raised whether sub-section (3) of section 18 of the Central Goods and Services Tax Act, 2017 provides for transfer of input tax credit which remains unutilized to the transferee in case of death of the sole proprietor. As per sub-rule (1) of rule 41 of the Central Goods and Services Rules, 2017 the registered person can file FORM GST ITC-02 electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee. Further, clarification has also been sought regarding procedure of filing of FORM GST ITC-02 in case of death of the sole proprietor. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues raised as below.

Clause (a) of sub-section (1) of section 29 of the CGST Act provides that reason of transfer of business includes “death of the proprietor”. Similarly, for uniformity and for the purpose of sub-section (3) of section 18, sub-section (3) of section 22, sub-section (1) of section 85 of the CGST Act and sub-rule (1) of rule 41 of the CGST Rules, it is clarified that transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-96.pdf;jsessionid=6566D5A1C26C50B1B17D3AB98BBFF42F>