

# CENTRAL GOODS AND SERVICES TAX (FOURTH AMENDMENT) RULES, 2019 – AN OVERVIEW

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## **Abstract**

Under the GST regime we have the basic 3 kinds of taxes. – CGST, SGST and IGST. In addition, as per the GST law, certain categories of registered persons will be required to deduct taxes while making payments to supplier i.e TDS and deposit it with the government. Let's try to understand TDS related procedures under GST.

'TDS/TCS credit received' tile is provided for all taxpayers from whom tax has been deducted or collected at source by registered TDS deductors/TCS collectors respectively. After deduction/collection all the deductors/collectors are required to file GSTR-7 or GSTR-8 respectively before 10th of the succeeding month. As far as deductee is concerned, the deductee needs to accept/reject the TDS/TCS credit on the GST portal by filing 'TDS/TCS Credit Received' tab.

Thus, for availing GST TDS/TCS deducted by the deductors/collectors all the deductee need to file 'TDS/TCS credit received' tab on the portal. The deducted amount will appear in Cash Ledger which can be used for payment of balance amount of tax after setting off with the Input tax credit.

To carry out the provisions of the Central Goods and Services Tax Act, 2017 ('Act' for short) the Central Government made the Central Goods and Services Tax Rules, 2017 ('Rules' for short) vide Notification No.07/2017, dated 27.06.2017, which came into effect from 22.06.2017. Changes in law are common. This rule is not an exception to this. This Rule met 14 amendments during the year 2017, 14 amendments during the year 2018 and in the current year 3 amendments and the present amendment is the fourth amendment. In this article the overview of the amendments made in the Rules will be discussed.

*Keywords: GST, TDS, TCS, GSTR, Central Goods and Services Tax Rules, 2017*

## Introduction

TDS is to be deducted at the rate of 2 percent on payments made to the supplier of taxable goods and/or services, where the total value of such supply, under an individual contract, exceeds two lakh fifty thousand rupees. No deduction of Tax is required when the location of supplier and place of supply is different from the State of the registration of the recipient. If any excess amount is deducted and paid to the government, a refund can be claimed as this is not the tax amount that the government has a right on.

However, if the deducted amount is already added to the electronic cash ledger of the supplier, the amount so added cannot be got back as a refund by the deductor. Deductee can claim a refund of tax subject to refund provisions of the act.

## Objective:

Present paper seeks to explore the central goods and services tax (fourth amendment) rules, 2019 and to find out facilities that it provides for easing TDS/TCS process

## Nature of the Fourth amendment

Vide Notification No. 31/2019-Central Tax, dated 28.06.2019 the Central Government made the fourth amendment to the Rule. The date of effect of the amendment is with effect from 28.06.2017 unless otherwise specifically indicated other dates for effect.

## Amendment to registration

Chapter III of the Rule dealt with the procedure for registration under the Act. Rule 10 provides for the issue of registration certificate in Form GST REG – 6. The amendment proposed to insert Rule 10A. The new Rule 10A requires the registered person to submit the details of bank accounts. The new Rule 10A provides that

rule 12 (granting of registration to persons required to deduct tax at source or collect tax at source); or

rule 16 (suo motu registration),

shall as soon as may be, but not later than forty five days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier, furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision.

Rule 10A came into effect from 28.06.2019.

Cancellation of registration

Rule 10A.

Clarification of Kerala Flood Cess

QR Code in tax invoice

Rule 46 provides the procedure for issue of tax invoice. The amendment sought to insert QR Code in the tax invoice by inserting a proviso to this Rule. The date of effect of this rule will be later. The new proviso inserted to Rule 46 provides that the

Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code.

The amendment also sought to insert the QR code in the 'bill of supply' also. The amendment inserted a proviso to Rule 49 which provides the procedure for issue of 'bill of supply'. The date of effect of this rule will be later. The new proviso inserted to Rule 49 provides that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the 'bill of supply' shall have QR code.

### ***Return for TDS***

This amendment came into effect from 28.06.2019.

Statement of supplies by e-commerce operator

This amendment came into effect from 28.06.2019.

Electronic Cash Ledger.

section 14 of the Integrated Goods and Services Tax Act, 2017

The above said amendments came into effect from 28.06.2019.

Rule 87(13) has been newly inserted which will come into effect later as notified by the Central Government. The new Rule 87(13) provides that a registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09.

### ***Refund***

Changes were made in the following rules-

In these rules where the words 'payment advice' appears the same have been substituted by the expression 'payment order'.

Rule 95A has been newly inserted with effect from 01.07.2019. The new rule provides the procedure for

Retail outlet established in departure area of an international airport, beyond the immigration counters, supplying indigenous goods to an outgoing international tourist who is leaving India shall be eligible to claim refund of tax paid by it on inward supply of such goods.

Retail outlet claiming refund of the taxes paid on his inward supplies, shall furnish the application for refund claim in FORM GST RFD- 10B on a monthly or quarterly basis, as the case may be, through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

The self-certified compiled information of invoices issued for the supply made during the month or the quarter, as the case may be, along with concerned purchase invoice shall be submitted along with the refund application.

The refund of tax paid by the said retail outlet shall be available if-

the inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;

the said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;

name and Goods and Services Tax Identification Number of the retail outlet is mentioned in the tax invoice for the inward supply; and

such other restrictions or conditions, as may be specified, are satisfied.

The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.

### **Anti-profiteering**

Rule 128 (1) requires the Standing Committee to examine the application received by it within two months from the date of receipt. The amendment gives relaxation. The Standing Committee if it could not complete the examination of the complaint within two months it may extend to such period not exceeding one month for reasons to be recorded in writing as may be allowed by the Authority.

Rule 129(6) requires the Director General of Anti-profiteering to complete the investigation within a period of three months of the receipt of reference from the Standing Committee. The amendment fixed the period as six months instead of three months.

Rule 133 (1) is also amended by giving the Authority to give the time to issue orders within 6 months from the date of receipt of investigation report from Director General instead of 3 months.

Rule 133(5) (a) and (b) have been introduced in the fourth amendment to the Rules. The newly inserted Rule 133(5) (a) provides that notwithstanding anything contained in sub-rule (4), where upon receipt of the report of the Director General of Anti-profiteering, the Authority has reasons to believe that there has been contravention of the provisions of section 171 in respect of goods or services or both other than those covered in the said report, it may, for reasons to be recorded in writing, within the time limit specified in sub-rule (1), direct the Director General of Anti-profiteering to cause investigation or inquiry with regard to such other goods or services or both, in accordance with the provisions of the Act and these rules. Rule 133(5)(b)

provides that the investigation or enquiry under clause (a) shall be deemed to be a new investigation or enquiry and all the provisions of rule 129 shall mutatis mutandis apply to such investigation or enquiry.

## **E-way bill**

The amendment has brought changes in E-way Bill as detailed below-

Third proviso has been inserted to Rule 138(10) which provides that the validity of the e-way bill may be extended within eight hours from the time of its expiry.

Rule 138 (a) has been amended to some extent. The amended Rule 138 E (a) provided that being a person paying tax under section 10, or availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 189, dated the 7th March, 2019, has not furnished the statement in FORM GST CMP-08 for two consecutive quarters.

## **Amendments in forms**

The following forms have met amendments-

Form GST REG – 1 – the details of bank accounts to be furnished;

Form GST REG – 7 - Part B – entry 12A has been inserted to furnish the details of bank account;

Form GST REG – 12 – Entry no. 13 has been inserted to furnish the details of bank account, which is optional.

Form GSTR – 4 – New form has been substituted for the old form (with effect from 28.06.2019)

Form GST PMT – 09 has been inserted (date of effect will be notified later);

Form GST RFD – 05 – the word ‘advice’ wherever comes, replaced by the word ‘order’ (date of effect will be notified later);

New Form GST RFD – 10 B (with effect from 01.07.2019) has been introduced which is the application for refund by Duty free shops/Duty paid shops;

Form GST DRC – 03 – New form is substituted (effect from 28.06.2019).

## **Summary of the various rules**

CBIC vide Notification No. 31/2019-Central Tax dated June 28, 2019, has made various amendments in CGST Rules, 2017 vide Central Goods and Services Tax (Fourth Amendment) Rules, 2019.

The Central Board of Excise and Customs vide Notification No. 31/2019-Central Tax dated June 28, 2019, has made various amendments in Central Goods and Services Tax Rules, 2017 (CGST Rules) which are prospectively effective from the date of notification. Following are the gist of the amendments made thereunder:

Rule 10: Issue of Registration Certificate



Rule 10A [newly inserted]: Furnishing Bank Account details post registration: After a certificate of registration in FORM GST REG-06 has been made available, the registered person shall furnish information with respect to details of bank account at the earliest, but not later than forty-five days from the date of grant of registration or the date on which the return required under section 39 of Central Goods and Services Tax Act, 2017 (“CGST Act”) is due to be furnished, whichever is earlier. However, such details are not required to be furnished by persons who have been granted registration by the department on its own in terms of rule 16 or persons who have taken registration as Tax Deductor at source (u/s 51) or Tax Collector at source (u/s 52). Corresponding amendments are also made in Forms GST REG-01, GST REG-07 and GST REG-12.

Rule 21: Registration to be cancelled in certain cases

Inserted rule 21(d) [newly inserted]: If bank account details are not furnished within the prescribed time in terms of rule 10A, then the registration so granted shall be liable to be cancelled.

Rule 32: Determination of value in respect of certain supplies

Rule 32A w.e.f. July 01, 2019 [newly inserted]- Value of supply in cases where Kerala Flood Cess is applicable— Kerala Flood Cess, where applicable, shall not form part of the value determined under section 15, rather it shall be leviable on value determined in terms of section 15 of the CGST Act/ Kerala Goods and Services Tax Act, 2017.

Rule 46: Tax invoice

Inserted sixth proviso – Generation of QR code for tax invoice: With effect from a date to be notified later, the Government may specify that the tax invoice shall have Quick Response (QR) code.

Rule 49: Bill of supply

Inserted fourth proviso – Generation of QR code for tax invoice: With effect from a date to be notified later, the Government may specify that the tax invoice shall have Quick Response (QR) code.

Rule 66: Form and manner of submission of return by a person required to deduct TDS

Amendment in Rule 66(2): Since “TDS and TCS credit received” column is specifically provided on GST portal under, Services>>Returns>>TDS and TCS credit received, this sub-rule has been amended accordingly. Earlier references of part C of Form GSTR-2A and GSTR-4 was mentioned under this sub-rule.

Rule 67: Form and manner of submission of statement of supplies through an e-commerce operator

Amendment in Rule 67 (2): Since “TDS and TCS credit received” column is specifically provided on GST portal under, Services>>Returns>>TDS and TCS credit received, this sub-rule has been amended accordingly. Earlier references of part C of Form GSTR-2A and GSTR-4 was mentioned under this sub-rule.

Rule 87: Electronics Cash ledger

Deletion of 2nd proviso to rule 87(2): Generation of challan in Form GST PMT-06 by a person providing OIDAR service from a place outside India to a non-taxable online recipient through the Board’s payment system EASIEST was to be notified vide this proviso, now deleted.

Amendment made in Rule 87(9) to comply with current provision: Since GSTR-2 was never implemented, amount of TDS and TCS credit is not claimed through Form GSTR-2, rather a tab has been provided on the common portal to claim correct TDS and TCS credit. Accordingly, suitable amendment is made in this sub-rule.

Inserted rule 87(13) – Inter-transfer of balances lying in E-cash ledger: With a date to be notified later, a registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09.

Rule 91,92 and 94: Procedure of granting refund

Under Rule 91, 92 and 94, wherever the word ‘payment advice’ has been mentioned, the word ‘payment order’ has been substituted.

**Rule 95: Refund of tax to certain persons**

Rule 95A [newly inserted] w.e.f. July 01, 2019: Refund to retail outlets making tax free supply to an outgoing international tourist: Retail outlets established in departure area of an international airport, beyond the immigration counters, supplying indigenous goods to an outgoing international tourist who is leaving India shall be eligible to claim refund of tax paid by it on inward supply of such goods.

Such persons are required to make application for refund in Form GST RFD-10B and submit invoices issued for inward and outward supplies.

**Rule 128: Examination of application by the Standing Committee and Screening Committee w.r.t. profiteering**

Extension of time period of examination: Standing Committee, which had to examine the receipt of profiteering application within a period of two months, time has been extended by maximum one month for reasons to be recorded in writing as may be allowed by the Authority.

Similarly, two months plus further one month time period shall be given to State level Screening Committee and the Screening Committee as well for examination of profiteering application.

**Rule 129: Initiation and conduct of proceeding w.r.t. profiteering**

Extension of time period of investigation by Director General of Anti-profiteering: The time period for investigation by Director General of Anti-profiteering has been increased from three months to six months.

**Rule 133: Order of National Anti-profiteering Authority (“NAA”)**

Extension of time period of investigation by NAA: The time period for investigation by NAA has been increased from three months to six months.

Payment of Amount along with interest: Where NAA has determined that, profiteering has been made, he may inter-alia order the deposit of an amount equivalent to fifty per cent. of the amount determined. This amount shall be collected along with interest @ 18% from the date of collection of higher amount till the date of actual deposit.



Rule 129(5) has been inserted:

“(5) (a) Notwithstanding anything contained in sub-rule (4), where upon receipt of the report of the Director General of Anti-profiteering referred to in sub-rule (6) of rule 129, the Authority has reasons to believe that there has been contravention of the provisions of section 171 in respect of goods or services or both other than those covered in the said report, it may, for reasons to be recorded in writing, within the time limit specified in sub-rule (1), direct the Director General of Anti-profiteering to cause investigation or inquiry with regard to such other goods or services or both, in accordance with the provisions of the Act and these rules.

(b) The investigation or enquiry under clause (a) shall be deemed to be a new investigation or enquiry and all the provisions of rule 129 shall mutatis mutandis apply to such investigation or enquiry.”

Rule 138: Information to be furnished prior to commencement of movement of goods and generation of e-way bill

Time limit for generation of E-way bill in case of multimodal shipment in which at least one leg involves transport by ship: The time limit as applicable for generation of E-way bill in case of over dimensional cargo shall as such apply for multimodal shipment in which at least one leg involves transport by ship.

Extension of E-way bill validity period [Inserted third proviso in rule 138(10):-] Validity of the e-way bill may be extended within eight hours from the time of its expiry.

Restriction on furnishing information in Part-A of E-way bill: In clause (a), earlier only composition taxpayer registered under section 10 of CGST Act were barred from filling in details in Part-A of Form GST EWB-01, if they have not submitted Form CMP-08 for two consecutive quarters. Now this provision has been made applicable for such service providers as well, who are availing benefit of Notification No. 2/2019-Central Tax (Rate) dated March 07, 2019.

### **Amendments made in Forms and their instructions**

GSTR-4: Form GSTR-4 has been amended to include ‘registered persons availing benefit of notification No. 02/2019- Central Tax (Rate)’

GSTR-9:

- a. Wherever the word September 2018 was mentioned, the word March 2019 has been substituted.
- b. Table 8A of GSTR-9 shall auto-populate the data of GSTR-2A as on the May 01, 2019.

PMT-09: New Form has been inserted with effect from a date to be notified for 'Transfer of amount from one account head to another in electronic cash ledger'

RFD-10B: New Form has been inserted for 'Application for refund by Duty Free Shops/Duty Paid Shops (Retail outlets)'

DRC-03: This Form has been substituted.

## Conclusion

TDS and TCS credit received is a facility available after logging in to the GST portal. It can be filed by all the taxpayers who are making specified sales on the e-commerce platforms and/or entered into any kind of works contract with Government departments. The form is mostly similar to GSTR-2A as it auto-populates details from GST returns like GSTR-7 and GSTR-8 together.

Any GST portal user can click on 'TDS and TCS credit received' tile available on return dashboard after logging in. This can help them to claim or reject the credit of TDS and TCS deducted or collected by their corresponding Government deductor or e-commerce operator.

A time limit has been specified for new registrants under GST to furnish bank account details on GST portal earlier of due date of filing first GST return applicable to them or within 45 days from the grant of GST registration.

Value of supply in cases where Kerala Flood cess is applicable.

There are changes to Rule 66 and 67 of CGST Rules Form and manner of submitting TDS and TCS returns.

Changes have been made to Rule 87 governing electronic cash ledger(ECL)- Introduction of PMT-09 for transfer of cash from one ECL to another.

New rule for GST refund has been prescribed covering Refund of taxes to the retail outlets established in departure area of an international Airport.

A new format for GSTR-4 is notified to be filed by 30th April for a given financial year.

A new format for DRC-03 is notified.

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