



BMC Advisors

Corporate Laws and Intellectual Property Rights Consultants



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DECEMBER 25TH, 2017-DECEMBER 31ST, 2017

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MCA UPDATES

General Circular No.16/2017

File No.02/04/2017-CL-V
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhawan
Dr. Rajendra Prasad Road,
New Delhi-110001.
Dated 29.12.2017

To
All Regional Directors,
All Registrar of Companies,
All Stakeholders.

Sir,

Subject: Condonation of Delay Scheme, 2018

Whereas, companies registered under the Companies Act, 2013 (or its Predecessor Act) are inter-alia required to file their Annual Financial statements and Annual Returns with the Registrar of Companies and non-filing of such reports is an offence under the said Act.

Whereas, section 164(2) of the Act read with section 167 of the Companies Act, 2013 [the Act], which provisions were commenced with effect from 01.04.2014, provide for disqualification of a director on account of default by a company in filing an annual return or a financial statement for a continuous period of three years.

Whereas, Rule 14 of the Companies (Appointment and Qualification of Directors) Rules, 2014 further prescribes that every director shall inform to the company concerned about his disqualification, if any, under section 164(2), in form DIR-8.

Whereas, consequent upon notification of provisions of section 164(2), Ministry of Corporate Affairs (MCA) had launched a Company Law Settlement Scheme 2014 providing an opportunity to the defaulting companies to clear their defaults within the time period specified therein and following the due process as notified.

Whereas, MCA in September 2017, identified 3,09,614 directors associated with the companies that had failed to file financial statements or annual returns in the MCA21 online registry for a continuous period of three financial years 2013-14 to 2015-16 in terms of provisions of section 164(2) r/w 167(1)(a) of the Act and they were barred from accessing the online registry and a list of such directors was published on the website of MCA.

Whereas, as a result of above action, there have been a spate of representations from industry, defaulting companies and their directors seeking an opportunity for the defaulting companies to become compliant and normalize operations.

Whereas, certain affected persons have also filed writ petitions before various High Courts seeking relief from the disqualification.

Whereas, with a view to giving an opportunity for the non-compliant, defaulting companies to rectify the default, in exercise of its powers conferred under sections 403, 459 and 460 of the Companies Act, 2013, the Central Government has decided to introduce a Scheme namely "**Condonation of Delay Scheme 2018**" [CODS-2018] as follows.

1. The scheme shall come into force **with effect from 01.01.2018 and shall remain in force up to 31.03.2018.**
2. **Definitions** - In this scheme, unless the context otherwise requires, -
 - i. "Act" means the Companies Act, 2013 and Companies Act, 1956 (where ever applicable);
 - ii. 'overdue documents' means the financial statements or the annual returns or other associated documents, as applicable, in the case of a defaulting company and refer to documents mentioned in paragraph 5 of the scheme.
 - iii. "Company" means a company as defined in clause of 20 of section 2 of the Companies Act, 2013;
 - iv. "Defaulting company" means a company which has not filed its financial statements or annual returns as required under the Companies Act, 1956 or Companies Act, 2013, as the case may be, and the Rules made there under for a continuous period of three years.
 - v. "Designated authority" means the Registrar of Companies having jurisdiction over the registered office of the company.
3. **Applicability:** - This scheme is applicable to all defaulting companies (other than the companies which have been struck off/ whose names have been removed from the register of companies under section 248(5) of the Act). A defaulting company is permitted to file its overdue documents which were due for filing till 30.06.2017 in accordance with the provisions of this Scheme.
4. **Procedure to be followed for the purposes of the scheme:-** (1) In the case of defaulting companies whose names have not been removed from register of companies,-
 - i) The DINs of the concerned disqualified directors de-activated at present, shall be temporarily activated during the validity of the scheme to enable them to file the overdue documents.
 - ii) The defaulting company shall file the overdue documents in the respective prescribed eForms paying the statutory filing fee and additional fee payable as per section 403 of the Act read with Companies (Registration Offices and fee) Rules, 2014 for filing these overdue documents.
 - iii) The defaulting company after filing documents under this scheme, shall seek condonation of delay by filing form e-CODS attached to this scheme online on the MCA21 portal. The fee for filing application e-forms CODS is Rs. 30,000/- (Rs. Thirty Thousand only).
 - iv) The DINs of the Directors associated with the defaulting companies that have not filed their overdue documents and the eform CODS, and these are not taken on record in the MCA21 registry and are still found to be disqualified on the conclusion of the scheme in terms of section 164(2) (a) r/w 167(1) (a) of the Act shall be liable to be deactivated on expiry of the scheme period.
 - v) In the event of defaulting companies whose names have been removed from the register of companies under section 248 of the Act and which have filed applications for revival under section 252 of the Act up to the date of this scheme, the Director's DIN shall be re-activated only NCLT order of revival subject to the company having filing of all overdue documents.
5. **Scheme not to apply for certain documents** - This scheme shall not apply to the filing of documents other than the following overdue documents:
 - i) Form Number 20B/MGT-7- Form for filing Annual return by a company having share capital.

- ii) Form 21A/MGT-7- Particulars of Annual return for the company not having share capital.
 - iii) Form 23AC, 23ACA, 23AC-XBRL, 23ACA-XBRL, AOC-4, AOC-4(CFS), AOC (XBRL) and AOC-4(non-XBRL) - Forms for filing Balance Sheet/Financial Statement and profit and loss account.
 - iv) Form 66 - Form for submission of Compliance Certificate with the Registrar.
 - v) Form 23B/ADT-1- Form for intimation for Appointment of Auditors.
6. The Registrar concerned shall withdraw the prosecution(s) pending if any before the concerned Court(s) for all documents filed under the scheme. However, this scheme is without prejudice to action under section 167(2) of the Act or civil and criminal liabilities, if any, of such disqualified directors during the period they remained disqualified.
7. At the conclusion of the Scheme, the Registrar shall take all necessary actions under the Companies Act, 1956 / 2013 against the companies who have not availed themselves of this Scheme and continue to be in default in filing the overdue documents.
8. The e-Form CODS 2018 would be available from 20.02.2018 or an alternate date, which will be intimated by the ministry on www.mca.gov.in. The stakeholder should complete the necessary procedural requirements and file overdue documents without waiting for the availability of the e-CODS form.

Yours faithfully,

(KMS Narayanan)
Assistant Director (Policy)
23387263

For e form, please refer below link:

http://www.mca.gov.in/Ministry/pdf/Generalcircular16_29122017.pdf

CUSTOM UPDATES

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
(CENTRAL BOARD OF EXCISE AND CUSTOMS)

NOTIFICATION

New Delhi, the 28th December, 2017

No. 119/2017- Customs (N.T.)

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 4 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs, hereby directs that each of the notifications of the Government of India, Ministry of Finance (Department of Revenue), specified in column (2) of the Table shall be amended in the manner as specified in the corresponding entry in column (3) of the said Table, namely:-

S.No.	Notification date and number	Amendments
(1)	(2)	(3)
1.	Notification No. 82/2017- Customs (N.T.) dated 24th August, 2017	In the said principal Notification, in paragraph 2, for the figures, letters and word "1st January, 2018", the figures, letters and word "15th January, 2018" shall be substituted.
2.	Notification No. 85/2017- Customs (N.T.) dated 07th September, 2017	In the said principal Notification, in paragraph 2, for the figures, letters and word "1st January, 2018", the figures, letters and word "1st April, 2018" shall be substituted.
3.	Notification No. 92/2017- Customs (N.T.) dated 28th September, 2017	In the said principal Notification, in paragraph 2, for the figures, letters and word "1st January, 2018", the figures, letters and word "15th January, 2018" shall be substituted.

[F. No. 450/100/2017 - Cus-IV]

(ZUBAIR RIAZ)
Director (Customs)

Note:

1. The principal notification No. 82/2017-Customs (N.T.), dated 24th August, 2017, was published in the Gazette of India, Extraordinary vide number G.S.R. 1064(E), dated the 24th August, 2017 and was last amended by notification No. 99/2017-Customs (N.T.), dated the 27th October, 2017 published in the Gazette of India, Extraordinary vide number G.S.R. 1348(E), dated the 30th October, 2017.
2. The principal notification No. 85/2017-Customs (N.T.), dated the 7th September, 2017, was published in the Gazette of India, Extraordinary vide number G.S.R. 1136 (E), dated the 7th

September, 2017 and was last amended by notification No. 99/2017-Customs (N.T.), dated the 27th October, 2017 published in the Gazette of India, Extraordinary vide number G.S.R. 1348(E), dated the 30th October, 2017.

3. The principal notification No. 92/2017-Customs (N.T.), dated the 28th September, 2017, was published in the Gazette of India, Extraordinary vide number G.S.R. 1210(E), dated the 28th September, 2017 and was last amended by notification No. 99/2017-Customs (N.T.), dated the 27th October, 2017 published in the Gazette of India, Extraordinary vide number G.S.R. 1348(E), dated the 30th October, 2017.

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification
No. 96/2017 - Customs

New Delhi, dated the 29th December, 2017

G.S.R. (E). – In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.46/2011-Customs, dated the 1st June, 2011 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 423 (E), dated the 1st June, 2011, namely:-

In the said notification, for the Table, the following Table shall be substituted, namely:-

For the table, please refer below link:

<http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2017/cs-tarr2017/cs96-2017.pdf>

2. This notification shall come into force with effect from the 1st day of January, 2018.

[F. No. 354/64/2003-TRU (Pt.I)]

(Ruchi Bisht)
Under Secretary to the Government of India

Note.- The principal notification No. 46/2011-Customs, dated the 1st June, 2011, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number 423 (E), dated the 1st June, 2011 and was last amended by notification No. 63/2016- Customs, dated 31st December, 2016 which was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1203 (E), dated 31st December, 2016.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification
No. 97/2017-Customs

New Delhi, dated the 29th December, 2017

G.S.R. (E). – In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.53/2011-Customs, dated the 1st July, 2011 published in the Gazette of India, vide number G.S.R. 499 (E), dated the 1st July, 2011, namely:-

In the said notification, in the Table,-

- i) in Sl. No. 84, for the entry in column (4), the entry "55.0", shall be substituted;
- ii) in Sl. No.85, for the entry in column (4), the entry "55.0", shall be substituted;
- iii) in Sl. No. 87, for the entry in column (4), the entry"52.0", shall be substituted;
- iv) in Sl. No.129, for the entry in column (4), the entry "44.0", shall be substituted;
- v) in Sl. No. 130, for the entry in column (4), the entry "54.0", shall be substituted;
- vi) in Sl. No. 133, for the entry in column (4), the entry"52.0", shall be substituted;
- vii) in Sl. No. 134, for the entry in column (4), the entry"52.0", shall be substituted;
- viii) in Sl. No. 136, for the entry in column (4), the entry "48.0", shall be substituted.

2. This notification shall come into force with effect from the 1st day of January, 2018.

[F. No. 354/43/2009-TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 53/2011-Customs, dated the 1st July, 2011 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i), vide number G.S.R. 499 (E), dated the 1st July, 2011 and was last amended vide notification No. 65/2016-Customs, dated the 31st December, 2016 and was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i), vide number G.S.R. 1205 (E), dated the 31st December, 2016.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART-II, SECTION-3, SUB-SECTION (ii)]

Government of India
Ministry of Finance
(Department of Revenue)
(Central Board of Excise and Customs)

Notification No. 120/2017-CUSTOMS (N.T.)

New Delhi, 29th December, 2017
8 Pausha, 1939 (SAKA)

S.O. ... (E).- In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted namely:-

“TABLE-1

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	660
2	1511 90 10	RBD Palm Oil	694
3	1511 90 90	Others - Palm Oil	677
4	1511 10 00	Crude Palmolein	709
5	1511 90 20	RBD Palmolein	712
6	1511 90 90	Others - Palmolein	711
7	1507 10 00	Crude Soya bean Oil	813
8	7404 00 22	Brass Scrap (all grades)	3642
9	1207 91 00	Poppy seeds	2576

TABLE-2

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 and 358 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	415 per 10 grams

2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 and 359 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	539 per kilogram
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TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	3948"

[F. No. 467/01/2017 -Cus-V]

(Dr. Sreeparvathy S.L.)
Under Secretary to the Govt. of India

Note: - The principal notification was published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide Notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, vide number S. O. 748 (E), dated the 3rd August, 2001 and was last amended vide Notification No. 116/2017-Customs (N.T.), dated the 15th December, 2017, e-published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 3895(E), dated 15th December, 2017.

GST UPDATES

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]
 Government of India
 Ministry of Finance
 (Department of Revenue)
 [Central Board of Excise and Customs]
 Notification No. 71/2017 - Central Tax

New Delhi, the 29th December, 2017

G.S.R. (E):— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), and in supersession of notification No. 57/2017 - Central Tax dated the 15th November, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1413 (E), dated the 15th November, 2017, except as respects things done or omitted to be done before such supersession, the Central Government, on the recommendations of the Council, notifies the registered persons having aggregate turnover of upto 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who may follow the special procedure as detailed below for furnishing the details of outward supply of goods or services or both.

2. The said persons may furnish the details of outward supply of goods or services or both in **FORM GSTR-1** effected during the quarter as specified in column (2) of the Table below till the time period as specified in the corresponding entry in column (3) of the said Table, namely:-

Table

Sl No.	Quarter for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
(1)	(2)	(3)
1	July - September, 2017	10th January, 2018
2	October - December, 2017	15th February, 2018
3	January - March, 2018	30th April, 2018

3. The special procedure or extension of the time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the Act, for the months of July, 2017 to March, 2018 shall be subsequently notified in the Official Gazette.

[F. No. 349/58/2017-GST (Pt.)]

(Ruchi Bisht)
 Under Secretary to the Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
[Central Board of Excise and Customs]

Notification No. 72/2017 - Central Tax

New Delhi, the 29th December, 2017

G.S.R. (E):— In exercise of the powers conferred by the second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter in this notification referred to as the Act) and in supersession of notification No. 58/2017 - Central Tax dated the 15th November, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1414 (E), dated the 15th November, 2017, except as respects things done or omitted to be done before such supersession, the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in **FORM GSTR-1** under sub-section (1) of section 37 of the Act for the months as specified in column (2) of the Table, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, till the time period as specified in the corresponding entry in column (3) of the said Table, namely:-

Table

SI No.	Months for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
(1)	(2)	(3)
1	July - November, 2017	10th January, 2018
2	December, 2017	10th February, 2018
3	January, 2018	10th March, 2018
4	February, 2018	10th April, 2018
5	March, 2018	10th May, 2018

2. The extension of the time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the Act, for the months of July, 2017 to March, 2018 shall be subsequently notified in the Official Gazette.

[F. No. 349/58/2017-GST (Pt.)]

(Ruchi Bisht)
Under Secretary to the Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)] Government
of India
Ministry of Finance
(Department of Revenue)
[Central Board of Excise and Customs]

Notification No. 73/2017 - Central Tax

New Delhi, the 29th December, 2017

G.S.R.....(E):- In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the said Act, by any registered person for failure to furnish the return in **FORM GSTR-4** by the due date, which is in excess of an amount of twenty five rupees for every day during which such failure continues:

Provided that where the total amount payable in lieu of central tax in the said return is nil, the amount of late fee payable under section 47 of the said Act, by any registered person for failure to furnish the said return by the due date shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

[F. No. 349/58/2017-GST (Pt.)]

(Ruchi Bisht)
Under Secretary to the Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
Notification No. 74/2017 - Central Tax

New Delhi, the 29th December, 2017

G.S.R.(E).— In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 1st day of February, 2018, as the date from which the provisions of serial numbers 2 (i) and 2 (ii) of notification No. 27/2017 - Central Tax dated the 30th August, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1121 (E), dated the 30th August, 2017, shall come into force.

[F. No.349/58/2017-GST (Pt)]

(Ruchi Bisht)
Under Secretary to the Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise and Customs

Notification No. 75/2017 - Central Tax

New Delhi, the 29th December, 2017

G.S.R.....(E):- In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

- (1) These rules may be called the Central Goods and Services Tax (Fourteenth Amendment) Rules, 2017.
- (2) Unless otherwise specified, they shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017,

(i) in rule 17, after sub-rule (1), the following sub-rule shall be inserted, namely:-

“(1A) The Unique Identity Number granted under sub-rule (1) to a person under clause (a) of sub-section (9) of section 25 shall be applicable to the territory of India.”;

(ii) in rule 19, after sub-rule (1), the following sub-rule shall be inserted, namely:-

“(1A). Notwithstanding anything contained in sub-rule (1), any particular of the application for registration shall not stand amended with effect from a date earlier than the date of submission of the application in **FORM GST REG-14** on the common portal except with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify.”;

(iii) with effect from 23rd October, 2017, in rule 89, for sub-rule (4), the following shall be substituted, namely:-

“(4) In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula -

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where, -

- (A) "Refund amount" means the maximum refund that is admissible;
- (B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;
- (C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;

(D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

(E) "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding -

- (a) the value of exempt supplies other than zero-rated supplies and
- (b) the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both, if any, during the relevant period;

(F) "Relevant period" means the period for which the claim has been filed.

(4A) In the case of supplies received on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18th October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

(4B) In the case of supplies received on which the supplier has availed the benefit of notification No. 40/2017-Central Tax (Rate) dated 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23rd October, 2017, or both, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.”;

(iv) in rule 95 -

(a) for sub-rule (1), the following sub-rule shall be substituted, namely:-

“(1) Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued under section 55 shall apply for refund in **FORM GST RFD-10** once in every quarter, electronically on the common portal or otherwise, either directly or through a Facilitation Centre notified by the Commissioner, along with a statement of the inward supplies of goods or services or both in **FORM GSTR-11.**”;

(b) in sub-rule (3), in clause (a), the words “and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any” shall be omitted;

(v) with effect from 23rd October, 2017, in rule 96 -

(a) in the heading, after the words “paid on goods”, the words “or services” shall be inserted;

(b) after sub-rule (8), the following sub-rule shall be inserted, namely:-

“(9) The persons claiming refund of integrated tax paid on export of goods or services should not have received supplies on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18th October, 2017 or notification No. 40/2017-Central Tax (Rate) dated 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23rd October, 2017.”;

(vi) for **FORM GST REG-10**, the following form shall be substituted, namely:-

For “Form GST REG-10, please refer below link:

<http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-75-central-tax-english.pdf>

(vii) in **FORM GST REG-13**,

- a. in **PART-B**, at serial no. 4, the words, "Address of the entity in State" shall be substituted with the words, "Address of the entity in respect of which the centralized UIN is sought";
- b. in the Instructions, the words, "Every person required to obtain a unique identity number shall submit the application electronically" shall be substituted with the words, "Every person required to obtain a unique identity number shall submit the application electronically or otherwise.";

(viii) for **FORM GSTR-11**, the following form shall be substituted, namely:-

For FORM GSTR-11, please refer below link:

<http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-75-central-tax-english.pdf>

(ix) for **FORM GST RFD-10**, the following form shall be substituted, namely:-

For FORM GST RFD-10, please refer below link:

<http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-75-central-tax-english.pdf>

(x) in **FORM GST DRC-07**, the Table at serial no. 5 shall be omitted.

[F. No. 349/58/2017-GST (Pt.)]

(Ruchi Bisht)

Under Secretary to the Government of India

Note:- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R 610 (E), dated the 19th June, 2017 and last amended vide notification No. 70/2017-Central Tax, dated the 21st December, 2017, published vide number G.S.R 1531 (E), dated the 21st December, 2017.

Circular No. 26/26/2017-GST

F. No. 349/164/2017/-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing

New Delhi, Dated the 29th December, 2017

To,
The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners
of Central Tax (All)
The Principal Director Generals/ Director Generals (All)

Subject: Filing of Returns under GST- regarding

The GST Council, in its 23rd meeting held at Guwahati on 10th November 2017, has taken certain decisions in regard to filing of returns by taxpayers. Subsequently, various representations have been received seeking clarifications on various aspects of return filing such as return filing dates, applicability and quantum of late fee, amendment of errors in submitting / filing of **FORM GSTR-3B** and other related queries. In order to consolidate the information in various notifications and circulars regarding return filing and to ensure uniformity in implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 hereby clarifies the following issues:

1. Return Filing Calendar:

1.1 Dates for filing of **FORM GSTR-1** and **FORM GSTR-3B** have been put in a calendar format for ease of understanding as under:

Return Dates	Filing	January 2018		February 2018			March 2018		April 2018			May 2018
		10	20	10	15	20	10	20	10	20	30	10
Upto 1.5 Crore	GSTR-3B		Dec 3B			Jan 3B		Feb 3B		Mar 3B		Apr 3B
	GSTR-1	Jul-Sep 2017			Oct-Dec 2017						Jan-Mar 2017	
Greater Than 1.5 Crore	GSTR-3B		Dec 3B			Jan 3B		Feb 3B		Mar 3B		Apr 3B
	GSTR-1	Jul-Nov 2017		Dec 2017			Jan 2018		Feb 2018			Mar 2018

1.2 It may be noted that all registered persons are required to file their **FORM GSTR-3B** on a monthly basis in terms of Notification No. 35/2017-Central Tax (referred to as "CT" hereinafter) dated 15th September, 2017 and 56/2017-CT dated 15th November 2017. Further, Notification No. 71/2017-CT and Notification No. 72/2017 - CT both dated 29th December 2017 (superseding Notification No. 57/2017-CT and 58/2017-CT both dated 15th November 2017) have been issued to notify the due dates for filing of outward supply statement in **FORM GSTR-1** for various months / quarters (as depicted in the calendar above) by registered persons having aggregate turnover in the previous financial year or current financial year of upto 1.5 Crores rupees and above 1.5 Crores rupees respectively. Since, the option of quarterly filing was not available earlier, many taxpayers have already filed their **FORM GSTR-1** for the month of July, such taxpayers shall not file these details again and shall only file details for the month of August and September, 2017. For those, who have not filed their **FORM GSTR-1** for the month of July, they shall also file their **FORM GSTR-1** for the month of July separately and then file their **FORM GSTR-1** on quarterly basis for the month of August and September, 2017.

1.3 It has been further decided that the time period of filing of **FORM GSTR-2** and **FORM GSTR -3** for the months of July 2017 to March 2018 would be worked out by a Committee of officers and communicated later.

1.4 Registered persons opting for Composition scheme are required to file their returns quarterly in **FORM GSTR-4**. The due date for filing of **FORM GSTR-4** for the quarter ending September 2017 has been extended to 24th December 2017 vide Notification No. 59/2017-CT dated 15th November 2017. For the remaining quarters, the last date for filing of **FORM GSTR-4** is within eighteen days after the end of such quarter.

1.5 It is also clarified that the registered person will self-assess his aggregate turnover in terms of Section 2(6) of the CGST Act, 2017 for the previous financial year or the current financial year (in case of new registrants). Based on this self-assessed turnover, the registered person with turnover up to Rs. 1.5 Crore will be required to file **FORM GSTR-1** on quarterly basis instead of on monthly basis. It is also clarified that the registered person may opt to file **FORM GSTR-1** on monthly basis if he so wishes even though his aggregate turnover is up to Rs. 1.5 Crore. Once he falls in this bracket or if he chooses to file return on monthly basis, the registered person will not have the option to change the return filing periodicity for the entire financial year. In cases, where the registered person wrongly reports his aggregate turnover and opts to file **FORM GSTR-1** on quarterly basis, he may be liable for punitive action under the CGST Act, 2017.

2. Applicability and quantum of late fee:

2.1 The late fee for the months of July, August and September for late filing of **FORM GSTR - 3B** has already been waived off vide Notification No. 28/2017-CT dated 1st September 2017 and 50/2017-CT dated 24th October 2017.

2.2 It has been decided that for subsequent months, i.e. October 2017 onwards, the amount of late fee payable, by a taxpayer whose tax liability for that month was „NIL“, will be Rs. 20/- per day (Rs. 10/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts). For other taxpayers, whose tax liability for that month was not „NIL“, late fee payable will be Rs. 50/- per day (Rs. 25/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts). Notification No. 64/2017-CT dated 15th November 2017 has already been issued in this regard.

3. Amendment / corrections / rectification of errors:

3.1 Various representations have been received wherein registered persons have requested for clarification on the procedure for rectification of errors made while filing their **FORM GSTR-3B**. In this regard, Circular No. 7/7/2017-GST dated 1st September 2017 was issued which clarified that errors committed while filing **FORM GSTR - 3B** may be rectified while filing **FORM GSTR-1** and **FORM GSTR-2** of the same month. Further, in the said circular, it was clarified that the system will automatically reconcile the data submitted in **FORM GSTR-3B** with **FORM GSTR-1** and **FORM GSTR-2**, and the variations if any will either be offset against output tax liability or added to the output tax liability of the subsequent months of the registered person.

3.2 Since, the GST Council has decided that the time period of filing of **FORM GSTR-2** and **FORM GSTR -3** for the month of July 2017 to March 2018 would be worked out by a Committee of officers, the system based reconciliation prescribed under Circular No. 7/7/2017-GST dated 1st September 2017 can only be operationalized after the relevant notification is issued. The said circular is therefore kept in abeyance till such time.

3.3 The common errors while submitting **FORM GSTR-3B** and the steps needed to be taken to rectify the same are provided in the table annexed herewith. For annexure, please refer below link:
<http://www.cbec.gov.in/resources//htdocs-cbec/gst/circularno-26-cgst.pdf>

The registered person needs to decide at which stage of filing of **FORM GSTR-3B** he is currently at and also the error committed by him. The corresponding column in the table provides the steps to be followed by him to rectify such error.

4. It is clarified that as return in **FORM GSTR-3B** do not contain provisions for reporting of differential figures for past month(s), the said figures may be reported on net basis alongwith the values for current month itself in appropriate tables i.e. Table No. 3.1, 3.2, 4 and 5, as the case may be. It may be noted that while making adjustment in the output tax liability or input tax credit, there can be no negative entries in the **FORM GSTR-3B**. The amount remaining for adjustment, if any, may be adjusted in the return(s) in **FORM GSTR-3B** of subsequent month(s) and, in cases where such adjustment is not feasible, refund may be claimed. Where adjustments have been made in **FORM GSTR-3B** of multiple months, corresponding adjustments in **FORM GSTR-1** should also preferably be made in the corresponding months.

5. Where the taxpayer has committed an error in submitting (before offsetting and filing) the information in **FORM GSTR-3B**, a provision for editing the same has been provided. The facility to edit the information can be used only before offsetting the liability and editing will not be permitted after offsetting the liability. Hence, every care should be taken to ensure the accuracy of the figures before proceeding to offset the liabilities. may be adjusted in the return(s) in **FORM GSTR-3B** of subsequent month(s) and, in cases where such adjustment is not feasible, refund may be claimed. Where adjustments have been made in **FORM GSTR-3B** of multiple months, corresponding adjustments in **FORM GSTR-1** should also preferably be made in the corresponding months.

6. It is further clarified that the information furnished by the registered person in the return in **FORM GSTR-3B** would be reconciled by the department's system with the information furnished in **FORM GSTR-1** and discrepancies, if any, shall be dealt with in accordance with the relevant provisions of the CGST Act, 2017 and rules made thereunder. Detailed instructions regarding reconciliation of information furnished in **FORM GSTR-3B** with that contained in **FORM GSTR-2** and **FORM GSTR-3** will be issued in due course of time.

7. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

8. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board

(Upender Gupta)
Commissioner (GST)



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