

GST
NEWSLETTER
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DISCLAIMER: The material and information is prepared to provide updates under GST. It should not be relied upon as the sole basis for any decision which may effect you or your business.

INDEX

PAGE
NO.

IMPORTANT JUDGMENTS

1.	Notices shall be uploaded on Website of Revenue- Communication merely on mail won't suffix	4
2.	Electronic Credit Ledger could be blocked as per Rule 86A for reasons to be recorded in writing	5
3	A mere omission to mention the place of unloading in the e-Way Bill, cannot be a ground to presume that there is an intention to violate the law or to evade tax	6

RECENT UPDATES

4	Due Dates for GSTR 1& GSTR 3B- Notification No. 83/2020 Central Tax & Notification No. 86/2020 Central Tax	9
5	Due Date for ITC 04 Notification No. 87/2020 Central Tax	10
6	Implementation of E-Invoicing under GST having aggregate turnover exceeding Rs. 100 cr Notification No. 88/2020 Central Tax	10
7	Quarterly Return filing & Monthly Payment of Taxes (QRMP) Scheme	11-15

PORTAL RELATED UPDATES

8	Auto-populated Form GSTR 3B (PDF) for the taxpayers, from the month of October 2020 onwards	17
9	Blocking & Un-Blocking of E-Way Bill (EWB)	18-19
10	Auto-population of E-invoice details into GSTR-1	20-21

IMPORTANT JUDGMENTS

M/s Sree Rama Steels Versus The Deputy State Tax Officer and 3 others

Telangana High Court Writ Petition No. 4873 of 2020 decided on 06/11/2020

The petitioner contends that there was no intention or attempt on his part to evade tax, and to save unnecessary transport charges and also time which would have been incurred by first transporting goods from (i) the site of the vendor of petitioner in Telangana to petitioner's business place in Andhra Pradesh, and (ii) then again from petitioner's place in Andhra Pradesh to its customer's / buyer's place in Andhra Pradesh, and (iii) thereafter, again to the job work site of petitioner's customer located in Telangana State, it had asked the driver of the vehicle to deliver goods directly to the petitioner's customer's Job work site office at Katedan, Telangana State by raising appropriate tax invoice and also generating e-Way Bill. According to petitioner, by this action, no tax benefit accrued to petitioner and there is no loss of revenue to the State of Telangana either. The petitioner therefore sought refund of the amount collected from petitioner towards tax and penalty. Without there being any order/decision passed by the 1st respondent and communicated to the petitioner, the petitioner cannot be expected to file appeal invoking Section 107 of the TGST Act, 2017. So court reject the plea of the 1st respondent that the petitioner should avail the remedy of appeal under Sec.107 of the TGST Act. Once the conveyance/vehicle driver had the tax invoice and the e-way bill, there is prima facie compliance with the provisions of the CGST Act and Telanaga GST Act and the rules made thereunder and as per para 5 of the circular dt.14.9.2018, it did not warrant initiating of proceedings under Sdc.129 of the Telangana GST Act,2017. It may be that when the Ex.P9 - e-Way Bill was prepared by the petitioner there was an option to disclose the place of unloading such as the job worker's address which was not done in the instant case, as permitted by Rule 46(o) of the S.G.S.T. Rules. A mere omission to mention the said fact in the e-Way Bill, cannot be a ground for the 1st respondent to presume that there is an intention to violate the law or to evade tax. The Writ Petition is allowed and the action of 1st respondent in collecting the sum from petitioner is declared as arbitrary and violative of Articles 14 and 265 of the Constitution of India, and also the provisions of CGST Act, 2017 and TGST Act, 2017, and also the Circular CBEC / 20 / 16 / 03 / 2017 – GST, issued by the Government of India; and consequently, the respondents are directed to refund the said amount with interest at the rate of 6 % per annum.

M/s Shri Shyam Baba Edible Oils Versus The Chief Commissioner and another

Madhya Pradesh High Court W.P. No. 16131/2020 decided on 19/11/2020

The petition invoking writ and supervisory jurisdiction of this Court prays for a writ of certiorari or any other writ or writs may kindly be issued quashing the impugned order in Form GST DRC-07 and orders as referred in the said order i.e. order under section 74 passed by the respondents. Grievance of the petitioner is that while raising the demand of tax, the foundational show-cause notice/order qua financial year 2018-2019 and tax period April, 2018 to March, 2019, was never communicated to the petitioner who is an individual registered under GST Act. As such on the question of violation of principle of natural justice on the anvil of Rule 142 of CGST Act, 2017, this Court requisitioned reply of the State. Learned counsel for the petitioner has drawn the attention of this Court to the provision of Rule 142(1) of CGST Act to contend that the said provision statutorily obliges the revenue department to communicate show-cause notice/order by uploading the same on the website of revenue so that the aggrieved person can have access to the same and be aware of reasons behind the demand to enable the aggrieved person to avail alternative remedy before the higher forum under CGST Act. The State in its reply has provided no material to show that show-cause notice/order was uploaded on website of revenue. In fact, learned AAG, fairly concedes that the show-cause notice/order was communicated to petitioner by Email and was not uploaded on website of the revenue. The Court has no manner of doubt that statutory procedure prescribed for communicating show-cause notice/order under Rule 142(1) of CGST Act having not been followed by the revenue, the impugned demand pertaining to financial year 2018-2019 and tax period April, 2018 to March, 2019 deserves to be and is struck down. Accordingly, instant petition stands allowed with liberty to the revenue to follow the procedure prescribed under Rule 142 of CGST Act by communicating the show-cause notice to the petitioner by appropriate mode thereafter to proceed in accordance with law.

M/S URBANIZE DEVELOPERS INDIA PRIVATE LIMITED Versus THE ASSISTANT COMMISSIONER OF COMMERCIAL TAXES

Karnataka High Court WRIT PETITION NO. 11598/2020 decided on 02/11/2020

The learned Counsel for the petitioner submits that the petitioner has filed its Returns in the prescribed form in GSTR-3B for the month of March 2019 along with the late fee for the delay in filing the Returns. In the month of January, 2020 the petitioner is served with an advisory to deposit the amount equivalent to the belatedly availed credit along with applicable interest informing the petitioner that it could not have filed Returns availing such credits after the prescribed date and the same is impermissible under Section 16[4] of the CGST Act 2017. Thereafter, the petitioner is informed by another email in the month of February, 2020 that the petitioner's electronic ledger is blocked for utilization. The petitioner has filed its representations requesting the respondent to unblock the Electronic Ledger. The learned counsel also submits that the respondent could have blocked the petitioner's Electronic Ledger only in exercise of power under Rule 86A of the GST Rules, and this Rule has inbuilt safeguards inasmuch as it provides that the Electronic Ledger could be blocked for the reasons to be recorded in writing. The Court is of the considered view that the writ petition could be disposed of, without expressing any opinion on merits, permitting the petitioner to file a representation with the Assistant Commissioner of Commercial Taxes, and this Officer shall expeditedly consider the petitioner's representations but within an outer period of 6 [six] weeks from the date of such representations. The writ petition is accordingly disposed of.

Akash Garg Versus State of M.P.

Madhya Pradesh High Court W.P. No. 16117/2020 decided on 19/11/2020

The petition invoking writ and supervisory jurisdiction of this Court prays for a writ of certiorari or any other writ or writs may kindly be issued quashing the impugned order in Form GST DRC-07 and orders as referred in the said order i.e. order under section 74 passed by the respondents. Grievance of the petitioner is that while raising the demand of tax, the foundational show-cause notice/order qua financial year 2018-2019 and 2019-2020 and tax period September, 2018 to March, 2019 and April, 2019 to May, 2019 respectively, was never communicated to the petitioner who is an individual registered under GST Act. As such on the question of violation of principle of natural justice on the anvil of Rule 142 of CGST Act, 2017, this Court requisitioned reply of the State. Learned counsel for the petitioner has drawn the attention of this Court to the provision of Rule 142(1) of CGST Act to contend that the said provision statutorily obliges the revenue department to communicate show-cause notice/order by uploading the same on the website of revenue so that the aggrieved person can have access to the same and be aware of reasons behind the demand to enable the aggrieved person to avail alternative remedy before the higher forum under CGST Act. The State in its reply has provided no material to show that show-cause notice/order was uploaded on website of revenue. In fact, learned AAG, fairly concedes that the show-cause notice/order was communicated to petitioner by Email and was not uploaded on website of the revenue. The Court has no manner of doubt that statutory procedure prescribed for communicating show-cause notice/order under Rule 142(1) of CGST Act having not been followed by the revenue, the impugned demand pertaining to financial year 2018-2019 and 2019-2020 and tax period September, 2018 to March, 2019 and April, 2019 to May, 2019 respectively deserves to be and is struck down. Accordingly, instant petition stands allowed with liberty to the revenue to follow the procedure prescribed under Rule 142 of CGST Act by communicating the show-cause notice to the petitioner by appropriate mode thereafter to proceed in accordance with law.

RECENT UPDATES

Due Date for GSTR 1

Notification No. 83/2020 Central Tax
dated 10 th November 2020

The time limit for furnishing the details of outward supplies in FORM GSTR 1 of the CGST Rules, 2017 for each of the tax periods-

- for monthly return - extended till 11 th day of the month succeeding such tax period.
- for quarterly return - extended till 13 th of the month succeeding such tax period.

Due Date for GSTR 3B

Notification No. 86/2020 Dated 10th
November, 2020

Notification No. 76/ 2020-Central Tax, dated the 15th October, 2020 prescribed staggered due-dates categorizing tax payers region-wise for filing of FORM GSTR-3B for October, 2020 to March, 2021.

However with the introduction of QRMP Scheme, changes has been made in CGST Rules, 2017 itself and hence the said notification issued earlier becomes infructuous and hence rescinded.

Due Date for ITC-04

Notification No. 87/2020 Dated 10th November,
2020

The time limit for furnishing the declaration in **FORM GST ITC-04**, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2020 to September, 2020 is extended till the 30th day of November, 2020.

Implementation of E-Invoicing under GST having aggregate turnover exceeding Rs. 100 cr from 01/01/2021

Notification No. 88/2020 Dated 10th November,
2020

E-invoicing in terms of rule 48(4) of the CGST Rules, 2017 is mandatory for registered persons with aggregate turnover exceeding Rs.100 crore w.e.f 1st January 2020, in respect of supply of goods or services or both to a registered person. Earlier it was Rs 100 crore which was further increased to Rs 500 crore vide Notification No.70/2020 dated 30th September,2020.

Introducing Quarterly Return Monthly Payment (QRMP) Scheme

When can I opt-in for quarterly filing?



For Jan-March 2021 Quarter you can opt-in to the scheme from 5th December 2020 to 31st January 2021

Normally you can Opt-in to the scheme in every Quarter as per the following dates.

Quarter	Between
Q1 (April – May – June)	1 st February to 30 th April
Q2 (July – August – September)	1 st May to 31 st July
Q3 (October – November – December)	1 st August to 31 st October
Q4 (January – February – March)	1 st November to 31 st January

Remember, once opted-in, the same option will continue for all quarters, unless you opt-out.

To opt in for the scheme → Login > Services > Returns > Opt-in for quarterly return

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Introducing Quarterly Return Monthly Payment (QRMP) Scheme

Now, small taxpayers with aggregate turnover up to Rs 5 Cr may file their FORM GSTR-1 and FORM GSTR-3B *Quarterly*

No Interest applicable if 35% challan is paid by 25th of the succeeding month

Invoice Furnishing Facility (IFF): An *optional facility* for furnishing B2B invoices and passing Input Tax Credit in Month 1 and Month 2 of a quarter

GSTR-2A view to be provided *every month*

Quarterly GSTR-1 and GSTR-3B may be filed through a *simple SMS* also



Monthly payment to be done by a *simple challan* either

- By self assessment of monthly liability or
- 35% of net cash liability of previous filed GSTR-3B of the quarter

No Payment required if you have no liability for the month or your balance in electronic cash or credit ledger is more than your liability

Different GSTINs on same PAN may file monthly or quarterly in *different States*

GSTR-2B view to be provided both *Monthly and Quarterly*

Scheme opens on *5th December 2020*

To opt in for the scheme → Login > Services > Returns > Opt-in for quarterly return

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Salient features of Quarterly Return filing & Monthly Payment of Taxes (QRMP) Scheme

Notification No. 81,82,84,85/2020 Dated 10th November, 2020

1. Who can opt for the scheme: Following registered person (hereinafter RP) can file quarterly returns and pay tax on monthly basis w.e.f. 01.01.2021 :

- An RP who is required to file Form GSTR 3B with AATO of up to Rs 5 Cr. in the previous financial year is eligible. If AATO crosses Rs 5 Cr. during a qtr., RP will become in-eligible for the Scheme from next quarter.
- Any person obtaining a new registration or opting out of Composition Scheme can also opt for this Scheme.
- The option to avail this Scheme can be availed GSTIN wise. Therefore, few GSTINs for that PAN can opt for the Scheme and remaining GSTINs can remain out of the Scheme.

2. Changes on the GST Portal: For qtr. Jan., 2021 to March, 2021, all RPs whose AATO for the FY 2019-20 is up to Rs 5 Cr. and have furnished the return in Form GSTR-3B for the month of October, 2020 by 30th 2020, will be migrated by default in the GST system as follows:

Sl. No.	Class of RPs with AATO	Default Return Option
1	Up to Rs 1.5 Cr., who have furnished Form GSTR-1 on quarterly basis in current FY	Qtrly
2	Up to Rs 1.5 Cr., who have furnished Form GSTR-1 on monthly basis in current FY	Monthly
3	More than Rs 1.5 Cr. and up to Rs 5 Cr. in preceding FY	Qtrly

Salient features of Quarterly Return filing & Monthly Payment of Taxes (QRMP) Scheme (Continued...)

3. When can a person opt for the scheme:

- Facility can be availed throughout the year, in any quarter.
- Option for QRMP Scheme, once exercised, will continue till RP revises the option or his AATO exceeds Rs 5 Cr.
- RPs migrated by default can choose to remain out of the scheme by exercising their option from 5th, 2020 till 31st Jan., 2021.

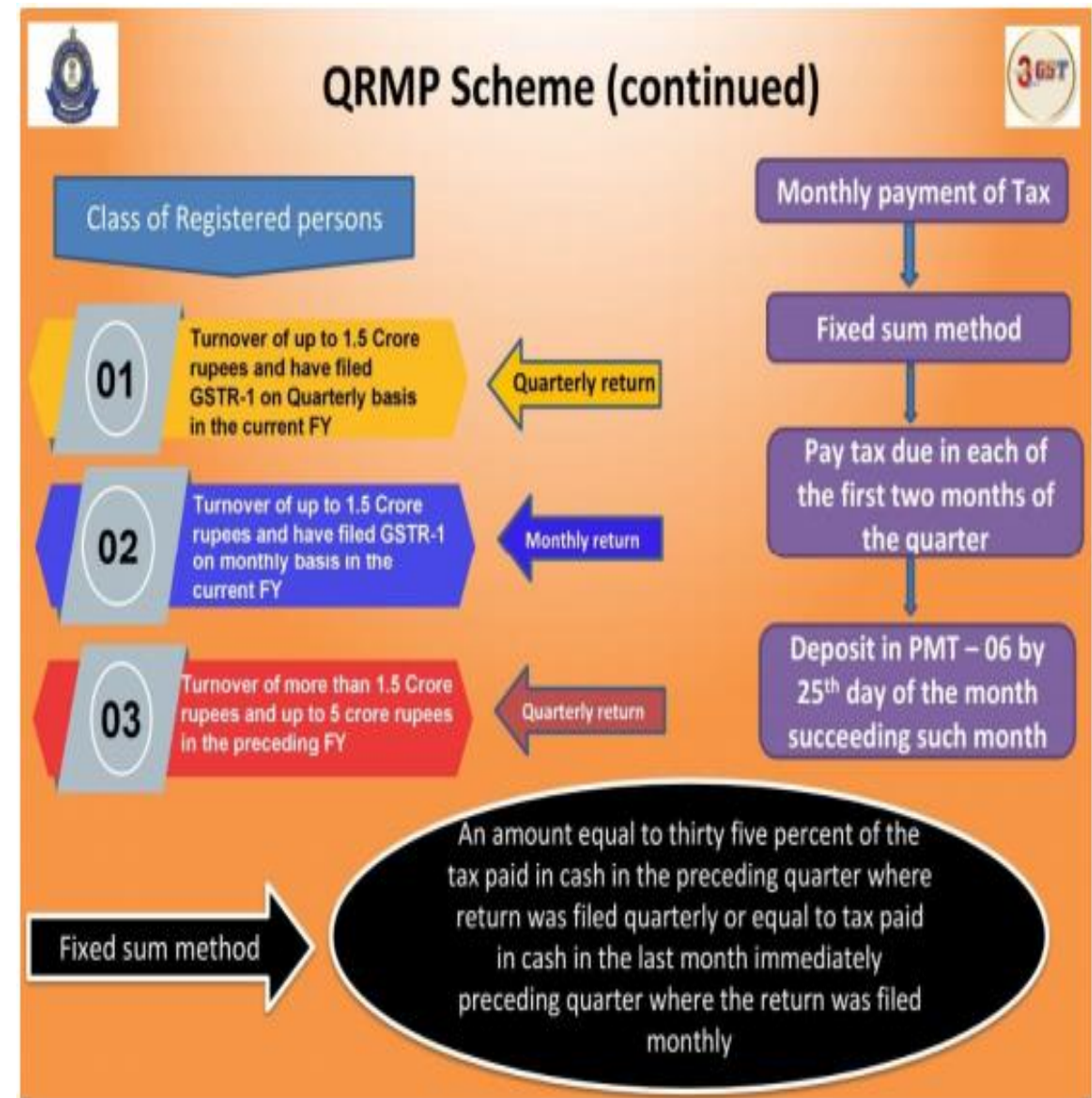
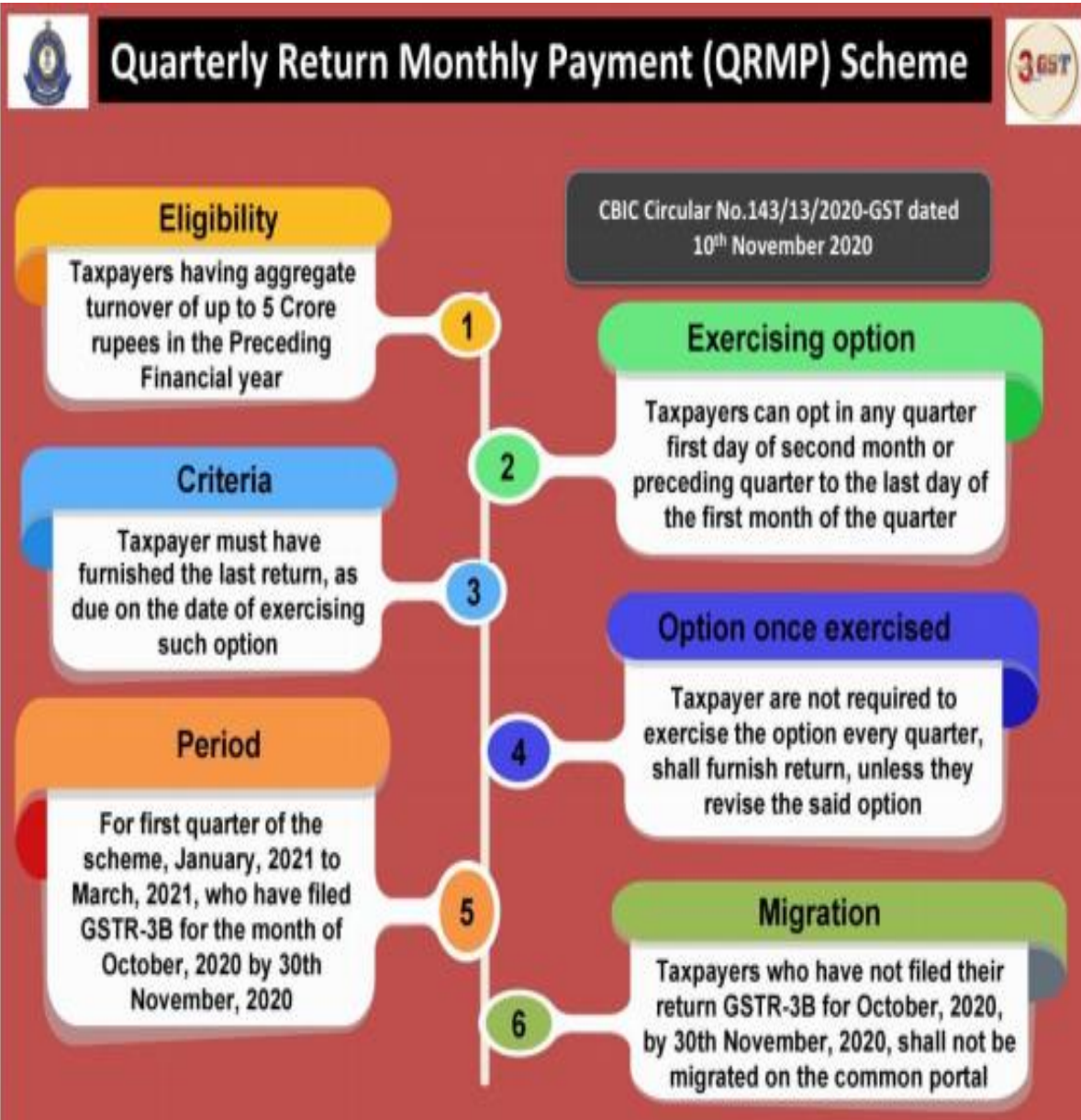
4. The RPs opting for the scheme can avail the facility of Invoice Furnishing Facility (IFF), so that the outward supplies to registered person is reflected in their Form GSTR 2A & 2B.

5. Payment of tax under the scheme:

- RPs need to pay tax due in each of first two months (by 25th of next month) in the Qtr, by selecting 'Monthly payment for quarterly taxpayer' as reason for generating Challan.
- RPs can either use Fixed Sum Method (pre-filled challan) or Self-Assessment Method (actual tax due), for monthly payment of tax for first two months, after adjusting ITC.
- No deposit is required for the month, if there is nil tax liability.
- Tax deposited for first 02 months can be used for adjusting liability for the qtr. in Form GSTR-3B and can't be used for any other purpose till the filing of return for the qtr.

Due Dates under Quarterly Return filing & Monthly Payment of Taxes (QRMP) Scheme

AT upto Rs. 5 Cr	PMT-06	GSTR-3B	IFF	GSTR-1
April	25th		1-13th	
May	25th		1-13th	
June		22nd/24th		13th
July	25th		1-13th	
August	25th		1-13th	
September		22nd/24th		13th
October	25th		1-13th	
November	25th		1-13th	
December		22nd/24th		13th
January	25th		1-13th	
February	25th		1-13th	
March		22nd/24th		13th



PORTAL RELATED UPDATES

Auto-populated Form GSTR 3B (PDF) for the taxpayers, from the month of October 2020 onwards

1. GSTN has earlier introduced Form GSTR-2B, a static statement with details of ITC available for a tax period, for the benefit of taxpayers. GSTR-2B is an **auto-drafted Input Tax Credit (ITC) statement** generated for every recipient, on the basis of the information furnished by their suppliers, in their respective Form GSTR-1 & 5 and Form GSTR-6 filed by ISD.
2. GSTN has also introduced a facility to download pdf statement to taxpayers, who are filing monthly GSTR-1 statement, with system computed values of Table 3 of Form GSTR-3B. This PDF will be prepared on the basis of the values reported by them, in their GSTR-1 statement, for the said tax period.
3. In continuation of the return linkage project, GSTN has now introduced auto-populated Form GSTR-3B in PDF format, for benefit of the taxpayers. The auto-populated PDF of Form GSTR-3B will consist of:-
 - Liabilities in Table 3.1(a, b, c and e) and Table 3.2 from Form GSTR-1
 - Liability in Table 3.1(d) and Input Tax Credit (ITC) in Table 4 from auto-drafted ITC Statement from Form GSTR-2B.
4. This facility is made available in Form GSTR 3B dashboard from October 2020 tax period onwards.
5. This facility will become available for taxpayers who are registered as Normal taxpayer, SEZ Developer, SEZ unit and casual taxpayer.
6. The system generated PDF will be made available on GSTR-3B dashboard. Taxpayers will be able to access their Form GSTR-3B (PDF) through: **Login to GST Portal > Returns Dashboard > Select Return period > GSTR-3B> System Generated 3B.**

Update on Blocking of E-Way Bill (EWB) generation facility, after 1st December, 2020

1. In terms of Rule 138E (a) and (b) of the CGST Rules, 2017, the E-Way Bill (EWB) generation facility of a taxpayer is liable to be restricted, in case the taxpayer fails to file their FORM GSTR-3B returns / Statement in FORM GST CMP-08, for tax periods of two or more.
2. From 1st December, 2020, onwards, the blocking of EWB generation facility would be made applicable to all the taxpayers (irrespective of their Aggregate Annual Turnover (AATO)) In terms of Rule 138 E (a) and (b) of the CGST Rules, 2017, on the EWB Portal.
3. Thus, on 1st December 2020, the System will check the status of returns filed in Form GSTR-3B or the statements filed in Form GST CMP-08, for the class of taxpayers to whom it applies, and restrict the generation of EWB in case of:
 - Non filing of two or more returns in Form GSTR-3B for the months up to October, 2020; and
 - Non filing of 02 or more statements in Form GST CMP-08 for the quarters up to July to September, 2020
4. This blocking will take place periodically from 1st December' 2020 onwards.
5. To avail continuous EWB generation facility on EWB Portal, you are therefore advised to file your pending GSTR 3B returns/GST CMP-08 statements immediately.

Online filing of application (Form GST EWB 05) by the taxpayer for unblocking of E-Way Bill (EWB) generation facility

1. In terms of Rule 138E (a) and (b) of the CGST Rules, 2017, the E-Way Bill (EWB) generation facility of a taxpayer is to be blocked, in case the taxpayer fails to file their returns in Form GSTR-3B or Statement in Form CMP-08, for two or more consecutive tax periods. For unblocking of this facility, taxpayer need to apply to jurisdictional Tax Official in Form GST EWB 05.

2. A facility has now been provided to the taxpayers on the GST Portal, from 28th November, 2020 onwards, to file an application online for unblocking of their EWB generation facility (in Form EWB-05), in case their EWB generation facility has been blocked on the EWB Portal.

Note: So far taxpayers were applying to tax officials vide manual application, for unblocking of their EWB generation facility and tax officials were issuing orders online on GST Portal, in Form GST EWB 06. Now this facility is being discontinued.

3. To file an online application for unblocking EWB generation facility on GST Portal, a taxpayer need to:

1. Login to the portal and navigate to **Services > User services > My Applications**
2. Select application type as '**Application for unblocking of E-way bill**' and click **New Application**
3. Submit application in **Form EWB-05**, with upload of up to 04 documents
4. The application so filed is populated to dashboard of jurisdictional tax official. The tax official can issue a Notice for personal hearing to the taxpayer. Then the taxpayer can file their reply to the notice online, along with supporting documents.

5. At conclusion of the proceedings, the Tax Officer can issue an order (in Form EWB-06) approving the taxpayer application for unblocking the EWB generation facility. After which their EWB generation facility will be restored for the duration specified in the order.

6. If the Tax Officer rejects the taxpayer's application vide order in Form EWB-06, the EWB generation facility will remain blocked and the taxpayer shall be required to file their pending returns (in Form GSTR-3B / Statement in FORM CMP-08, so as to reduce the pendency to less than two tax periods), for restoration of the EWB generation facility.

7. Notice(s)/ Order issued by Tax Officer will be sent via SMS and mail to taxpayer and will be made available on the taxpayer dashboard (**Services > User Services > View Additional Notices/Orders option**).

Auto-population of e-invoice details into GSTR-1.

1. Certain notified taxpayers have to prepare and issue their invoices by obtaining Invoice Reference Number (IRN) from Invoice Registration Portal (IRP) (commonly referred as 'e-invoices').
2. Upon successful generation of IRN, details of such e-invoices will be auto-populated in respective tables of GSTR-1. The details of e-invoices available for auto-population along with status of auto-population can also be downloaded as excel file. To effect this, certain tabs/labels are being added on GSTR-1 dashboard and screens. (Those taxpayers for whom e-invoicing is not applicable may ignore these changes.)
3. For the period of October, 2020, the e-invoice details would be processed incrementally from 13th November, 2020. The processing of details of e-invoices/IRNs generated till 31st October, 2020 is expected to take upto 10 days.
4. The processing of documents, dated in October, 2020, has no effect on filing of GSTR-1 for October. The taxpayers are advised not to wait for auto-population but file GSTR-1 for October, on their own (if not filed already). However, there is an option to download the details of October-dated documents through excel file: 'Download details from e-invoice (Excel)' button (available at the bottom portion of GSTR-1 dashboard).
5. Taxpayers are requested to verify the documents present in the excel and may share feedback on **GST Self Service Portal** , on below aspects:
 - a. All documents reported to IRP are present in excel
 - b. Status of each e-invoice/IRN is correct
 - c. All the details of document are populated correctly
6. For the period of November, 2020, the e-invoices generated (i.e. the documents dated in the Month of November) will be auto-populated into GSTR-1 in incremental manner and the process for whole month will be completed by 2nd Dec, 20 (i.e. on T+2 basis).
7. The detailed advisory with methodology of auto-population etc. is made available on the GSTR-1 dashboard ('e-invoice advisory') and also e-mailed to relevant taxpayers.

Update on auto-population of e-invoice details into GSTR-1

1. Certain notified taxpayers have been preparing and issuing invoices by obtaining Invoice Reference Number (IRN) from Invoice Registration Portal (IRP) (*commonly referred as 'e-invoices'*). Details from such e-invoices are to be auto-populated in respective tables of GSTR-1.

An update on the status of such auto-population was earlier published on 13/11/2020.

2. Due to some unanticipated issues, there has been delay in auto-population of e-invoice details into GSTR-1.

Hence, such taxpayers who had reported e-invoices should not wait for auto-populated data and they are advised to proceed with preparation and filing of GSTR-1 for the months of November, 2020 (before the due date) and for October, 2020 (in case not yet filed, as on date).

3. The auto-population of e-invoice details pertaining to the period December, 2020 into GSTR-1 (in incremental manner on T+2 day basis) will start in the first week of December.

4. The details of e-invoices pertaining to periods of October and November, 2020, would be processed and made available in incremental manner from 13th December 2020 onwards. The processing and availability of complete data for the months of October and November, 2020 may take upto 2 weeks.

5. The detailed advisory with methodology of auto-population etc. is already made available on the GSTR-1 dashboard ('e-invoice advisory') and also e-mailed to relevant taxpayers.

6. It may also be noted that the auto-population of details from e-invoices into GSTR-1 is only a facility for the taxpayers. After viewing the auto-populated data, the taxpayer shall verify the propriety and accuracy of the amounts and other data in each field, especially from the perspective of GSTR-1 and file the same, in the light of relevant legal provisions.

7. Once the auto-population into GSTR-1 gets started, the taxpayers are requested to verify the documents present in the excel and may share feedback on **GST Self Service Portal**, on below aspects:

- All documents reported to IRP are present in excel
- Status of each e-invoice/IRN is correct
- All the details of document are populated correctly

Thank You

CA Abhishek Agarwal FCA,DISA

A | P-164, V.I.P Road, Scheme VII M,
Kolkata-700054

W | www.caasa.org

E | abhishek@caasa.org

M | 91 9831982004

YouTube _ <http://tiny.cc/YTabhishekgst>

LinkedIn _ <http://tiny.cc/Llabhishekgst>

Facebook _ <http://tiny.cc/FBabhishek>

