



Week of 25th March, 2019

## **A. CHANGES IN THE GST REGIME**

### **Extension of due date for Form GST ITC 04**

A principal manufacturer is allowed to take credit of tax paid on purchase of goods that are sent on job work. For this purpose, FORM GST ITC-04 must be submitted by the principal manufacturer every quarter on or before the 25<sup>th</sup> day of the month succeeding the relevant quarter. The CBIC has vide notification no. 15/2019 dated 28th March, 2019 extended the due date to file Form GST ITC 04 in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to March, 2019 till 30th June, 2019.

### **Clarification on transfer of ITC in case of death of sole proprietor**

Section 18(3) of the CGST Act, 2017 provides for transfer of ITC which remains unutilized to the transferee in case of death of the sole proprietor. Rule 41 of the CGST Rules, 2017 provides that a registered person (transferor of business) 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. The CBIC has vide Circular no. 96/15/2019 - GST dated 28th March, 2019 clarified that the 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. Therefore, in case of death of sole proprietor if the business is continued by any person being transferee or successor, the ITC which remains un-utilized in the electronic credit ledger is allowed to be transferred to the transferee. The circular further provides the procedure by which such ITC transfer will take place such as the registration liability on the transferee, cancellation of registration of the transferor on account of death, etc.

### **Verification of applications for new registration**

As per proviso to section 25(2) of the CGST Act, a person may take separate registration on same PAN in the same state. Recently, a large number of registrations have been cancelled by the proper officer on account of non compliance of the statutory provisions such as non filing of returns or non payment of tax. In this regard, instances have come to notice that such persons, who continue to carry on business and therefore are required to have registration under GST, are not applying for revocation of cancellation of registration and are instead using the route of applying for fresh registration to avoid payment of tax liabilities.

In view of the above, the CBIC has vide Circular no. 95/14/2019 – GST dated 28th March, 2019 clarified that application for new registration under GST having the same PAN shall be verified before grant of a new registration and it shall be rejected if the person whose GST registration was cancelled earlier due to default and revocation of cancellation of registration has not been filed.

## Clarification on refund related issues

The CBIC has vide Circular no. 94/13/2019 – GST dated 28th March, 2019 clarified certain specific issues raised by the taxpayers on refund claims where they have reversed the accumulated ITC through FORM GSTR 3B.

## B. PROPOSED CHANGES AND INDUSTRY ISSUES

### GST on real estate sector

The 34th GST Council meeting has recommended to provide a onetime option to the 'ongoing projects' (i.e. projects which are not completed by 31st March, 2019) to continue to pay tax at the existing GST rates (effective rate of 8% for affordable housing and 12% for others) or to pay tax at the new GST rates (effective rate of 1% without ITC for affordable housing and 5% without ITC for others) proposed to be applicable from 1st April, 2019. As the term 'ongoing project' is not defined, complexity will arise in interpreting the term 'ongoing project'. As per media reports, the absence of definition of the term 'ongoing projects' will leave a room for interpretation particularly where the construction is undertaken in a phase-wise manner consisting of cluster of buildings in a large township project.

## Glossary

**CBIC – Central Board of Indirect taxes and Customs**  
**CGST – Central Goods and Services Tax**  
**GST – Goods and Services Tax**  
**GSTR – Goods and Services Tax Return**  
**ITC – Input Tax Credit**  
**PAN – Permanent Account Number**

**GST Council – Goods and Services Tax Council, a constitutional body comprising of members of the Central and the State Governments to recommend changes under the existing GST regime.**

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