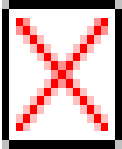


And now, it's raining notifications...!

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OCTOBER 11, 2019

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its 37th Meeting held on September 20, 2019 at Goa, the GST Council had announced certain significant measures and recommendations which were aimed at:

- Â easing the compliance burden for the taxpayers, particularly the small taxpayers;
- Â reducing the tax burden for the unorganized sectors, even while attempting the rate rationalization; and
- Â ironing out the creases in the interpretation and implementation of the statutory provisions.

The decisions taken or the recommendations made by the Council were, after conclusion of the meeting, announced through 3 (three) separate Press Releases covering:

- Â law and procedure related changes;
- Â rate related changes for goods; and
- Â rate related changes for services.

[For detailed analysis of certain major recommendations made by the Council, the readers may refer to the trilogy titled "37th Meeting of the GST Council â€“ It continues to rain reliefs!" published on Taxindiaonline.com on 24.09.2019, 27.09.2019 and 01.10.2019.]

Since then, the Central Government and the Central Board of Indirect Taxes & Customs ('the Board') have issued a slew of notifications and circulars, as the case may be, effectuating the recommendations made by the Council. The rate related changes for goods and services have been put into effect by the various notifications issued on September 30, 2019 which have come into force on October 01, 2019.

The Central Government has now issued the following notifications carrying out the law and procedure related changes based on the recommendations made by the Council:

- i. Notification No. [44/2019-Central Tax](#) dated October 09, 2019[seeks to prescribe the due date for furnishing GSTR-3B for the period from October, 2019 to March, 2010]

ii. Notification No. [45/2019-Central Tax](#)

dated October 09, 2019 [seeks to prescribe the due date for furnishing GSTR-1 Return for the two quarters ending December, 2019 and March, 2020 in respect of the registered persons having aggregate turnover of upto Rs. 1.50 crore]

iii. Notification No. [46/2019-Central Tax](#)

dated October 09, 2019 [seeks to prescribe the due date for furnishing GSTR-1 Returns for the period from October, 2019 to March, 2020 in respect of the registered persons having aggregate turnover of more than Rs. 1.50 crore]

iv. Notification No. [47/2019-Central Tax](#)

dated October 09, 2019 [seeks to make filing of Annual Return for F.Y. 2017-18 and 2018-19 optional for small taxpayers with aggregate turnover of less than Rs.2.00 crore and who have not filed the said Return before the due date]

v. Notification No. [48/2019-Central Tax](#)

dated October 09, 2019 [seeks to waive the late fees for registered person whose principal place of business is in the State of Jammu and Kashmir if the prescribed Returns are filed by the specified dates]

vi. Notification No. [49/2019-Central Tax](#)

dated October 09, 2019 [seeks to make substantial amendments in the CGST Rules, 2017].

Whereas, notifications nos. [44/2019-CT](#) to [48/2019-CT](#)

would come into effect on October 09, 2019, the amendments made in various provisions of the CGST Rules, 2017 through the ' **Central Goods and Services Tax (Sixth Amendment) Rules, 2019**' as notified by notification no. [49/2019-CT](#) come into effect on October 09, 2019, **unless otherwise provided in the said Amending Rules.**

The nature, scope and implications of the above notifications are briefly discussed hereinafter:

I. Notification No. [44/2019-CT](#) ibid â€“ Due dates for payment of tax and furnishing Form GSTR-3B:

The readers may recall that the new return system was earlier proposed to be introduced from October, 2019. However, the Council recommended the postponement of the introduction of the new system to April, 2020 so as to provide ample opportunity to the taxpayers and the system to adapt. In view of this decision, the Council had also proposed the specifying of the due dates for furnishing **Form GSTR-3B** (and **Form GSTR-1**) and payment of tax for the period from October, 2019 to March, 2020.

The present notification now specifies the due date for payment of tax and furnishing **Form GSTR-3B** for the period from **October, 2019 to March, 2020** as under:

Month & Year	Due Date
October, 2019	20th November, 2019
November, 2019	20th December, 2019
December, 2019	20th January, 2020
January, 2020	20th February, 2020
February, 2020	20th March, 2020
March, 2020	20th April, 2020

II. Notification No. [45/2019-CT](#) ibid& [46/2019-CT](#)

ibid â€“ Furnishing of Form GSTR-1 by the registered persons having aggregate turnover upto Rs.1.50 crore or more than Rs. 1.50 crore, as the case may be:

As proposed by the Council, in the wake of the postponement of the introduction of the new return system to April, 2020, the due dates for furnishing Form GSTR-1 for the period from **October, 2019 to March, 2020** in respect of the registered persons with the prescribed quantum of aggregate turnover have been specified by the subject notifications as

under:

i. For the registered persons having aggregate turnover of upto Rs. 1.50 crore during the preceding financial year or current financial year [Not. No. [45/2019-CT](#)]:

<u>Quarter & Year</u>	<u>Due Date for furnishing Form GSTR-1</u>
October, 2019 to December, 2019	31st January, 2020
January, 2020 to March, 2020	30th April, 2020

ii. For the registered persons having aggregate turnover of more than Rs. 1.50 crore during the preceding financial year or current financial year [Not. No. [46/2019-CT](#)]:

<u>Month & Year</u>	<u>Due Date</u>
October, 2019	11th November, 2019
November, 2019	11th December, 2019
December, 2019	11th January, 2020
January, 2020	11th February, 2020
February, 2020	11th March, 2020
March, 2020	11th April, 2020

III. Notification No. [47/2019-CT](#)

ibid – “ Optional filing of Annual Return for the small taxpayers for F. Y.2017-18 and F.Y. 2018-19:

In one of its most pragmatic, bold and much-needed decisions, the Council had recommended the grant of major relief to the small registered taxpayers in the matter of the statutory requirement of filing the annual return for the F.Y. 2017-18 and F.Y. 2018-19. The decision/recommendation of the Council as expressed through the relevant Press Release reads as under:

" 1. Relaxation in filing of annual returns for MSMEs for F. Y. 2017-18 and F.Y. 2018-19 as under:

-A waiver of the requirement of filing Form GSTR-9A for the Composition Taxpayers for the said tax periods; and

-A filing of Form GSTR-9 for those taxpayers who (are required to file the said return but) have aggregate turnover up to Rs. 2 crores made optional for the said tax periods ."

The subject notification issued under Section 148 of the [CGST Act, 2017](#)

now effectuates the recommendation of the Council. It notifies the registered persons having aggregate turnover in a financial year not exceeding Rs.2 crore **and who have not furnished the annual return under Section 44(1) of the said Act read with Rule 80(1) of the CGST Rules, 2017 before the due date,**

as the class of registered persons who, in respect of F. Y. 2017-18 and F.Y. 2018-19, shall have the option to furnish the annual return under the said Section 44(1) of the Act read with Rule 80 (1) of the Rules.

The proviso in the notification provides that if the return had not been furnished before the due date, it shall be deemed to be furnished on the due date.

The readers may refer to the detailed discussion by the author on the need for the waiver of the requirement of filing annual return in respect of small registered taxpayers in the following articles:

a. ["Extension of due dates for filing GSTR-9, 9A&9C â€“ What lies beneath!"](#)

b. ["37th Meeting of the GST Council â€“ It continues to rain reliefs!-Part-I"](#)

The statutory requirement of filing of annual return in the prescribed form by every registered person (other than an input service distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person) for every financial year by 31 st day of December following the end of such financial year is contained in section 44(1) of the CGST Act, 2017. Sub-rule (1) of Rule 80 of the CGST Rules, 2017 prescribes **Form GSTR-9**

in which such annual return shall be filed by every registered person other than those excluded. Proviso to sub-rule (1) prescribes **Form GSTR-9A** in which such annual return shall be filed by the composition taxpayers who pay tax under section 10 of the CGST Act, 2017.

Grant of option or complete waiver for furnishing annual return to the composition taxpayers â€“What did the Council propose?

By the subject notification, it is now provided that the specified registered persons (**including the composition taxpayers**) having aggregate turnover in a financial year not exceeding Rs. 2 crore and who have not furnished the annual return by due date for F. Y. 2017-18 and F. Y. 2018-19 as prescribed under section 44(1) of the CGST Act, 2017 read with Rule 80(1) of the CGST Rules, 2017 shall have the option to furnish such annual return in the prescribed form and manner for the said tax periods in terms of the provisions of the said Act and the Rules. In other words, the filing of annual return by such small registered taxpayers (including composition taxpayers) for F. Y. 2017-18 and F. Y. 2018-19 has been made optional in case such registered persons have not already filed the prescribed return before the due date.

The question, however, that arises here is whether the making the filing of the annual return (in Form GSTR-9A) by the composition taxpayers for the said tax period optional is justified? Whether grant of such option to the composition taxpayers is in consonance with the decision/recommendation of the Council

? A careful look at the recommendation as conveyed through the Press Release (reproduced above) would reveal that for the composition taxpayers, the requirement of filing annual return for the said tax periods was proposed to be waived altogether. It was only in respect of other taxpayers having an aggregate turnover not exceeding Rs. 2 crores in a financial year that such filing of annual return for the said tax periods was proposed to be made optional. However, the notification does not make such distinction between the composition taxpayers and other registered taxpayers and seeks to provide the option to all such taxpayers in the matter of furnishing the annual return in Form GSTR-9A or **Form GSTR-9**

, as the case may be. Perhaps, this might be an inadvertent lapse resulting from the fact that the statutory provisions of Section 44(1) of the CGST Act, 2017 read with Rule 80 (1) of the CGST Rules, 2017 governing the matter relating to furnishing of annual return are common for the composition taxpayers and the registered taxpayers (other than those excluded).

Be that as it may, the provisions of the notification as issued is certainly not in keeping with the recommendation of the Council which is binding on the Central Government or the Board.

A suitable amendment is therefore required in the notification so as to completely waive the requirement of furnishing annual return in Form GSTR-9A for the composition taxpayers for the said two tax periods and making such filing of annual return in Form GSTR-9 for other registered taxpayers optional, in case such return has not already been filed for the said tax period/s by the due date by any such registered taxpayers. However, alternatively, a separate notification granting the complete waiver to the composition taxpayer from the filing of the annual return for the said tax periods itself may be issued. The issue of a separate notification shall not be difficult since the composition taxpayer constitute a class of registered person by themselves. Such amendment or issue of the fresh notification will not only be in sync with the recommendation of the Council but will also avoid unnecessary confusion and dispute.

Deemed furnishing of annual return on the due date â€“ What shall be the 'due date'?

The Proviso in the notification contains a deeming fiction and states that if an annual return has not been furnished before the due date, then it shall be deemed to be furnished on the due date. Thus, if a registered taxpayer (including the composition taxpayer) opts to not file the prescribed annual return for the said tax period and does not file the same before due date, it shall be still deemed to have been furnished on

the due date.

This deeming provision is with a view to provide clarity in the matter of ascertaining the 'due date' for the purpose of the issue of the show cause notice and the passing of the adjudication order by the proper officer under the provisions of Section 73 or 74 of the CGST Act, 2017. It may be reiterated here that the limitation period provided for the issue of the show cause notice and the passing of the adjudication order under Section 73 or Section 74 is linked to and based upon

'the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates to'.

Since the requirement of furnishing the annual return by such class of small registered taxpayers (composition taxpayers) has been made optional, prescribing such **'due date on which return is deemed to have been furnished'** is inevitable.

The question that may arise here is whether **'31st December, 2018'** or **'30th November, 2019'**

shall be considered as 'deemed due date' in terms of the Proviso for the annual return for F. Y. 2017-18? In other words, whether the term 'due date' as used in the proviso would refer to the original prescribed due date in terms of Section 44(1) or the 'extended due date'? In my respectful opinion, the 'due date', for the purposes of the Proviso shall be read and construed as 'due date as extended from time to time' and therefore, '30th November, 2019' shall be taken as 'deemed due date' for the purpose of the Proviso. Any other interpretation will lead to conflict in as much as one cannot have '31st December, 2018' as 'deemed due date' for the purposes of Proviso and Section 73 or 74 of the CGST Act, 2017 and '30th November, 2019' as 'the due date' for furnishing of the annual return by the registered person who opt to file such returns in terms of the notification.

IV. Notification No. [48/2019-CT](#)

ibid "Late fee waiver for the registered persons based in the State of Jammu and Kashmir:

This notification seeks to waive the late fee for the failure to file specified returns by due date in respect of the registered persons whose principal place of business is in the State of Jammu and Kashmir. Suitable amendments have been carried out by the subject notification to notification no. [41/2019-CT](#) dated 31st August, 2019. The scope of the amendments is explained below:

Class of registered persons	Month & Year	Form	Due Date	Remarks
The registered persons having aggregate turnover of more than Rs.1.50 crore in the preceding financial year or the current financial year	July, 2019	GSTR-1	11th October,2019	The due date prescribed by notification no. 41/2019-CT ibid was '20th September, 2019'
Same as above	August, 2019	GSTR-1	11th October,2019	-
The registered persons required to deduct tax at source under section 51 of the CGST Act,2017	i. July, 2019 & ii. August,2019	GSTR-7	10th October, 2019	-
All registered persons	i. July, 2019 & ii. August, 2019	GSTR-3B	20th October,2019	-

[To be concluded]

[The views expressed are strictly personal.]

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