

GST Update

Weekly Update
22.08.2020

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 01.08.2020. No updates were issued on 08.08.2020 and 15.08.2020. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications, except the provisions related solely to SGST provisions. Similar parallel provisions in State Laws may be referred to as required

Aadhar Authentication in GST Registration

Section 25(6) (A), (B), (C) & (D) of CGST Act, 2017

Rule 8 and 9 of CGST Rules, 2017; Rule 25 of CGST Rules, 2017

Notifications No. 17, 18 & 19 all dated 23rd March 2020

36th and 37th GST Council Meetings

Notification No 62/2020 – Central Tax dated 21st August 2020

Authentication of GST registration through Aadhaar number

- **Why Aadhaar e-KYC based Registration is required?**
 - To curb/check fly-by-night operators who are taking advantage of easy registration system. (3 working days and no field inspection)
 - Statistics from e-way bill
 - To stop impersonation
 - To check bogus billing through 'laptop shops'

Amendment to CGST Act, 2017

- Section 25(6) was amended w.e.f 1st January 2020; Sub-sections 6A, 6B, 6C and 6D were inserted
- (6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:
- Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:
- Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration

Amendment to CGST Act, 2017 (Contd)

- (6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:
- Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

Amendment to CGST Act, 2017 (Contd)

- (6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:
- Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

Amendment to CGST Act, 2017 (Contd)

- (6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.
- Explanation.—For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.”.

Exemption from Aadhar authentication

- **Notification No. 17/2020 – Central Tax dated 23.03.2020**
- Aadhar authentication shall not apply to
 - a person who is not a citizen of India or
 - to a class of persons other than the following class of persons, namely:– (a) Individual; (b) authorised signatory of all types; (c) Managing and Authorised partner; and (d) Karta of an Hindu undivided family.

Date of coming into effect

- **Notification No. 18 & 19 /2020 – Central Tax dated 23.03.2020**
- Notifies the date as 01.04.2020 from which (a) an individual; (b) authorised signatory of all types; (c) Managing and Authorised partners of a partnership firm; and (d) Karta of an Hindu undivided family shall undergo authentication, of Aadhaar number, as specified in rule 8 of the CGST, 2017, in order to be eligible for registration.
- If Aadhaar number is not assigned to the said persons, they shall be offered alternate and viable means of identification in the manner specified in rule 9 of the CGST rules.

- **Notification No 62/2020 – Central Tax dated 21st August 2020**
- Following Sub-rule 4A substituted in rule 8 of the CGST Rules, 2017
- *(4A) Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), with effect from 21st August, 2020, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier.”*

- In rule 9(1) of CGST Rules, 2017, following provisos substituted w.e.f 21st August 2020
- *Provided that where a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number, the registration shall be granted only after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25:*
- *Provided further that the proper officer may, for reasons to be recorded in writing and with the approval of an officer not below the rank of Joint Commissioner, in lieu of the physical verification of the place of business, carry out the verification of such documents as he may deem fit.”;*

- In rule 9(2) of CGST Rules, 2017, before the Explanation, the provisos inserted w.e.f 21st August 2020
- *“Provided that where a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number, the notice in FORM GST REG-03 may be issued not later than twenty one days from the date of submission of the application.”;*

- In rule 9 of CGST Rules, 2017, the following subrule (5) shall be substituted
- *If the proper officer fails to take any action, -*
- *(a) within a period of three working days from the date of submission of the application in cases where a person successfully undergoes authentication of Aadhaar number or is notified under subsection (6D) of section 25; or*
- *(b) within the time period prescribed under the proviso to sub-rule (2), in cases where a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8; or*

- In rule 9 of CGST Rules, 2017, the following sub-rule (5) shall be substituted ...
- *If the proper officer fails to take any action, -*
- *(c) within a period of twenty-one days from the date of submission of the application in cases where a person does not opt for authentication of Aadhaar number; or*
- *(d) within a period of seven working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2),*
- *the application for grant of registration shall be deemed to have been approved.”.*

Amendment of Rule 25 (Physical verification) of CGST Rules, 2017

- Rule 25 of the CGST Rules, 2017 substituted as under:
- **“Physical verification of business premises in certain cases.-** Where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication **or due to not opting for Aadhaar authentication** before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of fifteen working days following the date of such verification.”

Authentication Process (www.gst.gov.in)

- Aadhaar Authentication process has been introduced, for the persons applying for GST registration as Normal Taxpayer/ Composition/ Casual Taxable Person/ Input Service Distributor (ISD)/ SEZ Developer/ SEZ Unit etc, in Form GST REG 01.
- Under this, Individuals, Authorised signatory of all types of businesses, Managing and Authorised partners of a partnership firm and Karta of an Hindu undivided family, applying for new registration, can opt to undergo e-KYC authentication of their Aadhaar number.
- Applicants, who, either do not provide Aadhaar, while applying for new registration or whose Aadhar authentication fails in validation, would be subjected to site verification by the tax department. However, Tax authority based on the documents produced can grant registration.

- **Timelines for grant of registration**
 - In case of successful authentication of Aadhaar, registration will be deemed approved within 03 working days
 - If Aadhar authentication is not opted for or if authentication fails in validation and no SCN is issued within 21 days by tax official, registration will be deemed approved
- Tax Officer can issue SCN within the period specified for grant of registration, like in cases of successful Aadhar authentication i.e. 03 working days, or in cases when taxpayer do not opt to provide Aadhaar or when Aadhar authentication fails i.e. 21 working days. Applicants can submit their reply within 07 working days from issue of SCN

Aadhaar Authentication (Contd)

- Once registration application is submitted, an authentication link will be shared on GST registered mobile numbers and email ids mentioned in the GST application
- On clicking the verification link, a window for Aadhaar Authentication will open where they have enter Aadhaar Number and the OTP received by them on the mobile number linked with Aadhaar
- Taxpayer need to complete Aadhaar authentication of all Promoters/ Partners/ Authorized Signatories/ Karta etc. as mentioned in the application to avail this option
- Applicant can access the link again for authentication by navigating to ***My Saved Applications > Aadhaar Authentication Status > RESEND VERIFICATION LINK***
- Persons already registered on GST portal are not required to undergo Aadhar authentication at this stage
- Persons who are not resident /citizen of India are exempted from the Aadhaar authentication process

Personal Hearings in Virtual Mode in Customs, Central Excise, Service Tax and GST

Judicial Cell (CBIC) Instructions F. No 390/Misc1/3/2019-JC, dated
21.08.2020

- Broad guidelines to conduct virtual hearing are being provided so that ongoing work of appeals and adjudications are completed expeditiously for quick delivery of justice – through quasi-judicial proceedings and in compliance of overall directions given by Hon’ble Supreme Court under Article 142 of the Constitution of India in [Suo moto Writ \(Civil\) No. 5/2020](#)).
- The earlier instructions dated 27.04.2020 have been superseded.

Conduct of PH through video conferencing made mandatory

- CBIC vide revised its Instructions dated 27.04.2020, and has decided now to make it mandatory for various authorities, such as Commissioner (Appeals) , original adjudicating authorities and Compounding authority to conduct personal hearing in respect of any proceeding including under GST Acts 2017 apart from Customs Act, 1962, Central Excise Act, 1944 and Chapter V of Finance Act, 1994 for Service Tax issues, through video conferencing facility.
- In rare and accentuating circumstances same can be dispensed with upon request to be approved by the adjudicating / appellate authority with reasons to be recorded in writing.

Guidelines for PH in virtual mode

- In any proceedings before appellate or adjudicating authority, the authority shall mandatorily indicate that the personal hearing would take place through video conferencing facility. For this purpose he/she shall also indicate the email address for correspondence etc.
- The date and time of hearing along with link for the video conference shall be informed to the appellant/ respondent or their authorized representative and the concerned Commissioner representing revenue through the official email, giving the details of officer-in-charge who would provide assistance to the party, for conducting the virtual hearing

Guidelines for PH in virtual mode (contd)

- This link should not be shared with any other person without the approval of the adjudicating/appellate authority. The assessee or authorized representative appearing in virtual hearing should file his vakalatnama or authorization letter along with a copy of his photo ID card and contact details to the adjudicating/appellate authority through official e-mail address of the concerned authority after scanning the same.
- All persons participating in the video conference should be appropriately dressed and maintain the decorum required for such an occasion. Virtual hearing through video conference shall be held from the office of adjudicating/appellate authority or any official video conference facility set up in the office of the adjudicating/appellate authority.

Guidelines for PH in virtual mode (contd)

- The virtual hearing through video conference will be conducted through available applications like VIDEO, or other secured computer network. The assessee should download such application in their computer system/laptop/mobile phone beforehand for ready connectivity during virtual hearing, and join the video conference at the time allotted to them.
- In case where the appellant/ respondent wishes to participate in the virtual hearing proceeding along with their advocate, they should do so under proper intimation to the adjudicating/ appellate authority. They may participate in virtual hearing along with their advocate/ authorized representative or join the proceedings from their own office.

Guidelines for PH in virtual mode (contd)

- The submissions made by the appellant or their rep. through the video conference will be reduced in writing and a statement of the same will be prepared, which shall be known as record of personal hearing".
- A soft copy of such record of personal hearing in PDF format will be sent to the appellant through email ID, within one day of such hearing.
- If the assessee or their representative wants to modify the contents of e-mailed record of personal hearing, they can do so and sign the modified record, scan and send back the signed record of personal hearing to the adjudicating/appellate authority within 3 days of receipt of such e-mail or else it will be presumed that they agree with the contents of e-mailed record of personal hearing. The date of receipt of the email by the appellate/adjudicating authority will not be counted for this purpose.

Guidelines for PH in virtual mode (contd)

- The record of personal hearing submitted in this manner shall be deemed to be a document for the purpose of the relevant statute read with Section 4 of the Information Technology Act, 2000.
- If the assessee or their authorized representative prefers to submit any document including additional submissions during the virtual hearing he may do so by self-attesting such a document and a scanned copy of the same may be emailed to the adjudicating appellate authority immediately after virtual hearing and in no case after 3 days of virtual hearing.
- Any official representing the Department's side can also participate in the virtual hearing through video conferencing.

Document-wise details of Table 8A of Form GSTR-9

- A facility has been provided to the taxpayers to download document wise details of Table 8A of Form GSTR-9, from the portal in excel format. This can be done by using a new option of 'Document wise Details of Table 8A' given on the GSTR-9 dashboard, from Financial Year 2018-19 onwards. This will help the taxpayer in reconciling the values appearing in Table 8A of Form GSTR 9, thus facilitate filling the Form GSTR 9.
- Table 8A of Form GSTR 9 is populated on basis of documents in **filed** Form GSTR-1 or Form GSTR-5 of the supplier. Thus, all documents which are present in GSTR-2A (Table 3 & 5), will not be available here, as documents which are in uploaded or submitted stage in Form GSTR 1 or 5, are not accounted for credit in table 8A of Form GSTR 9.

Document-wise details of Table 8A of Form GSTR-9 (Contd)

- This excel download will address issues like:
 - Figures of Input Tax Credit (ITC), as pre-populated in table 8A of GSTR-9, not matching with the figures, as appearing in their Form GSTR-2A;
 - To view details of documents that are auto-populated from GSTR-2A, to table 8A of Form GSTR-9

Steps to Download: To download, navigate to **Services > Returns > Annual Return > Form GSTR-9 (PREPARE ONLINE) > DOWNLOAD TABLE 8A DOCUMENT DETAILS** option.

Document-wise details of Table 8A of Form GSTR-9 (Contd)

- Excel download option will be available once GSTR-9 tab for filing is enabled
- Generated excel will be downloaded as a zip file, if number of documents are less
- Generated excel can be downloaded in multiple parts, if number of documents are large
- Data saved/submitted in Form GSTR-1/5 will be shown in Form GSTR-2A, but will not be shown in downloaded excel file of Table 8A of Form GSTR-9

Offline Tool to prepare Form GSTR-4 Annual Return

- An EXCEL based offline tool has been provided on GST portal for composition taxpayers to prepare their GSTR-4 Annual Return.
- **Details which can be entered in Offline Tool:** Users can enter details in various Tables like Table 3 (a) (Aggregate turnover for previous FY), 4A (Inward supplies from registered suppliers), 4B & 4C (Inward supplies received from a registered/ unregistered supplier on RCM basis), 4D (Import of services) & 6 (only Row 12 to 16: Tax rate wise details of outward supplies during the year (Net of advances, credit/debit notes/adjustments)).
- **Details which are un-editable in Offline Tool:** Details in Table 5 (Summary of self-assessed liability as per FORM GST CMP-08), 6 (Row 1 to 11: Tax liability on RCM basis auto-populated from Table 4B, 4C & 4D) & 7 (TDS/TCS Credit received) are non-editable.

Offline Tool to prepare Form GSTR-4 Annual Return (Contd)

- **Some important points related to using offline tool are:**
- Click on `Validate` button, to validate data in each worksheet in offline tool, after all details have been filled in that sheet.
- In case of validation failure of details on uploading JSON file, an error file will be generated with status as `Processed with Error`. This file can be downloaded, open in offline too, corrected and can be uploaded again by creating a JSON file again.
- Upon upload of this JSON file, these records will get incrementally added to the records uploaded earlier. If there are pre-existing records on the Portal, against same PAN/GSTIN, those details will get replaced/updated.
- Payment of Taxes can be made only online after logging into the GST Portal.



GST Portal Updates

Functionality to file Revocation Application

- In view of the Removal of Difficulty Order No. 01/2020 dated 25.06.2020, the restriction on filing revocation application, in case it was rejected, has been removed. Aggrieved taxpayers can file application for revocation of cancellation of registration once again.
- Further, those taxpayer who have filed Appeal against rejection of the Revocation Application and the decision is still pending, they may also file the Revocation of Cancellation.
- Taxpayer is required to login and navigate to Services> Registration> Application for Revocation to file the application for revocation.

Enhancements made and Defects Fixed for Taxpayers

- **Registration**
- Submission of non-core amendment application, without a zip code, in case the authorized signatory who is not an Indian, will not be allowed on GST Portal.
- The message – “Please file all the pending returns till **<Current date>** before submission of application for revocation of cancelation”, displayed to a taxpayer, while filing revocation of cancellation application against suo moto cancellation, has been changed to – “Please file all the pending returns till **<cancellation date>** before submission of application for revocation of cancelation”.

Enhancements made and Defects Fixed for Taxpayers (Contd)

- **Registration**
- If SCN was issued to a person applying for Registration, on the ground of document submitted in support of principle place of business, in such cases taxpayers were not able to submit the reply and when they were trying to upload new document on principle place of business tab and were trying to save and continue, system error was occurring. The issue is fixed, they will now be able to proceed and submit the application.
- GSTP core amendment application were getting deemed approved, if due date had passed. Now deemed approval has been disabled for such applications.

Enhancements made and Defects Fixed for Taxpayers (Contd)

- **Composition Levy**
- If a taxpayer had Form CMP-04 (withdrawal from Composition) in saved stage and then they change their email/mobile through non-core amendment, they will now in such cases receive OTP on updated mobile no./email.
- Now, taxpayer will be able to file Form CMP 02 (Opting for Composition), again, if previous application is Rejected by Tax official, for the same Financial Year.
- While searching for a Composition Taxpayer from Opt-in/Opt out field, whether at pre login and post login stage, system will now display the output as per selection.



THANK YOU