

Latest in GST registration and GST challenges for Resolution Professionals

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CS Payal Kataria

9811510274

pka2010india@gmail.com

Latest in GST Registration

Fly by Night operators, bogus billing, ITC fraud



39th GST Council Meeting 14th March 2020
To curb fake invoicing and fraudulent passing of ITC, restrictions to be imposed on passing of the ITC in case of new GST registrations, before physical verification of premises and Financial KYC of the registered person;

**Finance
Bill 2019**

GST Notifications dated 23rd March 2020
17/2020-Central Tax ,dt. 23-03-2020
18/2020-Central Tax ,dt. 23-03-2020
19/2020-Central Tax ,dt. 23-03-2020

CGST
Section 25
(A) to (D)

Third amendment (2020) to CGST Rules
16/2020-Central Tax ,dt. 23-03-2020



Finance Bill 2019-20 amendment of Section 25

Amendment of Sec 25 Sub-section 6(A) to 6(D) of CGST Act

- (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 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

- (6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication...
- (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...
- (6D) The provisions of sub-section (6A) or (6B) or (6C) shall not apply to such person or class of persons or any State or UT or part thereof, as the Government may, on the recommendations of the Council, specify by notification.

Aadhar Authentication: NN 16/2020 Amendment in Rules

Newly added Sub Rule 4A of Rule 8

“(4A) The applicant shall, while submitting an application under sub-rule (4), with effect from 01.04.2020, undergo authentication of Aadhaar number for grant of registration.”

Scenario: Fails to Authenticate of Aadhar No

Additions in Sub Rule (1) of Rule 9

The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of **three working days** from the date of submission of the application.

“Provided that where a person, other than those notified under subsection (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than **sixty days** from the date of application, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases.”.

Physical Verification of business premises in Certain cases

Rule 25 substituted

Where the proper officer is satisfied that the physical verification of the place of business of a registered person is required after the grant of registration, he may get such verification 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.

“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 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.”

Revocation of Cancellation of GST Registration

39th GST Council Meeting:
Revocation of Cancelled GST Number allowed for
revocation of cancellation of registration till
14.03.2020, for filing applications up to 30.06.2020.



Any Relaxation for Time Limit for taking GST Registration Due to lockdown?

Cooperate and be Alert at the time of
Physical Verification of business
Premises





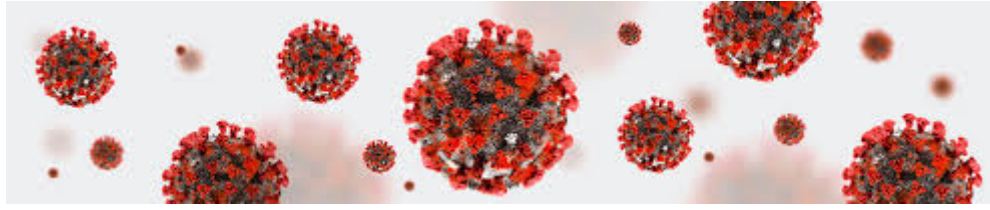
GST challenges for Resolution Professionals

**GST RELIEF
FOR COMPANIES
UNDER IBC PROCESS**



Notification No 11/2020 Central Tax 21st March 2020

Circular No.134/04/2020-GST 23rd March 2020



**GST RELIEF
FOR COMPANIES
UNDER IBC PROCESS**



Notification No 39/2020 Central Tax 5Th May 2020

Circular No.138/08/2020-GST 6th May 2020



Why Need for IRP/RP to take Registration

National Company Law Tribunal, Chennai Bench



Kiran Global Chem Limited

R. Ravichandran, RP

vs.

The Asst. Commissioner (ST) Kilpauk Assessment Circle & 12 Ors



Outcome of NCLT Order

- ❖ The National Company Law Tribunal, Chennai Bench (NCLT), held that a corporate debtor can access its GST Portal Account for filing GST Returns generated after the commencement of the corporate insolvency resolution process (“CIRP”) period before clearing the pre-CIRP dues.
- ❖ The NCLT observed that blocking the access to the GST Portal will result in barring the corporate debtor to generate bills related to GST.
- ❖ The NCLT also stated that if the corporate debtor is allowed to run on going concern basis then it should be allowed to pay taxes as well.
- ❖ The NCLT also held that the Tax Authorities fall within the ambit of Operational Creditors and they can recover the GST dues, for the period prior to the CIRP, by making a claim to the resolution professional against the corporate debtor as per the provisions of IBC.

39th GST Council Meeting 14th March 2020

A special procedure is being prescribed for registered persons who are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 and are undergoing the corporate insolvency resolution process, so as to enable them to comply with the provisions of GST Laws during the CIRP period.

Notification No 11/2020 Central Tax 21st March 2020

Notification No 11/2020 Central Tax 21st March 2020

Point No 2. Registration: The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a **distinct person** of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP:

Provided that in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days from the commencement of this notification, with effect from date of his appointment as IRP/RP.



Notification No. 35/2020 – Central Tax 3rd April 2020

Seeks to extend due date of compliance which falls during the period from "20.03.2020 to 29.06.2020" till 30.06.2020 and to extend validity of e-way bills.

EXCEPTIONS



Notification No 39/2020 Central Tax

Notification No 39/2020 Central Tax

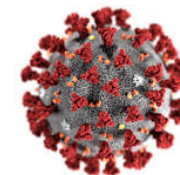
In the said notification

(i) in the first paragraph, the following proviso shall be inserted, namely: -

“Provided that the said class of persons shall not include those corporate debtors who have furnished the statements under section 37 and the returns under section 39 of the said Act for all the tax periods prior to the appointment of IRP/RP.”;

(ii) for the paragraph 2, with effect from the 21st March, 2020, the following paragraph shall be substituted, namely: -

“2. **Registration.**- The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later.”.





Circular 138/8/2020

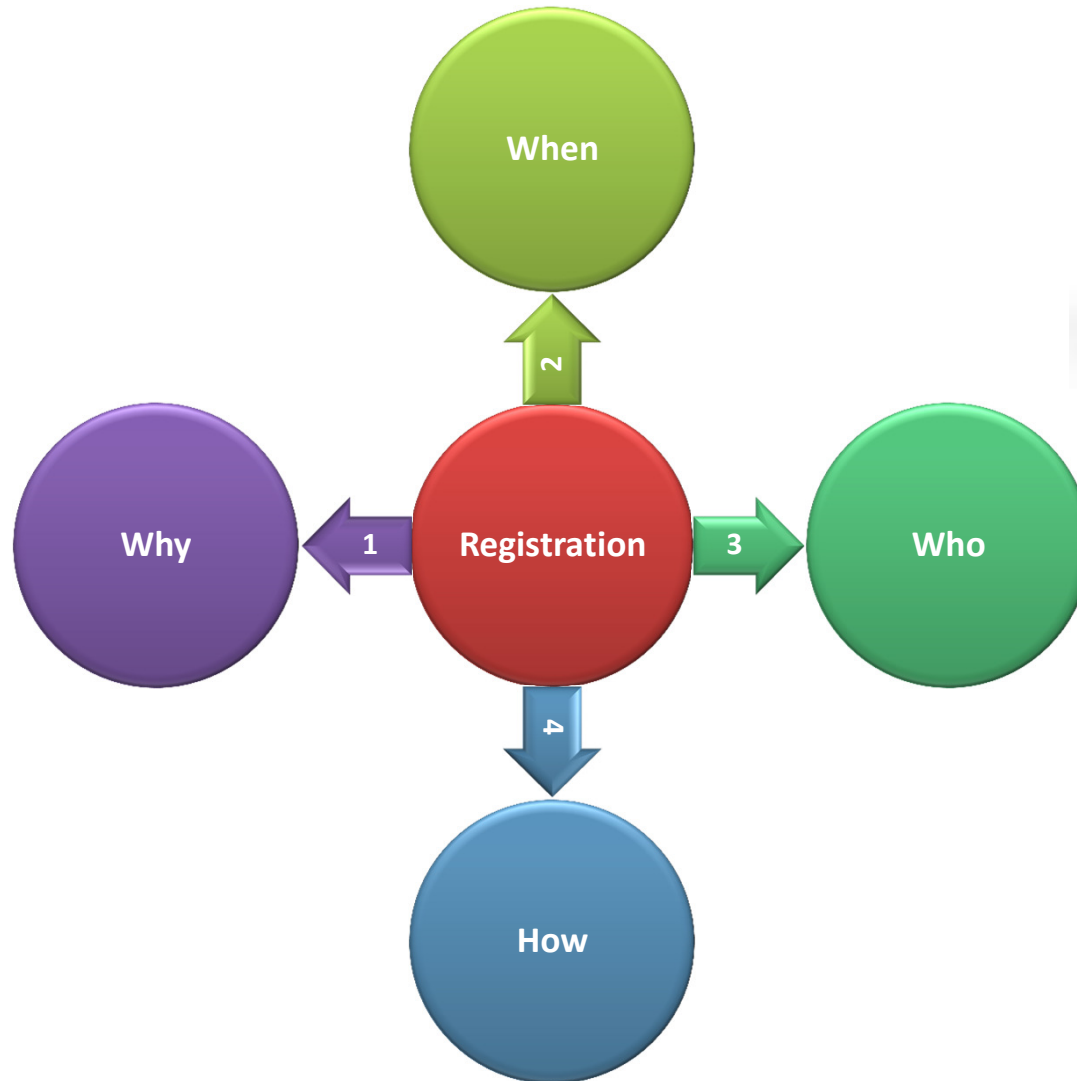
Circular 138/8/2020

1. **Time Limit** to obtain New Registration by IRP/RP

2. Clarification has been sought whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing.

3. in cases where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration.

Registration



Returns

First Return Section 40 of CGST Act

The said class of persons shall, after obtaining registration file the first return under section 40 of the said Act, from the date on which he becomes liable to registration till the date on which registration has been granted.

The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period





Input Tax Credit

As Recipient

The said class of persons shall, in his **first return**, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his appointment as IRP/RP **but bearing the GSTIN of the erstwhile registered person**, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36 of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as the said rules).

As Supplier

Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or thirty days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the **GSTIN of the erstwhile registered person**, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-rule (4) of rule 36 of the said rules.



Section 16(4) & Rule 36(4)

Section 16(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Rule 36(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed [10 per cent] of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.

Refund



Cash Ledger Refund

Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP/RP to the date of registration in terms of this notification shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant **FORM GSTR-3B/GSTR-1** are not filed for the said period.

Q&A

Disclaimer

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*Thank
you*



 **Payal Kataria**

M: 9811510274