
AMENDMENT TO RULE 59 OF THE CENTRAL GOODS AND SERVICE TAX RULES, 2017

Background: -

A person having a Goods and Services Tax (“GST”) registration is considered as a registered supplier for the purposes of Central Goods and Services Act, 2017 (“the Act”). Any supply made by the registered supplier in furtherance of the course of his/her business is connoted as an outward supply under the act. If a supplier and a recipient are engaged in furtherance of course of business, then the supply which is considered as an outward supply for the supplier, will be considered as an inward supply for the recipient in the supply chain. In order to claim input tax credit (“ITC”), it is very necessary for a supplier to furnish appropriate details of all the inward and outward supplies made in the course of business, in the returns.

Section 37 of the Act prescribes that a monthly or a quarterly return shall be filed for all the outward supplies made by any registered supplier under GST. This return shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to all outward supplies made by such supplier during any tax period. The form and manner in which the details of the outward supply shall be furnished are outlined under Rule 59 of the Central Goods and Services Rules, 2017 (“the rules”). According to the abovementioned rule, all the relevant details of the outward supply shall be furnished under form GSTR-1. However, the filing of GSTR-1 is not mandated upon: -

- Taxable persons who are not a resident of India;
- Persons taxed under the scheme of composition levy, or;
- the input services distributors, or;
- Persons who have already paid the GST component under the Tax Deducted at Source (“TDS”) scheme (for whom a separate compliance mechanism exists under section 51 of the CGST Act),
or
- Persons classified as buyers or sellers for the purposes of tax collected at source (for whom a separate compliance mechanism exists under section 52 of the CGST Act)

[Hereinafter, for the purposes of this amendment, the term “supplier” shall exclude the abovementioned categories of people]

GSTR-1 forms the base for the recipients of supplies to claim ITC while filing their returns. According to Rule 60 of the rules, the details provided in GSTR-1 shall be auto-populated and made available electronically to the recipient, for matching purposes, in another form, namely, GSTR-2A, which can be used for reconciliation and filing of annual returns by such recipient under form GSTR-9.

According to section 39(1) of the Act, a supplier has to furnish consolidated details for the inward and outward supplies on a monthly basis. These returns are to be furnished under form GSTR 3-B

as prescribed under Rule 61 of the rules. These details are reconciled with the details furnished under GSTR-1, in order to ensure that a genuine ITC is claimed by the supplier. Although the returns furnished in GSTR-3B are to be filed on a monthly basis, the Central Government has provided an option to the small taxpayers (taxpayers having a turnover of less than 5 Crores in a year), to furnish returns under GSTR 3B on a quarterly basis¹. This scheme is commonly referred to as the quarterly returns, monthly payment scheme (“QRMP scheme”)

However, there have been cases where certain registered suppliers have been found to have floated multiple dummy firms, obtained GST registrations, issued fake GST invoices of goods and services without actual supply, and passed on ineligible ITC accrued from such invoices to their clients for a commission, who subsequently used it to make their GST payments, thereby causing losses to the government. In order to curb this practice, the Central Government amended the Rules² to include a new rule, namely Rule 86B. This Rule basically states that if a taxpayer’s taxable turnover exceeds above Rs.50 Lakhs in a given month, then the taxpayer is required to pay 1% of output liability of such taxable turnover by way of cash.

The amendment:-

In order to further the objective of increasing authenticity of the regulatory compliance, the Central Government, has made the following rules to amend Rule 59 of the rules³:-

- A registered person shall not be allowed to furnish the details of outward supplies in form GSTR-1, if the returns in form GSTR-3B have not been filed for the preceding two months
- If a registered supplier has opted to furnish the returns under GSTR-3B for a particular quarter, then it has to be made sure that returns for the previous financial quarter are furnished in GSTR-3B, before the details of outward supply are furnished under form GSTR-1.
- Any registered person having turnover of more than 50 Lakhs in a month, shall not be allowed to furnish the details of outward supplies in form GSTR-1, if the return in form GSTR-3B for preceding tax period have not been filed.

Vaish Associates Advocates Comments: -

- This amendment is a welcome step taken by the Central Government to ensure that the ITC for a particular month or a financial quarter has been validly claimed by the supplier, before ITC for any other period is claimed.
- The burden of compliance on the taxpayers is substantially reduced with the option of filing quarterly GSTR-3B returns. Therefore, compliance with the amended rules is going to be easier for the taxpayers for the upcoming financial quarter.

¹ Notification No. 84/2020 dated 10th November, 2020

² Notification No. 94/2020 dated 22nd December, 2020

³ Notification No. 01/2021 dated 1st January, 2021

For any further information/ clarification, please feel free to write to:

Mr. Shammi Kapoor, Partner shammi@vaishlaw.com

Mr. Varennyam Shastri, Trainee Associate varennyam@vaishlaw.com

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