

Gist of Notification 15/2021 C.T. Dt. 18.05.2021.

1.0 The Government has issued Notification 15/2021 Central Tax DT. 18.05.2021, amending the CGST Rules, 2017. The gist of various amendments made is given below.

1.1. Rule 23 - Extension of time limit for seeking revocation of cancellation – consequential amendments.

Since powers have been given to the Additional Commissioner/Joint Commissioner and Commissioner to extend the time limit for applying for revocation of cancellation of registration on sufficient cause being shown in terms of Section 30 of CGST Act, 2017, consequent procedural changes have been made in Rule 23 and in Form GST REG 21. The procedure to be followed for seeking condonation of delay in seeking revocation of cancellation of registration before the JC/ADC or Commissioner is also explained in Circular 148/04/2021 Dt. 18.05.2021.

1.2. Rule 90 - Clarification in computing the period of 2 years for filing refund claims after rectification of deficiencies.

a. When any discrepancy is communicated with respect to refund application, revised application filed after removal of such discrepancies is treated as fresh refund application and the date of filing of such revised application is considered as the actual date of filing of refund claim. In many cases, because of the delay in issuing deficiency memos or the delay in replying to the deficiency Memos, the revised claims are time barred. In this connection, a proviso has been inserted in Rule 90 which states that the time period between date of filing of refund and date of communication of deficiencies shall be excluded from the computation of 2 years under Section 54 while filing revised refund application.

For e.g. Refund on account of deemed exports made for January 2019 has to be filed on or before 20.02.2021. The refund application has been filed on 10.02.2021 and a Deficiency Memo has been issued on 15.02.2021. Revised application, after rectifying the deficiency has to be filed within 20.02.2021 as per the existing provisions and if filed thereafter, the refund would be treated as time barred. In terms of amended rules, it can be filed on or before 26.02.2021 (The time period between 10.02.2021- 15.02.2021 is to be excluded).

b. As per the newly inserted sub rule (5) to rule 90, refund application can be withdrawn any time before issuance of provisional refund order or final sanction order or refund withholding order or issue of Notice in Form GST RFD 08. A new Form GST RFD -01W has been inserted for the purpose of such withdrawal. Even nil refund application file by mistake can be withdrawn.

c. As per sub rule (6) now inserted, on submission of withdrawal application, any amount debited from the electronic credit/cash ledger shall be automatically credited back.

1.3 Rule 92 - Order Sanctioning Refund- Order for withholding refund and its release in Form GST RFD 07

As per the proviso under Rule 92 (1), where any refund amount is fully adjusted against any tax dues, an order giving details of such adjustment shall be issued in Part A of GST RFD-07. This proviso has been omitted.

Sub-section (10) and (11) of Section 54 gives the power to withhold any refund in certain circumstances (where any tax dues, which are not subject to any appeal are pending, etc.). A new proviso is added under Rule 92 (2) to the effect that when the proper officer feels that there is no further need to withhold the refund, an order sanction of refund has to be passed in GST RFD – 07.

1.4 Rule 96 – Procedural amendments.

Certain procedural changes, which are not very significant have been made in sub rule (6) and (7) of Rule 96, in the matter of grant of refund, after lifting the withholding of refund.

1.5 Rule 138E

As per sub rule (1) of Rule 138, every registered person causing movement of goods valued above Rs.50,000, either in relation to a supply, or for reasons other than supply or due to inward supply from an unregistered person, shall generate E Way bill and furnish the information in Part A of E-Way bill. This rule also enables certain other persons such as transporter, E-commerce operator, etc. to generate E-way Bill.

Rule 138E bars the facility of generation of E-way bills for certain category of defaulters. The defaulter can be either a supplier or a recipient. For example if A intends to sell goods to B, and if B is a defaulter as envisaged in Rule 138 E, nobody can generate E-way Bill for the goods to be despatched to B.

Now the rule has been amended to the effect that the E-way bill barring will be applicable only for the outward supplies made by such defaulter and not his inward supplies. In the above example, even though B is a defaulter, A can supply goods to B and generate E-way Bill.