

GST UPDATES – SEPTEMBER 2020

I. NOTIFICATION UPDATES

1. Limit for E-invoice enhanced to Rs. 500 crore from Rs. 100 Crores – Notification No 60/2020 and 61/2020-CT dated 30th July, 2020:

Vide above notification threshold limit for applicability of e-invoice has been enhanced to Rs. 500 Crore of aggregate turnover in a financial year from Rs. 100 Crore. Also, vide notification no 13/2020-CT dated 21st March, 2020 e-invoice is not made applicable to following persons irrespective of their turnover limit.

- Insurance companies
- Banking companies
- Financial institutions including a non-banking financial company
- Goods Transport Agency
- Supplier of passenger transportation service
- A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens

Now vide notification no 61/2020-CT Special Economic Zone has also been included in the above list. That is to say, SEZ is not required to raise e-invoice irrespective of their turnover.

Also Vide Notification no 60/2020-CT dated 30th July, 2020 e-invoice schema has been specified.

2. Aadhaar Authentication for new GST registration – Notification No 62/2020-CT dated 20.08.2020:

- i. Vide above notification every applicant for GST new registration may opt for Aadhaar authentication. Date of submission of application for registration 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) of rule 8, whichever is earlier.
- ii. In case a person who does not opt for aadhaar authentication, the registration shall be granted only after physical verification of the place of business in the presence of applicant. However, in case the proper officer with the approval of an officer not below the rank of joint commissioner and for the reasons to be recorded in writing,

- in lieu of physical verification of the place of business, carry out the verification of such documents as he may deem fit.
- iii. Vide Notification no 17/2020-CT dated 23rd March, 2020 the board vide powers conferred by section 25(6D) of CGST Act, has notified following persons as the persons required to undergo aadhaar authentication.
 - o Individual
 - o Authorised signatories of all types
 - o Managing and authorized partners and
 - o Karta of an Hindu Undivided family
 - iv. Notification 17/2020-CT also states that a person who is not a citizen of India and such class of persons other than listed in above point ii are not required to undergo aadhaar authentication. Hence, it is understood from this notification that aadhaar authentication shall not apply to non-citizens, non-residents even if they are authorized signatories.
 - v. In case of companies going for new registrations aadhar authentication is not necessary for all directors rather necessary only for authorized signatory directors.
 - vi. In terms of Section 25(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. However, till now no form and manner has been prescribed for an already registered person. Once the manner and form is prescribed the same will be required to be done by an already registered entity also.
 - vii. Registration process is to be completed 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 section 25(6D) (persons exempted from aadhar authentication). – *Rule 9(5a)*
 - viii. In cases of physical verification, notice for physical verification in Form REG-03 may be issued not later than twenty one days from the date of submission of application. It is to be noted here that the date of submission of application will be deemed to be after 15 working days of submission of part B of REG-1 as per rule 8(4A), hence the overall period for the issue of notice will get extended to 36 days (15 days plus 21 days).– *Rule 9(5c)*
 - ix. Physical verification report is to be uploaded within 7 working days from the date of the receipt of the clarification. – *Rule 9(5d)*.
 - x. If the proper officer fails to take any action within the above time lines the application for grant of registration shall be deemed to have been approved. – *Rule 9(5)*.

II. HIGH COURT RULINGS

Search proceedings in the residences and offices for a long time cannot be labeled as harassment – There is no infirmity in the audit and investigation proceedings being continued simultaneously :

Suresh kumar p.p., Mr. Aboobackersidhique versus the deputy director - 2020
(8) TMI 418 - KERALA HIGH COURT

Brief facts:

The appellants allege that illegal proceedings were taken against them, purportedly under the Central Goods and Services Tax Act, 2017, and their residences and offices were raided, both of them kept under illegal custody and an amount of Rupees One Crore extorted from them. On the intervention of their Advocate at mid-night, they were released, allege the appellants. The appellants, in the writ petition prayed for

- (i) setting aside the notice, requiring them to provide information issued by the Senior Intelligence Officer (SIO),
- (ii) invalidation of search and seizure proceedings initiated under Section 67 of the CGST Act
- (iii) refund of Rupees One Crore collected by the 4th and 5th respondents,
- (iv) a declaration that the petitioners are not liable to pay GST on the revenue share retained by the Local Cable Operator as also
- (v) compensation for the damage to the reputation of the petitioners and the mental agony suffered

Rulings of the Court:

- (i) The allegations raised of harassment and high-handedness cannot be considered in a petition under Article 226 of the Constitution.
- (ii) An operation carried out by a statutory authority invested with the powers of search, inspection and seizure, by reason only of such activities having been carried out in the residences and offices of any person under investigation for a long time, cannot be labeled as harassment or high-handed.
- (iii) Nor could the inconvenience caused to the person under investigation, especially of remaining in the premises for the entire duration, termed to a detention pursuant to an arrest.

- (iv) A search and seizure operation necessarily brings with it certain discomforts, which are to be endured in the best interest of the person under investigation who witnesses every action of the inspection team.
- (v) The allegations are also not substantiated which, we perfectly understand, are impossible of substantiation, especially in a petition under Article 226.
- (vi) Apart from the invalidity urged of the very search, inspection and seizure, we are not considering any of the issues so raised in the writ petition and in the appeal.
- (vii) Audit under section 65 is a routine procedure to be carried out by the Commissioner in such frequency and in such manner as prescribed in the rules; which is independent of an investigation under Section 67.
- (viii) Section 67 is a more onerous procedure which can be initiated only on the satisfaction of an Officer not below the rank of a Joint Commissioner of, suppression of taxable transactions, excess claim of input tax credit, contravention of the provisions of the Act and Rules, keeping of goods and accounts in contravention of the provisions, escapement of tax, secreting of goods or material liable to confiscation or relevant or useful in any proceedings under the Act and any act leading to evasion of tax.
- (ix) Investigation under Section 67 is no routine procedure as is an audit under section 65. There are no infirmity in the audit and investigation proceeding being continued simultaneously.