



Newsflash

Summary of Recent Notifications and Circulars issued under GST

Newsflash

Summary of Recent Notifications and Circulars issued under GST

For Circulation

11 August 2023

1.0 Background

The summary of the recent notifications and circulars issued by the Central Board of Indirect Taxes and Customs (CBIC) is encapsulated as under:

2.0 Notification No. 36/2023- Central Tax dated, 4th August 2023

The said notification seeks to implement the below special procedure for electronic commerce operators (ECOs) in respect of supply of goods through it by composition taxpayers:

Person paying tax under section 10 of CGST ACT, 2017 is allowed to engage in supply of goods through E – Commerce operator. However, there are specific conditions attached herewith which is constructed as under:

- Disallowing any interstate supplies of goods by such composition taxpayers through their ECO platform
- The ECOs are obliged to collect Tax collected at source (TCS). This collected amount needs to be deposited with the government by filing of Form GSTR8, electronically on the GST portal

3.0 Notification No. 37/2023- Central Tax dated, 4th August 2023

The said notification seeks to implement the below special procedure for electronic commerce operators (ECOs) in respect of supply of goods through it by persons who have been exempted from obtaining registration under GST being engaged in supply of goods through ECOs:

- The supply can only be allowed through ECOs if the **enrolment number** has been allotted to the supplier on the GST portal
- Disallowing any interstate supplies of goods by such suppliers through ECO platform
- The ECOs shall not collect TCS in respect of supplies made through it by such suppliers
- The ECO shall file Form GSTR8 detailing the goods supplied via it by such suppliers on the GST portal

4.0 Notification No. 38/2023- Central Tax dated, 4th August 2023

4.1 Rule 138F of CGST Rules, 2017

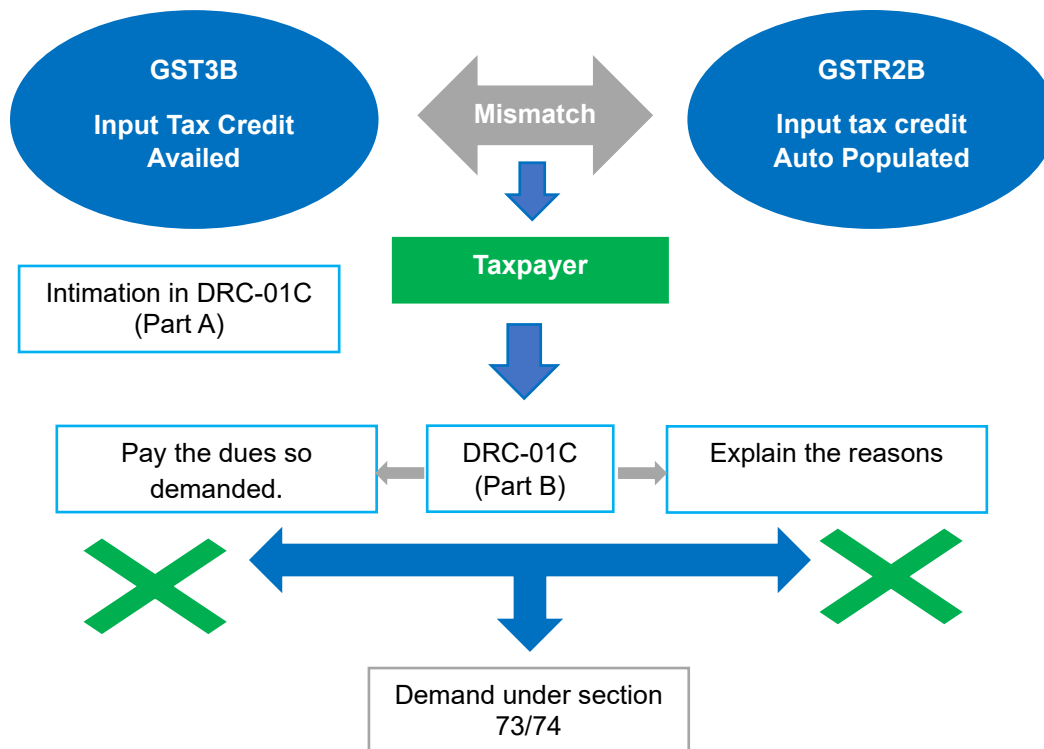
A new rule has been inserted which deals with the **generation of e-way bills in case of intra-State movement of gold, precious stones, etc.**

- E-way bill to be generated in case of intra-state movement of below goods where the consignment value of such goods exceeds a notified amount (as per notification to be issued by the State in said regard) and not below **INR 2 lakhs**:
 - o *Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)*

- *Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) excepting Imitation Jewellery (7117)*
- The consignment value of goods shall be the value, determined in accordance with the valuation provisions and include the amount of GST charged on the tax invoice/delivery challan as the case may be.
- E-way bill to be generated in **Part A of Form GST EWB-01** in all the below circumstances:
 - (i) in relation to a supply; or
 - (ii) for reasons other than supply; or
 - (iii) due to inward supply from an un-registered person
- Further, **furnishing of vehicle details in Part B of Form GST EWB-01 shall not be required** for such goods and e-way bill shall be generated on furnishing information in Part A.

4.2 Rule 88 of CGST Rules, 2017

A new rule **88D** has been inserted which pertains to **manner of dealing with difference in input tax credit available in auto-generated statement in Form GSTR 2B vis-à-vis that availed by a registered person through return in Form GSTR 3B.**



4.3 Rule 64 of CGST Rules, 2017

With effect from 01 October 2023, the supplier of OIDAR services from a place outside India shall furnish the details of supplies made to a **non-taxable online recipient as well as to a registered person** vide filing of return in **FORM GSTR-5A**.

5.0 Amendment in GST Registration Rules

5.1 Rule 9(1) of CGST Rules, 2017

Physical verification of place of business of a person is no more necessary to be done in presence of such person.

5.2 Rule 10(A) of CGST Rules, 2017

Furnishing of bank account details post sanctioning of GST Registration Certificate to be completed at the **earliest of the following**:

- Within a period of 30 days from date of grant of registration
- Before filing of return in Form GSTR-1 or using invoice furnishing facility (as may be applicable)

5.3 Rule 21(A) of CGST Rules, 2017

Registration of a registered person shall be liable to be suspended if:

- He fails to furnish the bank account details post grant of GST registration certificate within the prescribed timelines
- Where significant differences are observed between ITC availed vide filing of Form GSTR 3B in comparison with auto-populated supplier filing report in Form GSTR 2B

The aforesaid shall be communicated to the registered person in Form GST REG 31 requiring him to explain the reasons for such deviation within a period of 30 days.

5.4 Rule 23 of CGST Rules, 2017

Application for **revocation of cancellation of registration** shall be made in Form GST REG 21 **within a period of ninety days** from the date of the service of the order of cancellation of registration. Such period shall be extendable for a further period up to 180 days on sufficient reasons recorded in writing.

5.5 Rule 25 of CGST Rules, 2017

Amendments in rules to enable the officer to conduct physical verification of the premises of a person post grant of registration whether or not aadhaar authentication is done by such person.

5.6 Rule 59 of CGST Rules, 2017

A registered person shall not be allowed to file return in **Form GSTR-1/ IFF** for a subsequent tax period in the below cases where a communication is issued in **Part A of Form GST DRC 01C**:

- **Not paid amount equivalent to excess input tax credit availed** exceeding the laid down limits in comparison with GSTR 2B neither furnished a reply giving explanation in respect of the same in Part B of Form **GST DRC 01C**
- **Not furnished the details of the bank account** under prescribed timelines post grant of GST Registration Certificate

5.7 Rule 46 of CGST Rules, 2017

In case of taxable services supplied by or through an ECO or by a supplier of online information and database access or retrieval services (OIDAR) to a recipient who is un-registered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the **name of the state of the recipient and the same shall be deemed to be the address on record of the recipient.**

5.8 Rule 142 of CGST Rules, 2017

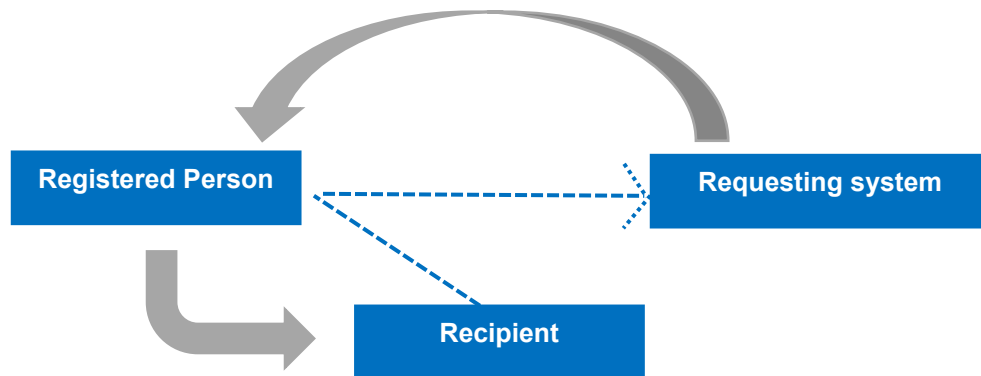
A new rule 142B has been inserted which pertains to **intimation of certain amounts liable to be recovered under Section 79 of the Act.**

- When any liability or interest has become recoverable under Section 79 and remains unpaid, a communication in **Form DRC-01D** shall be issued directing the person who has committed the default to pay the amount of tax due along with the interest within seven days of the date of the said intimation.
- The said intimation shall be considered as the notice for recovery. If the amount so due is not paid within the prescribed time, further proceedings against the defaulter shall be initiated.

5.9 Rule 163 of CGST Rules, 2017

A new rule has been inserted which deals with the Consent based sharing of information with 'requesting system':

- If a registered person opts to share their information furnished in different forms like FORM GST REG-01, FORM GSTR3B or FORM GSTR1 with a requesting system, the requesting system shall require to obtain permission from said registered persons.
- Before the registered person shares their information, they must first get approval from all the recipients they have sent invoices, credit notes, and debit notes to during that specific tax period. Once the registered person gives their consent, it is deemed that they have already received consent from those recipients for sharing the information with the requesting system.



6.0 Notification No. 28/2023- Central Tax dated, 31st July 2023

The amendments brought about in the CGST Act, 2017 and IGST Act, 2017 vide the **Finance Act, 2023** have been notified through the said notification and made effective as per below tabulated dates:

Particulars	Effective Date
Sections 137 to 162 (except Sections 149 to 154) of the Finance Act, 2023	1 st October 2023
Sections 149 to 154 of the Finance Act, 2023	1 st August 2023

7.0 Circular No. 201/13/2023 – GST dated 01st August 2023

7.1 Clarification regarding applicability of GST on services supplied by a director to a body corporate

The said circular seeks to clarify the prevalent grey areas with respect to taxability of services provided by a director to a body corporate, where it is hereby clarified that services provided by director to body corporate in his private or personal capacity are **not subject to reverse charge mechanism (RCM)** and that only services provided by director **in the capacity of a director shall be taxed under RCM** in the hands of such body corporate.

7.2 Clarification regarding taxability of supply of food and beverages in cinema halls as restaurant services

The circular seeks to clarify that supply of food and beverages in cinema halls would be treated as supply of restaurant services when –

- Supplied by way of or as a part of a service
- Supplied independently of the cinema exhibition service

It is further clarified that where at the time of supply of cinema ticket, supply of food and beverages are clubbed, also satisfying the criteria for 'composite supply' then the entire bundle will be taxed at a uniform rate applicable on principal supply i.e., rate of cinema exhibition services.

For further information please contact:

RSM Astute Consulting Pvt. Ltd.

8th Floor, Bakhtawar, 229, Nariman Point, Mumbai - 400021.

T: (91-22) 6108 5555/ 6121 4444

F: (91-22) 6108 5556/ 2287 5771

E: emails@rsmindia.in

W: www.rsmindia.in

Offices: Mumbai, New Delhi - NCR, Chennai, Kolkata, Bengaluru, Surat, Hyderabad, Ahmedabad, Pune, Gandhidham, Jaipur and Vijayanagar.



facebook.com/RSMInIndia



twitter.com/RSM_India



linkedin.com/company/rsm-india



Youtube.com/c/RSMIndia

RSM Astute Consulting Pvt. Ltd. (Including its affiliates) is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network.

Each member of the RSM network is an independent accounting and consulting firm each of which practices in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction.

The RSM network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London EC4N 6JJ .

The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et sec of the Civil Code of Switzerland whose seat is in Zug.

This Newsflash summarizes the recent Notifications and Circulars issued under GST. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said judgement and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

This Newsflash is protected under Copyright and Intellectual property laws and regulations

11 August 2023

© RSM International Association, 2023