



ANKIT DINESH AGARWAL & CO.

CHARTERED ACCOUNTANTS

Important Changes In GST Via CGST (14th Amendment) Rules, 2020

The CBIC has introduced big changes in GST via CGST (14th Amendment) Rules , 2020 as per new Notification No. 94/2020 dated 22nd December, 2020 which is applicable from 1st of January, 2021. Changes are as follows:

1. Restriction on claim of ITC as per Rule 36(4)

According to the changes made, the ITC claim w.r.t. invoices not furnished by suppliers/vendors, has now been **revised to 5% which was earlier 10%** of the credit available.

The official gazette in the point no (c) says *“for the figures and words —10 per cent, the figure and words —5 per cent shall be substituted.”*

Earlier a tax payer could take the provisional Input of 10% of the credit as per GSTR 2A/2B, will now be eligible to take only **5% of the credit available as per GSTR 2B** w.r.t the invoices not furnished by the suppliers.

Hence, now the tax payers would be restricted to claim ITC upto **105% of the credit reflected in their GSTR 2B**. Any claim exceeding the specified limit shall result in violation of CGST Act read with rules which may result into suspension of GSTIN as described below.

In other words, If you made genuine purchase and you are eligible for Input Tax Credit but the supplier hasn't filled his/her return and as a result Invoice(s) is not reflecting in your GSTR 2B then ITC is restricted to only in excess of 5% of the total ITC available in your GSTR 2B. The limit was 10 Percent earlier.

2. GSTR 1 will be blocked in case of non-filing of GSTR 3B

Earlier non filing of GSTR 3B used to result in blocking of E-way Bill facility but from now on it shall also result in blocking of GSTR 1 of the taxpayer.

The other change is in rule 59 of CGST Rules, **a sub rule (5) has been inserted** which says,

- Form **GSTR-1** of a tax payer **will be blocked** if

S.No.	Scenario	Condition
1.	A registered person required to file Monthly returns u/s 37 i.e. Form GSTR-1	Fails to file Form GSTR-3B for previous 2 months
2.	A registered person required to file Quarterly returns under proviso of Section 39(1) i.e. Form GSTR-3B under QRPM Scheme	Fails to file Form GSTR-3B for previous tax period (Quarter)
3.	A registered person who is restricted to avail ITC under Rule 86B (New Rule inserted-described below)	Fails to file Form GSTR-3B for previous tax period

Hence, in the above-mentioned cases a registered person would not be allowed to furnish Form GSTR-1 or Use the Invoice Furnishing Facility (IFF).



ANKIT DINESH AGARWAL & CO.

CHARTERED ACCOUNTANTS

3. Time limit for system-based GST Registration increased

Further the CBIC has also enhanced the time required for system-based **GST registration to 7 days from 3 days** as provided earlier.

The subrule (1) of rule 9 as amended says -:

“after the words —applicant within a period of, for the word —three, the word —seven shall be substituted;”

Hence w.e.f. 1st January, 2021 the department shall be required to review and **grant registration within 7 days instead of 3 days** from the date of filing of registration application.

Further the proviso as substituted explains that where a person has not gone for Aadhar authentication or where the **departments feels the need to carry out physical verification**, the time limit applicable in such case for grant of registration will be **30 days instead of 7 days**.

4. More Powers to GST Department w.r.t. cancellation of GSTIN

In below mentioned cases, GST department has power to cancel the GSTIN of a registered person:

- i. New clause (e) has been inserted under rule 21 which will give more power to GST Department to **cancel GST registration** of a taxpayer **availing ITC exceeding than permissible limit** u/s 16 of the CGST Act, 2017 or rules made thereunder.
- ii. New Clause (f) talks about the difference of taxable value and tax under GSTR 1 & GSTR 3B. Where the output supply declared in GSTR-3B is less than that declared in GSTR-1 for a particular month, the department has the right to cancel the GSTIN of the taxpayer. There might be some practical difficulties in implementing such a provision as there are number of corrections which are made in GSTR 3B which may result in lower tax liability as compared with GSTR 1. The clause (f) newly inserted talks about details of outward supply to which we understand that Taxable value and tax both should be in synchronization between GSTR 1 and GSTR 3B.
- iii. New Clause (g) talks about the violation of provision of Rule 86B. If taxpayer fails to comply the provision of Rule 86B, then GST department may proceed with cancellation of GST.

5. Opportunity of Being Heard has been omitted

Earlier, the subrule (2) of Rule 21A mentions about opportunity of being heard given to a taxpayer before suspension of GSTIN, The CBIC has now made the changes as below:

“in sub-rule (2), the words ‘after affording the said person a reasonable opportunity of being heard’ shall be omitted”

Hence, now where the proper officer has reason to believe that registration of a person has to be cancelled, in that case no opportunity of being heard shall be given to taxpayers for cancellation of registration.

6. Suspension of GST Registration

Changes in subrule (2A) of Rule 21A: Any significant difference between the outward supplies mentioned in GSTR-1 and GSTR-3B indicating contravention of the provision of the Act or rules, leading to cancellation of GST registration of the taxpayer.



ANKIT DINESH AGARWAL & CO.

CHARTERED ACCOUNTANTS

Department shall **suspend his GST Registration and serve a notice** to the taxpayers in **FORM GST REG-31** asking him to explain why his GSTIN should not be cancelled. The taxpayer receiving such notice shall be required to submit his reply within 30 days from the date of notice.

7. Refund u/s 54 cannot be availed

After the amendment of subrule (2), a subrule (3A) has been inserted under Rule 21A i.e

“A registered person, whose registration has been suspended under sub-rule (2) or sub-rule (2A), shall not be granted any refund u/s54, during the period of suspension of his registration.”

Hence, a registered person whose GSTIN has been suspended can file refund claim u/s 54 of the CGST Act, 2017 only after completion of his suspension proceeding.

8. Restriction on utilization of ITC – Rule 86B

New Rule 86B has been inserted under this notification which restrict a taxpayer to use input credit in excess of 99% of the amount available in electronic credit ledger in case where the value of taxable supplies other than Exempted Supply and Zero-Rated Supply exceeds Rs 50 Lakh in a month.

In other words, Tax Payer needs to pay at least 1% of total Tax liability through Cash, If the value of taxable supply (other than exempt supply and zero-rated supply) in a month exceeds 50 lakh Rupees.

Exceptions: However, the restriction as per this rule will not apply in the below-mentioned cases -:

- i. Where the taxpayer has paid Income Tax exceeding for the amount of Rs. 1 lakh in each of 2 preceding financial year.
- ii. Where taxpayer has received refund exceeding Rs. 1 lakh u/s 54 (Export & Inverted Duty) of CGST Act, 2017 in preceding financial year.
- iii. Where taxpayer has used electronic cash ledger to pay of liability on outward supplies which cumulatively makes 1% of the total liability up to the said month.
- iv. Where the registered person is a Government Department, Public Sector Undertaking (PSU), local authority or a statutory body.

9. Amendment in E-way Bill validity

Earlier in the Rule 138 in sub-rule (10), One day was permitted for the distance up to 100 KMs under EWAY BILL provisions which is now increased to 200 KMs.

Disclaimer – Author has exercised utmost care while writing this article, but still this article may contain some error or mistake and no part of this article/writing should be construed or considered as any advice or consultancy whether professional or otherwise. The contents of this article are solely for information and knowledge.

If any queries/doubt feel free to contact us at caadagarwal@gmail.com



ANKIT DINESH AGARWAL & CO.

CHARTERED ACCOUNTANTS

Link to our social media accounts:

- Website** : <https://www.adagarwal.com/>
Facebook : <https://www.facebook.com/adaandco/>
Twitter : <https://twitter.com/adacom26>
LinkedIn : <https://www.linkedin.com/in/ada-and-co-79a038131/>
YouTube : <https://www.youtube.com/channel/UCZbZgzclt5fZTgMuNVqSiTQ>

Kindly **"Subscribe"** our **YouTube Channel** for regular updates on **Income Tax & GST**.

About the Author:

Mr. Ankit Agarwal is a Chartered Accountant based in Delhi and the founder of ADA & Co. He has over 7 years of post-qualification work experience, specializing in the field of taxation (Direct & Indirect) practice. He also has knowledge in the full range of financial services including Business, Taxation, Audit and Account. Further, he has managed assignments in respect of GST Audits, Bank Audits, Stock Audits, PSUs Audits, AR & AP Reconciliation etc and represented clients in tax litigative matters before Indian tax authorities. The aim of this article is to enable the professionals in the industry and students & businessmen to be aware with current developments in the Direct and Indirect tax laws and Accounting Practices.

Ms. Divya Jain is a Chartered Accountant. She recently started practicing and providing consultancy services related to Direct & Indirect Taxation and Accounts management. She had 2 years of post-qualification work experience in Compliance & Financial Reporting. She had been working as a Head of Department, Finance & Accounts with a well-known Luxury Watch Company in Mumbai. She has also been assisting the clients for GST & Income Tax related queries.