

### Summary of Notifications issued by CBIC pursuant to enforcement of Finance Act 2023 and 50th GST Council Meeting decisions

The Central Board of Indirect Taxes & Customs, Ministry of Finance has issued a series of notifications to amend GST laws and Rules pursuant to enforcement of Finance Act 2023 and decisions taken in 50th GST Council Meeting. These notifications can be accessed [here](#), and are summarized below:

#### E-Commerce related changes

Notification	Amendment	Remarks
<b>36/2023-Central Tax</b>	<p>Following procedures prescribed for ECO required to collect tax at source in respect of supply of goods made through it by the Composition dealers:</p> <ul style="list-style-type: none"> <li>· The ECO shall not allow any inter-state supply of goods made through it by the Composition dealers.</li> <li>· ECO shall collect tax on such supplies.</li> <li>· ECO shall furnish such details and pay tax collected thereon in Form GSTR-8.</li> </ul>	<p>Pursuant to changes made via Finance Act, 2023 allowing composition dealers to supply goods through E-Commerce Operators, there special procedures have been prescribed to be effective from 01.10.2023</p>
<b>37/2023-Central Tax</b>	<p>Following procedures prescribed for ECO required to collect tax at source in respect of supply of goods made through it by the persons exempted from obtaining GST registration (due to aggregate turnover being less than the prescribed threshold limit):</p> <ul style="list-style-type: none"> <li>· The ECO shall allow such supply of goods only if enrolment number has been allotted on the common portal to such person;</li> <li>· The ECO shall not allow any inter-state supply of goods through it by such person;</li> <li>· The ECO shall <b>not</b> collect tax at source in respect of such supplies;</li> <li>· The ECO shall furnish the details of supplies of goods made through it by the said person in FORM GSTR-8.</li> </ul>	<p>Since small sellers will be allowed to sell goods through ECO w.e.f. 01.10.2023, these guardrails have been put in place.</p> <p>Please note that Section 122 of the CGST Act has also been notified w.e.f. 01.10.2023 which provides for penalties on e-commerce operators.</p>

Notification	Amendment	Remarks
	Where multiple ECO are involved in a single supply of goods through ECO platform, the ECO liable to deduct TCS shall be the ECO who finally releases the payment for such supply.	This is aligned to Circular No. 194/06/2023-GST dated 17.07.2023 and the earlier FAQs on TCS which confirms that TCS is the liability of the ECO settling the payment with the sellers.
<b>38/2023-Central Tax</b>	Form GSTR-8 to be amended <b>w.e.f. 01.10.2023</b> to include furnishing of details of supplies made through ECO by unregistered suppliers including its amendments in subsequent periods	Form GSTR-8 to be amended to give effect to the abovementioned amendments
	Rule 46(f) of the CGST Rules, 2017 is amended to do away with the requirement to furnish name and address of the recipient along with its PIN code in tax invoice to be issued for taxable supplies made by or through the ECO.	ECO/Suppliers making taxable supplies through ECO are now required to furnish only the name of the state of the recipient in tax invoice for supplies made to unregistered customers where the value is < INR 50,000 (~\$625).
	Rule 138F is prescribed to provide for information to be furnished in case of intra-State movement of gold, precious stones, etc. and generation of e-way bills thereof. Where these goods are supplies through ECO, information in Part A of FORM GST EWB-01 <b>may</b> be furnished by such ECO.	ECO <b>may</b> furnish details in Part A of FORM GST EWB-01 in case of intra-State movement of gold, precious stones, etc.

### OIDAR related changes

Sl. No.	OIDAR related changes	Comments
1	Rule 64 of the CGST Rules, 2017 is to be amended to include reporting of all OIDAR services in Form GSTR-5A provided by a person located in non-taxable territory to persons located in taxable territory.	<p>Presently, Rule 64 required OIDAR service providers to report only services provided to unregistered persons in India. Consequent to this amendment, the OIDAR service providers will be required to report all the services provided by them to persons located in taxable territory irrespective of the fact that whether the services are provided in course of B2C or B2B (liable to reverse charge) supplies. This amendment is applicable from 1<sup>st</sup> October 2023.</p> <p><b>This is a significant change. However, it is key to note that there is no amendment made in Section 14 of the IGST Act read with Rule 14 of the CGST Rules (registration) which requires a non-resident supplier to register in India only if the supply is made to a non-taxable online recipient.</b></p>
2	Form GSTR 5A has been amended requiring the entity to report GSTIN of B2B customers along with taxable value of supplies made to such customers during the month.	<p>GSTIN of the customers in B2B transactions (which are liable to reverse charge) will be required to be reported from 1<sup>st</sup> October 2023 along with the total value of taxable supplies made to them during the month. Amendments can also be made for the above details reported in subsequent tax periods.</p> <p><b><i>It is important to ensure that details of customer's GSTIN (and that such GSTINs are accurate/ valid) at transaction level are being mapped in the system to ensure details are available for reporting in returns from October 2023 onwards.</i></b></p>
3	Rule 46(f) of the CGST Rules, 2017 is amended to do away with the requirement to furnish name and address of the recipient along with its PIN code in tax invoice to be issued by the supplier of OIDAR services.	<p>The supplier of OIDAR services are now required to furnish only the name of the state of the recipient in tax invoice for supplies made to unregistered customers where the value is &lt; INR 50,000 (~\$625). This amendment is effective from <b>04.08.2023</b>.</p>

**Other amendments made in CGST Rules (Notification No. 38/2023-CT)**

Amendment	Remarks
<p><b>Rule 43 is to be amended w.e.f. 01.10.2023 to provide for the requirement of reversal of ITC in case of supply of warehoused goods to any person before clearance for home consumption (such activity is prescribed under Schedule III – Activities neither to be considered as supply of goods nor as supply of services).</b></p> <p><b>Further, the value of warehoused goods shall be the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers</b></p>	<p>These changes have been made in line with amendments made vide Finance Act, 2023.</p>
<p><b>Rule 88D and 142B is inserted to notify Form GST DRC-01C and Form GST DRC-01D respectively</b></p>	<p>New Forms prescribed to be issued as under:</p> <ul style="list-style-type: none"> <li>Form GST DRC-01C to be issued where ITC availed in Form GSTR-3B exceeds ITC available as per GSTR-2B by a specified amount/percentage</li> <li>Form GST DRC-01D to be issued where any tax or interest is recoverable and the same has remained unpaid.</li> </ul>

### Other changes

Particulars	Amendments
Registration	Proviso to Rule 9 is amended to do away with the requirement of having presence of the applicant at the time of physical verification of the premises for approving GST registration.
	Rule 10A is amended to provide for the requirement to furnish bank account details within 30 days of grant of registration or before filing of FORM GSTR-1/IFF, whichever is earlier.
	Rule 21A is amended to provide for suspension of GST registration for not furnishing bank account details in compliance with abovementioned Rule 10A. However, the suspension shall be deemed to be revoked upon compliance with Rule 10A.
	Rule 23(1) to be amended w.e.f. 01.10.2023 to extend time limit for submission of application for revocation of cancellation of registration to 90 days from the date of service of order or till such period extended by the Commissioner/Additional Commissioner/ Joint Commissioner, for a further period not exceeding 180 days
	Rule 25 is amended to provide that verification report along with other documents pertaining to physical verification of business premises required before grant of registration is to be uploaded at least 5 working days prior to the completion of time period of 30 days prescribed for grant of registration.
ITC Reversal w.r.t. Exempt supplies	Rule 43 is amended to exclude supplies in respect of transportation of goods through vessel from customs station of clearance in India to a place outside from the exclusion list of exempt supplies.
Returns	<p>Rule 59 is to be amended to provide the following:</p> <ul style="list-style-type: none"> <li>- A person to whom notice has been issued in Form GST DRC-01C shall not be allowed to furnish Form GSTR-1/IFF for subsequent tax periods, unless he has either paid the amount alleged in the notice or furnished a reply explaining the reasons in respect of the amount of excess input tax credit availed.</li> </ul> <p>A person shall not be required to File GSTR-1/IFF if he has not furnished the details of the bank account as per the provisions of rule 10A</p>

Particulars	Amendments
Refund	<p>Rule 89 is amended -</p> <ul style="list-style-type: none"> <li>- To provide that casual taxable person or a non-resident taxable person is eligible to claim refund 'only after the last return required to be furnished by him has been so furnished' instead of in the last return required to be furnished by him.</li> <li>- To allow refund of interest or any other amounts paid.</li> </ul>
Interest on Refund	<p>The following period shall be excluded while calculating interest on refunds:</p> <ul style="list-style-type: none"> <li>- Period beyond 15 days taken by the assessee to furnish reply in Form GST RFD-09 or to submit additional documents;</li> <li>- Period taken by the applicant for furnishing or validating the bank details to which the refund is to be credited.</li> </ul>
Filing of Appeals	<p>Rule 108 and 109 is amended to allow filing of manual appeals only in the following cases:</p> <ul style="list-style-type: none"> <li>- Where the Commissioner has so notified;</li> <li>- The same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal.</li> </ul>
Compounding of Offence	<ul style="list-style-type: none"> <li>• For persons engaged in supply of goods or services with intent to evade tax or fraudulently avails ITC or collect tax but fails to pay the same to the Government or fraudulently obtains refund, the compounding amount shall be- <ul style="list-style-type: none"> <li>➤ Where the amount of tax evaded or ITC wrongly availed or utilised or the amount of refund wrongly taken exceeds INR 500 lakhs - 50%-75% of tax evaded or ITC wrongly availed or utilised or the amount of refund wrongly taken</li> <li>➤ Where the amount of tax evaded or ITC wrongly availed or utilised or the amount of refund wrongly taken exceeds INR 200 lakhs but does not exceed INR 500 Lakhs - 40%-60% of tax evaded or ITC wrongly availed or utilised or the amount of refund wrongly taken</li> </ul> </li> <li>• For persons who falsifies financial records or produces fake accounts or documents or acquires possession of or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation or receives</li> </ul>

Particulars	Amendments
	<p>or concerned with supplies which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules, the compounding amount shall be 25% of tax evaded.</p> <ul style="list-style-type: none"> <li>For persons attempting to commit the abovementioned offences or abets the commission of abovementioned offences, the compounding amount shall be 25% of tax evaded or ITC wrongly availed or utilised or the amount of refund wrongly taken.</li> </ul>
Consent based sharing of information	To prescribe Rule 163 to be applicable w.e.f. 01.10.2023 to prescribe procedure for sharing of information with Account Aggregator
Form GSTR-3A	Form GSTR-3A is amended to permit issuance of this notice in case of default for filing of Annual Return and Reconciliation Statement
Form GSTR-9 and GSTR-9C	Form GSTR-9 and GSTR-9C amended to enable filing of this return for FY 2022-23

**\*\*\*This update has been prepared with support from our knowledge partners, Deloitte India\*\*\***