



GST TIMES

Vol 4: April 2020

Compiled by: GST Team, ASC Group

Solving any tax puzzle

Tax saving advice across all the taxes.





Compliance Calendar

S. No.	Due Date	Forms	Period	Description
1.	10 th April 2020	GSTR-7	March 2020	Return for Tax Deducted at source to be filed by Tax Deductor
2.	10 th April 2020	GSTR-8	March 2020	E-Commerce operator registered under GST liable to TCS
3.	11 th April 2020*	GSTR-1	March 2020	Taxpayers having an aggregate turnover of more than INR 1.50 crores or opted to file monthly return
4.	31 st April 2020*	GSTR-1	Jan-Mar 2020	Taxpayers having an aggregate turnover of up to INR 1.50 crores or opted to file quarterly return
5.	13 th April 2020	GSTR-6	March 2020	Every Input Service Distributor (ISD)
6.	20 th April 2020	GSTR-5 & 5A	March 2020	Non-resident ODIAR services provider file Monthly GST Return
7.	20 th April 2020**	GSTR-3B	March 2020	Taxpayers having an aggregate turnover of INR 5 crore or more
8.	22 nd April 2020**	GSTR-3B	March 2020	Taxpayer having an aggregate turnover up to INR 5 crore and whose principal place are in the state of: Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh or in the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep
9.	24 th April 2020**	GSTR-3B	March 2020	Taxpayer having an aggregate turnover up to INR 5 crore and whose principal place are in the state of: Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or in the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi
10.	15 th July 2020	GSTR-4	Jan-Mar 2020	Statement for payment of self-assessed tax i.e. Form CMP-08, to declare the details or summary by Composition dealer for tax payable for the previous quarter



* In Notification No. 33/2020-Central Tax CBIC has notified that taxpayers can file GSTR-1 upto 30-06-2020 and no late fee will be charged.

** In Notification No. 31/2020- Central Tax CBIC has notified that taxpayers can file GSTR-3B till the end of June 2020.

TOPIC COVERED

3rd National GST Conference held on 6th March, 2020.....	4
39th GST Council Meeting held on 14th March, 2020.....	4
Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal.....	5
Apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules.....	6
Clarification in refund related issues	7
GST law for companies under Insolvency and Bankruptcy Code, 2016.....	7
Change in IGST Rate of Goods/ Services.....	8
Seeks to exempt foreign airlines from furnishing reconciliation Statement in FORM GSTR-9C	9
Aadhaar Authentication is Mandatory for GST Registration	9
Recovery of Refund on Export	10
Annual return for FY 18-19 due date extended.....	10
Defer implementation of E-Invoicing and QR Code	11
GSTR-1 waived for taxpayers who couldn't opt for composite scheme	11
Special procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu consequent to merger of the two UTs.....	11
Relaxation to MSMEs from furnishing GSTR-9C.....	12



GOODS AND SERVICES TAX (GST)

3rd National GST Conference held on 6th March, 2020

The 3rd National GST Conference of Commissioners of State Tax and Zonal Chief Commissioners of Central Tax was held on 6.3.2020. This Conference deliberated various measures for streamlining the GST return filing process, enhancing revenue and focused compliance management as well as to create synergy among Central and State tax administrations.

Infosys presented the status on business statistics, trend of filing return, preparedness of the system vis-à-vis the facilities required to be launched and measures taken to address GST Portal's capacity and to resolve difficulties being faced by taxpayers.

As an outcome of in-depth deliberation, following measures were proposed for further examination:

- I. Immediate steps to curb passing on ITC by new taxpayers
- II. Measures to check export valuation including capping of value for calculating export benefits/incentives
- III. Standard Operating Procedure (SoP) for physical spot verification of risky taxpayers
- IV. Standard Operating Procedure (SoP) for blocking and unblocking of ITC

Source: <http://www.gstcouncil.gov.in/sites/default/files/Press-Dynamic/Press%20Release%203rd%20National%20GST%20Conference.pdf>

39th GST Council Meeting held on 14th March, 2020

39th GST council meet was held on 14-03-2020 under the Chairmanship of Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman. GST Council has made various recommendations which are as under:

- To **raise the GST rate** on Mobile Phones and specified parts presently attracting 12% to 18%.
- GST rate on all types of matches (Handmade and other than Handmade) has been rationalised to 12% (from 5% on Handmade matches and 18% on other matches).
- To **reduce GST rate** on Maintenance, Repair and Overhaul (MRO) services in respect of



aircraft from 18% to 5% with full ITC and to change the place of supply for B2B MRO services to the location of recipient.

- **Interest for delay in payment** of GST to be **charged on the net cash tax liability** w.e.f.



01.07.2017 (Law to be amended retrospectively)

- **Relaxation to MSMEs** from furnishing of Reconciliation Statement in FORM GSTR-9C, for the financial year 2018-19, for taxpayers having aggregate turnover below Rs. 5 crores
- A new facility called '**Know Your Supplier**' to be introduced so as to enable every registered person to have some basic information about the suppliers with whom they conduct or propose to conduct business
- The dates for implementation of **e-invoicing and QR Code** to be extended to 01.10.2020
- Extension of the time to finalize **e-Wallet scheme** up to 31.03.2021
- **Extension of due dates for FORM GSTR-3B** for the month of July, 2019 to January, 2020 till

24th March, 2020 for registered persons having principal place of business in the Union territory of Ladakh. Similar extension is also recommended for FORM GSTR-1 & FORM GSTR-7

- A special procedure for registered persons in Dadra and Nagar Haveli & Daman and Diu during transition period, consequent to merger of the UTs w.e.f. 26.01.2020; transition to be completed by 31.05.2020.
- A **special procedure** is being prescribed for registered persons who are **corporate debtors** under the provisions of the **Insolvency and Bankruptcy Code, 2016** and are undergoing the corporate insolvency resolution process, so as to enable them to comply with the provisions of GST Laws during the CIRP period.

To read more: <http://www.gstcouncil.gov.in/sites/default/files/Press-Dynamic/press-cbic-release-goods-services-39GSTCM.pdf>

Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal

It has been noticed by the CBIC that appellate process is being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed. Further, any person aggrieved by any decision or order passed under this act by adjudicating authority may apply to Appellate Authority within three months from the date on which the said decision or order is communicated to such person.

Where appellate tribunal has not been constituted, aggrieved person cannot file appeal within three months

Source: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-132.pdf>

from the date on which the order sought to be appealed against is communicated. In such scenario aggrieved person can file appeal to tribunal:

Within three months (six months in case of appeals by the Government) from the date of communication of order or

Date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office,

Whichever is later



Apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules

CBIC vide Circular No. 133 03/2020 dated 23-03-2020 has issued following clarification in respect of apportionment and transfer of ITC in the event of merger, demerger, amalgamation or change in the constitution/ownership of business:

Ques 1: In case of demerger, proviso to rule 41 (1) of the CGST Rules provides that the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. However, it is not clear as to whether the value of assets of the new units is to be considered at State level or at all-India level.

Ans: Proviso to sub-rule (1) of rule 41 of the CGST Rules provides for apportionment of the input tax credit in the ratio of the value of assets of the new units as specified in the demerger scheme. Further, the explanation to sub-rule (1) of rule 41 of the CGST Rules states that “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon. Under the provisions of the CGST Act, a person/ company (having same PAN) is required to obtain separate registration in different States and each such registration is considered a distinct person for the purpose of the Act. Accordingly, for the purpose of apportionment of ITC pursuant to a demerger under sub rule (1) of rule 41 of the CGST Rules, the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level.

Illustration: A company XYZ is registered in two States of M.P. and U.P. Its total value of assets is worth Rs. 100 crore, while its assets in State of M.P. and U.P are Rs 60 crore and Rs 40 crore respectively. It demerges a part of its business to company ABC. As a part of such demerger, assets of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P, while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC). The unutilized ITC of

To read more: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-133.pdf>

XYZ in State of M.P. shall be transferred to ABC on the basis of ratio of value of assets in State of M.P., i.e. $30/60 = 0.5$ and not on the basis of all-India ratio of value of assets, i.e. $40/100=0.4$. Similarly, unutilized ITC of XYZ in State of U.P. will be transferred to ABC in ratio of value of assets in State of U.P., i.e. $10/40 = 0.25$



Ques 2: Is the transferor required to file FORM GST ITC – 02 in all States where it is registered?

Ans: No. The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.

Ques 3: The proviso to rule 41 (1) of the CGST Rules explicitly mentions ‘demerger’. Other forms of business reorganization where part of business is hived off or business is transferred as a going concern etc. have not been covered in the said rule. Wherever business reorganization results in partial transfer of business assets along with liabilities, whether the proviso to rule 41(1) of the CGST Rules, 2017 shall be applicable to calculate the amount of transferable ITC?

Ans: Yes, the formula for apportionment of ITC, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities.



Clarification in refund related issues

The CBIC vide circular no. 135/05/2020 dated 31st March, 2020 has given clarification in refund related issues. Few important clarification are as follows:



1. **New Requirement to mention HSN/SAC:** The council has noticed that it becomes very difficult to distinguish ITC on capital goods and/or input services out of total ITC for a relevant tax period. Therefore, a column relating to HSN/SAC Code should be added in the statement of invoices relating to inward supply so as to easily identify between the supplies of goods and services.

The issue has been examined and considering that such a distinction is important in view of the provisions relating to refund where refund of credit on Capital goods and/or services is not permissible in certain cases, it has been decided to amend the said statement.

The applicant is now required to mention HSN/SAC code which is mentioned on the inward invoices. In cases where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply.

2. **Refund of ITC restricted to invoices coming in GSTR-2A:** Earlier the refund of ITC availed in respect of invoices not reflected in FORM GSTR-2A was also admissible and copies of such invoices were required to be uploaded. After the insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017 vide notification No. 49/2019-GST dated 09.10.2019, it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant.

To read more: http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_135_5_2020.pdf

GST law for companies under Insolvency and Bankruptcy Code, 2016

The Government prescribes special procedure under section 148 of the Central Goods and Services Tax Act, 2017 for the corporate debtors who are undergoing Corporate Insolvency Resolution Process (CIRP) under the provisions of IBC and the management of whose affairs are being undertaken by IRP/RP. Further, the Government has issued FAQs in which they have cleared various issues. Below are some of the FAQs:



Ans: The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification

Ques 1: Should a new registration be taken by the corporate debtor during the CIRP period?



No.11/2020- Central Tax, dated 21.03.2020, he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.

Ques 2: Should the GST registration of corporate debtor be cancelled?

Ans: It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if need be, suspend the registration. In case the registration of an entity undergoing CIRP has already been cancelled and it is within the period of revocation of cancellation of

registration, it is advised that such cancellation may be revoked by taking appropriate steps in this regard.

Ques 3: Some of the IRP/RPs have made deposit in the cash ledger of erstwhile registration of the corporate debtor. How to claim refund for amount deposited in the cash ledger by the IRP/RP?

Ans: Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP / RP to the date of notification specifying the special procedure for corporate debtors undergoing CIRP, shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant FORM GSTR-3B/GSTR-1 are not filed for the said period.

To read more FAQs: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-134.pdf>

<http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-11-central-tax-english-2020.pdf>

Change in IGST Rate of Goods/ Services

The CBIC vide Notification No. 3/2020- Central Tax (Rate) dated March 25, 2020 amended Notification No. 1/2017- Central Tax (Rate) dated June 28, 2017 to change the CGST rate of the goods w.e.f. April 1, 2020. Some of these goods are as under:

1. Omitted following entries in Schedule II- 6%
 - a. Telephones for cellular networks or for other wireless networks (Chapter / Heading / Sub-heading / Tariff item: 8517)
 - b. Parts for manufacture of Telephones for cellular networks or for other wireless networks (Chapter / Heading / Sub-heading / Tariff item: 85)

2. Omitted following entries in Schedule III- 9%
 - a. Matches (other than handmade safety matches [36050010]) (Chapter / Heading / Sub-heading / Tariff item: 3605)
3. Inserted following entry after entry No. 75 in Schedule II- 6%
 - a. All Goods (Chapter / Heading / Sub-heading / Tariff item: 36050010)

Similar notification has been issued in CGST and UTGST as well.

To read more: <https://www.ascgroup.in/cbic-amended-notification-no-1-2017-integrated-tax-rate-to-prescribe-change-in-igst-rate-of-goods-services/>



Seeks to exempt foreign airlines from furnishing reconciliation Statement in FORM GSTR-9C

On the recommendation of the GST Council CBIC vide Notification No. 09/2020- Central Tax dated March 16, 2020 has notified the class of registered persons who are not required to furnish Reconciliation Statement in Form GSTR-9C in terms of the CGST Rules, under Section 44(2) of the CGST Act read with Rule 80(3) of the CGST Rules on fulfilling certain condition. Such registered persons are as follows:

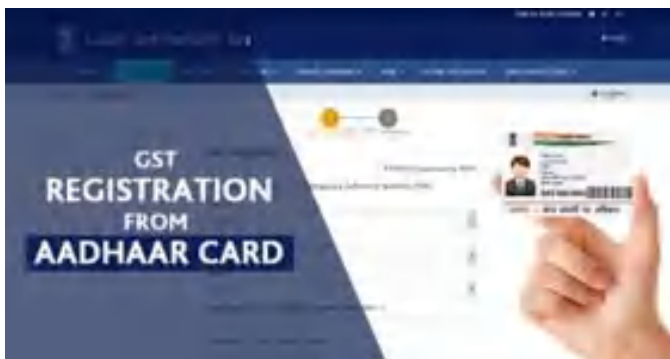
1. Foreign company which is an airlines company covered under the notification issued under Section 381(1) of the Companies Act, 2013 (18 of 2013) and
2. The foreign company who have furnished the following statement along with the financial statement to the Registrar of Companies as per sub-rule (2) of Rule 4 of the Companies (Registration of Foreign Companies) Rules, 2014:-

- A statement of related party transaction.
- A statement of repatriation of profits.
- A statement of transfer of funds (including dividends if any) which shall, in relation of any fund transfer between place of business of foreign company in India and any other related party of the foreign company outside India including its holding, subsidiary and associate company.

Provided that a statement of receipts and payments for the financial year in respect of its Indian Business operations, duly authenticated by a practicing Chartered Accountant in India or a firm or a Limited Liability Partnership of practicing Chartered Accountants in India is submitted for each GSTIN by the September 30 of the year succeeding the financial year.

Source: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-09-central-tax-english-2020.pdf>

Aadhaar Authentication is Mandatory for GST Registration



CBIC has issued multiple notification pertaining to aadhaar authentication for registration.

Notification No. 17/2020 – Central Tax and 19/2020 – Central Tax Dated 23rd March, 2020: states that the provision of aadhaar authentication shall not apply to a person who is not a citizen of India or to a class of persons other than the following class of persons, namely:–

- Individual;
- Authorized signatory of all types;
- Managing and Authorized partner; and
- Karta of an Hindu undivided family.

Notification No. 18/2020 – Central Tax dated March 23, 2020 - Seeks to notify the date i.e. w.e.f 01-04-2020 an individual shall undergo authentication, of Aadhaar number as specified in Rule 8* of the CGST Rules in order to be eligible for registration.

Further, if Aadhaar number is not assigned to the said individual, he shall be offered alternate and viable means of identification in the manner specified in Rule 9** of the said rules.

In **Notification No. 16/2020 – Central Tax** the Government has inserted following rules/ sub-rules in Central Goods and Services Tax Rules, 2017:



* In **rule 8**, after sub-rule (4), the following sub-rule shall be inserted, namely: “The applicant shall, while submitting an application under sub-rule (4), with effect from 01.04.2020, undergo authentication of Aadhaar number for grant of registration.”

** In **rule 9**, in sub-rule (1), with effect from 01.04.2020, the following subrule shall be inserted, namely:

“Provided that where a person, other than those notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases.”

Source: <https://www.ascgroup.in/aadhaar-authentication-is-mandatory-for-gst-registration/>

Recovery of Refund on Export

The CBIC on recommendations made in 39th GST Council Meeting vide Notification No. 16/2020 Central Tax dated 23rd March, 2020 has amended Central Goods and Services Tax Rules, 2017 (“CGST Rules, 2017”) to provide for recovery of refund on export of goods where export proceeds are not realized within the time prescribed under FEMA.

New Rule 96B has been inserted after Rule 96A in CGST Rules, 2017 which talks about recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised.

To read more: <https://www.ascgroup.in/amendment-in-cgst-rules-w-r-t-recovery-of-refund-on-export/>

Annual return for FY 18-19 due date extended

The Government, on the recommendations of the Council vide Notification No. 15/2020-Central Tax dated 23-03-2020 hereby extends the time limit for furnishing of the annual return (GSTR-9 & GSTR-9C) specified under

section 44 of the said Act read with rule 80 of the said rules, electronically through the common portal, for the financial year 2018-2019 **till 30.06.2020**.

Source: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-central-tax-english-2020.pdf>



Defer implementation of E-Invoicing and QR Code

The CBIC has deferred the application of Notification No. 70/2019 – Central Tax dated December 13, 2019 which sought to notify the class of registered person required to **issue e-invoice** from the earlier April 1, 2020 to **October 1, 2020** now vide Notification No. 13/2020 – Central Tax dated March 21, 2020.

CBIC has also deferred the application of Notification No. 72/2019 – Central tax dated December 13, 2019 which sought to notify the class of registered person required to issue invoice having **QR code** from the earlier April 1, 2020 to **October 1, 2020** now vide Notification No. 14/2020 – Central Tax dated March 21, 2020.

Source: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-13-central-tax-english-2020.pdf>

<http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-central-tax-english-2020.pdf>

GSTR-1 waived for taxpayers who couldn't opt for composite scheme

The Central Government on the recommendation of the council makes amendment in Notification No. 21/2019-Central Tax dated 23-04-2019. In said notification in paragraph 2, the following proviso shall be inserted

“Provided that the said persons who have, instead of furnishing the statement containing the details of payment of self-assessed tax in FORM GST CMP-08 have furnished a return in FORM GSTR-3B under the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules) for the tax periods in the financial

Source: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-12-central-tax-english-2020.pdf>

year 2019-20, such taxpayers shall not be required to furnish the statement in outward supply of goods or services or both in FORM GSTR1 of the said rules or the statement containing the details of payment of self-assessed tax in FORM GST CMP-08 for all the tax periods in the financial year 2019-20.”

Therefore, it is waived for filing GSTR-1 for persons who couldn't opt for Composition Scheme by filing For GST CMP08.

Special procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu consequent to merger of the two UTs

The CBIC has issued Notification No. 10/2020- Central Tax dated March 21, 2020 to give effect to GST Council recommendations made during its 39th meeting with respect to persons whose principal place of business or place of business was in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the January 26, 2020 and is in the merged Union territory of Daman and Diu and Dadra and Nagar Haveli from January 27, 2020 onwards, as the class of persons who shall follow the special procedure till May 31, 2020 (“transition date”).

The said registered person shall:

(i) Ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of January, 2020 and February, 2020 as below:-

- January, 2020: 1st January, 2020 to 25th January, 2020;
- February, 2020: 26th January, 2020 to 29th February, 2020



(ii) Irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from the 26th January, 2020 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act

(iii) Who have registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu and the erstwhile Union territory of Dadra and Nagar Haveli till the 25th day of January, 2019 have an option to transfer the balance of

input tax credit (ITC) after the filing of the return for January, 2020, from the registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu to the registered GSTIN in the new Union territory of Daman and Diu and Dadra and Nagar Havel

Further, the balance of Union territory taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Daman and Diu, as on the 25th day of January, 2020, shall be transferred as balance of Union territory tax in the electronic credit ledger.

Source: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-10-central-tax-english-2020.pdf>

Relaxation to MSMEs from furnishing GSTR-9C

CBIC on recommendation made in 39th GST council meet has amended CGST rules vide Notification No. 16/2020-Central Tax dated 23-03-2020. It has provided relaxation to MSMEs from furnishing of Reconciliation Statement in FORM GSTR-9C, for the financial year 2018-19, for taxpayers having aggregate turnover below Rs. 5 crores.

In rule 80, in sub-clause (3), the following proviso shall be inserted, namely:



Provided that every registered person whose aggregate turnover during the financial year 2018-2019 exceeds five crore rupees shall get his accounts audited as specified under subsection (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the financial year 2018- 2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner

Source: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-16-central-tax-english-2020.pdf>



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