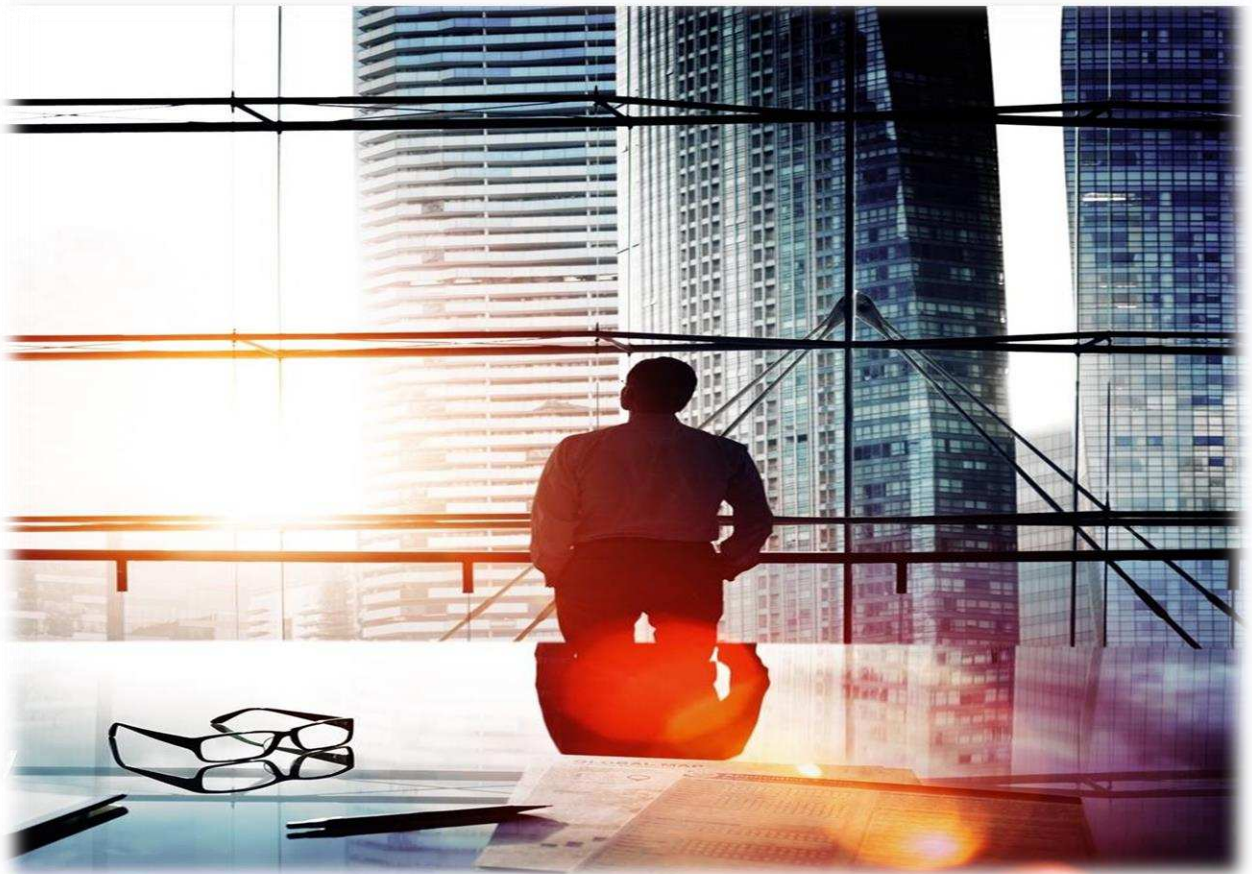


DA TAX UPDATE - INDIRECT TAX

An e-Tax update from **Darda Advisors LLP**

INDIRECT TAX FORTNIGHTLY UPDATE

Issue: 06



Extension/Notification of due dates

S.No	Class of registered persons	Return/ Aspect	Period	Due Date
1	More than 1.5 Crores Aggregate Turnover	GSTR 1	Month	Eleventh day of the month succeeding such month
2	Aggregate turnover upto 1.5 Crores		Quarter	Thirteenth day of the month succeeding such quarter
3	Registered manufacturers/ Principal	FORM GST ITC-04	July 2020 to Sept 2020	30 November 2020
4	Registered persons with turnover exceeding Rs 100 crore in any FY from 2017- 18	E- Invoice	W.e.f 1 January 2021	1 January 2021

Due dates for GSTR 3B notified*

S.No	Class of registered persons	Period	Due Date
1	More than 5 Crores Aggregate Turnover	Any period	Twentieth day of the month succeeding such month
2	Aggregate turnover upto 5 Crores (Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Pondicherry, Andaman and	October 2020 to March 2021	Twenty-second day of the month succeeding such month

	Nicobar Islands and Lakshadweep - Category 1 states)		
3	<p>Aggregate turnover upto 5 Crores</p> <p>(Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi – Category 2 states)</p>		<p>Twenty-fourth day of the month succeeding such month</p>

* Notification No. 82/2020 – Central Tax dated 10 November 2020

Aspect	Brief detail	Reference Number
Goods and Service Tax (GST)		
TRAN 1 benefit cannot be denied on technical grounds	To deny the benefit of Input credit which otherwise is eligible merely on technical grounds cannot be justified	Bombay High Court <i>Heritage Lifestyles And Developers And Pvt Ltd [2020-TIOL-1875-HC-MUM-GST]</i>
Sec 50 of CGST Act, 2017 – Retrospective recovery of interest	It is apparent that the Centre, the State and the CBIC are in agreement that the operation of the proviso of Section 50 should only be retrospective and the interpretation to the contrary by the authorities constituted under the Board is clearly misplaced as is the consequential coercive recovery	Kerala High Court <i>M/s Maansarovar Motors Pvt Ltd [2020-TIOL-1846-HC-MAD-GST]</i>

Aspect	Brief detail	Reference Number
Resubmission of GSTR 3B is allowed	What should have figured in CGST/SGST column, inadvertently reflected in IGST column - is an inadvertent human error and the petitioner should be in a position to rectify the same, particularly in the absence of an effective, enabling mechanism under statute	Madras High Court <i>M/S Sun Dye Chem [2020-TIOL-1858-HC-MAD-GST]</i>
Penal interest not taxable under GST	Penal interest recovered from customers against delayed payment of monthly instalments for the loan extended is exempt from GST	AAAR - Maharashtra Bajaj Finance Ltd. [2020-TIOL-64-AAAR-GST]
Mismatch in GSTR-1 & 3B not conclusive for suppression of tax	Mismatch reports is indicative in nature, but cannot be seen as final to conceive any suppression of turnover/tax	AP Appellate Authority <i>Sri Kali Krishna Industries</i>

Aspect	Brief detail	Reference Number
<p>Detention of goods under E-way bill on the ground of 'wrong destination is noticed' is invalid</p>	<p>It is important to note that interpretation of taxing statutes should be done in a way to facilitate business and not in a perverse manner which would result in impediment of the same by harassing business persons.</p>	<p>Telangana High Court <i>M/S Sree Rama Steels [2020-TIOL-1899-HC-TELANGANA-GST]</i></p>
<p>Maintenance & Repair service' by 'foreign-entity' constitutes import, taxable under reverse charge</p>	<p>It was held to modify the order of Advance Ruling to the extent that the supply of service by the appellant to BCCL qualifies as import of service as defined under Section 2(l 1) of the IGST Act,2017 and GST is payable on such import of service by BCCL under reverse charge mechanism</p>	<p>AAAR -WEST BENGAL <i>M/s.IZ Kartex Appeal case No. O2IWBAAAR/APPEA L/2020 dated 17 r 0g /2020</i></p>

Aspect	Brief detail	Reference Number
Procedure for payment of tax for quarterly taxpayers	Quarterly return filers shall deposit tax in electronic cash ledger on or before 25th of next month for first or second months or both months of the quarter equivalent to 35 % of the tax liability of preceding quarter	<i>Notification No. 85/2020 – Central Tax dated 10 November 2020</i>
Rescinding of notification issued to notify due dates of GSTR 3B	To rescind Notification 76/2020-Central tax which was issued to notify due dates for Form GSTR 3B	<i>Notification No. 86/2020 – Central Tax dated 10 November 2020</i>

Aspect	Brief detail	Reference Number
Thirteenth amendment of CGST Rules	<p>Manner of furnishing details of outward supplies in GSTR 1 is specified</p> <p>Outward supplies furnished by the supplier in FORM GSTR-1 or using the IFF shall be made available electronically to the concerned registered persons in Part A of FORM GSTR-2A, in FORM GSTR-4A and in FORM GSTR-6A through the common portal</p>	<p><i>Notification No. 82/2020 – Central Tax dated 10 November 2020</i></p>

Aspect	Brief detail	Reference Number
Thirteenth amendment of CGST Rules	<p>Manner of furnishing details of and payment of tax in GSTR 3B is specified</p> <p>Registered person opting for quarterly returns shall indicate his preference for furnishing of return on a quarterly basis, electronically, on the common portal, from the 1st day of the second month of the preceding quarter till the last day of the first month of the quarter for which the option is being exercised</p>	<p><i>Notification No. 82/2020 – Central Tax dated 10 November 2020</i></p>

Persons to opt for monthly/ quarterly option of filing returns

S.No	Class of registered person	Deemed Option
1	Registered persons having aggregate turnover of up to 1.5 crore rupees , who have furnished FORM GSTR1 on quarterly basis in the current financial year	Quarterly return
2	Registered persons having aggregate turnover of up to 1.5 crore rupees , who have furnished FORM GSTR1 on monthly basis in the current financial year	Monthly return
	Registered persons having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in the preceding financial year	Quarterly return

Registered persons may change the default option electronically, on the common portal, during the period from the 5th day of December 2020 to the 31st day of January 2021

** Notification No. 84/2020 – Central Tax dated 10 November 2020*

Aspect	Brief detail	Reference Number
Customs and others		
Blocking of IEC by authority other than DGFT is without jurisdiction	Blocking of importer exporter code of the petitioner by any authority other than the DGFT or by his authorized officer under section 8 of the Foreign Trade (Development and Regulation) Act, 1992 would be unauthorized, unwarranted and without jurisdiction	Bombay High Court <i>Siddharth Mandavia</i> [2020-TIOL-1861-HC-MUM-GST]
Reason must for withdrawal of any beneficial order	An order withdrawing a benefit must give reasons why the benefit has been withdrawn and non-furnishing of reasons would vitiate such an order	Bombay High Court <i>M/S S K Freight Lines Pvt Ltd And Another</i> [2020-TIOL-1888-HC-MUM-CUS]

Aspect	Brief detail	Reference Number
<p>Writ court concerned with decision making process only and not on its correctness</p>	<p>Writ court is primarily concerned with the decision-making process and not with the correctness of the decision. The decision-making process and by extension the investigation process has to be fair and reasonable, adhering to the due process consistent with the principles of natural justice</p>	<p>Bombay High Court <i>Mumbai Fabrics Pvt Ltd[2020-TIOL-1902-HC-MUM-CUS]</i></p>
<p>Allocation of funds for MEIS</p>	<p>MEIS fund allocations to be utilized only for exports made during respective periods i.e., Rs. 39,097 Cr for FY 2019-20, Rs 10,555 Cr. for the period 1 April 2020 to 31 August 2020</p>	<p><i>Office Memorandum F.no.605/58/2015-DBK (Pt.-II) dated 12 November 2020</i></p>

Aspect	Brief detail	Reference Number
	and Rs. 5,000 Cr. For the period 1 September 2020 to 31 December 2020	
Migration of AA/EPCG/DFIA Online modules to the new IT environment from 1 December 2020	Amendment of any Advance Authorization, EPCG or DFIA Licenses would be suspended from 12:00 PM on 20 November 2020 till 30 November 2020	<i>Trade Notice No. 35/2020-21 dated 12 November 2020</i>
New Foreign Trade Policy-inviting suggestions	In order to prepare a new five year Foreign Trade Policy, suggestions/inputs are invited from various stakeholders. Google form for submission https://bit.ly/3khHEI2	<i>Trade Notice No. 34/2020-21 dated 12 November 2020</i>

About Darda Advisors LLP

Darda Advisors LLP offers a wide range of services in the tax and regulatory space to clients in India with professionals having extensive consulting experience. Our service offerings are:

- Goods and Service Tax (GST) Services
- Other Indirect Tax Services
- SEZ/EOU set up and Compliance
- Foreign Trade Policy (FTP) Assistance
- Company Secretarial Services
- Due Diligence
- Incentives (Central and State) Assistance
- Valuation Services
- Virtual Tax Head Services
- Corporate Tax and International Tax Services
- Certification and Attestation

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Vineet has over 15 years of consulting experience in leadership role in Indirect tax including GST (around 13 years in Big 4)

Mitu Surana [B.Com, FCA] – *Litigation and Tax Advisor*

Mitu has over 16 years of consulting experience in Indirect tax including GST (around 10 years in Big 4)

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