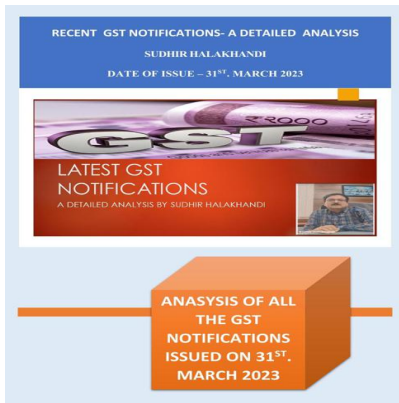




Recent GST Notifications- A Detailed Analysis

Description

1. NOTIFICATION NO. 2/2023-CT DATED 31-03-2023

LATE FEES FOR NON-FILING OF GSTR- 4 COMPOSITION

For the Composition dealers who failed to file their GSTR-4 the Late fess is reduced to Rs. 500.00 (SGST Rs.250.00+CGST 250.00) Further if the tax payable is **NIL**, then **NO** Late fees is required to be paid.

Period of Default – From 1st July 2017 to 31st March 2022.

(Quarterly Jul 17 to Mar19, annually for 2019-20 to 2021-22)

Filing time to get the benefit of reduced Late Fees – 1-04-2023 to 30-06-2023.

The original Late fees as per Section 47 was Rs. 200 Per day (SGST Rs. 100.00 + CGST Rs. 100.00) subject to a maximum of Rs. 10000.00 (SGST Rs. 5000.00+ CGST Rs. 5000.00) and it was reduced to Rs. 50.00 (SGST Rs.25.00 + CGST Rs.25.00)for tax payable returns and Rs. 20.00 (SGST Rs.10.00 + CGST Rs.10.00) through notification number 73/2017 dated 29-12-2017.

A further reduction in maximum late fees was provided for financial year 2021-22 onwards through Notification No. 21/2021 was given and this Fees was reduced to Rs.500.00 (SGST Rs.250.00 + CGST Rs.250.00) where tax payable is NIL and in case of Taxable return the Amount of Late fees was reduced to Rs. 2000.00 (SGST Rs.1000.00 + CGST Rs.1000.00). Before this the maximum late fee was Rs.10000(C-5000,S-5000) in both cases.

Now a further reduced Late Fees is provided on 31st. March 2023 and Amnesty in the form of reduced fees is given for the Dealers who still failed to file the GSTR-4 for any year from 2017-18 to 2021-22 if these dealers file any of the GSTR-4 from 2017-18 to 2021-22 up to 30th June 2023.

Type of GSTR-4	Late Fees
NIL Tax GSTR-4	NIL
Taxable GSTR-4	Rs. 500.00 (SGST Rs.250.00 + CGST Rs.250.00)

2. NOTIFICATION NO. 03/2023-CT DATED 31-03-2023

SPECIAL PROCEDURE FOR REVOCATION OF REGISTRATION WHERE TIME FOR APPLYING REVOCATION HAS EXPIRED

If a person failed to file his return and registration of such person is cancelled as a result of non-filing of return under Sec 29(2)(b)/(c) then if such person filed his returns and can apply for revocation within time limit provided u/s 30. This time limit is within 30 days from the date of service of such order, which may be extended by the Commissioner for a period not exceeding 30 days and may be extended for a further period not exceeding 30 days by the Commissioner, sufficient cause being shown and reasons to be recorded in writing in both cases.

Now persons who failed to file such revocation within the time limit u/s 30 as mentioned above can avail the benefit of this Notification by following Special Procedure :-

- Apply for Revocation of Cancellation up to 30th June 23
- Application shall be filed only after furnishing the returns due till the effective date of cancellation, along with tax, interest, penalty & late fee.
- No further extension for filing Revocation in such cases.

This amnesty shall also be applicable to a person who has appealed against the order of the Commissioner's rejection of his application of revocation, on the ground that he failed to adhere to the time limit specified u/s 30 (not on other grounds).

3. NOTIFICATION NO. 04/2023-CT & 05/2023-CT DATED 31-03-2023

RULE 8(4A) / 4(B) IS SUBSTITUTED BY A NEW RULE 8(4A)

BIOMETRIC AADHAR AUTHENTICATION- CORRECTION IN RULES

These rules are related to the Aadhar authentication while filing the Registration application under GST and the application of Aadhar Biometric Authentication of Aadhar for filing of Registration Application.

It should be noted that the Application for Registration of GST can be verified with or without Aadhar authentication and if Aadhar Authentication is opted by the dealer (which majority of the dealers are opting). Recently Rule 8(4A) was substituted via NNo.26/2012 w.e.f. 26th Dec 22 and new Subrule 8(4B) was inserted, for specifying the requirement of Biometric Aadhar Authentication, Photograph and verification of documents in specific cases. Along with this, Gujarat State was specified as the state on which system of Biometric Aadhar Authentication was made mandatory as per a Notification 27/2012 dated 26th Dec 2012.

But the newly substituted Rule 8(4A) did not have a clear bifurcation regarding the persons who shall undergo Aadhar Authentication and the persons who shall undergo Biometric Based Aadhar Authentication. Also the substituted Rule 8(4A) does not provide for cases where Aadhar Auth. was opted but not successfully done. To overcome these short comings and for providing further clarity, Rule 8(4A) has again been substituted via Notification 04/2023 dated 31st March 23 but **w.e.f. 26th Dec 2022** only i.e. the date of last amendment.

So it is mere replacement of these two sub rules. Clear bifurcation has been made and now the Rule 8(4A) has been divided in two parts. First part talks about Aadhar Authentication and second part have been provided as a “**proviso**” to Rule 8(4A) which is related to Biometric Authentication of Aadhar, photo& verification of original documents.

Rule 8(4B) which was applicable on whole Rule 8(4A) as per earlier insertion on 26-12-2022 but now will be applicable to the “proviso” to Rule 8(4A) corresponding to the new Rule 8(4A).

Also the newly substituted Rule 8(4A) specifies the date of Submission of Registration application in case of Aadhar Authentication is opted. It shall be :-

-Date of Aadhar Authentication

-15 Days from submission of Part B of GST REG-01, whichever is earlier.

It means that when a person opts for Aadhar Authentication but it is not done successfully within 15 days, the application shall be submitted on that 15th day.

This provision was missing in the last substituted Rule 8(4A).

In earlier Rule 8(4A) there was no clear bifurcation between Aadhar Authentication and Biometric Aadhar Authentication. Notification under Rule 84(B) made Rule 8(4A) applicable only to State of Gujarat and excluded other states. The meaning coming out of the above was that Aadhar Authentication remained applicable for Gujarat only and not applicable to all other states, which was not intention practically.

4. NOTIFICATION NO. 06/2023 DATED 31-03-2023

ONE TIME AMNESTY FOR WITHDRAWAL OF BEST JUDGEMENT ASSESSMENT OF NON-FILERS OF RETURNS U/S 62 – A BIG RELIEF

If a best judgement assessment order is passed under section 61(2) on a dealer for not filing of return even after issue of Notice but such dealer file his return within 30 days from the date of service of best judgement order, then such assessment order is withdrawn automatically .

A relief was sought If such dealers failed to file the return within this stipulated time limit of 30 Days from the date of Service of Best Judgement Assessment order and this relief is given through this notification No. 06/2023/CT with a special procedure .

The persons shall file his return with interest and Late fees on or before 30-06-2023 and Order u/s 62 shall be deemed to be withdrawn.

This relief is available irrespective of the fact whether or not an appeal has been filed against such order. also, if appeal has been filed, dealer would be eligible for relief whether or not the same has been decided.

5. NOTIFICATION NO.07/2023-CT DATED 31-03-2023

ANNUAL RETURN FEES AMNESTY FOR 2017-18 TO 2021-22 RATIONALISATION OF LATE FEES FOR ANNUAL RETURN FROM FY 2021-22 ONWARDS

If the Dealer failed to file Annual return for any year pertaining to Financial Year 2017-18 to 2021-22 then same can be filed up to 30-06-2023 with reduced Late fees. In most of these cases once the default is the the returns are not filed due to heavy Late fees provision as made in section 47.

The Maximum reduced Late fees under this Notification No.07/2023-CT shall be Rs. 20000.00 (SGTS Rs. 10000.00+CGST Rs. 10000.00) if any annual return for FY 17-18 to FY 21-22 is filed from 1st Apr 2023 up to 30-06-2023. The Late fees in excess of Rs. 20000.00 is waived through this Notification for the Financial Year 2017-18 to 2021-22.

Let us have a look at this Amnesty scheme for Non-filers of the Annual returns:-

EXISTING LATE FEES FOR NOT FILING OF ANNUAL RETURN

The existing Late Fees is Rs. 200.00 (SGST Rs. 100.00+ CGSTRs. 100.00) subject to Maximum of 0.50% (SGST 0.25%+ CGST 0.25%) of the Turnover.

For Example – If a dealer has not filed his Annual Return for the Financial Year 2017-18 , now he can file his return up to 30-06-2023 by paying late fees of Rs. 20000.00 (SGST Rs. 10000.00+ CGST Rs. 10000.00). It is a big relief for the dealers who failed to file the Annual return for any Financial Year from 2017-18 to 2021-22.

Let us try to understand this benefit with the help of an Illustration for Annual return for Financial Year 2017-18

A dealer failed to furnish his Annual return for the Financial Year 2017-18 and now wants to file it Now under this amnesty Scheme .

The Extended due date is 5th Feb 2020 and now this return is Approx 1150 days late . The late fees per day is Rs. 200 Per day is Rs. 2.30 Lakhs and the Maximum of Rs. 0.50% is Rs. 5.00 Lakhs hence the Late fees payable by such dealer is Rs. 2.30 Lakhs but now due to this Notification he can file his Annual Return for Financial Year 2017-18 by paying a Late fee of **Rs. 20000.00** only.

REDUCTION OF THE LATE FEES FOR FY 2022-23 ONWARDS

Now one more relief is given for the forthcoming Annual return for 2022-23 onwards through this Notification. Let us see this.

6. NOTIFICATION NO. 8/2023-CT DATED 31-03-2023

AMNESTY TO NON-FILERS OF GSTR-10

FINAL RETURN AFTER CANCELLATION OF REGISTRATION U/S 45

First let us see Section 45 – Every Registered person who is required to under sub section (1) of section whose registration has been cancelled shall furnish a final return within three months of the date of cancellation or date of order of cancellation, whichever is later , in such form and manner as may be prescribed.

Rule 81 – Every Registered person who is required to furnish a final return under section 45 , shall furnish returns electronically in Form **GSTR-10** through common portal either directly or through a Facilitation centre notified by the commissioner.

If a dealers failed to file his Final return in GSTR-10 u/s 45 within 3 Months from the date of cancellation of Registration or Date of Order whichever is later than he has to pay Late fees u/s 47 and according to this the Late fees shall be Rs. 200.00 per day (SGST Rs. 100.00 + CGST Rs. 100.00) subject to Maximum of Rs. 10000.00 (SGST Rs. 5000.00 + CGST Rs. 5000.00) .

This is the most forgotten return that dealers often forget to file because the time of receiving the cancellation message on mail or portal is not fixed and once the Registration is cancelled the dealer in most of the cases failed to track the trail of cancellation hence there is default in many cases in this respect. In most of the cases this return is NIL and mere a formality hence relief is sought in this respect.

Now the relief is given in the form of Notification No. 8/2023 on 31st March 2023 and now if this return , which was not filed within due date, is filed now from 01-04-2023 to 30-06-2023 then the Maximum Late fees shall be Rs. 1000.00 (SGST Rs. 500.00 + CGST Rs. 500.00) Only.

This is a big relief to these dealers who surrendered their registration certificate but failed to file the Final return now their Maximum Late fees has been reduced from Rs. 10000.00 to Rs. 1000.00 . To get the benefit of amnesty the GSTR-10 shall be filed up to 30-06-2023.

7. NOTIFICATION NO. 9/2023-CT- DATED 31-03-2023

EXTENSIONN OF TIME TO ISSUE ORDERS U/S 73

For Department and it is a pro- revenue Extension

Let us see what is Section 73 and this is clear from the Heading of the section 73 which is being reproduced hereinbelow:-

Determination of Tax not paid or Short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or Suppression of Facts.

There is time limit of passing order under section 73 and this stipulated time is extended by further 3 Months in each of the Financial Year 2017-18, 2018-19 and 2019-20.

The Time Limit for issuance of order under section 73(9) which is given in Section 73(10) is increased and now this Time Limit will end as under:-

Financial Year	Already extended Existing Time limit for issuing order u/s73(10)	Further Extended Time limit for issuing order u/s73(10) as per NNo. 09/2023
2017-18	30-09-2023	31-12-2023
2018-19	31-12-2023	31-03-2024
2019-20	31-03-2024	30-06-2024

The original time limit as mentioned in Section 73(10) is as under :-

The proper officer shall issue the order under section (9) within three years from the due date for furnishing of annual return for the Financial Year to which tax not paid or Short paid or input tax credit wrongly availed or utilised relates or within three years from the date erroneous refund.

The due Existing due dates which are to be calculated with reference to the due date of filing of Annual returns are as under:-

Financial Year	Due date of filing of Annual Return	Current due date u/s 73(10) for issue of Orders u/s 73(9).	Extended due date as per NNo. 09/2023	Remark
2017-18	5-02-2020 /07-02-20	30-06-2023*	31-12-2023	The due date for issuing order is already extended up to 30-06-2023 as per Notification No. 13/2022 -CT 3 Months further extended through this Notification.
2018-19	31-12-20	31-12-2023	31-03-2024	3 Months further extended through this Notification.
2019-				3 Months further extended through this

01/2023- COMPENSATION CESS

SECTION 163 OF FINANCE ACT 2023 MADE EFFECTIVE FROM 1ST APRIL 2023 THROUGH THIS SCHEDULE IS AMENDED TO LINK THE MAXIMUM COLLECTIBLE COMPENSATION CESS TO MRP FOR SPECIFIED PRODUCTS (PAN MASALA, TOBACCO ETC)

Through this notification Central Govt. has appointed 1st Apr 2023 as the date on which Section 163 of Finance Act 2023 shall be effective.

Now let's understand section 163 of Finance Act. Through this section, Schedule to GST Compensation Cess has been amended to link the Maximum Collectible Compensation Cess to the retail price of product. GST Council in its 49th meeting suggested to change the levy compensation cess on commodities such as Pan Masala, Tobacco etc. from ad valorem to specific tax based levy to boost the first stage collection of the GST revenues & to curb tax evasion in Pan Masala and Tobacco business.

Product	Maximum Cap as per existing Schedule	Max. Cap as per Amended Schedule w.e.f. 1 st Apr 2023
Pan Masala	One hundred and thirty-five per cent. ad valorem.	51 % of retail sale price per thousand sticks
Tobacco and manufactured tobacco substitutes, including tobacco products.	Rs. 4170 rupees per thousand sticks or 290 per cent. ad valorem or a combination thereof, but not exceeding Rs. 4170 per thousand sticks plus 290 per cent. ad valorem.	Rs. 4170 rupees per thousand sticks or 290 per cent. ad valorem or a combination thereof, but not exceeding Rs. 4170 per thousand sticks plus 290 per cent. ad valorem or 100% of retail price per thousand sticks

- The cess is levied over and above highest rate of GST i.e., 28%
- And now since amendment has been made in the enabling provision of the Act regarding Max. Collectible Compensation Cess, notifications would follow to amend and link the rate of cess to retail price.
- Retail price has been explained as follows:-

Category

1. GST

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