Indirect Tax Update

Summary of Notifications, Circular and ROD issued from 19th to 25rd June 2020

Key Highlights:

- ✓ Reduction/waiver of Interest and Late fee
- ✓ Extension of due dates
- ✓ Change in Mode of authentication for companies
- ✓ Applicability of few sections for Finance Act 2020
- ✓ Relaxation for revocation of cancellation of registration

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Hiregange & Associates
Chartered Accountants

| Bangalore | Mumbai | Hyderabad | Gurugram | Noida | Chennai |
| Pune | Visakhapatnam | Guwahati | Vijayawada |

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1. Waiver of Interest and Late Fee for delayed filing of GSTR 3B

(Notification No. 51/2020 & 52/2020 - CT and Circular 141/2020 - GST dated 24th June 2020)

S. No.	Class of Registered Persons	Tax Period	Due Date	Rate of Interest in case filed within	Late Fee	Conditions - GSTR-3B is furnished on or before
1	Taxpayers having an aggregate turnover of **more than Rs. 5 crores** in the preceding FY	Feb - 20	20-03-2020	• Nil - for first 15 days from the due date. • 9 per cent thereafter till 24th day of June, 2020	Nil	24th June 2020
		Mar - 20	20-04-2020			
		Apr - 20	20-05-2020			
		May - 20	27-06-2020	-	-	-
2	Taxpayers having an aggregate turnover **up to Rs. 5 crores** in the preceding FY for **Category A states***	Feb- 20	22-03- 2020	• Nil if the returns are filed within the date in Column 7 • 9% p.a. thereafter if filed till 30-09-2020.	NIL	30th June 2020
		Mar-20	22-04-2020			03rd July 2020
		Apr-20	22-05-2020			06th July 2020.
		May-20	12-07-2020			12th Sept 2020
		Jun-20	22-07-2020			23rd Sept 2020
		Jul-20	22-08-2020			27th Sept 2020
3	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year for **Category B states***	Feb-20	24-03-2020	• Nil if the returns are filed within the date in Column 7 • 9% p.a. thereafter if filed till 30-09-2020.	NIL	30th June 2020
		Mar-20	24-04-2020			05th July 2020
		Apr-20	24-05-2020			09th July 2020
		May-20	14-07-2020			15th Sept 2020
		Jun-20	24-07-2020			25th Sept 2020
		Jul-20	24-08-2020			29th Sept 2020

***Note – a) Category A states** - Taxpayers whose principal place of business is in the States of 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, Puducherry, Andaman and Nicobar Islands and Lakshadweep

b) Category B states - Taxpayers whose principal place of business is in the States 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 the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi

H&A Comments – Steps have been taken considering the situation of COVID 19 pandemic has not returned to normalcy, a further relaxation in payment of interest and late fee has been provided for delayed filing GSTR 3B.

I. Analysis of interest payable for the above stated period is as follows -

a. **In case of registered person having turnover above 5 crores** – In case return for the February to April 2020 are furnished on or before the date mentioned in the notification, interest at NIL for first 15 days and 9% per annum thereafter shall be charged till the date on which the return is filed as stated in Notification 31/2020. Circular 136/2020 clarified that in case the return for the said months are not furnished on or before the date mentioned in the notification No.31/2020- Central Tax, dated 03.04.2020, interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed.

Such notification is further amended vide Notification 51/2020 to provide relaxation in payment of interest. Interest to be calculated as follows:

a. Delay for first 15 days of the due date NIL interest rate,

b. Further from 16th day up to specified date 9% interest and

c. thereafter 18% interest would be applicable.

Such relaxation has not been extended for further period from May 2020 onwards.

Example for better understanding for computation of interest –

Registered person having turnover above 5 crores files March 2020 return (actual due date 20th April 2020) on the date specified in below table as follows:

Sr. no.	Actual Date of filing	Delay (in days)	Interest
1	02.05.2020	12 Days	**Nil** (Return filed within 15 days)
2	20.05.2020	30 Days	**Nil** interest for first 15 days + **9% p.a**. for next 15 days
3	30.06.2020	71 Days	**Nil** interest for first 15 days + **9% p.a**. for next 50 days + 18% p.a. for remaining 6 days

b. **<u>In case of registered person having turnover below 5 crores</u> -** NIL rate of interest for the tax period of February, March and April, 2020 in case filed stated in till the specified date vide Notification 31/2020. Further Notification 52/2020 provided the NIL rate of interest till specified dates and 9% per annum from 16th day thereafter till 30th September, 2020. Similar relaxation of reduced rate of interest has been provided for the tax period of May, June and July 2020 also.

The notification, thus, provides NIL rate of interest till specified dates and after the specified dates lower rate of 9% would apply till 30th September 2020. After 30th September, 2020, normal rate of interest i.e. 18% per annum shall be charged for any further period of delay in furnishing of the returns.

Example for better understanding for computation of interest –

Registered person having turnover below 5 crores files March 2020 return (actual due date 22nd April 2020 and 9% rate applicable in case filed before 3rd July 2020) on the date specified in below table as follows:

Sr. no.	Actual Date of filing	Delay (in days)	Interest
1	22.06.2020	61 Days	**Nil** (filed before 3rd July 2020)
2	22.09.2020	153 Days	**Nil** interest for 72 days + **9% p.a**. for 81 days
3	22.10.2020	183 Days	**Nil** interest for 72 days + **9% p.a**. for 89 days + 18% p.a. for 22 days.

II. Following is the analysis for the payment of late fee –

A conditional waiver of late fee was provided for the tax period of February, March and April, 2020, if the return in FORM GSTR-3B was filed by the date specified in the said notification 32/2020. The Government has provided the revised dates for conditional waiver of late fee for the same months and extended the same for the months of May, June and July, 2020 for the small taxpayers as specified in notification No. 52/2020.

It is clarified that the waiver of late fee is conditional to filing the return of the said tax period by the dates specified in the said notification. In case the returns in FORM GSTR3B for the said months are not furnished on or before the dates specified in the said notification, then late fee shall be payable from the due date of return, till the date on which the return is filed.

Example for better understanding for computation of late fees –

Registered person having turnover above 5 crores files March 2020 return (actual due date 20th April 2020) on the date specified in below table as follows: Assuming Late Fees Rs 50 (CGST + SGST)

Sr. no.	Actual Date of filing	Delay (in days)	Late fees
1	02.05.2020	12 Days	**Nil** (Return filed before 24.06.2020)
2	24.06.2020	65 Days	**Nil** (Return filed on 24.06.2020)
3	25.06.2020	66 Days	**Rs 3,300** (66days*Rs 50)

2. Waiver of Late Fee for late filing of GSTR 3B of July 2017 to January 2020

(Notification No. 52/2020- Central Tax dated 24th June 2020)

Along with the relaxation of late fee for the period February 2020 to July 2020 (i.e. COVID 19 period) if filed within the dates as mentioned in column 7 under sl. no. 1 above, another relaxation has been provided for registered person who have failed to file GSTR 3B of the period July 2017 to January 2020 as follows.

a. **In case of NIL tax liability** (i.e. CGST, SGST, IGST or cess payable for period is NIL) – NIL Late fee.

b. **In any other case –** Late fee in excess of Rs 500 has been waived off.

The returns should be furnished between the period from 01st July 2020 to 30th September 2020 to avail the above relief.

H&A Comments – Non fillers were already provided relaxation in payment of late fee for the return filing period July, 2017 to September, 2018 in case filed between 22nd December, 2018 to 31st March, 2019. Another relaxation has been provided for same period as well as for October 2018 to January 2020 as stated above. However, NIL tax liability does not mean NIL return i.e. return may have transactions with NIL liability.

Clarity has not been provided on whether refund would be enabled due to the reduction of late fees for the registered persons who have already paid huge amount of late fees.

3. Waiver of Late Fee for late filing of GSTR 1

(Notification No. 53/2020- Central Tax dated 24th June 2020)

a. Late fee has been waived for filing of GSTR 1 for tax payers who have chosen for monthly filing

Sl. No	Month	If filed within
1	March 2020	10th July, 2020
2	April 2020	24th July, 2020
3	May 2020	28th July, 2020
4	June 2020	05th August, 2020

b. Late fee has been waived for filing of GSTR 1 for tax payers who have chosen for quarterly filing

Sl. No	Quarter	If filed within
1	January to March 2020	17th July, 2020
2	April to June 2020	03rd August, 2020

H&A Comments – Another step has been taken considering the situation of COVID-19 pandemic has not been normal, relaxation has been provided for delayed filing GSTR 1. It is important to note that late fee is waived in case GSTR 1 is filed within the date specified in the table above. In case GSTR 1 is filed post such date, late fee would be applicable from the actual due date to the date of filing.

4. Extension of due date of GSTR 3B for August 2020 for turnover up to 5crores in previous FY

(Notification No. 54/2020- Central Tax dated 24th June 2020)

S.No.	Class of Registered Persons	Extended Due Date
1	**Taxpayers having an aggregate turnover exceeding Rs. 5 Cr**	20-09-2020 (No extension)
2	**Taxpayers having an aggregate turnover up to 5 Cr**	
	Whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep,	01-10-2020
	Whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi	03-10-2020

H&A Comments- The all above extensions and relaxations as proposed in the GST council meeting has been given effect and the registered person to give sufficient time to manage the situation in the coming months.

5. Addition in method of authentication for filing return to Companies

(Notification No. 48/2020- Central Tax dated 19th June 2020)

A registered person who is also registered under Companies Act 2013 shall during 21st April 2020 to 30th September 2020 be allowed to furnish GSTR 3B and during 27th May 2020 to 30th September 2020 be allowed to furnish GSTR 1 electronically either through digital signature certificate (DSC) or **through electronic verification code (EVC)**.

H&A Comments – Companies were unable to file the returns during the lockdown period due to COVID 19 through DSC due to its unavailability with the registered person in home. Relaxation has been provided in mode of authentication for filing the return through DSC and allowed to file even through EVC.

6. Applicability of few sections of Finance Act 2020 w.e.f. 30th June 2020

(Notification No. 49/2020- Central Tax dated 24th June 2020)

Following sections of Finance Act 2020 have been made applicable from 30th June 2020.

1. **Section 118**– Amendment to replace/include the UTs of Dadra and Nagar Haveli and Daman and Diu; and Ladakh in the definition of Union Territories under Section 2(114) of CGST Act 2017.

   H&A Comments – This amendment was made to give effect to making Ladakh a Union Territory and making Dadra and Nagar Haveli and Daman and Diu as one Union Territory.

2. **Section 125**- Constitution of Appellate Tribunal in Jammu and Kashmir under Section 109 of CGST Act 2020.

   H&A Comments – As a result of the above amendment Jammu and Kashmir shall be able to constitute its own Bench of Appellate Tribunal w.e.f. 30th June 2020.

3. **Section 129**- Section 168 of the CGST Act has been amended to enable the Commissioner to issue instructions or directions relating to the expense in case of special audit u/s 66 and extension of time limit in the case of inputs and capital goods sent for job work u/s 143, without requiring the Board approval..

   H&A Comments – This would enable the Commissioner to issue directions for the abovementioned purposes without having to approach the Board for approval. w.e.f. 30th June 2020.

4. **<u>Section 130 of Finance Act 2020</u> -** As per section 172 the removal of difficulty orders (RoD) can be issued only up to 3 years from the implementation of GST i.e. up to 30.06.2020. This has been extended to another 2 years whereby the RoDs can be issued up to 30.06.2022

   H&A Comments – As per section 172 the removal of difficulty orders (RoD) can be issued only up to 3 years from the implementation of GST i.e. up to 30.06.2020. This has been extended to another 2 years whereby the RoDs can be issued up to 30.06.2022.

7. Addition of rate of tax for new composition scheme in Rule 7

(Notification No. 50/2020- Central Tax dated 24th June 2020)

Addition to Rule 7 of CGST Rule 2017 has been made which states that the registered persons not eligible to opt composition levy under subsections (1) and (2) of Section 10, but eligible to opt to pay tax under section 10(2A) shall be liable to pay 6% of the turnover of taxable supplies of goods and services in the State or Union territory.

H&A Comments – In case a registered person having turnover less than 1.5 crores during the preceding FY are is unable to opt for composition scheme due to nonfulfillment of the condition that supply of services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher then he can opt to pay tax under composition scheme under section 10(2A) at the rate specified above. Same had been notified earlier vide notification 02/2019 – CT(R) but now inserted in the specific rule for rate of tax for composition dealer.

8. Prescription of form for payment of GST by real estate promoter/developer on the shortfall value of inward supplies at the end of the financial year

(Instruction No. 3/2/2020- GST dated 24th June 2020)

Real estate promoter/developer supplying construction of residential apartment required to pay tax on the shortfall from threshold requirement of procuring input and input services (below 80%) from registered person shall use the **FORM GST DRC-03** to pay the tax electronically on the common portal within 30th June of next financial year.

H&A Comments – Clarity has been provided to the real estate promoter/developer to pay tax under RCM on supplies of goods and services or both which constitute shortfall in 80% of value of goods or services or both required to be purchased from registered person to be paid in **FORM GST DRC 03.** However there is no clarity provided for extension of due date of payment of tax.

9. Relaxation for revocation of cancellation of registration

(ROD No. 01/2020- GST dated 25th June 2020)

Where the proper officer has passed an order for cancellation of registration for non-filing of return for 3 or 6 consecutive tax period by composition tax payer or regular tax payer respectively as specified under clause (b) and (c) Section 29(2) in the manner by sending email or by making available on common portal as specified under clause (c) and (d) of section 169(1), the registered person can file an application of revocation of registration within 30days from the date of service of the cancellation order.

Such date of order for cancellation of registration issued up to 12th June 2020 for the purpose of calculating 30 days for filing application of registration shall be later of the following dates:

a) Date of service of the said cancellation order or
b) 31st day of August, 2020.

H&A Comments – This is a welcome move for the registered persons for filing the returns in the appropriate time lines and any delay caused due to this pandemic situation would be ignored maximum up to 31st August 2020.

Head Office:

Bangalore: No.1010, II Floor, 26th Main, 4th 'T' Block, Jayanagar, Bangalore - 560 041. Tel 080-26536404 /05 +91 9342728247 e-mail roopa@hiregange.com

Branches:

Hyderabad: 4th Floor, West Block, Srida Anushka Pride, Opp. Ratnadeep Supermarket, Road Number 12, Banjara Hills, Hyderabad, Telangana – 500034 Phone: 040-23318128 / 9908113795 E-mail: sudhir@hiregange.com

NCR (Gurgoan): 509, Vipul Trade Centre, Sector 48, Sohana Road, Gurgaon, Haryana - 122 009 Phone: 012-44634496 / 8510950400 E-mail: ashish@hiregange.com

Visakhapatnam: D. No 8-1-112, Premier House, 2nd Floor, Vidyanagar, Opp. III Town Police Station, PeddaWaltair, Visakhapatnam-530 017. Phone: 91-9989604111 E-mail: anil@hiregange.com

Mumbai: 409, Filix, Opp. Asian Paints, LBSMarg, Bhandup West, Mumbai - 400 078 Phone: 91-9867307715 E-mail: vasant.bhat@hiregange.com

Pune: Rajyog Creations Apartment, Flat No. 5, IV Floor, Anand Park, Above HDFC Bank, Aundh, Pune - 411 007. Phone: 7680000205 / 020-41202013 E-Mail: ravikumar@hiregange.com

Chennai: Fagun Chambers, Third Floor, No.26 Ethiraj Salai, Egmore, Chennai – 600 008. Phone: 9962508380 / 044-43596509 E-Mail: vikram@hiregange.com

Guwahati: 2A, 2nd Floor, Royal Silver Tower, Near Home Town Lachitnagar Main Road, Uluhari, Guwahati- 781007 Phone: 7670087000E-Mail: mannu@hiregange.com

Noida: Skybox Business Center, Office No. B2 Basement C-22,C Block, Sector 65, Noida (UP) Phone: 012-44634496 / 8510950400 E-mail: ashish@hiregange.com

Vijaywada: 2nd Floor, SNR Towers, Opp. Deepak's Silver Emporio, Sri Ram Nagar, Labbipet, Vijayawada –520010 Email: rajeshmaddi@hiregange.com

www.hiregange.com