



Document Date: 28th August 2020

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Indirect Tax Update

Summary of Notifications, Press Release issued from
20th to 26rd August 2020

Key Highlights:

- ✓ Amendment to Export Policy - DGFT
- ✓ Interest on net liability & retrospective effect
- ✓ GST portal updates
- ✓ Registration Rules - Aadhar/physical verification

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Index

1. <u>Export policy of Personal Protection Equipment / Masks</u>	3
2. <u>Applicability of interest on net GST liability</u>	3
3. <u>GST Portal Updates</u>	4
4. <u>Authentication of Aadhaar number during GST registration</u>	5

1. Export policy of Personal Protection Equipment / Masks

(Notification No. 29/2015-2020- DGFT dated 25th August 2020)

The Government of India prohibited the export of PPE/Masks falling under below mentioned HSN classification through Notification 44/2105-20 dated 31st January 2020. Some exceptions in the export policy on some items such as surgical masks, medical coveralls and face shields were changed from 'prohibited' to 'free' through notification 21/2015-20 dated 28th July 2020. Now most items prohibited earlier from 31st January, have been made free to export, except medical goggles N95/FFP2 masks, Nitrile/NBR gloves which remain prohibited. (items mentioned below form part of Serial 207A)

HSN 901850, 901890, 9020, 392690, 621790, 630790	1. Medical coveralls
	2. Medical goggles (R)
	3. N95/FFP2 Masks (R)
	4. All masks (except 3)
	5. Nitrile/NBR Gloves (R)
	6. Face shields

H&A Comments – Prohibition on exports were placed to ensure essential medical products were made available within India during the COVID pandemic. The ease in restrictions display the availability of the product and the reduction in demand within the country.

2. Applicability of interest on net GST liability

(Notification No. 63/2020- Central Tax dated 25th August 2020 &
Press Release dated 26th August 2020)

Section 100 of the Finance Act, 2019 provides that the interest on delayed payment of GST liability would be charged on the net GST liability declared in the return, i.e. the amount of tax paid using the electronic credit ledger would not attract interest liability, even if there is a delay in payment of taxes. The interest amount would be calculated only on the portion of tax which is discharged through the electronic cash ledger.

Through the Notification No. 63/2020-Central Tax, dated 25.08.2020, the government has made section 100 of the Finance Act, 2019, effective from 01st September, 2020. However, this notification contradicts the GST council's decision which had recommended that this section should have a retrospective effect, i.e. the section would be applicable from 01.07.2017 (inception of GST).

However, to settle the contradiction between the two, the government clarified through a press release on 26.08.2020, that there would be no recoveries of interest on gross GST liability which will be made for the past period. Hence, it can be concluded that the interest liability on delayed payment of tax would be calculated only on the net GST liability even for the past period (i.e. 01.7.2020 to 31.08.2020).

Although, legally it could be argued that a press release which contradicts a notification could be held to be void ad-initio.

H&A Comments – The long-awaited clarity on interest has finally arrived with some ambiguity over period of applicability. Considering the intention of the law and the various High Court decisions in GST and erstwhile regimes it is safe to say interest should be applicable on net liability only.

3. GST Portal Updates

- 1) **Refund over multiple years** - In accordance with Circular 135/2020-GST dated 31st March 2020 - Option to file GST refund application for multiple years has been enabled in the GST portal.
- 2) **Bill of Entry part of GSTR 2A** – Recently the GST portal displays Bill of Entry details from Import of goods either from Outside India or from SEZ unit/developer within India. Finally, interlinking between ICEGATE & GST portal has been established, and this helps in the following:
 - a. Verification of ITC on import of goods against BoE as uploaded.
 - b. 3rd party software could help in automatic claim in ITC based on readily available data
 - c. Helps in cross verifying information for refund applications
- 3) **GSTR 2B (expected)** – This is similar to GSTR 2A, and expected to be enabled in the GST portal soon. The primary advantage of GSTR 2B over GSTR 2A is that it is a static report. To distinguish between the two a simple table has been provided below:

Particular	GSTR 2B	GSTR 2A
Nature	Static – Details uploaded by vendors after cut-off date considered in subsequent period	Dynamic – Details uploaded by vendors are updating to such month without utilising a cut-off date.
Entries	GSTR 1, GSTR 5, GSTR 6, ICEGATE system – Would not provide TDS & TCS deductions	GSTR 1, GSTR 5, GSTR 6, GSTR 7, GSTR 8, ICEGATE system – BoE details recently updated

Particular	GSTR 2B	GSTR 2A
Utility	Very useful in ITC reconciliations (especially Rule 36(4)), and to identify compliant/non-compliant vendors.	Very difficult to ensure all GSTR 2A credits are considered as vendors may delay filing returns.

H&A Comments – Above amendments and modifications in the GST portal are welcome, and will help the assesseees in their day to day operations.

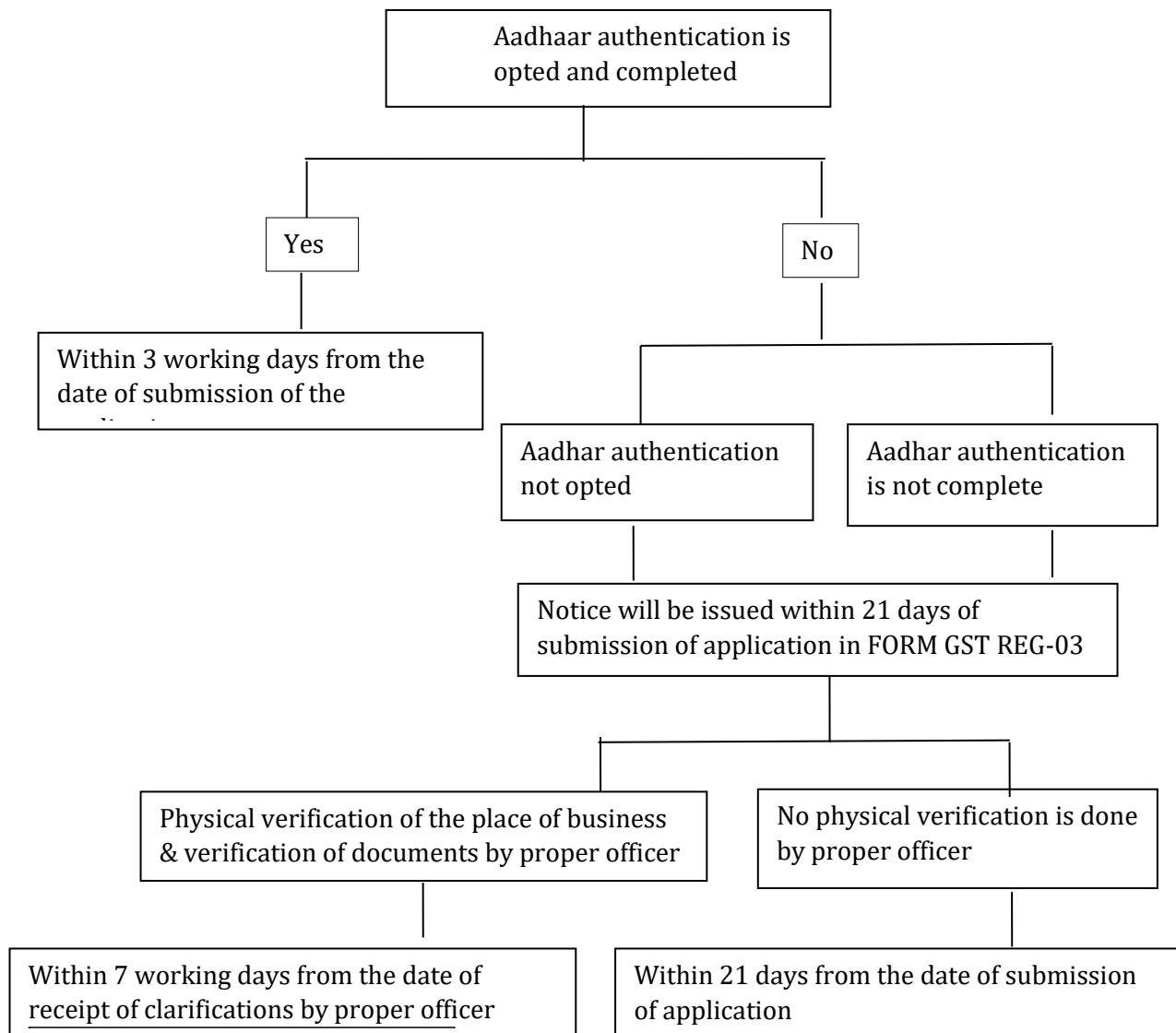
4. Authentication of Aadhaar number during GST registration

(Notification No. 62/2020- Central Tax dated 20th August 2020)

The process of Aadhaar authentication for the persons applying for registration under GST has been implemented from 21.08.2020, through the above-mentioned notification. The applicant has an option to undergo the process of authentication of Aadhaar number. If this option is chosen by the applicant:

- The form is considered to be submitted only after the authentication process is completed, or in case of failure to complete the authentication process, the form would be considered as submitted after 15 days of submission of application in part B of Form GST REG-01.
- In case of failure to complete the authentication process or if the person has not opted for the authentication process, the registration would be granted only after the principal place of business is physically verified by the proper officer.

The process has been illustrated through a flowchart below.



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