Major Changes in GST Rules!

You Must Know!

[23rd December 2020]

CA Pritam Mahure and Associates

How many times the Rules amended?

Rules amended!

2017	• 14 times
2018	• 14 times
2019	• 9 times
2020	• 14 times
Total	• **51 times!**

Whats new – Changes made through Not. No. 94/2020-CT!

Input Tax Credit

Returns

Re-conciliation

Registration

Legal provisions

Changes!

Registration	ITC	Returns	Credit leger	E-way Bill	Notifications	Circular
• Rule 8 (Application) • Rule 9 (Verification) • Rule 21 (Cancellation) • Rule 21A (Suspension) • Rule 22 (Cancellation)	• Rule 36 (4) (ITC)	• Rule 59 (Outward)	• Rule 86B (Restrictions)	• Rule 138 • Rule 138E	• Not. No. 94/2020	• To be issued!

1.

From 10% to 5%

[Rule 36 (4)]

1.1 Rule 36 (4) – Changes!

09.10.2019

- 20%

01.01.2020

- 10%

01.01.2021

- 5%

XX.XX.2021

- Nil (?)

XX.XX.2021

- - 5% (?)

XX.XX.2021

- - 10% (?)

1.2 Changes in Rule 36 (4) [w.e.f. 1.01.2021]

Uploaded

- *(a) for the word "uploaded", at both the places where it occurs, the word "furnished" shall be substituted*

IFF added

- *(b) after the words, brackets and figures "by the suppliers under sub-section (1) of section 37", at both the places where they occur, the words, letters and figure "in FORM GSTR-1 or using the invoice furnishing facility" shall be inserted*

5%

- *(c) for the figures and words "10 per cent.", the figure and words **"5 per cent."** shall be substituted*

2.

Pay 1% in cash!

[Rule 86B]

2.1 New Year Surprise!

From 1.01.2021

2.2 Why!

Fake-invoicing!

2.3 Pay 1% in cash!

Pay atleast **1%** of tax liability through **cash** ledger

If **value** of **taxable** supply other than **exempt supply** and **zero-rated supply**

In a **month**

Exceeds **fifty lakh** rupees

2.4 Why?

Why pay 1% in cash?

- In case of fake-invoicing, typically, entire GST liability is paid through credit so!

Why exempt supply and zero-rated supply excluded?

- As GST is not applicable thereon (so no issue of fake credit)

Why monthly turnover than annual?

- Mostly fake-supplier vanish after few months (so they don’t complete a year)

2.5 Not applicable if – Income Tax!

Who?

- 1. Proprietor
- 2. Karta
- 3. Any of its two partners
- 4. Managing Director or Whole-time Directors
- 5. Members of Managing Committee of Associations
- 6. Board of Trustees
- 7. As the case may be

What

- Have paid more than **one lakh** rupees as Income-tax
- In each of the **last two financial years** for which the time limit to file return of income under subsection (1) of section 139 of the said Act **has expired**

2.6 Not applicable if – GST Refund!

Registered person has **received a refund** amount of **more than one lakh rupees** in the preceding financial year on account of **unutilised input tax credit** under **clause (i)** of first proviso of subsection (3) of section 54

[i.e. zero-rated supply]

2.7 Not applicable if – GST Refund!

Registered person has received a refund amount of more than **one lakh** rupees in the **preceding financial year** on account of **unutilised input tax credit** under **clause (ii)** of first proviso of subsection (3) of section 54

[i.e. Inverted duty structure]

2.8 Not applicable if – Select ones!

1. Government Department
2. Public Sector Undertaking
3. Local authority
4. Statutory body

2.9 Not applicable if – GST payment cumulative criteria!

Registered person has discharged his liability **towards output tax** through the electronic **cash ledger** for an amount which is in **excess of 1%** of the total output tax liability, **applied cumulatively, upto the said month** in the **current financial year**; or

2.10 Not applicable if – Selected ones!

Commissioner or an officer authorised by him in this behalf may **remove** the said restriction **after such verifications** and such **safeguards** as he may deem fit!

2.11 If 86B is applicable!

Scenario	Payment through Credit	Payment through Cash	Remarks
I	Nil	100%	Ok
II	60%	40%	Ok
III	90%	10%	Ok
IV	98%	2%	Ok
V	99%	1%	Ok
VI	100%	Nil	Rule 86B and Rule 21 (g)

2.12 Self-assessment or System assessment!

Should Taxpayer, on self-assessment basis decide to pay 1% or

System should decide?

3.

GSTR-1 filing not allowed if GSTR-3B not filed!

[Rule 59 (5)]

3.1 GSTR-1 filing not allowed if!

Registered person	GSTR-1 not allowed if	GSTR-3B of two months not filed!
Quarterly taxpayer	GSTR-1 not allowed if	GSTR-3B of one Quarter not filed!
Person covered under Rule 86B	GSTR-1 not allowed if	GSTR-3B of preceding tax period not filed!

3.2 Buyer's fate!

'Actually paid' – Tool to ensure?

4.

Data analytics and suspension!

[Rule 21A]

4.1 Suspension on suspicion!

Comparison of the return with

- **GSTR-1**
- **GSTR-2A**

Or such **other** analysis on recommendation of GSTC

Show that there are **significant differences or anomalies**

Indicating contravention of the provisions leading to cancellation

Registration shall be **suspended**

4.2 Track your emails (including Spam mails)!

<u>**And**</u> communication to his **e-mail address** provided at the time of registration or as amended from time to time, **highlighting the said differences and anomalies** and asking him to <u>**explain**</u>, within a period of <u>**thirty days**</u>, as to why his registration shall not be cancelled!

4.3 Suspension – Immediate effect!

Such suspension would be applicable with immediate effect to prevent passing on of fake input tax credit!

5.

Opportunity of being heard!

[Rule 21A]

5.1 Suspension of Registration

(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may~~, after affording the said person a reasonable opportunity of being heard,~~ suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22."

5.2 Revocation if it’s a fit case!

- *Provided that the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, **if he deems fit**.*
    - *Proviso to Rule 21A (4)*

6.

Cancellation of GSTIN!

[Rule 21]

6.1 Cancellation if – Existing provisions!

Rule 21

(a) Does not conduct any business from the declared place of business; or

(b) Issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder; or

(c) Violates the provisions of section 171 of the Act or the rules made thereunder

(d) Violates the provision of rule 10A

6.2 Cancellation if – Newly added!

(e) Avails credit in violation of section 16

*(f) Disclosing **higher** outward supplies in GSTR-1 as compared to GSTR-3B for **one** or **more** tax period*

(g) Violates Rule 86B

6.3 Section 16 violations - Examples!

Non-payment within 180 days!

Vendor has filed belated return after September!

GST not paid by vendor!

6.4 Higher GSTR-1 but lower GSTR-3B – One or more period!

GSTR-1

GSTR-3B

7.

E-way bill – Blocked!

[Rule 138E]

7.1 E-way bill – Blocked if!

A person, whose registration has been **suspended** under the provisions of sub-rule (1) or subrule (2) or sub-rule (2A) of rule 21A

[Rule 21 (2A) is newly added]

8.

E-way bill – Double your speed!

[Rule 138]

8.1 E-way bill – Double your speed!

Upto 31.12.2020!	From 01.01.2021!
• Every **100 km** equals one day validity! • Distance is say 400 km, then e-way bill was valid for 4 days!	• Every **200 km** equals one day validity! [refer Rule 138 (10) which is amended vide Not. No. 94/2020-CT]! • Distance is say 400 km, then e-way bill was valid for 2 days!

9.

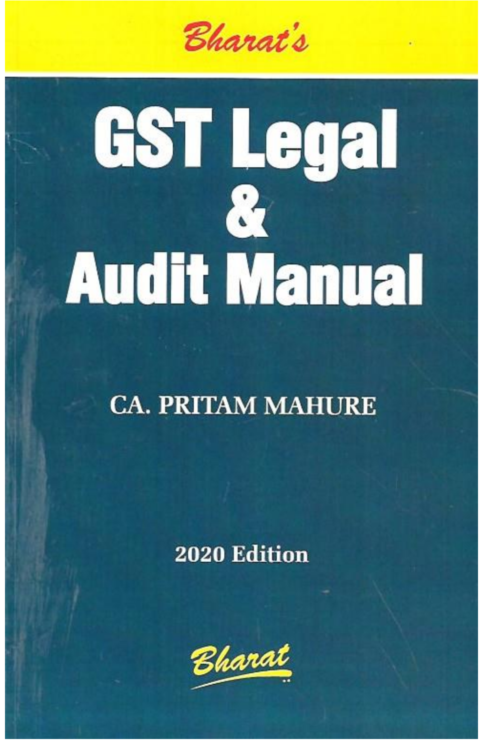
Somebody is going to get hurt!

9.1 Who?

Genuine!

Non-genuine!

Our Books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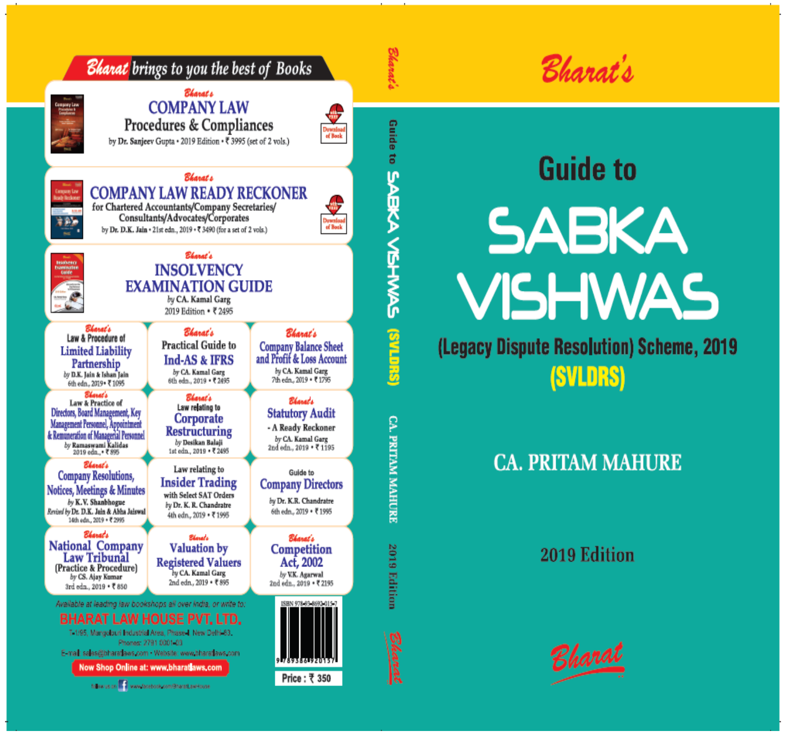
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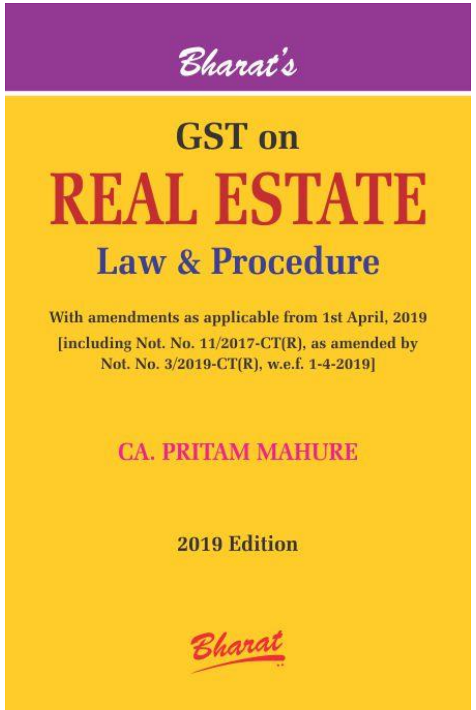
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Thank you!

CA Pritam Mahure and Associates

Happy to Discuss!

For suggestions: info@lawgical.in / +91 9920644648 / 020-27293425

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E-books on GST

E-books on How to be Future Proof

Smile please ☺

Annexures – Legal Extracts!

Rule 86B. Restrictions on use of amount available in electronic credit ledger.-

Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of **ninety-nine per cent.** of such tax liability, in cases where the **value of taxable supply other than exempt supply and zero-rated supply**, in a month **exceeds fifty lakh rupees**:

Provided that the said restriction shall not apply where –

(a) the said person or the **proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be**, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired; or

Rule 86B. Restrictions on use of amount available in electronic credit ledger.-

(b) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of subsection (3) of section 54; or

(c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of subsection (3) of section 54; or

(d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or

Rule 86B. Restrictions on use of amount available in electronic credit ledger.-

(e) the registered person is –

(i) Government Department; or

(ii) a Public Sector Undertaking; or

(iii) a local authority; or

(iv) a statutory body:

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

Rule 59 - New sub-rule (5)!

Notwithstanding anything contained in this rule, -

(a) A registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for preceding two months;

(b) A registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period;

(c) A registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent. of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period

Rule 21A – New sub-rule (2A)!

(2A) Where, a comparison of the returns furnished by a registered person under section 39 with

(a) the details of outward supplies furnished in FORM GSTR-1; or

(b) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1,

or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.

Everything seems fair until its implemented!