

No. 12-25/2018-19-EXN-GST-(575)-686-704
Government of Himachal Pradesh,
Excise and Taxation Department

To

1. The Additional/Jt. Commissioner of State Taxes and Excise, (South Zone, North Zone, Central Zone), Shimla, Palampur, Mandi, H.P.
2. The Joint Commissioner of State Taxes and Excise, Enforcement Zones, (Central Zone, North Zone, South Zone), Una, Palampur, Parwanoo, H.P.
3. The Dy. Commissioner of State Taxes and Excise, Shimla, Solan, BBN Baddi, Sirmour, Bilaspur, Hamirpur, Mandi, Kullu, Chamba, Kangra, Revenue Distt Nurpur and Una, H.P.
4. The Asstt. Commissioner of State Taxes and Excise, Incharge Distt. Kinnour, H.P

Dated

Shimla-9

6th Jan. 2021.**Madam/Sir,**

Subject: Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws-reg.

Circular No.136/06/2020-GST and Circular No.137/07/2020-GST had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the Himachal Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the “HPGST Act”) on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). Post issuance of the said clarifications, certain challenges being faced by taxpayers in adhering to the compliance requirements under various other provisions of the HPGST Act and need to be clarified.

2. Accordingly, in order to ensure uniformity in the implementation of the provisions of the law, in exercise of powers conferred under section 168 of the HPGST Act, issues are clarified as under:

Sl. No.	Issue	Clarification
Issues related to Insolvency and Bankruptcy Code, 2016		
1.	Notification No. 11/2020 – State Tax dated 24 th June, 2020, issued under section 148 of the HPGST Act provided that an IRP / CIRP is required to take a separate registration	Vide notification No. 39/2020- State Tax, dated 16 th July, 2020, the time limit required for obtaining registration by the IRP/RP in terms of special procedure prescribed vide notification No. 11/2020 – State Tax dated

	<p>within 30 days of the issuance of the notification. It has been represented that the IRP/RP are facing difficulty in obtaining registrations during the period of the lockdown and have requested to increase the time for obtaining registration from the present 30 days limit.</p>	<p>24th June, 2020 has been extended. Accordingly, IRP/RP shall now be required to obtain registration within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later.</p>
2.	<p>The notification No. 11/2020– State Tax dated 24th June, 2020 specifies that the IRP/RP, in respect of a corporate debtor, has to take a new registration with effect from the date of appointment. Clarification has been sought whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing.</p>	<p>i. The notification No. 11/2020– State Tax dated 24th June, 2020 was issued to devise a special procedure to overcome the requirement of sequential filing of FORM GSTR-3B under GST and to align it with the provisions of the IBC Act, 2016. The said notification has been amended vide notification No. 39/2020 - State Tax, dated 16th July, 2020 so as to specifically provide that corporate debtors who have not defaulted in furnishing the return under GST would not be required to obtain a separate registration with effect from the date of appointment of IRP/RP.</p> <p>ii. Accordingly, it is clarified that IRP/RP would <u>not be required to take a fresh registration</u> in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the HPGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor (earlier GSTIN).</p>
3.	<p>Another doubt has been raised that the present notification has used the terms IRP and RP interchangeably, and in cases where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration.</p>	<p>i. In cases where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out by <u>an amendment in the registration form</u>. Changing the authorized signatory is a non- core amendment and does not require approval of tax officer. However, if the previous authorized signatory does not share the credentials with his successor, then the newly appointed person can get his details added through the</p>

		<p>Jurisdictional authority as Primary authorized signatory.</p> <p>ii. The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment. Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.</p>
Other COVID-19 related representations.		
4.	<p>As per notification no. 40/2017-State Tax (Rate) dated 20.11.2017, a registered supplier is allowed to supply the goods to a registered recipient (merchant exporter) at 0.1% provided, <i>inter-alia</i>, that the merchant exporter exports the goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier. Request has been made to clarify the provision vis-à-vis the exemption provided vide notification no. 35/2020-State Tax dated 24th June, 2020.</p>	<p>i. Vide notification No. 35/2020-State Tax dated 24th June, 2020, time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020, where completion or compliance of such action has not been made within such time.</p> <p>ii. Notification no. 40/2017-State Tax (Rate) dated 20.11.2017 was issued under powers conferred by section 11 of the HPGST Act, 2017. The exemption provided in notification No. 35/2020-State Tax dated 24th June, 2020 is applicable for section 11 as well.</p> <p>iii. Accordingly, it is clarified that the said requirement of exporting the goods by the merchant exporter within 90 days from the date of issue of tax invoice by the registered supplier gets extended to 30th June, 2020, provided the completion of such 90 days period falls within 20.03.2020 to 29.06.2020.</p>
5.	<p>Sub-rule (3) of that rule 45 of HPGST Rules requires furnishing of FORM</p>	<p>Time limit for compliance of any action by any person which falls during the period</p>

<p>GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker during a quarter on or before the 25th day of the month succeeding that quarter. Accordingly, the due date of filing of FORM GST ITC-04 for the quarter ending March, 2020 falls on 25.04.2020. Clarification has been sought as to whether the extension of time limit as provided in terms of notification No. 35/2020-State Tax dated 24th June, 2020 also covers furnishing of FORM GST ITC-04 for quarter ending March, 2020</p>	<p>from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020 where completion or compliance of such action has not been made within such time. Accordingly, it is clarified that the due date of furnishing of FORM GST ITC-04 for the quarter ending March, 2020 stands extended up to 30.06.2020.</p>
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4. This circular shall come into force w.e.f. 06.05.2020.
5. Difficulty, if any, in the implementation of this Circular may be brought to the notice of this office immediately.

Yours Faithfully,

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**(Rohan Chand Thakur), IAS
Commissioner of State Taxes and Excise,
Himachal Pradesh**