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Government of Kerala
2018



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കേരള ഗസറ്റ്
KERALA GAZETTE

അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
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GOVERNMENT OF KERALA

Taxes (B) Department

NOTIFICATION

G. O. (P) No. 138/2018/TAXES.

*Dated, Thiruvananthapuram, 29th August, 2018
13th Chingam, 1194.*

S. R. O. No. 594/2018.—In exercise of the powers conferred by section 164 of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017), the Government of Kerala hereby make the following rules further to amend the Kerala Goods and Services Tax Rules, 2017, issued under G. O. (P) No. 79/2017/TAXES dated 30th June, 2017 and published as S. R. O. No. 377/2017 in the Kerala Gazette Extraordinary No. 1367 dated 30th June, 2017, namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Kerala Goods and Services Tax (Amendment) Rules, 2018.

(2) Save as otherwise provided in these Rules,—

(a) sub-rules (1), (3), clause (b) of sub-rules (12), (13), (18), (21) and (22) of rule 2 shall be deemed to have come into force on the 13th day of June, 2018;

(b) sub-rules (2), (14), (15) and (16) of rule 2 shall be deemed to have come into force on the 19th day of June, 2018;

(c) sub-rules (4), (5) and (20) of rule 2 shall be deemed to have come into force on the 1st day of July, 2018;

(d) sub-rules (6), (17), (19) and (23) of rule 2 shall be deemed to have come into force on the 18th day of April, 2018;

(e) sub-rules (7), (8), (9), (10), (11) and clause (a) of sub-rule (12) of rule 2 shall be deemed to have come into force on the 12th day of June, 2018.

2. *Amendment of the Rules.*—In the Kerala Goods and Services Tax Rules, 2017,—

(1) in rule 37, in sub-rule (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the value of supplies on account of any amount added in accordance with the provisions of clause (b) of sub-section (2) of section 15 shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.”;

(2) in rule 58, after sub-rule (1), the following sub-rule shall be inserted, namely:—

“(1A) For the purposes of Chapter XVI of these rules, a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in

FORM GST ENR-02 using any one of his Goods and Services Tax Identification Numbers, and upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter:

Provided that where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapter XVI.”;

(3) in rule 83, in sub-rule (3), in the second proviso, for the words “one year”, the words “eighteen months” shall be substituted;

(4) in rule 89, for sub-rule (5), the following shall be substituted, namely:—

“(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:—

$$\text{Maximum Refund Amount} = [(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}] - \text{tax payable on such inverted rated supply of goods and services.}$$

Explanation:—For the purposes of this sub-rule, the expressions—

(a) “Net ITC” shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and

(b) “Adjusted Total turnover” shall have the same meaning as assigned to it in sub-rule (4).”;

(5) in rule 95, in sub-rule (3), for clause (a), the following shall be substituted, namely:—

“(a) the inward supplies of goods or services or both were received from a registered person against a tax invoice;”;

(6) for rule 97, the following rule shall be substituted, namely:—

“97. *Consumer Welfare Fund.*—(1) All amounts of State tax and income from investment along with other monies specified in section 57 of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017) shall be credited to the Fund:

Provided that an amount equivalent to fifty per cent of the amount of integrated tax determined under sub-section (5) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with section 20 of the Integrated Goods and Services Tax Act, 2017, shall be deposited in the Fund:

Provided further that an amount equivalent to fifty per cent of the amount of cess determined under sub-section (5) of section 54 read with section 11 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), shall be deposited in the Fund.

(2) Where any amount, having been credited to the Fund, is ordered or directed to be paid to any claimant by the proper officer, appellate authority or court, the same shall be paid from the Fund.

(3) Accounts of the Fund maintained by the Government of Kerala shall be subject to audit by the Comptroller and Auditor General of India.

(4) The Government shall, by an order, constitute a Standing Committee (hereinafter referred to as ‘the Committee’) with a Chairman, a Vice-Chairman, a Member Secretary and such other members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Fund for welfare of the consumers.

(5) (a) The Committee shall meet as and when necessary, generally four times in a year;

(b) the Committee shall meet at such time and place as the Chairman, or in his absence, the Vice-Chairman of the Committee may deem fit;

(c) the meeting of the Committee shall be presided over by the Chairman, or in his absence, by the Vice-Chairman;

(d) the meeting of the Committee shall be called, after giving at least ten days notice in writing to every member;

(e) the notice of the meeting of the Committee shall specify the place, date and hour of the meeting and shall contain statement of business to be transacted thereat;

(f) no proceeding of the Committee shall be valid, unless it is presided over by the Chairman or Vice-Chairman and attended by a minimum of three other members.

(6) The Committee shall have powers:—

(a) to require any applicant to get registered with any authority as the Government of Kerala may specify;

(b) to require any applicant to produce before it, or before a duly authorised officer of the State Government, as the case may be, such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;

(c) to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the State Government, as the case may be;

(d) to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;

(e) to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump sum along with accrued interest, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;

(f) to recover any sum due from any applicant in accordance with the provisions of the Act;

(g) to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;

(h) to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars;

(i) to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of the nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;

(j) to identify beneficial and safe sectors, where investments out of Fund may be made, and make recommendations, accordingly;

(k) to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;

(l) to make guidelines for the management, and administration of the Fund.

(7) The Committee shall not consider an application, unless it has been inquired into, in material details and recommended for consideration accordingly, by the Member Secretary.

(8) The Committee shall make recommendations:—

(a) for making available grants to any applicant;

(b) for investment of the money available in the Fund;

(c) for making available grants (on selective basis) for reimbursing legal expenses incurred by a complainant, or class of complainants in a consumer dispute, after its final adjudication;

(d) for making available grants for any other purpose recommended by the Central Consumer Protection Council (as may be considered appropriate by the Committee);

(e) for making available up to 50% of the funds credited to the Fund each year, for publicity/consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty-five crore rupees per annum.

Explanation.—For the purposes of this rule,—

(a) ‘applicant’ means,

(i) the Central Government or State Government;

(ii) regulatory authorities or autonomous bodies constituted under an Act of Parliament or the Legislature of a State or Union Territory;

(iii) any agency or organization engaged in consumer welfare activities for a minimum period of three years, registered under the Companies Act, 2013 (18 of 2013) or under any other law for the time being in force;

(iv) village or mandal or samiti or samiti level co-operatives of consumers especially Women, Scheduled Castes and Scheduled Tribes;

(v) an educational or research institution incorporated by an Act of Parliament or the Legislature of a State or Union Territory in India or other educational institutions established by an Act of Parliament or declared to be deemed as a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956) and which has consumers studies as part of its curriculum for a minimum period of three years; and

(vi) a complainant as defined under clause (b) of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (68 of 1986), who applies for reimbursement of legal expenses incurred by him in a case instituted by him in a consumer dispute redressal agency;

(b) ‘application’ means an application in the form as specified by the Standing Committee from time to time;

(c) ‘Central Consumer Protection Council’ means the Central Consumer Protection Council, established under sub-section (1) of section 4 of the Consumer Protection Act, 1986 (68 of 1986), for promotion and protection of rights of consumers;

(d) ‘Committee’ means the Committee constituted under sub-rule (4);

(e) ‘consumer’ has the same meaning as assigned to it in clause (d) of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (Central Act 68 of 1986), and includes consumer of goods on which central tax has been paid;

(f) ‘Fund’ means the Consumer Welfare Fund established by the State Government under section 57 of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017);

(g) ‘proper officer’ means the officer having the power under the Act to make an order that the whole or any part of the State Tax is refundable.”;

(7) in rule 125, for the words “Directorate General of Safeguards”, the words “Directorate General of Anti-profiteering” shall be substituted;

(8) in rule 129, for the words “Director General of Safeguards”, wherever they occur, the words “Director General of Anti-profiteering” shall be substituted;

(9) in rule 130, in sub-rule (2), for the words “Director General of Safeguards”, at both places where they occur, the words “Director General of Anti-profiteering” shall be substituted;

(10) in rule 131, for the words “Director General of Safeguards”, the words “Director General of Anti-profiteering” shall be substituted;

(11) in rule 132, in sub-rule (1), for the words “Director General of Safeguards”, the words “Director General of Anti-profiteering” shall be substituted;

(12) in rule 133,—

(a) for the words “Director General of Safeguards”, wherever they occur, the words “Director General of Anti-profiteering” shall be substituted;

(b) for sub-rule (3), the following shall be substituted, namely:—

“(3) Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order—

(a) reduction in prices;

(b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen per cent from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be;

(c) the deposit of an amount equivalent to fifty per cent of the amount determined under the above clause in the Fund constituted under section 57 and the remaining fifty per cent of the amount in the Fund constituted under section 57 of the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017) where the eligible person does not claim return of the amount or is not identifiable;

(d) imposition of penalty as specified under the Act; and

(e) cancellation of registration under the Act.”;

(13) in rule 138, in sub-rule (14), after clause (n), the following clause shall be inserted, namely:—

“(o) where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.”;

(14) in rule 138C, to sub-rule (1), the following proviso shall be inserted, namely:—

“Provided that where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of FORM EWB-03, for a further period not exceeding three days.

Explanation:—The period of twenty-four hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.”;

(15) in rule 142, in sub-rule (5), after the words and figures “of section 76”, the words and figures “or section 129 or section 130” shall be inserted;

(16) after Form GST ENR-01, the following FORM shall be inserted, namely:—

“Form GST ENR-02

[See rule 58(1A)]

APPLICATION FOR OBTAINING UNIQUE COMMON
ENROLMENT NUMBER

(Only for transporters registered in more than one State or Union
Territory having the same PAN)

1.	(a) Legal name	
	(b) PAN	

2. Details of registrations having the same PAN

Sl. No.	GSTIN	Trade Name	State/UT

3. Verification

I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature

Place:

Name of Authorised Signatory

Date:

Designation/Status.....

For office use

Enrolment No.—

Date—.”

(17) in Form GST ITC-03, after entry 5(e), for the instruction against “**”, the following shall be substituted, namely:—

“** The value of capital goods shall be the invoice value reduced by 1/60th per month or part thereof from the date of invoice”;

(18) in Form GSTR-4, in the ‘Instructions’, for serial number 10, the following shall be substituted, namely:—

“10. For the tax periods July, 2017 to September, 2017, October, 2017 to December, 2017, January, 2018 to March, 2018 and April, 2018 to June, 2018, serial 4A of Table 4 shall not be furnished.”;

(19) after Form GSTR-8, the following form shall be inserted, namely:—

“Form GSTR-10

(See rule 81)

FINAL RETURN

1. GSTIN	
2. Legal Name	
3. Trade Name, if any	
4. Address for future correspondence	
5. Effective date of cancellation of registration (Date of closure of business or the date from which registration is to be cancelled)	
6. Reference number of cancellation order	
7. Date of cancellation order	

8. Details of inputs held in stock, inputs contained in semi-finished or finished goods held in stock, and capital goods/plant and machinery on which input tax credit is required to be reversed and paid back to Government.

Sl. No.	GSTIN	Invoice/Bill of entry		Description of inputs held in stock, input contained in semi-finished or finished goods held in stock and capital goods/plants and machinery	Unit Quantity Code (UQC)
		No.	Date		
(1)	(2)	(3)	(4)	(5)	(6)
8(a) Inputs held in stock (where invoice is available)					
8(b) Inputs contained in semi-finished or finished goods held in stock					
8(c) Capital goods/plant and machinery held in stock					
8(d) Inputs held in stock or inputs as contained in semi-finished/finished goods held in stock					

Contd.....

Qty	Value (As adjusted by debit/credit note)	Input tax credit/Tax payable (whichever is higher) (₹)			
		Central Tax	State/Union Territory Tax	Integrated Tax	Cess
(7)	(8)	(9)	(10)	(11)	(12)
	(where invoice is available)				
	(where invoice is not available)				

9. Amount of tax payable and paid (based on Table 8)

Sl. No.	Description	ITC reversible/Tax payable	Tax paid along with the application for cancellation of registration (GST REG-16)	Balance Tax payable (3-4)
(1)	(2)	(3)	(4)	(5)
1	Central Tax			
2	State/Union Territory Tax			
3	Integrated Tax			
4	Cess			

Contd.....

Amount paid through debit to electronic cash ledger	Amount paid through debit to electronic credit ledger			
	Central Tax	State/Union Territory Tax	Integrated Tax	Cess
(6)	(7)	(8)	(9)	(10)

10. Interest, late fee payable and paid

Description	Amount Payable	Amount Paid
(1)	(2)	(3)
(I) Interest on account of		
(a) Integrated Tax		
(b) Central Tax		
(c) State/Union Territory Tax		
(d) Cess		
(II) Late Fee		
(a) Central Tax		
(b) State/Union Territory Tax		

11. Verification

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of authorized signatory

Name

Designation/Status

Date-dd/mm/yyyy

Instructions

1. This form is not required to be filed by taxpayers or persons who are registered as:—

- (i) Input Service Distributors;
- (ii) Persons paying tax under section 10;
- (iii) Non-resident taxable person;
- (iv) Persons required to deduct tax at source under section 51; and
- (v) Persons required to collect tax at source under section 52.

2. Details of stock of inputs, inputs contained in semi-finished or finished goods and stock of capital goods/plant and machinery on which input tax credit has been availed.

3. Following points need to be taken care of while providing details of stock at serial number 8:

- (i) where the tax invoices related to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock are not available, the registered person shall estimate the amount under sub-rule (3) of rule 44 based on prevailing market price of the goods;
- (ii) in case of capital goods/plant and machinery, the value should be the invoice value reduced by 1/60th per month or part thereof from the date of invoice/purchase taking useful life as five years.

4. The details furnished in accordance with sub-rule (3) of rule 44 in the Table at serial number 8 [against entry 8(d)] shall be duly certified by a practising chartered accountant or cost accountant. Copy of the certificate shall be uploaded while filing the details.”;

(20) in Form GST PCT-01, in PART B,—

(a) against serial number 4, after entry (10), the following shall be inserted, namely:—

“(11) Sales Tax practitioner under existing law for a period of not less than five years.

(12) tax return preparer under existing law for a period of not less than five years”;

(b) after the “**Consent**”, the following shall be inserted, namely:—

“Declaration

I hereby declare that:

- (i) *I am a citizen of India;*
- (ii) *I am a person of sound mind;*
- (iii) *I have not been adjudicated as an insolvent; and*
- (iv) *I have not been convicted by a competent court.”;*

(21) in FORM GST RFD-01, in Annexure-1,—

(a) for Statement 1A, the following Statement shall be substituted, namely:—

“Statement 1A

[See rule 89(2)(h)]

Refund Type: ITC accumulated due to inverted tax structure
[clause (ii) of first proviso to section 54(3)]

Sl. No.	Details of invoices of inward supplies received				Tax paid on inward supplies		
	GSTIN of the supplier	No.	Date	Taxable Value	Integrated Tax	Central Tax	State Tax/ Union Territory Tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Contd.....

Details of invoices of outward supplies issued			Tax paid on outward supplies		
No.	Date	Taxable Value	Integrated Tax	Central Tax	State Tax/ Union Territory Tax
(9)	(10)	(11)	(12)	(13)	(14)

(b) for Statement 5B, the following Statement shall be substituted, namely:—

“Statement 5B
[see rule 89(2)(g)]

Refund Type: On account of deemed exports

(Amount in Rs.)

Sl. No.	Details of invoices of outward supplies in case refund is claimed by supplier/Details of invoices of inward supplies in case refund is claimed by recipient				Tax paid			
	GSTIN of the supplier	No.	Date	Taxable Value	Integrated Tax	Central Tax	State Tax/ Union Territory Tax	Cess
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

(22) in FORM GST RFD-01A, in Annexure-1,—

(a) for Statement 1A, the following Statement shall be substituted, namely:—

“Statement 1A
[see rule 89(2)(h)]

Refund Type: ITC accumulated due to inverted tax structure
[clause (ii) of first proviso to section 54(3)]

Sl. No.	Details of invoices of inward supplies received				Tax paid on inward supplies		
	GSTIN of the supplier	No.	Date	Taxable Value	Integrated Tax	Central Tax	State Tax/ Union Territory Tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Contd.....

Details of invoices of outward supplies issued			Taxpaid on outward supplies		
No.	Date	Taxable Value	Integrated Tax	Central Tax	State Tax/ Union Territory Tax
(9)	(10)	(11)	(12)	(13)	(14)

”;

(b) for Statement 5B, the following Statement shall be substituted, namely:—

“Statement 5B

[see rule 89(2)(g)]

Refund Type: On account of deemed exports

(Amount in ₹)

Sl. No.	Details of invoices of outward supplies in case refund is claimed by supplier/Details of invoices of inward supplies in case refund is claimed by recipient				Tax paid			
	GSTIN of the supplier	No.	Date	Taxable Value	Integrated Tax	Central Tax	State Tax/ Union Territory Tax	Cess
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

”;

(23) for FORM GST DRC-07, the following shall be substituted, namely:—

“FORM GST DRC-07

[see rule 142 (5)]

Summary of the order

1. Details of order—

(a) Order No.

(b) Order date

(c) Tax period

2. Issues involved-<< drop down>> classification, valuation, rate of tax, suppression of turnover, excess ITC claimed, excess refund released, place of supply, others (specify)

3. Description of goods/services—

Sl. No.	HSN	Description

4. Details of demand

(Amount in ₹)

Sl. No.	Tax rate	Turn over	Place of supply	Act	Tax/Cess	Interest	Penalty	Others
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Signature

Name

Designation”.

By order of the Governor,

VENUGOPAL, P.

Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

The Government have framed the Kerala Goods and Services Tax Rules, 2017 by notification issued under G. O. (P) No. 79/2017/TAXES dated 30th June, 2017 and published as S. R. O. No. 377/2017 in the Kerala Gazette Extraordinary No. 1367 dated 30th June, 2017 for carrying out the purposes of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017). Now, Government have decided to amend the Kerala Goods and Services Tax Rules, 2017 for incorporating the recommendations of the Goods and Services Tax Council.

The notification is intended to achieve the above object.