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Composition Scheme to service providers



Padmanathan Kv

on 10 May 2019

Earlier composition scheme was available only to manufacturers and traders. With effect from 1st April 2019, central government, on recommendation of the council has notified Composition Scheme for service providers vide Notification No. 2/2019 central tax (rate) dated 07/03/2019. Consequently, Notification 9/2019 central tax (rate) amended the above-said notification to make rules applicable to a person paying tax under section 10 apply to person paying tax under the said notification. Subsequently, On 5th April a departmental circular was issued to ensure uniformity in implementation.

This article tries to analyze the various aspects of the said notifications and circulars in detail.

Eligibility to pay tax under composition

The First supplies of goods or services or both up to an aggregate turnover of Rs.50 lakhs made on or after 1st April in any financial year by a registered person.

Analysis: While calculating the threshold limit of Rs. 50 lakhs of a person, the supplies made from 1st April of the financial year to the date of from which he becomes liable to registration shall be included.

Determination of tax payable under composition scheme

As per the notification the rate of tax shall be 6% (3% CGST + 3% SGST) on the first supplies of goods or services or both upto an aggregate turnover of Rs.50 Lakhs.

Analysis: For the purpose of determination of tax payable by a person, the supplies made from 1st April of the financial year to the date of from which he becomes liable to registration shall not be included.

This can be illustrated with an example. Suppose an unregistered service provider exceeds the threshold limit of Rs.20 Lakh under GST Act on say 15th July, he becomes liable to get registered under the Act. He can opt for composition scheme on date of registration, up to the limit of Rs.50 Lakh i.e. further turnover Rs.30 Lakh from 15th July.

Suppose on 20th December, he exceeds the limit of Rs. 50 Lakh (Rs. 20 Lakh till 15th July and a further Rs. 30 Lakh from 16th July to 20th December). The Service provider has to pay GST at the rate of 6% on turnover of Rs. 30 Lakh only, achieved by him during 16th July to 20th December after registration on 15th July.

So after 20th December, he will be ineligible for this composition scheme and has to pay tax as per regular tax payer.

Conditions

1. Aggregate turnover in the preceding financial year was Rs.50 lakh or below;
2. Not eligible to pay tax under section 10(1) of the Act; **Analysis:** Thus registered person supplying service of value not exceeding 10% of turnover or Rs.5 lakhs whichever is higher shall not be eligible for composition under this notification as he is eligible under section 10(1) of the Act.
3. Not engaged in making any supply which is not leviable to GST such as petrol, alcoholic liquor for human consumption, etc;
4. Not engaged in making any inter-State outward supply;
5. Neither a casual taxable person nor a non-resident taxable person;
6. Not engaged in making any supply through an electronic commerce operator who is required to collect TCS under section 52; and
7. Not engaged in making supplies of Ice cream and other edible ice whether or not containing cocoa falling under Tariff item 2105 00 00, Pan masala falling under tariff item 2106 90 20 and all Tobacco items falling under tariff item 24.

Other Aspects

1. The option payment of tax by availing the benefit of the above said notification in respect of any place of business in any State or Union territory shall be deemed to be applicable in respect of all other places of business registered on the same Permanent Account Number. I.e. It is PAN based and Where more than one registered persons are having the same PAN, GST on supplies by all such registered persons is paid at 6% under this notification.
2. A registered person who wants to opt for payment GST at 3% by availing the benefit of the notification by filing intimation in the manner specified in rule 3(3) of the CGST Rules in FORM GST CMP-02 by selecting the category of registered person as "Any other supplier eligible for composition levy" as listed at Sl. No. 5(iii) of the said form, latest by 30th April, 2019.
3. Any person who applies for registration and who wants to opt for pay GST at 3% by availing the benefit of the said notification, if eligible, may do so by indicating the option at serial no. 5 and 6.1(iii) of FORM GST REG-01 at the time

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of filing of application for registration.

4. The registered person opting for composition scheme cannot collect taxes from the recipient and he has to issue a bill of supply as per section 31(3)(c) of the Act read with rule 49 of CGST Rules.
5. The registered person opting for composition scheme cannot claim input tax credit.
6. The registered person opting for composition scheme has to pay tax on RCM under section 9(3) and section 9(4) of the Act at applicable rates.
7. The registered person opting to pay tax under composition scheme shall reverse the ITC on inputs held in stock and on capital goods as per provisions of section 18(4) in FORM ITC-03 by way of debit in electronic cash ledger or electronic credit ledger. The balance credit, if any lying in the electronic credit ledger will lapse.
8. All rules applicable to a person paying tax under section 10 shall be applicable to a person paying tax under this notification

Conclusion

The said notification will provide relief to small service providers by enabling them to pay tax under the composition scheme of 6% as against a higher rate of 12% or 18%. The departmental circular now provides more clarity to businesses on how to opt for the scheme. Moreover, the threshold limit for composition scheme which is available to manufacturers and traders with an annual turnover of up to Rs.1 crore has been enhanced to 1.5 crore from April 1st 2019. This comes down as a big relief to the industry.

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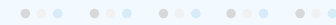


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