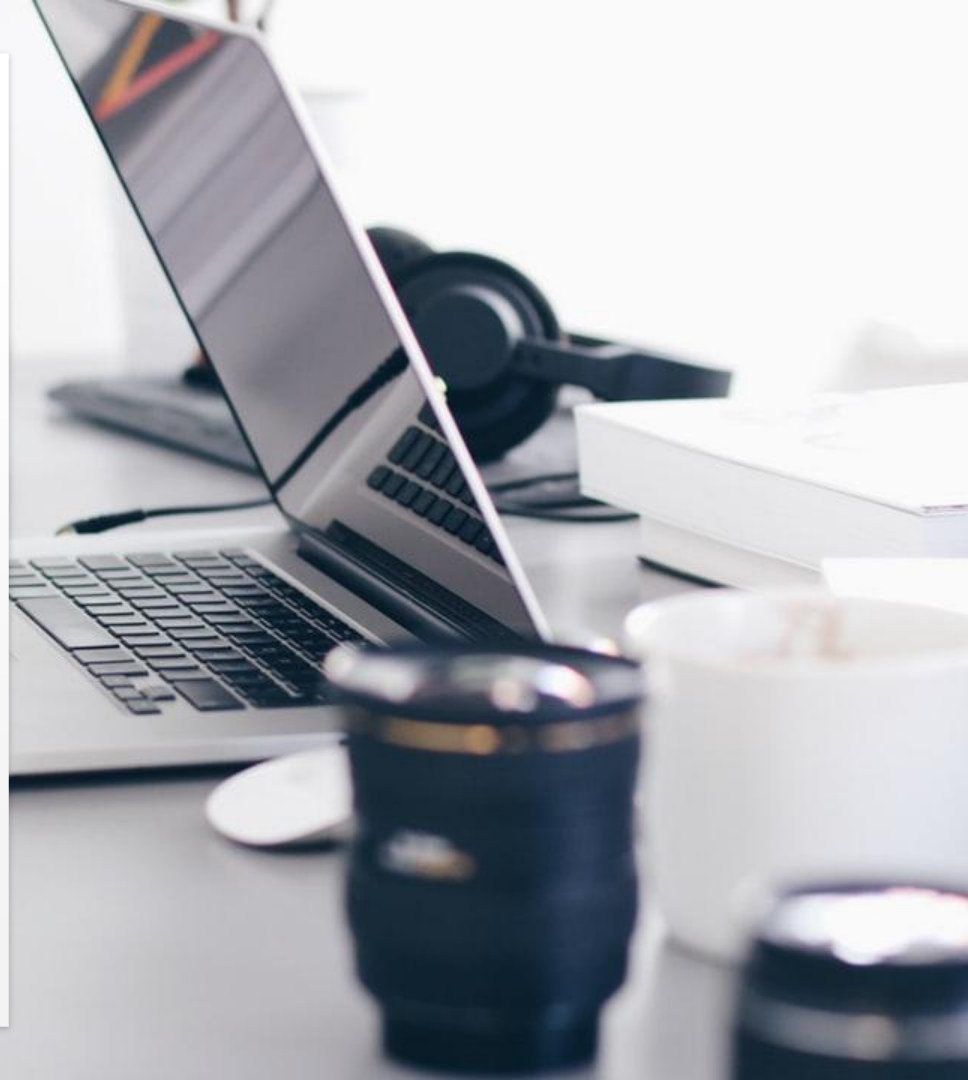


# Recent Contentious amendments under GST

- CA Keshav Gupta



# Agenda

- Restriction on availing ITC
- Restriction on use of ITC
- Blocking of GSTR-1/IFF
- Suspension and Cancellation of registration
- Changes in validity of E-way Bill
- Changes in Registration process



# Restriction on availing ITC

## Amendment in Rule 36(4)

- ITC can be availed only up to 105% of eligible ITC in GSTR 2A.
- 105% to be computed on invoices uploaded AND returns furnished + invoices furnished by quarterly taxpayer.
- Violation of the above could lead to suspension of registration.
- Restriction applicable for GSTR-3B of December 2020.

# Sample Calculation

## Actual ITC of tax charged by Domestic Suppliers (Based on invoices)

	IGST	CGST	SGST
ITC of domestic suppliers intended to be claimed (A)	130	230	230
<b>GSTR-2B – ITC of tax charged by Domestic Suppliers</b>			
ITC of domestic suppliers appearing in GSTR-2B	120	240	240
Less: Ineligible ITC as per GSTR-2B	-5	-25	-25
<b>Net Eligible ITC</b>	<b>115</b>	<b>215</b>	<b>215</b>
<b>Add: 5% ITC under Rule 36(4)</b>	<b>+6</b>	<b>+11</b>	<b>+11</b>
Total domestic ITC for comparing with Actual ITC (B)	121	226	226
<b>Restricted ITC as per Rule 36(4) - Can be claimed when missing invoice are reflected</b>	<b>9</b>	<b>4</b>	<b>4</b>



# Restriction on use of ITC

## Rule 86(B) introduced

- ITC in credit ledger can be used only to pay 99% of output tax liability.
  - Applicable to taxpayers having monthly taxable supply exceeding Rs. 50 lacs.
  - Exempt Supplies and Zero Rated supplies not to be considered for computing Rs 50 Lakhs.
  - 1% tax liability should relate to outward supplies and not RCM.
- 7 TDS deducted will not be considered as tax paid.

# Non-applicability of Rule

- Taxpayer, proprietor, Karta, MD or two partners, Whole Time Directors paid Income tax exceeding Rs. One lac in each of the last two financial years.
- Claimed refund of more than Rs. 1 lac on zero rated supplies (LUT only) or inverted duty structure in the preceding financial year.
- Discharged tax liability cumulatively in cash in excess of 1% in the current financial year
- Govt. department, PSU, local authority or statutory body.





# Blocking of GSTR-1/IFF

# Rule 59(5)

**Taxpayer filing  
monthly return**

On default of  
GSTR-3B for two  
months.

**Taxpayers filing  
quarterly return**

On default of  
GSTR-3B of one  
month.

**Taxpayers  
eligible to use  
ITC of 99%**

On default of  
GSTR-3B of one  
month.



# Suspension and Cancellation of registration

## Rule 21 - Cancellation

- ITC availed in violation of section 16 – GSTR-2B+5%, 180 days, beyond Sept, non-business expenses etc.
- Outward supply in GSTR 1 of one or more months is greater as compared to GSTR 3B.
- Violate provisions of rule 86B – use ITC exceeding 99% of the outward tax liability.
- Comparison of any Data which indicates contravention of provisions of GST – Outward and ITC Reco.

# Rule 21A - Suspension

- Registration shall be suspended if significant differences or anomalies are found in comparison of
  - GSTR 3B & GSTR 1 (outward supplies).
  - GSTR 3B & GSTR 1 furnished by his supplier (Inward supplies).
- No opportunity of being heard before suspending registration.
- Intimation in GST REG-31 on common portal or to e-mail address highlighting the differences and giving 30 days notice.

# Implications and Solutions

## Implications

- Raising tax invoice not possible.
- Refunds on hold.
- E-way bill blocked.
- May lead to cancellation.

## Solutions

- Meet officer and understand the reason of suspension.
- Written submissions.
- Follow up for revocation of suspension.
- Raise revised invoice and file returns.



# Validity of E-way Bill

## Rule 138 and 138(E)

- W.e.f 01.01.2021, for distance upto 200 kms – e-way bill would be valid for one day.
- For every 200 kms or part thereof – validity would be one day.
- E-way bill would be blocked if GST registration is suspended under rule 21A.
- Two tax periods for QRMP persons introduced.





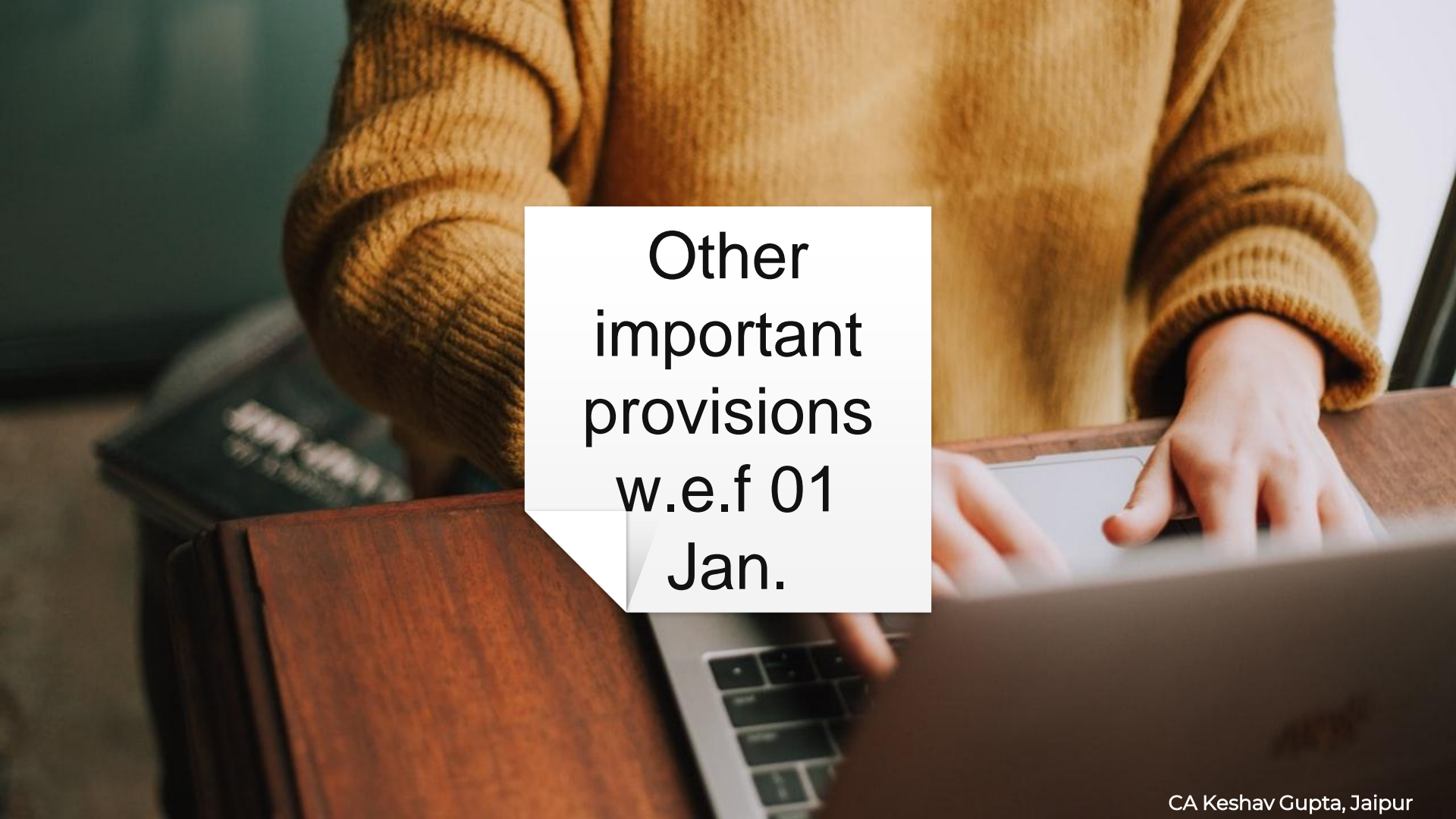
# Changes in registration process

## Amendments in Rule 8 & 9 (date to be notified)

- Aadhar based registration
  - Biometric based Aadhar authentication;
  - No physical verification;
  - Taking photograph of specified individual;
  - Verification of original copy of documents uploaded in registration application at Facilitation Centre.
- Registration to be granted in 7 days, as against 3 days earlier. Deemed Approval.

## Amendments in Rule 8 & 9 (date to be notified)

- Non-Aadhar based registration
    - Biometric information;
    - Physical verification mandatory;
    - Taking photograph of specified individual;
    - Verification of original copy of documents uploaded in registration application at Facilitation Centre.
  - Registration to be granted in 30 days from submitting complete application. Deemed Approval.
- 19 Where physical verification is deemed fit – same process.

A person wearing a mustard-colored, textured sweater is sitting at a wooden desk, working on a laptop. The person's hands are visible on the laptop keyboard and trackpad. The background is slightly blurred, showing a dark green wall and a wooden chair.

**Other  
important  
provisions  
w.e.f 01  
Jan.**

# Changes in Composition Scheme

- Not allowed to supply exempt services (except services by way of extending loans, deposits or advances).
- Not allowed to do inter-state supply of services.
- Not allowed to do supply services through E-Commerce operator collecting TCS.

## ITC qua debit note – section 16(4)

- Previously, time limit to avail ITC with respect to the tax charged on the debit note was also linked to the invoice date.
- Now, time limit for availing ITC with respect to the debit note would be linked with the date of debit note.

# Penalty for beneficiaries

- Person who **retains the benefit of following transactions or at whose instance such transactions are conducted** shall also be liable to the **penalty equivalent** to the tax evaded or ITC availed of or passed on.
  - Supplies goods or services or both without invoice/with incorrect or false invoice.
  - Issues any invoice or bill without supply of goods or services or both.
  - takes or utilises ITC without actual receipt of goods or services.
  - takes or distributes input tax credit in contravention of section 20.

# Thanks!

## Any questions?

You can find me at:

[keshav@soganiprofessionals.com](mailto:keshav@soganiprofessionals.com)

9785008892

[linkedin.com/in/ca-keshav-gupta](https://www.linkedin.com/in/ca-keshav-gupta)