

SKKA IDT ALERT

03-2022 dt 05th Jan, 2022

IMPLEMENTATION OF RULE – 59(6) of CGST Rules, 2017, AS AMENDED BY NOTIFICATION NO. 35/2021-CENTRAL TAX DATED 24TH SEPTEMBER 2021.

KEY HIGHLIGHTS

- As per Rule 59(6) the system will block filing of GSTR-1 for a taxpayer if GSTR-3B for previous month has not been filed.
- The system will check filing of GSTR-3B Of prior month before allowing taxpayer to file GSTR-3B of subsequent month.
- The system will allow filling of GSTR-1 only after GSTR-3B of previous month is filed.
- The taxpayers are therefore advised to timely file GSTR-1 and GSTR-3B to avoid any inconvenience.

INTRODUCTION

Section 39 of CGST ACT, 2017 requires a regular taxpayer to file GSTR-1 and GSTR-3B. GSTR-1 is a statement which requires regular tax payer to furnish details of outward taxable supply monthly (quarterly in case of QRMP) by 10th of next month (other than those who opted for QRPM). GSTR-3B is a summary statement in which a taxpayer discloses a summary of outward taxable supplies, net input claimed and net GST liability for that month which is required to be filed by 20th of next month.

It was noticed that certain taxpayers were Filing GSTR-1 regularly but GSTR-3B was not being filed regularly by taxpayer. This led to delay in discharging the net tax liability by taxpayer. To ensure Regular compliance and timely payment of GST liability, a new sub-rule was inserted [Rule 59(6)] vide notification no 01/2021-Central tax dated 1/1/2021 having effect from 1/1/2021. To further tighten the compliance, clause (a) of sub rule (6) of Rule 59 of CGST ACT,2017 was further amended vide Notification No 35/2021-Central Tax dated 24th September 2021 having effect from 1/1/2022.

Rule- 59(6) sub clause (a) as introduced vide N/No. 1/2021 dated 1st January,2021

In the Central Goods and Services Tax Rules, 2017 in rule 59, after sub-rule (5), the following sub-rule was inserted vide notification no. 01/2021-Central Tax namely: -

“(6) Notwithstanding anything contained in this rule, -

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**

Rule- 59(6) sub clause (a) as Amended:

As per Notification No. 35/2021 - Central Tax dated 24th September 2021, clause (a) of the sub-rule (6) of Rule 59 of CGST Rules, 2017 was amended. By way of this amendment, for the words "**for preceding two months**", the words "**for the preceding month**" were substituted with effect from **1st January 2022**.

Therefore Rule- 59(6) sub clause (a) would now read as:

(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 the **preceding month**.

Analysis of above rule has been summarized in the table given below:

Period	Notification No	Rule Analysis
1st July-2017 To 1st Jan-2021	-	Taxpayer were allowed to file GSTR-1 of a particular month irrespective whether GSTR-3B for prior month has been filed or not.
1st Jan-2021-1st Jan-2022	01/2021-Central Tax dated 1/1/2021.	Sub rule 6 was inserted in rule 59 which Restricted Filing of GSTR-1 if GSTR-3B for preceding Two months were not filed.
From 1ST Jan 2022 onwards	35/2021-Central tax dated 24th September.	Amendment was brought to clause (a) of subrule (6) of rule 59 which would restrict taxpayer from filing GSTR-1 if GSTR-3B for previous month has not been filed.

The advisory released on GST Portal has been attached below:

Skip to Main Content A⁺ A⁻

Goods and Services Tax Login

Home Services GST Law Downloads Search Taxpayer Help and Taxpayer Facilities e-Invoice

Home News and Updates

Implementation of Rule-59(6), as amended, on GST Portal

03/01/2022

- As per Notification No. 35/2021 – Central Tax dated 24th September 2021, clause (a) of the sub-rule (6) of Rule 59 of CGST Rules, 2017 was amended. By way of this amendment, for the words "for preceding two months", the words "for the preceding month" were substituted with effect from 1st January 2022. This means that from 1st January 2022 onwards, if a monthly filer has not filed the GSTR-3B for the preceding month, then such taxpayer will not be allowed to file the GSTR-1 for the subsequent month, till the GSTR-3B for the preceding month is filed.
- This functionality will be implemented on the GST Portal shortly, after which the system will check the filing of preceding GSTR-3B before permitting to file GSTR-1 for the subsequent month.

Illustration:
A taxpayer has not filed the monthly GSTR-3B for November 2021. Now, the taxpayer tries to file GSTR-1 for December 2021 on 10th January 2022. The system will not allow filing of GSTR-1 for December 2021, and will allow filing of GSTR-1 for December 2021 only after the filing of GSTR-3B for November 2021.

- Taxpayers may kindly ensure timely filing of GSTR-1 and GSTR-3B in consonance with Rule 59 of CGST Rules, 2017 to avoid any inconvenience in this regard.

Thanking You,
Team GSTN

[VIEW ALL](#)

Our comments:

The system will start blocking filing GSTR-1 for taxpayer until GSTR-3B of previous month is filed. To avoid such blocking, taxpayer must file GSTR-3B for previous month before proceeding to file GSTR-1 of subsequent month.

Consequences of late filing of GSTR-1:

- *The taxpayer will be liable to pay late fees for late filing of GSTR-1.*
- *If supplier does not file GSTR-1 then total outward supply will not auto populate in GSTR3B for that month which might lead to deviation between outward supply disclosed in GSTR-3B and GSTR-1.*
- *If there are significant deviation between outward supply disclosed in GSTR-1 and GSTR-3B then departmental action may be initiated against the taxpayer.*
- *If GSTR-1 is not filed by taxpayer, then the transaction will not reflect in GSTR-2A/2B of recipient Goods/Service which would deny credit to recipient. Moreover from 01/01/2022, the recipient is not entitled to any extra ITC then what is appearing in GSTR 2B as Rule 36(4) of CGST Rules, 2017 has been amended.*

To avoid above circumstances, Taxpayer are advised to file GSTR-3B timely to ensure that GSTR-1 for subsequent month is filed on time.



CONNECT WITH US

39A, Jorapukur Square Lane(Behind Girish Park),

Room # 202, Kolkata- 700006, WB, INDIA

T | **033-7960-9924**

E | info@skkassociates.com

W | www.skkassociates.com



Advocate Ankit Kanodia

LLM, LLB, FCA, CS, B.Com(H), CIDT- ICAI

Indirect Tax Litigation & Consultancy

39A, Jorapukur Square Lane(Behind Girish Park),

Room # 205, Kolkata- 700006, WB, INDIA.

T | **098315 43580**

E | ankit@advocateak.com