

GOVERNMENT OF ASSAM
OFFICE OF THE PRINCIPAL COMMISSIONER OF STATE TAX
CUM COMMISSIONER OF TAXES, ASSAM
KAR BHAWAN :: DISPUR, GUWAHATI-6

INSTRUCTION NO. 11/2023-GST

Dated Dispur the 16th December, 2023.

Subject: Action in respect of non-issuance of e-invoices by notified class of taxpayers who are mandatorily required to issue e-invoice as per legal provisions-reg.

No. CT/GST-40/2020/90.—Attention is invited to various notifications issued for setting the annual aggregate turnover limit for mandatory implementation of e-invoicing under sub-rule (4) of Rule 48 of the Assam Goods and Service Tax, Rules, 2017 (hereinafter referred to as "Assam GST Rules") in phased manner. Recently, sixth phase has been introduced, wherein, with effect from 01st August 2023, e-invoicing has been made mandatory for taxpayers having aggregate turnover of more than Rupees Five crore in any financial year from 2017-18 onward. The intent behind e-invoicing is not only to automate tax relevant processes thereby reducing compliance burden on tax payers, but also to ensure better management of taxes and significant reduction of tax evasion and siphoning of public funds by addressing various frauds like carousel fraud, no invoicing or invoicing with no goods supplied, fraudulent export ITC refunds, etc. Accordingly, through the above notifications, steps have been initiated to introduce 'e-invoicing' for reporting of Business to Business (B2B) and export supply transactions, barring certain classes of registered persons which have been exempted from issuing e-invoices.

2. It is also brought to notice that with the insertion of clause (s) in Rule 46 of the Assam GST Rules, the taxpayers (having Annual Aggregate Turn Over of more than the threshold notified (4) of rule 48 of the Assam GST Rules, but have been exempted from the issuance of e-invoices under relevant legal provisions) are required to declare on their invoices that they are not required to issue invoice in the manner specified in sub-rule (4) of rule 48 of the Assam GST Rules. Further, the taxpayers, who have exceeded the prescribed threshold of aggregate turnover but are exempted from issuance of e-invoice, can file the declaration on the recently introduced functionality on the portal to make a self- declaration regarding category under which they are exempted from issuance of e-invoices.
3. However, analysis of key statistics (relating to e-invoice) released for the month of August 2023 shows that there is a huge gap between the number of eligible taxpayers based on their turnover and the number of e-invoices shown generated against these taxpayers indicating less generation or non-generation of e-invoice on their part. This defeats the very intent behind the implementation of e-invoice. Thus, it is imperative that

non-compliance of the above said provisions by the eligible tax payers needs to be examined by the field formations so as to ensure compliance on the part of the said taxpayers and if required, enforce penal provisions against them for continuous non-compliance on their part despite being nudged by the tax authorities.

4. In this regard, a list of such taxpayers as provided by GSTN who are mandatorily required to issue e-invoices through electronic invoicing under sub-rule (4) of rule 48 of the Assam GST Rules, but are not issuing the same have been shared to all Zone/Unit. Accordingly, the field formations are advised to take the following action on the list provided by GSTN:
 - (i) The tax authorities may find the reasons for non-issuance of B2B and export invoices through e-invoicing by such taxpayers. If it is reported by the taxpayers that they have not exceeded the prescribed threshold limit under sub-rule (4) of rule 48 of the Assam GST Rules or are exempted from issuance of e-invoice under relevant legal provisions/notifications, they may be advised to declare their exempted category on the functionality on the portal by using the functionality recently provided by GSTN. If the reasons are not in accordance with the provisions of the Rules and the relevant notifications, the taxpayers may be nudged and advised to immediately start issuing invoices through e-invoicing.
 - (ii) The tax authorities may also inform the taxpayers (who have exceeded annual aggregate turnover and are mandatorily required to issue invoices through e-invoicing) about the provisions of sub-rule (5) of rule 48 of Assam GST Rules providing that any invoice issued by such taxpayers, in the manner other than the manner prescribed under sub-rule (4) of rule 48 of the Assam GST Rules, i.e. other than e-invoicing, shall not be treated as valid invoice. They may also be informed that they will be liable to penalty under clause (e) of sub-section (3) of section 122 of Assam GST Act, in case of their failure to issue invoices through e-invoicing system.
 - (iii) In case of continuous non-compliance of the provisions of rule 48(4) of Assam GST Rules by the taxpayers, who are otherwise required to issue invoices for B2B and export transactions through e-invoicing, appropriate penal action, as mentioned in sub-para (ii) above, may be initiated under the Assam GST Act and Rules made thereunder. To begin with, emphasis should be laid on the taxpayers who have exceeded aggregate turnover of more than Rupees Fifty Crore, as sufficient time has elapsed since e-invoicing has been made mandatory for these taxpayers from April 2021.
 - (iv) Any systemic issues' faced by such taxpayers for of e-invoices, may be brought to the notice of GSTN/NIC for subsequent remedial action.
5. The Zonal Joint Commissioner of State Tax are directed to closely supervise the officers under their Zones to ensure strict compliance of the above provisions of Assam GST Rules by the officers within their Zone.

6. Difficulties, if any, in implementation of these instructions may be informed to the Principal Commissioner of State Tax, Assam.

Sd/=

(Rakesh Agarwala, IAS,)


Principal Commissioner of State Tax, Assam,
Dispur, Guwahati

Memo No. CT/GST-40/2020/90-A

Dated Dispur the 16th December, 2023.

Copy to :

1. The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
2. The Special Commissioner of State Tax (All) / Additional Commissioner of State Tax (All)/ Joint Commissioner of State Tax (All) / Deputy Commissioner of State Tax (All) / Assistant Commissioner of State Tax (All) / Superintendent of State Tax (All) for information and necessary action.
3. The Information Technology Officer, Office of the Principal Commissioner of State Tax, Assam for uploading of the instruction in the website of the Commissionerate for information of all concerned.


Principal Commissioner of State Tax, Assam,
Dispur, Guwahati