

Instruction F. No. CBIC- 20006/15/2023-GST Dated 18th October, 2023

Government of India

Ministry of Finance, Department of Revenue

Central Board Indirect Taxes & Customs

GST Policy Wing

To,

All the Principal Chief Commissioners/Chief Commissioners of Central Tax.

Madam/Sir,

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.

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 Central Goods and Service Tax, Rules, 2017 (hereinafter referred to as "CGST Rules") in phased manner. Recently, sixth phase has been introduced, vide notification No. 10/2023-Central Tax dated 10-05-2023, 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 or 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 CGST Rules, the taxpayers [having Annual Aggregate Turn Over of more than the threshold notified under sub-rule (4) of Rule 48 of the CGST 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 CGST 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 who are mandatorily required to issue e-invoices through electronic invoicing under sub-rule (4) of Rule 48 of the CGST Rules but are not issuing the same will be shared by the GSTN. 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 CGST 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 CGST 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 CGST 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 (c) of sub-section (3) of Section 122 of CGST 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 CGST 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 CGST 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 issuance of e-invoices, may be brought to the notice of GSTN/NIC for subsequent remedial action.

5. The Principal Chief Commissioner/Chief Commissioner of the CGST Zones are requested to closely monitor the status of implementation of e-invoicing provisions by the field officers, within their zones. The officers of the field formations may be suitably advised to implement the above mentioned provisions for ensuring strict adherence to mandatory e-invoicing by the eligible taxpayers.

This issues with the approval of Revenue Secretary.

Sanjay Mangal,

Principal Commissioner (GST).