

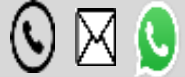


Lawgics

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Serial No. 027
Dt.: 13-02-2023



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Section 29 of CGST Act, 2017

29. Cancellation or suspension of registration.

(1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where—

- (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or
- (b) there is any change in the constitution of the business; or
- (c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of section 25:

Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where—

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
- (b) a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing the said return; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed; or
- (d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
- (e) registration has been obtained by means of fraud, willful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.

(3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

(4) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

(5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

(6) The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.

| Relevant Rule | Subject | Relevant Forms |
|-----------------|--|---------------------------------|
| Rule 20 | Application for cancellation of registration | REG-16 |
| Rule 21 | Registration to be cancelled in certain cases | NIL |
| Rule 21A | Suspension of registration | REG-31 |
| Rule 22 | Suspension of registration | REG-17, REG-18, REG-19, REG-20 |
| Rule 24 | Migration of persons registered under the existing law | REG-6, REG-20, REG-25 to REG-29 |

Our Interpretation

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| Section 29 (1) | <p><u>Cancellation or suspension of Registration</u></p> <p>This section provides that RC can be cancelled by proper officer either on his own or on the application filed by registered person. This application can be filed by legal heirs or authorized signatory in case of death of such registered person.</p> <p>The circumstances of such cancellation are:</p> <ul style="list-style-type: none"> (a) The business has been discontinued, transferred fully for any reason including death of proprietor, amalgamated with other legal entity, demerged or otherwise disposed off; or (b) There is any change in the constitution of business; or (c) The taxable person is no longer liable for registration <p>Proviso to section 29(1) provides that RC may be suspended when RC cancellation application is filed by registered person, till the time procedural formalities for RC cancellation is completed by the proper officer. During this suspension period, the taxpayer is not required to do the normal compliances like filing of normal GST Returns etc.</p> |
| Section 29(2) | <p><u>Cancellation or suspension of Registration by proper officer</u></p> <p>This section empowers the officer to cancel RC from a particular date or even from a retrospective date as well. These are the following situations under which proper officer may cancel the RC:</p> <ul style="list-style-type: none"> (a) A Registered person has contravened the provisions of the Act or the Rules made there under such as Violation of furnishing Bank Accounts details as required by Rule 10A. (b) A person paying tax under composition scheme has not furnished return for three consecutive tax period. (c) Any registered person, other than composition dealers, has not furnished return for a continuous period of six months. (d) Any person who has taken voluntarily registration has not commenced business within six months from the date of registration. (e) Registration has been obtained by means of fraud, wilful misstatement, or suppression of facts <p>The proper officer shall not cancel the registration without giving the person an opportunity of being heard.</p> <p>During pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the RC for such period.</p> |
| Section 29(3) | <p><u>Cancellation doesn't affect liability of such person</u></p> <p>The cancellation under this section shall not affect any of his liability incurred prior to the date of cancellation of RC. The cancellation is not at all a dissolving factor eliminating the liability of a registered taxpayer.</p> |
| Section 29(4) | <p><u>Cancellation under both Acts at Once</u></p> <p>Cancellation under State Act i.e., SGST/UTGST Act means deemed cancellation under Central Act i.e., CGST Act and vice versa.</p> |

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| Section 29(5) | <p><u>Liability to pay tax on stock and capital goods</u></p> <p>Every registered person whose RC is cancelled shall pay by way of debit in electronic credit ledger or cash ledger, equal to the credit of ITC in respect of input held in stock, semi-finished or finished goods or plant & machinery on the day preceding the day of cancellation or the output tax payable on such goods, whichever is higher.</p> <p>However, in case of calculation for such purpose. Usage of goods be reduced by such percentage prescribed under the rules.</p> |
| Section 29(6) | <p><u>Amount payable on cancellation</u></p> <p>The amount payable under section 29(5) shall be calculated in such manner as may be prescribed under the Rules.</p> |
| Rule 20 | <p><u>Application for cancellation of registration</u></p> <p>A registered person, other than a person to whom a registration has been granted under rule 12 or a person to whom a Unique Identity Number has been granted under rule 17, seeking cancellation of his registration under sub-section (1) of section 29 shall electronically submit an application in FORM GST REG-16, including therein the details of inputs held in stock or inputs contained in semi-finished or finished goods held in stock and of capital goods held in stock on the date from which the cancellation of registration is sought, liability thereon, the details of the payment, if any, made against such liability and may furnish, along with the application, relevant documents in support thereof, at the common portal within a period of thirty days of the occurrence of the event warranting the cancellation, either directly or through a Facilitation Centre notified by the Commissioner.</p> |
| Rule 20 | <p><u>Application for cancellation of registration</u></p> <p>A registered person, other than TDS deductor or TCS collector or a person to whom a Unique Identity Number has been granted under rule 17 shall electronically submit an application in REG-16 for cancellation of RC, including therein the details of:</p> <ul style="list-style-type: none"> • inputs held in stock or • inputs contained in semi-finished or • finished goods held in stock and • capital goods held in stock <p>on the date from which the cancellation of registration is sought, and</p> <ul style="list-style-type: none"> • the details of the payment, if any, made against such liability and • along with the application, relevant documents etc., <p>at the common portal within 30 days of the occurrence of the event warranting the cancellation.</p> <p>The summarized view is given as under:</p> <ol style="list-style-type: none"> 1) An application can be filed in REG-16 within 30 days of occurrence of condition warranting cancellation. 2) This application REG-16 in itself contains details of value in Stock, semi-finished & finished Goods and also details of Capital Goods at the time of making application for cancellation of RC. 3) This application in REG-16 needs to be filed electronically and proper officer will verify the contents and pass an order for cancellation of RC in REG-19. |
| Rule 21 | <p><u>Registration to be cancelled in certain cases</u></p> <p>The registration granted to a person is liable to be cancelled, if the said person, -</p> <ol style="list-style-type: none"> (a) does not conduct any business from the declared place of business; or (b) issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder; or (c) violates the provisions of section 171 of the Act or the rules made thereunder. (d) violates the provision of rule 10A. (e) avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or |

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| | <p>(f) furnishes the details of outward supplies in FORM GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or</p> <p>(g) violates the provision of rule 86B.</p> <p>(h) being a registered person required to file return under subsection (1) of section 39 for each month or part thereof, has not furnished returns for a continuous period of six months;</p> <p>(i) being a registered person required to file return under proviso to subsection (1) of section 39 for each quarter or part thereof, has not furnished returns for a continuous period of two tax periods.</p> |
| Rule 21 | <p><u>Registration to be cancelled in certain cases</u></p> <p>The RC is liable to be cancelled for the additional grounds as mentioned below:</p> <p>(a) not conducting any business from the declared place of business</p> <p>(b) issuing invoice or bill without supply of goods or services</p> <p>(c) violating the provisions of Anti-profiteering</p> <p>(d) not furnishing bank account information on GST portal within 45 days of grant of registration or the due date of first GSTR 3B, whichever is earlier</p> <p>(e) availing ITC in violation of the provisions of section 16 of the Act</p> <p>(f) furnishing the details of outward supplies in GSTR-1 for one or more tax periods which is in excess of the outward supplies declared by him in his GSTR-3B for the said tax period</p> <p>(g) violating the provisions of rule 86B which relates to mandatory cash payment of taxes at rate of 1% for taxpayers, whose taxable value of supply (other than exempt supply and zero-rated supply) in a month, is more than Rs. 50 lakhs.</p> <p>(h) not furnishing return in GSTR-3B for a continuous period of six months- for monthly dealers</p> <p>(i) not furnishing return in GSTR-3B for a continuous period of two tax periods- for quarterly dealers</p> |
| Rule 21A | <p><u>Suspension of registration</u></p> <p>(1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.</p> <p>(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.</p> <p>(2A) Where, a comparison of the returns furnished by a registered person under section 39 with</p> <ol style="list-style-type: none"> the details of outward supplies furnished in FORM GSTR-1; or the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1, <p>or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.;</p> <p>(3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2), shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.</p> <p>(3A) A registered person, whose registration has been suspended under sub-rule (2) or sub-rule (2A), shall not be granted any refund under section 54, during the period of suspension of his registration.</p> <p>Explanation. - For the purposes of this sub-rule, the expression “shall not make any taxable supply” shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.</p> |

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| | <p>(4) The suspension of registration under sub-rule (1) or sub-rule (2) shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.</p> <p>Provided that the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.</p> <p>Provided further that where the registration has been suspended under sub-rule (2A) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29 and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns.</p> <p>(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of clause (a) of sub-section (3) of section 31 and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.</p> |
| Rule 21A | <p><u>Suspension of Registration</u></p> <p>Rule 21A was inserted via CGST(Amendment) Act, 2019 and is effective from 01.02.2019 stating as under:</p> <p>(1) In case RC cancellation is applied by the taxpayer, then RC shall be deemed to be suspended from the date from which cancellation is sought or date of submission of application, whichever is later.</p> <p>(2) Suo moto suspension of Registration by the officer during pending the proceeding, where the proper officer has reasons to believe for cancellation of RC of any registered person.</p> <p>(2A) A new sub-rule 2A has been inserted via Notification No. 94/2020-CT dated 22.12.2020 which states that if a proper officer finds any discrepancies:</p> <ul style="list-style-type: none"> • On comparing details of outward supplies furnished under GSTR-1 and GSTR 3B • On comparing details of inward supplies reflecting in the GSTR-2B with the GSTR-3B • Any other analysis <p>He can issue form REG-31 for intimating such discrepancies to the taxpayer. He will also mention that if a proper explanation is not provided on these discrepancies, the registration may get cancelled. He can also suspend the registration as per Rule 21A(2A) with effect from the date of this communication to the taxpayer. Further, the proper officer can lift the suspension on receiving a satisfactory reply from the taxpayer.</p> <p>(3) A registered person, whose RC is suspended, shall not make taxable supply against Tax Invoice, during the period of suspension. Also, he is not required for general compliances of filing the returns such as GSTR-3B during suspension period.</p> <p>(3A) A registered person, whose RC is suspended shall not be granted any refund under section 54, during the period of suspension of his registration.</p> <p>(4) The suspension of registration shall have no effect once the proceedings in respect of cancellation are completed by the proper officer. The suspension of GST registration can be revoked after the completion of GST registration cancellation proceedings. The revocation of suspension of GST registration will be effective from the date the suspension has come into effect.</p> |
| Rule 22 | <p><u>Cancellation of registration</u></p> <p>(1) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29, he shall issue a notice to such person in FORM GST REG-17, requiring him to show cause, within a period of seven working days from the date of the service of such notice, as to why his registration shall not be cancelled.</p> <p>(2) The reply to the show cause notice issued under sub-rule (1) shall be furnished in FORM REG-18 within the period specified in the said sub-rule.</p> <p>(3) Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order in FORM GST REG-19, within a period of thirty days from the date of application submitted under rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule</p> |

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| | <p>(1) or under sub-rule (2A) of rule 21A, cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section (5) of section 29.</p> <p>(4) Where the reply furnished under sub-rule (2) or in response to the notice issued under sub-rule (2A) of rule 21A is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in FORM GST REG-20: Provided that where the person instead of replying to the notice served under sub-rule (1) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29, furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in FORM GST-REG- 20.</p> <p>(5) The provisions of sub-rule (3) shall, mutatis mutandis, apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself.</p> |
| Rule 22 | <p><u>Procedure of RC cancellation by officer</u></p> <p>The summarized view is given as under:</p> <p>(1) The proper officer shall issue a notice in REG-17, requiring to show cause as to why the registration shall not be cancelled within a period of 7 working days from the date of the service of such notice.</p> <p>(2) The reply to the SCN shall be furnished in REG-18 within 7 working days from the date of the service of such notice.</p> <p>(3) If officer is satisfied then, he shall pass an order in REG-19 within 30 days of reply to the SCN. The proper officer shall determine the date of cancellation of RC and may direct the person to clear the pending dues, if any.</p> <p>(4) Also, proper officer is obliged to pass an order in REG-20 for dropping of proceeding initiated for RC cancellation.</p> <p>Proviso to Rule 22(4) added vide Notification No. 39/2019-CT dated 04.09.2018 stating that in case a registered person instead of reply to notice but furnish all the pending due returns and makes full payment of tax, interest or late fee as applicable, then proper officer is required to drop the cancellation proceeding in REG-20.</p> <p>However, if proper officer, does not find the reason as prudent and logical, then would pass an order confirming disapproval and cancel the RC in REG-19.</p> |

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