

### **3.2 Cancellation of Registration**

#### **Q 53. Whether Cancellation of Registration Certificate is permissible?**

Ans. Yes. Section 29 of the CGST Act, read with rule 20 of the CGST Rules provides that a taxpayer can apply for cancellation of registration in FORM GST REG-16 in the following circumstances: • Discontinuance of business or closure of business; • Transfer of business on account of amalgamation, merger, de-merger, sale, lease or otherwise; • Change in constitution of business leading to change in PAN; • Taxable person (including those who have taken voluntary registration) is no longer liable to be registered under GST; • Death of sole proprietor; • Any other reason (to be specified in the application) Application in FORM GST REG-16 has to be submitted within a period of 30 days of the “occurrence of the event warranting the cancellation”.

#### **Q 54. What if the period of 30 days of the occurrence of the event warranting the cancellation is over?**

Ans. CBIC vide Circular No. 69/43/2018-GST dated 26th October, 2018 has advised that the 30-day deadline may be liberally interpreted and the taxpayers' application for cancellation of registration may not be rejected because of the possible violation of the deadline as it may be difficult to pinpoint the date on which event occurs in all cases. Q 55. Whether cancellation of Registration under CGST Act means cancellation under SGST Act also? Ans. Yes, the cancellation of registration under one Act (say SGST Act) shall be deemed to be a cancellation of registration under the other Act (i.e. CGST Act). (Section 29 (4)) Q 56. Whether cancellation of registration has any impact on the liabilities of the taxpayers? Ans. The cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation. As per section 29(3) of the CGST Act, the cancellation of registration shall not affect the liability of the person to pay tax and other dues 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.

#### **Q 57. What are the obligation of a registered person applying for cancellation?**

Ans. As per Section 29(5) of the CGST Act, read with rule 20 of the CGST Rules, the taxpayer seeking cancellation of registration shall have to pay, by way of debiting either the electronic credit or cash ledger, the input tax contained in the stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable on such goods, whichever is higher. As per section 45 of the CGST Act, every registered person whose registration is cancelled needs to file a final return in GSTR-10 within three months of cancellation.

The requirement to debit the electronic credit and/or cash ledger by suitable amounts should not be a prerequisite for applying for cancellation of registration. This can also be done at the time of submission of final return in FORM GSTR-10.

**Q 58. Can the proper Officer Cancel the Registration on his own?**

Ans. Yes, in certain circumstances specified under section 29(2) of the CGST/SGST Act, the proper officer can cancel the registration on his own. Such circumstances include contravention of any of the prescribed provisions of the CGST Act or the rules made there under, not filing return by a composition dealer for three consecutive tax periods or non-furnishing of returns by a regular taxpayer for a continuous period of six months, and not commencing business within six months from the date of voluntary registration. However, before cancelling the registration, the proper officer has to follow the principles of natural justice. (Proviso to Section 29(2))

**Q 59. What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts?**

Ans. In such cases, the registration may be cancelled with retrospective effect by the proper officer. (Section 29(2) (e))

**Q 60. What is suspension of registration?**

Ans. Section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for "Suspension" of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. (This would be brought into force from the date law amendment is notified)

**Q 61. Can cancellation of registration order be revoked?**

Ans. Yes, but only in cases where the initial cancellation has been done by the proper officer suo moto, and not on the request of the taxable person or his legal heirs. A person whose registration has been cancelled suo moto can apply to the proper officer for revocation of cancellation of registration within 30 days from the date of communication of the cancellation order. The proper officer may within a period of 30 days from the date of receipt of application for revocation of cancellation or receipt of information/clarification, either revoke the cancellation or reject the application for revocation of cancellation of registration.

Such application has to be filed electronically in FORM GST REG 21. But there is a rider also. No application for revocation shall be filed if the registration has been cancelled for the failure of the taxable person to furnish returns, unless such returns are filed and any amount due as tax, in terms of such returns has been paid along with any amount payable towards interest, penalties and late fee payable in respect of the said returns.

**Q 62. Can a person who has been migrated provisionally to the GST apply for cancellation of provisional registration on the ground that he is not liable to be registered under GST?**

Ans. Yes. Every person registered under any of the existing laws, who is not liable to be registered under the Act may, on or before the appointed day, at his option, submit an application electronically in FORM GST REG-29 at the Common Portal for cancellation of the registration granted to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said registration.