

Summary of the Notifications giving effect to the recommendations of the 47th GST Council Meeting

In continuation of recommendations made in 47th GST Council meeting at Chandigarh, CBIC came out with slew of notifications implementing the recommendation.

We provide a brief of some important recommendations as below:

Amendment to Return in Form GSTR-3B

Amendment relating to details to be filled in by E-Commerce operators (ECO)

New Table 3.1.1 has been inserted in to GSTR-3B wherein, ECO needs to fill in the details of supplies on which ECOs have paid the taxes. It has also been provided that, ECO need not report such supplies in Table 3.1(a) of GSTR-3B.

Amendment relating to details to be filled in suppliers supplying through ECO

New Table 3.1.1 has been inserted in to GSTR-3B wherein registered suppliers supplying goods through ECO needs to fill in the details of supplies on which ECOs have paid the taxes. It has also been provided that such suppliers need not report such supplies in Table 3.1(a) of GSTR-3B.

Amendment to ITC related table

Reversal of ITC in Table 4(B)(1):

Hitherto, the reversals under Rule 42 and 43 alone are required to be incorporated in this table. Now this table has been amended to provide that reversals on following account needs to be incorporated:

- Rule 38 i.e., Banking / FIs /NBFC's.
- Rule 42 and 43 i.e., reversal of account of exempted and taxable supplies etc.
- Section 17(5) of CGST Act, 2017 i.e., blocked credit.

A question arises whether it is mandatory for a person to first avail the blocked credit and then reversed it. If the blocked credit is not availed at the first instance, question of reversal should not arise.

Changes to Table 4D:

Caption of Table 4D has been changed from "Ineligible Credits" to "Other Details". Table 4D is for information purpose and does not impact the electronic credit ledger. Previous entries have been deleted and new entries have been incorporated as follows:

- Details of ITC reclaimed which was earlier reversed as reflected in Table 4(B)(2) as "Others",
- Details of ineligible ITC under Section 16(4) of CGST Act, 2017 i.e., ITC in relation to input invoices of previous FY which was not availed till September / November GSTR-3B return,
- Details of ineligible ITC not available due to place of supply provisions.

It is expected that these figures would be auto populated from GSTR-2B.

(Reference: Notification No. 14/2022- Central Tax Dated 05.07.2022)

Annual Return in Form GSTR-9 for FY 2021-22

As per the past practice, requisite clarifications have been issued for mandatory and optional fields in GSTR-9.

(Reference: Notification No. 14/2022- Central Tax Dated 05.07.2022)

Relaxation in GSTR-9 for FY 2021-22

Continuing with the past practice, the registered persons having aggregate turnover up to Rs. 2 Crores are exempted from filing annual return in Form GSTR-9 for FY 2021-22.

(Reference: Notification No. 10/2022- Central Tax Dated 05.07.2022)

Exclusion of COVID-19 related period from adjudication and refund filing

Supreme Court had in the past taken Suo-motto cognizance of COVID-19 conditions granted a blanket exclusion of time period for various compliances to be undertaken under different statutes. The CBIC has issued a notification excluding timelines as follows:

- Issuance of order by adjudicating authorities in relation to recovery of tax not paid or short paid or ITC wrongly availed or utilized: Hitherto an adjudicating authority was required to issue an adjudicating order within 3 years from due date of filing of relevant annual return. Now such for tax period of FY 2017-18, the said timeline has been extended to 30.09.2023,
- Issuance of order by adjudicating authorities in relation to recovery of erroneous refund: Hitherto an adjudicating authority was required to issue an adjudicating order within 3 years from grant of erroneous refund. Now the time period of 01.03.2020 to 28.02.2022 has been excluded while determining the said timeline of 3 years,
- Extension of limitation for filing refund claim including that by UNO etc.: Hitherto a refund claim under Section 54 of CGST Act, 2017 could be filed within 2 years from relevant date. Now the time period of 01.03.2020 to 28.02.2022 has been excluded while determining the said limitation of 2 years,

It is interesting to note that CBIC has earlier issued a Circular clarifying that refunds are not covered under the Supreme Court order extending the timelines. Basis the circulars several adjudicating / appellate authorities have rejected the refund claims / appeals. Benefit of this notification for such assessee needs to be examined.

Above notification is effective from 01.03.2020.

(Reference: Notification No. 13/2022- Central Tax Dated 05.07.2022)

Registration revocation eased in specified cases

CGST Rules, 2017 provides for suspension of registration if:

- Composition dealer does not file return for FY within 3 months of due date;
- Other than composition dealer does not file the return for prescribed period of time.

CGST Rules, 2017 have been amended to provide for automatic revocation of such a suspension if:

- The person files all the pending returns,
- The registration has not been cancelled by the proper officer.

(Reference: Notification No. 14/2022- Central Tax Dated 05.07.2022)

Non reversal of ITC in case of supply of scrips

- CGST Rules, 2017 have been amended to provide for non-reversal of proportionate credit under Rule 43 and 44 in case of supply of duty scrips by a registered person. Scrips are exempted from GST.

(Reference: Notification No. 14/2022- Central Tax Dated 05.07.2022)

Declaration on Tax- Invoice in specified cases

- E-invoice is not applicable on GTA, SEZ unit, Banks, FIs, NBFCs, Passenger Transportation services, Theatres and Multiplexes. CGST Rules, 2017 have been amended to provide for mandatory placing of below mentioned declaration on tax invoice by these suppliers even though their turnover exceeds the prescribed threshold:

"I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule"

(Reference: Notification No. 14/2022- Central Tax Dated 05.07.2022)

Expansion of mode of payment to electronic cash ledger

In line with GST council recommendation, CGST Rules 2017 have been amended to provide for payment to electronic cash ledger through following modes:

- UPI, and
- IMPS.

(Reference: Notification No. 14/2022- Central Tax Dated 05.07.2022)

Transfer of balance in Electronic Cash Ledger between GSTINs under same PAN

- CGST Rules, 2017 have been amended to provide for transfer of any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the CGST Act, 2017 to the electronic cash ledger for CGST or IGST between GSTINs under same PAN. However, no such transfer would be allowed if such a registered person has any unpaid liability in electronic liability ledger;
- It is interesting to see whether cross transfer from CGST to IGST and vice-versa would be allowed or intra-head (i.e. CGST to CGST and IGST to IGST) would only be allowed.

(Reference: Notification No. 14/2022- Central Tax Dated 05.07.2022)

Prescribing procedure for calculation of interest under Section 50

CGST Rules, 2017 have been amended to provide for following:

Scenario	Interest Calculation
1. Where the supplies made during a tax period are declared by the registered person in the GSTR-3B for the said period and the said GSTR-3B is furnished after the due date in accordance with provisions of section 39; and 2. Such a return has not been furnished pursuant to notice issued under Section 73 or 74	• Interest would be calculated on the portion of tax paid through cash ledger, • Interest would be calculated for the period for which GSTR-3B has been filed late
Cases other than above	• Interest would be calculated on the unpaid tax, • Interest would be calculated for the period during which the tax has been remained unpaid
Interest on ITC wrongly availed and utilized	• Interest would be calculated on the ITC wrongly utilized, • Interest would be calculated from the period when the balance in electronic credit ledger falls below the wrongly availed ITC.
How would the date of utilization of wrong ITC be ascertained in case when the tax is paid through GSTR-3B?	It would be earlier of: • Due date of GSTR-3B filing; or • Actual filing of GSTR-3B If the electronic credit ledger balance falls below the wrongly availed ITC when tax is paid

	through GSTR-3B.
How would the date of utilization of wrong ITC be ascertained in other cases, such as through DRC-03?	It would be date of debit in the electronic credit ledger when balance in the electronic credit ledger falls below the wrongly availed ITC.

(Reference: Notification No. 14/2022- Central Tax Dated 05.07.2022)

Refund Related Changes

Recredit in case of wrongly sanctioned refund

CGST Rules, 201 have been amended to provide for recredit of electronic credit ledger when the claimant was sanctioned an incorrect refund claim in following cases:

- ITC refund in case of zero-rated supplies and Inverted Tax Structure,
- ITC refund sanctioned to claimant wherein the claimant has made supplies at concessional rate of 0.05%/0.1% or claimant has taken benefit of IGST exemption on imports under EOU, Advance authorization scheme.

The claimant would need to first pay back the refund granted through DRC-03 on his own or being pointed by the authorities. The adjudicating authorities would pass an order in Form GST PMT-03A and recredit the electronic credit ledger.

Invoice Endorsement for refund in case of supplies to SEZ units / developers

- CGST Rules, 2017 have been amended to provide the endorsement can be done either by specified officer or authorised officer as provided under Rule 2 of Special Economic Zone Rules, 2006.

Special procedure prescribed for seeking refund of ITC on export of electricity

CGST Rules, 2017 have been amended to provide for submission of following documents in case of refund of ITC in case of export of electricity:

- A statement containing the number and date of the export invoices,
- Details of energy exported tariff per unit for export of electricity as per agreement;
- Copy of statement of scheduled energy for exported electricity by Generation Plants issued by the Regional Power Committee Secretariat as a part of the Regional Energy Account (REA) under clause (nnn) of sub-regulation 1 of Regulation 2 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010; and
- The copy of agreement detailing the tariff per unit.

Statement 3B has been prescribed to be filed on GSTN portal in this respect.

Value of export turnover of goods in case of refund of accumulated ITC

As per the CAG recommendation, CGST Rules, 2017 have been amended to provide that the export turnover of goods would be lower of:

- FOB value declared in the Shipping Bill or Bill of Export form, as the case maybe, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or
- The value declared in tax invoice or bill of supply.

Amendment to formulae for calculation of refund due to inverted tax structure

In the past, Apex Court held that the refund of ITC on account of inputs only would be allowed for inverted tax structure. Thus, to implement the judgment and give relief to claimant the formulae has been amended to following:

Earlier the formula was:

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.

Formulae post Amendment:

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC Adjusted Total Turnover} – {tax payable on such inverted rated supply of goods and services x (Net ITC ITC availed on inputs and input services)}

Abolition of Special procedure for refund to Duty Free Shops for supplies to Tourist

CGST Rules, 2017 have been amended to delete Rule 95A providing for procedure to be followed by duty free shops for claiming refund of taxes paid on inward supplies when such goods are supplied to outbound international tourist. Now the such outlets would file refund as per normal exporters.

Rule 95A would be deemed to have been deleted w.e.f. 01.07.2019.

Refund of IGST paid on export of goods

With retrospective effect from 01.07.2017, CGST Rules, 2017 have been amended to provide for deemed date of filing of refund claim application in case of difference in date between GSTR-1 and that on ICEGATE in shipping bill. The rule has been amended to provide that the refund claim application (i.e. shipping bill) would be deemed to have been filed when such a difference has been rectified.

Expansion of cases for withholding of refund claims of IGST paid on export of goods

With retrospective effect from 01.07.2017, CGST Rules, 2017 have been amended to expand the case where the refund claim can be withheld. The refund can be withheld the CBIC Commissioner or his authorised officer, on the basis of data analysis and risk parameters, is of the opinion that verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund, in order to safeguard the interest of revenue.

Here formulation of opinion i.e., reason to believe, is an important factor before withholding of refund claim.

Automatic intimation / transfer of withheld refund cases of IGST paid on export of goods

Where refund is withheld:

- On request of jurisdictional commissioner; or
- By CBIC Commissioner or his authorised officer, on the basis of data analysis and risk parameters

Such a claim would be transmitted to jurisdictional authority online through FORM RFD-01 with an intimation of exporter.

It has also been provided that, date of such a transmission through FORM RFD-01 to jurisdictional authority would be treated as the date when the refund claim has been filed.

Similarly in case of withholding of refund claim due to violation of any provision of the Customs Act, 1962, such a claim would be transmitted jurisdictional authority online through FORM RFD-01 with an intimation of exporter. It has also been provided that, date of such a transmission through FORM RFD-01 to jurisdictional authority would be treated as the date when the refund claim has been filed.

It is interesting to see the veracity of such deemed date for filing of refund claim when the refund claims as per Section 54 of CGST Act, 2017 had already been filed by the claimant.

Extension of due date for filing CMP-08 for period April to June 2022

The timeline has been extended from 18.07.2022 to 31.07.2022.

(Reference: Notification No. 11/2022- Central Tax Dated 05.07.2022)

Late fee waiver for GSTR-4 for FY 2021-22

The late filing fee has been waived if the return is filed between 01.05.2022 to 28.07.2022.

(Reference: Notification No. 12/2022- Central Tax Dated 05.07.2022)