



GST KEY UPDATES DECEMBER, 2022

HRD 007/ 22-23

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KEY POINTS

- **PAN-linked mobile number and e-mail address** (fetched from CBDT database) to be captured and recorded in FORM GST REG-01 and **OTP-based verification to be conducted** at the time of registration **on such PAN-linked mobile number and email address** to restrict misuse of PAN of a person by unscrupulous elements without knowledge of the said PAN-holder.
- To conduct a pilot test in **State of Gujarat** for Biometric-based Aadhaar authentication and risk-based physical verification of registration applicants. Amendment in rule 8 and rule 9 of CGST Rules, 2017 to be made to facilitate the same. This will help in tackling the menace of fake and fraudulent registrations.
- Procedure for verification of input tax credit in cases involving difference in input tax credit availed in FORM GSTR-3B vis a vis that available as per FORM GSTR-2A during FY 2017-18 and 2018-19.
- Clarifying the manner of re-determination of demand in terms of sub-section (2) of section 75 of CGST Act, 2017.
- The exemption from **e-invoicing is with respect to the entity** and not with respect to the nature of supply/transaction.
- FORM GSTR-1 to provide for reporting of details of supplies made through ECOs, covered under section 52 and section 9(5) of CGST Act, 2017, by the supplier and reporting by the ECO in respect of supplies made under section 9(5) of CGST Act, 2017.
- SUV Cars with engine displacements greater than 1500 cc, overall lengths greater than 4000 mm, and ground clearances greater than 170 mm **proposed to have an effective tax rate of 50%**, comprising a **GST of 28% and a cess of 22%**.



SIGNIFICANT NOTIFICATIONS

Notification No.	Key Update				
<p>25/2022 Central Tax Dt. 13-12-2022</p>	<p>➤ <u>Selective extension of due date of GSTR-1 in few districts of Tamil Nadu.</u></p> <ul style="list-style-type: none">• The time limit for furnishing the details of outward supplies in FORM GSTR-1 for the tax period November, 2022, for the registered persons required to furnish return under sub-section (1) of section 39 of the said Act whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu, Kancheepuram, Tiruvannamalai, Ranipet, Vellore, Villupuram, Cuddalore, Thiruvarur, Nagapattinam, Mayiladuthurai and Thanjavur in the State of Tamil Nadu, shall be extended till the thirteenth day of the month succeeding the said tax period.				
<p>26/2022 Central Tax Dt. 26-12-2022</p>	<p>➤ <u>The Central Government makes the following amendments to the CGST Rules, 2017 and they may be called 'CGST (Fifth Amendment) Rules, 2022.</u></p> <ul style="list-style-type: none">• In the CGST Tax Rules, 2017, in Rule 8.(Application for registration). The Permanent Account Number(PAN) shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes. Authorised signatory filing the application shall provide his mobile number and email address. The words, "E-mail Id and Mobile Number shall be auto-populated from Income Tax database as linked with the Permanent Account Number of the applicant." <table border="1" data-bbox="467 1310 1451 1472"><thead><tr><th data-bbox="467 1310 959 1352">As per old</th><th data-bbox="959 1310 1451 1352">As per new</th></tr></thead><tbody><tr><td data-bbox="467 1352 959 1472">OTP shall be sent to mobile number and E-mail Address registered with GST Portal.</td><td data-bbox="959 1352 1451 1472">OTP shall be sent to mobile number and E - mail address linked to PAN.</td></tr></tbody></table> <ul style="list-style-type: none">• In the CGST Tax Rules, 2017, in Rule 9. Verification of the application and approval. Application for Registration will be approved only after physical verification of the premises even after Biometric-based Aadhar authentication if the said person is identified on the common portal based on data analysis and risk parameters, for carrying out physical verification of places of business.	As per old	As per new	OTP shall be sent to mobile number and E-mail Address registered with GST Portal .	OTP shall be sent to mobile number and E - mail address linked to PAN .
As per old	As per new				
OTP shall be sent to mobile number and E-mail Address registered with GST Portal .	OTP shall be sent to mobile number and E - mail address linked to PAN .				

- **Application for Registration under GST is complete only when Aadhar Authentication is completed.**
- **In the CGST Tax Rules, 2017, in Rule 37. Reversal of input tax credit in the case of non-payment of consideration.(w.e.f. 1st October 2022)**

A registered person, who has availed of ITC on any inward supply of goods or services or both, other than the supplies on which tax is payable on RCM basis, but fails to pay to the supplier thereof, the amount towards the value of such supply **whether wholly or partly** along with the tax payable thereon, within the time limit **shall pay or reverse** an amount equal to the ITC availed in respect of such supply **proportionate to the amount not paid to the supplier** along with interest payable thereon under section 50, while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of 180 days from the date of the issue of the invoice.

Illustration: ABC Pvt Ltd receive invoice of 118000 (including 18000 GST) for services and avail the ITC of 18000, however ABC Pvt Ltd have paid only 59000 for the services and balance 59000 are still due even after 180 days. Thus, according to the above amendment now ITC of only 9000 need to be reversed.

Earlier as per the rules 37 complete ITC avail (i.e., 18000) need to be reversed, however after above amendment only proportionate amount of ITC need to be reversed.

- **Rule 37A inserted-Reversal of input tax credit in case of non-payment of tax by the supplier and reavailability thereof.**

Sec 16(2)(c) provide the condition to avail the ITC, subject to the provisions of section 41 the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply.

As per old	As per new
Only matching of Purchase Register with GSTR 2B is required.	Only matching of Purchase Register with GSTR 2B is required.
Corresponding furnished GSTR 3B is not required to be verified by the recipient.	Verification of furnishing of GSTR 3B by Corresponding Supplier maximum by 30th September following the end of the FY in which the ITC in respect of Invoice or Debit Note has been availed is required .

- **Consequence of non - furnishing of GSTR 3B by Corresponding Supplier.**

Where GSTR 3B pertaining to ITC in respect of Invoice or Debit Note has not been furnished by the Corresponding Supplier till the **30th day of September following the end of the FY** in which the ITC in respect of Invoice or Debit Note has been availed.

The said amount of ITC shall be **reversed** by the said registered person, while furnishing a return in Form GSTR 3B **on or before the 30th day of November following the end of such FY** .

Proviso 1:

Where the said amount of ITC is **not reversed** by the registered person in a return in Form GSTR 3B **on or before the 30th day of November** following the end of such FY during which such ITC has been availed, **such amount shall be payable by the said person with interest thereon under section 50.**

Proviso 2:

Where the said supplier subsequently furnishes the return in Form GSTR 3B for the said tax period, the said registered person may **re - avail** the amount of such credit in the return in Form GSTR 3B for a tax period thereafter.

- **In Rule 46(f)- Tax invoice, Debit Notes and Credit Notes.**
 - a. Where any taxable service is supplied by or through an electronic commerce operator or by a supplier of OIDAR services **to a recipient who is un-registered, irrespective of the value of such supply**, a tax invoice shall be issued by registered person should **contain the name and address of the recipient along with its PIN code** and the name of the State and the said address shall be deemed to be the address on record of the recipient.

Earlier the name and address of the recipient was required to be mentioned in the tax invoice in case the value of taxable supply is less than Rs. 50,000/- only if the recipient requests for the same.

- **Rule 46A proviso inserted:**

The said single “invoice cum bill of supply” shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49.

- **In Rule 87(8) Electronic Cash Ledger following proviso inserted namely:**

Where the bank fails to communicate details of Challan Identification Number to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e – Scroll of the Reserve Bank of India in cases where the details of the said e – Scroll are in conformity with the details in challan generated in **Form GST PMT – 06** on the Common Portal.

- **In Rule 59(6)(c)- Form and manner of furnishing details of outward supplies the following proviso shall be inserted, namely:**

- a. A registered person, to whom the intimation has been issued on the common portal under the provisions of Rule 88C(1) in respect of a tax period, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in Form GSTR 1 or using IFF for a subsequent tax period:
- b. unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of rule 88C(2).

- **Rule 88C-Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return shall be inserted:**

1. **When this rule applies?**

Tax payable as per GSTR 1 is **greater than** Tax payable as per GSTR 3B by such amount and such percentage, as may be recommended by the Council.

Provision

The said registered person shall be intimated of such difference in **Part A of Form GST DRC – 01B**, electronically on the common portal and a copy of such intimation shall also be sent to his E-mail address provided on the GST portal, highlighting the said difference and directing him to –

- a. Pay the differential tax liability, along with interest under section 50, through Form GST DRC – 03; or b. explain the aforesaid difference in tax payable on the common portal, within a period of seven days.
- b. Explain the aforesaid difference in tax payable on the common portal within a period of seven days.

2. Steps to be undertaken by the Registered Person to whom intimation is sent

The Registered Person shall upon receipt of the intimation referred above, either –

- a. Pay the amount of differential tax liability, as specified in Part A of Form GST DRC – 01B, fully or partially, along with interest under section 50, through Form GST DRC – 03 and furnish the details thereof in Part B of Form GST DRC – 01B electronically on the common portal; or
- b. Furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, in Part B of Form GST DRC – 01B within a period of seven days

3. Consequence of non – payment or non – furnishing of reply or reason furnished by the Registered Person to whom the intimation is sent is not acceptable.

- a. Where the amount specified in the intimation remains unpaid within the period of seven days and
- b. where no explanation or reason is furnished by the registered person in default or
- c. where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79 (Recovery of Tax).

- **In rule 89- Application for refund of tax, interest, penalty, fees or any other amount, in sub-rule (2)-** the following clauses shall be inserted, namely:

I. After clause (k), the following clauses shall be inserted, namely:-

“(ka) a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated;

(kb) a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated.

II. In clause (m), after the proviso, the following proviso shall be inserted, namely:-

As per old	As per new
<p>A Certificate in Annexure 2 of FORM GST RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:</p> <p>Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of subsection (8) of section 54.</p>	<p>A Certificate in Annexure 2 of FORM GST RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:</p> <p>Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of subsection (8) of section 54.</p> <p>Provided further that a certificate is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax.”</p>

• In rule 108 (Appeal to the Appellate Authority) for sub-rule (3), the following sub-rule shall be substituted, namely:

As per old	As per new
<p>A certified copy of the decision or order appealed against shall be submitted within seven days of filing the appeal under sub-rule (1) and a final acknowledgement, indicating appeal number shall be</p>	<p>Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the</p>

<p>issued thereafter in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf:</p> <p>Provided that where the certified copy of the decision or order is submitted within seven days from the date of filing the FORM GST APL-01 , the date of filing of the appeal shall be the date of the issue of the provisional acknowledgement and where the said copy is submitted after seven days, the date of filing of the appeal shall be the date of the submission of such copy.</p>	<p>Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.</p> <p>Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-01 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.</p> <p>Provided further that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.”</p>
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- **In rule 109 (Application to the Appellate Authority the following sub-rule shall be substituted, namely:**

As per old	As per new
<p>(1) An application to the Appellate Authority under sub-section (2) of section 107 shall be made in FORM GST APL-03 , along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner.</p> <p>(2) A certified copy of the decision or order appealed against shall be</p>	<p>(1) An application to the Appellate Authority under subsection (2) of section 107 shall be filed in FORM GST APL-03, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner and provisional acknowledgment shall be issued to the appellant immediately.</p>

submitted within seven days of the filing the application under sub-rule (1) and an appeal number shall be generated by the Appellate Authority or an officer authorised by him in this behalf.

(2) Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in **FORM GST APL-02** by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal under sub-rule (1):

Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of **FORM GST APL-03** and a final acknowledgment, indicating appeal number, shall be issued in **FORM GST APL-02** by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.

Provided further that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of **FORM GST APL-03**, the date of submission of such copy shall be considered as the date of filing of appeal.

- **After rule 109B, the following rule shall be inserted, namely:**

Rule 109C (Withdrawal of Appeal)

The appellant may, at any time before issuance of show cause notice under sub-section (11) of section 107 or before issuance of the order under the said sub-section, whichever is earlier, in respect of any appeal filed in **FORM GST APL-01** or **FORM GST APL-03**, file an application for

withdrawal of the said appeal by filing an application in **FORM GST APL-01/03W**:

Provided that where the final acknowledgment in **FORM GST APL-02** has been issued, the withdrawal of the said appeal would be subject to the approval of the appellate authority and such application for withdrawal of the appeal shall be decided by the appellate authority within seven days of filing of such application:

Provided further that any fresh appeal filed by the appellant pursuant to such withdrawal shall be filed within the time limit specified in sub-section (1) or sub-section (2) of section 107, as the case may be.”

• **For Table 7 following table shall be substituted:**

Rate of tax	Total Taxable value	Amount			
		Integrated Tax	Central Tax	State Tax/UT Tax	Cess
1	2	3	4	5	6
7A. Intra-State supplies					
Consolidated rate wise outward supplies [including supplies made through e-commerce operator attracting TCS]					
7B. Inter-State Supplies where invoice value is upto Rs 2.5 Lakh [Rate wise]–Consolidated rate wise outward supplies [including supplies made through e-commerce operator attracting TCS]					
Place of Supply (Name of State)					

• **Table 9**

- a. In the heading, for the words and letters “debit notes, credit notes, refund vouchers”, the words, “debit and credit notes” shall be substituted.
- b. For the words and letter, “Revised details of document or details of original Debit or Credit Notes or refund vouchers”, the words and letter, “Revised details of document or details of original Debit or Credit Notes” shall be substituted.
- c. In the sub-heading, in column no. 2 and 3, the word, “Inv.” shall be omitted.
- d. In the sub-heading, in column no. 5 and 6, for the word, “Invoice”, the word “Document” shall be substituted.

- **Table 9A**

For the words, “If the invoice/Shipping bill details furnished earlier were incorrect”, the words, “Amendment of invoice/Shipping bill details furnished earlier” shall be substituted.

- **Table 9B**

the words, “/Refund voucher” shall be omitted.

- **Table 9C**

For the words and brackets, “Debit Notes/Credit Notes/Refund voucher [amendments thereof]”, the words and brackets, “Debit Notes/Credit Notes [Amended]” shall be substituted.

- **Table 10**

For the word, “Month”, the words, “Month/Quarter” shall be substituted.

- **Table 10A (1)** and entries relating thereto shall be omitted;

- **Table 10B (1)** and entries relating thereto shall be omitted;

- **Table 11**

In the heading, after the words, “earlier tax period”, the brackets and words, “(Net of refund vouchers, if any)” shall be inserted.

- **Table 12**

In the sub-heading, in column no. 3, the brackets and words, “(Optional if HSN is provided)” shall be omitted.

- After Table 13 and before Verification, the following tables shall be inserted, namely:-

Addition of Table 14 and Table 15 in GSTR-1.

- **Table 14**

Details of the supplies made through e-commerce operators on which e-commerce operators are liable to collect tax under section 52 of the Act or liable to pay tax u/s 9(5) **[Supplier to report]**

Nature of supply	GSTIN of e-commerce operator	Net value of supplies	Tax amount			
			Integrated tax	Central tax	State / UT tax	Cess
1	2	3	4	5	6	7
(a) Supplies on which e-commerce operator is liable to collect tax u/s 52						
(b) Supplies on which e-commerce operator is liable to pay tax u/s 9(5)						

• **Table 14A**

Amendment to details of the supplies made through e-commerce operators on which e-commerce operators are liable to collect tax under section 52 of the Act or liable to pay tax u/s 9(5) **[Supplier to report]**

Nature of supply	Original details		Revised details	Net value of supplies	Tax amount							
	Month / Quarter	GSTIN of e-commerce operator	GSTIN of e-commerce operator		Integrated tax	Central tax	State / UT tax	Cess				
									1	2	3	4
(a) Supplies on which e-commerce operator is liable to collect tax u/s 52												
(b) Supplies on which e-commerce operator is liable to pay tax u/s 9(5)												

• **Table 15**

Details of the supplies made through e-commerce operators on which e-commerce operator is liable to pay tax u/s 9(5) **[e-commerce operator to report]**

Type of supplier	Type of recipient	GSTIN of supplier	GSTIN of recipient	Document no.	Document date	Rate	Value of supplies made	Tax amount				Place of supply
								Integrated tax	Central tax	State / UT tax	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13
Registered	Registered											
	Unregistered											
Unregistered	Registered											
	Unregistered											

• **Table-15A(I)**

Amendment to details of the supplies made through e-commerce operators on which e-commerce operator is liable to pay tax u/s 9(5) **[e-commerce operator to report, for registered recipients]**

Type of supplier	Original details				Revised details				Rate	Value of supplies made	Tax amount				Place of supply	
	GSTIN of supplier	GSTIN of recipient	Doc. no.	Doc. date	GSTIN of supplier	GSTIN of recipient	Doc. no.	Doc. date			Integrated tax	Central tax	State / UT tax	Cess		
																1
Registered																
Unregistered																

- **Table-15A(II)**

Amendment to details of the supplies made through e-commerce operators on which e-commerce operator is liable to pay tax u/s 9(5) [**e-commerce operator to report, for unregistered recipients**]

Type of supplier	Original details		Revised details	Rate	Value of supplies made	Tax amount				Place of supply
	GSTIN of supplier	Tax period	GSTIN of supplier			Integrated tax	Central tax	State / UT tax	Cess	
						7	8	9	10	
1	2	3	4	5	6	7	8	9	10	11
Registered										
Unregistered										

- **In FORM GST RFD-01, in Annexure 1, after Statement-7, the following statement shall be inserted, namely:**

Sl. No.	GS TIN of supplier	Document/Invoice Details				Tax Paid				Details of payment of invoice value to the supplier		Details of payment received against cancellation/ termination		Refund Amount Claimed (I+C+S+Cess)
		Type of document	No.	Date	Taxable Value	Integrated Tax (I)	Central Tax (C)	State/ UT Tax (S)	Cess	Date	Amount	Date	Amount	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

- **In FORM GST APL-02, in the heading, after the word, figures and brackets “rule 108(3)”, the word, figures and brackets “and 109 (2)”, shall be inserted.**
- **After FORM GST APL-03, the following form shall be inserted, namely:**

**“FORM GST APL-01/03 W
[See rule 109C]
Application for Withdrawal of Appeal Application**

1. GSTIN:
2. Name of Business (Legal) (in case appeal is filed under sub-section (1) of section 107)

3. Name and designation of the appellant (in case appeal is filed under sub-section (2) of section 107):

4. Order No.& Date:

5. ARN of the Appeal & Date:

6. Reasons for Withdrawal:

i. Acceptance of order of the adjudicating authority.

ii. Acceptance of order of a Higher Appellate Authority/ Court on similar subject matter

iii. Need to file appeal again after rectification of mistakes/omission in the filed appeal

iv. Amount involved in appeal is less than the monetary limit fixed for Appeal by the Board/Commissioner

v. Any other reason

7. Declaration (applicable in case appeal is filed under sub-section (1) of section 107):

I/We <Taxpayer Name> hereby solemnly affirm and declare that the information given herein is true and correct to the best of my/ our knowledge and belief and nothing has been concealed therefrom.

Place:

Signature

Date:

Name of Applicant /Applicant Officer

Designation/ Status.”.

- After FORM GST DRC-01A, the following form shall be inserted, namely: -

**“FORM GST DRC-01B
[See rule 88C]
PART-A (System Generated)**

Intimation of difference in liability reported in statement of outward supplies and that reported in return

Ref No:

Date:

GSTIN:

Legal Name:

1. It is noticed that the tax payable by you, in accordance with the statement of outward supplies furnished by you in FORM GSTR-1 or using the invoice furnishing facility, exceeds the amount of tax paid by you in accordance with the return furnished in FORM GSTR-3B for the period<from><to> by an amount of Rs.

The details thereof are as follows:

Form Type	Liability declared/ paid (in Rs.)				
	IGST	CGST	SGST/UTGST	Cess	Total
FORM GSTR-1 / IFF					
FORM GSTR-3B					
Difference in liability					

2. In accordance with sub-rule (1) of rule 88C, you are hereby requested to either pay the said differential tax liability, along with interest under section 50, through FORM GST DRC-03 and furnish the details thereof in Part-B of FORM GST DRC-01B, and/or furnish the reply in Part-B of FORM GST DRC-01B incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, within a period of seven days.

3. It may be noted that where any amount remains unpaid within a period of seven days and where no explanation or reason is furnished by you or where the explanation or reason furnished by you is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79 of the Act.

4. This is a system generated notice and does not require signature.

PART-B

Reply by Taxpayer in respect of the intimation of difference in liability

Reference No. of Intimation:

Date:

A. I have paid the amount of the differential tax liability, as specified in Part A of FORM GST DRC- 01B, fully or partially, along with interest under section 50, through FORM GST DRC-03, and the details thereof are as below:

ARN of FORM GST DRC-03	Paid Under Head	Tax Period	IGST	CGST	SGST/UTGST	CESS

AND/OR

B. The reasons in respect of that part of the differential tax liability that has remained unpaid, are as under:

S. No	Brief Reasons for Difference	Details (Mandatory)
1	Excess Liability paid in earlier tax periods in FORM GSTR-3B	
2	Some transactions of earlier tax period which couldnot be declared in the FORM GSTR-1/IFF of the said tax period but in respect of which tax has already been paid in FORM GSTR-3B of the said tax period and which have now been declared in FORM GSTR-1/IFF of the tax period under consideration	
3	FORM GSTR-1/IFF filed with incorrect details and will be amended in next tax period (including typographical errors, wrong tax rates, etc.)	
4	Mistake in reporting of advances received and adjusted against invoices	
5	Any other reasons	

Verification

I _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Place:

Date:

Signature of Authorised Signatory

Name:

Designation/Status:

- **In for FORM GST DRC-03, the following form shall be substituted, namely:-**

FORM GST DRC- 03
[See rules 142(2) & 142 (3)]

1	GSTIN	
2	Name	< Auto>
3	Cause of payment	<< drop down>>
3A	Shipping bill details of erroneous IGST refund (to be enabled only if the specified category is chosen in drop down menu)	(i) Shipping Bill/ Bill of Export No. & Date: (ii) Amount of IGST paid on export of goods: (iii) Notification No. used for procuring inputs at concessional rate or exemption: (iv) Date of notification: (v) Amount of refund received: (vi) Amount of erroneous refund to be deposited: (vii) Date of credit of refund in Bank Account:
4	Section under which voluntary payment is made	<< drop down>>

Intimation of payment made voluntarily or made against the show cause notice (SCN) or statement [or intimation of tax ascertained through FORM GST DRC-01A

5	Details of show cause notice, if payment is made within 30 days of its issue, scrutiny, intimation of tax ascertained through Form GST DRC- 01A, audit, inspection or investigation, GST RFD-01, others (specify)		Reference No./ARN	Date of issue/filing								
6	Financial Year											
7	Details of payment made including interest and penalty, if applicable		(Amount in Rs.)									
Sr. No.	Tax Period	Act	Place of supply (POS)	Tax / Cess	Interest	Penalty, if applicable	Fee	Others	Total	Ledger utilised (Cash / Credit)	Debit entry no.	Date of debit entry
1	2	3	4	5	6	7	8	9	10	11	12	13

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8. Reasons, if any - << Text box>>
 9. Verification-

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of Authorized Signatory

Name
 Designation / Status

Date

Note –

1. Payment to be made only in cash for deposit of erroneous refund of unutilised Input Tax Credit (ITC) and for deposit of erroneous refund of Integrated Goods and Services Tax (IGST), obtained in contravention of sub-rule (10) of rule 96.

2. ARN of FORM GST RFD-01 to be mentioned mandatorily if cause of payment is selected as – ‘deposit of erroneous refund of unutilised ITC’.

3. Details of shipping bills to be entered in the same pattern in which the details have been entered in the returns.”

- **In FORM GST DRC-25, -**

(i) after the words, “Revisional authority/”, the words and letter, “Adjudicating authority or Appellate authority under Insolvency & Bankruptcy Code/” shall be inserted;

(ii) for the words, “before disposal of appeal or revision”, the words, “before disposal of appeal or revision or any other proceedings” shall be substituted;

(iii) after the words, “giving effect of appeal/ revision”, the letters and words, “or any other proceedings” shall be inserted.

27/2022
 Central Tax
 Dt. 26-12-2022

➤ [In pursuance of the powers conferred by sub-rule \(4B\) of rule 8 of the Central Goods and Services Tax Rules, 2017, the Central Government, on the recommendations of the Council, hereby specifies that the provisions of sub-rule \(4A\) of rule 8 of the said rules shall not apply in all the States and Union territories except the State of Gujarat.](#)

- Proposal to conduct pilot test in the State of **Gujarat for Biometric-based Aadhaar authentication** and risk- based physical verification of registration applicants.

12/2022
Central Tax
(Rate)
Dt. 30-12-2022

➤ **Amendments in the notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017. (w.e.f. 01.01.2023)**

• **In Schedule I**

S.No	Description	From	To
1.	Ethyl alcohol supplied to refineries for blending with motor spirit (petrol)	18%	5%
S. No. 103A, in column (3) the following entry shall be substituted, namely:			
2.	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants [other than aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and additives, husk of pulses including chilka, concentrates including chuni or churi, khanda, wheat bran, de-oiled cake]	5%	5%

• **In Schedule II**

S.No	Description	From	To
1.	Fruit pulp or fruit juice based drinks [other than Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice]	12%	12%
S. No. 180, in column (3) the following entry shall be substituted, namely:			
2.	Mathematical boxes, geometry boxes and colour boxes	12%	12%

• **In Schedule III**

S.No	Description	From	To
1.	Ethyl alcohol and other spirits, denatured, of any strength [other than ethyl alcohol supplied to Oil Marketing Companies or Petroleum refineries for blending with motor spirit (petrol)]	18%	18%

13/2022
Central Tax
(Rate)
Dt. 30-12-2022

➤ [Amendment in the notification No.2/2017-Central Tax \(Rate\), dated the 28th June, 2017. \(w.e.f. 01.01.2023\)](#)

S.No	Description	From	To
1.	Husk of pulses including chilka and concentrates including chuni/churi, khanda	5%	Nil
S. No. 102, in column (3) the following entry shall be substituted, namely:			
2.	Aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and additives, wheat bran and de-oiled cake [other than rice bran]	Nil	Nil

14/2022
Central Tax
(Rate)
Dt. 30-12-2022

➤ [Amendments in the notification No.4/2017- Central Tax \(Rate\), dated the 28th June, 2017.](#)

- **It is decided to include supply of Mentha arvensis under reverse charge mechanism as has been done for Mentha Oil.**
- Receipt producing Mentha oil is liable to pay tax under RCM for purchase of Metha arvensis.

15/2022
Central Tax
(Rate)
Dt. 30-12-2022

➤ [Amendments in the notification No.12/2017-Central Tax \(Rate\), dated the 28th June, 2017, CBIC provides further explanations on following \(w.e.f. 01.01.2023\)](#)

- **RCM applicability on renting of residential dwelling**

No GST is payable where the residential dwelling is rented to a registered person if he/she has rented it in **his/her personal capacity for use as his/her own residence and on his own account and not on account of his proprietorship concern.**



SIGNIFICANT CIRCULARS

Circular No.	Key Update												
<p>Circular 183/15/2022- GST Dt. 27-12-2022</p>	<p>➤ <u>Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that of FORM GSTR-2A for FY 2017-18 and 2018-19 – reg.</u></p> <ul style="list-style-type: none"> • The circular focus on non-payment of GST by Suppliers. • Various representations have been received from the trade as well as the tax authorities, seeking clarification regarding the manner of dealing with such discrepancies between the amount of ITC availed by the registered persons in their FORM GSTR-3B and the amount as available in their FORM GSTR-2A during FY 2017-18 and FY 2018-19. • In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby clarifies as follows: <table border="1" data-bbox="407 1066 1523 1890"> <thead> <tr> <th data-bbox="407 1066 500 1142">S. No.</th> <th data-bbox="500 1066 935 1142">Scenario</th> <th data-bbox="935 1066 1523 1142">Clarification</th> </tr> </thead> <tbody> <tr> <td data-bbox="407 1142 500 1478">a.</td> <td data-bbox="500 1142 935 1478">Where the supplier has failed to file FORM GSTR-1 for a tax period but has filed the return in FORM GSTR-3B for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-2A of the recipients.</td> <td data-bbox="935 1142 1523 1478">Diff in ITC as per GSTR 2A & GSTR 3B Shall be handled as per para 1 below.</td> </tr> <tr> <td data-bbox="407 1478 500 1814"></td> <td data-bbox="500 1478 935 1814">Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but has failed to report a particular supply in FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the recipient.</td> <td data-bbox="935 1478 1523 1814">Diff in ITC as per GSTR 2A & GSTR 3B Shall be handled as per para 1 below.</td> </tr> <tr> <td data-bbox="407 1814 500 1890">c.</td> <td data-bbox="500 1814 935 1890">Where supplies were made to a registered person and</td> <td data-bbox="935 1814 1523 1890">Diff in ITC as per GSTR 2A & GSTR 3B Shall be handled as per para 1 below.</td> </tr> </tbody> </table>	S. No.	Scenario	Clarification	a.	Where the supplier has failed to file FORM GSTR-1 for a tax period but has filed the return in FORM GSTR-3B for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-2A of the recipients.	Diff in ITC as per GSTR 2A & GSTR 3B Shall be handled as per para 1 below.		Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but has failed to report a particular supply in FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the recipient.	Diff in ITC as per GSTR 2A & GSTR 3B Shall be handled as per para 1 below.	c.	Where supplies were made to a registered person and	Diff in ITC as per GSTR 2A & GSTR 3B Shall be handled as per para 1 below.
S. No.	Scenario	Clarification											
a.	Where the supplier has failed to file FORM GSTR-1 for a tax period but has filed the return in FORM GSTR-3B for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-2A of the recipients.	Diff in ITC as per GSTR 2A & GSTR 3B Shall be handled as per para 1 below.											
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c.	Where supplies were made to a registered person and	Diff in ITC as per GSTR 2A & GSTR 3B Shall be handled as per para 1 below.											

	<p>invoice is issued as per Rule 46 of CGST Rules containing GSTIN of the recipient, but supplier has wrongly reported the said supply as B2C supply, instead of B2B supply, in his FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the said registered person.</p>	
d.	<p>Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but he has declared the supply with wrong GSTIN of the recipient in FORM GSTR-1.</p>	<p>Diff in ITC as per GSTR 2A & GSTR 3B Shall be handled as per para 1 below.</p> <p>In addition, the proper officer of the actual recipient shall intimate the concerned jurisdictional tax authority of the registered person, whose GSTIN has been mentioned wrongly, that ITC on those transactions is required to be disallowed, if claimed by such recipients in their FORM GSTR-3B. However, allowance of ITC to the actual recipient shall not depend on the completion of the action by the tax authority of such registered person, whose GSTIN has been mentioned wrongly, and such action will be pursued as an independent action.</p>
<p>1. The para 1 of the circular states that an officer should verify compliance with other provisions of Section 16(2) i.e. possession of tax invoice, receipt of goods/services and payment to supplier. The proper officer shall also check whether any reversal of ITC is required to be made in accordance with section 17 or section 18 of CGST Act and also whether the said input tax credit has been availed within the time period specified under sub-section (4) of section 16 of CGST Act.</p> <p>1.1. To verify the compliance with Section 16(2)c, officer must do as below:</p> <p>a. Where the difference in ITC between GSTR 2A and GSTR 3B exceeds Rs 5 lacs in a Financial Year – Rely on a certificate by a Chartered Accountant (CA) or the Cost Accountant (CMA) certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR 3B. Certificate issued by CA or CMA shall contain UDIN</p>		

- b. Where the difference in ITC between GSTR 2A and GSTR 3B is less than Rs 5 lacs in a Financial Year – **Rely on certificate from the concerned supplier** to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B.
- c. However, it may be noted that for the period **FY 2017-18**, as per proviso to section 16(4) of CGST Act, the **aforsaid relaxations shall not be applicable** to claim of ITC made in the FORM GSTR-3B return filed after the due date of furnishing return for the month of September, 2018 till the due date of furnishing return for March, 2019, if supplier had not furnished details of the said supply in his FORM GSTR-1 till the due date of furnishing FORM GSTR 1 for the month of March, 2019.
- d. The clarifications given hereunder are case specific and are applicable to the bonafide errors committed in reporting during **FY 2017-18 and 2018-19**.
- e. These instructions will apply only to the ongoing proceedings in scrutiny/audit/ investigation, etc. for **FY 2017-18 and 2018-19** and not to the completed proceedings. However, these instructions will apply in those cases for **FY 2017-18 and 2018-19** where any adjudication or appeal proceedings are still pending.

**Circular
184/16/2022
GST
Dt. 27-12-2022**

➤ **Clarification on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of section 12 of the Integrated Goods and Services Tax Act, 2017 - reg.**

S. No.	Issue	Clarification
1.	In case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, what would be the place of supply of the said services?	As per section(8)of section 12 of the IGST Act,- <i>“(8) The place of supply of services by way of transportation of goods, including by mail or courier to,— (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation;</i>

		<p><i>Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods"</i></p> <p>Hence, in case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, the place of supply is the concerned foreign destination where the goods are being transported, in accordance with the proviso to the sub-section (8) of section 12 of IGST Act, which was inserted vide the Integrated Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01.02.2019.</p>
2.	In the case given in Sl. No. 1, whether the supply of services will be treated as inter-State supply or intra-State supply?	The aforesaid supply of services would be considered as inter-State supply in terms of sub-section (5) of section 7 of the IGST Act since the location of the supplier is in India and the place of supply is outside India. Therefore, integrated tax (IGST) would be chargeable on the said supply of services.
3.	In the case given in Sl. No. 1, whether the recipient of service of transportation of goods would be eligible to avail input tax credit in respect of the said input service of transportation of goods?	Section 16 of the CGST Act lays down the eligibility and conditions for taking input tax credit whereas, section 17 of the CGST Act provides for apportionment of credit and blocked credits under circumstances specified therein. The said provisions of law do not restrict availment of input tax credit by the recipient located in India if the place of supply of the said input service is outside India. Thus, the recipient of service of transportation of goods shall be eligible to avail input tax credit in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in section 16 and 17 of the CGST Act.
4.	In the case mentioned at Sl. No. 1, what state code has to be mentioned by the supplier of	The supplier of service shall report place of supply of such service by selecting State code as ' 96-Foreign Country ' from

	the said service of transportation of goods, where the transportation of goods is to a place outside India, while reporting the said supply in FORM GSTR-1?	the list of codes in the drop-down menu available on the portal in FORM GSTR-1 .
<p>Circular 185/17/2022 GST Dt. 27-12-2022</p>	<p>➤ <u>Clarification with regard to applicability of provisions of section 75(2) of Central Goods and Services Tax Act, 2017 and its effect on limitation -reg.</u></p>	
S. No.	Issue	Clarification
1.	In some of the cases where the show cause notice has been issued by the proper officer to a noticee under section 74(1) of CGST Act for demand of tax not paid/ short paid or erroneous refund or input tax credit wrongly availed or utilized, the appellate authority or appellate tribunal or the court concludes that the said notice is not sustainable under sub-section (1) of section 74 of CGST Act for the reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax have not been established against the noticee and directs the proper officer to re-determine the amount of tax payable by the noticee, deeming the notice to have been issued under sub-section (1) of section 73 of CGST Act, in accordance with the provisions of sub-section (2) of section 75 of CGST Act. What would be the time period for re-determination of the tax, interest and penalty payable by the noticee in such cases?	<p>Section 75(3) of CGST Act provides that an order, required to be issued in pursuance of the directions of the appellate authority or appellate tribunal or the court, has to be issued within two years from the date of communication of the said direction.</p> <p>Accordingly, in cases where any direction is issued by the appellate authority or appellate tribunal or the court to re-determine the amount of tax payable by the noticee by deeming the notice to have been issued in section 73 (1) of CGST Act in accordance with the provisions of section 75(2) of the said Act, the proper officer is required to issue the order of redetermination of tax, interest and penalty payable within the time limit as specified in of section 75(3) within a period of two years from the date of communication of the said direction by appellate authority or appellate tribunal or the court, as the case may be.</p>
2.	How the amount payable by the noticee, deeming the	In cases where the amount of tax, interest and penalty payable by the noticee is

	<p>notice to have been issued under sub-section (1) of section 73, shall be re-computed/ re-determined by the proper officer as per provisions of sub-section (2) of section 75?</p>	<p>required to be re-determined by the proper officer in terms of section 75(2) of CGST Act, the demand would have to be re-determined keeping in consideration the provisions of section 73(2), read with section 73(10) of CGST Act.</p> <p>Section 73(1) of CGST Act provides for issuance of a show cause notice by the proper officer for tax not paid or short paid or erroneously refunded, or where ITC has been wrongly availed or utilized, in cases which do not involve fraud or wilful misstatement to evade tax. Section 73(2) of CGST Act provides that such show cause notice shall be issued at least 3 months prior to the time limit specified in 73(10) for issuance of order. As per section 73(9) of CGST Act, the proper officer is required to determine the tax, interest and penalty due from the noticee and issue an order. As per section 73(10) of CGST Act, an order under section 73(9) has to be issued by the proper officer within three years from the due date for furnishing of annual return for the financial year in respect of which tax has not been paid or short paid or input tax credit has been wrongly availed or utilized or from the date of erroneous refund.</p> <p>It transpires from a combined reading of these provisions that in cases which do not involve fraud or willful-misstatement or suppression of facts to evade payment of tax, the show cause notice in terms of of section 73(1) of CGST Act has to be issued within 2 years and 9 months from the due date of furnishing of annual return for the financial year to which such tax not paid or short paid or input tax credit wrongly availed or utilized relates, or within 2 years and 9 months from the date of erroneous refund.</p> <p>Therefore, in cases where the proper officer has to re-determine the amount of</p>
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			<p>tax, interest and penalty payable deeming the notice to have been issued under section 73(1) of CGST Act in terms of section 75(2) of the said Act, the same can be re-determined for so much amount of tax short paid or not paid, or ITC wrongly availed or utilized, in respect of which show cause notice was issued within the time limit as specified under section 73(2) read with 73(10) of CGST Act. Thus, only the amount of tax short paid or not paid, or ITC wrongly availed or utilized, along with interest and penalty payable, in terms of section 73 of CGST Act relating to such financial years can be re-determined, where show cause notice was issued within 2 years and 9 months from the due date of furnishing of annual return for the respective financial year.</p> <p>Similarly, the amount of tax payable on account of erroneous refund along with interest and penalty payable can be re-determined only where show cause notice was issued within 2 years and 9 months from the date of erroneous refund.</p> <p>In case, where the show cause notice of section 74(1) was issued for tax short paid or tax not paid or wrongly availed or utilized input tax credit beyond a period of 2 years and 9 months from the due date of furnishing of the annual return for the financial year to which such demand relates to, and the appellate authority concludes that the notice is not sustainable under section 74(1) of CGST Act thereby deeming the notice to have been issued under section 73(1), the entire proceeding shall have to be dropped, being hit by the limitation of time as specified in section 73. Similarly, where show cause notice under section 74(1) of CGST Act was issued for erroneous refund beyond a period of 2 years and 9 months from the date of erroneous refund, the entire proceeding shall have to be dropped.</p>
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			<p>In cases, where the show cause in terms of section 74(1) of CGST Act was issued for tax short paid or not paid tax or wrongly availed or utilized input tax credit or on account of erroneous refund within 2 years and 9 months from the due date of furnishing of the annual return for the said financial year, to which such demand relates to, or from the date of erroneous refund, as the case may be, the entire amount of the said demand in the show cause notice would be covered under re-determined amount.</p> <p>Where the show cause notice under sub-section (1) of section 74 was issued for multiple financial years, and where notice had been issued before the expiry of the time period as per sub-section (2) of section 73 for one financial year but after the expiry of the said due date for the other financial years, then the amount payable in terms of section 73 shall be re-determined only in respect of that financial year for which show cause notice was issued before the expiry of the time period as specified in sub-section (2) of section 73.</p>
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**Circular
186/18/2022
GST
Dt. 27-12-2022**

- [Clarification on various issue pertaining to GST-reg.](#)
- [Representations have been received from the field formations seeking clarification on certain issues with respect to -](#)
 - [i. taxability of No Claim Bonus offered by Insurance companies;](#)
 - [ii. applicability of e-invoicing w.r.t an entity.](#)

S. No.	Issue	Clarification
Taxability of No Claim Bonus offered by Insurance companies		
1.	Whether the deduction on account of No Claim Bonus allowed by the insurance company from the insurance premium payable by the insured, can be considered as consideration for the supply provided by the insured to the insurance company, for	As per practice prevailing in the insurance sector, the insurance companies deduct No Claim Bonus from the gross insurance premium amount, when no claim is made by the insured person during the previous insurance period(s). The customer/ insured procures insurance policy to indemnify himself from any loss/ injury as per the

		<p>agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s)?</p>	<p>terms of the policy, and is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of No Claim Bonus.</p> <p>It is, therefore, clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the insurance company.</p>
	<p>2.</p>	<p>Whether No Claim Bonus provided by the insurance company to the insured can be considered as an admissible discount for the purpose of determination of value of supply of insurance service provided by the insurance company to the insured?</p>	<p>As per clause (a) of sub-section (3) of section 15 of the CGST Act, value of supply shall not include any discount which is given before or at the time of supply if such discount has been duly recorded in the invoice issued in respect of such supply.</p> <p>The insurance companies make the disclosure of the fact of availability of discount in form of No Claim Bonus, subject to certain conditions, to the insured in the insurance policy document itself and also provide the details of the no claim Bonus in the invoices also. The pre-disclosure of NCB amount in the policy documents and specific mention of the discount in form of No Claim Bonus in the invoice is in consonance with the conditions laid down for deduction of discount from the value of supply under clause (a) of sub-section (3) of section 15 of the CGST Act.</p> <p>It is, therefore, clarified that No Claim Bonus (NCB) is a permissible deduction under clause (a) of sub-section (3) of section 15 of the CGST Act for the purpose of calculation of value of supply of the insurance services provided by the insurance company to the insured. Accordingly, where the deduction on account of No claim bonus is provided in the invoice issued by the insurer to the</p>

			insured, GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of No Claim Bonus mentioned on the invoice.
Clarification on applicability of e-invoicing w.r.t an entity			
<p>Circular 187/19/2022 GST Dt. 27-12-2022</p>	3.	Whether the exemption from mandatory generation of e-invoices in terms of Notification No. 13/2020-Central Tax, dated 21st March, 2020, as amended, is available for the entity as whole, or whether the same is available only in respect of certain supplies made by the said entity?	<p>Following entities/sectors have been exempted from mandatory generation of e-invoices.</p> <p>It is hereby clarified that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.</p> <p>Illustration: A Banking Company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice in terms of Notification No. 13/2020-Central Tax, dated 21st March, 2020, as amended, for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.</p>
			<p>➤ <u>Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016- reg.</u></p> <ul style="list-style-type: none"> • As per Section 84- "Continuation and validation of certain recovery proceedings' of CGST Act, if the government dues against any person under CGST Act are reduced as a result of any appeal, revision or other proceedings in respect of such government dues, then an intimation for such reduction of government dues has to be given by the Commissioner to such person and to the appropriate authority with whom the recovery proceedings are pending. Further, recovery proceedings can be continued in relation to such reduced amount of government dues. • Rule 161 of Central Goods and Services Tax Rules, 2017 prescribes FORM GST DRC-25 for issuing intimation for such reduction of demand specified under section 84 of CGST Act. • In cases where a confirmed demand for recovery has been issued by the tax authorities for which a summary has been issued in FORM GST DRC-07/DRC 07A against the corporate debtor, and where the proceedings

	<p>have been finalised against the corporate debtor under Insolvency and Bankruptcy Code, 2016 (IBC) reducing the amount of statutory dues payable by the corporate debtor to the government under CGST Act or under existing laws, the jurisdictional Commissioner shall issue an intimation in FORM GST DRC-25 reducing such demand, to the taxable person or any other person as well as the appropriate authority with whom recovery proceedings are pending.</p> <ul style="list-style-type: none"> • Illustration : If a company is having GST tax dues of 10 crores and company goes to IBC for liquidation or for sale as a going concern, then statutory dues will come at par with other corporate dues. As the proceedings conducted under IBC also adjudicate the government dues pending under the CGST Act or under existing laws against the corporate debtor, the same appear to be covered under the term 'other proceedings' in Section 84 of CGST Act. Further proceedings finalised under IBC which reduced the liability of statutory dues under GST law to 2 crores, then proceedings can be initiated for only 2 crores and not 10 crores. The IBC may even reduce the liability to NIL .
<p>Circular 188/20/2022 GST Dt. 27-12-2022</p>	<p>➤ <u>Prescribing manner of filing an application for refund by unregistered persons -reg.</u></p> <ul style="list-style-type: none"> • <u>Steps for filing of refund application:</u> <ol style="list-style-type: none"> 1. The unregistered person, who wants to file an application for refund under sub-section (1) of section 54 of CGST Act, in cases where the agreement for supply of services of construction of flat/ building has been cancelled or where long-term insurance policy has been terminated, shall obtain a temporary registration on the common portal using his Permanent Account Number (PAN). 2. The unregistered person shall select the same state/UT where his supplier, in respect of whose invoice refund is to be claimed, is registered. 3. Then the unregistered person would be required to undergo Aadhaar authentication. He would also be required to enter his bank account details in which he seeks to obtain the refund of the amount claimed. The applicant shall provide the details of the bank account which is in his name and has been obtained on his PAN. • The application for refund shall be filed in FORM GST RFD-01 on the common portal under the category 'Refund for unregistered person'. The applicant shall upload statement 8 (in pdf format) and all the requisite documents as per the provisions of sub-rule (2) of rule 89 of the CGST Rules. • The refund amount claimed shall not exceed the total amount of tax declared on the invoices in respect of which refund is being claimed.

Further, the applicant shall also upload the certificate issued by the supplier in terms of clause (kb) of sub-rule (2) of rule 89 of the CGST Rules along with the refund application. The applicant shall also upload any other document(s) to support his claim that he has paid and borne the incidence of tax and that the said amount is refundable to him.

- Separate applications for refund have to be filed in respect of invoices issued by different suppliers. Further, where the suppliers, in respect of whose invoices refund is to be claimed, are registered in different States/UTs, the applicant shall obtain temporary registration in the each of the concerned States/UTs where the said supplier are registered.
- Where the time period for issuance of credit note under section 34 of the CGST Act has **not expired** at the time of termination of agreement for supply of services, the concerned **suppliers can issue credit note to the unregistered person**. In such cases, the supplier would be in a position to also pay back the amount of tax collected by him from the unregistered person and therefore, there will be no need for filing refund claim by the unregistered persons in these cases.

- **Relevant date for filing of refund:**

As per sub-section (1) of section 54 of the CGST Act, time period of from the relevant date has been specified for filing an application of refund.

While the relevant date in respect of cases of refund by a person other than supplier is the date of receipt of goods or services or both by such person in terms of provisions of clause (g) in Explanation (2) under section 54 of the CGST Act.

While in cases where the supplier and the unregistered person (recipient) have entered into a long-term agreement for the supply, with the provision of making payment in advance or in instalments, **for example-** construction of flats or long-term insurance policies, if the contract is cancelled before completion of service for any reason, there may be no date of receipt of service, to the extent supply has not been made. Therefore, in such cases, it has been decided that for the purpose of determining relevant date in terms of clause (g) of Explanation (2) under section 54 of the CGST Act, **date of issuance of letter of cancellation of the contract/ agreement for supply by the supplier will be considered as the date of receipt of the services by the applicant.**

- **Minimum refund amount:**

As per section 54(14) of CGST Act, **no refund** under shall be paid to an applicant, if **amount is less than one thousand rupees**. Therefore, no refund shall be claimed if the amount is less than one thousand rupees.

The proper officer shall process the refund claim filed by the unregistered person in a manner similar to other **RFD-01 claims**. The proper officer shall scrutinize the application with respect to completeness and eligibility of the refund claim to his satisfaction and issue the refund sanction order in **FORM GST RFD-06** accordingly. The proper officer shall also upload a detailed speaking order along with the refund sanction order in **FORM GST RFD-06**.

In cases where the amount paid back by the supplier to the unregistered person on cancellation of agreement for supply of services is less than amount paid by such unregistered person to the supplier, **only the proportionate amount of tax** involved in such amount paid back shall be refunded to the unregistered person.



Press Release

Press Release No.	Key Update																
<p>48th Meeting of the GST Council Dt. 17-12-2022</p>	<p>➤ <u>Overview</u></p> <ul style="list-style-type: none"> The 48th GST Council met under the Chairmanship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman via virtual mode in New Delhi today. The meeting was also attended by Union Minister of State for Finance Shri Pankaj Choudhary besides Finance Ministers of States & UTs (with legislature) and senior officers of the Ministry of Finance & States/ UTs. The GST Council has inter-alia made the following recommendations relating to changes in GST tax rates, measures for facilitation of trade and measures for streamlining compliances in GST: <p>➤ <u>Tax Rates</u></p> <table border="1" data-bbox="407 1157 1523 1402"> <thead> <tr> <th>S.No</th> <th>Description</th> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td colspan="4">Goods</td> </tr> <tr> <td>1.</td> <td>Husk of pulses including chilka and concentrates including chuni/churi, khanda</td> <td>5%</td> <td>Nil</td> </tr> <tr> <td>2.</td> <td>Ethyl alcohol supplied to refineries for blending with motor spirit (petrol)</td> <td>18%</td> <td>5%</td> </tr> </tbody> </table> <p>➤ <u>RCM</u></p> <p>It was also decided to include supply of Mentha arvensis under RCM as has been done for Mentha Oil.</p>	S.No	Description	From	To	Goods				1.	Husk of pulses including chilka and concentrates including chuni/churi, khanda	5%	Nil	2.	Ethyl alcohol supplied to refineries for blending with motor spirit (petrol)	18%	5%
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➤ **Clarifications**

- Rab (rab-salawat) is classifiable under CTH 1702 which attracts GST at the rate of 18%. Rab Salawat is a by product in the process of sugar making process which is generally use to feed animals. GST have no specific rates for this. On the request of industry and trade 48th Council meeting decided to keep this under 18% GST rate list.
- Fryums manufactured using the process of extrusion is specifically covered under CTH 19059030 attract GST at the rate of 18%.
 - a. Fryums are type of snacks shown in below images.
 - b. Extrusion - Extrusion is a process where a material undergoes plastic deformation by the application of a force causing that material to flow through an orifice or die
 - c. CTH 19059030 – This code cover the Fryusm snacks made using the process of extrusions.
- The higher rate of compensation cess of 22% is applicable to motor vehicle fulfilling all four conditions, namely:
 - a. It is popularly known as SUV,
 - b. Has engine capacity exceeding 1500 cc,
 - c. Length exceeding 4000 mm and
 - d. A ground clearance of 170 mm or above
- Currently Motor vehicles of engine capacity over 1500cc, popularly known as Sports Utility Vehicles (SUVs) was charged higher cess rates 22% (Normal Cess rate 15%)
- However, after certain conditions are added for more clarity. SUV Cars with engine displacements greater than 1500 cc, overall lengths greater than 4000 mm, and ground clearances greater than 170 mm now have an effective tax rate of 50%, comprising a GST of 28% and a cess of 22.
- Hence an SUV satisfying above conditions shall be subject to 22% cess. On the other hand, other MUV (muti utility vehicle) shall be charged at normal 15% cess.

- Goods falling in lower rate category of 5% under **schedule I** of notification No. 1/2017-CTR imported for petroleum operations will attract lower rate of 5% and the rate of 12% shall be applicable only if the general rate is more than 12%. To regularize the inverted duty structure this amendment has been provided.
- As a relief measure, the Council decided to regularise the intervening period starting from the date of issuance of Circular (3.08.2022) in respect of GST on 'husk of pulses including chilka and concentrates including chuni/churi, khanda' on "as is basis" on account of genuine doubts.
- No GST is payable where the residential dwelling is rented to a registered person if it is rented in his/her personal capacity for use as his/her own residence and on his own account and not on account of his business.
- Incentive paid to banks by Central Government under the scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

➤ **Measure for facilitation of trade**

1. Decriminalization under GST: The Council has recommended to -

- a. raise the minimum threshold of tax amount for launching prosecution under GST from Rs. One Crore to Rs. Two Crores, except for the offence of issuance of invoices without supply of goods or services or both;
- b. reduce the compounding amount from the present range of 50% to 150% of tax amount to the range of 25% to 100%;
- c. decriminalize certain offences specified under clause (g), (j) and (k) of sub-section (1) of section 132 of CGST Act, 2017, viz.- obstruction or preventing any officer in discharge of his duties; deliberate tempering of material evidence; failure to supply the information.

2. Refund to unregistered persons:

There is no procedure for claim of refund of tax borne by the unregistered buyers in cases where the contract/ agreement for supply of services, like construction of flat/house and long-term insurance policy, is cancelled and the time period of issuance of credit note by the concerned supplier is over. The Council recommended amendment in CGST Rules, 2017, along with

issuance of a circular, to prescribe the procedure for filing application of refund by the unregistered buyers in such cases.

3. Facilitate e-commerce for micro enterprises:

GST Council in its 47th meeting had granted in-principle approval for allowing unregistered suppliers and composition taxpayers to make intra-state supply of goods through E-Commerce Operators (ECOs), subject to certain conditions. The Council approved the amendments in the GST Act and GST Rules, along with issuance of relevant notifications, to enable the same. Further, considering the time required for development of the requisite functionality on the portal as well as for providing sufficient time for preparedness by the ECOs, Council has recommended that the scheme may be implemented w.e.f. 01.10.2023.

4. Paras 7, 8(a) and 8(b) were inserted in Schedule III (**Supplies not to be treated as Supply of Goods or Services**) of CGST Act, 2017 with effect from 01.02.2019 to keep certain transactions, such as supplies of goods from a place outside the taxable territory to another place outside the taxable territory (**Third-Country Export**), high sea sales and supply of warehoused goods before their home clearance, outside the purview of GST. In order to remove the doubts and ambiguities regarding taxability of such during the period 01.07.2017 to 31.01.2019, the Council has recommended to make the said paras **effective from 01.07.2017. However, no refund of tax paid shall be available in cases where any tax has already been paid in respect of such transactions during the period 01.07.2017 to 31.01.2019.**
5. **GST cancellation** for person registered for deduction of TDS or TCS is **not available by the taxpayer**. Department may cancel the same on **suo moto** basis. However, taxpayer have no option to cancel such registration. Sub-rule (3) of rule 12 of CGST Rules, 2017 to be amended to provide for facility to the registered persons, who are required to collect tax at source under section 52 or deduct tax at source under section 51 of CGST Act, 2017, for cancellation of their registration on their request.
6. **FORM GSTR-1** to be amended to provide for reporting of details of supplies made through ECOs, covered under section 52 and section 9(5) of CGST Act, 2017, by the supplier and reporting by the ECO in respect of supplies made under section 9(5) of CGST Act, 2017.
7. Amendment in definition of “non-taxable online recipient” under section 2(16) of IGST Act, 2017 and definition of “Online Information and Database Access or Retrieval Services (OIDAR)” under section 2(17) of IGST Act, 2017

so as to reduce interpretation issues and litigation on taxation of OIDAR Services.

➤ **Disclaimer**

The recommendations of the GST Council have been presented in this release containing major item of decisions in simple language for information of the stakeholders. The same would be given effect through the relevant circulars/ notifications/ law amendments which alone shall have the force of law.



1. [Notice pay recovered by employer is not for premature quitting of employment but as penalties and hence not liable to pay GST.](#)

Applicant	M/s Manappuram Finance Ltd
Journal of Publication	W.P.(C) No. 27373 of 2022
Date of Ruling	December 07,2022
Ruling Authority	HIGH COURT OF KERALA

FACTS
<ul style="list-style-type: none">• The petitioner is a non-finance banking finance company and is an assessee under the GST regime. This writ petition has been filed challenging Ext.P1 order in appeal to the extent it found that the petitioner is liable to pay tax on notice pay received from the former employees of the petitioner.• The appellate authority upheld the orders of the original authority, which had rejected the claim for refund made by the petitioner for a refund of GST paid on notice pay received from the erstwhile employees.
ISSUE
<ul style="list-style-type: none">• Whether the petitioner is liable to pay GST on notice pay received from erstwhile employees?
HELD
<ul style="list-style-type: none">• According the circular bearing No.178/10/2022-GST dated 3.08.2022,it is clearly stipulated that employer carries out an elaborate selection process and incurs expenditure in recurring an employee, invests in his training and makes him a part of the organization.• Premature leaving of employment results in disruption of work and an undesirable situation. The provisions for forfeiture of salary or recovery of bond amount in the event of the employee leaving the employment before the minimum agreed period to discourage non-serious employees.• The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties.

- Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation, and omissions beyond the statutorily prescribed period would lead to complete uncertainty and collapse of the tax administration.

2. [Determine whether concessional rate of tax will be imposed on the work contract services of godowns, buildings provided by a government entity, where further such entity will provide it on rent for the purpose of business](#)

Applicant	M/s Shree Constructions
Journal of Publication	TSAAR ORDER NO.56 OF 2022
Date of Ruling	November 02, 2022
Ruling Authority	AUTHORITY FOR ADVANCE RULINGS, TELANGANA

FACTS
<ul style="list-style-type: none"> The petitioner entered into an agreements with TSIICL, a Government Entity for execution of works contracts of construction of godowns which in turn would be letting out godowns for its customers on rent. It filed an application for advance ruling to determine whether concessional rate of imposition of tax would be applicable on providing works contract services to TSIICL.
ISSUE
<ul style="list-style-type: none"> Whether concessional rate of tax will be imposed on the work contract services of godowns, buildings provided by a government entity, where further such entity will provide it on rent for the purpose of business?
HELD
<ul style="list-style-type: none"> The Authority for Advance Ruling observed that concessional rate of GST as per Notification No.11/2017-Central Tax (Rate) was applicable to Government Entities and Governmental Authorities only if such construction was predominantly for use other than for commerce, industry or any other business or profession. However, in this case, godowns shall be given on rent by TSIICL that would amount to use of constructed premises for purpose of business. Moreover, the phrases 'Government Entity' and 'Governmental Authority' were deleted from Entry at Serial No. 3(vi) of Notification No. 11/2017 by Notification No. 15/2021, dated 18.11.2021. Thus, the works executed even for 'Governmental Entity or 'Government Authority' would be taxable at rate of 18%.

3. Determination of whether Refund claim should be rejected for inadvertent error of opting "export with payment of tax" instead of "export without payment of tax"

Applicant	Abi Egg Traders
Journal of Publication	[2022] 145 taxmann.com 264 (Madras)
Date of Ruling	October 20,2022
Ruling Authority	ASSISTANT COMMISSIONER

FACTS

- The petitioner is the sole proprietary engaged in the export of eggs.
- The petitioner states that a mistake had crept in insofar as the petitioner had, instead of opting for exports 'without payment of tax', had opted for the column 'with payment of tax'. As on 31.03.2018, the ITC available in the Electronic Credit Ledger (in short 'ECL') was a sum of Rs.7,04,851/-, whereas, according to the petitioner, on filing of the return, the ITC stood enhanced to a sum of Rs.11,63,200/-.
- Because of this mistake, petitioner chose residuary entry and not "export without payment of tax" as a ground for claiming refund. Such a refund application was rejected by the department.

ISSUE

- Whether Refund claim should be rejected for inadvertent error of opting "export with payment of tax" instead of "export without payment of tax"

HELD

- Rejecting refund on error is not correct. The petitioner has also circulated an order passed by the same respondent officer in the case of another assessee by name 'Shri Shakti Exports' wherein refund, as sought in similar circumstances has been granted, the officer, taking a lenient view.
- Department was directed to grant refund after determining the quantum as on date of application for refund filed.
- Ruling passed in favour of the assessee.

4. [Refund claim should not be rejected due to deficiency of GST network.](#)

Applicant	Aartos International LLP
Journal of Publication	Application NO. 14649 of 2022
Date of Ruling	December 02, 2022
Ruling Authority	HIGH COURT OF GUJARAT

FACTS

- The petitioner is a Limited Liability Partnership Firm having LLP No.AAM-1202 and is engaged in trading of Ceramics and tiles.
- The petitioner exported the goods in the month of February and March 2020 and shipping bills along with GSTR-3B and GSTR1 for substantiation of this averment are forming the part of the record.
- The petitioner had exported goods and refund was granted to two out of three shipping bills filed but refund on account of one shipping bill was rejected.
- The department contended that third shipping bill was showing “Permanent Cancellation by PAO for transaction” as per ICEGATE Scroll status and refund was not paid by bank on account of mismatch in name of firm of petitioner.
- The petitioner filed petition seeking refund along with interest before the High Court.

ISSUE

- The issue is that whether the refund claim should be rejected on account deficiency of GST network and whether department was to be directed to sanction refund with interest at rate of 6 percent?

HELD

- The Honorable High Court noted that shipping bills are deemed as refund application when goods are exported with payment of tax and therefore, department should have sanctioned 90 percent of amount claimed in said bills.
- The Court also noted that the refund was not granted due to deficiency of GST network and it is duty of GSTN to enquire if there is any difficulty at level of mismatch or processing of claim of refund.
- Thus, the Court directed GSTN/concerned authority to introduce a feature in GST portal to communicate problems faced by assessee directly instead of officers pleading their seniors through GSTN.
- The Court also directed department to sanction refund with interest at rate of 6 percent.

5. [Determination of the time period after which seized items during search and seizure proceeding will be returned.](#)

Applicant	Dhruv Krishan Maggu
Journal of Publication	[2022] 145 taxmann.com 598 (Delhi)
Date of Ruling	December 12,2022
Ruling Authority	HIGH COURT OF DELHI

FACTS

- The Petitioner- Dhruv Krishan Maggu in the present case seeks return of his laptop, computer, documents and other things which were seized by the Respondents / Directorate General of GST Intelligence (DGGI) in a Search conducted on 28th August, 2019 vide panchnama dated 28th August,2019.
- He relies upon Section 67(7) of the Central Goods and Services Tax Act, 2017 (hereinafter „CGST Act, 2017“) and submits that when such seizure is affected, within six months, the goods ought to be returned.
- While the respondents claim that in the present case confiscation has taken place of ‘documents, books or other things’ which would be governed by Section 67(2) of the Act. As per second proviso of Section 67(2), so long as ‘the documents, books, or other things’ are required for enquiry or proceedings under the Act, the same can be retained by the officer.

ISSUE

- At time of conducting search, documents, books and things were seized for examination.
- Hence the applicant has filed a Petition seeking release of such seized items.

HELD

- Documents, books or things seized at time of carrying out search may be retained for so long as they are required for examination and for inquiry of proceedings as per Section 67(2) of CGST Act.
- Goods seized are to be returned within six months unless extended. In case documents or books or things seized are not relied on for issuance of notice, same are supposed to be returned within a period not exceeding 30 days from date of issue of notice.
- Combined reading of provisions of CGST Act states that documents or books or things seized may be retained for a minimum period of 4.5 years within which period notice is to be issued, plus 30 days from date of erroneous refund.
- As maximum retention period has not yet lapsed, documents or books or things seized could be retained for examination. Therefore ruling passed against the assessee.



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