

**CA Amar Jeet Singh**  
**+91 9911011042**

## **47th GST Council Meeting**

### **Summary of Circulars Issued on 06-07-2022**

| <b>Sl. No.</b> | <b>Circular No. and Issue</b>                                                                                                                                                                                                                                             | <b>Page No</b> |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <b>1.</b>      | <b>Circular No. 170/02/2022-GST</b><br><b>Subject:</b> Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1 –reg. | <b>2-4</b>     |
| <b>2.</b>      | <b>Circular No. 171/03/2022-GST</b><br><b>Subject:</b> Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices–Reg               | <b>5</b>       |
| <b>3.</b>      | <b>Circular No. 172/04/2022-GST</b><br><b>Subject:</b> Clarification on various issue pertaining to GST- reg.                                                                                                                                                             | <b>6-7</b>     |
| <b>4.</b>      | <b>Circular No. 173/05/2022-GST</b><br><b>Subject:</b> Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification – reg.                                                          | <b>8</b>       |
| <b>5.</b>      | <b>Circular No. 174/06/2022-GST</b><br><b>Subject:</b> Prescribing manner of re-credit in electronic credit ledger using FORM GST PMT-03A – regarding                                                                                                                     | <b>9</b>       |

## Circular No. 170/02/2022-GST

**Subject: Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1 –reg.**

**Issue 1: Furnishing of information regarding ITC availed, reversal thereof and ineligible ITC in Table 4 of GSTR-3B:**

**TABLE 4 OF GSTR 3B (ITC)**

|                                                                       |       |       |       |       |
|-----------------------------------------------------------------------|-------|-------|-------|-------|
| <b>(A) ITC Available (whether in full or part)</b>                    |       |       |       |       |
| (1) Import of goods                                                   | ₹0.00 |       |       | ₹0.00 |
| (2) Import of services                                                | ₹0.00 |       |       | ₹0.00 |
| (3) Inward supplies liable to reverse charge (other than 1 & 2 above) | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| (4) Inward supplies from ISD                                          | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| (5) All other ITC                                                     | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| <b>(B) ITC Reversed</b>                                               |       |       |       |       |
| (1) As per Rule 42 & 43 of CGST/SGST rules                            | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| (2) Others                                                            | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| <b>(C) Net ITC Available (A) - (B)</b>                                | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| <b>(D) Ineligible ITC</b>                                             |       |       |       |       |
| (1) As per section 17(5)                                              | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| (2) Others                                                            | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |

### Auto Populated ITC in GSTR 2B

Ineligible ITC, which was earlier not part of calculation of eligible/available ITC, is now part of calculation of eligible/available ITC in view of auto-population of Table 4(A) of FORM GSTR-3B from various tables of FORM GSTR-2B. Thereafter, the registered person is required to identify ineligible ITC as well as the reversal of ITC to arrive at the Net ITC available, which is to be credited to the Electronic Credit Ledger.

#### PROCEDURE TO BE FOLLOWED:

##### STEP 1: TABLE 4A (ITC AVAILABLE)

Total ITC (eligible as well as ineligible) is being auto-populated from statement in FORM GSTR-2B in different fields of Table 4A of FORM GSTR-3B except following ITC:

- ITC on account of limitation of time period as delineated in sub-section (4) of section 16 of the CGST Act

- ii) Where the recipient of an intra-State supply is located in a different State / UT than that of place of supply.

#### **STEP 2: TABLE 4(B)(1) (ITC REVERSED AS PER RULE 42 & 43)**

Report reversal of ITC, which are absolute in nature and are not reclaimable, such as:

- i) On account of rule 38 (reversal of credit by a banking company or a financial institution),
- ii) Rule 42 (reversal on input and input services on account of supply of exempted goods or services),
- iii) Rule 43 (reversal on capital goods on account of supply of exempted goods or services) of the CGST Rules
- iv) For reporting ineligible ITC under section 17(5) of the CGST Act in Table 4 (B) (1).

#### **STEP 3: TABLE 4(B)(2) (OTHER REVERSAL OF ITC)**

Report reversal of ITC, which are not permanent in nature such as:

- i) On account of rule 37 of CGST Rules (non-payment of consideration to supplier within 180 days)
- ii) S 16(2)(b) (Goods and Services not yet received) and S 16(2)(c) (Payment of taxes not made) of the CGST Act.
- iii) For reversal of any ITC availed in Table 4(A) in previous tax periods because of some inadvertent mistake.

**Note: Such ITC may be reclaimed in Table 4(A)(5) on fulfilment of necessary conditions. Further, all such reclaimed ITC shall also be shown in Table 4(D)(1).**

#### **STEP 4: TABLE 4(C)- NET ITC AVAILABLE**

(4A - [4B (1) + 4B (2)]), which will be credited to Electronic Credit Ledger

#### **Step 5: Table 4(D) Ineligible ITC**

- i) **TABLE 4 (D) (1) Ineligible ITC as per S. 17(5) :**  
As the details of ineligible ITC under section 17(5) are being provided in Table 4(B), no further details of such ineligible ITC will be required to be provided in Table 4(D)(1).

**ii) TABLE 4 (D) (2) Other Ineligible ITC**

ITC not reflecting in 2B on account of:

- (a) limitation of time period as delineated in sub-section (4) of section 16 of the CGST Act
- (b) Where the recipient of an intra-State supply is located in a different State / UT than that of place of supply.

Such details are available in Table 4 of FORM GSTR-2B

**Issue 2: Furnishing of information regarding inter-State supplies made to unregistered persons, composition taxable persons and UIN holders:**

Advise: that the registered persons making inter-State supplies –

- i) To the unregistered persons, shall also report the details of such supplies, place of supply-wise, in Table 3.2 of FORM GSTR-3B and Table 7B or Table 5 or Table 9/10 of FORM GSTR-1, as the case may be;
- ii) To the registered persons paying tax under section 10 of the SGST/CGST Act (composition taxable persons) and to UIN holders, shall also report the details of such supplies, place of supply-wise, in Table 3.2 of FORM GSTR-3B and Table 4A or 4C or 9 of FORM GSTR-1, as the case may be, as mandated by the law.
- iii) Shall update their customer database properly with correct State name and ensure that correct PoS is declared in the tax invoice and in Table 3.2 of FORM GSTR-3B while filing their return, so that tax reaches the Consumption State as per the principles of destination-based taxation system.
- iv) Any amendment carried out in Table 9 or Table 10 of FORM GSTR-1 or any entry in Table 11 of FORM GSTR-1 relating to such supplies should also be given effect to while reporting the figures in Table 3.2 of FORM GSTR-3B.

## Circular No. 171/03/2022-GST

**Subject: Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices–Reg**

| Sl. No. | Issue                                                                                                                                                                                                                             | Whether Amounts to Supply | Tax Liability Recovery u/s 73 or 74                                                                                                                                                                                                           | Penalty                                                                                                                                                                                                                                                                           |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.      | A has issued tax invoice to “B” without any underlying supply of goods or services or both.                                                                                                                                       | No                        | No                                                                                                                                                                                                                                            | Yes u/s 122 (1)(ii) of the CGST Act for issuing tax invoices without actual supply of goods or services or both.                                                                                                                                                                  |
| 2.      | In continuation of the above example B further issues invoice <b>along with underlying supply of goods or services or both to his buyers</b> and utilizes ITC availed on the basis of the above-mentioned invoices issued by ‘A’. | Yes                       | Yes, <b>alongwith interest</b> , since ‘B’ has availed and utilized fraudulent ITC on the basis of the said tax invoice, without receiving the goods or services or both, in contravention of the provisions of section 16(2)(b) of CGST Act. | <b>Penalty u/s 74 however no penalty u/s 122 as S. 75(13) says</b> if penal action for fraudulent availment or utilization of ITC is taken u/s 74 of CGST Act, no penalty for the same act, can be imposed under any other provisions of CGST Act, including under section 122.   |
| 3.      | A issued invoice to B then B avail ITC and pass on to C <b>without supplying any goods or services. Analyse from B point of view</b>                                                                                              | No                        | No                                                                                                                                                                                                                                            | B’ shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii) of the CGST Act, for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services |

**NOTE:** In the above cases of wrongful/ fraudulent availment or utilization of input tax credit, or in cases of issuance of invoices without supply of goods or services or both, leading to wrongful availment or utilization of input tax credit or refund of tax, provisions of section 132 of the CGST Act relating to Imprisonment may also be invocable, subject to conditions specified therein, based on facts and circumstances of each case.

# Circular No. 172/04/2022-GST

**Subject: Clarification on various issue pertaining to GST- reg.**

## **Issue 1: Refund claimed by the recipients of supplies regarded as deemed export**

**Problem:** The refund in respect of deemed export supplies is the refund of tax paid on such supplies. However, the recipients of deemed export supplies were facing difficulties on the portal to claim refund of tax paid due to requirement of the portal to debit the amount so claimed from their electronic credit ledger

**Solution Provided Earlier:** Considering this difficulty, the tax paid on such supplies, has been made available as ITC to the recipients. vide Circular No. 147/03/2021-GST dated 12.03.2021 only for enabling them to claim such refunds on the portal.

**Further clarification in this Circular:** The above deemed ITC is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, the ITC so availed by the recipient of deemed export supplies would not be subjected to provisions relating to reversal of credit as provided in Section 17 of the CGST Act, 2017. Also the same ITC shall also not be included in the “Net ITC” for computation of refund of unutilised ITC on account of zero-rated supplies under rule 89(4) or on account of inverted rated structure under rule 89(5) of the CGST Rules, 2017.

## **Issue 2: Clarification on various issues of section 17(5) of the CGST Act**

### **I) Relating to Applicability of Proviso below sub clause (iii) of clause (b) of S. 17(5)**

In (b) clause of Blocked credit list as given in S. 17(5) following three credits are blocked;

- (i) Food beverages, outdoor catering.....etc.
- (ii) Membership of club
- (iii) Travel benefits to employees on vacation

Further a proviso after the above sub clause (iii) provides as under:

“Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”

**Problem:** Whether the said proviso is applicable to the entire clause (b) or the said proviso is applicable only to sub-clause (iii) of clause (b) only i.e. only for Travel benefits to employees on vacation.

**Clarification:** Proviso is applicable to the whole of clause (b) of sub-section (5) of section 17 of the CGST Act. In other words, if Food beverages etc. or Membership of club or Travel benefits any of them is required to be provided obligatory under any law then credit on the same is not blocked credit.

## **II) On ITC Relating to Leasing of motor vehicles, vessels and aircrafts**

It is clarified that “leasing” referred in sub-clause (i) of clause (b) of sub-section (5) of section 17 refers to leasing of motor vehicles, vessels and aircrafts only **and not to leasing of any other items. Accordingly, availment of ITC is not barred under sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act in case of leasing, other than leasing of motor vehicles, vessels and aircrafts.**

## **Issue 3: Perquisites provided by employer to the employees as per contractual agreement.**

**Clarification:** It is clarified that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST **when the same are provided in terms of the contract between the employer and employee**

## **Issue 4: Utilisation of Electronic Credit Ledger**

Electronic credit ledger can be used for making Tax payment only excluding Tax under reverse charge mechanism subject to order of utilisation as given in n section 49B of the CGST Act read with rule 88A of the CGST Rules.

Accordingly, it is clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST Laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.

However, it cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said acts.

Similarly, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.

## Circular No. 173/05/2022-GST

**Subject: Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification – reg.**

**Problem:** Vide para 3.2 of Circular No. 135/05/2020-GST dated 31.03.2020, it was clarified that refund on account of inverted duty structure would not be admissible in cases where the input and output supply are same.

**Clarification:** There may however, be cases where though inputs and output goods are same but the **output supplies are made under a concessional notification due to which the rate of tax on output supplies is less than the rate of tax on inputs**. In such cases, as the rate of tax of output supply is less than the rate of tax on inputs at the same point of time due to supply of goods by the supplier under such concessional notification, the credit accumulated on account of the same is admissible for refund under the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act, other than the cases where output supply is either Nil rated or fully exempted, and also provided that supply of such goods or services are not notified by the Government for their exclusion from refund of accumulated ITC under the said clause.”

## **Circular No. 174/06/2022-GST**

### **Subject: Prescribing manner of re-credit in electronic credit ledger using FORM GST PMT-03A – regarding**

Difficulties were being faced by the taxpayers in taking re-credit of the amount in the electronic credit ledger in cases where any excess or erroneous refund sanctioned to them had been paid back by them either on their own or on being pointed by the tax officer. In order to resolve this issue, GSTN has recently developed a new functionality of FORM GST PMT 03A which allows proper officer to re-credit the amount in the electronic credit ledger of the taxpayer. Further, sub-rule (4B) in rule 86 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) has been inserted vide Notification No. 14/2022-CT dated 05.07.2022 to provide for re-credit in the electronic credit ledger where the taxpayer deposits the erroneous refund sanctioned to him.