

Amendments by 47th GST Council - Procedural



Fake Invoicing



Circular No. 171/03/2022-GST – Scenario B



Mr A

Issues invoice without supply of goods/services



Does not amount to supply u/s 7 of CGST Act



Mr B

Issues invoice with supply of goods/services



And Mr B avails ITC



Amounts to supply



Mr C

Impact on Mr A

- As there is **no supply**, no tax liability arises
- No proceedings for demand and recovery under Section 73 or Section 74 can be made against Mr. A
- Penal action would be taken against Mr. A under section **122(1)(ii)** for issuance of fake invoice

Impact on Mr B

- ITC not available u/s 16(2) as goods/services are not received
- Proceedings against Mr. B for recovery of incorrect ITC plus penalty under Section 74 of the CGST Act, along with applicable interest as per Section 50.
- As per 75(13) as action u/s 74 is taken, no penalty under any other section

Circular No. 171/03/2022-GST – Scenario C



Mr A

Issues invoice without supply of goods/services



Does not amount to supply u/s 7 of CGST Act



Mr B

Issues invoice without supply of goods/services



And Mr B avails ITC



Does not amount to supply u/s 7 of CGST Act



Mr C

Impact on Mr B.

- ITC not available u/s 16(2) as goods/services are not received.
- As there is **no supply**, no tax liability shall arise.
- No proceeding in section 73 and 74 as no underlying supply present.
- Penal action would be taken against Mr. B 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.

What is E-Invoicing ?

- ❑ E-invoicing is a system in which B2B invoices issued by suppliers are **REPORTED** on an e-portal notified by the Government and authenticated electronically by such e-portal for further use in various compliances such as preparation of GST returns, e-way bills etc. on the GST system.

The suppliers will continue to generate invoice using their regular software system. However, details of the invoice will also be uploaded on the e-invoice portal

FACT

MYTH

E-Invoicing under GST means generating invoices from a Central Portal of Tax Department !

Objective of E – Invoicing

- ❑ Standardized format of invoice across the country when generated through any accounting software
- ❑ Realtime reporting of details to the GST portal and into the Returns
- ❑ Easily readable by machines – Faster Data entry and curbs errors in data entry
- ❑ Easy compliance in filing of periodic GST Returns & generation of e-way bill
- ❑ **Reduction in Tax evasion** – Complete trail of B2B invoices & system level matching of ITC and output tax
- ❑ Easy ITC matching – reduces reconciliation problems - Confirm & verified claim of ITC



Applicability

NN/17/2022-CT (1st August 2022)

E-Invoicing is applicable for all registered person whose aggregate turnover in a financial year exceeds Rs. 10 Crore in respect of supply of goods / services to registered person (B2B)

FACT

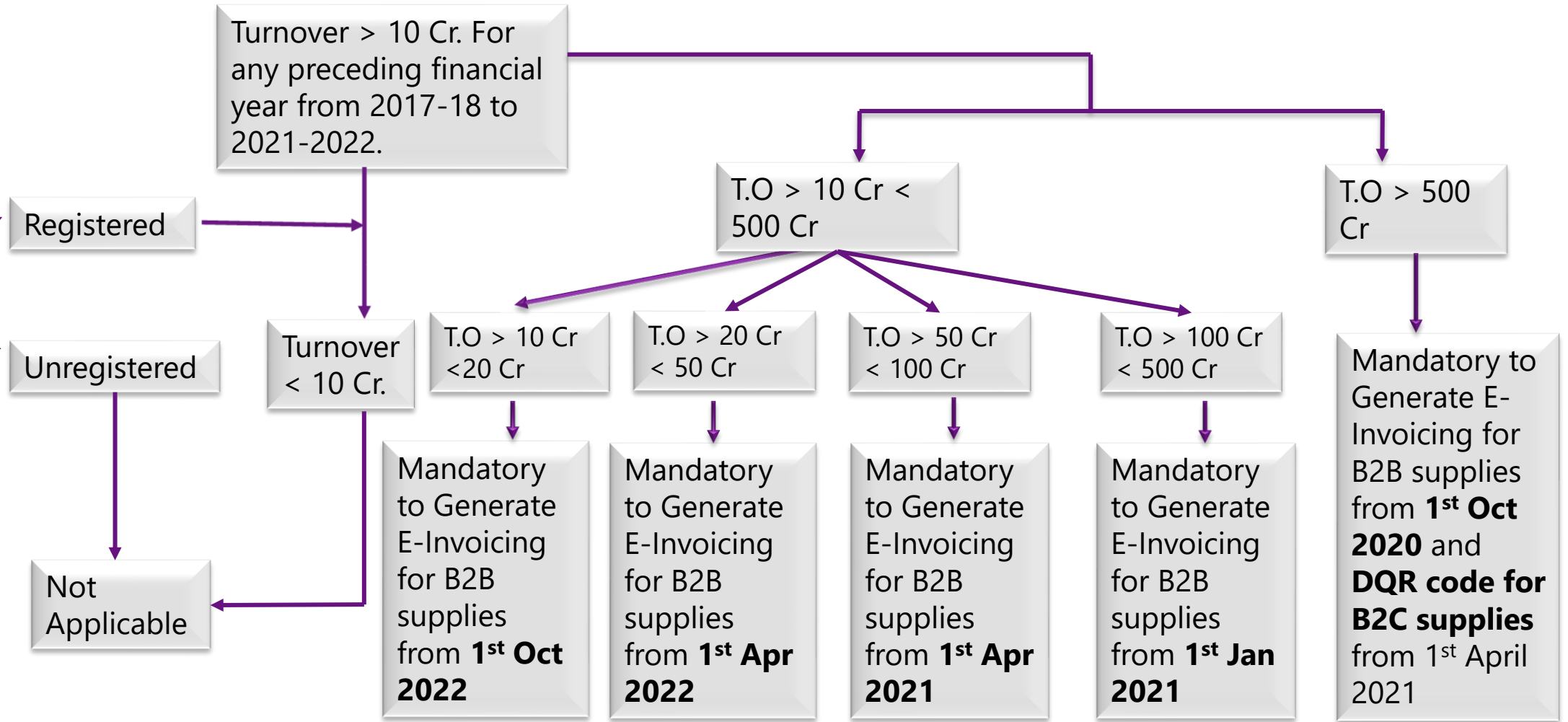
MYTH

E-Invoicing is applicable for all B2B Cases i.e even for small dealers.



- The GST Council approved the standard of E-invoice in its 37th meeting held on 20th Sept 2019 and accordingly, on 13th Dec 2019, Government has issued Notification No 68/2019 CT to 72/2019 CT, laying down legal roadmap for E-Invoicing.
- E-Invoicing will be applicable on voluntary basis from January 2020 and mandatory from April 2020 to notified classes as per Initial Roadmap.

Applicability



Example

Year	Turnover(in crores)					
	Example 1	Example 2	Example 3	Example 4	Example 5	Example 6
2017-18	3	45	70	1000	15	45
2018-19	4	50	102	45	18	16
2019-20	8	52	98	45	17	48
2020-21	9	49	99	45	20.5	47
2021-22	12	50	95	45	19	49
E-invoice applicability from	1 October 2022	1 April 2021	1 January 2021	1 October 2020	1 April 2022	1 October 2022

Refund



Who can claim refund?

- A. Any registered taxable person,
- B. Except the class of applicants as the Central Government or State Government may on the recommendation of the council, by notification specify.

Provided further that in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the -

- (a) supplier of goods after such goods have been **admitted in full** in the Special Economic Zone for **authorized operations**, as **endorsed by the specified officer** of the Zone;
- (b) supplier of services along with such evidence regarding receipt of services for authorized operations as endorsed by the specified officer of the Zone :

Explanation – For the purposes of this sub-rule, “specified officer” means a “specified officer” or an “authorized officer” as defined under rule 2 of the Special Economic Zone Rules, 2006

As per the Rule 30 (4) of SEZ Rules, 2006:-

“A copy of the document referred to in sub-rule (1) or copy of Bill of Export, as the case may be, with an endorsement by the authorised officer that goods have been admitted in full into the Special Economic Zone shall be treated as proof of export and a copy with such endorsement shall also be forwarded by the Unit or Developer to the Goods and Services Tax or Central Excise Officer having jurisdiction over the Domestic Tariff Area supplier within forty-five days failing which the Goods and Services Tax or Central Excise Officer, as the case may be, shall raise demand of tax or duty against the Domestic Tariff Area supplier;”

Further, as per the Rule 2 (c) of SEZ Rules, 2006:-

“Authorized Officer” means an Inspector or Preventive Officer or Appraiser or Superintendent of Customs posted in the Special Economic Zone and authorized by the Specified Officer to discharge any of his functions under these rules;

In view of the above, it is to submit that the Preventive Officer is appointed as **“Authorized Officer”** by the Specified Officer, APSEZ, Mundra and he/she is authorized to endorse the documents.



Yours truly,


Specified Officer,
APSEZ MUNDRA

Whether a refund claim can be rejected on the grounds that the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act?

Explanation. – For the purposes of this sub-rule, the value of goods exported out of India shall be taken as –

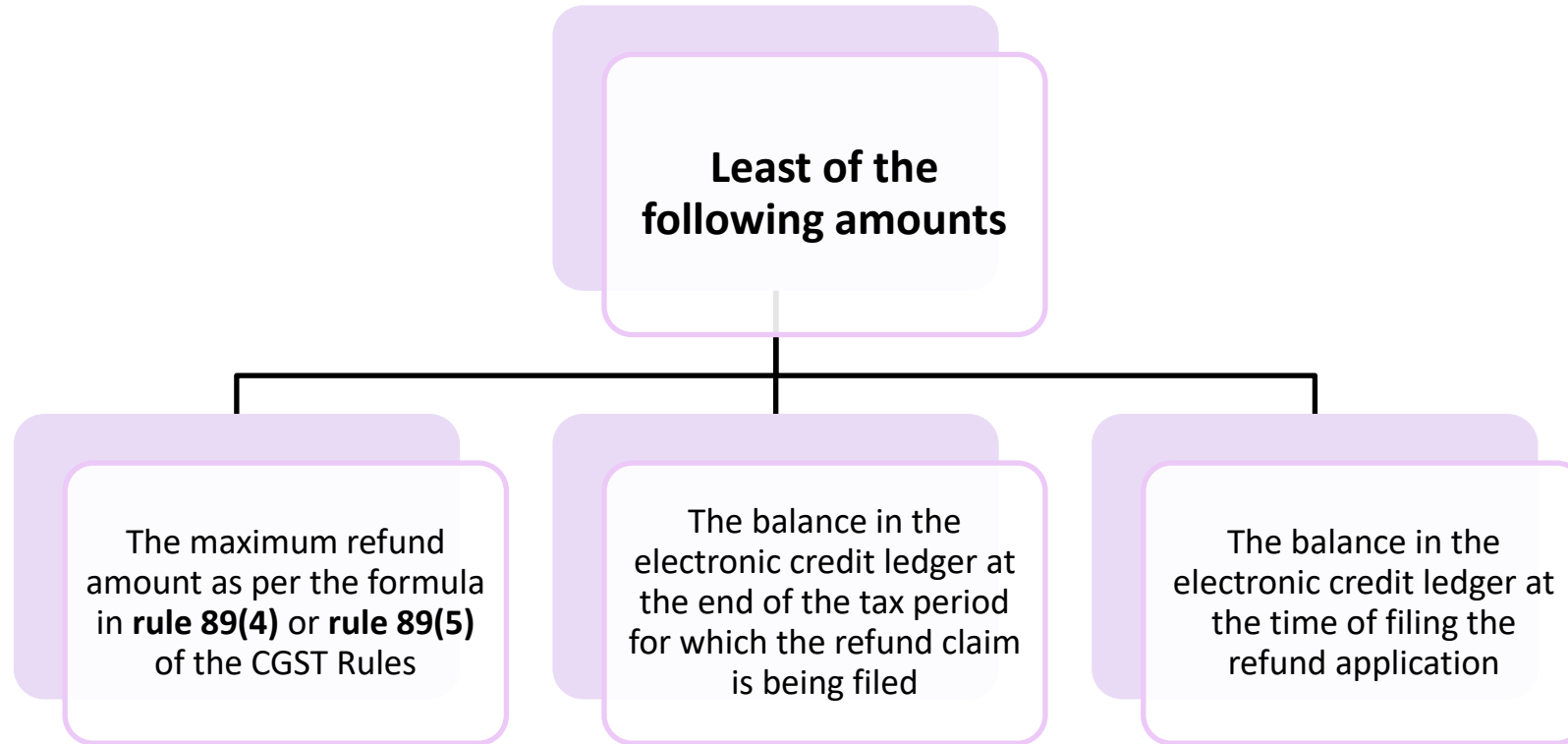
- (i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or
- (ii) the value declared in tax invoice or bill of supply, whichever is less

Notification 14/2022 Central Tax dated 05-07-2022

Clarification - The transaction value recorded in the GST invoice should normally be recorded in the corresponding shipping bill/bill of export. During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill/bill of export should be examined and the lower of the two values should be taken into account while calculating the eligible amount of refund.

Para 47 of Circular 125/44/2019-GST dated 18-Nov-2019

How does the common portal calculate refundable amount ?



Note:
[formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax + Integrated tax]

Calculation of Refund Amount – Inverted Duty Rate



Amendment in Rule 89(5) to allow credit of unutilised ITC on input services also.

Calculation of Refund Amount

Code	Description	Earlier	Current	Ideal
B	Adjusted Total Turnover	10,000	10,000	10,000
C	Turnover of inverted rated supply of goods and services @ 5%	4,000	4,000	4,000
X	ITC - Inputs	600	600	600
Y	ITC - Input Services	200	200	200
	ITC - Capital Goods	100	100	100
A	Net ITC for Refund Purposes	600	600	800
	Calculation of Refund Amount			
	$A * B / C$	240	240	320
	Less - Tax on Turnover of inverted rated supply of goods and services @ 5% * $X / (X+Y)$	200	150	200
	Eligible Refund Amount	40	90	120

Notification 13/2022 – Central tax w.e.f 1st March 2020

Section	Sec 73 of CGST Act	Sec 73 of CGST Act	Sec 54 and 55 of CGST Act
Existing Timeline	Issue the order within three years from the due date for furnishing of annual return for the financial year	Issue the order within three years from the due date for furnishing of annual return for the financial year	Refund to be applied within 2 years from relevant date
Purpose	For issuance of demand/order (by proper officer) in respect of erroneous refunds	Recovery of tax not paid or short paid or of ITC wrongly availed or utilized	For calculation of the limitation period for filing refund claim by an applicant
Amendment	Time period from 01.03.2020 to 28.02.2022 to be excluded	For FY 2017-18, upto 30 th September 2023. (earlier was 31 st Jan 2023)	Time period from 01.03.2020 to 28.02.2022 to be excluded

Export of goods without payment of tax – Deemed Filing

Application shall be deemed to have been filed only when:-

(a) the person in charge of the conveyance carrying the export goods duly files a departure manifest or an export manifest or an export report covering the number and the date of shipping bills or bills of export; and

(b) *the applicant has furnished a valid return in **FORM GSTR-3B**:*

*Provided that if there is any mismatch between the data furnished by the exporter of goods in Shipping Bill and those furnished in statement of outward supplies in **FORM GSTR-1**, such application for refund of integrated tax paid on the goods exported out of India shall be deemed to have been filed on such date when such mismatch in respect of the said shipping bill is rectified by the exporter,*

(c) the applicant has undergone Aadhaar authentication in the manner provided in rule 10B

Withholding of refunds Section 54(10)/(11)

Section 54(10) Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may —

- (a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;
- (b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Explanation. — For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act

Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine

EVERTIME OVERSEAS PVT. LTD. Versus UNION OF INDIA

Refund - Refund not to be denied merely on the ground that investigation is pending - Refund to be processed by respondents in accordance with law - Respondent directed to process application made by petitioner for refund and pass reasoned order upon hearing the petitioner - Section 16(3)(b) of Integrated Goods and Services Tax Act, 2017 read with Section 54(10) of Central Goods and Services Tax Act, 2017. [paras 2, 5]

Where the proper officer or commissioner of of the opinion that the amount of refund is liable to be withheld under the provisions of sub-section (10) or, as the case may be, sub-section (11) of section 54, he shall pass and order in (PART A) of **FORM GST RFD-07** informing him the reasons for withholding of such refunds – Rule 92(2)

Export of goods without payment of tax – Withheld

The claim for refund shall be withheld where,-

(a) a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or

(b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962; or

(c) the Commissioner in the Board or an officer authorized by the Board, on the basis of data analysis and risk parameters, is of the opinion that verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund, in order to safeguard the interest of revenue

Earlier transmitted to CGST/SGST officer if withheld for clause (a) and then officer issues RFD-07 Part A and order in Part B at time of release.

Now System generated GST-RFD01 for all 3 cases which is deemed to be filed on the date of transmission of the claim and provisions of Rule 89 shall apply to them.

MCQ

Q. Whether refund of ITC can be claimed under inverted duty structure when inputs and outward supplies are same

a. Yes

b. No.

c. Yes, only in specified cases.

d. Only if inputs and outward supplies are having different HSN code.

Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification

Cases where 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.173/05/2022-GST.

MCQ

Q. For refund of ITC in case of export of electricity, which value is considered?

a. Sales value as per invoice

b. Qty as per Regional Energy Account * Standard rate as decided

c. Qty as per Regional Energy Account * Rate as per invoice

d. None of the above

Export of Electricity – Circular 175/07/2022

- ✓ Electricity is classified as goods and existing rules mandated shipping bill details for refund application under category – Refund of ITC on account of export without payment of tax
- ✓ This condition is now amended, however until required software modifications are done – refund shall be filed under “**Any Other**” category with remark “Export of electricity- without payment of tax (accumulated ITC)”
- ✓ There will be no debit in Electronic Credit ledger at the time of submission of claim
- ✓ Relevant date shall be last date of month as per monthly Regional Energy Account (REA)
- ✓ Value = Quantity as per REA * Tariff per unit or actual bill value whichever is lower
- ✓ ***Domestic supply of electricity will not form part of Adjusted total turnover***
- ✓ However, officer must ensure no ITC is availed in respect of domestic supplies
- ✓ Once refund approved – Officer will request in writing for DRC-03 and on receipt of the same issue refund order in RFD-06 and payment advice In RFD-05

Circular No. 175/07/2022-GST

Supporting Documents for filing of refund

The applicant would be required to upload the PDF containing

a) Statement 3B of FORM GST RFD-01 along with calculation of the refund amount and refund application in FORM GST RFD-01.

b) Copy of statement of scheduled energy for electricity exported by the Generation Plants issued by RPC Secretariat.

c) Copy of agreements detailing the tariff per unit for the electricity exported

Circular No. 175/07/2022-GST

Manner of filing refund of unutilized ITC on account of export of electricity-reg.

“Statement-3B [rule 89 (2) (ba)]

Refund Type: Export of electricity without payment of tax (accumulated ITC)

Sl. No.	Invoice/Document Details				REA Details					Tariff per Unit in Rs. (As per agreement)	Units exported (Lower of cl. No 5 and 10)	Value of electricity exported in Rs. (11 x 12)
	Type of Document	No.	Date	Energy exported (Units)	Generating Station	Period	Ref. No.	Date	Scheduled Energy Exported (Units)			
1	2	3	4	5	6	7	8	9	10	11	12	13
												”;

Circular No. 175/07/2022-GST

Clarification on Refund claimed by the recipients of supplies regarded as deemed export

1. Issue

Whether the ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports would be subjected to provisions of Sec 17 of the CGST Act, 2017.

1) The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017.

2) Therefore, the ITC so availed by the recipient of deemed export supplies would not be subjected to provisions of Section 17 of the CGST Act, 2017.

Circular No. 172/04/2022-GST

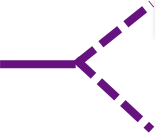
Clarification on Refund claimed by the recipients of supplies regarded as deemed export

2. Issue

Whether the ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is to be included in the "Net ITC" for computation of refund of unutilised ITC under rule 89(4) & rule 89 (5) of the CGST Rules, 2017.



In such case ITC availed by the recipient of deemed export supply is not to be included in the "Net 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.

Circular No. 172/04/2022-GST

Cash and Credit Ledger



Transfer of Cash ledger balance within Distinct Entities

Rule 87(14) Inserted

A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for central tax or integrated tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25, in FORM GST PMT-09:

Provided that no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register

Mode of Payment in Cash Ledger in GST – Rule 87(3)

The deposit under sub-rule (2) shall be made through any of the following modes, namely:-

(i) Internet Banking through authorized banks;

(ia) Unified Payment Interface (UPI) from any bank;

(ib) Immediate Payment Services (IMPS) from any bank;

(ii) Credit card or Debit card through the authorized bank;

(iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or

(iv) Over the Counter payment through authorized banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

Jyoti Construction vs Dy Commissioner of Central Tax & GST, Jaipur

Section 41(2) - ITC shall be utilized only for payment of "self-assessed output tax as per the return"

Section 2(82) - "output tax" in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

SECTION 49. Payment of tax, interest, penalty and other amounts. —

(1) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by ^{***Various modes **} and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.

(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with [section 41 or section 43A], to be maintained in such manner as may be prescribed.

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.

Utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities

1. Issue

Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?

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.

It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.

Circular No. 172/04/2022-GST

Utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities

2. Issue

Whether the amount available in the electronic credit ledger can be used for making payment of any liability other than tax under the GST Laws?

As per sub-section (4) of section 49, the electronic credit ledger cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said Acts. Similarly, ECrL cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash

Circular No. 172/04/2022-GST

Utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities

3. Issue

Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST Laws?

As per sub – section (3) of section 49 of the CGST Act, the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the GST Laws

Circular No. 172/04/2022-GST

MCQ

Q. How to repay erroneous refund claimed?

a. Through GSTR-3B

b. Through DRC-03 using Cash Ledger

c. Through DRC-03 using Credit Ledger

d. Form PMT-03A

Amendments relating to repayment of erroneous Refunds

Situation Erroneous refund amount sanctioned to a taxpayer on account of accumulated ITC or on account of IGST paid on zero rated supply of goods or services, in contravention of rule 96(10) of the CGST Rules

Current Action Tax is deposited by him along with interest and penalty, wherever applicable

Issue Methodology to claim such ITC

Proposed Amendment A new **FORM GST PMT-03A** is introduced which will enable the taxpayers to get re-credit of the amount of erroneous refund, paid back by them, in their electronic credit ledger.

(Notification No. 14/2022 – Central Tax)

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

Rule 86(4B) inserted

Where a registered person deposits the amount of erroneous refund sanctioned to him, –

(a) under sub-section (3) of section 54 of the Act, or

(b) under sub-rule (3) of rule 96, in contravention of sub-rule (10) of rule 96,

along with interest and penalty, wherever applicable, through FORM GST DRC-03, by debiting the electronic cash ledger,

on his own or on being pointed out, an amount equivalent to the amount of erroneous refund deposited by the registered person shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03A

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

Step
1:

The register person should choose the correct category for re-credit.

A) Refund of IGST paid on export of goods when

i) Inward supplies were received claiming benefit of deemed exports (48/2017) except Capital goods under EPCG scheme

ii) Inward supplies were received claiming benefit of merchant exporter scheme (40/2017 CT Rate & 41/2017 IT Rate

iii) Availed duty drawback under Notification 78/2017-Customs dated 13.10.2017 or Notification 79/2017-Customs dated 13.10.2017 except Capital goods under EPCG scheme

B) Refund of unutilised ITC on account of export of goods/services without payment of tax

C) Refund of unutilised ITC on account of zero-rated supply of goods/services to SEZ developer/Unit without payment of tax.

D) Refund of unutilised ITC due to inverted tax structure.

Step 2:

Taxpayer shall deposit the full amount of erroneous refund, along with applicable interest, and penalty, wherever applicable, **through Electronic Cash ledger** in FORM GST DRC-03 with reason **"deposit of erroneous refund of unutilised ITC, or the deposit of erroneous refund of IGST obtained in contravention of sub-rule (10) of rule 96 of the CGST Rules"**

Step 3:

The taxpayer shall make a written request, in format enclosed as Annexure-A, to jurisdictional proper officer to re-credit the amount

Step 4:

The proper officer, shall re-credit an amount in electronic credit ledger, by passing an order in FORM GST PMT-03A, **preferably** within a period of 30 days from the date of receipt of request for re-credit or from the date of payment of full amount of erroneous refund, whichever is later.

Returns



Amendments w.r.t GST returns

GSTR 3B

- Comprehensive changes in FORM GSTR-3B to be placed in public domain for seeking inputs/suggestions of the stake holders

GSTR 9

- Exemption from filing annual return in FORM GSTR-9/9A for FY2021-22 for AATO up to Rs.2 crores.
(Notification No. 10/2022-Central Tax)

GSTR 4

- Waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22 till 28.07.2022. Resolve the issue of negative cash balance faced by composition taxpayers
(Notification No. 12/2022-Central Tax)

CMP 08

- Extend the due date of filing of FORM GST CMP-08 for the 1st quarter of FY 2022-23 from 18.07.2022 to 31.07.2022.
(Notification No. 11/2022-Central Tax)

Amendments w.r.t GSTR-9

Sr No	Particulars	2017-18	2018-19	2019-20	2020-21	2021-22
1	Exemption to registered person whose aggregate turnover is up to 2 crores	Yes	Yes	Yes	Yes	Yes
2	Separate reporting of Credit notes under Clause 4I of GSTR-9	Optional	Optional	Optional	Optional	Mandatory
3	Separate reporting of Debit notes under Clause 4J of GSTR-9	Optional	Optional	Optional	Optional	Mandatory
4	Separate reporting of Amendments to B2B supplies, exports, SEZ supplies, debit notes, credit notes and refund voucher	Optional	Optional	Optional	Optional	Mandatory
5	Separate reporting of exempted, nil rated and Non-GST supply or consolidated in exempted row only	Optional	Optional	Optional	Optional	Partly. Non GST separate reporting required

Amendments w.r.t GSTR-9

Sr No	Particulars	2017-18	2018-19	2019-20	2020-21	2021-22
6	Separate reporting of Credit notes under Clause 5H of GSTR-9	Optional	Optional	Optional	Optional	Optional
7	Separate reporting of Debit notes under Clause 5J of GSTR-9	Optional	Optional	Optional	Optional	Optional
8	Separate reporting of Amendments to exports, SEZ supplies without payment of taxes in Clause 5J & 5K of GSTR-9	Optional	Optional	Optional	Optional	Optional
9	Breakup of ITC as inputs, input services and Capital Goods in Clause 6B (ITC) and Clause 6E (imports) of GSTR-9 or consolidated as inputs	Optional	Optional	Separate reporting of Capital Goods is required, Inputs & input services can be reported as inputs		
10	Breakup of RCM in Table 6C (registered) and Table 6D (unregistered) or consolidated under Table 6D	Optional	Optional	Optional	Optional	Optional
11	Reporting of ITC reversed under Rule 37, 39, 42, 43, Section 17(5) in Table 7a to 7e or consolidated reporting under Table 7H others	Optional	Optional	Optional	Optional	Optional

Amendments w.r.t GSTR-9

Sr No	Particulars	2017-18	2018-19	2019-20	2020-21	2021-22
12	Reporting of ITC availed/ reversed in next year in Table 12 and 13 of GSTR-9	Optional	Optional	Optional	Optional	Optional
13	Reporting of Demands and Refunds in Table 15	Optional	Optional	Optional	Optional	Optional
14	Reporting of supplies received from composition dealers, deemed supplies in Table 16	Optional	Optional	Optional	Optional	Optional
15	HSN reporting of Outward Supplies	Optional	Optional	Optional	Optional	Mandatory – 6/4 digits
16	HSN reporting of Inward Supplies	Optional	Optional	Optional	Optional	Optional

Clarification regarding GSTR-3B:

The information sought in Table 3.2 of FORM GSTR-3B is required to be furnished, place of supply-wise, even though the details of said supplies are already part of the supplies declared in Table 3.1 of the said FORM. For assisting the registered persons, Table 3.2 of FORM GSTR-3B is being auto-populated on the portal based on the details furnished by them in their FORM GSTR-1.

It is further advised that 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

It may be noted that the entire set of data that is available in FORM GSTR-2B is carried to the table 4 in FORM GSTR-3B, except

- a. for the details regarding ITC that is not available to the registered person either on account of limitation of time period as delineated in sub-section (4) of section 16 of the CGST Act or
- b. where the recipient of an intra-State supply is located in a different State / UT than that of place of supply.

Circular No. 170/02/2022-GST

Clarification regarding GSTR-3B:

It is pertinent to mention that the 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.

It is important that any reversal of ITC or any ITC which is ineligible under any provision of the CGST Act **should not be part of Net ITC Available in Table 4(C)** and accordingly, should not get credited into the ECL of the registered person.

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)

Accordingly, it is clarified that the reversal of ITC of ineligible credit under section 17(5) or any other provisions of the CGST Act and rules thereunder is **required to be made under Table 4(B) and not under Table 4(D) of FORM GSTR3B.**

Table 4(B)(1) – ITC reversal permanent in nature.

Table 4(B)(2) – ITC reversal temporary in nature. When reclaimed report in Table 4(A)(5) and Table 4(D)(1)

Circular No. 170/02/2022-GST

Interest



Whether interest is payable if there is adequate balance in electronic cash ledger ?

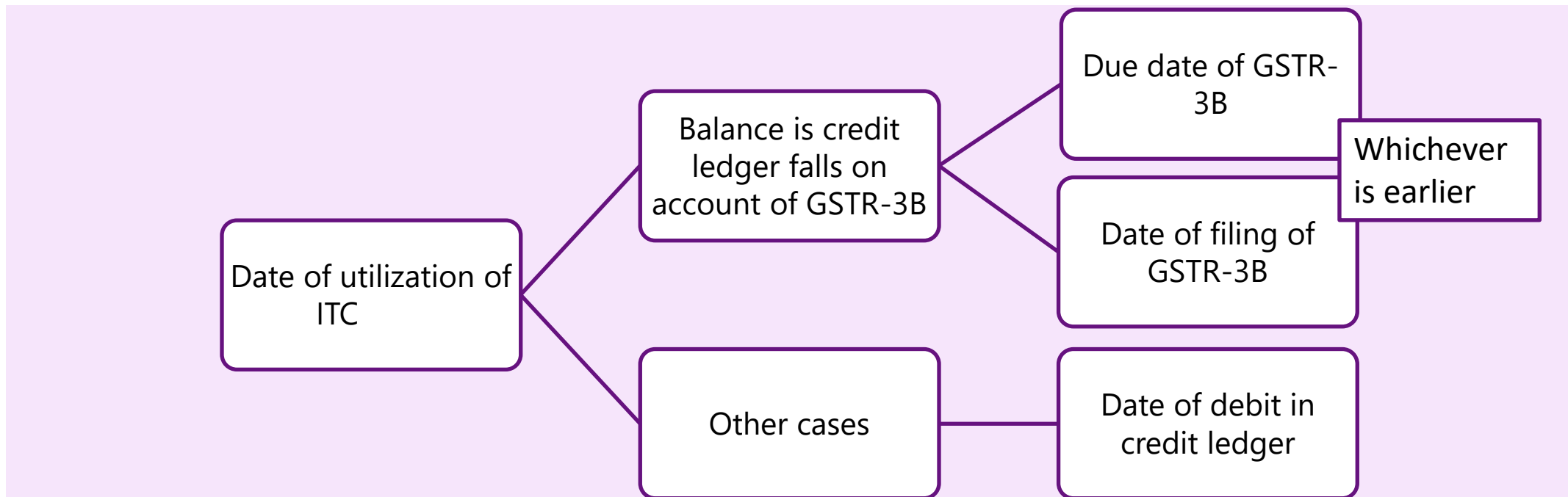
Example – ABC Limited is regular in payment of taxes. For the month of July 2019, GST of Rs 2.5 crores is paid through cash ledger on 19th August. However, as DSC was not available, GSTR-3B filing was pending. Due to some emergency, accountant forgot to file GSTR-3B and realized the same only while filing GSTR-3B for the month of August 2019 on 19th September. Accountant agrees that late fee @ Rs 50 per day would be payable however is of the view that no interest shall be payable as taxes were paid to the government on time.

Notification 08/2022 – Central Tax

Class Of Registered Person	Months	Period for which Interest is to be Nil
Electronic commerce operators having the following Goods and Services Tax Identification Numbers who could not file the statement under sub-section (4) of section 52 of the said Act, for the month of December, 2020, by the due-date, due to technical glitch on the portal but had deposited the tax collected under sub-section (1) of section 52 for the said month in the electronic cash ledger, namely :-		From the date of depositing the tax collected under subsection (1) of section 52 of the said Act in the electronic cash ledger till the date of filing of statement under subsection (4) of section 52.

When shall ITC wrongly availed shall be construed to have been utilised ?

Input tax credit wrongly availed shall be construed to have been utilized, when the balance in the electronic credit ledger **falls below the amount of input tax credit wrongly availed**, and the **extent of such utilization** of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed



Amendment to Section 50(3)

Earlier

- A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council

Amended by
Finance Act 2022
and notified by
09/2022 Central tax
from 5th July 2022

- Where the input tax credit has been wrongly **availed and utilized**, the registered person shall pay interest on such input tax credit wrongly availed and utilized, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed

Interest Rate – Sec 116 of Finance Act 2022

Rule 88B - Calculating interest on delayed payment of tax.-

Situation A

1. Tax is payable in respect of supplies made.
2. Supplies are declared in return **for the said** period
3. Return for the said period is filed before commencement of proceedings under Section 73/74

Sr no	Situation	Interest applicable on payments made through	Interest From	Interest Up to
A		Cash ledger only	Due date of filing GSTR-3B	Date of filing GSTR-3B
B	Other than A above under Section 50(1)	Cash ledger + Credit ledger	Date on which tax was due to be paid	Till the date such tax is paid
C	Under section 50(3)	Cash ledger + credit ledger	From the date of utilisation of such wrongly availed ITC	Till the date of reversal of such credit or payment of tax in respect of such amount

Others



Revocation of Suspension of Registration:

Amendment

2nd Proviso added in Rule 21A (4)

Provided further that where the registration has been suspended under sub-rule (2A) for contravention of the provisions contained in section 29(2)(b) or section 29(2)(c) and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns.

Section 29 – Cancellation or Suspension of Registration

section 29(2)(b) - a person paying tax u/s 10 has not furnished returns for three consecutive tax periods

section 29(2)(c) - any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or

Clarification on Perquisites provided by employer to the employees as per contractual agreement

1. Issue

Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?

➤ Schedule III to the CGST Act provides that GST is not applicable on services rendered by employee to employer provided, they are in the course of or in relation to employment.

➤ Any perquisites provided by the employer to its employees are in lieu of the services provided by employee to the employer in relation to his employment.

Therefore, perquisites provided by the employer to the employee in terms of contractual agreement, will not be subjected to GST

Circular No. 172/04/2022-GST

Proportionate ITC as per Rule 42/43

Explanation 1:- For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude:-

(b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances; and

(c) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

(d) the value of supply of Duty Credit Scrips exempted through Notification No. 35/2017-Central Tax (Rate), dated the 13th October, 2017

Clarification on various issues of section 17(5) of the CGST Act

Section 17(5)(b) the following supply of goods or services or both —

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, **leasing**, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance :

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness center; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession :

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.]

Circular No. 172/04/2022-GST

Clarification on various issues of section 17(5) of the CGST Act

2. Issue

Whether the provisions of subclause (i) of clause (b) of sub sec (5) of sec 17 of the CGST Act bar availment of ITC on input services by way of "leasing of motor vehicles, vessels or aircraft" or ITC on input services by way of any type of leasing is barred under the said provisions?

The Act provides that ITC shall not be available for the above case except when used for the purposes specified therein, life insurance and health insurance:

- Provided that the ITC shall be available where an inward supply is used by a registered person for making an outward taxable supply of such goods and services or as an element of a taxable composite or mixed supply

It is clarified that availment of ITC is not barred under subclause (i) of clause (b) of subsection (5) of section 17 of the CGST Act in case of leasing, other than leasing of motor vehicles, vessels and aircrafts.

Circular No. 172/04/2022-GST

Valid Tax Invoice as per Rule 46

Rule 46(s) Inserted

a declaration as below, that invoice is not required to be issued in the manner specified under rule 48(4) (i.e E-invoice is not applicable), in all cases where an invoice is issued, other than in the manner so specified under rule 48(4), by the taxpayer having aggregate turnover in any preceding financial year from 2017-18 onwards more than the aggregate turnover as notified under the said sub-rule (4) of rule 48- —

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

Amendment In Fly Ash bricks

Earlier

- Fly ash bricks or fly ash aggregate with 90 per cent or more fly ash content:
- Fly ash blocks

Amended

- Fly ash bricks
- Fly ash aggregates
- Fly ash blocks

Notification
10/2019 –
Central tax

Exceptions from exemption from obtaining registration to any person who is engaged in exclusive supply of goods and whose aggregate turnover In financial year does not exceed forty lakh rupees

Notification
14/2019 –
Central tax

Registered person shall not be eligible to opt for composition levy if such person is a manufacturer of the goods as specified in table.

CONNECT US

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Thank you..