

**Functional aspects of GST
&
recent changes & development
including 43rd GST council
meeting**

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- ❑ Post-qualification experience of around 22 years in the field of direct & indirect tax particularly income tax, service tax and VAT ,sales tax and GST.
- ❑ Experience of handling the litigation matters and advisory matters of Direct taxes particularly income tax and indirect tax like GST, service tax, DVAT, CST, Central Excise and other related matters.
- ❑ Authored the book **DNA of GST Audit and Annual return, The DNA of TDS&TCS (including withholding tax, advance tax and equalisation levy)** ,Background material on GST for empowerment of girl students ICAI, New Delhi
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- ❑ Articles on various topics of taxation and other legal matters.

TAX UPDATE



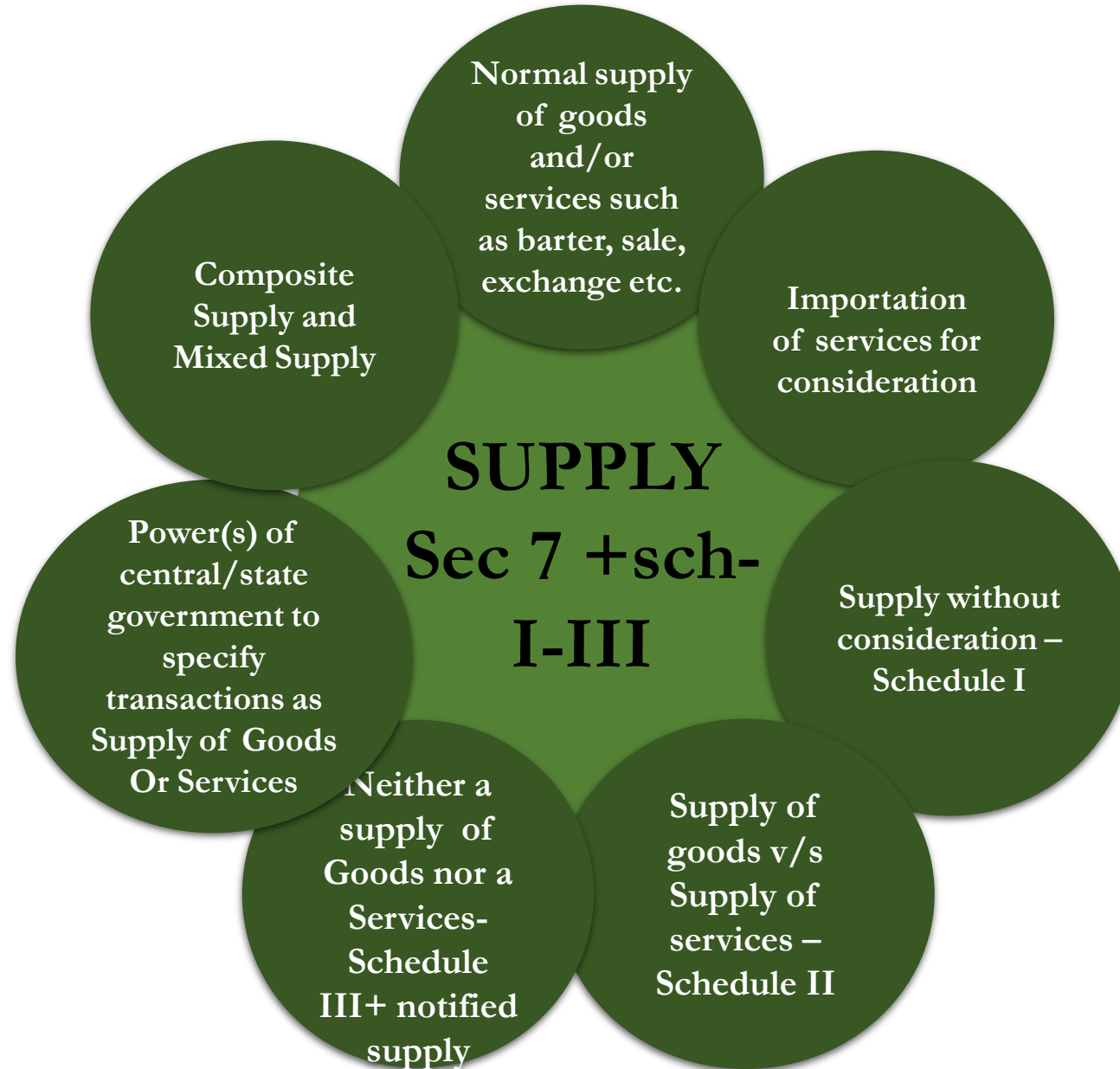
Recent changes
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Changes by Finance Act 2021

Supply At Glance



Changes in the definition of supply to clarify GST for association, club, society

Amendment in definition of supply under CGST affecting trade bodies/association by FA 2021:

Section 7(1) For the purposes of this Act, the expression "supply" **includes**—

(aa) the **activities or transactions**, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation.—For the purposes of this clause, it is hereby clarified that, **notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority**, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;]

Note: Inserted by the Finance Act, 2021, **w.r.e.f. 1-7-2017**

Extract of Paragraph 7 of Schedule II of CGST Act

Supply of Goods:

The following shall be treated as supply of goods, namely:—

~~*Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.*~~

Note: deleted by FA 2021 w.r.e.f. 1-7-2017 and section 7(1)(aa) inserted just as clarificatory amendment.

“Business” is defined under **Section 2(17) of CGST Act** as **““Business”** includes —

(a).....

e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

Changes in GST for association, club, society

Person” is defined under **section 2(84) of CGST Act.**

Person includes—

- a) an individual;
- b) a Hindu Undivided Family;
- c) a company;
- d) a firm;
- e) a Limited Liability Partnership;
- f) *an association of persons or a body of individuals, whether incorporated or not, in India or outside India;***
- g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the [Companies Act, 2013](#)
- h) any Body corporate incorporated by or under the laws of a country outside India;
- i) a co-operative society registered under any law relating to co-operative societies;
- j) a local authority;
- k) Central Government or a State Government;
- l) society as defined under the Societies Registration Act, 1860;
- m) trust; and
- n) every artificial juridical person, not falling within any of the above;

Conclusion: *“an association of persons or a body of individuals, whether incorporated or not, in India or outside India”* is included in **“Person”** definition in sub – clause (f) of Clause (84) of Section 2.

Does that mean Supply of Services by an unincorporated Association to its members thereof for cash, deferred payment or other valuable consideration is not a supply under GST?

The answer is no. Supply of Services by an unincorporated Association to its members thereof for cash, deferred payment or other valuable consideration is very much treated as supply under GST.

Let us take for example,

A Club supplies food and beverages to its members and non – members.

such club Charges GST only on the Food and Beverages supplied to non – members. Whereas no GST is charged on supply of food and beverages to its members, but any way it is subject to GST as clarified by FA 2021.

Whether the act of Club by not charging GST on food and beverages supplied to its members is right?

The answer is clear **No** and as clarified by amendments.

Changes in ITC provisions

ELIGIBILITY FOR TAKING ITC [SEC 16(1)]

- Every **registered person**
- subject to such **conditions and restrictions as may be prescribed(*by rules 36*)** and
- in the **manner specified in section 49,**
- shall, be entitled to take **credit of input tax charged on any supply** of goods or services or both **to him**
- if such goods or services are **used or intended to be used(Closing stock)**
- in the **course or furtherance of his business** and
- the said **amount (of input tax)** shall be **credited to**
- the **electronic credit ledger** of such registered person.

CONDITIONS FOR TAKING INPUT TAX CREDIT [SEC.16(2)]

Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him **unless,**

a) *he is in possession of*

- tax invoice issued by a supplier registered under this Act or*
- debit note issued by a supplier registered under this Act, or*
- other prescribed* tax paying documents ;*

aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;**(clause (aa) inserted by FA 2021)**

b) he has **received the goods or services** or both.

c) subject to the **provisions of section 41 or section 43A** (claim of ITC as self assessed , in the return on provisional basis) the **tax charged** in respect of such supply has been **actually paid to the Government,**

- either in cash or
- through utilisation of input tax credit **admissible** in respect of the said supply;

d) he has furnished the return under section 39(First return u/s 40, annual return u/s 44, final return 45)

* Prescribed rule 36 for **Documentary requirements and conditions for claiming ITC**

Burden of proof

Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person. *[S-155 of CGST Act]*

Therefore we must ensure followings

- *tax invoice, books of account,*
- *record of receiving of goods or services received*
- *Continuation of registration under GST and not canceled retrospectively .*
- *We have to keep books of account etc. for 72 months from the due date of annual return.*
- *Ensure reporting of invoice in form GSTR-2A by the supplier*
- *make reconciliation every month.*
- *Payment within 180 days from date of invoice etc.*
- *Compliance of other conditions for eligible ITC*
- *Don't avail credit of ITC which is other wise not available , if mistake reversal immediately and if credit has been utilised must pay interest also voluntarily .*

Changes in audit annual return & provisions

Changes in section 35(5)

Earlier section 35(5)

- (5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed:
- **[Provided** *that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.*

Section 35(5) proposed to be deleted

Proposed to be deleted - clause 110.

Rule 80(3) Every registered person ¹[other than those referred to in the proviso to sub-section (5) of section 35,] whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

[Provided that for the financial year 2018-2019 and 2019-2020, every registered person whose aggregate turnover exceeds five crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9C** for the said financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.]

Proviso substituted by the Central Goods and Services Tax (Twelfth Amendment) Rules, 2020, w.e.f. **15-10-2020**

Changes in section 44

Earlier section 44

44. (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form³ and manner as may be prescribed⁴ on or before the thirty-first day of December following the end of such financial year:

[Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]

(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

^{4b} [Explanation.- For the purposes of this section, it is hereby declared that the annual return for the period from the 1st July, 2017 to the 31st March, 2018 shall be furnished on or before the ^{4c}[31st January, 2020] and the annual return for the period from the 1st April, 2018 to the 31st March, 2019 shall be furnished on or before the 31st March, 2020.]

proposed section 44

44. Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which **may include a self- certified reconciliation statement, reconciling the value of supplies** declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor- General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”.

Effect of new provisions

Now only reconciliation of **value of supplies** declared in the return furnished for the financial year, with the audited annual financial statement whereas Earlier 5 reconciliations such as

- ❑ gross turnover(as per audited financial statement) Vs. turnover declared in annual return
- ❑ Annual turnover (as per audited financial statement) Vs taxable turnover as per annual return
- ❑ Reconciliation of tax paid – tax payable as per auditor –rate wise FC &RCM separately Vs. tax, interest, penalty, fee etc. paid as per annual return
- ❑ Reconciliation of net ITC (as per audited financial statement) Vs ITC claimed in annual return
- ❑ ITC declared in annual return (as per audited financial statement) Vs. ITC availed on expenses as per

Clarification for GST Audit for FY 2019-20

“Please note Section 35 and 44 of CGST Act are proposed to be amended by Finance Act 2021. However, these proposals will come into effect from a date to be notified later. For FY 2019-20, the existing provisions shall continue,” the CBIC notified.

Clarification for GST Audit for FY 2020-21: GSTR-9/9C continue for FY 2020-21

Para 4 of the press release of 43rd GST council meeting decision :

Simplification of Annual Return for Financial Year 2020-21:

- Amendments in section 35 and 44 of CGST Act made through Finance Act, 2021 to be notified.
- **This would ease the compliance requirement** in furnishing reconciliation statement in **FORM GSTR-9C**, as taxpayers would be able to **self-certify** the reconciliation statement, instead of getting it certified by chartered accountants. This change will apply for Annual Return for FY 2020-21.
- The filing of annual return in **FORM GSTR-9 / 9A** for FY 2020-21 to be optional for taxpayers having aggregate annual turnover upto Rs 2 Crore;
- The reconciliation statement in **FORM GSTR-9C** for the FY 2020-21 will be required to be filed by taxpayers with annual aggregate turnover above Rs 5 Crore.

Main reason for abolish of GST Audit?

as per Extract of GST Council Minutes pg no. 133.

Agenda Item 5A(vi): Filing of GSTR-9 (Annual Return) and GSTR-9C (Reconciliation Statement)

- 1) A lot of negative feedback was received regarding filing of annual return and reconciliation statement for FY 2017-18. Most of the feedback is on working of the IT portal.
- 2) Due date for filing Annual Return and Reconciliation statement for 2017-18 was extended 7 times.
- 3) it has also been reported that the cost of compliance for filing of Annual Return and Reconciliation has been high especially for smaller taxpayers since this process requires engagement of a tax professional (Chartered Accountant or Cost Accountant) who reportedly insist that they should be engaged for the entire compliance management process throughout the year thus pushing the cost of compliance.
- 4) It is seen that additional tax of about Rs. 3176 Crores (Rs. 2079 Cr. In cash) additional tax and Rs. 575.76 Cr. interest thereon got collected from Annual Return GSTR-9.
- 5) Additional revenue from GSTR-9C based the Auditor's recommendations has been relatively low at Rs. 392 Cr. (Rs. 261 Cr. in cash) and Rs. 81.16 as interest.

Note : This will make easy the work of tax department in raising demand of tax, penalty and harassment to tax payer. Must ensure the due diligence from GST expert to avoid bad music in future and get validated what is done in GST return and books of account.

Return related changes

Para 7 of the press release of 43rd GST council meeting decision to make GSTR-3B/GSTR-1 as the default return :

GST Council recommended amendments in certain provisions of the Act so as to make the present system of **GSTR-1/3B** return filing as the default return filing system in GST.

Bharti Airtel Ltd.

Vs.

Union of India

Para 4 of the circular no 26/26/2017-
GST dated 29-12-2017 read down

Para 4 "It is clarified that as return in FORM GSTR-3B do not contain provisions for reporting of differential figures for past month(s), the said figures may be reported on net basis along with the values for current month itself in appropriate tables i.e. Table No. 3.1, 3.2, 4 and 5, as the case may be. It may be noted that while making adjustment in the output tax liability or input tax credit, there can be no negative entries in the FORM GSTR-3B. The amount remaining for adjustment, if any, may be adjusted in the return(s) in FORM GSTR- 3B of subsequent month(s) and, in cases where such adjustment is not feasible, refund may be claimed. Where adjustments have been made in FORM GSTR-3B of multiple months, corresponding adjustments in FORM GSTR-1 should also preferably be made in the corresponding months. "

- Held : Thus, in light of the above discussion, the rectification of the return for that very month to which it relates is imperative and, accordingly, we read down para 4 of the impugned Circular No. 26/26/2017-GST dated 29-12-2017 to the extent that it restricts the rectification of Form GSTR-3B in respect of the period in which the error has occurred. Accordingly, we allow the present petition and permit the Petitioner to rectify Form GSTR-3B for the period to which the error relates, i.e. the relevant period from July, 2017 to September, 2017. We also direct the Respondents that on filing of the rectified Form GSTR-3B, they shall, within a period of two weeks, verify the claim made therein and give effect to the same once verified. In view of the fact that the final relief sought by the Petitioner has been granted and the petition is allowed, no separate order is required to be passed in the application seeking interim relief. Accordingly, the said application is disposed of as such.

Para 4 of the circular no 26/26/2017-GST dated 29-12-2017 read down

Para 4 allow correction in the month in which error noticed or in subsequent month GSTR-3B but rectification not allowed in the tax period in which there was error.

- Brief facts: Bharti Airtel the applicant is being prevented from correcting its monthly GST returns, and consequently seeking refund of excess of taxes paid, it is held that respondents by impugned circular had restricted mechanism of rectification of GST returns to same tax period, in which they were noticed and sought to be rectified.
- there is no cogent reasoning behind logic for restricting rectification only in period in which error is noticed and corrected, and not in period to which it relates and, thus, constraint introduced by impugned circular, is arbitrary and contrary to provisions of CGST Act and petitioner is permitted to rectify Form GSTR-3B for period to which error relates
- Earlier in service tax regime centralised registration and now 50 registrations under GST period. Petitioner remolded its system from the centralized registration under the erstwhile service tax regime, to multiple registrations under GST in order to bring it in conformity with the new laws. This included introduction of the technical changes for enabling filing of the statutory Forms GSTR-1, 2 and 3. However, while putting the new law into practice, Government could not operationalize Forms GSTR-2 and 3 and, as a result a summary scheme of filing Form GSTR- 3B was introduced.
- excess payment of taxes, by way of cash, to the tune of approximately Rs. 923 crores which company claimed refund. This mistake was for July to September 2017 but pointed out only October 2018, when the Government operationalized Form GSTR-2A , since correction not permitted of same tax period applicant unable rectify and brought back the amount to cash ledger and unable to utilise the ITC balance and refund of cash deposited.

- learned Sr. Counsel for the Petitioner argued that impugned circular is *ultra vires* the CGST Act and the Rules.
- inability of the Respondents(government) to run their IT system as per the structure provided under the CGST Act cannot prejudice the rights of a registered person.
- on account of major shift from the single service tax registration regime, to GST, it resulted in Petitioner having to collate crores of transactions both on the output side and input side. registrations were to be obtained in 29 States and 7 Union Territories. This required enormous compilation of data and was a humongous task.
- The possibility of error in compilation of data cannot be ruled out especially since the inbuilt self-check mechanism contemplated under the CGST Act had not been activated;
- inability of the Respondents to run their IT system as per the structure provided under the CGST Act cannot prejudice the rights of a registered person. on account of major shift from the single service tax registration regime to GST, it resulted in to collate crores of transactions both on the output side and input side. The possibility of error in compilation of data cannot be ruled out especially since the inbuilt self-check mechanism contemplated under the CGST Act had not been activated.
- In absence of such validation, the chances of incorrect data being uploaded cannot be eliminated because in GSTR 3B all the data to be manually feeded.

- Since the statutory scheme originally envisaged under the Act could not be implemented and a summary scheme has been adopted, the Government should allow the assesseees to exercise their rights available under the provisions of the Act.
- delay in operationalizing Form GSTR- 2A, a process which was statutorily mandated, cannot defeat the rights of the Petitioner to take and use credit in the month in which it was due.
- Applicant placed reliance upon the judgment of the Gujarat High Court in the case of ***APP & Company Chartered Accountants v. Union of India, 2019-TIOL-1422-HC-AHM-GST*** and submitted that the Court has observed that Form GSTR-3B was not a return required to be filed under section 39 of CGST Act and was only a temporary facility and as such delay in claiming credit cannot delay the period for which the same is claimed i.e. the last date for filing the Form GSTR-3B.
- GST is still in a "trial and error" phase and has permitted the assesseees to rectify/revise the returns. *Blue Bird Pure Pvt. Ltd v. Union of India & Ors.*
- Lastly, it was argued that the revision of Form GSTR-3B is revenue neutral since the Respondents have already realised the tax leviable under the law.
- Moreover, the eligibility of the Petitioner in respect of the ITC claimed under the rectified/amended returns can be verified prior to rectification.

- Sr. Standing counsel on behalf of the GST department submitted that the impugned circular in the present petition does provide for the rectification of mistakes pertaining to earlier tax period in any subsequent tax period. He submitted that such changes have to be incorporated in the return for the tax period in which the error is noted.
- Mr. Singh submitted that it is not that as if the Act does not provide for rectification at all. In respect of particulars furnished for an earlier tax period, made at a later date in Form GSTR-3B, rectification shall get reflected in the return in the earlier tax period. In this manner, the original return shall not get amended in light of the corrections made post-facto.
- it is to be noted that GST, being an indirect tax is levied along the entire supply chain. The tax paid on outward supplies entitles the recipient of such supplies to avail ITC for the same. Thus, if changes made to particulars furnished by the supplier are allowed to be reflected in the relevant previous tax period (Form GSTR- 3B for which return has already been filed), it would require modification of the particulars furnished in Form GSTR-3B (of such earlier tax period) by the recipient. This would enhance the compliance burden for the recipient.
- Another complexity would arise if such recipient is an exporter and claims refund of unutilized ITC under section 54(3) of CGST Act, 2017 read with rule 89 (4) of CGST Rules, 2017. In cases where refund has already been sanctioned and disbursed, the reduction of available ITC by recipient would make it a fit case for erroneous refund, thereby inviting demand under section 73 of the CGST Act, 2017.
- in order to ward of such complexities, the impugned circular and the provisions provide for rectification of GSTR-3B in the period subsequent to when the error etc. is noticed by an assessee and not for the period to which such error etc. pertains to.

- statutory scheme, as envisaged under the Act provided a facility for validation of monthly data through the IT System of the Government wherein the output of one dealer (Form GSTR-1), becomes the input of another dealer and gets auto-populated in Form GSTR-2 (Inward Supplies). These details had to be electronically populated in Form GSTR-3 (Monthly Return) and tax had to be paid based on this return.
- Therefore GST laws, provided not just for a procedure but a right and a facility to a registered person by which it can be ensured that the ITC availed and **returns can be corrected in the very month to which they relate,** and the registered person is not visited with any adverse consequences for uploading incorrect data.
- The statute provides for a 2-stage rectification procedure by which the errors or omissions can be rectified by a registered person.

Stage-1: same month: rectification can happen under section 37(1) read with sections 38 (1), 38 (3) and 37 (2) of the CGST Act wherein a registered person could rectify the errors or omissions pertaining to a tax period in the return to be furnished for such tax period itself through a self-policing and auto-populated interaction on the system.

Stage-2: month in which error noticed: rectification is provided under section 38 (5) and 39 (9) of the CGST Act wherein, in respect of only unmatched details - **which could not be corrected at the first stage, rectification could be done in the return to be furnished for the month during which such omission or incorrect particulars were noticed.**

- This makes it abundantly clear that neither the systems of the Government were ready, nor were the systems of the suppliers all across the country geared up to handle such an elaborate electronic filing and reconciliation system introduced for the first time.
- Since Forms GSTR-2 and 3 could not be operationalized by the Government, Rule 61(5) (which was amended vide Notification No. 17/2017-Central Tax, dated 27-7-2017) and the Rule 61(6) in the CGST Rules, and provided for filing of monthly return in Form GSTR-3B which is only a summary return.
- Indisputably, if the statutorily prescribed returns i.e. GSTR 2 and GSTR 3 had been operationalized by the Government, the Petitioner would have known the correct ITC amount available to it in the relevant period, and could have discharged its liability through ITC. As a consequence, the deficiency in reporting the eligible ITC in the months of July - September 2017 in the form GSTR- 3B has resulted in excess payment of cash by the Petitioner.
- Respondents(government) have **absolutely failed in operationalizing the forms** that were originally envisaged under the Act.
- earlier circular has not been rescinded by the impugned circular dated 29-12-2017, but only kept in abeyance. Be that as it may, we see no reason as to why the rectification/adjustment is being allowed in the month subsequent to when such errors relate, and the Respondents have restricted the mechanism of rectification to the same tax period, in which they were noticed and sought to be rectified.
- In our view, para 4 of Circular No. 26/26/2017-GST dated 29-12-2017 is not in consonance with the provisions of CGST Act, 2017.

- The restriction if any, that can be introduced by way of a circular, has to be in conformity with the scheme of the Act and the provisions contained therein. In fact, as noticed above, the earlier Circular No. 7/7/2017-GST does recognize that the reconciliation is based on amended ITC of the relevant month. This is in terms of provisions of CGST Act and the Respondents' contention is contrary to the same. Thus, the constraint introduced by para 4 of the impugned circular, is arbitrary and contrary to the provisions of the Act and, therefore, we have no hesitation in declaring it to be so.
- The Respondents have failed to fully enforce the scheme of the Act, and cannot take benefit of its own wrong of suspension of the Statutory Forms and deprive the rectification/amendment of the returns to reflect ITC pertaining to a tax period to which the return relates to. Petitioner has a substantive right to rectify/adjust the ITC for the period to which it relates. The rectification/adjustment mechanism for the months subsequent to when the errors are noticed is contrary to the scheme of the Act. The Respondents cannot defeat this statutory right of the Petitioner by putting in a fetter by way of the impugned circular. Since the Respondents could not operationalize the statutory forms envisaged under the Act, resulting in depriving the Petitioner to accurately reconcile its input tax credit, the Respondents cannot today deprive the Petitioner of the benefits that would have accrued in favour of the Petitioner, if, such forms would have been enforced. The Petitioner, therefore, cannot be denied the benefit due to the fault of the Respondents.

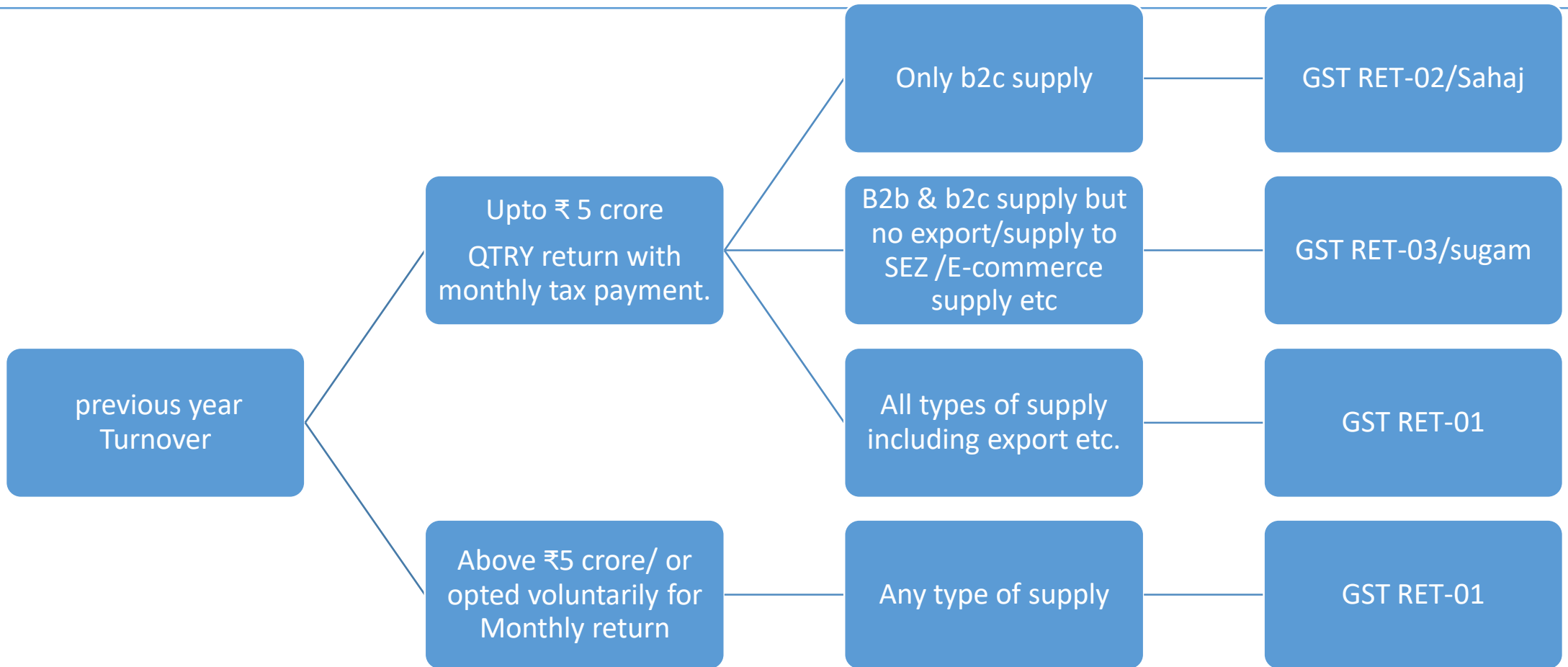
- It is trite proposition of law that circular issued by the Board cannot be contrary to the Act and the Government cannot impose conditions which go against the scheme of the statutory provisions contained in the Act. The subordinate legislation must conform to the statute under which it is made, and they cannot whittle down the benefits granted under statutory provision.
- “7. Circulars and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the court to direct that the circular should be given effect to and not the view expressed in a decision of this Court or the High Court. So far as the clarifications/circulars issued by the Central Government and of the State Government are concerned they represent merely their understanding of the statutory provisions. They are not binding upon the court. It is for the court to declare what the particular provision of statute says and it is not for the executive. Looked at from another angle, a circular which is contrary to the statutory provisions has really no existence in law. “[**Commissioner of Central Excise, Bolpur v. Ratan Melting and Wire Industries** 13 SCC 1]”

- We would also like to add that the Respondents have also not been able to expressly indicate the rationale for not allowing the rectification in the same month to which the Form GSTR-3B relates. The additional affidavit filed by the Respondents as per the directions of this Court, also skirts this question and has only attempted to give some explanation which is not convincing and lacks objectivity and rationality.
- Merely if there is any fanciful or absurd outcome in a given situation, as illustrated by Mr. Harpreet Singh, it does not mean that the Petitioner should not be given the benefit of rectification if the same is genuine. The correction mechanism is critical to sustaining successful implementation of GST.
- Thus, in light of the above discussion, the rectification of the return for that very month to which it relates is imperative and, accordingly, we read down para 4 of the impugned Circular No. 26/26/2017-GST dated 29-12-2017 to the extent that it restricts the rectification of Form GSTR-3B in respect of the period in which the error has occurred. Accordingly, we allow the present petition and permit the Petitioner to rectify Form GSTR-3B for the period to which the error relates,

Decisions for new GST return system

- In the [31st GST Council Meet](#), it was decided that a New Return System under GST would be introduced for taxpayers. This return system will contain simplified return forms, for ease of filing of return under GST. Under this New Return System, there will be one main return [GST RET-1](#)/ RET-2/ RET-3 and 2 annexures [GST ANX-1](#) and [GST ANX-2](#).
- This return will need to be filed on a monthly basis, except for small taxpayers who can opt to file the same quarterly. However, tax will need to be paid monthly in [FORM GST PMT-08](#) . Small taxpayers are taxpayers with a turnover up to Rs 5 crore in the preceding financial year.

TYPE OF RETURN



New GST return – comparative study

Basis	Normal monthly GST RET-01	Normal Quarterly GST RET-01	Sahaj /GST RET-02	SUGAM/GST RET-03
Turnover criteria	Above ₹ 5 crore	Upto ₹5 crore	Upto ₹5 crore	Upto ₹5 crore
Type of supply	All types of supply	All types of supply	Only b2c supply	b2c & b2b supply but no export, supply to SEZ, E-commerce
Filing frequency	monthly	Quarterly	Quarterly	Quarterly
Tax payment	Monthly	monthly	monthly	monthly
ITC on missing inward supply invoice	Allowed provisionally	Allowed provisionally	Not allowed	Not allowed
Uploading of outward supply	monthly	monthly	Quarterly(option to do monthly)	monthly

Comparison of new system vs. old system of return

Old system

- 1. Multiple return forms to be filed- [GSTR-1](#), [GSTR-4](#), [GSTR-5](#), [GSTR-6](#), [GSTR-7](#), etc.
- 2. invoices can be uploaded only at the time of filing of statement of outward supplies.
- 3. ITC could be claimed on a self-declaration basis subject to rule 36(4) GSTR 2A/2B.
- 4. Missing invoices and amendments, if any, could only be made in the return of the following tax period.

New system

- 1. A single simplified main return form GST RET-1/RET-2/RET-3 containing 2 annexures GST ANX-1 and GST ANX-2.
- 2. continuous uploading of invoices on a real-time basis.
- 3. ITC can be claimed on the basis of invoices uploaded by the supplier except provisional basis ITC to GST RET-01 return filer.
- 4. Missing invoices and amendments, if any, can be made by filing an Amendment Return

ANX-1 AND ANX -2

- **GST ANX-1 –liabilities details (Annexure of Outward Supplies and inward supply where tax to be paid)** – reporting of details of all outward supplies, inward supplies liable to RCM (reverse charge), and import of goods and services subject to GST liabilities, that will need to be reported invoice-wise (except for B2C supplies) on a real-time basis. B2b supply under RCM where recipient will pay tax, only consolidate reporting of all b2b supply enough.
- **GST ANX-2 (Annexure of Inward Supplies)- for ITC**, report of details of all inward supplies. Most of these details will be auto-drafted from the details uploaded by the suppliers in their GST ANX-1. The recipient of supplies will be able to take action on these auto-drafted documents, which will be available to them on a real-time basis.

Important Changes introduced in the New GST Return System

•HSN:

- Harmonized System of Nomenclature ([HSN](#)) code will be needed in order to submit details at a document level (on the basis of turnover) versus a separate HSN summary.
- A user will also get HSN via his GST ANX-2, wherever a supplier was supposed to declare the HSN code.

•Reporting of RCM:

- B2B supplies, liable to reverse charge need not be shown by the supplier in the GST ANX-1, however, the aggregate figure will need to be shown in GST RET-1.
- Inward supplies which are liable to RCM has to be declared in GST ANX-1 at the GSTIN level, by the recipient of supplies.
- The concept of B2C-L(inter state supply where invoice value above ₹ 2.50 lakh) has been removed.
- The turnover limit for quarterly filers (small taxpayers) will be considered as ₹ 5 crore.
- **Reporting of invoices by supplier:** Invoices can be uploaded on a continuous basis on the online facility provided GST portal in ANX-1.

-

Details of outward supplies, imports and inward supplies attracting reverse charge

ANX-1

Details of outward supplies, inward supplies attracting reverse charge and import

Table 3 A- 3K

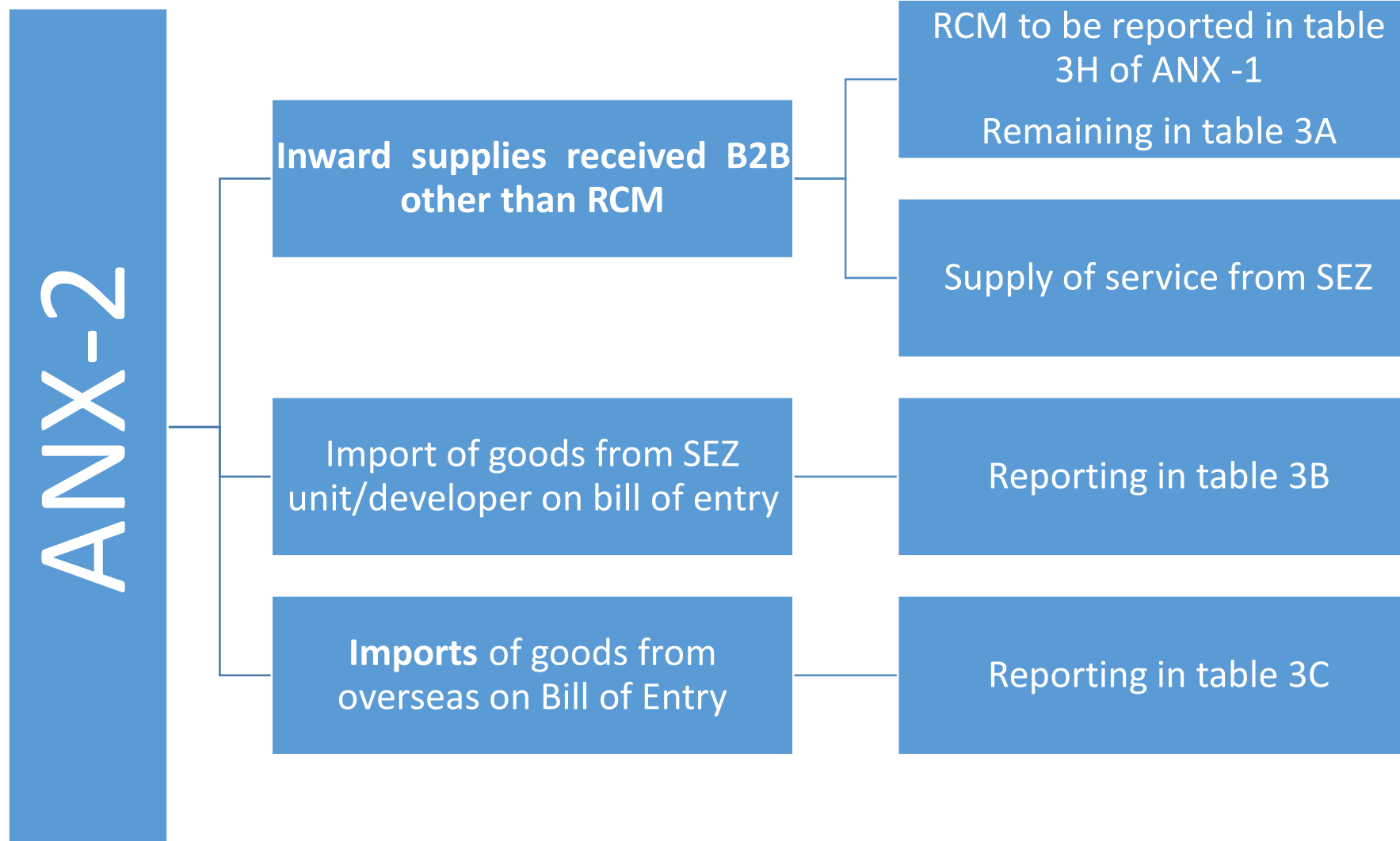
Details of the supplies made through e-commerce operators liable to collect tax under section 52 (out of any outward supplies declared in table 3)

Table 4 (Filtered information from table 3)

Missing documents on which credit has been claimed in T-2 /T-1 (for quarter) tax period and supplier has not reported the same till the filing of return for the current tax period

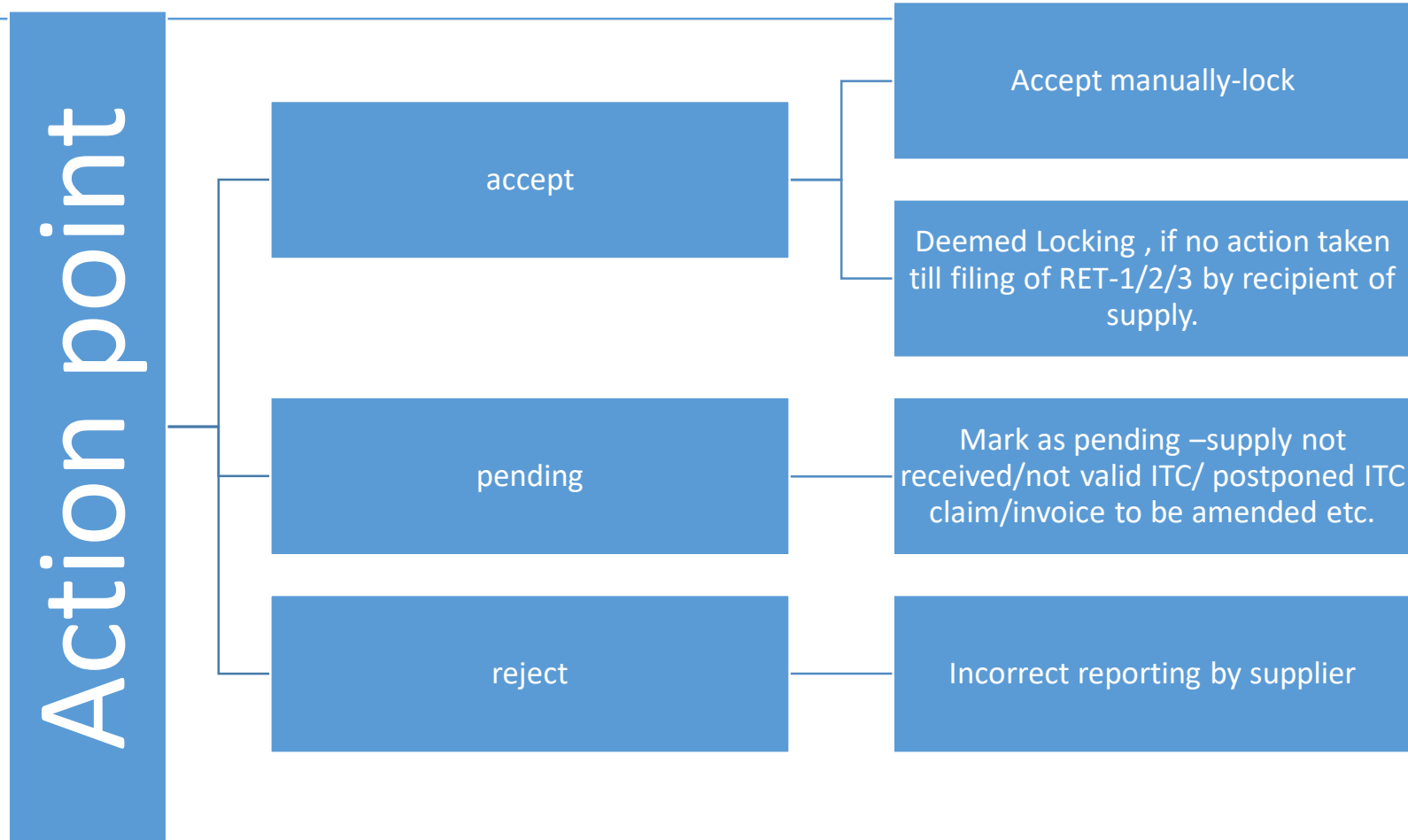
Table 3L

INWARD SUPPLY



Invoice management

Action to be taken by recipient :



Viewing facility in inward annexure ANX-2

- When a supplier uploads an invoice upto the 10th of the following month, the invoice details will be auto-populated in the supplier's main return (in the liability table) for that month.
- The screen on which a recipient can view, thereafter, will be known as the '**viewing facility**' (in the return document it will be shown as 'inward annexure'), which is available for the recipient **to reject after 10th of the month in ANX-2**.
- However, the **invoices can be accepted or marked as pending anytime and will reflect in RET-1/2/3 accordingly**.
- **Once GST RET-1/2/3 filed by the recipient of supply, the pending invoice shall be deemed to be locked**.
- **Status of return filing (not filed, filed) by the supplier will also be made known to the recipient** in FORM GST ANX-2 of the tax period after the due date of return filing is over. Recipients would be able to check the return filing status of the suppliers. This status, however, does not affect the eligibility or otherwise of input tax credit which will be decided as per the Act read with the rules made thereunder. Column 10 of table 3 of ANX-2

•

Availing ITC under new return system

- **Invoice uploaded by supplier before 10th of next month:** Availing of ITC will depend on uploading of invoices or debit notes by the supplier, within the stipulated time frame. An invoice uploaded by the supplier within the 10th of the following month will be visible continuously for the recipient. The taxes payable thereafter which can be claimed as ITC will be posted in the ITC table of the recipient's return before the 11th of the following month. These invoices will be available for availing ITC in the return which is filed by the recipient.
- **Invoices that are uploaded by the supplier after the 10th of the following month** will get posted in the concerned field of the recipient's return of the subsequent month, however, the viewing facility will be on a continuous basis.

How to claim ITC in the case of missing invoice?

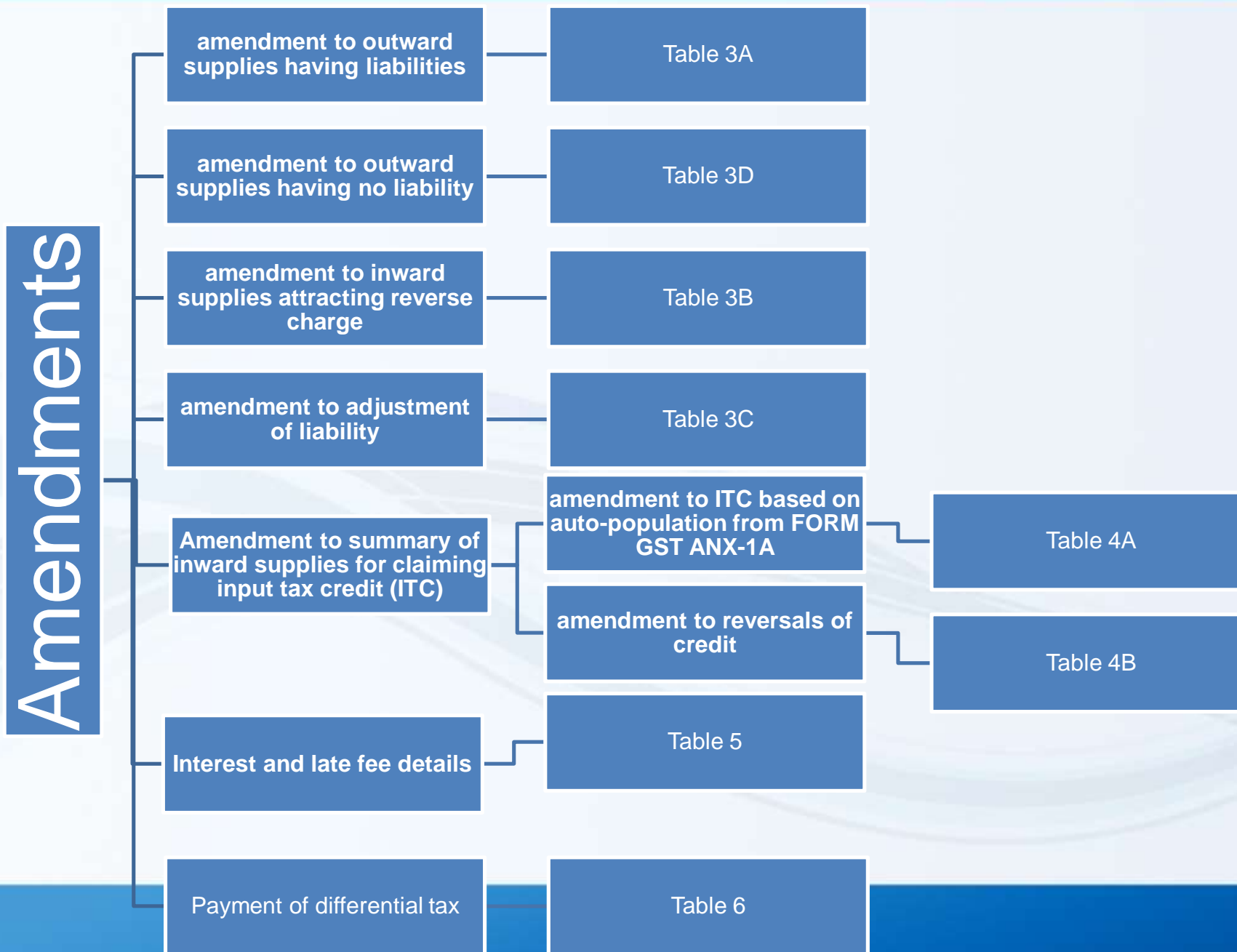
- When a supplier delays or fails to upload an invoice/debit note by more than two tax periods for monthly filers i.e T+2 (after one quarter for quarterly filers i.e T+1) and the recipient can avail ITC on the same, such an invoice will be termed as a 'missing invoice'.
- The **provisional ITC on missing invoices** can be reported in the **table 3A(10)** of RET-1 by the recipient. This facility is not available to Sahaj/Sugam return RET-2/3.
- A **recipient has to report a missing invoice individually** in the **table 3L of ANX-1** in case of delay by the supplier in T-2 tax period for monthly filers (T-1 tax period for quarterly filers). Whenever the supplier reports those invoices in his ANX-1 and accordingly make it available in the viewing facility of the recipient for action, the recipient must reverse the ITC. He can do so by reporting such invoices in the table 3B(3.) of RET-1 of such tax period in which such invoice was uploaded and made available to the recipient for action.

No ITC if return not filed by supplier

8. The input tax credit in respect of pending invoices shall not be accounted for in table 4A of the main return (FORM GST RET-1) of the recipient and such invoices would be rolled over to FORM GST ANX-2 of the next tax period.
15. The documents uploaded in FORM GST ANX-1 for month 'M' by a supplier who did not file his return for the previous two consecutive tax periods (M-1 and M-2 months) shall be made available to the recipient in FORM GST ANX-2 with an indication that the credit shall not be available on such documents. In other words, such documents will be visible to the recipient but the recipient cannot claim ITC on such inward supplies. However, the recipient can reject or keep such documents pending until filing of return by the supplier. For suppliers filing return on quarterly basis, this period will be one quarter i.e. if return of one quarter has not been filed, then recipient will not be able to claim credit on the invoices uploaded during next quarter.
11. Status of return filing (not filed, filed) by the supplier will also be made known to the recipient in FORM GST ANX-2 of the tax period after the due date of return filing is over. Recipients would be able to check the return filing status of the suppliers. This status, however, does not affect the eligibility or otherwise of input tax credit which will be decided as per the Act read with the rules made thereunder.

Amendment of GST return GST RET-1A

AMENDMENT OF GST RETURN



**Waiver /concession in interest
for late payment of tax**

Amendment in section 50

Old	New
<p>1st proviso to section 50(1) Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.” Note: As decided in 31st GST council.</p>	<p>1st proviso to section 50(1) Provided <i>that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.</i></p>
<p>Interest on cash payment only and not on gross tax liability</p>	<p>Interest on cash payment only and not on gross tax liability</p>
<p>1st proviso as inserted by the Finance (No. 2) Act, 2019, w.e.f. 1-9-2020.</p>	<p>1st proviso Substituted by the Finance Act, 2021, w.r.e.f. 1-7-2017 because GST council has earlier decided to give relief from 1st of July 2017 itself.</p>
<p>no notification issued so far</p>	<p>Notification No. 16/2021 – Central Tax dated 1st June, 2021 issued</p>

Notification No. 16/2021 – Central Tax
dated 1st June, 2021

In exercise of the powers conferred by sub-section (2) of section 1 of the Finance Act, 2021 (13 of 2021) (hereinafter referred to as the said Act), the Central Government hereby appoints the 1st day of June, 2021, as the date on which the provisions of section 112 of the said Act shall come into force.

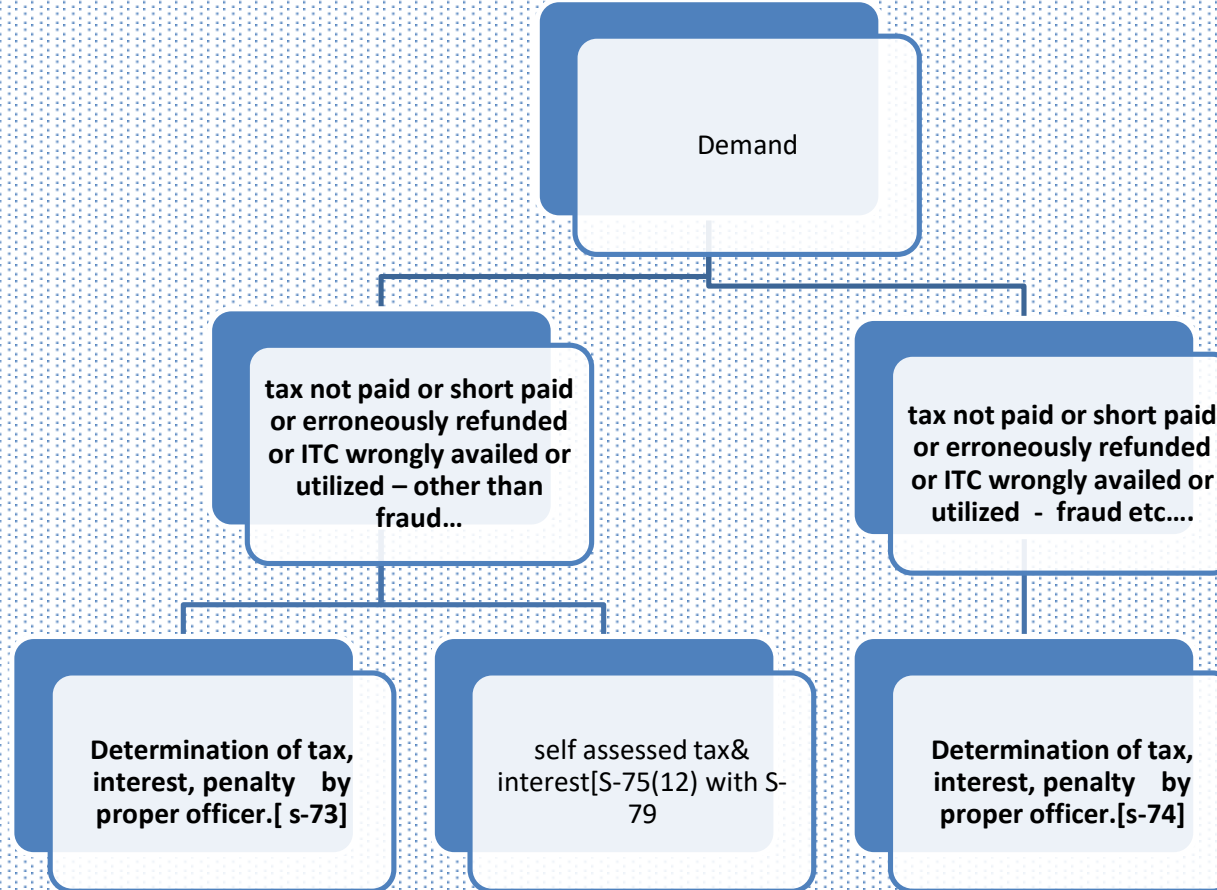
Section 112 related to substituting 1st proviso to section 50(1)

Note: power of notification u/s 50 (2) as under:

Section 50(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

**Changes in demand
&
recoveries u/s 74**

Demand



Determination of tax in the
case of fraud or
wilful-misstatement
or suppression of facts- section 74

Coverage of case u/s 74

Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of **fraud**, or any **wilful-misstatement** or **suppression of facts to evade tax**,

Tax evasion is must for application of section 74.

Amendment in explanation 1 to section 74

Explanation 1.— For the purposes of section 73 and this section,—

- (i) the expression "all proceedings in respect of the said notice" shall not include proceedings under section 132;
- (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under [sections 122 and 125] are deemed to be concluded.

Note: earlier sections 122 ,125, 129 and 130", now for those sections the words and figures "sections 122 and 125" shall be substituted.

Note: no relief to those covered u/s 129(**Detention, seizure and release of goods and conveyances in transit**) and 130(**Confiscation of goods or conveyances and levy of penalty**)

Changes in section 75- **General provisions relating to determination of tax** . Explanation added below section 75(12)

Section 75 (12): Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79 related to recovery of tax etc.

Explanation.—For the purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.

Note: explanation added by FA 2021.

Changes pertaining to attachment of property

Amendment of section 83- Provisional attachment to protect revenue in certain cases.

Old section 83(1)	New section 83(1)
<p>"(1) Where during the <u>pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74,</u> the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed"</p>	<p>"(1) Where, <u>after the initiation of any proceeding</u> under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed</p>
<p>Scope narrow applicable during <u>pendency</u> of proceeding</p>	<p>Scope become wider and may be applicable just after <u>initiation</u> of proceeding</p>
<p>Only taxable person property could be attached</p>	<p>Property of other person as specified in section 122(1A) also could be attached.</p>
<p>Only limited section of assessment proceedings was covered</p>	<p>Become more wider to cover up Chapter XII ASSESSMENT(section 59 to 63) Chapter XIV INSPECTION, SEARCH, SEIZURE AND ARREST(section 67 to 72) Chapter XV DEMANDS AND RECOVERY(section 73 to 84)</p>

Amendment in section 122 by FA 2020 by inserting sub-section(1A)

*Any person who **retains the benefit of a transaction** covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.*

Section 122(1)

- (i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;
- (ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;
- (vii) takes or utilizes input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder
- (ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;

Note: instance means encouragement, impulse, citation, solicitation, urge.

Person liable to penalty u/s
122

Taxable person
Section 122(1) for 21 offences

Any person on whose
instances certain transaction
& such person *retains the
benefit of transaction –
section 122(1A)*

Any person who abet, aid in
certain offence, transporter,
warehouse keeper etc. section
122(3)

Registered person u/s 122(2)

Non Compliance- Offences, Penalties

Taxable person, who commit any one of 21 offences, is liable to penalty u/s 122(1).

Taxable person means person registered or liable to be registered [2(107)]

Penalty means punishment for violating rules.

The said offences are as follow :-

1. Making a **supply without issue of any invoice** or false/incorrect invoice.
2. **Issuing an invoice without making supply.**
3. **Collects tax but fails to pay** the same to the Government beyond a period of **3 month** from the date on which such payment becomes due.
4. Collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of **3 months** from the date on which such payment becomes due.
5. **Non deduction or short deduction** of the TDS or not deposited tax at source u/s 51.
6. **None collection or short collection** of the TCS or not deposited tax at source u/s 52.
7. Take/utilizes **input tax credit without actual receipt(fully/partially) of goods/service.**
8. **Fraudulently obtains refund of tax** under this Act.

.....Non Compliance- **Offences, Penalties**

9. Takes or distributes input tax credit in contravention of section 20(ISD distribution).
10. **Falsifies/substitutes financial records/produces fake document and furnishes any false information or return** with an intention to evade payment of tax due
11. Liable to be registered under this Act but fails to obtain registration.
12. **furnishes any false information with regard to registration particulars**, either at the time of applying for registration, or subsequently.
13. Obstructs or prevents any officer in discharge of his duties under this Act.
14. Transports any taxable goods without the cover of documents as may be specified in this behalf.
15. Suppresses his turnover leading to evasion of tax under this Act.
16. **Fails to keep, maintain or retain books of account and other documents** in accordance with the provisions of this Act.
17. Fails to furnish information or documents called for by an officer in accordance with the provisions of this Act
18. Supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act
19. Issues any invoice or document by using the registration number of another registered person.
20. Tampers with, or destroys any material evidence or document.
21. Disposes off or tampers with any goods that have been detained, seized, or attached under this Act.

penalty of Rs. 10,000/-

Or

- I. An amount equivalent to the tax evaded ,or
- II. Tax not deducted under section 51, or
- III. Short deducted or deducted but not paid to the Government, or
- IV. Tax not collected under section 52, or
- V. Short collected or collected but not paid to the Government , or
- VI. Input tax credit availed of or passed on or distributes irregularly, or
- VII. Refund claimed fraudulently,

whichever is higher.

Sec. 122(2)

If **registered person** supply goods/service on which **tax not paid/Short-paid/erroneously refunded/ input tax credit wrongly availed** is liable to penalty

a). Any reason, other than the reason of fraud/any willful misstatement/suppression of facts to evade tax

Penalty of Rs. 10,000/-
or
10% of the tax due, whichever is higher

b). Reason of fraud/any willful misstatement/suppression of facts to evade tax.

Penalty of Rs. 10,000/-
or
100% of Tax due, whichever is higher

Any person(may be **registered or not**) is liable to penalty u/s 122(3) which may extend to Rs 25,000/- for certain offences mentioned hereunder

such offences are



- Aids or abets any of the 21 offences as mentioned in Section-122(1). **Aid=help/assist, abet=stimulate, encourage**
- Acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any **goods which he knows or has reasons to believe are liable to confiscation** under this Act.
- **Receives** or is in any way **concerned with the supply of**, or in any other manner deals with **any supply of services** which he **knows or has reasons to believe are in contravention of any provisions of this Act.**
- **Fails to appear** before the officer of central tax, **when issued with a summon for appearance** to give evidence or produce a document in an inquiry.
- **Fails to issue invoice in accordance with provisions of Act or rules** or fails to account for invoice in the books of account
- **Note: books of account not defined either under CGST act or rules made there under , even though used several times in the act as well as rules.**

Changes pertaining to appeal

Amendment in section 107 related to pre deposit for appeal:

Precondition for filing appeal regarding pre deposit amount:

Section 107 (6) No appeal shall be filed under sub-section (1), unless the appellant has paid—

- (a) in **full**, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is **admitted** by him; and
- (b) a sum equal to 10% of the remaining amount of **tax in dispute** arising from the said order, subject to a maximum of ₹25 crore , in relation to which the appeal has been filed:

Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to 25% of the penalty has been paid by the appellant.]

Note: proviso Inserted by the Finance Act, 2021, w.e.f. a date yet to be notified

Section 107(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.

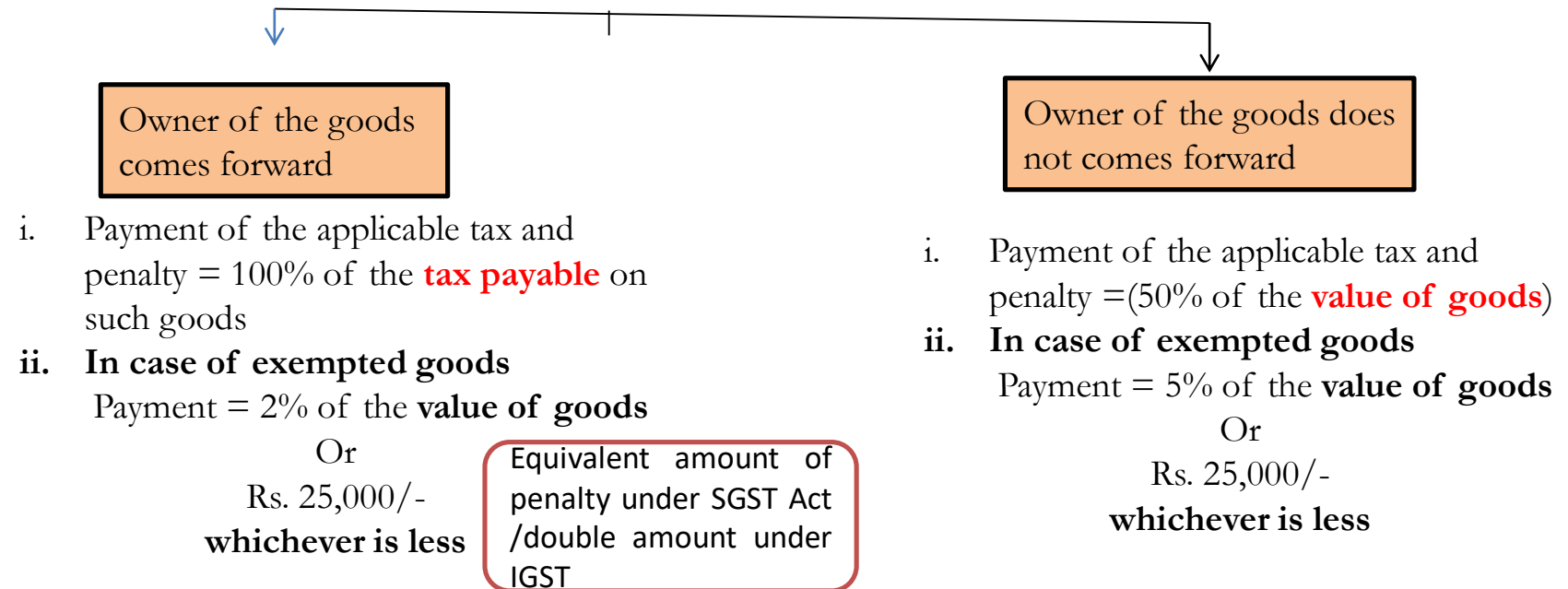
Changes in section 129-

**Detention, seizure and release of goods
and conveyances in transit.**

Existing provisions

Detention, seizure and release of goods and conveyances in transit, Sec-129(1).

- Any person **transports any goods**/stores any goods
- They are in **transit in contravention** of the provisions of this Act/Rules
- All such **goods and conveyance used as a means of transport** for carrying the said goods **and documents** relating to such goods and conveyance
- Shall be liable to **detention or seizure** and
- After detention or seizure, shall **be released on payment of tax and penalty or** upon furnishing a security equivalent as may be prescribed. as per rule 140(*bond for the value of the goods in FORM GST INS-04 and bank guarantee for tax and penalty*).



New penalty by FA 2021 by amending section 129 yet to be notified.

Detention, seizure and release of goods and conveyances in transit, Sec-129(1).

- Any person **transports any goods**/stores any goods
- They are in **transit in contravention** of the provisions of this Act/Rules
- All such **goods and conveyance used as a means of transport** for carrying the said goods **and documents** relating to such goods and conveyance
- Shall be liable to **detention or seizure** and
- After detention or seizure, shall **be released on payment of tax and penalty or** upon furnishing a security equivalent as may be prescribed. as per rule 140 (*bond for the value of the goods in FORM GST INS-04 and bank guarantee for tax and penalty*).

Owner of the goods comes forward

- Payment of the applicable tax and penalty = **200%** of the **tax payable** on such goods
- In case of exempted goods**
Payment = 2% of the **value of goods**
Or
Rs. 25,000/-
whichever is less

Equivalent amount of penalty under SGST Act /double amount under IGST

Owner of the goods does not comes forward

- Payment of the applicable tax and penalty = (50% of the **value of goods** or 200% of the Tax paid which ever is higher)
- In case of exempted goods**
Payment = 5% of the **value of goods**
Or
Rs. 25,000/-
whichever is less

Amendment in other provisions of section 129

Section	Existing	New provisions
129(3)*	<p>"(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c)."</p>	<p><i>The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).]</i></p>
129(4)*	<p>No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.</p>	<p>No penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.</p>
129(6)* Not yet notified	<p>Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within <i>fourteen days</i> of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:</p> <p>Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of <i>fourteen days</i> may be reduced by the proper officer."</p>	<p><i>Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within 15 days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):</i></p> <p>Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:</p> <p>Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.</p>

Changes in section 130 – regarding aggregate of fine and penalty

Section	Existing provisions	New provisions
130(1)	<p>Confiscation of goods or conveyances and levy of penalty in certain cases where :</p> <p>(1) [Notwithstanding anything contained in this Act, if any person—</p> <p>(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(ii) does not account for any goods on which he is liable to pay tax under this Act; or</p> <p>(iii) supplies any goods liable to tax under this Act without having applied for registration; or</p> <p>(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,</p> <p>then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.</p>	<p>Notwithstanding anything contained in this Act, if replaced by word where</p>
130(2)	<p>Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:</p> <p>Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:</p>	<p>No change</p>
	<p>Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129</p>	<p>Provided further that the aggregate of such fine and penalty leviable shall not be less than the <i>penalty equal to 100% of the tax payable on such goods:</i></p>

Changes in section 151

Old provisions	New provisions
<p data-bbox="129 425 558 461">Power to collect statistics</p> <p data-bbox="129 501 1245 636">(1) The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.</p> <p data-bbox="129 694 1217 925">(2) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected."</p>	<p data-bbox="1276 425 1786 461">Power to call for information.</p> <p data-bbox="1276 501 2397 686"><i>The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.</i></p>

Changes in section 152

Bar on disclosure of information.

No information of any individual return or past thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this

(2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151."

(3) Nothing in this section shall apply to the publication of any information relating to a class of taxable persons or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest to publish such information.

Power to call for information.

No information with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act *without giving an opportunity of being heard to the person concerned*.

(2) omitted.

(3) Nothing in this section shall apply to the publication of any information relating to a class of taxable persons or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest to publish such information.

Concession rate
of interest notified u/s 50
for certain period

NOTIFICATION NO. 13/2017-CENTRAL TAX, DATED 28-6-2017 **NOTIFIED RATE OF INTEREST UNDER SECTIONS 50(1)/(3), 54(12) AND 56 AND ITS PROVISIO - AMENDMENT IN NOTIFICATION NO. 13/2017-CENTRAL TAX, DATED 28-6-2017 amended by notification no 8/2021 – dated 01-05-2021**

4	<i>Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year –large tax payer</i>	<i>9 per cent for the first 15 days from the due date and 18 per cent thereafter</i>	<i>March, 2021, April, 2021</i>
5	<i>Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under sub-section (1) of section 39 –small taxpayer monthly return filler.</i>	<i>Nil for the first 15 days from the due date, 9 per cent for the next 15 days, an 18 percent hereafter</i>	<i>March, 2021, April, 2021</i>
6	<i>Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under proviso to sub-section (1) of section 39 -QRMP</i>	<i>Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter</i>	<i>March, 2021, April, 2021</i>
7	<i>Taxpayers who are liable to furnish the return as specified under sub-section (2) of section 39- Return by composition tax payer</i>	<i>Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter</i>	<i>Quarter ending March, 2021]</i>

Relaxation in Interest rate and Late fee waiver Table as per notification no 8/2021 amending notification no 13/2017 dated the 28th June, 2017- in the first paragraph, in the first proviso, in the Table after S. No. 3, the following s. no 4 & 5 inserted shall be inserted for reduction in rate of interest. No need to read because substituted by NN 18/2021

Sl. No.	Tax Period	Class of Taxpayer (1) small tax payer – aggregate turnover upto ₹ 5 crore (2) Large tax payer – aggregate turnover more than ₹ 5 crore.	Due Date of Filing	Reduced Rate of Interest		
				First 15 days From due Date	Next 15 days	From 31 st day onwards
1.	March, 2021	Small taxpayer	20 th April	NIL	18%	18%
		large taxpayer	20 th April	9%	18%	18%
2.	April, 2021	Small taxpayer	20 th May	NIL	18%	18%
		large taxpayer	20 th May	9%	18%	18%

Relaxation in Interest rate Table as per notification no 18/2021 dated 01-06-2021 amending notification no 13/2017 dated the 28th June, 2017- in the first paragraph, in the first proviso, and substituting the changes by notification no 8/2021 dated 01-05-2021

Sl. No.	Tax Period	Class of Taxpayer (1) small tax payer – aggregate turnover upto ₹ 5 crore (2) Large tax payer – aggregate turnover more than ₹ 5 crore, in the preceding financial year	Reduced Rate of Interest
1.	March, April and May 2021	large taxpayer	For First 15 days From due Date -9% After 15 days -18%
2.	March, 2021	Small taxpayer- monthly return filer	First 15 days- nil Next 45 days- 9% After 45 days -18%
	April	Small taxpayer- monthly return filer	First 15 days- nil Next 30 days- 9% After next 30 days -18%
	May	Small taxpayer- monthly return filer	First 15 days- nil Next 15 days- 9% After next 15 days -18%
3	March , April , may 2021month tax payment	Small taxpayer- opting QRMP	Same as small tax payer
4	Quarter ending March, 2021”.	Composition tax payer furnish the return as specified under sub-section (2) of section 39	First 15 days- nil Next 45 days- 9% After 45 days -18%

Late fee waiver/concession

Power to waive penalty or fee or both. Section 128.

The Government may, by notification, **waive in part or full**, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

Relaxation by Late fee waiver Table as per notification no 9/2021 dated 01-05-2021 amending notification no 76/2018 dated the 31st December , 2018- 8th proviso inserted,

Sl. No.	Tax Period	Class of Taxpayer (1) small tax payer – aggregate turnover upto ₹ 5 crore Large tax payer – aggregate turnover more than ₹ 5 crore in the preceding financial year	Due Date of Filing	Date without late fee	Comments
1.	March, 2021	Small taxpayer other than QRMP	20 th April	30 days from the due date of furnishing return=20 th May, 2021	No condition attached to the late fee waiver.
		large taxpayer	20 th April	15 days from due date of furnishing return = 05th May, 2021	
2.	April , 2021	Small taxpayer other than QRMP	20 th May	30 days from the due date of furnishing return=20 th June , 2021	
3	April , 2021	large taxpayer	20 th May	15 days from due date of furnishing return =05 th June 2021	
4	January to march 2021	Small taxpayer being QRMP	-22/24 April based on different state	30 days from the due date of furnishing return	

Relaxation by Late fee waiver Table as per notification no 19/2021 dated 01-06-2021 amending notification no 76/2018 dated the 31st December , 2018- 8th proviso inserted,

Sl. No.	Return Period	Class of Taxpayer (1) small tax payer – aggregate turnover upto ₹ 5 crore (2) Large tax payer – aggregate turnover more than ₹ 5 crore, in the preceding financial year	Waiver of late fee for <i>FORM GSTR-3B</i> from the due date of furnishing return
1.	March, April and May 2021	large taxpayer	For First 15 days From due date of return –late fee-nil
2.	March, 2021	Small taxpayer- monthly return filer	First 60 days- late fee -nil
	April	Small taxpayer- monthly return filer	First 45 days- late fee -nil
	May	Small taxpayer- monthly return filer	First 30 days-late fee nil
3	Quarter ending March , 2021	Small taxpayer- opting QRMP	First 60 days from due date of return



Recommendation of 43rd GST Council Meeting

GST Amnesty Scheme to provide relief to the GST Taxpayers

Late fee for non-furnishing of returns in **FORM GSTR-3B** for the tax periods from July, 2017 to April, 2021 has been reduced as under :

Category of Taxpayers	Maximum amount of Late Fee
Taxpayers having NIL tax liability during the respective tax period	₹500/- (₹ 250/- each for CGST & SGST) per return
Other Taxpayers	₹1000/- (₹ 500/- each for CGST & SGST) per return

Reduced rate of late fee would apply if return in FORM GSTR-3B for these tax periods are furnished between 01.06.2021 to 31.08.2021.

Relevant notification to implement the above recommendation is being issued.



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Concession in late fee for default in filing GSTR 3B till April 2021 return- NN 19/2021 dated 01-06-2021

9th proviso added in notification no 76/2018 dated the 31st December , 2018 limiting upper cap of late fee :

“Provided also that for the registered persons who failed to furnish the return in **FORM GSTR-3B** for the months /quarter of July, 2017 to April, 2021, by the due date but furnish the said return between the period from the 1st day of June, 2021 to the 31st day of August, 2021, the total amount of late fee under section 47 of the said Act, shall stand waived which is in excess of ₹500/ under CGST and equal amount under SGST.

Note:

- Concession available only if all pending return till tax period of April 2021 filed between the period from the 1st day of June, 2021 to the 31st day of August, 2021**
- Upper limit of late fee per return - ₹ 500/ - for CGST & ₹ 500 for SGST.**
- No concession to composition tax payer.

10th proviso for nil return:

Provided also that where the total amount of central tax payable in the said return is nil, the total amount of late fee under section 47 of the said Act shall stand waived which is in excess of ₹250/-for the registered persons who failed to furnish the return in FORM GSTR-3B for the months / quarter of July, 2017 to April, 2021, by the due date but furnish the said return between the period from the 1 st day of June, 2021 to the 31st day of August, 2021.

Note:

- Concession available only if all pending return till tax period of April 2021 filed between the period from the 1st day of June, 2021 to the 31st day of August, 2021**
- Upper limit of late fee per return - ₹ 250/ - for CGST & ₹ 250 for SGST.**
- No concession to composition tax payer.

waiver in late fee for default in filing GSTR 3B from June 2021-NN 19/2021 dated 01-06-2021

11th proviso added in notification no 76/2018 dated the 31st December , 2018 limiting upper cap of late fee :
Provided also that the total amount of late fee payable under section 47 of the said Act for the tax period June, 2021 onwards or quarter ending June, 2021 onwards, as the case may be, **shall stand waived which is in excess of an amount as specified in column (3) of the Table given below**, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the returns in **FORM GSTR-3B** by the due date, namely: —

S.NO	Type of tax payer	Amount of late fee
1.	Registered persons whose total amount of central tax payable in the said return is nil	₹ 250/- CGST and ₹250 SGST
2.	Registered persons having an aggregate turnover of up to ₹ 1.5 crores in the preceding financial year, other than those covered under S. No. 1	₹ 1000/- CGST and ₹1000 SGST
3.	Taxpayers having an aggregate turnover of more than ₹ 1.5 crores and up to ₹ 5 crores in the preceding financial year, other than those covered under S. No. 1	₹ 2500/- CGST and ₹2500 SGST

Note: similar provisions for GSTR-1 also by notification no 20/2021 dated 01-06-2021, but such leniency /relaxation in GST3B may affect to those who are availing credit of ITC.

Waiver in late fee for default in filing GSTR 1 from June 2021-NN 20/2021 dated 01-06-2021

5th proviso added in notification no No. 4/2018– Central Tax, dated the 23rd January, 2018, limiting upper cap of late fee :

“Provided also that the total amount of late fee payable under section 47 of the said Act for the tax period June, 2021 onwards or quarter ending June, 2021 onward, as the case may be, shall stand waived which is in excess of an amount as specified in column (3) of the Table given below, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the details of outward supplies in FORM GSTR-1 by the due date, namely: —

S.NO	Type of tax payer	Amount of late fee
1.	Registered persons whose total amount of central tax payable in the said return is nil	₹ 250/- CGST and ₹250 SGST
2.	Registered persons having an aggregate turnover of up to ₹ 1.5 crores in the preceding financial year, other than those covered under S. No. 1	₹ 1000/- CGST and ₹1000 SGST
3.	Taxpayers having an aggregate turnover of more than ₹ 1.5 crores and up to ₹ 5 crores in the preceding financial year, other than those covered under S. No. 1	₹ 2500/- CGST and ₹2500 SGST

Note: similar provisions for GSTR-3B also by notification no 19/2021 dated 01-06-2021, but such leniency /relaxation in GST-1 may adversely affect to those who are availing credit of ITC.

Waiver in late fee for default in filing GSTR 4 from FY 2021-22 NN 21/2021 dated 01-06-2021

5th proviso added in notification no No. 73/2017– Central Tax, dated the 29th December , 2017, limiting upper cap of late fee :

“Provided also that the total amount of late fee payable under section 47 of the said Act for financial year 2021-22 onwards, by the registered persons who fail to furnish the return in FORM GSTR-4 by the due date, shall stand waived -

S.NO	Type of tax payer	Amount of late fee
1.	Registered persons where the total amount of central tax payable in the said return is nil;	₹ 250/- CGST and ₹250 SGST
2.	for the registered persons other than those covered under clause (i).”.	₹ 1000/- CGST and ₹1000 SGST

Note: similar provisions for GSTR-3B/GSTR-1 also by notification no 19/2021 and 20/2021 dated 01-06-2021

Waiver in late fee for default in filing GSTR 7 from June 2021 onwards NN 22/2021 dated 01-06-2021

S.NO	Deductor of tax under section 51	Amount of late fee
1.	Government, on the recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the CGST Act by any registered person, required to deduct tax at source under the provisions of section 51 of the said Act, for failure to furnish the return in FORM GSTR-7 for the month of June, 2021 onwards, by the due date	₹ 25/- CGST and ₹25 SGST per day of default in filing of return GSTR-7
2.	Provided that the total amount of late fee payable under section 47 of the said Act by such registered person for failure to furnish the return in FORM GSTR-7 for the month of June, 2021 onwards, by the due date, shall stand waived which is in excess of an amount of one thousand rupees.	Maximum upper limit ₹ 1000/- CGST and ₹1000 SGST

Note: similar provisions for GSTR-3B/GSTR-1/GSTR-4 also by notification no 19/2021 and 20/2021, 21/2021 dated 01-06-2021



Ministry of Finance
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Recommendation of 43rd GST Council Meeting

Compliance related relief for Composition Taxpayers

Due date for furnishing Annual return in **FORM GSTR-4**
for the FY 2020-21 to be extended to 31.07.2021

Now
Due Date for
GSTR-4, for FY
2020-21 is
31.07.2021



Relevant notification to implement the above recommendation
is being issued.



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Relevant notifications for extension of due date of return GSTR-4 of composition tax payer.

NOTIFICATION NO. 21/2019 - CENTRAL TAX [F.NO.20/06/16/2018-GST], DATED 23-4-2019 amended time to time	Extending the due date of GSTR-4 (return of composition taxpayer annually)		Para 3 of notification
Notification No. 10/2021 - Central Tax dated 01-05-2021 Notification No. 25/2021 – Central Tax dated 01-06-2021	Extending the due date of GSTR-4 (annual return of composition taxpayer) for FY 2020-21		Para 3 of notification-2 nd proviso amended
FY	Original due date	Extended due date:	Further extended
2019-20	30-04-2020	31-10-2020	
2020-21	30-04-2020	31-05-2021(extended by NN-10/2021 - Central Tax dated 01-05-2021	31-07-2021 (extended by NN-25/2021 - Central Tax dated 01-06-2021



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Recommendation of 43rd GST Council Meeting

**Compliance related relief for taxpayers
who are under QRMP Scheme**

Last date for uploading B2B invoices for the month of May, 2021 through Invoice Furnishing Facility (IFF) to be extended by 15 days. The revised last date is as under:

GST Form	Month	Last date	Extended Last Date
FORM IFF	May 2021	13.06.2021	28.06.2021



Relevant notification to implement the above recommendation is being issued.



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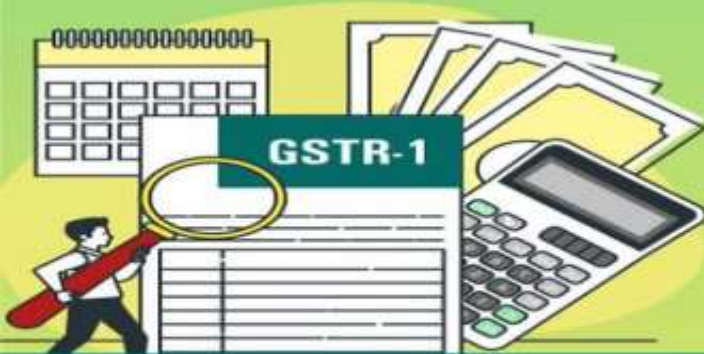


Recommendation of 43rd GST Council Meeting

Compliance related relief for taxpayers who are not under QRMP Scheme

Due date for furnishing details of outward supplies in **FORM GSTR-1** for the month of May 2021 to be extended by 15 days. The revised due date is as under :

GST Return	Month	Due date	Extended Due Date
FORM GSTR-1	May 2021	11.06.2021	26.06.2021



Relevant notification to implement the above recommendation is being issued.



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Relevant notifications for extension of due date of GSTR-1 details of outward supplies.

Notification No. 83/2020 – Central Tax, dated the 10th November, 2020,	Extending the due date of GSTR-1	
Notification No. 12/2021 – Central Tax dated 01-05-2021 Notification No. 17/2021 – Central Tax dated 01-06-2021	Extending the due date of GSTR-1 April 21	
Tax period ending	Original due date	Extended due date:
April 21	11-05-2021	26-05-2021(extended by NN-12/2021 - Central Tax dated 01-05-2021
May 2021	11-05-2021	26-06-2021(extended by NN-17/2021 - Central Tax dated 01-06-2021

Relaxation by way of EVC verification of GSTR-1 and GSTR-3B in rule 26(1) of CGST rules

S.No.	Notification No.	Notification Date	Relief in brief/extension/relaxation	comments
1.	07/2021-Central Tax	27.04.2021	<u>Electronic verification code (EVC) facility</u> for the registered person registered under the provisions of the Companies Act, 2013 during the period from the 27 th April, 2021 to 31 st May, 2021, also be allowed to furnish the return under section 39 in FORM GSTR-3B and the details of outward supplies under section 37 in FORM GSTR-1 or (IFF)invoice furnishing facility.	Relaxation in lock down period even without DSC return could be filed.
2	27/2021 -Central Tax	01-06-2021	EVC facilities Extended upto 31-08-2021	EVC verification possible till 31-08-2021

Relaxation from applicability of rule 36(4) for certain period-amendment in rule 36(4)

Notification no	Date of issue	Relevant provisions of rule	Comments:
13/2021-Central Tax	01.05.2021	<p>(a) 2nd proviso to Rule 36(4)-</p> <p>"Provided further that such conditions shall apply cumulatively for the period April and May, 2021 and the return in FORM GSTR-3B for the tax period May,2021 shall be furnished with the cumulative adjustment of input tax credit for the said months.</p>	<p>Since date of GSTR-1 extended so ITC details may not be available in in GSTR-2B, still recipient of supply for filing GSTR-3B any non- reporting in GSTR-2B of April may be adjusted in GSTR-3B of May 2021.</p> <p>IFF for facilitating ITC to recipient even if GSTR-1 not filed.</p>
Notification No. 27/2021 – Central Tax	01-06-2021	<p>for the 2nd proviso to rule 36(4), the following proviso shall be substituted, namely: —</p> <p>“Provided further that such condition shall apply cumulatively for the period April, May and June, 2021 and the return in FORM GSTR-3B for the tax period June, 2021 or quarter ending June, 2021, as the case may be, shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.”;</p>	<p>Now cumulative period of April , May , June shall considered for valid ITC</p>

Rule 36 (4)- condition for availing ITC.

(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been furnished] by the suppliers under sub-section (1) of section 37, in FORM GSTR-1 or using the invoice furnishing facility shall not exceed 5 % of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in FORM GSTR-1 or using the invoice furnishing facility:

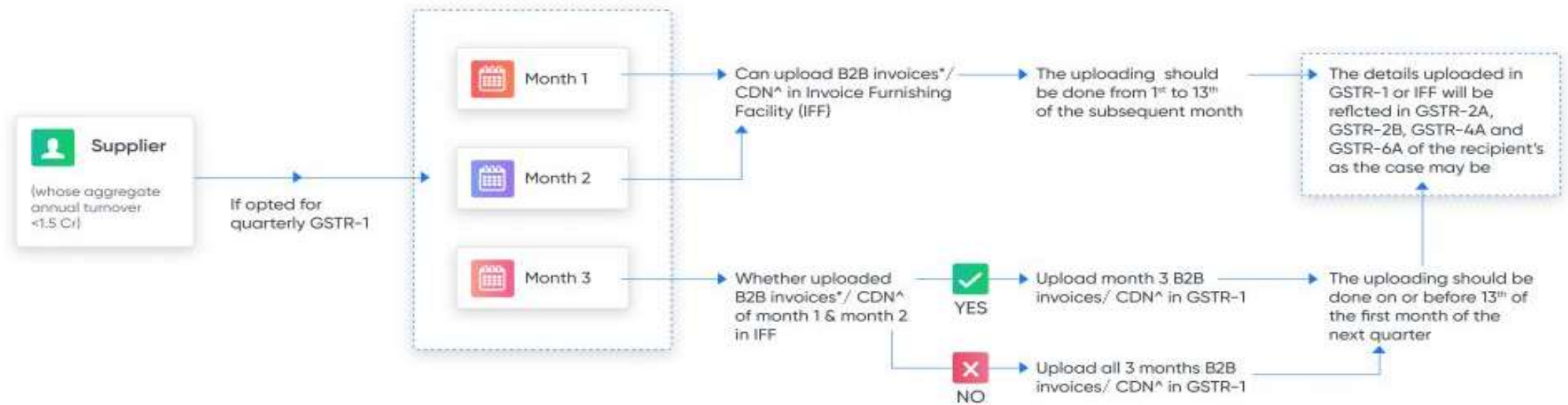
Provided that the said condition shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above:]

[Provided further that such condition shall apply cumulatively for the period April and May, June 2021 and the return in FORM GSTR-3B for the tax period June, 2021 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.]

Relaxation in filing of IFF(Invoice Furnishing Facility) applicability of rule 59(2)

Notification no	Date of issue	Relevant provisions of rule	Comments:
13/2021-Central Tax	01.05.2021	<p>New proviso to rule 59(2)</p> <p>"Provided that a registered person may furnish such details, for the month of April, 2021, using IFF from the 1st day of May, 2021 till the 28th day of May, 2021."</p>	<p>IFF for facilitating ITC to recipient even if GSTR-1 not filed .relaxation in the filing of IFF for April 21 from original 13th of next month till 28th of May.</p>
Notification No. 27/2021 – Central Tax	01-06-2021	<p>after the first proviso, the following 2nd proviso shall be inserted, namely: —</p> <p>“Provided further that a registered person may furnish such details, for the month of May, 2021, using IFF from the 1st day of June, 2021 till the 28th day of June, 2021.”.</p>	<p>IFF for facilitating ITC to recipient even if GSTR-1 not filed .relaxation in the filing of IFF for May 21 from original 13th of next month till 28th of June.</p>

Invoice Furnishing Facility



The Invoice Furnishing Facility (IFF)/CDN (reporting of credit notes/debit notes) is a facility where quarterly GSTR-1 filers can choose to upload their (B2B) invoices every month, currently under the [QRMP scheme](#) only. It is governed by Rule 59(2) of the CGST Rules, available to regular taxpayers having an annual aggregate turnover of up to Rs.5 crore. One should keep the following points in mind before utilising the IFF:

The IFF is an optional facility. Non-usage will not attract any late fee but help the recipient to avail ITC.

The invoices relating to the last month of a quarter are to be uploaded in the GSTR-1 return only and not in IFF.

There is no requirement to upload those invoices in GSTR-1 if the details of such invoices already uploaded in the IFF.

The total value of invoices that can be uploaded per month is restricted to Rs.50 lakh.

The details submitted in IFF will be reflected in the GSTR-2A and GSTR-2B of the recipients.



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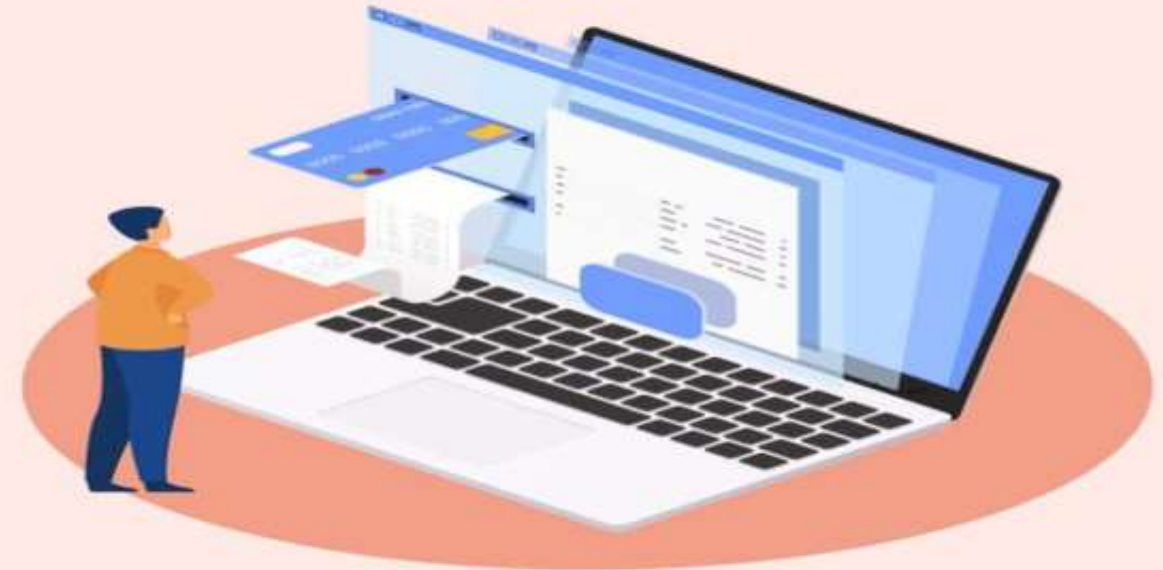
Recommendation of 43rd GST Council Meeting

Compliance related relief for GST Taxpayers



Now Due Date for **ITC-04**, for
QE March, 2021 is **30.06.2021**

Due date for furnishing
FORM ITC-04 (intimation of
goods sent on job work) for
the Quarter ending March,
2021 to be extended to
30.06.2021



Relevant notification to implement the above recommendation is being issued.

Relevant notifications for extension of due date of ITC-04 return of ITC/ rule 45 of CSGT Rule.

<p>NOTIFICATION NO. 11/2021 - CENTRAL TAX G.S.R. 307(E)/F. NO. CBEC-20/06/08/2020-GST], DATED 1-5-2021 amended time to time</p>	<p>Extending the due date of ITC-4 (Quarterly return by principal sending goods to job worker)</p>		<p>Para 1 of notification</p>
<p>Date further extended by Notification No. 26/2021 – Central Tax dated 01-06-2021</p>	<p>Extending the due date of ITC-4 (Quarterly return for quarter ending 31st March 21</p>		<p>Para 1 of notification-amended</p>
<p>Tax period ending</p>	<p>Original due date</p>	<p>Extended due date:</p>	<p>Further extended</p>
<p>quarter ending 31st March 21</p>	<p>25-04-2021</p>	<p>31-05-2021(extended by NN-11/2021 - Central Tax dated 01-05-2021</p>	<p>30-06-2021(extended by NN-26/2021 - Central Tax dated 01-06-2021</p>

14/2021-
Central
Tax
01.05.202
1
And
further
extended
date by
NN
24/2021
dated 01-
06-2021

Extension of specified compliances falling between 15.04.2021 to 30.05.2021/29-06-2021 till 31.05.2021/30-06-2021 in exercise of powers under section 168A of CGST Act

1. completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or
2. for filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts

No extension in following cases:

- a. Chapter IV- TIME AND VALUE OF SUPPLY
- b. section 10(3) related to composition to regular on crossing threshold turnover, sections 25, 27, 31, 37, 47, 50, 69, 90, 122, 129;
- c. section 39, except sub-section (3), (4) and (5);
- d. section 68, in so far as e-way bill is concerned;
- e. rules made under the provisions specified at clause (a) to (d) above.

As per rule 9 related to Verification of the application for registration and approval if not taken during the period from the 1st day of May, 2021 to the 31st day of May, 2021/30th June, and where completion of such action has not been made within such time, then, the time limit for

1. Extension of date for completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or other action. extension for gov.

(2) filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record-extension for tax payer.

**Changes by notification no 15/2021
dated 18-05-2021**

Changes in rule 23 -Revocation of cancellation of registration

- (1) A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in FORM GST REG-21, to such proper officer, within a period of 30 days from the date of the service of the order of cancellation of registration ¹[or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to sub-section (1) of section 30,] at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

1.Insereted by Notification No. 15 /2021 – Central Tax dated 01-05-2021.

Note: in certain cases revocation application not filed within deadline of 30 days so mandatory filing of appeal for restoration and that increases no of appeal cases unnecessarily, so it will be resolved by jurisdictional GST officers only.

Provided that no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

15/2021

Central

Tax

18.05.2021

(a) Deficiency Memo - Exclusion of the time period while filing fresh refund application, from the date of filing of the refund claim in FORM GST RFD-01 till the date of communication of the deficiencies in FORM GST RFD-03 from the relevant date of 2 years , where such fresh refund claim filed by the applicant after rectification of the deficiencies. **Proviso to Rule 90(3) inserted.**

Extract of rule:

Rule 90(3) Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.

1 [Provided that the time period, from the date of filing of the refund claim in FORM GST RFD-01 till the date of communication of the deficiencies in FORM GST RFD-03 by the proper officer, shall be excluded from the period of two years as specified under sub-section (1) of Section 54, in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.]

There is limit for refund application under explanation 2 to section 54.

15/2021

Central

Tax

18.05.2021

Withdrawal of refund application in FORM GST RFD-01-W before issuance of any order during the refund proceedings, for that new sub rule 5 and 6 inserted in rule 90 as under:

Rule 90(5) The applicant may, at any time before issuance of provisional refund sanction order in FORM GST RFD-04 or final refund sanction order in FORM GST RFD-06 or payment order in FORM GST RFD-05 or refund withhold order in FORM GST RFD-07 or notice in FORM GST RFD-08, in respect of any refund application filed in FORM GST RFD-01, withdraw the said application for refund by filing an application in FORM GST RFD-01W.

(c). Automatic crediting of amount to the ledgers which was earlier debited after submission of Withdrawal application of refund FORM GST RFD-01W.

rule 90 (6) On submission of application for withdrawal of refund in FORM GST RFD-01W, any amount debited by the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing application for refund in FORM GST RFD-01, shall be credited back to the ledger from which such debit was made.]

Getting refund is optional and tax payer may exercise to withdraw application of refund before refund order, if able to utilise ITC against some other supply or following cases as mentioned in GST RFD-01-W:

- i. Filed the refund application by mistake**
- ii. Filed Refund Application under wrong category**
- iii. Wrong details mentioned in the refund application**
- iv. Others (Please Specify)**

If ITC ledger debited earlier for claiming refund of ITC balance , on withdrawal application balance of ITC balance will be increased automatically.

15/2021

Central
Tax

18.05.2021

(d) Amendment in withhold of refund in rule 92(2) by inserting proviso:

Where the proper officer or the Commissioner is 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 an order in Part A of FORM GST RFD-07 informing him the reasons for withholding of such refund.

"Provided that where the proper officer or the Commissioner is satisfied that the refund is no longer liable to be withheld, he may pass an order for release of withheld refund in Part B of FORM GST RFD- 07.

comments:

Under section 54(10) there is provision for withhold of refund due until the said person has furnished the pending return or paid the tax, interest or penalty, as the case may be for which no stay of demand, or on account of fraud (s) of serious nature, other reason as specified in order.

15/2021

18.05.2021

Central

Tax

withhold of refund/Release of withhold refund :Amendment in rule 96 Refund of integrated tax paid on goods *or services* exported out of India

4) 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.

(5) Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4), the proper officer of integrated tax at the Customs station shall intimate the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal.

(6) Upon transmission of the intimation under sub-rule (5), the proper officer of central tax or State tax or Union territory tax, as the case may be, shall pass an order in Part A of FORM GST RFD-07.

(7) Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4), the concerned jurisdictional officer of central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount by passing an order in FORM GST RFD-06 after passing an order for release of withheld refund in Part B of FORM GST RFD-07.

comments:

RFD-07 Part
A- Order for
withholding
the refund

RFD-07 Part
B-Order for
release of
withheld
refund

INVOICE RELATED PROVISIONS

Manner of issuing invoice :

*Rule 48(4) The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in **FORM GST INV-01** after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification:*

Notification no No.13/2020 – Central Tax, dated the 21st March, 2020 issued

Commissioner has power to relax/exempt from above provisions to certain persons/class of person:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule for a specified period, subject to such conditions and restrictions as may be specified in the said notification.

Consequence if invoice not issued according to rule 48(4) above:

(5) Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.

*(6) The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4). **Sun rule for issue of invoice in triplicate** in the case of supply of goods and in duplicate in the case of the supply of services*

Exemption from applicability of rule 48(4)- NN. 13/2020-central tax dated 21-3-2020

- *a Special Economic Zone unit*
- those referred to in sub-rules (2), (3), (4) and (4A) of rule 54
- whose aggregate turnover in *any preceding financial year from 2017-18 onwards does not exceeds ₹ 50 crore/ (earlier ₹100 crore limit of turnover reduced by Notification No. 5/2021-Central Tax dated 8-3-2021, w.e.f. 1-4-2021,*
- **“a government department,(inserted by Notification No. 23/2021 – Central Tax dated 01-06-2021)**
- **a local authority, (inserted by Notification No. 23/2021 – Central Tax dated 01-06-2021)**



Thank You

THANK YOU

CA PP SINGH

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