

Ocean Freight GST w.e.f. 01-10-2021



- Services by way of transportation of goods by an aircraft **from a place outside India upto the customs station of clearance in India is NIL Rated [SI 19 of 12/2017-CTR].**
- Services by way of transportation of goods by an aircraft **from customs station of clearance in India to a place outside India is NIL rated up to 30-09-2022 [SI No. 19A of 12/2017-CTR]. Hence transportation of goods by aircraft shall be taxable @ 18% w.e.f. 01-10-2022 under SAC 9965 at SI No. 9(iv) of 11/2017**
- Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is NIL Rated up to 30-09-2022. **[SI No. 19B of 12/2017-CTR] Hence transportation of goods by aircraft shall be taxable @ 5% w.e.f. 01-10-2022 under SAC 9965 at SI No. 9(iii) of 11/2017**

The place of supply of services by way of transportation of goods, including by mail or courier to,—

- a) a registered person, shall be the location of such person;
- b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation:

Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.



Since place of supply = Place of destination of goods, ITC may be restricted for registered person having registration in India and may be reflected in Part 4 of 2B and as per extant guidelines shall have to be reflected in Table 4D(2) of GSTR-3B

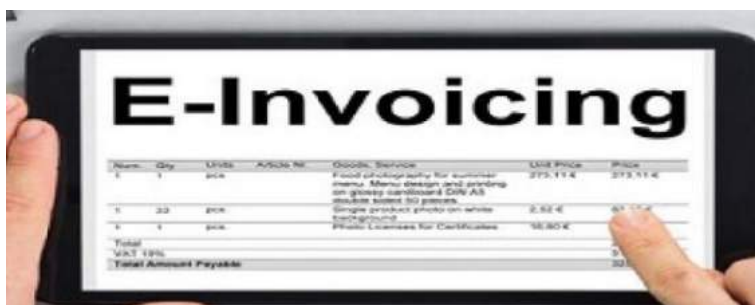
FOB CONTRACTS		
	Exports	Import
Logistic Company in India	Export of Service and zero rated. Location of supplier is in India and POS is outside India	Forward Charge @ 5% for transportation by vessel. Transportation by aircraft is exempt
Logistic Company Outside India	Exempt at Sl No. 10 of IGST Notification 9/2017-ITR because supplier and recipient are outside India	RCM is applicable
CIF Contracts		
	Exports	Import
Logistic Company in India	IGST @ 5%/18%.w.e.f. 01-10-22. Place of Supply outside India	Export of service and zero rated. Location of supplier is in India and POS is outside India No GST to be included in value of goods
Logistic Company Outside India	No RCM because place of supply is outside India	RCM has been overruled by SC in Mohit Minerals

The High Court in the impugned judgment has observed that:

“What has led to the present day problems in the implementation of the GST:

- **132.** The GST is implemented by subsuming various indirect taxes. **The difficulty which is being experienced today in proper implementation of the GST is because of the erroneous misconception of law, or rather, erroneous assumption on the part of the delegated legislation that service tax is an independent levy as it was prior to the GST and it go vivisect the transaction of supply to levy more taxes on certain components completely overlooking or forgetting the basic concept of composite supply introduced in the GST legislation and the very idea of levying the GST.** Prima facie, it appears that while issuing the impugned notification, the delegated legislature had in mind the provision of the Finance Act, 1994, rather than keeping in mind the object of bringing the GST by making the Constitutional (101st) Amendment Act, 2016 to merge all taxes levied on the goods and services to one tax known as the GST.
- 133. It appears that despite having levied and collected the integrated tax under the IGST Act, 2017, on import of goods on the entire value which includes the Ocean Freight through the impugned notifications, once again the integrated tax is being levied under an erroneous misconception of law that separate tax can be levied on the services components (freight), which is otherwise impermissible under the scheme of the GST legislation made under the CA Act, 2016.
- **134. All the learned senior counsel are right in their submission that if such an erroneous impression is not corrected and if such a trend continues, then in future even the other components of supply of goods, such as, insurance, packaging, loading/unloading, labour, etc. may also be artificially vivisected by the delegated legislation to once again levy the GST on the supply on which the tax is already collected.**
- **215. Thus, having paid the IGST on the amount of freight which is included in the value of the imported goods, the impugned notifications levying tax again as a supply of service, without any express sanction by the statute, are illegal and liable to be struck down.”**

147 We are in agreement with the High Court to the extent that a tax on the supply of a service, which has already been included by the legislation as a tax on the composite supply of goods, cannot be allowed.



E-Invoicing limit reduced to 10 crores w.e.f. 01-10-2022
[Thresh hold applicable if turnover exceeds 10 cr in any FY
17-18,18-19,19-20,20-21,21-22]

NN	Date	Effective Date	Threshold
NN 13/2020	21-03-2020	01-10-2020	100 crores
NN 61/2020	30-07-2020	01-10-2020	500 crores
NN 88/2020	10-11-2020	01-01-2021	100 Crores
NN 5/2021	08-03-2021	01-04-2021	50 Crores
NN 1/2022	24-02-2022	01-04-2022	20 crores
NN 17/2022	01-08-2022	01-10-2022	10 CRORES

Applicable to : Taxable Transaction ; B2B; Exports; Credit Notes; Debit Notes

Not Applicable to B2C; Exempt ; Banking/Insurance; Transport; Multiplex; Government Deptt;
Local Authority; Composition Tax payer

CBIC ZONE-WISE ANALYSIS of E-Invoice generation

Zone Name	GSTINs enabled	GSTINs generating	GSTINs NOT generating	GSTINs NOT generating (%)
Lucknow	12132	7667	4465	37%
Mumbai	31467	23662	7805	25%
Hyderabad	15803	10305	5498	35%
Panchkula zone	17210	12753	4457	26%
Bhopal	18476	11886	6590	36%
Jaipur	16642	11683	4959	30%
Visakhapatnam	11025	6733	4292	39%
Kolkata	18106	12744	5362	30%
Guwahati	8621	5265	3356	39%
Chennai	28043	19160	8883	32%
Thiruvananthapuram	9530	6287	3243	34%
Nagpur	10131	6384	3747	37%
Pune	12779	8823	3956	31%
Delhi	19401	13027	6374	33%
Bengaluru	24192	16582	7610	31%
Meerut	15350	11025	4325	28%
Bhubaneswar	6456	4097	2359	37%
Ranchi	11545	7015	4530	39%
Chandigarh	19128	13342	5786	30%
Vadodara	12602	9937	2665	21%
Ahmedabad	23118	17942	5176	22%
Not Linked	97622	55733	41889	43%
Total	439379	292052	147327	34%

R. 48(5) of CGST Rules

R.48(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

S.2(66) "invoice" or "tax invoice" means the tax invoice referred to in section 31;

Ministry of Finance vide [Press Release](#) dated 30.09.2020, had clarified that in such cases where suppliers could not issue invoice as per Rule 48(4) of CGST Rules, same would be deemed to be valid and **penalty under Section 122 of CGST Act would not be levied, if the IRN for such invoices is obtained from the IRP within 30 days of the date of the invoice from 1 st October, 2020** Beyond the permitted period of October, 2020, for contravention of the said provision, no relaxations are available.

S.122(1)(i) Where a taxable person who—
(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, Penalty= **Rs. 10000 or tax evaded whichever is higher**

S. 125 : General Penalty u/s 125 subject to S.126

S.16(2)(a)
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,—**he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;**

Changes in GSTR-3B inserted by 14/2022-CT dated 5-07-2022 and clarified by Circular 170/02/2022-GST dated 6-07-22 were **made available on portal on 01-09-2022**

Details of Outward supplies and RCM supplies (excluding supplies on which e-commerce operator pays tax)

3.1 Details of Outward Supplies and inward supplies liable to reverse charge ¹*[(other than those covered in 3.1.1)]*

Nature of Supplies	Total Taxable value	Integrated Tax	Central Tax	State/UT Tax	Cess
1	2	3	4	5	6
(a) Outward taxable supplies (other than zero rated, nil rated and exempted)					
(b) Outward taxable supplies (zero rated)					
(c) Other outward supplies (Nil rated, exempted)					
(d) Inward supplies (liable to reverse charge)					
(e) Non-GST outward supplies					

¹[3.1.1 Details of supplies notified under sub-section (5) of section 9 of the Central Goods and Services Tax Act, 2017 and corresponding provisions in Integrated Goods and Services Tax/ Union Territory Goods and Services Tax/State Goods and Services Tax Acts.

Nature of Supplies	Total Tax-able value	Integrat-ed Tax	Central Tax	State/ UT Tax	Cess
1	2	3	4	5	6
(i) Taxable supplies on which electronic commerce operator pays tax under sub-section (5) of section 9 [to be furnished by the electronic commerce operator]					
(ii) Taxable supplies made by the registered person through electronic commerce operator, on which electronic commerce operator is required to pay tax under sub-section (5) of section 9 [to be furnished by the registered person making supplies through electronic commerce operator]					

1

[4) An Electronic Commerce Operator (ECO) shall not include in 3.1(a) above, the supplies on which the ECO is required to pay tax under sub-section (5) of section 9 of the Central Goods and Services Tax Act, 2017 and shall report such supplies in 3.1.1(i) above.

5) A registered person making supplies through an Electronic Commerce Operator (ECO) shall not include in 3.1(a) above, the supplies on which the ECO is required to pay tax under sub-section (5) of section 9 of the Central Goods and Services Tax Act, 2017 and shall report such supplies in 3.1.1(ii) above.]

Liability of E-Commerce Operator

[S.9(5)+NN 17/2017-CTR]

- services by way of transportation of passengers by a radio-taxi, motorcab, maxicab ¹[, *motor cycle, omnibus or any other motor vehicle*;]
- services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, **except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act;**
- services by way of house-keeping, such as plumbing, carpentering etc., **except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act.]**
- supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

Transportation of passengers through auto rickshaw is exempt at Sl No. 17(e) of 12/2017. Proviso Inserted by NN 16/2021 dated 18-11-2021 stating that **nothing contained in item (e) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017**

Levy of GST when service rendered through e-commerce operator **challenged in Delhi High Court by Uber India on 10-12-2021 under Article 14 of the Constitution**

3.2 Of the supplies shown in 3.1(a) ²[and 3.1.1(i)] above, details of inter-State supplies made to unregistered persons, composition taxable persons and UIN holders

	Place of Supply (State UT)	Total Taxable value	Amount of Integrated Tax
1	2	3	4
Supplies made to Unregistered Persons			
Supplies made to Composition Taxable Persons			
Supplies made to UIN holders			

CIRCULAR NO. 170/02/2022-GST dated 6-07-2022

It has been noticed that a number of registered persons are not reporting the correct details of inter-State supplies made to unregistered persons, to registered person paying tax under section 10 of the CGST Act (composition taxable persons) and to UIN holders, as required to be declared in Table 3.2 of FORM GSTR-3B, under the notion that the taxable value of the same along with tax payable has already been reported in Table 3.1 of the said FORM. In certain cases, it has also been noticed that the address of unregistered person are captured incorrectly by the supplier, especially those belonging to banking, insurance, finance, stock broking, telecom, digital payment facilitators, OTT platform services providers and E-commerce operators, leading to wrong declaration of Place of Supply (PoS) in both the invoices issued under section 31 of the CGST Act, as well as in Table 3.2 of FORM GSTR-3B.

In this context, it may be noted that the information sought in Table 3.2 of FORM GSTR-3B is required to be furnished, place of supply-wise, even though the details of said supplies are already part of the supplies declared in Table 3.1 of the said FORM.

For assisting the registered persons, Table 3.2 of FORM GSTR-3B is being auto-populated on the portal based on the details furnished by them in their FORM GSTR-1

- Accordingly, it is hereby advised that the registered persons making inter-State supplies —
 - i. **to the unregistered persons**, shall also report the details of such supplies, place of supply-wise, in Table 3.2 of FORM GSTR-3B and Table 7B or Table 5 or Table 9/10 of FORM GSTR-1, as the case may be;
 - ii. **to the registered persons paying tax under section 10 of the SGST/CGST Act (composition taxable persons) and to UIN holders**, shall also report the details of such supplies, place of supply-wise, in Table 3.2 of FORM GSTR-3B and Table 4A or 4C or 9 of FORM GSTR-1, as the case may be, as mandated by the law.
 - iii. **shall update their customer database properly with correct State name and ensure that correct PoS is declared in the tax invoice and in Table 3.2 of FORM GSTR-3B while filing their return, so that tax reaches the Consumption State as per the principles of destination-based taxation system.**

3.4 It is further advised that any amendment carried out in Table 9 or Table 10 of FORM GSTR-1 or any entry in Table 11 of FORM GSTR-1 relating to such supplies should also be given effect to while reporting the figures in Table 3.2 of FORM GSTR-3B.

4. Eligible ITC

Details	Integrated Tax	Central Tax	State/ UT Tax	Cess
1	2	3	4	5
(A) ITC Available (whether in full or part)				
(1) Import of goods				
(2) Import of services				
(3) Inward supplies liable to reverse charge (other than 1 & 2 above)				
(4) Inward supplies from ISD				
(5) All other ITC				
(B) ITC Reversed				
(1) <i>³[(1) As per rules 38, 42 and 43 of CGST Rules and sub-section (5) of section 17]</i>				
(2) Others				
(C) Net ITC Available (A) - (B)				
(D) <i>⁴[Other Details]</i>				
(1) <i>⁵[ITC reclaimed which was reversed under Table 4(B)(2) in earlier tax period]</i>				
(2) <i>⁶[Ineligible ITC under section 16(4) and ITC restricted due to PoS provisions]</i>				

5. Values of exempt, nil-rated and non-GST inward supplies

Nature of supplies	Inter-State supplies	Intra-State supplies
1	2	3
From a supplier under composition scheme, Exempt and Nil rated supply		
Non GST supply		

4.1 Table 4(A) of the FORM GSTR-3B is getting auto-populated from various entries of FORM GSTR-2B. However, **various reversals of ITC on account of rule 42 and 43 of the CGST Rules or for any other reasons are required to be made by the registered person, on his own ascertainment, in Table 4(B) of the said FORM.** It has been observed that different practices are being followed to report ineligible ITC as well as various reversals of ITC in FORM GSTR-3B.

4.2 It may be noted that the amount of Net ITC Available as per Table 4(C) of FORM GSTR-3B gets credited into the Electronic Credit Ledger (ECL) of the registered person. Therefore, **it is important that any reversal of ITC or any ITC which is ineligible under any provision of the CGST Act should not be part of Net ITC Available in Table 4(C) and accordingly, should not get credited into the ECL of the registered person.**

4.3 In this context, it is pertinent to mention that the facility of **static month-wise auto-drafted statement in FORM GSTR-2B for all registered persons has been introduced from August, 2020.** The statement provides invoice-wise total details of ITC available to the registered person including the details of the ITC on account of import of goods. Further, details of the said statement are auto-populated in Table 4 of return in FORM GSTR-3B which are editable in the hands of registered person. It may be noted that the **entire set of data that is available in FORM GSTR-2B is carried to the table 4 in FORM GSTR-3B, except for the details regarding ITC that is not available to the registered person either on account of limitation of time period as delineated in sub-section (4) of section 16 of the CGST Act or where the recipient of an intra-State supply is located in a different State / UT than that of place of supply.**

It is pertinent to mention that the **ineligible ITC, which was earlier not part of calculation of eligible/available ITC, is now part of calculation of eligible/available ITC in view of auto-population of Table 4(A) of FORM GSTR-3B from various tables of FORM GSTR-2B.** Thereafter, the registered person is required to identify ineligible ITC as well as the reversal of ITC to arrive at the Net ITC available, which is to be credited to the ECL. In light of the above, the procedure to be followed by registered person is being detailed hereunder for correct reporting of information in the return:

Auto population of eligible as well as ineligible ITC excluding 16(4)+POS restrictions in 4A(5)

Total ITC (eligible as well as ineligible) is being auto-populated from statement in FORM GSTR-2B in different fields of Table 4A of FORM GSTR-3B (except for the ineligible ITC on account of limitation of time period as delineated in sub section (4) of section 16 of the CGST Act or where the recipient of an intra-State supply is located in a different State / UT than that of place of supply).

ITC not available, on account of limitation of time period as delineated in sub section (4) of section 16 of the CGST Act or where the recipient of an intra-State supply is located in a different State/UT than that of place of supply, may be reported by the registered person in Table 4D (2). **Such details are available in Table 4 of FORM GSTR-2B**

Permanent Reversals in 4B(1)

Registered person will report reversal of ITC, which are absolute in nature and are not reclaimable, such as on account of ``

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

As the details of ineligible ITC under section 17(5) are being provided in Table 4(B), no further details of such ineligible ITC will be required to be provided in Table 4(D)(1).

Again Emphasised

Accordingly, it is clarified that the reversal of ITC of ineligible credit under section 17(5) or any other provisions of the CGST Act and rules thereunder is required to be made under Table 4(B) and not under Table 4(D) of FORM GSTR-3B

Temporary Reversals [4B(2)] and Reclamation in 4D(1)

Registered person will report reversal of ITC, which are not permanent in nature and can be reclaimed in future subject to fulfilment of specific conditions, such as on account of

- rule 37 of CGST Rules **(non-payment of consideration to supplier within 180 days),**
- section 16(2)(b) and **(Non receipt of Goods)**
- section 16(2)(c) **(Non payment of tax)**

in Table 4 (B) (2).

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

Execption to Temporary Reversal in 4B(2)

Table 4 (B) (2) may also be used by registered person for reversal of any ITC availed in Table 4(A) in previous tax periods because of some inadvertent mistake

Therefore, the net ITC Available will be calculated in Table 4 (C) which is as per the formula $(4A - [4B (1) + 4B (2)])$ and same will be credited to the ECL of the registered person.

S. No.	Details	IGST	CGST	SGST	Total	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	ITC on Import of goods	1,00,000	-	-	1,00,000	Auto-populated in Table 4(A)(1)
2	ITC on Import of Services	50,000	-	-	50,000	
3	ITC on Inward Supplies under RCM	-	25,000	25,000	50,000	Auto-populated in Table 4(A)(3)
4	ITC on Inward Supplies from ISD	50,000	-	-	50,000	Auto-populated in Table 4(A)(4)
5	ITC on other inward supplies	2,00,000	1,50,000	1,50,000	5,00,000	Auto-populated in Table 4(A)(5)
6	Total	4,00,000	1,75,000	1,75,000	7,50,000	

Note 1: Of the other inward supplies mentioned in row (5), M/s ABC has received goods on which **ITC is barred under section 17(5)** of the CGST Act having integrated tax of Rs. 50,000/-

Note 2: In terms of **rule 42 and 43** of the CGST Rules, M/s ABC is required to reverse ITC of Rs. 75,500/- integrated tax, Rs. 52,000/- central tax and Rs. 52,000/- state tax.

Note 3: M/s ABC had **not received the supply during April, 2022** in respect of an invoice for an inwards supply auto-populated in row (5) having integrated tax of Rs. 10,000/-

Note 4: M/s ABC has reversed ITC of Rs. 500/- central tax and Rs. 500/- state tax on account of **Rule 37** i.e. where consideration was not paid to the supplier within 180 days

Note 5: An amount of ITC of Rs 10,000/ central Tax and Rs 10,000/- state tax, ineligible on account of limitation of time period as delineated in **sub-section (4) of section 16** of the CGST Act, has not been auto-populated in Table 4(A) of FORM GSTR-3B from GSTR2B.

Based on the facts mentioned in Table 1 above, M/s ABC is required to avail ITC after making necessary reversals in Table 4 of FORM GSTR-3B as detailed in Table 2 below:

Table 2

4. Eligible ITC				
Details	IGST	CGST	SGST/ UTGST	Explanation
1	2	3	4	
(A) ITC Available (whether in full or part)	----	----	----	
1. Import of Goods	1,00,000	----	----	
2. Import of Services	50,000	----	----	
3. Inward Supplies liable to Reverse Charge (other than 1 & 2 above)	----	25,000	25,000	
4. Inward Supplies from ISD	50,000	----	----	
5. All other ITC	2,00,000	1,50,000	1,50,000	
(B) ITC Reversed / Reduced	----	----	----	

1. Reversal of ITC as per rule 42 and 43 of CGST Rules	125,500	52,000	52,000	1. Refer para 4.3 (B) of circular 2. Reversal of Rs. 75,500/- integrated tax, Rs. 52,000/- central tax and Rs. 52,000/- state tax under rule 42 and 43 [Note 2] 3. Ineligible ITC of Integrated tax of Rs. 50,000/- under section 17(5) [Note 1]
2. Others	10,000	500	500	1. Refer para 4.3 (C) of circular 2. Reversal of integrated tax of Rs. 10,000/-, where supply is not received [Note 3] 3. Reversal of ITC of Rs 500/- central tax and Rs 500/- state tax on account of Rule 37 [Note 4]
(C) Net ITC Available (A)-(B)	2,64,500	122500	122500	C=A1+A2+A3+A4+A5-B1-B2
(D) Ineligible ITC				
1. As per section 17(5)	-	-	-	1. Refer para 4.3 (E) of circular 2. Reversals under section 17(5) are not required to be shown in this row. The same are to be shown under 4(B)(1)
2. Others		10,000	10,000	1. Refer para 4.3(F) of circular 2. Ineligible ITC on account of limitation of time period as delineated in sub-section (4) of section 16 of the CGST Act, which has not been auto-populated in Table 4(A) of GSTR-3B

	Treatment
Eligible ITC in 2B for Current month found in Current Month in books	Confirmed ITC
Eligible ITC in 2B for Current month found in previous months in books	Confirmed ITC
Eligible ITC in 2B for current month found in subsequent months in books	Temporary Reversal in 4B(2)
Ineligible ITC for Current month or previous months	Permanent Reversal in 4B(1) if pertains to 17(5) Permanent reversal in 4B(2) if ineligible due to other reasons
Ineligible ITC for subsequent months	????
ITC in 2B for current month not found in books	Cause of Concern
Total	Match with 2B totals

ITC in Current month in books found in 2B of previous months	To be added in 4A(5) and also disclosed in 4D(1)
4A(5)-4D(1)	Match with 2B Totals

Standard Packaging R.5: Dilemma for Industry

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

NOTIFICATION

New Delhi, the 2nd November, 2021

G.S.R. 779(E).—In exercise of the powers conferred by sub-section (1) read with clause (j) and (q) of sub-section (2) of section 52 of the Legal Metrology Act 2009, (1 of 2010), the Central Government hereby makes the following rules further to amend the Legal Metrology (Packaged Commodities) Rules, 2011, namely:—

1. **Short title and commencement.**—(1) These rules may be called the Legal Metrology (Packaged Commodities) Amendment Rules, 2021.

(2) They shall come into force on the 1st day of April, 2022.

2. In the Legal Metrology (Packaged Commodities) Rules, 2011 (hereinafter referred to as the said rules), in rule 2, in clause (aa), for the words, brackets, letters and figures “clause (d) of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (68 of 1986)”, the words, brackets, letters and figures “clause (7) of section 2 of the Consumer Protection Act, 2019 (35 of 2019)” shall be substituted.

3. In the said rules, rule 4 shall be renumbered as sub-rule (1) thereof, and after sub-rule (1) as so renumbered, the following sub-rule shall be inserted, namely:—

“(2) When one or more packages intended for retail sale are grouped together for being sold as a retail package on promotional offer, every package of the group shall comply with provisions of rule 6.”.

4. In the said rules, rule 5 shall be omitted.

5. Specific commodities to be packed and sold in recommended standard packages. - The commodities specified in the Second Schedule shall be packed for sale, distribution or delivery in such standard quantities as are specified in that Schedule:

13.	Rice(powdered), <i>flōtur</i> , atta, rawa and suji.	100g, 200g, 500g, 1kg, 2kg, 5 kg and thereafter in multiples of 5 kg.
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MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

NOTIFICATION

New Delhi, the 28th March, 2022

G.S.R. 226(E).—In exercise of the powers conferred by sub-sections (1), read with clauses (j) and (q) of sub-section (2), of section 52 of the Legal Metrology Act, 2009 (1 of 2010), the Central Government hereby makes the following rules further to amend the Legal Metrology (Packaged Commodities) Rules, 2011, namely:-

1. (1) These rules may be called the Legal Metrology (Packaged Commodities) Amendment Rules, 2022.
- (2) They shall come into force on the 1st day of October, 2022.

2. In the Legal Metrology (Packaged Commodities) Rules, 2011 (hereinafter referred to as the said rules), in rule 1, in sub-rule (2), for the figures, letters and words "1st day of April, 2022", the figures, letters and words "1st Day of October, 2022" shall be substituted.

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

NOTIFICATION

New Delhi, the 30th September, 2022

G.S.R. 747(E).—In exercise of the powers conferred by sub-section (1) read with clauses (j) and (q) of sub-section (2) of section 52 of the Legal Metrology Act, 2009 (1 of 2010), the Central Government hereby makes the following rules further to amend the Legal Metrology (Packaged Commodities) Rules, 2011, namely:-

1. (1) These rules may be called the Legal Metrology (Packaged Commodities) Amendment (Amendment) Rules, 2022.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Legal Metrology (Packaged Commodities) Amendment Rules, 2022, in rule 1, in sub-rule (2), for the figures, letters and words "1st day of October, 2022", the figures, letters and words "1st Day of December, 2022" shall be substituted.

[F.No. WM-10/22/2021]

ANUPAM MISHRA, Jt. Secy.

Note : The Legal Metrology (Packaged Commodities) Amendment Rules, 2022 were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 226(E), dated the 28th March, 2022.

Consequences of not standardized Packages

S. 16 Every non-standard or unverified weight or measure, **and every package made in contravention of section 18**, used in the course of, or in relation to, any trade and commerce and seized under section 15, shall be **liable to be forfeited to the State Government**

S. 36 Penalty for selling, etc., of non-standard packages.—(1) Whoever manufactures, packs, imports, sells, distributes, delivers or otherwise transfers, offers, exposes or possesses for sale, or causes to be sold, distributed, delivered or otherwise transferred, offered, exposed for sale any **pre-packaged commodity which does not conform to the declarations on the package as provided in this Act**, shall be punished with fine which may extend to **twenty-five thousand rupees**, **for the second offence**, with fine which may extend to **fifty thousand rupees** and **for the subsequent offence**, with fine which shall **not be less than fifty thousand rupees or with imprisonment for a term which may extend to one year or with both**

Clause 6 of Legal Metrology (Packaged Commodities) Amendment Rules, 2022 dated 28-03-2022

No prosecution shall be initiated against the manufacturer or packer or importer of pre packaged commodities for making declaration with effect from the 1st April, 2022 in accordance with Legal Metrology (Packaged Commodities) Rules, 2011, as amended by the Legal Metrology (Packaged Commodities) Amendment Rules, 2021 published vide number G.S.R. 779 (E), dated the 2nd November , 2021

Non Standard Units Of Measurement



Opening of TRAN Window w.e.f. 01-10-2022

Circular no. 180/12/2022-GST [CBEC-20010/3/2022-GST] dated 9-9-2022

Attention is invited to the directions issued by **Hon'ble Supreme Court vide order, dated 22-7-2022 in the matter of Union of India vs. Filco Trade Centre Pvt. Ltd., SLP(C) No. 32709-32710/2018 [2022] 140 taxmann.com 535.** The operative portion of the order reads as follows:—

1. Goods and Service Tax Network (GSTN) is directed to open common portal for filing concerned forms for availing Transitional Credit through **TRAN-1 and TRAN-2** for two months *i.e.* **w.e.f. 1-9-2022 to 31-10-2022**
2. Considering the judgments of the High Courts on the then prevailing peculiar circumstances, **any aggrieved registered assessee is directed to file the relevant form or revise the already filed form irrespective of whether the taxpayer has filed writ petition before the High Court or whether the case of the taxpayer has been decided by Information Technology Grievance Redressal Committee (ITGRC).**
3. GSTN has to **ensure that there are no technical glitch** during the said time.
4. The **concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits** after granting appropriate reasonable opportunity to the parties concerned.
5. **Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.**
6. If required GST Council may also issue **appropriate guidelines to the field formations in scrutinizing the claims.** The Special Leave Petitions are disposed of accordingly. Pending applications, if any, also stand disposed of."
7. **2.** Subsequently, in Miscellaneous Application No. 1545-1546/2022 in SLP(C) No. 32709- 32710/2018, Hon'ble Supreme Court *vide* order, dated 2nd September, 2022 (Union of India v. Filco Trade Center (P.) Ltd. [2022] 142 taxmann.com 89) has inter-alia ordered as follows:

"The time for opening the GST Common Portal is extended for a further period of four weeks from today.

Tran facility available from 01-10-22 to 30-11-22

- In accordance with the directions of Hon'ble Supreme Court, the facility for filing **TRAN-1/TRAN-2** or revising the earlier filed **TRAN-1/TRAN-2** on the common portal by an aggrieved registered assessee (hereinafter referred to as the 'applicant') will be made available by GSTN during the period **from 1-10-2022 to 30-11-2022**. In order to ensure uniformity in implementation of the directions of Hon'ble Supreme Court, the Board in exercise of powers conferred under section 168(1) of the CGST Act, 2017 hereby clarifies the following:

4. Guidelines for the applicant for filing **TRAN-1/TRAN-2** or revising earlier filed **TRAN-1/TRAN-2**:

- 4.1 The applicant may file declaration in **FORM GST TRAN-1/TRAN-2** or revise earlier filed **TRAN-1/TRAN-2** duly signed or verified through electronic verification code on the common portal. **In cases where the applicant is filing a revised TRAN-1/TRAN-2, a facility for downloading the TRAN-1/TRAN-2 furnished earlier by him will be made available on the common portal.**

Declaration in Annexure “A” and CTD to be uploaded

- 4.2. The applicant shall at the time of filing or revising the declaration in **FORM GST TRAN-1/TRAN-2**, also upload on the common portal the pdf copy of a declaration in the format as given in [Annexure 'A'](#) of this circular. The applicant claiming credit in table 7A of **FORM GST TRAN-1** on the basis of Credit Transfer Document (CTD) shall also **upload on the common portal the pdf copy of TRANS-3, containing the details in terms of the Notification No. 21/2017-CE (NT), dated 30-6-2017.**

C forms issued after 27-12-2017 not to be taken

- 4.3 No claim for transitional credit shall be filed in table 5(b) & 5(c) of **FORM GST TRAN-1** in respect of such C-Forms, F-Forms and H/I-Forms **which have been issued after the due date prescribed for submitting the declaration in FORM GST TRAN-1 i.e. after 27-12-2017.**

5(b) requires Name of Issuer and Sl No. of Form received for which credit being carried forward from 01-04-2015 to 30-06-2017

The Conditions is not mentioned in Supreme Court decisions . It also violates the provisions Rule 12(7) of CST(Registration and Turnover Rules) as under:

The declaration in Form C or Form F or the certificate in Form E-I or Form E-II shall be furnished to the prescribed authority **within three months after the end of the period to which the declaration or the certificate relates: PROVIDED that if the prescribed authority is satisfied that the person concerned was prevented by sufficient cause from furnishing such declaration or certificate within the aforesaid time, the authority may allow such declaration or certificate to be furnished within such further time as that authority may permit**

Tran-2 (not available to Mfr and Service Providers) to be furnished in last month

- 4.4 Where the applicant files a claim in **FORM GST TRAN-2**, he shall file the entire claim in one **consolidated FORM GST TRAN-2, instead of filing the claim tax period wise as referred to in sub-clause (iii) of clause (b) of sub-rule (4) of rule 117 of the Central Goods and Services Tax Rules, 2017**. In such cases, in the column 'Tax Period' in **FORM GST TRAN-2**, the applicant shall mention the last month of the consolidated period for which the claim is being made.

Rule 117(4)(b)(ii)

The input tax credit referred to in sub-clause (i) shall be allowed **at the rate of sixty per cent on such goods which attract central tax at the rate of nine per cent or more and forty per cent for other goods** of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid

Self certified Copy to be submitted to Jurisdictional Officer on 7 days

- 4.5 The applicant shall download a copy of the **TRAN-1/TRAN-2** filed on the common portal and submit a self-certified copy of the same, along with declaration in Annexure 'A' and copy of TRANS-3, where ever applicable, to the jurisdictional tax officer within 7 days of filing of declaration in FORM TRAN-1/TRAN-2 on the common portal. The applicant shall keep all the requisite documents/records/returns/invoices, in support of his claim of transitional credit, ready for making the same available to the concerned tax officers for verification.

One Time Opportunity

- 4.6 It is pertinent to mention that the option of filing or revising TRAN-1/TRAN-2 on the common portal during the period from 1-10-2022 to 30-11-2022 is a **one-time opportunity** for the applicant to either file the said forms, if not filed earlier, or to revise the forms earlier filed. The applicant is required to take utmost care and precaution while filing or revising **TRAN-1/TRAN-2** and thoroughly check the details before filing his claim on the common portal.

Editing possible only before “Submit”

- 4.6.1 In this regard, it is clarified that the applicant **can edit the details in FORM TRAN-1/ TRAN-2 on the common portal only before clicking the "Submit" button on the portal.** The applicant is allowed to modify/edit, add or delete any record in any of the table of the said forms before clicking the 'Submit' button. **Once "Submit" button is clicked, the form gets frozen, and no further editing of details is allowed. This frozen form would then be required to be filed on the portal using "File" button, with Digital signature certificate (DSC) or an EVC.** The applicant shall, therefore, ensure the correctness of all the details in **FORM TRAN-1/ TRAN-2** before clicking the "Submit" button. GSTN will issue a detailed advisory in this regard and the applicant may keep the same in consideration while filing the said forms on the portal.
- 4.6.2 It is further clarified that pursuant to the order of the Hon'ble Apex Court, once the applicant files **TRAN-1/TRAN-2** or revises the said forms filed earlier on the common portal, no further opportunity to again file or revise **TRAN-1/TRAN-2**, either during this period or subsequently, will be available to him.

Window not available for rejected/pending adjudication/pending appeal cases

- 4.7 It is clarified that those registered persons, who had successfully filed **TRAN-1/TRAN-2** earlier, and who do not require to make any revision in the same, are not required to file/ revise **TRAN-1/TRAN-2** during this period from 01.10.2022 to 30.11.2022.
- In this context, it may further be noted that in such cases where the credit availed by the registered person on the basis of **FORM GST TRAN-1/TRAN-2** filed earlier, has either wholly or partly been rejected by the proper officer, the appropriate remedy in such cases is to prefer an appeal against the said order or to pursue alternative remedies available as per law.
- **Where the adjudication/ appeal proceeding in such cases is pending, the appropriate course would be to pursue the said adjudication/ appeal.** In such cases, filing a fresh declaration in **FORM GST TRAN-1/TRAN-2**, pursuant to the special dispensation being provided *vide* this circular, is not the appropriate course of action.

Verification+ Order+Reflection on ECrL

- 5. The declaration in **FORM GST TRAN-1/TRAN-2** filed/revised by the applicant will be subjected to necessary verification by the concerned tax officers. The applicant may be required to produce the requisite documents/ records/ returns/ invoices in support of their claim of transitional credit before the concerned tax officers for verification of their claim.
- **After the verification of the claim, the jurisdictional tax officer will pass an appropriate order** thereon on merits after granting appropriate reasonable opportunity of being heard to the applicant.
- **The transitional credit allowed as per the order passed by the jurisdictional tax officer will be reflected in the Electronic Credit Ledger of the applicant on the common portal.**

**CHANGES INTRODUCED BY
FINANCE ACT 2022 W.E.F.
01-10-2022 AND
CONSEQUENTIAL CHANGES**

Return Defaults/Tax Defaults to result
in withholding of all types of refunds
and not only refund of unutilized ITC

S.113(c) of FA 2022 amends S.54(10) w.e.f. 01-10-2022 by NN
18/2022 dated 28-09-2022

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

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

Return Defaults/Tax Defaults to result in withholding of all types of refunds and not only refund of unutilized ITC

Before 01-10-2022 only refunds u/s 54(3) could be withheld u/s 54(10) i.e. refunds of Unutilized ITC arising from exports and inverted duty rated structure.

However with omissions of words “under sub section 3” other refunds like

1. Refund of IGST paid against export of goods or services;
2. Refund of Excess tax paid;
3. Refund against deemed exports;
4. appeal effect refunds;
5. Refund against provisional payment of tax
6. Refund of excess balance in cash ledger

Also might get withheld.

Rule 96(4) provides that IGST paid refunds against export of goods might get withheld where

- i. **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
- ii. the proper officer of Customs determines that the **goods were exported in violation of the provisions of the Customs Act, ^{29a}[1962; or**
- iii. *the Commissioner in the Board or an officer authorised by the Board, on the basis of data analysis and risk parameters, is of the opinion that **verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential** before grant of refund, in order to safeguard the interest of revenue*

Grounds for Cancellation of registration for return defaults

Section 29(2)(c) has been amended by Section 101 of FA 2022 w.e.f. 01-10-2022 (NN 18/2022 dated 28-09-22) as under:

The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

b) a person paying tax under section 10 has not furnished ²¹~~[returns for a continuous period of six months~~ **the return for a financial year beyond three months** *from the due date of furnishing the said return*]; or

Note: Due Date for GSTR-4 is 13th April following FY. Delay beyond 30th June shall invoke cancellation.

c) any registered person, other than a person specified in clause (b), has not furnished returns for ²²~~[a continuous period of six months~~ **such continuous tax period as may be prescribed**

Hence rule 21 has been amended to prescribe tax period resulting cancellation of registration.

Grounds for cancellation of registration of normal taxpayers in R. 21

NOTIFICATION NO. 19/2022 - CENTRAL TAX dated 28-09-2022 w.e.f. 01-10-2022:

R. 21 The registration granted to a person is liable to be cancelled, if the said person,—

*h) being a registered person required to file return under sub-section (1) of section 39 for each month or part thereof, has not furnished returns for a **continuous period of six months***

*i) being a registered person required to file return **under proviso to sub-section (1) of section 39** for each quarter or part thereof, has not furnished returns **for a continuous period of two tax periods***

Due Dates extended by FA 2022 w.e.f. 01-10-2022 by virtue of NN 18/2022 dated 28-09-2022

Subject	Finance Act 2022	CGST Act	NN 18/2022 dated 28-09-22	Old	New
Taking ITC	S.100(b)	S.16(4)	01-10-2022	Due date of furnishing of the return u/s 39 for the m/o Sep	30th November
Credit Note	S.102	S.34(2)	01-10-2022	September	30th November
GSTR-1 (Adj)	S.103©(ii)	S.37(3)	01-10-2022	furnishing of the return u/s 39 for m/o Sep	30th November
GSTR-3B (Adj)	S.105©(ii)	S.39(9) proviso	01-10-2022	due date of furnishing of the return u/s 39 for the m/o Sep	30th November
GSTR-5 (NRTP)	S.105(a)	S.39(5)	01-10-2022	20 Days after end of month	13 days after end of month
GSTR-8 (Adj)	S.112	S.52(6)	01-10-2022	Due date for furnishing of statement for the m/o Sep	30th November
Refund for UN, agencies and S.55 bodies	S.113(b)	S.54(2)	01-10-2022	18 months from last day of Qtr.	2 years from last day of quarter

ITC Restrictions w.e.f. 01-
01-2022 Introduced by
Finance Act 2021 and
w.e.f. 01-10-2022
Introduced by Finance
Act 2022

S. 16(2)(aa) introduced vide 39/2021 dated 21-12-2021 w.e.f. 01-01-2022 states that:

- 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,—
- “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

S. 37 : Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both **effected during a tax period** on or before the tenth day of the month succeeding the said tax period **and such details shall be communicated to the recipient of the said supplies** within such time and in such manner as may be prescribed

- R.59 requires furnishing of detail of outward supplies during month/quarter in GSTR-1/IFF. R. 60(1) states that outward supplies furnished by supplier shall be made available to concerned registered persons(recipients) **in GSTR-2A**
- R. 60(7) states that details of input tax credit shall be made available to registered person **in GSTR-2B** consisting of detail of outward supplies furnished by his supplier, **between due dates between due of furnishing GSTR-1 in previous month to due date of furnishing GSTR-1 for the month.**
- **Hence while GSTR-2A covers transactions for tax period i.e. month/quarter; GSTR-2B covers details furnished between two due dates which may pertain to multiple tax periods.**
- **Now S.37 deals with furnishing details of outward supplies for a tax period and not multiple tax periods. Since S. 16(2)(aa) put condition of availaing ITC for outward supplies communicated in the manner specified in S. 37, hence GSTR-2A fits the restrictions u/s 16(2)(aa) and not GSTR-2B**

R.36(4) amended

NN 19/2022 dated 28-09-2022 w.e.f. 01-10-2022 : R. 36(4) amended which was substituted w.e.f. 01-01-2022 to take ITC as per 2B by NN 40/2021 dated 29-12-201:

No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under sub-section (1) of section 37 unless,-

- a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; and*
- b) the details of **input tax credit in respect of such** invoices or debit notes have been communicated to the registered person in **FORM GSTR-2B under sub-rule (7) of rule 60***

~~R.36(4) before 01-01-2022:~~ ~~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 per cent 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:~~

New Condition for entitlement of ITC introduced w.e.f. 01-10-2022

**S.100 of the Finance Act 2022 Inserting Section
16(2)(ba) w.e.f. 01-10-22(NN 18/2022 dated 28-09-22)**

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,—

*(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 **has not been restricted***

Note: S. 38(2)(b) states that auto generated statement containing details of supplies furnished by supplier shall comprise details of supplies on which ITC can not be availed.

Communication of details of inward supplies and input tax credit [S.38]

w.e.f. 01-10-2022

Section 104 of FA 2022 substitutes Section 38 w.e.f. 01-10-2022 (NN 18/2022 dated 28-09-22) as under:

S. 38(1) *The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 **and of such other supplies as may be prescribed**, [Form 2A]*

and

an auto-generated statement *containing the details of input tax credit [Form 2B]*

shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

R.60(7) amended in sync with S.38 w.e.f. 01-10-2022 by NN 19/2022 dated 28-09-2022: An ⁴ ~~auto-drafted~~ **[auto-generated]** statement containing the details of input tax credit shall be made available to the registered person in FORM GSTR-2B, for every month, electronically through the common portal

Details of Inward supplies on which ITC may be available

(2) The auto-generated statement under subsection (1) shall consist of—

***(a) details of inward supplies** in respect of which credit of input tax may be available to the recipient; and*

S. 38(2)(a) only speaks about inward supplies on which ITC may be available. ITC may be available does not necessarily mean that it shall be available. ITC may be restricted even in respect of inward supplies u/s 38(2)(a) due to other restrictions like u/s 16 or 17.

Auto generated statement containing details furnished by supplier on which

ITC can not be availed [S. 38(2)(b)]

(b) **details of supplies** in respect of which such credit **cannot be availed**, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,--

- (i) by any registered person within **such period of taking registration as may be prescribed**; or
- (ii) by any registered person, who has **defaulted in payment of tax** and where such **default has continued** for such period **as may be prescribed**; or **[Supplier not filing GSTR-3B]**
- (iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, **as may be prescribed**, exceeds the output tax paid by him during the said period by such **limit as may be prescribed**; or **[Supplier's output tax in GSTR-1 exceeding GSTR-3B]**
- (iv) by any registered person who, during **such period as may be prescribed**, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), **by such limit as may be prescribed**; or **[Supplier's 4C of 3B exceeding 2B ITC]**
- (v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 **subject to such conditions and restrictions as may be prescribed**; or **[Supplier's credit ledger utilization exceeding 99% of output tax for months having turnover > 50 lacs]**
- (vi) by such other class of persons **as may be prescribed**.

Restriction u/s 38(2)(b) to be prescribed in following circumstances

1. Initial prescribed registration period of supplier
2. Continuous prescribed period of tax payment default by supplier
3. Tax payable in GSTR-1 for prescribed period exceeding GSTR-3B by prescribed limit
4. Availing ITC in excess of ITC available as per 2B for prescribed period by prescribed limit **(No restriction for availing ITC restricted by GSTR-2B)**
5. Output tax liability being met from ITC in excess of 99% as per R. 86B
6. Other prescribed class of persons

GSTR-2A	GSTR 2B
Auto Populated	Auto Populated
R. 60(1)	R. 60(7)
Invoice Wise Information	Summary Information as well Invoice Wise Information
Updated on Real Time Basis	Static Statement
Continuous Updation	Between two due dates of IFF/GSTR-1
No Information on ITC not available	ITC not available information is available in Part 4.

As per Instruction No. 2(b) of GSTR-2B, ITC shall be indicated to be not available in following scenerios:

- i. Invoices or debit note for supply of goods or services or both where recipient is not entitled to input tax credit as per provisions of S. 16(4) of CGST Act 2017
- ii. **Invoices or debit notes where supplier GSTIN and place of supply are in same state while recipient is another state**

None of above ITC is restricted by S.38(2)(b)

Analysis

- Section 16(2)(ba) only requires not to take ITC which is restricted by S.38
- Hence S. 38(2)(b) read with Rule 60(7) no where requires ITC restriction for the time being applicable as per Part 4 of 2B.
- Time period and limits for imposing Restriction specified in S. 38(2)(b) has as yet not been prescribed.
- Hence one may contend that requirement to restrict ITC as per 2B or Section 38 is not as yet applicable.

Omission of Un Used Provisions

S.107 of Finance Act 2022 w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022 : Sections 42, 43 and 43A of the Central Goods and Services Tax Act shall be omitted.

S. 103: In section 37 of the Central Goods and Services Tax Act,—(c) in sub-section (3),—

(i) the words and figures “and which have remained unmatched under section 42 or section 43” shall be omitted;

S. 110: In section 49 of the Central Goods and Services Tax Act,—(a) in sub-section (2), the words, figures and letter “or section 43A” shall be omitted;

S. 100 In the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the Central Goods and Services Tax Act), in section 16, —(ii) in clause (c), the words, figures and letter “or section 43A” shall be omitted;

S.42 : Matching, reversal and reclaim of input tax credit.

S.43: Matching, reversal and reclaim of reduction in output tax liability.

S.43A : Procedure for furnishing return and availing input tax credit.

R.85(2)© omitted by NN 19/2022 dated 28-9-22 w.e.f. 01-10-22:

The electronic liability register of the person shall be debited by—

~~the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50;~~ or

**Following Rules abolished by NN 19/2022 dated 28-09-22
w.e.f. 01-10-2022:**

R.69: Matching of claim of input tax credit

R.70: Final acceptance of input tax credit and communication thereof.

R.71: Communication and rectification of discrepancy in claim of input tax credit and reversal of claim of input tax credit

R.72: Claim of input tax credit on the same invoice more than once

R.73: Matching of claim of reduction in the output tax liability

R.74: Final acceptance of reduction in output tax liability and communication thereof.

R.75: Communication and rectification of discrepancy in reduction in output tax liability and reversal of claim of reduction

R.76: Claim of reduction in output tax liability more than once.

R.77: Refund of interest paid on reclaim of reversals.

S. 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,—

subject to the provisions of section 41 ~~or section 43A~~, 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; and

S. 37(3) Any registered person, who has furnished the details under sub-section (1) for any tax period ~~and which have remained unmatched under section 42 or section 43~~, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

S. 49(2): The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with ⁷⁹[section 41 ~~or section 43A~~ to be maintained in such manner as may be prescribed.

S.38 : Furnishing the details of Inward supplies through GSTR-2 substituted by S.104 of FA 2022 w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022 : Rule 60 had already been substituted by NN 82/2020 dated 11-10-2020 w.e.f. 01-01-2021

~~**38. Furnishing details of inward supplies.**— (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10, section 51 or section 52, shall verify, validate, modify or delete, if required, the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 37 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 37.~~

~~(2) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975 (51 of 1975), and credit or debit notes received in respect of such supplies during a tax period after the tenth day but on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed:~~

~~**Provided** that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:~~

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

~~(3) The details of supplies modified, deleted or included by the recipient and furnished under sub-section (2) shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.~~

~~(4) The details of supplies modified, deleted or included by the recipient in the return furnished under sub-section (2) or sub-section (4) of section 39 shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.~~

~~(5) Any registered person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:~~

~~**Provided** that no rectification of error or omission in respect of the details furnished under sub-section (2) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier."~~

Acceptance of details by the supplier
communicated by the recipient in MIS-2 deleted
by FA 2022 w.e.f. 01-10-2022[NN 18/2022 dtd 28-

09-22

- ~~• 2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.~~

Forms abolished

NN 19/2022 dated 28-09-2022 w.e.f. 01-10-2022:

Form GSTR-1A: Detail of Auto Drafted Supplies

Form GSTR-2: Detail of Inward supplies of goods or services

Form GSTR-3: Monthly return

Consequential amendment due to abolition of adjustments resulting from communication between supplier and recipient through MIS-1 and MIS2

Section 37(9) amended by S.105(c) (i) of FA 2022 w.e.f. 01-10-22 by NN 18/2022 dtd 28-09-2022

- ~~Subject to the provisions of sections 37 and 38~~ Where any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars ⁵³*[in such form and manner as may be prescribed]*, subject to payment of interest under this Act:

GSTP provisions regarding furnishing of information in GSTR-2 amended due to substitution of section 38

S.48(2) amended by S.109 of FA 2022 w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022 as under

A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37^{75a} [, ~~the details of inward supplies under section 38~~***] and the return under section 39 or section 44 or section 45⁷⁶ [and to perform such other functions] in such manner as may be prescribed.

R. 83(8)(a) also amended by NN 19/2022 dated 28-09-2022 w.e.f. 01-10-2022 :

A goods and services tax practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorised by him to—

a) furnish the details of outward ~~and inward~~ supplies

In Form GST PCT-05 also the words “and inward” omitted

Commissioner in board not exercise powers u/s 38(2)
for extending time limit for GSTR-2 because of
substitution of S. 38 w.e.f. 01-10-2022

- ~~Provided~~ that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein: [Proviso to S.38(2)]

Section 114 of FA 2022 amends S.168 of CGST Act w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022

- The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, **sub-section (2) of section 38** sub-section (6) of section 39, ⁷⁹[^{79a}[section 44], sub-sections (4) and (5) of section 52,] ^{79b}[sub-section (1) of section 143, except the second proviso thereof], ^{79c}[***] clause (I) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

Requirement to furnish Invoice information in GSTR-2 for ITC availment done away

**NN 19/2021 dated 28-09-2011 w.e.f. 01-10-2022 :
Amendment of Rule 36(2):**

Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document ~~and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person~~

Claim of credit by a banking company or a financial institution [R.38]

Amendments in R.38 by NN 19/2022 dated 28-09-2022 w.e.f. 01-10-2022

A banking company or a financial institution, including a non-banking financial company, engaged in the supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of that section, shall follow the following procedure, namely,—

- a) the said company or institution shall not avail the credit of,—
 - i. the tax paid on inputs and input services that are used for non-business purposes; and
 - ii. the credit attributable to the supplies specified in sub-section (5) of section 17 ~~in FORM GSTR-2~~
- b)** the said company or institution shall avail the credit of tax paid on inputs and input services referred to in the second proviso to sub-section (4) of section 17 and not covered under clause (a);
- c)** fifty per cent of the remaining amount of input tax shall be the input tax credit admissible to the company or the institution ~~and shall be furnished in FORM GSTR-2 and the balance amount of input tax credit shall be reversed in FORM GSTR-3B]~~
- ~~d) the amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, be credited to the electronic credit ledger of the said company or the institution."~~

Amendments abolishing reference to GSTR-2,GSTR-3 in Rules vide NN 19/2022 dated 28-9-22 w.e.f. 01-10-22

R. 42: Manner of determination of input tax credit in respect of inputs or input services and reversal thereof: Requirement of Declaration of T,T1,T2,T3,T4 in GSTR-2 done away

R. 43: Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases: The words “GSTR-2” omitted.

R.96(3): Upon the receipt of the information regarding the furnishing of a valid return in ~~FORM GSTR-3~~ or **FORM GSTR-3B** from the common portal, ³⁰[the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods] and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

Reversal of input tax credit in the case of non-payment of consideration

NN 19/2022 dated 28-09-2022: w.e.f. 01-10-2022 Rule 37 Substituted:

A registered person, who has availed of input tax credit on any inward supply of goods or services or both, ***other than the supplies on which tax is payable on reverse charge basis***, but fails to pay to the supplier thereof, ***the amount towards*** the value of such supply along with the tax payable thereon, within the time limit specified in the second proviso to sub-section (2) of section 16, ~~shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in FORM GSTR-2 for the month immediately following the period of one hundred and eighty days from the date of the issue of the invoice:~~ ***shall pay an amount equal to the input tax credit availed in respect of such supply along with interest payable thereon under section 50, while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of one hundred and eighty days from the date of the issue of the invoice:***

Note :

1. Requirement to furnish information in GSTR-2 done away.
2. Old Rule 37 required reversal of proportionate ITC but there new Rule 37 has done away words “proportionate” and hence registered person has to pay tax on entire amount of supply.
3. S.16(2) 2nd proviso also excludes supplies under RCM and the same has been incorporated in R. 37 also.

Value of Supplies deemed to have been paid

- **Provided** that the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16:
- **Provided further** that the value of supplies on account of any amount added in accordance with the provisions of clause (b) of sub-section (2) of section 15 shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16. **[Amount which supplier is liable to pay but incurred by the recipient of the supply]**

Addition to output tax liability

R.37(2) omitted by **NN 19/2022 dated 28-09-2022 w.e.f. 01-10-2022**

~~(2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished."~~

As per 16(2) 2nd proviso the amount of ITC shall be added to output tax liability. Hence R.37(2) was duplication which has been done away

Re availment on payment of consideration

NN 19/2022 dated 28-09-2022: New Rule 37(2) w.e.f. 01-10-2022

(2) Where the said registered person subsequently makes the payment of the amount towards the value of such supply along with tax payable thereon to the supplier thereof, he shall be entitled to re-avail the input tax credit referred to in sub-rule (1).

No time limitation for reavailment [R.37(4)]

The time limit specified in sub-section (4) of section 16 shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or the provisions of this Chapter, that had been reversed earlier.

There is no provision for refund of interest on reavailment

Interest clause for ITC reversal on account non payment of consideration

Separate Interest clause under Rule 37(3) abolished
because Interest clause incorporated in R. 37(1) by
NN 19/2022 dated 28-09-2020

~~(3) The registered person shall be liable to pay
interest at the rate notified under sub-section (1) of
section 50 for the period starting from the date of
availing credit on such supplies till the date when the
amount added to the output tax liability, as
mentioned in sub-rule (2), is paid.~~

Detail of Outward Supplies to be furnished subject to conditions and restrictions [S. 37(1)]

S.37(1) amended by FA 2022 w.e.f. 01-10-2022 [NN 18/2022 dated 28-09-2022]

- Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, ^{42a}***[subject to such conditions and restrictions and]*** in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details ^{42b}***[shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies]*** ~~shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed~~

~~**Provided** that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period~~

Provided further *that*] the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

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

Conditions and Restrictions on filing GSTR-1 if GSTR-3B for preceeding month/tax period not filed

R.59(6)(a) : *a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1**, if he has not furnished the return in FORM GSTR-3B ^{43a}for the preceding month*

R. 59(6)(b) : *a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period*

GSTR-1 without filing GSTR-1 for previous tax period restricted

S.37(4) inserted by FA 2022 w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022

- A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him:
- Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods

GSTR-3B without filing GSTR-3B or GSTR-1 for previous tax period can not be filed

Earlier section 37(10) provided that “ A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him”

Now section 37(10) amended by S. 105(d) of FA 2022 w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022 as under:

A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods ⁵⁶**[or the details of outward supplies under sub-section (1) of section 37]** for the said tax period has not been furnished by him:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period

Deposit by QRMP taxpayer in lieu of tax payment: Consequential Changes in S.39(7)

As per NN 85/2020, taxpayers having turnover up to 5 crores in the preceeding FY and opting for Qtly return could make deposit in electronic cash ledger for first 2 months equivalent to

- i. 35% of tax liability paid by debiting cash ledger or
- ii. tax liability paid by debiting cash ledger in return for last month of immediately preceeding quarter where return is furnished monthly

The above deposit is not required where balance in cash and credit ledger is adequate to meet tax liability for 1st month/ cumulative tax liability for first two months.

Finance Act 2019 had Introduced following provision for tax payment by QRMP taxpayers, which needed amended in wake of NN 85/2020

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:

Hence section S.105(b) of FA 2022 substitutes the old proviso to S.37(1) w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022 as under:

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,-

- a) ***an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or***
- b) ***In lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.***

Late Fee Introduced for GSTR-8[Return for E-Commerce Operator; Late fee for GSTR-2 abolished]

- Late fee is applicable for Returns u/s 39 i.e. GSTR-3B, GSTR-4, GSTR-5, GSTR-6 and GSTR-7 as per S. 47(1)
- Late fee is also applicable to final return u/s 45 by virtue of S.47(1)
- Late fee is applicable for GSTR-1 also covered by S.37 but not being levied on the portal because of absence of mechanism to pay any amount through GSTR-1.
- Late fee is also applicable for annual return u/s 44 by virtue of S.47(2)
- Now late fee for GSTR-2 u/s 38 abolished due to substitution of S. 38 by new section
- Further late fee now also introduced for late filing of GSTR-8 by E-Commerce operators u/s 52.

Following changes introduced in S.47(1) by S. 108 of FA 2022 w.e.f. 01-10-2022 by NN 18/2022 dated 29-08-2022:

Any registered person who fails to furnish the details of outward ~~or inward~~ supplies required under section 37 ~~or section 38~~ or returns required under section 39 or section 45^{72d} [**or section 52**] by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

Availment of Input tax Credit [S.41]

S.106 of Finance Act 2022 substitutes S.41 w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022

- (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take **avail** the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited ~~on a provisional basis~~ to his electronic credit ledger.
- ~~(2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section."~~
- (2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:
- Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

Analysis of New S.41

1. Substitution of “take” for “avail” indicates that mere taking of ITC in books is not sufficient unless it is availed in the return
2. Since the system of final acceptance of ITC through S.42 has come to end after abolition of S.42 by FA 2022, the word “on provisional basis ” has been taken off. Hence whatever ITC is availed in return, it shall be final.
3. Since old 41(2) required utilization of ITC only for self assessed output tax the abolition thereof opens ITC for utilization of output tax assessed by proper officer or pre deposit etc. Section 49(4) mandates utilization of ITC only for output tax. Hence RCM to be paid through cash ledger only.
4. Section 16(2) © states that subject to section 41, **registered person is not entitled to credit of input tax in respect of any supply unless tax charged on such supply has been actually paid to government in cash or through utilization of input tax credit admissible in respect of said supply.**
5. Now section 41(2) has been introduced to state that where ITC has been availed u/s 41(1) in respect of supplies where on tax payable has not been paid, by supplier, ITC shall be reversed along with applicable interest, in prescribed manner. No rules have been prescribed as yet.
6. Tax payment by supplier shall entitle re availment of ITC by the recipient in prescribed manner, for which no rules prescribed as yet.
7. There is no provision for refund of Interest.
8. **Judgments of Sri Ranganathar Valves (Madras HC); On Quest Merchandise (Delhi HC); DY Beathel (Madras HC); Arise India (Delhi HC); Infinit Wholesale (Madras HC); LGW (Calcutta HC) shall apply to new section 41(2)**

Impact of new S. 41 on fake Invoicing issues

- Section 16(2)(c) disentitles the credit for taxes not actually paid.
- If tax has not been paid by L1, and it is a paper transaction only, L2 is disentitled for ITC u/s 16(2)(b).
- However, if goods are actually delivered by L2 to L3 and output tax is met out of ITC arising from paper transaction, L3 could plead that u/s 16(2)(c), there are no means to determine the non payment of tax by L1,L2
- Hence Section 41(1) first allows complete availment of ITC
- At subsequent stage, when tax is found not paid by supplier L2, L3 has been mandated u/s 41(2) to reverse ITC.
- At the same time, if L2 does not utilize the fake ITC, then L3 would be saved by new section 41(2)

Refund of Balance in Electronic Cash Ledger not to be claimed through return but through RFD-01
Proviso to S. 54(1) amended by S. 113(a) of FA 2022 w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022:

As per proviso to section 54, **Provided** that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in ~~the return furnished under section 39~~ **in such** ^{5a}**[such form and]** such manner as may be prescribed.

R.89(1) amended by NN 19/2022 dated 28-09-2022 w.e.f. 01-10-2022:

Any person, except the persons covered under notification issued under section 55, claiming refund of **[any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 or]** any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file ^{97b}**[, subject to the provisions of rule 10B,]** an application electronically in FORM GST RFD-01 through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:
~~**Provided** that any claim for refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 may be made through the return furnished for the relevant tax period in FORM GSTR-3 or FORM GSTR-4 or FORM GSTR-7, as the case may be~~

Restrictions on Utilization of amount available in electronic credit ledger where value of taxable supply in month > 50 lacs

- R.86B places **Restrictions on use of amount available in electronic credit ledger. As per Rule 86B**, Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent of such tax liability, in cases where **the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees**. The rules is subject to certain exceptions like
 - registered person/proprietor/Karta/MD/any of two partners/WTDs, members have paid more than Rs. 1 lakh income tax in two **financial years**
 - Registered person has received refund of more than Rs. 1 lakh for unutilized ITC due to export/inverted rated structure
 - Cumulative tax payment through cash ledger for current FY is more than 1%
 - Registered person is govt deptt/PSU/local authority, statutory body
- But the rules were not supported by provisions of GST Act.**

Section 49(4) has been amended as under by S. 110(b) of FA 2022 w.e.f. 1-10-22 by NN 18/2022 dated 28-09-22:

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

Section 49(12) is being introduced by S. 110(d) of FA 2022 w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022 as under:

Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, **subject to such conditions and restrictions**, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.”.

Time limitation for refund application for UN and other agencies extended from 18 M to 2 years from quarter end

NOTIFICATION NO. 20/2022 - CENTRAL TAX DATED 28-9-2022

In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations on the Council, **hereby rescinds the notification** of the Government of India, Ministry of Finance (Department of Revenue), No. 20/2018-Central Tax, dated the 28th March, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section(i), *vide* number G.S.R. 309 (E), dated the 28th March, **2018, with effect from the 1st day of October, 2022**, except as respects things done or omitted to be done before such rescission.

*for the figure "2018", read "2018, with effect from the 1st day of October, 2022***Corrigendum dated 29-09-2022**

Note : In NN 20/2018 dated 28-03-2018, period for refund application u/s 54(2) for S.55 bodies like UNO, consulates, embassy of foreign countries was increased from 6 months from last day of quarter to 18 months from last day of quarter because refund application facility could be made available to such bodies only around march 2018. Now after 4 .5 years the time limitation for refund has been extended to 2 years

NOTIFICATION NO. 20/2018-CENTRAL TAX, DATED 28-3-2018 (rescinded by NN 20/2022 dated 28-09-2022):

- Whereas, as per section 55 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf (hereafter in this notification referred to as the specified persons), who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them;
- Whereas, **the Central Government has laid down the conditions and restrictions for claiming of refund of taxes under section 55** of the said Act *vide* the Central Goods and Services Tax Rules, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) *vide* Notification No. 3/2017-Central Tax, dated the 19th June, 2017, published *vide* number G.S.R 610 (E), dated the 19th June, 2017 and last amended *vide* Notification No. 14/2018-Central Tax, dated the 23rd March, 2018, published *vide* number G.S.R 266 (E), dated the 23rd March, 2018;

NOTIFICATION NO. 20/2018-CENTRAL TAX, DATED 28-3-2018

(rescinded by NN 20/2022 dated 28-09-2022):

Whereas, as per sub-section (2) of section 54 of the said Act, the specified persons, as notified under section 55 of the said Act, are entitled to a refund of tax paid by them on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received;

Whereas, the **facility for filing the claim of refunds under section 55 of the said Act has been made available on the common portal recently;**

Now, therefore, **in exercise of the powers conferred by section 148 of the said Act**, the Central Government, on the recommendations of the Council, hereby notifies the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, **before the expiry of eighteen months from the last date of the quarter in which such supply was received.**

Time limit for refund application by UN and agencies extended to 2 years

S. 113(b) of FA 2022 amends S.54(2) of FA 2002 w.e.f. 01-10-2022 as under:

A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of ^{5b}~~six months~~ **[two years]** from the last day of the quarter in which such supply was received.

Relevant Date Calculation for refunds against supplies to SEZ

- Supplies to SEZ by registered person in DTA qualify as zero rated supplies and qualify for refund. However no relevant date has been spelt out for counting period of limitation under S.54(1) for purpose of 2 years from relevant date.

Hence S. 113(d) of FA 2022 introduces clause (ba) in Explanation 2 below Section 54 w.e.f. 01-10-2022 by NN 18/2022 dated 28-09-2022 as under:

Relevant date means:

“(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, **the due date for furnishing of return under section 39 in respect of such supplies**

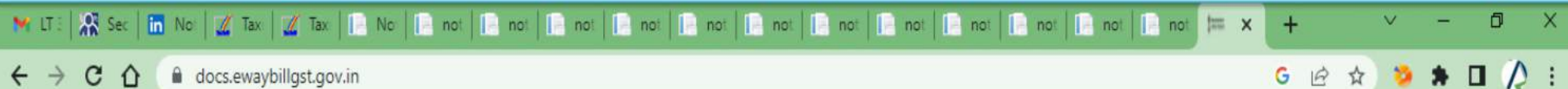
E way Bill for Gold: Press Release dated 12-09-2022

- As per the Government recommendation, E-Way Bill generation has been provisioned for movement of Gold (HSN Chapter 71) for all Intrastate and Interstate transactions. **The taxpayers of the state may generate the E-Way bill for Gold as per the notification issued by their respective states. The e-Way bill for Gold is available as a separate option in the main menu.** The e-Way bill for Gold has all the same parameters as that of normal e-waybill except that such e-way bills will not be updated with Part-B details. The validity of such e-Way bill is calculated based on the pin to pin distance of origin and destination.
- For generating E-Way bill for Gold **it is mandatory that all the items must belong to the HSN Chapter 71 only. In case of items belonging to other HSN chapter along with HSN chapter 71 exist, then it may be treated as a normal e-Way bill** and may be generated along with Part-B details.

The changes in functionalities with respect to e-Way bill for Gold are as follows:

- ✦ No Part-B details can be updated
- ✦ Transporter update is not allowed
- ✦ Consolidated EWB cannot be generated
- ✦ Extension of e-way bill is allowed without updating Part-B details
- ✦ Multivehicle facility is not allowed

Clarification on E way bill Site on 14-09-2022



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Now, 2-Factor Authentication for e-Way Bill / e-Invoice

Dear Tax payers, to enhance the security of e-Way Bill / e-Invoice System, NIC is introducing 2-Factor Authentication for login. In addition to username and password, OTP will also be authenticated for login. OTP is generated in 3 modes: SMS, Sandes and NIC - GST-Shield. You may enter any of the OTP and login to system.

Presently, this feature is optional.

Get OTP through



SMS

Through SMS:

OTP will be sent to your registered mobile number as SMS.



Sandes

On 'Sandes' Mobile App:

OTP will be sent to Sandes, messaging app provided by government to send and receive messages.



NIC - GST
Shield

Using 'NIC-GST-Shield' app:

App is provided by e-Way Bill / e-Invoice System to generate OTP, this does not require internet and no dependency on mobile network.

Note: The OTP authentication is based on individual user accounts. The sub users of GSTIN will have separate authentication depending on their registered mobile number in the e-Way Bill System.



Latest Updates: 07/10/2022

- Single sign-on (SSO) for e-Invoice and e-Waybill enabled.

Previous Updates

14/09/2022

- [e-Waybill for Gold will be available only after the notification is issued by Government.](#)

11/04/2022

- 2 Factor authentication enabled
- Railway Receipt No. formats defined.

01/06/2021

- [New Releases - Enhancements in EWB.](#)

17/03/2021

- [e-Way Bill cannot be generated with only SAC codes\(99\) for Services, minimum one](#)

E-Way bill system is for GST registered person / enrolled transporter for generating the way bill (a document to be carried by the person in charge of conveyance) electronically on commencement of movement of goods exceeding the value of Rs. 50,000 in

GST e-Invoicing tu....pdf





Thank
you