

Summary of Circulars issued by CBIC to give effect to recommendations made in the 47th GST Council meeting

Pursuant to the recommendations and decisions taken in the 47th GST Council meeting, CBIC has issued circulars to give effect to these recommendations (the relevant circulars can be accessed [here](#)). A summary of these circulars is as follows:

Number	Subject	Key clarifications
170/02/2022-GST	Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1	<ul style="list-style-type: none"> • 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-1/3B • Advisory issued in context of declaration of inter-state supplies PoS wise • Taxpayer to 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 • 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

Number	Subject	Key clarifications
		<ul style="list-style-type: none"> Detailed advisory on type of ineligible credits and their disclosure along with illustration.
171/03/2022-GST	Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices.	<ul style="list-style-type: none"> A issues invoice to B without any supply – As there is no supply – no tax demand on A. However, penal action under Seciton1 22(1)(ii) to be initiated on A A issues invoice to B without supply, B avails credit and does further supply where such credit is used – As B has availed credit against Section 16(2), B liable for demand and recovery along with interest penalty under Section 74 A issues invoice to B without supply, B avails credit and also issues invoice to C without supply - no demand and recovery of either input tax credit wrongly/ fraudulently availed by ‘B’ in such case or tax liability in respect of the said outward transaction by ‘B’ to ‘C’ is required to be made from ‘B’ under the provisions of section 73 or section 74 of CGST Act. However, penal action under Seciton1 22(1)(ii) to be initiated on B.

Number	Subject	Key clarifications
172/04/2022-GST	Clarification on various issue pertaining to GST	<ul style="list-style-type: none"> • Deemed export supplies (procurements by STP/ EOU) – tax paid on deemed export supplies is allowed as ITC to enable refund claim, it does not mean actual credit which is subject to restrictions under Section 17 or for ‘Net ITC’ for claiming refund of zero rated supplies • Credits linked to any supply which is obligatory for employer to provide its employees – relaxation applies to Section 17(5)(b) and not just to sub-clause (iii) • Leasing credit restriction only applies to leasing of motor vehicles, vessels and aircrafts • Perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee. • Electronic credit ledger – can be used for payment of output tax whether self-assessed or as a consequence of any proceeding. Cannot be used to pay reverse charge liability, interest, penalty, fees, or payment of erroneous refund sanctioned in cash • Electronic cash ledger – can be used for any payment under the GST law

Number	Subject	Key clarifications
173/05/2022-GST	Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification.	There may be cases where though the input and output supplies are same at a given point in time, the tax rate can be different on output due to a concessional notification. Such cases are eligible for inverted duty refund.
174/06/2022-GST	Prescribing manner of re-credit in electronic credit ledger using FORM GST PMT-03A.	Prescribes mechanism to claim recredit of erroneous refund which is deposited by the tax payer. Manual filing in Annexure A to begin with till automated functionality is developed
175/07/2022-GST	Manner of filing refund of unutilized ITC on account of export of electricity.	Relates to claiming of refund on export of electricity
176/08/2022-GST	Withdrawal of Circular No. 106/25/2019-GST dated 29.06.2019.	Relates to duty free shops

Summary of Notifications issued by CBIC to give effect to recommendations made in the 47th GST Council meeting

Pursuant to the recommendations and decisions taken in the 47th GST Council meeting, CBIC has issued notifications to give effect to these recommendations (the relevant Notifications No. 09/2022 to 14/2022 can be accessed [here](#)). A summary of these notifications is as follows:

Section/ Rule Reference	Amendment
Amendment in Section 49(10) brought into force	Provisions in respect of transfer of cash balance has been made effective from 05 July 2017: a. Transfer of cash from one tax head to another tax head of the same registration, b. Transfer of cash from one registration to another registration of the same entity (distinct persons)
Insertion of sub-rule (14) to Rule 87 in line with section 49(10)	Transfer of balance in cash ledger to the registrations with the same PAN (distinct persons) through Form GST PMT-09
Amendment in section 50(3)	Section 50(3) amended vide Finance Act, 2022 providing interest on wrong availment of input tax credit (ITC) to the extent of utilization, has been made effective from 01 July 2017
Insertion of Rule 88B (this rule is in respect of calculation of interest under Section 50 of the CGST Act)	a. Delay in payment of taxes due to delay in filing GSTR-3B: Interest to be paid on net tax liability (paid through cash) from the due date of GSTR-3B till the actual date of filing GSTR-3B

Section/ Rule Reference	Amendment
	<p>b. Other cases: Interest to be paid on gross tax amount from the date of which such taxes were due to be paid till the actual date of payment of taxes.</p> <p>Interest on wrongly availed ITC to be paid to the extent of utilization from the date of utilization till the date of reversal/ payment of such ITC as under:</p> <p>a. Credit is deemed to be utilized when the balance in ECL falls below the amount of ITC wrongly availed</p> <p>b. Date of utilization is to be determined as under:</p> <p>i. Where the credit wrongly availed is utilized for payment of taxes in GSTR-3B: Earlier of the due date or the actual date of GSTR-3B of the said month,</p> <p>ii. Other cases (for ex, utilization of ITC wrongly availed for payment of taxes through DRC-03): The date on which the ITC wrongly availed is debited from credit ledger.</p>
Extension of time limits for issuance of order for FY 2017-18	The time limit for issuing order under section 73(9) of CGST Act for the tax period has been extended from 28 February 2023 to 30 September 2023
Exclusion of period for claiming refund	The period starting from 01 March 2020 to 28 February 2022 has been excluded for claiming refund
Exclusion of period for recovery of erroneous refund	The period starting from 01 March 2020 to 28 February 2022 has been excluded for issuing the order of recovery in case of erroneous refund under Section 73(9)
Insertion of Explanation to Rule 89(4)	Value of goods exported for claiming refund of unutilized ITC would be lower of FOB value or Invoice/ BoS Value.

Section/ Rule Reference	Amendment
Amendment of Rule 89(5)	Amendment in formula for claiming refund of ITC in case of inverted duty structure. <ul style="list-style-type: none"> - <u>Net ITC has not been amended to include input services i.e., Net ITC means credit on inputs</u> - Tax paid on inverted rated supply, which is to be reduced in the formula, is to be taken on a proportionate basis to the extent of credit taken on inputs only.
Insertion of sub-rule (4B) to Rule 86	Re-crediting of ITC to credit ledger through Form GST PMT-03A, in case of erroneous refund of ITC sanctioned, after payment of refund received along with interest and penalty through Form GST DRC-03
Rule 87(3) and 87(5)	UPI and IMPS included as modes of depositing cash in cash ledger
Insertion of Proviso to Rule 21A(4)	Deemed revocation of suspension on filing of returns
Insertion of clause (d) to Explanation 1 to Rule 43	Exclusion of supply of Duty Credit Scrips from exempted supply for the purpose of reversal of credit

Section/ Rule Reference	Amendment
Insertion of clause (s) to Rule 46	Declaration in tax invoice where IRN is not required to be generated <i>“I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule”</i>
Amendments in GSTR-3B	Amendments with respect to supplies liable in the hands of e-commerce operator (ECO) under section 9(5) of CGST Act and reporting of Ineligible ITC. The detailed amendments carried out in GSTR-3B is attached in the Other amendments file attached.

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