

NEWSLETTER

JULY 2022

J P Chawla & Co. LLP

Chartered Accountants

Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Business Intelligence



1. Ceo's Message	3
2. The Month That Was	4
3. Goods And Service Tax	6
4. Direct Tax	22
5. Audit and Risk	24
6. Regulations	25
7. Tax Calender	26
8. About Us	27

Indian Economy is having a blast, with no major effect of global recession being felt locally. The inflation is well under control and the GDP growth is being projected at least 7% by every global agency, which is highest amongst G-20 countries.

Data from the Ministry of Commerce and Industry show that in 2021–2022, the manufacturing sector attracted foreign direct investments worth US\$21.34 billion, an increase of 76% YoY. India earned maximum annual FDI inflows of USD 84.83 billion in 2021-22 despite the ongoing economic challenges and developments around the world. The top investors in 2021-2022 were the US (17.94%), Singapore (27.01%), Mauritius (15.98%), the Netherlands (7.86%) and Switzerland (7.31%). Karnataka (37.55 %), Maharashtra (26.26 %), Delhi (13.93 %), Tamil Nadu (5.10 %), and Haryana were the top five states in terms of FDI in 2021–2022. (4.76 %).

ISRO had launched satellites for clients all around the world through its commercial subsidiaries, bringing in US\$ 279 million in foreign currency. ISRO and its commercial arms successfully launched 345 foreign satellites from 34 countries on the Polar Satellite Launch Vehicle.

In direct taxes, The Director General of Income Tax (Systems) has specified certain Income Tax forms which shall be furnished electronically. Also, the CBDT has reduced the time limit for e-verification of ITR from 120 days to 30 days. This reduction is applicable from August 01, 2022.

In Indirect taxes, GST authorities have released very detailed circulars and notifications for GST refunds, invested duty structure, GST returns, demand and penalty in respect of transaction involving fake invoice etc.

In regulations, Ministry of Corporate Affairs vide General Circular has clarified that spending of CSR funds for the activities related to “Har Ghar Tiranga”(a campaign under the aegis of Azadi Ka Amrit Mahotsav)such as mass scale production and supply of the National Flag, outreach and amplification efforts and other related activities, are eligible CSR activities under item no. (ii) of Schedule VII of the Companies Act, 2013 pertaining to promotion of education relating to culture.

We sincerely hope this volume of newsletter will update you regarding new developments in the area of Business, Tax, Assurance & Accounting and regulations.

Happy Reading!!

Sincerely Yours,

Rajat Chawla
Director & CEO
New Delhi

India is the world's top-performing major economy as per a report. Let's have a quick look at some of the latest developments and announcements in the month of July.

USD 21 billion FDI for the manufacturing sector in FY22, resulted in a 76% YOY increase

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7 growing sectors to boost India-Uzbekistan ties, Mr. Piyush Goel

According to Mr. Piyush Goyal, Minister of Commerce and Industry, Consumer Affairs, Food and Public Distribution and Textiles, increasing cooperation between India and Uzbekistan in seven expanding sectors—including digital payments, space, agriculture, dairy, and pharmaceuticals—would help strengthen economic ties.

Satellite launches generate \$279 million in foreign exchange revenue for ISRO

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Under the PLI programme, the central government is offering an incentive worth Rs. 120 crores (\$15 million)

The Production-Linked Incentive (PLI) Scheme for drones and drone parts was introduced on September 30, 2021. A preliminary list of 23 PLI grantees was made available on July 6, 2022. The winners include eleven drone component producers and twelve drone manufacturers.

The government would provide Rs. 120 crores (US\$ 15 million) incentive spread over three fiscal years commencing in 2021–2022. Following a review of the beneficiaries' financial outcomes, the incentive for 2021–2022 will be distributed in 2022–2023.

By 2030, the government wants all major ports to be entirely dependent on energy

According to Mr Sarbananda Sonowal, Minister of Ports, Shipping, and Waterways, the government intends to have all major ports entirely powered by electricity, by 2030, in order to lower emissions from the shipping industry and to encourage the development of net zero and low-emission alternatives.

FDI intake in the R&D industry increases six times year over year to US\$ 344 million in 2021

India experienced a six-fold increase in FDI equity inflow during the calendar year 2021 compared to the same period the year before, totalling US\$ 343.64 million.

Under the condition that all applicable laws, regulations, and security measures are followed, FDI is completely automatic in the R&D industry. Strong FDI inflows are essential for the development of a knowledge-based economy, which opens the door to faster economic growth.

Minister of Defence launches 75 Artificial Intelligence products/technologies

On July 11, at the inaugural "AI in Defence" conference and expo held in New Delhi, Minister of Defence Rajnath Singh unveiled 75 newly developed artificial intelligence (AI) products and technologies.

India is the world's top-performing major economy, according to a report.

India's macroeconomic endurance has reportedly improved during the last four years as compared to other leading economies in the world, and India is projected to improve to the IER rank of second for the year 2022, according to the industry organization PHD Chamber of Commerce and Industry.

According to the NITI Aayog report, all two-wheelers will be electrified by FY27.

FA report from NITI Aayog and the Technology Information, Forecasting and Assessment Council (TIFAC) predicts that by FY26–27, electric two-wheelers will be completely incorporated into the Indian market.



Indirect Tax

GST Amendments & Clarifications in the month of July-2022

Circulars

A. Clarification on furnishing of correct and proper information in Form GSTR-3B and Form GSTR-1 – Circular No. 170/02/2022

Every registered person is liable to file the correct and proper details in returns, however due to lack of clarity regarding reporting there were some ambiguities for furnishing of details in returns whether it is related to the inter-state supplies made to unregistered person, composition taxpayers, UIN holders or in relation to the ITC availed, reversal of input tax credit thereof.

In order to clarify various issues and ensure uniformity in returns the GST department has issued the Circular No. 170/02/2022- GST 06th July 2022 as delineated below:

1) Furnishing of information in table 3.2 of GSTR-3B: It is mandatory to report the place of supply wise details of inter-state supplies made to un-registered person, compositions taxpayers and UIN holders as required to be declared in the table 3.2 of Form GSTR-3B.

The details reported in table 3.2 is being auto-populated on the portal in Form GSTR-3B on the basis of details furnish under Form GSTR-1 return. Here, it is advisable to report the correct details in GSTR-1 return making inter-state supplies.

The following supply shall be considered in table 3.2 of Form GSTR-3B while filing the return.

- a) Un-registered supplies reported in B2C-Others (Table 7), B2C Large Invoices (Table-5) and amendment of such supplies shall be considered.
- b) Detail of supplies made to composition taxable person, UIN holders and any amendment thereof should also report.
- c) Details of advance received during the period shall also report in the table 3.2 of Form GSTR-3B.

To provide the correct and fair details the registered person requires to correct his database and ensure that correct place of supply has been declared in the return.

2) Furnishing of information regarding Input Tax, Reversal thereof and ineligible: Form GSTR-2B is provide the invoice wise details of ITC available to the registered person along with the details of input on account of import of goods. Details of Form GSTR-2B is carried forward in Form GSTR-3B in table 4 except the following as delineated below:

- a) Input that is not available to the registered person on account of limitation as per sub-section (4) of Section 16.
- b) Where the place of supply is located in different State/UT in case of intra-state supply.

For correct reporting of information in Form GSTR-3B the following procedure is being detailed hereunder:

- A. Total Input shall be auto-populated in table 4A of Form GSTR-3B.
- B. Reversal of input which cannot be re-claimed such as on account of Rule 38 (reversal of credit by banking company), Rule 42 (reversal of input or input services on account of exempted supply of goods or services), Rule 43 (reversal on capital goods on account of exempted supply of goods or services) and ineligible ITC as per Section 17(5) of CGST Act will report under Table 4(B)(1).
- C. Reversal of Input which can be reclaimed in future subject to the fulfillments of conditions as per Rule 37 and Section 16(2) (b) and Section 16(2) (C). Such reclaimed ITC will report in Table 4(D)(1) of return.
- D. In Table 4(B)(2) such ITC will report which is claimed by the registered person in previous tax period due to some inadvertent mistakes.
- E. Ineligible ITC will not be required to be provided in Table 4(D)(1) separately, hence the details already have been provided in Table 4(B).
- F. ITC which is not available as per the provision of Section 16(4) of CGST Act or where the recipient of intra-state supply is located in different State/UT will report in Table 4(D)(2) of GSTR-3B return.

Thus, it is clarified that reversal of ineligible credit as per Section 17(5) or any other provision required to be made under Table 4 (B) and not under Table 4(D) of Form GSTR-3B.

B. Clarification on issues relating to demand and penalty in respect of transaction involving fake invoice (Circular No. 171/03/2022)

The Circular No. 171/03/2022-GST Dated 06th July 2022 has clarified the issues relating to the applicability of demand and penalty provisions under the Act in respect of transaction involving fake invoices.



Here the clarifications on issue involved fraudulent availment and utilization of input against:

S.no	Issues	Clarifications
1	<p>In case where a registered person “A” has issued tax invoice to another registered person “B” without any underlying supply of goods or services or both, whether such transaction will be covered as “supply” under section 7 of CGST Act and whether any demand and recovery can be made from ‘A’ in respect of the said transaction under the provisions of section 73 or section 74 of CGST Act. Also, whether any penal action can be taken against registered person ‘A’ in such cases.</p>	<p>Since there has only been an issuance of tax invoice by the registered person ‘A’ to registered person ‘B’ without the underlying supply of goods or services or both, therefore, such an activity does not satisfy the criteria of “supply”, as defined under section 7 of the CGST Act. As there is no supply by ‘A’ to ‘B’ in respect of such tax invoice in terms of the provisions of section 7 of CGST Act, no tax liability arises against ‘A’ for the said transaction, and accordingly, no demand and recovery is required to be made against ‘A’ under the provisions of section 73 or section 74 of CGST Act in respect of the same. Besides, no penal action under the provisions of section 73 or section 74 is required to be taken against ‘A’ in respect of the said transaction. The registered person ‘A’ shall, however, be liable for penal action under section 122 (1)(ii) of the CGST Act for issuing tax invoices without actual supply of goods or services or both.</p>
2	<p>A registered person “A” has issued tax invoice to another registered person “B” without any underlying supply of goods or services or both. ‘B’ avails input tax credit on the basis of the said tax invoice. B further issues invoice along with underlying supply of goods or services or both to his buyers and utilizes ITC availed on the basis of the above-mentioned invoices issued by ‘A’, for payment of his tax liability in respect of his said outward supplies. Whether ‘B’ will be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act</p>	<p>Since the registered person ‘B’ has availed and utilized fraudulent ITC on the basis of the said tax invoice, without receiving the goods or services or both, in contravention of the provisions of section 16(2)(b) of CGST Act, he shall be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 74 of the CGST Act, along with applicable interest under provisions of section 50 of the said Act. Further, as per provisions of section 75(13) of CGST Act, if penal action for fraudulent availment or utilization of ITC is taken against ‘B’ under section 74 of CGST Act, no penalty for the same act, i.e., for the said fraudulent availment or utilization of ITC, can be imposed on ‘B’ under any other provisions of CGST Act, including under section 122.</p>

S.no	Issues	Clarifications
3	<p>A registered person 'A' has issued tax invoice to another registered person 'B' without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice and further passes on the said input tax credit to another registered person 'C' by issuing invoices without underlying supply of goods or services or both. Whether 'B' will be liable for the demand and recovery and penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.</p>	<p>In this case, the input tax credit availed by 'B' in his electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, has been utilized by 'B' for passing on of input tax credit by issuing tax invoice to 'C' without any underlying supply of goods or services or both. As there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction, no tax was required to be paid by 'B' in respect of the same. The input tax credit availed by 'B' in his electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, is ineligible in terms of section 16 (2)(b) of the CGST Act. In this case, there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction and also no tax was required to be paid in respect of the said transaction. Therefore, in these specific cases, 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.</p> <p>However, in such cases, 'B' shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii) of the CGST Act, for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services.</p>



The basic principles have been depicted in the above scenario may be adopted to decide the nature and demand action to be taken against the person for such activity. The action to be taken against the person will depend on the circumstances and specific facts.

In cases of wrongful/fraudulent availment and utilization of input tax credit or issuances of invoices without the supply of goods or services or both, provision of punishment under the Act may also be applicable.

C. Prescribed manner of re-credit in electronic credit ledger using Form GST PMT-03A –Circular No. -174/06/2022 – Dated 06.07.2022

The Circular No. 171/03/2022-GST Dated 06th July 2022 has clarified the issues relating to the applicability of demand and penalty provisions under the Act in respect of transaction involving fake invoices.

It has been observed that many taxpayers have paid back the amount of erroneously refund sanctioned by their own or as pointed out by the tax authorities. However, the difficulties faced by the taxpayers to re-credit the amount in Electronic Credit Ledger.

In order to resolve the issues, the GSTN has developed a Form PMT-03A which allows the proper officers to re-credit the amount in the electronic credit ledgers of related taxpayers.

Refer to the Rule 4B of Rule 86 of the CGST Rules, as stated below for reference:

(4B) Where a registered person deposits the amount of erroneous refund sanctioned to him –
a. under sub-section (3) of section 54 of the Act, or
b. under sub-rule (3) of rule 96, in contravention of sub-rule (10) of rule 96,
along with interest and penalty, wherever applicable, through FORM GST DRC-03, in cash, on his own or on
being pointed out, an amount equivalent to the amount of erroneous refund deposited by the registered
person shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST
PMT-03A.

Here, the categories of refund sanctioned where the amount can be re-credited in using Form PMT-03A:

- a) Refund of IGST obtained in contravention of sub-rule (10) of rule 96.
- b) Refund of unutilised ITC on account of export of goods/services without payment of tax.
- c) Refund of unutilised ITC on account of zero-rated supply of goods/services to SEZ developer/Unit without payment of tax.
- d) Refund of unutilised ITC due to inverted tax structure.

Procedure for the re-credit amount in Electronic Credit Ledger:

- 1) The taxpayer shall deposit the amount of erroneous refund along with applicable interest and penalty wherever applicable, shall be deposit through Form DRC-03.
- 2) The taxpayers shall clearly mention the reason of making payment in the text box as “Deposit of erroneous refund of unutilised ITC” or “Deposit of the erroneous refund of IGST obtained in contravention of sub-rule (10) of Rule 96 of the CGST Rules”.
- 3) A request letter in format Annexure-A require to be submitted to the jurisdictional office to re-credit the amount to the Electronic Credit Ledger.
- 4) Where the proper officer is being satisfied that the erroneous refund amount has been paid by the taxpayers, the officer shall pass an order in Form GST PMT-03 with the 30 days from the date of receipt of request for re-credit the amount in “Electronic Credit Ledger”.

D. Withdraw of Circular No. 106/25/2019 -GST dated 29.06.2019 which provide the refund of taxes paid on inward supplies when the goods are supplied to outgoing international tourist against foreign exchange (Circular No. 176/08/2022).

As per the Circular No 106/25/2019 dated 29.06.2019 taxpayers were allowed to take refund on taxes paid on inward supplies of indigenous goods received by them for the purpose of subsequent supply to the international tourist against foreign exchange through the retail store established at departure area of international airport.

However, with reference to the **Circular No. 176/08/2022-GST dated 06.07.2022** the above-mentioned circular has been omitted/withdraw with the retrospective effect from **01.07.2019**.

E. Manner of filing of refund on account of export of electricity (Circular No- 175/07/2022):

Circular No. 175/02/2022 Dated 06.07.2022 has prescribed the following procedure for filing and processing of unutilized input tax on account of export of electricity.

- a) Necessary changes are required to be carried on GST portal; till the time an application shall be filed under “Any Other” head electronically in Form GST RFD-01, on the portal.
- b) In remark column of the application, the taxpayer would enter “Export of electricity-without payment of tax (accumulated ITC)”.
- c) The applicant is not required to make any debit from the electronic credit ledger while filing the refund application.
- d) The applicant would be required to upload Statement -3B in portal having the details of export invoices, details of energy exported, tariff of unit for export of electricity.
- e) The applicant will also be required to upload the copy of statement of scheduled energy for electricity exported by the Generation Plants in format refer as Annexure-I in the said circular.

Relevant date for filing return:

The period of two years has been specified from the relevant date has been specified for filing a refund application. However, in case of electricity it is not possible to determine the specific date on which specific unit is pass through the frontier.

Here, it is clarified that the relevant date shall be the last date of the month in which the electricity has been exported as per monthly Regional Energy Account (REA) issued by the Regional Power Committee of CERC Regulation,2020.

Processing of Refund claim by proper officer:

- 1) The Calculation of refund as delineated below:

$$\text{Refund Amount} = (\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}$$

- 2) Quantum of Schedule Energy exported as reflected in the Regional Energy Account (REA) issued by the RPC Secretariat for a particular month will be deemed to be the quantity of electricity exported during the said month and will be used for calculating the value of zero- rated supply in case of export of electricity.
- 3) The quantum of electricity exported as specified in statement of schedule energy exported and on invoice should be same.
- 4) If the turnover of export electricity does not match in such cases, the turnover of export shall be calculated using the lower of the quantum of electricity exported mention on statement of schedule energy and that mention on issued invoice.
- 5) Since GST is wholly exempt from the levy of GST, therefore in calculation of adjusted total turnover for export of electricity, the turnover of electricity supplied domestically shall be excluded while calculating the turnover. The adjusted total turnover shall be calculated as per the clause (E) of sub-rule 4 of Rule 89.
- 6) The proper officer shall verify that no ITC has been availed on the inputs and input services utilized making zero rated supply of electricity.
- 7) If the proper officer is satisfied that the amount is admissible as refund, he shall request to the applicant in writing to debit the amount from the electronic credit ledger through Form DRC-03 and submit the proof of payment.
- 8) The proper officer shall proceed to issue the refund order in Form GST RFD-06 and payment order in Form GST RFD-05 respectively

F. Clarification on inverted-duty structure for claiming GST Refunds under concessional notification Circular No.173/05/2022

Circular No. 173/05/2022 dated 06.07.2022 has clarified the para 3.2 of circular no 135/05/2020 where the refund of accumulated input tax credit shall be available, as per some concessional notification subject to the fulfilment of other conditions:

The substitute para 3.2 of the circular is reproduced below:

“3.2 It may be noted that refund of accumulated ITC in terms of clause (ii) of first proviso to sub-section (3) of section 54 of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act.

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

Henceforth, the refund of input tax shall be available to the taxpayers making supplies under the concessional rate subject to the fulfilment of other conditions as well.

G. Clarifications on various issues pertaining to the GST – Circular No. 172/04/2022 Dated 06.07.2022

I. Refund claimed by the recipients of supplies regarded as deemed exports

Q-1. Whether the Input Tax Credit (ITC) availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports would be subjected to provisions of Section 17 of the CGST Act, 2017.

Ans: The refund in respect of deemed export supplies is the refund of tax paid on such supplies. However, the recipients of deemed export supplies were facing difficulties on the portal to claim refund of tax paid due to requirement of the portal to debit the amount so claimed from their electronic credit ledger. Considering this difficulty, the tax paid on such supplies, has been made available as ITC to the recipients vide Circular No. 147/03/2021-GST dated 12.03.2021 only for enabling them to claim such refunds on the portal. The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, the ITC so availed by the recipient of deemed export supplies would not be subjected to provisions of Section 17 of the CGST Act, 2017.

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

Q-1. Whether the proviso at the end of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the entire clause (b) or the said proviso is applicable only to sub-clause (iii) of clause (b)?

Ans: Vide the Central Goods and Service Tax (Amendment Act) 2018, clause (b) of sub-section (5) of section 17 of the CGST Act was substituted with effect from 01.02.2019. After the said substitution, the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act provides as under “Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”

The said amendment in sub-section (5) of section 17 of the CGST Act was made based on the recommendations of GST Council in its 28th meeting. The intent of the said amendment in sub-section (5) of section 7, as recommended by the GST Council in its 28th meeting, was made known to the trade and industry through the Press Note on Recommendations made during the 28th meeting of the GST Council, dated 21.07.2018. It had been clarified “that scope of input tax credit is being widened, and it would now be made available in respect of Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force.”

Accordingly, it is clarified that the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the whole of clause (b) of sub-section (5) of section 17 of the CGST Act.

Q-2. Whether the provisions of sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act bar availment of ITC on input services by way of “leasing of motor vehicles, vessels or aircraft” or ITC on input services by way of any type of leasing is barred under the said provisions?

Ans: Sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act provides that ITC shall not be available in respect of following supply of goods or services or both—

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

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

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

III. Perquisites provided by employer to the employees as per the contractual agreement:

Q-1. Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?

Ans: Schedule III to the CGST Act provides that “services by employee to the employer in the course of or in relation to his employment” will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided, they are in the course of or in relation to employment.

Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee.

IV. Utilisation of amount available in Electronic Credit Ledger and Electronic Cash Ledger for payment of tax and other liabilities:

Q-1. Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?

Ans: (1) In terms of sub – section (4) of section 49 of CGST Act, the amount available in the electronic credit ledger may be used for making any payment towards output tax under the CGST Act or the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as “IGST Act”), subject to the provisions relating to the order of utilisation of input tax credit as laid down in section 49B of the CGST Act read with rule 88A of the CGST Rules

- (2) Sub-rule (2) of rule 86 of the CGST Rules provides for debiting of the electronic credit ledger to the extent of discharge of any liability in accordance with the provisions of section 49 or section 49A or section 49B of the CGST Act.
- (3) Further, output tax in relation to a taxable person (i.e., a person who is registered or liable to be registered under section 22 or section 24 of the CGST Act) is defined in clause (82) of section 2 of the CGST Act as the tax chargeable on taxable supply of goods or services or both but excludes tax payable on reverse charge mechanism.
- (4) **Accordingly, it is clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST Laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.**
- (5) It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.

Q-2. Whether the amount available in the electronic credit ledger can be used for making payment of any liability other than tax under the GST Laws?

Ans: As per sub-section (4) of section 49, the electronic credit ledger can be used for making payment of output tax only under the CGST Act or the IGST Act. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said acts. Similarly, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.

Q-3. Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST Laws?

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

Notifications

A. Notification No. 09/2022-Central Tax Dated 05.07.2022:

As per the said Notification the proposed amendment in Section 49(10) of CGST Act has been effective from 05th July 2022 where the “Transfer of Cash balance” from “Electronic Cash Ledger” of one state to another state GST having the same PAN has been allowed.

The registered person is allowed to transfer only Cash balance related to IGST and CGST head. Such transfer of cash balance shall be considered as “Refund of Cash Balance”.

With the retrospective effective from 01st July 2017 to the Section 50(3) of CGST Act 2017 the liability to pay interest only on input tax which is **wrongly availed and utilised to discharge the liability of forward charge**. Earlier the interest was levied on wrong availment of ITC whether utilized or not.

H. Notification No. 10/2022-Central Tax Dated 05.07.2022

The registered person having turnover up to Rs. 2 Crore in the preceding financial year is exempt from filing Annual Return in Form GSTR-09 for the year 2021-22.

I. Notification No. 11/2022-Central Tax & Notification No. 12/2022-Central Tax Dated 05.07.2022

As per the Notification No. 11/2022, the registered person who is paying tax as a composition dealer under Section 10 of CGST Act 2017 can file their return in Form CMP-08 for the period April 2022- June 2022 till the date of 31st July 2022.

As per the Notification No. 12/2022 the due date for filing Form GSTR-04 for the period April 2021-March 2022 has been extended till the date of 28th July 2022.

J. Notification No. 13/2022-Central Tax Dated 05.07.2022

As per the notification the following amendments are retrospectively effective from 01st day of March 2020 to give effect to the delay in compliances and assessment due to the pandemic:

- a) The time period has been extended till the date of 30th September 2023 to issued order under sub-section 10 of Section 73 on account of tax not paid, short paid or input tax wrongly availed and utilised in respect of tax period 2017-2018.
- b) Excludes the time period from 01st March 2020 to 28th February 2022 for computation of period for limitation of time period for order of recovery for erroneous refund.
- c) Excludes the time period from 01st March 2020 to 28th February 2022 for computation of period for filing refund under section 54 and section 55. As the time period is 2 Year for filing refund from the end of relevant tax period.

Illustration: ITC refund application for exports without payment of tax for the period July,2018, which would ordinarily be time barred in July2020, shall now become time barred in July 2022.

K. Notification No. 14/2022-Central Tax Dated 05.07.2022

The following amendments have been proposed in Central Goods and Services Tax Rules:

- 1) Amendment made in Rule 21A in respect of revocation of suspended GST registration:

As per the inserted new proviso after sub-rule 4 of Rule 21A, where the GST registration has been suspended due to non-filing of return for a continuous period of three (for composition dealer) or six months as applicable. Such suspension shall be revoked upon filing of all pending returns.

- 2) As per the inserted explanation in Rule 43, the supply of duty credit scrip like MEIS shall be excluded from the calculation of exempted turnover for the purpose of reversal of input tax credit as per Rule 42 or Rule 43.
- 3) All the taxpayers who are exempted from issuing e-invoice under Rule 48 (4) by way of notification, required to emboss the following declaration on their supply invoices- **(insert new clause "s" in Rule 46 of CGST Rules)**
 - **"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".**
- 4) As per the inserted sub-rule 4B in Rule 86 of CGST Rules, for re-credit of input in electronic credit ledger amount of refund along with interest and penalty shall be paid by filing Form DRC-03 and debit the amount of electronic cash ledger. The proper officer shall re-credit the amount in electronic credit ledger by issuing order in Form PMT-03A.

5) Following amendments made in Rule 87 pertains to the electronic cash ledger for discharge of liability without the technical glitches.

i. Insert clause (ia) in sub-rule 3, UPI Payment from any bank.

ii. Insert clause (ib) in sub-rule 3, IMPS from any bank

In sub-rule 5 the word “Immediate Payment Service” shall also be inserted.

Insert sub-rule 14 to notify Form PMT-09 for transfer of balance of cash ledger related to IGST and CGST head to other state having the same PAN, provided that no transfer shall be allowed if any-unpaid liability is due in the GSTIN of transferor.

Note: The above inserted changes yet to be implement on gst portal.

6) As per inserted new Rule 88B the following manner is prescribed for calculation of interest, namely:

A. Any return is furnished after the due date, due to the proceeding commenced under section 73 or section 74 in respect of the said period. The interest liability shall be calculated only the amount which is paid in Cash by debiting electronic cash ledger.

B. In other cases, liability of interest shall be calculated on the amount which is not paid during the period. In other words, interest will be calculated on total tax payable for delay in filing returns.

C. Where the interest is liable to be paid under Section 50(3) for wrongly availed and utilised of input tax credit, the period for calculation for interest shall be considered from the date of utilisation of input till the date of reversal of such credit. The rate of interest shall be 24% for wrong availment and utilisation.

For this purpose, date of utilisation shall be-

a) When the amount of electronic credit ledger goes below the amount of wrongly availed input.

b) Where the wrongly availed amount utilised in return, the due date of return or date of filing of return which ever is earlier shall be considered for this purpose.

7) In Rule 89 following proviso and explanations have been inserted as follows-

a) an explanation inserted in sub-rule (1)-

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

b) in sub-rule 2 -

i. in clause (b) the word after the word “on account of export of goods [other than electricity shall be inserted]

ii. clause (ba) has been inserted where the details information like export invoices, details of energy exported, tariff unit etc. in respect of export of electricity has been notified on account of refund for unutilised input.

c) in sub-rule 4 an explanation inserted for the purpose of value of exported goods-

The value of export goods shall be the FOB value mentioned in shipping bills or export invoices OR the value declared in tax invoice or bill of supply which ever is less.

8) in sub-rule 5 of the formula of inverted duty has been modified, the new formula is-

Maximum Refund Amount =

$(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC Adjusted Total Turnover} - \{\text{tax payable on such inverted rated supply of goods and services} \times (\text{Net ITC} \div \text{ITC availed on inputs and input services})\}$

9) Rule 95A have been omitted from 01st July 2019 where taxpayers were allowed to take refund on input in respect of goods sale to international tourist through the established retail outlets in international airport in exchange of foreign currency.

10) Changes made in Rule 96 in respect of Refund on IGST paid on goods or services exported outside India shall be effective from 01st July 2017-

- i. in sub-rule (1) cluse (b), the applicant has furnished a valid in Form GSTR-3B. Provided that if any discrepancies found in exporter details furnished in shipping bill and Form GSTR-1 return, the date of application shall be deemed to have been filed on such date when such mismatch have been rectified by exporter.
- ii. The commissioner has allowed the power to the authorised officers to verify the details of exporter, scrutiny of input availed by the exporter is consider necessary for granting of refund in terms of export of goods or services for unclaimed Input.
- iii. Necessary changes made as incorporated in Rule 96.

11) Following changes made in Form GSTR-3B rules namely-

- a) new section 3.1.1 has been inserted for separate reporting of supplies on which tax is to be paid by Electronic Commerce Operator under section 9(5) of CGST Act.
- b) Reversal of input related to rule 38, rule 42 and rule 43 shall be reported in table 4(B)(1).
- c) in table 4(D) (1) reporting of re-claimed ITC which were reversed earlier.
- d) in table 4(D)(2) reporting of ITC ineligible as per Rule 16(4) and restricted due to place of supply.

12) Changes in form GSTR-09 rules

- a) Non-GST supply shall be reported separately in column 5F of return.
- b) Registered persons have option to report supply as NIL rate or exempted supply or detail of these two heads consolidate under “exempt supply”.
- c) Reporting of HSN wise details against outward supplies is mandatory to report in return.

L. Notification No. 03/2022-Central Tax (Rate) Dated 13.07.2022

Government wide this notification had made various changes in rate of supply of services as follows:

1. The work contract services which is earlier taxable at lower rate is now taxable at 18% with effect from 18th July 2022.
2. Exemption to accommodation services where value of supply is up to Rs 1000 has been removed Now, accommodation services shall be taxable at 12 if the value of supply of such service is up to Rs 7500.
3. Transportation of passenger and goods by ropeway will now be taxable at 5%. Earlier the same was taxed at 18%.
4. Goods Transport Agencies (GTA) shall now be taxable at 5% without ITC or 12% with ITC under forward charge mechanism. GTA is required to file a declaration with the department for opting to pay tax under forward charge by 15th March of every year. However, for the year 2022-23 the option is available up to 16th August 2022. In case no declaration filed then RCM will be applicable, and recipient will be required to pay tax under RCM.
5. Renting of goods carriage, where the cost of fuel is included in the consideration, shall be taxable at 12 This service was earlier covered under the residuary rate of 18%.
6. Service provided by the clinical establishment by way of room rental charges or by any other name (other than ICU/ NICU) where room rent charges exceeds INR 5000 per day shall now be taxable at 5%
7. Service of treatment of biomedical waste is now taxable at 12%

M. Notification No. 04/2022-Central Tax (Rate) Dated 13.07.2022

Government wide this notification had made various changes in exempt supply of services as follows:

1. Service by the Department of Posts shall become taxable fully, irrespective of the turnover or constitution of the recipient or value of such services.
2. Air travel in the class above economy class shall now be taxable in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal at the rate of 18%. Earlier the same was exempt.
3. Earlier the renting of residential dwelling is exempted supplies. Now the change was made in such exemption to exclude the renting of residential dwelling to a registered person. The same is now taxable under reverse charge mechanism.
4. Exemptions to GTAs for goods transport services to a single consignee for consideration up to Rs 750 and total consignment value of single carriage with consideration up to Rs 1500 have been omitted Such services shall now be taxable at the prescribed rates irrespective of value of consideration.
5. Services by way of storage or warehousing of nuts, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea shall become taxable.
6. Following services is removed from exemption list and now been made taxable

- Services by the Reserve Bank of India
 - Services provided by the Insurance Regulatory and Development Authority of India to insurers
 - Services provided by the SEBI by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market
 - Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.
 - Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.
7. Exemption is provided to the tour operator services for the proportion of such services to a foreign tourist which is performed outside India.

N. Notification No. 05/2022-Central Tax (Rate) Dated 13.07.2022

Government wide this notification had made various changes in taxability of services covered under reverse charge mechanism as follows:

1. GTA service is now covered under reverse charge mechanism subject to declaration filed by the GTA for opting to pay tax under forward charge mechanism.
2. Renting of residential dwelling to a registered person shall be fully covered under RCM Tax shall be payable by the recipient who is registered under the act in all cases.



Direct Tax

Insert of New Rule 21AL

The CBDT has inserted a new rule 21AL which specifies the conditions required to be fulfilled by the specific fund for the purpose of Section 47(viiad) of Income Tax Act, 1961. Section 47 specifies the transactions which are not considered as transfer and capital gain tax is not chargeable on these transactions.

-[Notification No. 80/2022]

Notification of electronic filing of Income Tax Forms

The Director General of Income Tax (Systems) has specified the Income Tax forms which shall be furnished electronically

S.no.	Form	Description
1	Form 3CEF	Annual Compliance Report on Advance Pricing Agreement
2	Form 10F	Information to be provided under sub-section (5) of section 90 or sub-section (5) of section 90A of the Income-tax Act, 1961
3	Form 10IA	Certificate of the medical authority for certifying 'person with disability', 'severe disability', 'autism', (cerebral palsy' and (multiple disability' for purposes of section 80DD and section 80U
4	Form 3BB	Monthly statement to be furnished by a Stock Exchange in respect of transactions in which client codes have been modified after registering in the system
5	Form 3BC	Monthly statement to be furnished by a Recognized Association in respect of transactions in which client codes have been modified after registering in the system.
6	Form 10BC	Audit report under (sub-rule (1) of rule 17CA) of Income-tax Rules, 1962, in the case of an electoral trust
7	Form 10FC	Authorization for claiming deduction in respect of any payment made to any financial institution located in a Notified jurisdictional area.
8	Form 28A	Intimation to the Assessing Officer under section 210(5) regarding the Notice of demand under section 156 of the Income -tax Act, 1961 for payment of advance tax under section 210(3)/210(4) of the Act
9	Form 27C	Declaration under sub-section (IA) of section 206C of the Income-tax Act, 1961 to be made by a buyer for obtaining goods without collection of tax
10	Form 58D	Report to be submitted by a public sector company, local authority or an approved association or institution under clause (ii) of sub-section (5) of section 35AC of the Income-tax Act, 1961 to the National Committee on a notified eligible project or scheme
11	Form 58C	Report to be submitted under clause (ii) of sub-section (4) of section 35AC of the Income tax Act, 1961 to the National committee by an approved association or institution

S.no.	Form	Description
12	Form 68	Form of application U/s 270AA(2) of the Income Tax Act, 1961

-[Notification No. 3/2022]

Notification of Form 8A

The CBDT has notified the Form 8A. This form is filed by the Assessing Officer before the Income tax Appellate Tribunal or High Court for the purpose of Section 158AB of the Income Tax Act, 1961.

-[Notification No. 83/2022]

Reduction of time limit of e-verification of ITR

The CBDT has reduced the time limit for e-verification of ITR from 120 days to 30 days. This reduction is applicable from August 01, 2022

-[Notification No. 5/2022]

Condonation of Delay for filing of Form 9A and Form 10

The CBDT has authorized the Commissioner of Income Tax and Principal Commissioner of Income Tax to admit applications for condonation of delay in Form 9A and Form 10 for AY 2018-19 and subsequent years subject to certain conditions.

-[Circular No. 17/2022]

Condonation of Delay for filing of Form 10B

The CBDT has authorized the Commissioner of Income Tax and Principal Commissioner of Income Tax to admit applications for condonation of delay in Form 10B for AY 2018-19 and subsequent years subject to certain conditions.

-[Circular No. 16/2022]

Condonation of Delay for filing of Form 10BB

The CBDT has authorized the Commissioner of Income Tax and Principal Commissioner of Income Tax to admit applications for condonation of delay in Form 10BB for AY 2018-19 and subsequent years subject to certain conditions.

-[Circular No. 15/2022]

Audit and Assurance

Guidance Note on the Companies (Auditor's Report) Order, 2020 (Revised 2022 Edition)

The Ministry of Corporate Affairs (MCA) issued the Companies (Auditor's Report) Order, 2020 (CARO 2020) on 25th February 2020. CARO 2020 was initially applicable for audits of financial year 2019-20 and onwards. Subsequently its applicability was deferred two times vide notification dated 24th March 2020 and 17th December 2020. CARO 2020 is applicable for audits of financial year 2021-22 and onwards. CARO 2020 contains several significant changes and several new reporting requirements vis-à-vis CARO 2016. In July 2020, the Auditing and Assurance Standards Board of ICAI issued the Guidance Note on the Companies (Auditor's Report) Order, 2020 ("Guidance Note on CARO 2020") to provide detailed guidance to auditors on various reporting requirements of CARO 2020.

The MCA vide notification dated 24th March 2021 issued the amendment to Schedule III to the Companies Act, 2013. The Schedule III, as amended, requires various disclosures in financial statements. Some of these disclosure requirements are corresponding to clauses of CARO 2020. The Auditing and Assurance Standards Board felt it necessary to undertake revision of the Guidance Note on CARO 2020.

The Guidance Note has been revised to provide guidance on the corresponding disclosure requirements of Schedule III to the Companies Act, 2013 which pertain to the clauses of CARO 2020 and to align guidance with latest provisions of Companies Act, 2013 and Rules thereunder and other relevant laws & regulations which are referred to in the Guidance Note.

Revised edition of Guidance Note on the Companies (Auditor's Report) Order, 2020 is available on <https://resource.cdn.icai.org/70956aasb56965.pdf>



Regulations

MCA

CLARIFICATION ON SPENDING OF CSR FUNDS FOR “HAR GHAR TIRANGA” CAMPAIGN

Ministry of Corporate Affairs vide General Circular No. 08/2022 dated July 26, 2022 has clarified that spending of CSR funds for the activities related to “Har Ghar Tiranga”(a campaign under the aegis of Azadi Ka Amrit Mahotsav)such as mass scale production and supply of the National Flag, outreach and amplification efforts and other related activities, are eligible CSR activities under item no. (ii) of Schedule VII of the Companies Act, 2013 pertaining to promotion of education relating to culture.

SEBI

Ministry of Finance vide notification dated 15th July 2022 declared “zero coupon zero principal instruments” as securities for the purpose of Securities Contracts (Regulation) Act, 1956.

Explanation.– For the purpose of this notification, “zero coupon zero principal instrument” means an instrument issued by a Not for Profit Organization which shall be registered with Social Stock Exchange segment of a recognized Stock Exchange in accordance with the regulations made by the Securities and Exchange Board of India.



TAX CALENDER																														
August-2022																														
Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Date	Regulation		Obligation																											Form/Challan No.
7	FEMA		- Last date of reporting of actual transactions of External Commercial Borrowings (ECB) through AD Bank under FEMA																											ECB-2
7	Income Tax		- Last date of online payment of Tax deducted at source/Tax collected at source for the month of July-2022																											Challan 281
10	GST		- Last date of filing Form GSTR 7 for the month of July-2022 (to be filed by the e-commerce operators required to deduct TDS under GST)																											GSTR-7
10	GST		- Last date of filing Form GSTR 8 for the month of July-2022 (to be filed by the person required to deduct TDS under GST)																											GSTR-8
11	GST		- Last date of filing Form GSTR 1 for the month of July-2022 for the taxpayer for taxpayer not in ORMP scheme																											GSTR-1
13	GST		- Last date of filing Form GSTR 6 for the month of July-2022 (to be filed by input service distributor)																											GSTR-6
14	Income Tax		- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB and 194-IM in the month of June-2022																											Form 16B & 16C
15	Income Tax		- Due date for Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending June-2022																											Form 16A
15	Provident Fund		- Last date of online payment of provident fund for the month of July-2022																											PF Challan
15	ESI		- Last date of online payment of ESI fund for the month of July-2022																											ESI Challan
20	GST		- Last date of payment of GST and filing of GSTR 3B for the month of July-2022 for taxpayer not in ORMP scheme																											Form GSTR-3B and Form GST PMT -06, in case of payment of GST
20	GST		- Last date of filing Form GSTR 5 & 5A and payment of GST for the month of July-2022 (to be filed by non-resident person)																											GSTR-5 & 5A
25	Provident Fund		- Provident Fund return filing for July-2022 (including pension and insurance scheme form)																											
30	Income Tax		- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA, 194-IB and 194M in the month of July-2022																											Form 26QB & 26QC

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