



C.V.O.CA'S

FOR MEMBERS /
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NEWS & VIEWS

From President's Desk...



Dear Professional Colleagues and Readers,

On One hand all the statutory due dates of filing Audit Report and IT Return for the FY 2022-23 comes to an end by 31st October and on other we all can feel the festive energy in air with Diwali coming in and all of us celebrated the auspicious festival of Navratri and Dusshera in the month of October. The festival of Dushhera marks the Victory of the good over evil. This signifies that wrongdoings on some or the other days come in front of everyone. Whether any evil forces push you, truth and righteousness always win. Not only these we feel celebrations all around on account of Team India winning continuous cricket matches at 2023 Cricket World Cup organized in India.

Indian Stock Market tumbled due global market weakness, rising crude prices, etc. The 10 year US bond yield has crossed the 3.5% mark as data showed that the US economy is not slowing quickly enough to deter the Fed from raising interest rate.

At association level we continued to have many programs for its members, students and public at large.

For Members

Capital Market Committee had Value Investing session on Sugar- Cyclicity to Stability by Mr. Nitin Gosar. In the month of November, membership and Recreation Committee has planned picnic to Madhai Tiger Reserve- Madhya Pradesh in which more than fifty CVOCA Members families are joining.

Membership and recreation committee has also planned Box Cricket Tournament on December 9, 2023 in which I request all members to register for same.

More than 125 members have enrolled for Residential Refresher Course hosted by Dadar East CPE Study Circle in the month of February 2024.

For Students

For students appearing for November/ December exams -under the aegis of BUDDY MITRAM Program we had organized a webinar to help students to face examinations. We had more than 100 registrations and more than 250 views on live you tube streaming. Team is also planning Industrial Visit and Residential Refresher Course for students alongwith other activities.

For Public at Large

We have planned a public program on Recovery of Business Dues and Debts on 4th November 2023 at SNDT Women University, Matunga from 5 PM onwards. Learned speaker Adv. Hasmukh Shah and Adv. Lalit Jain shall speak on the recovery mechanism and alertness that one needs to maintain while doing business or giving loans to someone who is in need of funds.

I request everyone to participate in all the forthcoming activities of the association and also spread the awareness of the Buddy Mitram program launched by students committee of the association and public program planned by the program committee.

Looking forward for your presence and support.

Thank you all..... Always in Gratitude

Jeenal
CA Jeenal Savla

November 1, 2023



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"BALANCING THE BOOKS OF HEALTH: MANAGE STRESSFUL WORK"



CA Ameet Chheda

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FROM THE DESK OF CHAIRMAN

I am sure, we all would have met with stressful due dates and it would be with a tremendous stress. In the high-stakes world of finance, chartered accountants play a crucial role in managing the financial health of their clients. However, while we are busy balancing the books for others, it's essential not to neglect your own well-being. The demands of the profession can often lead to high levels of stress and long working hours, which can have adverse effects on your health. In this article, I will explore some valuable tips to help chartered accountants manage their health while thriving in a pressure-packed work environment.

Prioritize Self-Care: Just as you prioritize financial reports and deadlines, prioritize self-care. Make time for regular exercise, a balanced diet, and sufficient sleep. These three pillars of health can significantly impact your overall well-being and help you better cope with stress.

Manage Stress Proactively: Recognize the signs of stress and tackle it head-on. Implement stress management techniques such as deep breathing exercises, mindfulness, or meditation into your daily routine. These practices can help you stay calm and collected even in the most challenging situations.

Set Realistic Goals and Expectations: Strive for excellence, but don't aim for perfection. Setting realistic goals and expectations for yourself and your clients can reduce unnecessary stress. Remember that nobody is immune to errors, and learning from them can lead to personal growth.

Delegate When Possible: As a chartered accountant, you have a team to support you. Don't hesitate to delegate tasks when possible. Delegating not only lightens your workload but also empowers your team members to grow and develop their skills. There is nothing in life, which you can do but your colleagues can do. You need to trust their skills and give them sense of authority and sense of responsibilities.

Time Management: Efficient time management is crucial in a profession driven by deadlines. Utilize tools like time tracking apps or project management software to optimize your workflow. Effective time management can reduce the pressure of last-minute rushes.

Take Breaks: In the midst of a hectic workday, taking regular breaks is essential. Short breaks can recharge your mind and improve productivity. Allocate time for a proper lunch break to recharge both mentally and physically.

Stay Connected: Maintain a healthy work-life balance by staying connected with family and friends. Engaging in social activities and spending quality time with loved ones can provide emotional support and help you relax.

Continuous Learning: The financial world is constantly evolving. Embrace lifelong learning to stay updated with industry trends and changes. This can boost your confidence and make you feel more in control of your work.

Seek Professional Help: If stress and pressure become overwhelming, don't hesitate to seek professional help. A counselor or therapist can provide valuable guidance and strategies to manage stress and maintain your mental health.

Know When to Say No: It's essential to be realistic about your workload. If taking on additional clients or projects jeopardizes your well-being, it's okay to say no. Protecting your health should always be a top priority.

Chartered accountants play a vital role in the financial world, but it's important to remember that our health is equally crucial. By implementing these tips and actively managing your well-being, you can thrive in your profession while safeguarding your health. Balancing the books of health should be a fundamental part of your financial expertise.

Thank you all..... Always in Gratitude

CA Ameet Chheda



ANNUAL RETURN & GST RECONCILIATION STATEMENT



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In the intricate landscape of Indian taxation, the Goods and Services Tax (GST) has been a paradigm shift, reshaping how businesses function across the nation. At the core of this transformative tax system lies the crucial component - Input Tax Credit (ITC). Serving as the lifeblood of GST, it facilitates the seamless flow of credit through the intricate web of transactions, ensuring a fair and efficient taxation process.

While the intent of the legislature was to allow free flow of credit, various amendments have been introduced over the years, particularly in the realm of Input Tax Credit, adding layers of complexity to an already intricate system.

Two significant changes have come to the forefront: the introduction of an additional condition to claim ITC - necessitating matching with GSTR-2B and a change in the method of reporting ITC in GSTR-3B.

Relevant provisions/notifications pertaining to the above amendment are summarized here for your ready reference:

Section 16(2) (aa) of the CGST Act 2017: An additional condition for claiming the ITC was introduced in Section 16(2) of the CGST Act, 2017, w.e.f 1st January 2022. This condition stipulates that ITC could be claimed if the details of the Invoice have been furnished by the supplier in his GSTR-1 and the same has been communicated to the recipient i.e., it would get reflected in GSTR-2B of the taxpayer.

Notification No. 14/2022 - Central Tax dated 5th July 2022 read with Circular No. 170/02/2022-GST dated 6th July 2022: - Changes in the format of FORM GSTR-3B (especially Table 4 pertaining to ITC) were notified vide captioned notification and guidelines were issued for the method of reporting ITC in the amended GSTR-3B through the captioned Circular.

While there has been a lot of discussion analyzing the above amendments and their reporting impact in GSTR-3B, the impact of these changes on GSTR-9 (Annual Return) is another crucial aspect that needs some deliberation.

Let's try and discuss the potential practical issues arising from the above-mentioned amendments and its impact on the GSTR-9 as well as another event related to ITC relevant for F.Y. 2022-23.

➤ **Impact on Table 6 of GSTR-9**

1. Reporting of ITC of F.Y.2021-22 claimed in F.Y.2022-23 owing to Section 16(2)(aa)

As per the amendment outlined in section 16(2)(aa) of the CGST Act, 2017, ITC can be claimed in GSTR-3B only if the same is reflected in GSTR-2B of the recipient.

If the ITC of Jan 2022 – Mar 2022 gets reflected in GSTR-2B of F.Y. 2022-23, the same can be claimed in F.Y. 2022-23 only. If such ITC is reported in Table 6B of GSTR-9 of F.Y. 2022-23, it will automatically be populated in Table 8B for comparison with Table 8A (ITC as per GSTR-2A). Since Table 8A of F.Y. 2022-23 captures only transactions of said year, this would result in negative amount (i.e. excess claim of ITC) in Table 8D of GSTR-9 of F.Y.2022-23. Needless to say, such negative figures are often the system based automated red flags, inviting assessments, adjudications or even investigations by tax authorities.

Possible Solution:

To mitigate this challenge and ensure appropriate reporting, it is advisable to report the ITC related to F.Y. 2021-22 which was claimed in F.Y. 2022-23 in Table 6M of GSTR-9 of F.Y. 2022-23. Thus, Table 6B of GSTR-9 will only have the ITC of F.Y. 2022-23. This data will be auto-populated in Table 8B for comparison with Table 8A, resulting in prevention of above-mentioned discrepancies in Table 8D.

However, it is pertinent to note that there would be a negative amount appearing in Table 6J of GSTR 9.

2. Reporting of ITC owing to changed format of GSTR-3B:

As discussed above there has been a change in reporting of ITC in Table 4 of GSTR-3B w.e.f. August 2022 return. The newly changed format requires us to report the ITC as under: -

Table 4 of GSTR-3B	I	C	S	Reporting Methodology
(A) ITC Available (whether in full or part)				
(1) Import of goods				Auto-populated from GSTR-2B
(2) Import of services				Manual Entry
(3) Inward supplies liable to reverse charge (other than 1 & 2 above)				Auto-populated from GSTR-2B for registered persons + Manual entry for RCM on URD supplies.
(4) Inward supplies from ISD				Auto-populated from GSTR-2B
(5) All other ITC				Auto-populated from GSTR-2B
(B) ITC Reversed				
(1) As per rule 38,42 and 43 of the CGST Rules and Section 17(5)				<p>Non-reclaimable ITC/Permanent ITC reversals is to be reported here such as: -</p> <p>-> Rule 38: ITC reversals for Banking Co.</p> <p>-> Rule 42 & 43: Proportionate ITC reversal on Exempt Turnover.</p> <p>-> Section 17(5): Ineligible/Blocked ITC.</p> <p>Authors Note: Govt. intends that taxpayer should report Non re-claimable/permanent reversals (from the above claims) which is not to be claimed in any subsequent GSTR-3B.</p>

Table 4 of GSTR-3B	I	C	S	Reporting Methodology
(C) Net ITC Available				
(A) - (B)				
(D) Ineligible ITC				
(1) ITC reclaimed which was reversed under Table 4(B)(2) in earlier tax periods				Reporting of ITC re-claimed in Table 4(A)(5) which was reversed in Table 4(B)(2) of GSTR-3B in earlier periods.
(2) Ineligible ITC under section 16(4) and ITC restricted due to POS provisions				ITC restricted by Section 16(4) for being reported by the supplier after 30th November of the following year. ITC is restricted due to the place of supply (POS) rules.

Impact on GSTR9

Table 6 of GSTR-9 requires the taxpayer to provide bifurcation of the Gross ITC availed in GSTR-3B in Table 6B to 6O of GSTR-9. B2B ITC claimed in GSTR-3B needs to be reported in Table 6B of GSTR-9. This amount gets auto-populated in Table 8B of GSTR-9 for comparison with ITC as per Table 8A (auto-populated from GSTR-2A).

Issue 1:

When the taxpayer is required to report ITC as per above mentioned circular, he would report gross ITC as per GSTR 2B in Table 4(A)(5) and consequent temporary reversal in Table 4(B)(2) in Tax Period 1. Thereafter, the reversed ITC would be reclaimed and reported in Table 4(A)(5) of the subsequent Tax period. Thus, same invoice/ITC would be reported twice in Table 4(A)(5) of GSTR 3B. Thus, reporting of the same in GSTR 9 requires some consideration i.e., whether the ITC would have to be reported twice in Table 6B of GSTR 9 or only once. If the Invoice is reported twice, the same would result in negative figures in Table 8D of GSTR 9.

Possible Solution:

The reporting in Table 6 of GSTR 9, could be as under:

- a) Table 6B: Net B2B ITC claimed in Table 4(C) of GSTR-3B (excluding Temporary reversals in Table 4(B)(2) of GSTR-3B),
- b) Table 6M: ITC Claimed due to the new methodology which was reversed in Table 4(B)(2) of GSTR-3B

Let's try to understand this by an example: -

GSTR-3B of Tax period (TP) - 1				
Table	Particulars	IGST	CGST	SGST
Table 4(A)(5) : (TP-1)	All other ITC (as per GSTR 2B)	3,00,000	1,50,000	1,50,000
Table 4(B)(2) : (TP-1)	Others (Temporary reversals to be reclaimed in subsequent tax period)	40,000	20,000	20,000
Table 4(C) : (TP-1)	Net ITC Available (A) - (B)	2,60,000	1,30,000	1,30,000

GSTR-3B of Tax period (TP) - 2				
Table	Particulars	IGST	CGST	SGST
Table 4(A)(5) : (TP-2)	All other ITC (<i>ITC of TP-1 reclaimed here</i>)	40,000	20,000	20,000
Table 4(B)(2) : (TP-2)	Others	0	0	0
Table 4(C) : (TP-2)	Net ITC Available (A) - (B)	40,000	20,000	20,000

Reporting in GSTR-9

Relevant reporting in GSTR-9				
Table No.	Particulars	IGST	CGST	SGST
6A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B) [(Table 4(A)(5):(TP-1) + (Table 4(A)(5):(TP-2)]	3,40,000	1,70,000	1,70,000
6B	Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) [(Table 4(C):(TP-1) + (Table 4(C):(TP-2)]	3,00,000	1,50,000	1,50,000
6M	Any other ITC availed but not specified above [ITC claimed but reversed in Table 4(B)(2) :(TP-1)]	40,000	20,000	20,000

Issue 2:

Based on the current reporting requirements, ITC as per Table 4(A)(5) would also include Ineligible ITC (i.e., Section 17(2) / Section 17(5) etc.) but reversed in Table 4(B)(1) of GSTR-3B. If this amount of ineligible ITC is reported in Table 6B, the same would also get auto-populated in Table 8B of GSTR-9. Since these ineligible ITC would be included in Table 8A as well, there would not be any difference in Table 8D of GSTR 9. Consequently, the taxpayer would be in a dilemma for reporting of:

1. Table 8E: ITC available but not availed (from the amount in Table 8D) and,
2. Table 8D: ITC availed but Ineligible (from the amount in Table 8D).

Possible Solution:

The reporting in Table 6 of GSTR 9, could be as under:

- a) Table 6B: ITC claimed and not reversed in Table 4(B)(1) i.e., Eligible ITC
- b) Table 6M: Ineligible ITC claim reported but reversed in Table 4(B)(1)

Let us try to understand this by an example: -

Table	Particulars	IGST	CGST	SGST
Table 4(A)(5)	All other ITC	3,00,000	1,50,000	1,50,000
Table 4(B)(1)	As per rule 38,42 and 43 of the CGST Rules and Section 17(5)	60,000	30,000	30,000
Table 4(C)	Net ITC Available (A) - (B)	2,40,000	1,20,000	1,20,000

The above would be reported in GSTR-9 as: -

Relevant Extract from GSTR-9				
Table	Particulars	IGST	CGST	SGST
6A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)	3,00,000	1,50,000	1,50,000
6B	Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)	2,40,000	1,20,000	1,20,000
6M	Any other ITC availed but not specified above [<i>ITC reversals 4.B.1 & 4.B.2 claimed and reversed - total</i>]	60,000	30,000	30,000
6O	Total ITC availed	3,00,000	1,50,000	1,50,000
7C	Reversal as per Rule 42 [<i>Table 4(B)(1) of GSTR-3B</i>]	30,000	15,000	15,000
7D	As per Section 17(5) [<i>Table 4(B)(1) of GSTR-3B</i>]	30,000	15,000	15,000
7J	Net ITC available for utilization	2,40,000	1,20,000	1,20,000
8A	As per GSTR 2A (<i>minimum assumed</i>)	3,00,000	1,50,000	1,50,000
8B	ITC as per sum total of 6(B) and 6(H) above	2,40,000	1,20,000	1,20,000
8D	Difference	60,000	30,000	30,000
8E	ITC available but not availed	-	-	-
8F	ITC available but ineligible	60,000	30,000	30,000

Concluding the above discussions, owing to the rigidity of GSTR 9 Table 6M of GSTR-9 will have to grandfather the following:

- ITC pertaining to F.Y.2021-22 which is claimed in F.Y.2022-23
- ITC not eligible u/s 17(2) and 17(5) - claimed and reversed in Table 4(B)(1)
- ITC claimed and temporarily reversed in Table 4(B)(2)

Owing to the limited avenues of reporting tables of GSTR 9, the above discussed reporting options are not fool-proof and may pose other challenges (i.e., differences in Table 6J). However, they would ensure that reconciliation of ITC with GSTR 2A/ Table 8A is reported to the most appropriate possibility.

➤ **Impact on Table 8 of GSTR-9:-**

As discussed above, as per Section 16(2)(aa) ITC ought to be claimed in GSTR-3B if the details of the Invoice have been furnished by the supplier in his GSTR-1 and the same has been communicated to the recipient i.e., it would get reflected in its GSTR-2B.

It may so happen that supplier may file GSTR-1 for F.Y.2022-23 in F.Y.2023-24 and thus ITC pertaining to F.Y.2022-23 may get reflected in GSTR-2B and claimed in GSTR-B of F.Y.2023-24.

However, the same ITC would get reflected in Table 8A of GSTR-9 of F.Y.2022-23 (since ITC from GSTR-2A gets auto-populated here), causing difference in the ITC appearing in Table 8A as compared to ITC claimed in GSTR-3B (Table 6B of GSTR-9).

Thus, during the preparation of Annual workings for F.Y.2022-23, a meticulous review of monthly GSTR-3B workings of F.Y.2023-24 becomes paramount to find out ITC of F.Y.2022-23 claimed in F.Y.2023-24.

This ITC would then get reported in Table 8C of GSTR-9 as a reconciliation item, thereby reducing difference in Table 8D of GSTR-9.

Ideally, reporting of this ITC would also be required to be made in Table 13 of GSTR-9 of F.Y.2022-23.

However, there may be difference in figures reported in Table 8C and Table 13 of GSTR-9 due to following reasons: -

- **RCM ITC of Claimed in Next Year:** - This figure would not get reported in Table 8C of GSTR-9 as reporting of all other ITC is done in Table 8A (excluding RCM) but the same would get reported in Table 13 of GSTR-9 as any ITC pertaining to a financial year which gets claimed in the next year would be reported in Table 13 of GSTR-9.
- **ITC appearing in GSTR-2A booked in next year:** - This figure would be reflecting in GSTR-2A, but due to certain reasons such as non-receipt of goods/services, missing of booking of purchase invoice the said ITC would not get recorded in Table 13 of GSTR-9. However, since the said ITC is appearing in GSTR-2A the same would get reflected in Table 8C of GSTR-9.

In light of these intricacies, meticulous reporting in GSTR-9 is essential. Taxpayers must adapt their reconciliation strategies to align with these regulatory shifts, ensuring accurate compliance and reduced discrepancies in their annual filings.

➤ **Reporting of Transitional Credits in GSTR-9**

In light of the Apex Court decision in the case of UOI V/s Filco Trade Centre Pvt. Ltd., GSTN was directed to allow fresh filing or revision of transitional forms. Many taxpayers availed the benefit of this welcome move. A key question arises regarding the reporting of such transitional credit claims in GSTR-9.

While the department may issue an order allowing transitional credit in F.Y.2022-23, it may not be credited to the electronic ledger in F.Y.2022-23 (i.e. it may get credited in the electronic credit ledger in subsequent years).

Now the question arises as to whether to report the above-mentioned Transitional ITC in GSTR-9 of F.Y.2022-23?

The solution lies in the Technical Guide on Annual Return & GST Audit by the Institute of Chartered Accountants of India, which advises reporting transitional credits in Table 6k of GSTR-9 when they are received in the electronic credit ledger. Thus, only the Transitional ITC which gets credited in the electronic credit ledger in F.Y.2022-23 ought to be reported in Table 6K of GSTR-9 of F.Y.2022-23.

Conclusion:

The concept of ITC and the compliance of ITC are the burning issues under the GST regime. As GST regime completes 6 years, the tax filing landscape (especially pertaining to ITC) has already seen the following 6 distinct phases:

Phase 1: The idealistic phase of GSTR-2 and GSTR-3 as envisaged by the legislature.

Phase 2: Implementation of GSTR-3B (replacing GSTR-3) but no GSTR 2A

Phase 3: GSTR-3B along with birth of GSTR-2A (but no requirements of reconciliations)

Phase 4: GSTR-3B along with GSTR-2A (and requirements of reconciliations)

Phase 5: GSTR-3B with birth of GSTR-2B (and existence of GSTR 2A) (*mandatory matching with GSTR-2B*)

Phase 6: GSTR-3B with revised reporting to match ITC claim with GSTR-2B

Despite these advancements and sea-changes in the claim and reporting of ITC, the format of GSTR-9 has remained stagnant since the inception. This lack of adaptation has compelled businesses to make constant adjustments, leading to cumbersome reconciliations and reporting challenges.

It is imperative that the GST Annual Return, GSTR-9, evolves in tandem with the dynamic GST filing system.

To achieve this, the trade and industry sectors must actively engage with the government, advocating for necessary revisions in the format of GSTR 9. By doing so, the reporting requirements can be streamlined, reducing errors and ensuring seamless compliance in the ever-changing realm of GST filing.



RECENT CHANGES IN GST LAW



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1. Automated processing under GST Regime

Introduction:

Just like under the Income Tax Act where basic level processing is done by the CPC under section 143(1), GST has also introduced system for automated intimation of discrepancies to the registered person. Restrictions have also been placed on filing of returns where such discrepancies are not dealt with. This step can go a long way in moving towards digital processing of cases and might even lead to lower scrutiny by the department as a large chunk of the issues might be dealt with by the system itself. The Income Tax Department has now established a near perfect system to carry out basic processing and thus it is expected that GST shall also move on similar lines and provide a transparent and effective system for managing disputes.

I) **Rule 88D: Manner of dealing with difference in input tax credit available in auto-generated statement containing the details of input tax credit and that availed in return**

- (1) Where the amount of input tax credit availed by a registered person in the return for a tax period or periods furnished by him in FORM **GSTR-3B** exceeds the input tax credit available to such person in accordance with the auto-generated statement containing the details of input tax credit in FORM **GSTR-2B** in respect of the said tax period or periods, as the case may be, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in **Part A of FORM GST DRC-01C**, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to—
 - (a) **pay an amount** equal to the excess input tax credit availed in the said FORM **GSTR-3B**, **along with interest** payable under section 50, through FORM **GST DRC-03**, or
 - (b) **explain the reasons** for the aforesaid difference in input tax credit on the common portal, **within a period of seven days**.
- (2) The registered person referred to sub-rule (1) shall, upon receipt of the intimation referred to in the said sub-rule, **either**,
 - (a) **pay an amount** equal to the excess input tax credit, as specified in Part A of FORM **GST DRC-01C**, **fully or partially**, along with interest payable under section 50, through FORM **GST DRC-03** and **furnish the details** thereof in **Part B of FORM GST DRC-01C**, electronically on the common portal, or

- (b) **furnish a reply**, electronically on the common portal, **incorporating reasons** in respect of the amount of excess input tax credit that has still remained to be paid, if any, in **Part B of FORM GST DRC-01C**, within the period specified in the said sub-rule.
- (3) Where any amount specified in the intimation referred to in sub-rule (1) remains to be paid within the period specified in the said sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of **section 73** or **section 74**, as the case may be.”

[Inserted by **CGST (Second Amendment) Rules, 2023** dated 04.08.2023 w.e.f. 04.08.2023]

Analysis of Rule 88D:

- According to **Rule 88D** of the CGST Rules 2017, the CBIC has introduced a new automated system of return processing wherein the GSTN Portal will now compare the Input Tax Credit available in Form **GSTR-2B** with the Input Tax Credit availed by the registered person in Form **GSTR-3B**. If the Input Tax Credit claimed by the registered person in Form **GSTR-3B** exceeds the Input Tax Credit available in Form **GSTR-2B**, by the prescribed amount and percentage as recommended by the Council, the registered person will receive an intimation of this variation through the GSTN Portal and in their registered email address in **PART-A of Form DRC-01C**.
- Upon receiving this intimation, the registered person has following three options to address the variance in ITC between Form **GSTR-2B** and Form **GSTR-3B**:

Option 1: **Pay the excess claim** of Input Tax Credit in full through Form **DRC-03**, along with interest as per section 50 and **report the details** of payment in **Part B of Form GST DRC-01C electronically** on the GST portal.

Option 2: **Provide an explanation giving details of all the reasons** for difference in **PART-B of Form DRC-01C** electronically **within 7 days** from the date of receiving the intimation.

Option 3: **Partly pay the excess claim** of Input Tax Credit through Form **DRC-03**, along with interest as per section 50 and report the details of payment along with **a reasonable explanation** for the balance difference in **Part-B of Form DRC-01C** electronically **within 7 days** from the date of receiving the intimation.

- While providing the explanation, the excess claim on account of the following reasons will have to be identified & reported separately:
 - ITC not availed earlier due to non-receipt of inward supplies in the said tax period
 - ITC not availed earlier due to error or omission
 - ITC availed in respect of import of goods which is not reflected in **GSTR-2B**
 - ITC availed in respect of inward supplies from SEZ which are not reflected in **GSTR-2B**
 - Excess reversal of ITC in earlier tax periods which is reclaimed in the tax period under consideration
 - Re-credit of ITC on payment made to supplier which was reversed as per rule 37 in earlier tax periods

- Re-credit of ITC on filing of return by supplier which was reversed as per rule 37A in earlier tax periods
- Error in filing GSTR-3B which will be rectified in next tax period
- Any other reason as specified by the registered person
- The explanation provided should be specific and self-explanatory. For e.g – If the difference is on account of an error in GSTR-3B of the tax period under consideration, then it is advisable to describe the nature of error, the amount of excess claim on account of such error & the subsequent tax period in which it has been rectified.
- The registered person should make sure that his reply is consistent with the details reported in GSTR-3B filed by him in order to avoid rejection by the officer. For e.g – If the explanation provided states that the excess claim is on account of re-credit of ITC on payment made to supplier which was reversed in GSTR-3B of March 2023, then GSTR-3B of that month should reflect reversal of ITC of such amount in Table 4(B)(2) which is greater than or equal to the amount being claimed.
- Where no explanation is provided by the registered tax payer within 7 days or if the explanation provided is not found to be acceptable by the proper officer, then the proper officer shall initiate proceedings under section 79.

ii) **Rule 88C: Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return**

- (1) Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in FORM **GSTR-1** or using the Invoice Furnishing Facility in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in FORM **GSTR-3B**, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in Part A of FORM GST **DRC-01B**, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to-
 - (a) pay the differential tax liability, along with interest under **section 50**, through FORM GST **DRC-03**; or
 - (b) explain the aforesaid difference in tax payable on the common portal, within a period of 7 days.
- (2) The registered person referred to sub-rule (1) shall, upon receipt of the intimation referred to in that sub-rule, either-
 - (a) pay the amount of the differential tax liability, as specified in Part A of FORM GST **DRC-01B**, fully or partially, along with interest under **section 50**, through FORM GST **DRC-03** and furnish the details thereof in Part B of FORM GST **DRC-01B** electronically on the common portal; or
 - (b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, in Part B of FORM GST **DRC-01B**, within the period specified in the said sub-rule.

- (3) Where any amount specified in the intimation referred to in sub-rule (1) remains unpaid within the period specified in that sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of **section 79**.

[Introduced vide **CGST (Fifth Amendment) Rules, 2022** dated 26.12.2022 w.e.f. 26.12.2022]

Analysis of Rule 88C:

- According to Rule 88C, if the **GST liability** of the registered person **as per GSTR-1 / IFF** exceeds the GST paid via **GSTR-3B** by such amount and such percentage as may be specified, then he will receive an intimation in **Part-A of Form GST DRC-01B**. Such intimation will be displayed on his GSTN portal and will also be sent to him on his email ID registered on GSTN portal.
- Upon receiving this intimation, the registered person has following three options to address the variance in tax payable between Form GSTR-1 and Form GSTR-3B:

Option 1: Pay the differential tax liability in full through Form **DRC-03**, along with interest as per section 50 and **report the details** of payment in **Part B of Form GST DRC-01B electronically** on the GST portal.

Option 2: Provide an explanation giving details of all the reasons for difference in **PART-B of Form DRC-01B** electronically **within 7 days** from the date of receiving the intimation.

Option 3: Partly pay the differential tax liability through Form **DRC-03**, along with interest as per section 50 and report the details of payment along with **an explanation** for the balance differential tax liability in **Part-B of Form DRC-01B** electronically **within 7 days** from the date of receiving the intimation.

- While providing the explanation, the differences on account of the following reasons will have to be identified & reported separately:
 - Excess tax liability paid in earlier tax period in GSTR-3B
 - Transactions of earlier tax periods in respect of which tax has already been paid but have been declared in GSTR-1 of tax period under consideration
 - Incorrect details reported in GSTR-1 which will be amended in next tax period
 - Error in reporting of advances received and adjusted against invoices
 - Any other reasons as specified by the registered person
- Where no explanation is provided by the registered tax payer within 7 days or if the explanation provided is not found to be acceptable by the proper officer, then the proper officer shall initiate proceedings under section 79

iii) **Rule 59: Amendment to provisions for blocking of filing of GSTR-1**

- (e) A registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88D in respect of a tax period or periods, 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 for a subsequent tax period, unless he has either paid the amount equal to the excess input tax credit as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess input tax credit that still remains to be paid, as required under the provisions of sub-rule (2) of rule 88D.

- (f) 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 or using the invoice furnishing facility, if he has not furnished the details of the bank account as per the provisions of rule 10A.

Note:

However, this regulation does not call for blockage of GSTR-1 or IFF where the provided response was deemed unsatisfactory by the tax authorities. In such cases, only recovery actions under section 79 of the CGST Act, 2017 will be initiated.

iv) Rule 142B: Intimation of certain amounts liable to be recovered under section 79 of the Act

Vide **Second Amendment rules 2023 rule 142B** has been inserted to provide for recovery of amount determined in accordance with **rule 88C** and its recovery under **section 79**. The same is reproduced as under-

- (1) Where, in accordance with **section 75** read with **rule 88C**, or otherwise, any amount of tax or interest has become recoverable under **section 79** and the same has remained unpaid, the proper officer shall intimate, electronically on the common portal, the details of the said amount in FORM GST **DRC-01D**, directing the person in default to pay the said amount, along with applicable interest, or, as the case may be, the amount of interest, within seven days of the date of the said intimation and the said amount shall be posted in Part-II of Electronic Liability Register in FORM GST **PMT-01**.
- (2) The intimation referred to in sub-rule (1) shall be treated as the notice for recovery.
- (3) Where any amount of tax or interest specified in the intimation referred to in sub-rule (1) remains unpaid on the expiry of the period specified in the said intimation, the proper officer shall proceed to recover the amount that remains unpaid in accordance with the provisions of **rule 143** or **rule 144** or **rule 145** or **rule 146** or **rule 147** or **rule 155** or **rule 156** or **rule 157** or **rule 160**.

2. Changes pertaining to Appeals under GST

1. **Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023:** The Council has recommended the Rules governing appointment and conditions of President and Members of the proposed GST Appellate Tribunal for enabling smooth constitution and functioning of GST Appellate Tribunal. The Council also recommended that provisions of Finance Act, 2023 pertaining to GST Appellate Tribunal may be notified by the Centre **with effect from 01.08.2023**, so that the same can be brought into operation at the earliest.
2. **Amnesty Scheme for filing of appeals against demand orders in cases where appeal could not be filed within the allowable time period:**

The Council has recommended providing an amnesty scheme through a special procedure under section 148 of CGST Act, 2017 for taxable persons, who could not file an appeal under section 107 of the said Act, against the demand order under section 73 or 74 of CGST Act, 2017 passed on or before the 31st day of March, 2023, or whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period specified in sub-section (1) of section 107. **In all such cases, filing of appeal by the registered persons will be allowed against such orders up to 31st January 2024**, subject to the condition of payment of an amount of pre-deposit of 12.5% of the tax under dispute, out of which at least 20% (i.e. 2.5% of the tax under dispute) should be debited from Electronic Cash Ledger. This will facilitate a large number of registered persons, who could not file appeal in the past within the specified time period.

3. Appeal can be filed manually if it is not possible to file it online because of non-availability of the decision or order to be appealed against on the common portal under Rule 108 & 109.
[Second amendment to CGST rules]

3. Key GST Changes Set to Take Effect from October 1, 2023: A Closer Look at Tax Changes

The world of taxation is ever-evolving, and staying informed about the latest changes is crucial for professionals. From October 1, 2023, key GST changes that are going to reshape the taxability in online gaming and various other aspects of GST. In this article, we take a closer look at the important changes taking place.

1. Section 10 of CGST Act: Composition Levy extended to suppliers of goods under e-commerce model

The advantage of the composition scheme, previously unavailable to registered individuals involved in goods supply via e-commerce platforms, will now be expanded to encompass them. Nevertheless, limitations will persist for registered individuals engaged in providing services through e-commerce operators.

2. Section 16 of CGST Act: Amendment for clarification regarding payment to the supplier within 180 days

The new amendment stipulates that if a recipient does not make payment to the supplier for the supply's value and tax within 180 days from the invoice date, the recipient must remit an amount equivalent to the Input Tax Credit (ITC) they have claimed, along with the interest payable as per Section 50 of the CGST Act. The provision prior to the amendment required the Input Tax Credit (ITC) to be added to the output tax liability. However, following the amendment, it involves either payment or reversal of ITC. As a result, the interest liability for such reversals will be calculated based on Section 50(3) of the CGST Act, rather than Section 50(1).

3. Section 17(5)(fa) of CGST Act: ITC blocked on CSR activities

Input Tax Credit (ITC) cannot be claimed on goods or services received by a taxable person, whether used or intended to be used for activities associated with fulfilling Corporate Social Responsibility (CSR) obligations.

4. Section 23(2) of CGST Act: Persons not liable for registration. Retrospective overriding effect of S. 23(2) on 22 and 25 w.e.f. July 2017

A retrospective amendment, effective from July 1, 2017, has been introduced to clarify that individuals who are exempted from obtaining registration through a notification under Section 23(2) of the CGST Act are not required to obtain registration, regardless of the provisions outlined in Section 22 (threshold limit cases) or Section 24 (mandatory cases). It's worth noting that individuals exempted from registration under Section 23(1) do not benefit from this amendment.

According to the amendment (i) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, 2017; 13 of 2017. (ii) an agriculturist, to the extent of supply of produce out of cultivation of land. Also, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act."

5. Section 30 of CGST Act: Time limit on application for revocation of cancelled registration

The previously prescribed 30-day time limit under Section 30 for submitting an application to revoke the cancellation of GST registration has been removed. The new time frame is now regulated by Rule 23, which has been extended to 90 days from the date of the cancellation order. Additionally, the Commissioner has the authority to grant an extension, not exceeding 180 days, as deemed necessary.

6. Section 37, 39, 44, and 52 of CGST Act: Limitation of 3 years on filing of returns

After a period of 3 years from the due date of furnishing the relevant return, the registered individual is not permitted to submit returns in GSTR-1, GSTR-3B, GSTR-9, GSTR-9C, and GSTR-8.

7. Section 132 of CGST Act: Punishment of certain offences

Removing Criminalization of Certain Offenses: Eliminating the designation of offenses listed in clause (g), (j), and (k) from Section 132(1) of the CGST Act, 2017. The revised monetary threshold for initiating prosecution has been raised from Rs. 1 Crore to Rs. 2 Crore, except in cases related to counterfeit or bogus invoices. Therefore, for offenses unrelated to fake invoices, imprisonment may be pursued if the value exceeds Rs. 2 Crores, while prosecutions for fake invoices will continue to apply as per the previous threshold of Rs. 1 Crore.

8. Section 138 of CGST Act: Compounding of offences.

No Compounding of offences: Fake/bogus invoice cases excluded from the option of compounding of offences.

Reduction in Compounding fees: Reduction of amount for compounding of various offences except offence of fake invoice, by reducing the minimum and maximum amount for compounding.

	Earlier	New
Minimum	Higher of Rs. 10,000 or 50% of tax involved	25% of Tax involved
Maximum	Higher of Rs. 30,000 or 150% of tax involved	100% of Tax involved

Sub rule (3A) has been inserted under Rule 162 of CGST rules, 2017 to prescribe compounding amounts for various offences under section 132 of CGST Act, 2017.

9. Section 158A of CGST:

Section 158A read with Rule 163 has enabled sharing of information or details furnished by a taxable person on the GST common portal with such other systems as may be notified by government. This is consent based sharing of information.

10. Section 12(8) and 13(9) of IGST: Place of Supply in relation of Transportation of Goods:

Place of supply of transportation of goods, including by mail or courier (Section 12(8) of IGST Act):

To remove the Proviso to Section 12(8) in order to determine the place of supply, regardless of the goods' destination, when both the service provider and recipient are situated in India. In such cases, the Place of Supply (POS) will be the location of the registered recipient.

11. **Place of supply of transportation of goods, other than by mail or courier (Section 13 of IGST Act):**

Section 13(9) of the IGST Act, 2017, has been removed. This change establishes that the place of supply of services related to the transportation of goods, excluding mail or courier services, will be governed by the default provision in Section 13(2) of the IGST Act. In cases where either the service provider or the service recipient is located outside India, the place of supply will be the location of the service recipient. Consequently, services provided to recipients outside India will be categorized as exports, and services received from providers outside India will be considered imports of services, regardless of the destination of the goods involved.

12. **Section 16(1)(b) of IGST:**

Zero-rated supplies to SEZ for authorised operations: The words “for authorised operations” have been added to clause (b) of Section 16(1) to remove the ambiguity that only the supplies made for authorised operations to SEZ units or developers shall qualify as zero-rated supplies.

13. **Section 16(3), (4) of IGST:**

Zero-rated supplies not permitted with payment of IGST until notified.

The default option is now supplying under LUT without tax payment and claiming a refund of accumulated ITC, with the government authorized to notify categories permitted for IGST payment and refund route.

The CBIC vide Notification No. 1/2023–Integrated Tax dated July 31, 2023, permits tax payment for all exports of goods and services, barring specific goods like cigarettes, panmasala, and other tobacco-related products. Currently, no notification has been issued permitting supplies to SEZ units/developers with payment of IGST. Hence, the default route of LUT without payment of IGST would only be available.

14. **Notification 11 – IGST (Rate):**

Notified exemption of 5% GST under RCM on Ocean Freight

The three Notifications No. 11/2023, 12/2023 and 13/2023 - Integrated Tax (Rate) dated September 26, 2023 have made amendments in the Rate, Exemption, and RCM notifications of IGST to terminate the liability cast on the importers on the services supplied by a person located in the non-taxable territory (foreign shipping line) to a person located in the non-taxable territory (foreign supplier) by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India (in lieu of import ocean freight) in case of CIF imports under reverse charge. The amendments were made after more than a year of the Hon'ble Supreme Court's judgement in Union of India v. M/s Mohit Minerals Pvt. Ltd. wherein the Supreme Court had held the reverse charge levy on importer as import of service is violative of Section 8 of the CGST Act, 2017, and decided in favour of the Indian importers.

4. **GST Council recommendations in 50, 51 & 52 Meeting**

1. As a trade friendly measure, it has been decided that GTAs will not be required to file declaration for paying GST under forward charge every year. If they have exercised this option for a particular financial year, they shall be deemed to have exercised it for the next and future financial years unless they file a declaration that they want to revert to reverse charge mechanism (RCM).
2. It has also been decided that the last date of exercising the option by GTAs to pay GST under forward charge shall be 31st March of preceding Financial Year instead of 15th March. 1st January of preceding Financial Year shall be the start date for exercise of this option.

3. It has been decided to clarify that services supplied by a director of a company to the company in his private or personal capacity such as supplying services by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by a director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017.
4. It has been decided to clarify that supply of food and beverages in cinema halls is taxable as restaurant service as long as (a) they are supplied by way of or as part of a service and (b) supplied independently of the cinema exhibition service. Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.
5. With effect from 1st January 2022, liability to pay GST on bus transportation services supplied through Electronic Commerce Operators (ECOs) has been placed on the ECO under section 9(5) of CGST Act, 2017. This trade facilitation measure was taken on the representation of industry association that most of the bus operators supplying service through ECO owned one or two buses and were not in a position to take registration and meet GST compliances. To arrive at a balance between the need of small operators for ease of doing business and the need of large organized players to take ITC, GST Council has recommended that bus operators organised as companies may be excluded from the purview of section 9(5) of CGST Act, 2017. This would enable them to pay GST on their supplies using their ITC.
6. Supply of all goods and services by Indian Railways shall be taxed under Forward Charge Mechanism to enable them to avail ITC. This will reduce the cost for Indian Railways.
7. **Annual Returns for FY 2022-23:** The Council has recommended that the relaxations provided in FY 2021-22 in respect of various tables of FORM GSTR-9 and FORM GSTR-9C be continued for FY 2022-23. Further, for easing compliance burden on smaller registered persons, exemption from filing of annual return (in FORM GSTR-9/9A) for registered persons having aggregate annual turnover upto Rs.2 crores to be continued for FY 2022-23 also. Hence the compliances of GSTR-9 & GSTR-9C for FY2022-23 remain in line with the compliances that were applicable for FY2021-22.
8. The Council has also recommended that amendment may be made in GST law to make ISD mechanism mandatory prospectively for distribution of input tax credit of common input services procured by the HO from third parties which are attributable to both HO & branch offices or exclusively to one or more branch offices.
9. As per the recommendations of the Council in its 48th meeting, Circular No. 183/15/2022-GST dated 27th December, 2022 was issued to provide for the procedure for verification of input tax credit in cases involving difference in Input Tax Credit availed in FORM GSTR-3B vis a vis that available as per FORM GSTR-2A during FY 2017-18 and 2018-19. To provide further relief to the registered persons, the Council recommended for further issuance of a circular to provide for similar procedure for verification of input tax credit in cases involving difference in Input Tax Credit availed in **FORM GSTR-3B** vis a vis that available as per **FORM GSTR-2A** during the period **01.04.2019 to 31.12.2021**.

10. **GST Council in its 50th & 51st meeting has recommended the taxation in casinos, horse racing and online gaming to be as follows:**
- Treating online gaming and horse racing as actionable claims
 - All three to be taxed at the uniform rate of 28%
 - Tax will be applicable on the face value of chips purchased in case of casinos, on full value of bets places in case of horse racing and on the amount deposited with the supplier in case of online gaming
11. **Clarifications regarding taxability of personal guarantee offered by directors to the bank against the credit limits/loans being sanctioned to the company and regarding taxability of corporate guarantee provided for related persons including corporate guarantee provided by holding company to its subsidiary company:** The Council has *inter alia* recommended to:
- issue a circular clarifying that when no consideration is paid by the company to the director in any form, directly or indirectly, for providing personal guarantee to the bank/ financial institutes on their behalf, the open market value of the said transaction/ supply may be treated as zero and hence, no tax to be payable in respect of such supply of services.
 - to insert sub-rule (2) in Rule 28 of CGST Rules, 2017, to provide for taxable value of supply of corporate guarantee provided between related parties as one per cent of the amount of such guarantee offered, or the actual consideration, whichever is higher.
 - to clarify through the circular that after the insertion of the said sub-rule, the value of such supply of services of corporate guarantee provided between related parties would be governed by the proposed sub-rule (2) of rule 28 of CGST Rules, 2017, irrespective of whether full ITC is available to the recipient of services or not.
12. **Provision for automatic restoration of provisionally attached property after completion of one year:** The Council has recommended an amendment in sub-rule (2) of Rule 159 of CGST Rules, 2017 and **FORM GST DRC-22** to provide that the order for provisional attachment in **FORM GST DRC-22** shall not be valid after expiry of one year from the date of the said order. This will facilitate release of provisionally attached properties after expiry period of one year, without need for separate specific written order from the Commissioner.
13. **Issuance of clarification relating to export of services-:** The Council has recommended to issue a circular to clarify the admissibility of export remittances received in Special INR Vostro account, as permitted by RBI, for the purpose of consideration of supply of services to qualify as export of services in terms of the provisions of sub-clause (iv) of clause (6) of section 2 of the IGST Act, 2017.
14. **Allowing supplies to SEZ units/ developer for authorised operations for IGST refund route by amendment in Notification 01/2023-Integrated Tax dated 31.07.2023:** The Council has recommended to amend Notification No. 1/2023-Integrated Tax dated 31.07.2023 w.e.f. 01.10.2023 so as to allow the suppliers to a Special Economic Zone developer or a Special Economic Zone unit for authorised operations to make supply of goods or services (except the commodities like pan masala, tobacco, gutkha, etc. mentioned in the Notification No. 1/2023-Integrated Tax dated 31.07.2023) to the Special Economic Zone developer or the Special Economic Zone unit for authorised operations on payment of integrated tax and claim the refund of tax so paid.



RECENT GST PORTAL FUNCTIONALITIES



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The saga of Input Tax Credit under GST continues as newer functionalities are introduced on the GSTN. While the two-way matching of input tax credit has long been scrapped, various attempts at implementing abridged versions of two-way matching of input tax credit have been made by the Government. It started with the introduction of Rule 36(4) requiring reconciliation of input tax credit with GSTR-2A with a margin of 20% to monthly reconciliations with static GSTR-2B and amendment to section 16(2).

Additional clarifications and newer functionalities on this aspect have been introduced and are briefly explained hereunder:

A) Revised Reporting Requirement of Input Tax Credit in GSTR-3B -

Currently, section 16(2) read with Rule 36(4) restricts availment of input tax credit to the extent of the input tax credit in respect of invoices or debit notes communicated in Form GSTR-2B.

Vide Circular No.170/02/2022-GST dated 6th July, 2022, the reporting in GSTR-3B was changed to be derived from GSTR-2B as against the earlier reporting which was based on the books of accounts of the registered person. While this clarification dates back in July 2022, it is explained hereunder to bring clarity on the newer functionalities introduced on the GSTN.

Briefly, the current reporting in GSTR-3B looks as follows:

- a. For the current month (say, April 2023)

Sr. No.	Table Ref in GSTR-3B	Description	IGST	CGST	SGST
1	4(A)(5)	Eligible Input Tax Credit as per GSTR-2B for April 2023	10,000	5,000	5,000
2	4(B)(2)	Input Tax Credit not accounted in books (such ITC which is appearing in GSTR-2B but either the invoice or the goods / services are not yet received)	(1,000)	(200)	(200)
3	4(C)	Net ITC Available for April 2023	9,000	4,800	4,800

b. For subsequent month (say, May 2023)

Sr. No.	Table Ref in GSTR-3B	Description	IGST	CGST	SGST
1	4(A)(5)	Eligible Input Tax Credit as per GSTR-2B for May 2023	12,000	4,000	4,000
2	4(A)(5)	Eligible Input Tax Credit as per GSTR-2B April 2023 not availed earlier (out of 4(B)(2) of April 2023)	800	200	200
3	4(B)(2)	Input Tax Credit not accounted in books (such ITC which is appearing in GSTR-2B but either the invoice or the goods / services are not yet received)	(1,200)	(400)	(400)
4	4(C)	Net ITC Available for the current month	11,600	3,800	3,800
5	4(D)(1)	ITC reclaimed which was reversed in previous month	800	200	200

The above is a simpliciter example of the reporting requirement. One may only imagine the complexities of maintaining such records of reconciliation over multiple months as well as for reversals under Rules 37, 42 and 43.

B) Electronic Credit Reversal and Reclaimed Statement -

In continuation to this reporting, GSTN recently issued an advisory on new functionality of “*Electronic Credit Reversal and Reclaimed Statement*”.

1. Why Electronic Credit Reversal and Reclaimed Statement is introduced?

- To facilitate the taxpayers in correct and accurate reporting of ITC reversal and reclaim thereof and to avoid clerical mistakes.
- To track the ITC that has been reversed in Table 4B(2) and thereafter re-claimed in Table 4D(1) and 4A(5) for each return period, starting from August return period.
- To facilitate that while re-claiming ITC in GSTR-3B, the amount aligns appropriately with the corresponding reversed ITC.
- Aim is to improve the overall consistency and correctness of ITC reversal and re-claims related transactions

2. How does the Reversal and Reclaim Statement work?

- Once opening balance of re-claimable Input tax Credit (*detailed at (C) below*) is reported by taxpayer, the portal will subsequently maintain a record of reversal and re-claimed amounts on a return period basis in statement.
- Validation mechanism is incorporated into the GSTR-3B form. This validation will trigger a warning message if a taxpayer attempts to re-claim ITC in table 4D(1) which is in excess of the available ITC reversal balance in the statement along with ITC reversal made in current return period under Table 4B(2).
- This warning message would facilitate accurate reporting but the taxpayers will still have the option to proceed with filing.

3. Where can the Electronic Credit Reversal and Reclaimed Statement be accessed from?

- Services → Ledger → Electronic Credit Reversal and Re-claimed Statement → Report ITC Reversal Opening Balance

C) Reporting of Opening Balance of Reclaimable ITC as a one-time activity -

An opportunity has been granted to report opening balance of ITC reversed but pending to be reclaimed on the GSTN portal as a one-time activity by 30th November, 2023.

This reporting of opening balance will be open for editing in case of any erroneous reporting done or any change in opening amount due to any other reason from 30th November, 2023 to 31st December, 2023. However, it can be edited for a maximum of 3 times only.

Fresh reporting of any balance shall not be permissible after 30th November, 2023 and the reported opening balance shall be locked for editing after 31st December 2023.

1. What is to be reported under the Opening Balance of Reclaimable ITC as a one-time activity?

- ITC which was already reversed till GSTR 3B of July 2023, but it can be claimed in future, on fulfilment of specified conditions
- ITC that was previously reversed in Table 4B(2) but is *eligible* for re-claim in future and has not yet been re-claimed is to be reported.
- In the example above, the opening balance that needs to be reported as a one-time activity shall be 1,400 IGST, 400 CGST and 400 SGST

2. Where to report the opening balance of Input tax Credit?

- Login → Report ITC Reversal Opening Balance
- *Alternative Path:*

Services → Ledger → Electronic Credit Reversal and Re-claimed Statement → Report ITC Reversal Opening Balance

It may be noted that neither the earlier Circular No.170/02/2022-GST dated 6th July, 2022 nor the GSTN advisory do not have any source in the CGST Act read with Rules prescribed thereunder. This statement not only creates additional one-time additional compliance requirement for the month but also creates certain additional issues such as -

1. What would be the treatment of input tax credit pertaining to financial year 2022-23?
 - As per section 16(4) of CGST Act, 2017, Input Tax credit cannot be taken beyond 30th November of the subsequent financial year.
 - However, interpretation of the term “taken” is not clarified under the law. Therefore, a view persists that once the input tax credit has been availed in the GSTR-3B return albeit reversed under 4(B)(2), it may be re-availed even beyond 30th November as the condition of *taking* the credit prior to 30th November is already fulfilled at the time of initial availment.
 - Accordingly, Input Tax Credit pertaining to F.Y. 2022-23 reversed but not yet reclaimed will also be carried forward as a part of the opening balance to be reported as a one-time activity.
2. What should be the treatment of Other Reversals such as reversal under Rule 37, Rule 42 and Rule 43?
 - Input Tax Credit reversed under Rule 37 of CGST Rules, 2017 on account of non-payment of consideration to supplier within 180 days forms part of temporary ineligible ITC and can be re-availed on actual payment to the supplier.
 - Therefore, such input tax credit which has been reversed on account of non-payment of consideration but pending to be re-availed will also form part of the opening balance of reclaimable ITC.
 - Reversals under Rules 42 and 43 are to be separately reported in the GSTR-3B return and therefore, the question of reporting an opening balance in this respect does not arise.
 - However, if at the time of final calculation of reversal under Rule 42 by 30th September as required by the law, it appears that an additional ITC has been reversed and the same needs to be re-availed, the same shall form part of the entire pool of ITC under “All other ITC” under Table 4(A)(5) as there is no separate reporting provided in the return.
 - In such a case, the ITC availed in that month may exceed the Input Tax Credit as per GSTR-2B for the said month plus the opening balance of ITC pending to be reclaimed. This may trigger a warning as suggested in the advisory.

Thus, it may be necessary to keep a separate repository for each category of reversal as a part of the monthly working for GST returns to demarcate the Input Tax Credit reversed and reclaimed and other reversals / availment.

D) Compliance for DRC-01C (Difference in Input Tax Credit available in GSTR-2B and ITC claimed in GSTR-3B) Rule 88D

The Government vide Notification No. 38/2023 – Central Tax dated 04th Aug, 2023 inserted the Rule 88D in CGST Rule, 2017 for dealing with difference in input tax credit available in GSTR-2B and ITC availed in GSTR-3B. This functionality vis-à-vis this rule has now started operating on the GST portal. The system now compares the ITC available as per GSTR-2B with the ITC claimed as per GSTR-3B for each return period.

- If the claimed ITC exceeds the ITC available as per GSTR-2B by predefined limits, as directed by competent authority, the taxpayer shall receive an intimation in the form of Form DRC-01C.
- Such intimation may be verified at Services → Returns → Return Compliance → ITC Mismatch DRC-01C.

- Upon receiving the intimation, the taxpayers must file a response using Form DRC-01C Part B within a period of 7 days.
- The taxpayers have the option to either provide details of the payment made to settle the difference using Form DRC-03 or provide an explanation for the difference out of the options provided in the form or even choose a combination of both options and file it.
- It is important to note that in case, no response is filed by the taxpayers in Form DRC-01C Part B, such taxpayers will not be able to file their subsequent period GSTR-1. Further, a demand may be initiated under section 73 or 74, as the case may be.

It may be interesting to note that while currently most taxpayers are dealing with notices for mismatch between GSTR-2A and GSTR-3B, going forward this may be a monthly occurrence considering the complexities and volumes involved.

Additionally, section 16(2)(ba) read with section 38 restrict input tax credit reflecting in GSTR-2B but which pertains to an invoice or debit note issued by the supplier who has defaulted on the following grounds, inter alia –

- a) Payment of tax for a certain continuous period to be prescribed
- b) Output tax payable as reported in GSTR-1 exceeds the tax paid in GSTR-3B by a certain limit to be prescribed
- c) Input Tax credit has been availed in excess of the eligible input tax credit as per GSTR-2B by a certain limit to be prescribed

Thus, Input Tax Credit shall be disallowed in the hands of the recipient for the default of the supplier. However, currently no functionality to track the defaulting supplier or identifying the input tax credit pertaining to such defaulting supplier is provided.

It appears that under the GST law, the cart pulls the horse. Clarifications or Rules or GSTN introduce newer mechanisms and procedures not prescribed under the law and subsequently, an amendment giving effect to such changes are made. Simultaneously, certain provisions of the law do not find any implementation on the GSTN or clarification for clearing the ambiguities.

While these new functionalities seek to organise and further streamline the avilment of input tax credit and may be well-intended, the ground realities are sometimes far from it.



PECULIAR ISSUES RAISED DURING GST DEPARTMENTAL AUDITS



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Tax statutes require a robust system of checks and balances to prevent revenue leakages and ensure optimal compliance. Therefore, in addition to the routine scrutiny and assessment modules and the provisions relating search, inquiry, seizure, etc., GST law also contains provisions for departmental audit of registered taxpayers.

Legal Provisions

As per section 65 of CGST Act and Rule 101(3) of GST Audit Rules, the commissioner or an officer authorized by him can conduct a GST audit to verify the details of the 'records' and the 'books of account' of the registered person, along with the assistance of the team of officers and officials accompanying him.

Upon the conclusion of the GST audit, the authorized officer shall inform the findings, rights and obligations, and the reasons for the given findings to the registered person, within a period of 30 days in FORM GST ADT-02. If the registered taxpayer is found at fault, such as wrongly availed/ utilized ITC, the authorized officer can proceed as per the procedure laid down under section 73 or Section 74 of GST Audit Rules.

We shall now discuss a few peculiar issues found in GST Departmental Audit. The queries can be briefly bifurcated into the following categories:

1. Mistakes/Technical issues in compliance
2. Alternative interpretation of statutes by department
3. Data/Formats required by department which may not be readily available in normal course

1. Mistakes/Technical issues in compliance

A majority of queries raised in observations issued by the GST department during audit relate to mistakes/technical issues in compliance such as incorrect/incomplete returns, etc.

A common issue found is that there is a difference between the figures of outward supply reflected in GSTR 1 returns as compared to those reflected in GSTR 3B returns. This may be due to a number of factors such as entry of cancelled invoices in GSTR 1 or non-consideration of credit notes etc. In this background, a comparison of GSTR 1 vs GSTR 3B becomes crucial while preparing for departmental audits and necessary explanations/technical issues may be kept ready for production before department officers.

Another common issue that seems to come up during verification of input tax credit availed by taxpayers pertains to reconciliation of GSTR 2A. There have been a few cases where, while reconciling with GSTR 2A, credit notes have been uploaded by vendors for which taxpayer has no record. These may have been either missed or disregarded. The department is taking a view that since input credit is reversed by vendor it should be reversed by the taxpayer since tax is not received by the government.

Taxpayers may keep ledger confirmations etc. ready to present before tax authorities. Additionally, reliance may be placed upon the dates on which returns containing such mismatched credit notes have been filed since especially in the initial years with extended deadlines, many cases are noticed with credit notes filed by the vendors beyond filing of annual returns by taxpayer.

Under notification no 41/2017 Integrated Tax (Rate) a taxpayer being supplier of goods to an exporter for the purpose of export supply is eligible to collect tax at the rate of 0.1% if certain conditions are fulfilled. One of the conditions mentioned in the notification is that on completion of export of the goods the recipient shall provide a copy of the shipping bill or bill of export containing invoice and GSTIN details of the supply by registered supplier to the supplier and their jurisdictional officer. It is noted that such a copy is generally given to the supplier but the requirement of informing the jurisdictional officer is either delegated by the recipient to the supplier or skipped altogether. Taxpayers may still communicate to the jurisdictional officers of the vendor since there is no time limit prescribed for such communication under the notification. However, it must be before the point is raised by the audit team.

2. Alternative interpretation of statutes by department

This being the first set of instances of scrutiny into the books of the taxpayers by the department there were bound to be many interpretational issues even in the backdrop of over half a decade of GST being in force. Some common points of difference include the consideration for certain transactions as supply, admissibility of input tax credit, comparison of time of supply/ invoicing time limit provisions vis-à-vis 26AS/ AIS/ TIS, etc.

The GST department is looking at “foreign bank charges” for taxing the same under reverse charge mechanism. In case of exporters receiving foreign remittances, a portion of the remittance receivable is deducted by the foreign intermediary bank as charges for services provided. Here, there is no contact between the exporter and the foreign bank. It is engaged by or has a connection with both the importer and exporter's banks but is not known or engaged by the exporter. There is no privity of contract between the supplier of service being the foreign bank and the recipient being the exporter. However, it is the department's contention that this transaction squarely falls within the definition of supply and being import of service is liable for tax to be paid on reverse charge. There are various judgements under the erstwhile service tax law that have concluded in favour of the taxpayer. Although few concepts and scope of supply may differ under GST regime, the rationale and approach of the judgements would be a good point of argument for taxpayers to take note and utilize.

The GST department is also looking to have input tax credit availed on branded items of marketing such as stationery, pamphlets, brochures etc

Reliance is placed upon by the department on provisions of Sec. 17(5) of the act where free goods supplied without a consideration would not be eligible for the availment of input credit. Here, the department clearly ignores the fact that these inputs are not given away freely/ without any consideration. The cost of marketing which involves the distribution of these items is duly considered and built into the sale consideration of items marketed for sale.

Some other key issues include points such as interest calculations on cash vs ITC components of liability offset, GST on corporate guarantees, demands raised under Sec. 73 vs Sec. 74, etc. A list of such contentious issues may be compiled from experience and due preparation towards defending positions must become practice during the time compliance exercises are carried out.

3. Data/Formats required by department which may not be readily available in normal course

The availability of data is the cornerstone of smooth assessments. In the early days of the GST regime, there was a lot of ambiguity with regard to requirements and applicability of various provisions. Due to this, a lot of the data required by the department in audits may or may not be readily available or in some cases be available at all. Further, in case of specific detailed requirements, the preparation of data may be time-consuming, bordering on practically impossible.

Some of the aspects looked at by the departments are listed as follows:

- a. Ratio of inwards supplies to corresponding outward supplies with percentage-wise bifurcations
- b. Workings for DRC-03s that may have been filed at various times during the respective periods or during filing of annual returns or any previous proceedings
- c. Trial balances (Including state wise trial balances).
- d. Statements/Workings for payment to suppliers within 180 days.
- e. Notes on Financial and compliance controls within the organization.
- f. Workings for identification of credits as common credits and their proportionate reversal against exempt or nil-rated supplies.
- g. Workings for receipt of consideration within prescribed time limits in case of export supplies.
- h. Notes on Cost Centers and centers of carrying out PAN-India processes for determining inter branch supplies.
- i. Workings for mapping of credit/debit notes against invoices to ensure they are within time limits.

A big issue faced in this regard is that even where data is available it is being required to be submitted in very specific formats by the department. Since audits are a time-bound process, it puts a lot of pressure on compliance teams, especially where the taxpayers are relatively unorganized/smaller to the extent of not having specific teams dedicated for compliances. A stand can be taken to submit the data in a format where it is capable of being understood and serves the purpose for which it is required for. However, convincing department officials for this remains a challenge in the face of time-limits faced by them for completion of audit process.

Departmental audits are in their nascency and hence new issues and challenges will continuously come up for sometime until the taxpayers, consultants and department officials themselves become more familiar and therefore confident about what processes would be followed and what data would be required. Until then, some good practices to follow could be:

1. Clear, written and continuous communication with the department officials regarding their requirements and data available.
2. Preparing detailed working on any contentious issues while preparing for compliances.
3. Ensuring proper compliances and timely communication of issues with all stakeholders.
4. Maintaining records of time-lines/extended time-lines or exemptions for various compliances.

5. Structuring of Master Data and putting in a strong data structure that captures various aspects of day-to-day transaction that may form part of some reporting under some compliance or may be required as proof for claiming exemptions or benefits, etc. later on.
6. Periodic health check of compliances by competent independent professionals.
7. Seeking advance rulings on controversial issues may also be an effective tool for avoiding surprises at a later date.

GST Audits are in place to stop revenue leakages. They are also playing a major role in approach of various stakeholders towards preparation and tackling GST compliances. Taxpayers and professionals need to be vigilant and make themselves aware of the prevailing issues and prepare accordingly.



EMPATHY – AN INDISPENSABLE LEADERSHIP TRAIT



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In today's fast-paced world, leadership is often associated with qualities like decisiveness, vision, and charisma. While these traits are undeniably important, there's one quality that stands out as a cornerstone of great leadership: empathy. Empathy, often described as the ability to understand and share the feeling of others, goes beyond sympathy or mere kindness, is often overlooked in leadership discussions, but it's a trait that can make or break a leader's effectiveness.

So, why is empathy so crucial for leaders? Let's explore a few key reasons:

1. **Building Trust and Rapport:** Empathy is the foundation of trust. When leaders demonstrate empathy, they create an environment where people feel valued, heard, and understood. This fosters strong relationships, enhances teamwork, and encourages open communication.
2. **Enhancing Collaboration and Innovation:** Empathetic leaders recognize and appreciate the diverse perspectives and experiences of their team members. By actively listening and seeking to understand different viewpoints, they encourage collaboration and create space for innovation.
3. **Empowering and Developing Others:** Effective leaders understand that their success lies in the success of their team. By practicing empathy, they empower and uplift their people.
4. **Strengthening Employee Engagement and Retention:** Empathetic leaders create a positive work environment that values the well-being and fulfillment of their employees.

Once we agree empathy is not just a soft; it is an absolute necessity for fostering engagement, productivity, and success in any organization, in today's dynamic world. Below are some ways to imbibe empathy in leadership:

1. **Attend To Basic Needs First**

Empathy in the hierarchy of human experiences is a higher order emotion. In order to develop empathy, you must have your survival needs met first. People are inherently driven toward needing to know they are okay and that they fit in. A company environment, where they know they are okay and fit in, allows them to work on listening. Listening to others is the key to developing empathy.

2. **Practice Emotional Intelligence; Show Vulnerability**

Showing vulnerability develops empathy for people, and companies are no different. Companies need to own up to their challenges and problems in a way that demonstrates that they are really trying.

3. **Learn Continually**

We need to be open to learning at all levels in an organization. Companies can do a better job supporting their leaders in developing empathy by creating a learning culture that breaks down stigmas that leaders must know everything. There's a great quality and humility in a leader who is willing to accept that there's room to grow.

4. Recognize Perspectives

One of the key things to discuss in situations like this is the notion of perspectives. Sometimes leaders get so caught up in believing their perspective is reality that they forget the circumstances people find themselves in.

5. Unplug And Be Present

Focusing on others and demonstrating empathy is very challenging for many leaders. It becomes even more challenging with someone who is tethered to technology or multitasking. When meeting with teammates, putting down your phone and giving them your undivided attention will help you understand and connect with them in a more powerful way.

6. Ask Open ended questions and Listen

Cultivate the habit of getting out of the office and off of email. Talk to people at the front lines and in middle management, and spend more time listening rather than talking. Ask open-ended questions: "What's working and what's not?" or "What is one thing that would make your work more effective or enjoyable?" Then listen in order to understand, rather than listening to craft a reply.

7. Ask, Reflect And Communicate

Empathy isn't about taking on the emotions and perspectives of others but more about understanding and considering them. Develop empathy in leaders by exposing them to all areas of the business, team and customer experience. Help them understand the personal and business challenges, and practice reflecting that understanding in town hall, group and one-on-one meetings. Also, show empathy for your leaders.



EVENTS IN RETROSPECT

Day & Date	Committee	Program Name	Moderator / Speaker	Attendance / Views
Friday, 13th October 2023	Capital Market Committee	Sugar - 'Cyclicality' to 'Stability'	Mr Nitin Gosar, Fund manager at BOI Investment managers	85+ participants

