



Newsflash: Summary of Recent Circulars Issued under GST

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For Circulation

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In accordance with the recommendations made by the GST Council in its 47th meeting, Central Board of Indirect Taxes and Customs has issued several clarificatory circulars on prevalent issues under GST.

The gist of the said circulars is summarized as under:

1.0 Circular No. 170/02/2022-GST

1.1 Furnishing of information regarding inter-State supplies made to unregistered persons, composition taxable persons and UIN holders

The registered persons making inter-state supplies are advised as below:

- ❖ To report the details of such inter-state supplies are made to unregistered persons in **Table 3.2** of Form GSTR 3B and **Table 7B / 5 /9 /10** of Form GSTR 1 as applicable
- ❖ To report the details of such inter-state supplies made to registered persons under composition scheme and UIN holders in **Table 3.2** of Form GSTR 3B and **Table 4A or 4C or 9** of Form GSTR 1 as applicable
- ❖ Any amendment carried out in **Table 9 or Table 10** of Form GSTR 1 or any entry in **Table 11** of Form GSTR 1 to be given effect while reporting figures in Table 3.2 of Form GSTR 3B

1.2 Furnishing of information regarding ITC availed, reversal thereof and ineligible ITC in Table 4 of GSTR-3B

The registered persons while availing ITC through GSTR 3B are advised to follow the guidelines as below:

- ❖ ITC reported in Table 4A would comprise of both eligible and ineligible ITC which gets auto populated from GSTR 2B report generated each month on the portal. This would however not include lapsed input tax credit due to non-availment within prescribed timelines and cases where ITC is not permissible due to POS provisions.
- ❖ Registered person will report absolute reversal of ITC on account of Rule 38, 42 and 43 of CGST Rules 2017 as well as ineligible ITC u/s 17(5) of CGST Act 2017 in Table 4B(1).
- ❖ Registered person will report reclaimable reversal of ITC on account of non-payment of consideration to supplier within 180 days, non-receipt of goods or services in Table 4B(2). Such ITC may be reclaimed in Table 4(A)(5) on fulfilment of necessary conditions. Further, all such reclaimed ITC shall also be shown in Table 4(D)(1).

- ❖ Table 4(B)(2) may also be used by registered person for reversal of any ITC availed in Table 4(A) in previous tax periods because of some inadvertent mistake.
- ❖ As the details of ineligible ITC under section 17(5) are being provided in Table 4(B), no further details of such ineligible ITC will be required to be provided in Table 4(D)(1).

2.0 Circular No. 171/03/2022-GST

The said circular has clarified applicability of various penal provisions under CGST Act 2017 in respect of transactions involving fake invoices. Few scenarios along with the corresponding demand and penalty provisions applicable to them have been enumerated under the said circular.

3.0 Circular No. 172/04/2022-GST

3.1 Refund claimed by the recipients of supplies regarded as deemed export

The ITC availed by the recipient of deemed export supplies would not be subjected to provisions of Section 17 of the CGST Act and is not to be included in the 'Net ITC' for computation of refund under Rule 89 of CGST Rules 2017.

3.2 Clarification on various issues of Section 17(5) of CGST Act 2017

It is clarified that proviso after Section 17(5)(b)(iii) of the CGST Act is applicable to the whole of Section 17(5)(b) of the CGST Act.

It is clarified that "leasing" referred in Section 17(5)(b)(i) of the CGST Act refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items.

3.3 Perquisites provided by employer to the employees as per contractual agreement

It is clarified that the **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.**

3.4 Utilisation of the amounts available in the electronic credit ledger and electronic cash ledger for payment of tax and other liabilities

- ❖ 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
- ❖ Electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.
- ❖ 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.

4.0 Circular No. 173/05/2022-GST

It is clarified through the said circular that the **refund of accumulated input tax credit on account of inverted structure** as per Section 54(3)(ii) of the CGST Act, 2017 would be allowed in cases where accumulation of input tax credit is on account of rate of tax on outward supply being less than the rate of tax on inputs (same goods) at the same point of time, **as per some concessional notification issued by the Government providing for lower rate of tax** for some specified supplies subject to fulfilment of other conditions.

5.0 Circular No. 174/06/2022-GST

- ❖ The said circular clarifies the manner of re-credit of amount in electronic credit ledger using Form GST PMT 03A in cases where any excess or erroneous refund sanctioned to the taxpayer had been paid back by them either on their own or being pointed by the tax officer.
- ❖ GSTN has recently developed a new functionality of FORM GST PMT-03A which allows proper officer to re-credit the amount in the electronic credit ledger of the taxpayer.
- ❖ The taxpayer shall deposit the amount of erroneous refund along with applicable interest and penalty, wherever applicable, through FORM GST DRC-03 by debit of amount from electronic cash ledger.
- ❖ While making the payment through FORM GST DRC-03, the taxpayer shall clearly mention the reason for making payment in the text box as the deposit of erroneous refund of unutilised ITC, or the deposit of erroneous refund of IGST obtained in contravention of Rule 96(10) of the CGST Rules.
- ❖ Till the time an automated functionality for handling such cases is developed on the portal, the taxpayer shall make a written request, in format Annexure-A, to jurisdictional proper officer to re-credit the amount equivalent to the amount of refund.
- ❖ The proper officer, on being satisfied shall re-credit an amount in electronic credit ledger by passing an order in Form GST PMT 03A.

6.0 Circular No. 175/07/2022-GST

- The said circular clarifies the various issues and procedure for filing of **refund claim of unutilised ITC on account of export of electricity**.

7.0 Circular No. 176/08/2022-GST

- The said circular seeks to **withdraw Circular No. 106/25/2019-GST dated 29 June 2019** which provided clarifications in relation to **refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters** when supplied to outgoing international tourist against foreign exchange.

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