



Newsflash: Summary of Recent Circulars issued under GST

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1.0 Background

In accordance with the recommendations made by the GST Council in its 48th meeting, Central Board of Indirect Taxes and Customs has issued several clarificatory circulars on prevalent issues under GST.

The gist of the few important circulars is summarized as under:

2.0 Circular No. 183/15/2022-GST

2.1 **Clarification regarding the manner of dealing with discrepancies between the amount of ITC availed in Form GSTR 3B and the amount available in Form GSTR 2A during the FY 2017-18 and FY 2018-19**

- (i) During the initial 2 years of implementation of GST, the taxpayers at large witnessed a lot of issues in reporting their outward supplies which led to non-reflecting of the same in corresponding party's auto-populated GSTR 2A reports.
- (ii) Such gaps are being identified by the departmental authorities during audits/assessments and being ascertained to be liable for reversals.
- (iii) Although the contention of the trade and industry is that the restrictions regarding availment of ITC post matching with GSTR 2A report was implemented on introduction of Rule 36(4) w.e.f. 09 October 2019. However, departmental authorities are of the opinion that availability of ITC has been subject to fulfilment of conditions under Section 16 right from the very beginning.
- (iv) The captioned circular seeks to clarify the manner for dealing with such discrepancies between ITC as per GSTR 3B vis-à-vis GSTR 2A for FY 2017-18 and FY 2018-19.
- (v) The below scenarios have been considered in the circular:
 - Supplier has failed to file GSTR 1 for a particular period but filed GSTR 3B for that same period
 - Supplier has filed both GSTR 1 and GSTR 3B for a particular period but failed to report a specific outward supply in Form GSTR 1
 - Supplier has filed both GSTR 1 and GSTR 3B for a particular period but reported the outward supply with wrong recipient GSTIN
 - Where a B2B supply is erroneously reported as B2C supply in Form GSTR 1

If the ITC is not reflecting in GSTR 2A of the recipient taxpayer owing to any of the aforesaid scenarios, in such cases, the proper officer shall obtain invoice-level details of ITC availed by the registered person in his Form GSTR 3B but not appearing in Form GSTR 2A. Further, fulfilment of conditions of availment under Section 16 shall be verified along with any need for reversal of ITC in accordance with provisions of the Act.

- (vi) To verify the fulfilment of condition of Section 16(2)(c) of the CGST Act i.e. payment of tax on the supplies by the supplier, following is clarified:

Where difference between ITC claimed in 3B and that available in 2A in respect of a supplier exceeds INR 5 lakhs

- Produce a certificate from CA/CMA certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR 3B. Certificate issued by CA or CMA shall contain UDIN which is capable of verification on the ICAI/ICMAI websites.

Where difference between ITC claimed in 3B and that available in 2A in respect of a supplier is up to INR 5 lakhs

- Produce a certificate from the concerned supplier to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B.
- (vii) As per the proviso inserted in Section 16(4) of CGST Act 2017 vide Order No. 02/2018 – Central Tax dated 31-12-2018, taxpayers were entitled to avail ITC in respect of invoices / debit notes pertaining to FY 2017-18 till the due-date of filing GSTR 3B for March 2019, subject to such details being reported by the corresponding suppliers in their GSTR 1 filed till the due-date for March 2019. The relaxations as per the circular shall not be applicable in relation to ITC pertaining to FY 2017-18 where the claim of ITC is made by the registered recipient as per the extended timelines i.e., if any ITC in relation to supplier invoice or debit note pertaining to FY 2017-18 is claimed post due-date of GSTR 3B for September 2018 and till the due-date of GSTR 3B for March 2019, ITC shall not be available if the invoice/debit note is not reflecting in GSTR 2A report basis counterparty filings till the due-date of GSTR 1 for March 2019.
- (viii) It may be noted that the circular applies only to FY 2017-18 and FY 2018-19 and only to pending adjudication (including pending appellate proceedings).

3.0 Circular No. 184/16/2022-GST

3.1 Clarification in relation to entitlement of input tax credit in case of transportation of goods to a place of outside India where the location of supplier and recipient is in India

- (i) As per proviso to Section 12(8) of IGST Act 2017, the place of supply of services by way of transportation of goods, including by mail or courier shall be the place of destination of such goods where the transportation of such goods is to a place outside India.

- (ii) Thus, where the supplier (i.e. the transporter) and the recipient (i.e. the person availing the transportation services) are both located in India, and the destination of goods is a foreign country, the suppliers have been charging IGST on the supplies in accordance with the aforesaid provision.
- (iii) There were apprehensions regarding the admissibility of input tax credit of the said services to the Indian recipient since the place of supply is not same as the state where the recipient is registered.
- (iv) It has been clarified vide the said circular that the recipient shall be eligible to avail ITC in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in the Act. It has been further clarified that the provisions of law do not restrict availment of input tax credit by the recipient located in India if the place of supply of the said input service is outside India.

4.0 [Circular No. 186/18/2022-GST](#)

4.1 **Clarification on taxability of no claim bonus offered by insurance companies and applicability of e-invoicing w.r.t. an entity**

➤ **Taxability of no claim bonus:**

- (i) It is clarified that the insured is not under any contractual obligation for not claiming insurance claim during the policy period in lieu of no claim bonus, and hence, there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s). Accordingly, No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the insurance company.
- (ii) It is further clarified that where the deduction on account of No claim bonus is provided in the invoice issued by the insurer to the insured, the same is to be considered as an admissible discount for the purpose of determination of value of supply of insurance services provided by the insurance company.

➤ **Clarification on applicability of e-invoicing w.r.t. an entity**

It has been clarified that the exemption granted to notified taxpayers from e-invoicing vide Notification No. 13/2020 - Central Tax dated 21 March 2020 (e.g. SEZ units, government department, local authorities, banking companies, financial institutions, goods transportation agency, etc.) is available to the said entities as a whole and the exemption is applicable across all supplies of goods or services made by such notified entities.

5.0 [Circular No. 187/19/2022-GST](#)

5.1 **Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016**

It has been clarified that where the proceedings have been finalized against the corporate debtor under IBC reducing the amount of statutory dues payable by the corporate debtor under CGST Act or under existing laws and where a confirmed demand for recovery has been issued in Form GST DRC 07/DRC 07 A against the corporate debtor, the jurisdictional Commissioner shall issue an intimation in FORM GST DRC 25 reducing such demand, to the taxable person or any other person as well as the appropriate authority with whom recovery proceedings are pending.

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