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# GST – OVERVIEW OF AMENDMENTS NOTIFIED W.R.T 48<sup>TH</sup> GST COUNCIL MEETING [14.01.2023]

CA VAISHALI KHARDE

(FOUNDER AND CEO OF VBK AND COMPANY)

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# OVERVIEW



Legal Amendments

Procedural amendment

Clarifications



Synopsis of 48<sup>th</sup> GST Council –Notifications

issued

AMENDMENTS –  
NOTIFIED

Reply to notices should be within time

GST Refund can be claimed by unregistered person

Amendment w.r.t Reversal of ITC in the case of non-payment of GST by the supplier and re-availment

Amendment with Respect to GST Rate – Services

Amendment with Respect to GST Rate – Goods

Other Amendment

Clarifications





Reply to notices  
should be within  
time

[Not. No.  
26/2022-CT]

# Differences to be Communicated on Online Portal

Legal Provision

- Rule 88C and FORM GST DRC-01B to be inserted in CGST Rules, 2017

Amendment

- Intimation to the taxpayer, by the common portal, about the difference between liability reported in GSTR-1 and in GSTR-3B for a tax period, where such difference exceeds a specified amount and/ or percentage,
- The taxpayer either required to pay or explain the difference.
- Restriction on furnishing of FORM GSTR-1 for a subsequent tax period if neither paid nor replied

Impact

- Prompt reply to notices related to discrepancies will be required

# Differences to be Communicated on Online Portal

Legal Provision

- Rule 59(6)(d)
  - *“(d) a registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88C in respect of a tax period, **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 deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of sub-rule (2) of rule 88C.”***



GST Refund can  
be claimed by  
unregistered  
person  
(Not. No.  
26/2022-CT

# GST Refund to unregistered buyers

Issue

- Earlier there were no procedure for claim of refund of GST borne by the unregistered buyers in cases such as cancellation of flat/house booked, cancellation of long-term insurance policy etc.

Amendment

- Now unregistered customer can claim credit if the supplier unable to adjust the liability on cancellation of contract.

Impact

- This would help unregistered buyer to claim the refund of GST in the scenario such as buyer who booked flat and cancelled after certain period

## GST Refund to unregistered buyers - Challenges

Whether unregistered buyer can able to apply for refund?

Can refund be faceless?

How to track that the supplier has not availed benefit of credit note?

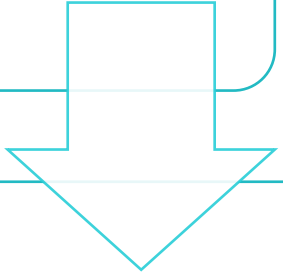
Whether payment of GST by the supplier can be verified on the basis of certificate?

# Procedure of Refund by unregistered person

(Circular No. 186/16/2022-GST)

# Procedure of Refund by unregistered person

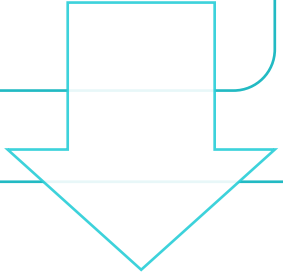
Obtain a temporary registration on the common portal using PAN with state of supplier.



Undergo Aadhaar authentication in terms of provisions of rule 10B of the CGST Rules. Further, the unregistered person would be required to enter his bank account details in which he seeks to obtain the refund of the amount claimed. `

# Procedure of Refund by unregistered person

The application for refund shall be filed in FORM GST RFD-01 on the common portal under the category 'Refund for unregistered person' with statement 8 and all required documents.



Additionally, shall also upload the certificate issued by the supplier in terms of clause (kb) of sub-rule (2) of rule 89 of the CGST Rules along with the refund application.



Amendment w.r.t  
Reversal of ITC in the  
case of non-payment  
of tax by the supplier  
and re-availment  
thereof  
[Not. No. 26/2022-CT]

## ITC reversal – Non payment to vendor within 180 days

Insertion of Rule 37A



Reversal of input tax credit in the case of non-payment of tax  
by the supplier and reavailment thereof

# ITC reversal – New Rule 37A inserted

Applicability-

- A Register Person avails ITC based on GSTR-1 filed by vendor however GSTR-3B has not been filed till the 30th day of September following the end of FY

Consequences

- the ITC is liable to be reversed on or before the 30th day of November following the end of such financial year and if not reversed same is payable with interest afterward

Reavailment

- where the said supplier subsequently furnishes the return in FORM GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in FORM GSTR-3B for a tax period thereafter.”



Amendment w.r.t  
Appeal  
Procedure  
(Not. No.  
26/2022-CT)

# Submission of certified copy of the order appealed against

Legal Provision

- Amended Rule 108 (3) and 109 CGST Rules, 2017

Amendment

- to be amended to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the appellate authority

# Submission of certified copy of the order appealed against

If OIO uploaded on portal – A Final Ack in APL-02 shall be issued by the Authority.

In such cases issue of provisional Ack shall be date of filing of Appeal

If OIO not uploaded – Appellant shall submit the certified copy of OIO within 7 days of APL-01. Then authorities will issued Final Ack in form APL-02. In such cases issue of provisional Ack shall be date of filing of Appeal

If self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.”.

## Procedure for filing appeal to the Appellate Authority

Legal  
Provision

- Substituted Rule 109 in the CGST Rules, 2017

Amendment

- Substituted to prescribe the procedure of filing of appeal to the Appellate Authority in tune with the procedure prescribed under Rule 108.

# Withdrawal of an application of appeal

Legal Provision

- Inserted Rule 109C in the CGST Rules, 2017

Amendment

- FORM GST APL-01/03 W to be inserted in the CGST Rules, 2017 to provide the facility for withdrawal of an application of appeal up to certain specified stage

Impact

- Now appeal can be withdrawn.
- This may help in reducing litigations at the level of appellate authorities.



# Amendment with Respect to GST Rate - Services

# 1. Amendment w.r.t Renting of Residential Dwellings

## Amendment w.r.t Renting of Residential Dwellings

Amended so that to prescribed that GST is not applicable if residential dwelling rented to a registered person in his/her personal capacity for use as his/her own residence and on his own account and not on account of business

# Amendment w.r.t Renting of Residential Dwellings

Sr. No	Chapter, Section, STC	Description	Rate
12.	Heading 9963 Heading 9972	<p>Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person</p> <p>“Explanation. - For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, –</p> <p>(i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and</p> <p>(ii) such renting is on his own account and not that of the proprietorship concern.”;</p>	Nil

## 2. Removal of exemption

## Removal of exemption

Sr. No	Chapter, Section, STC	Description	Rate
23A	Heading 9967	<del>Service by way of access to a road or a bridge on payment of annuity.</del> [Noti. No. 15/2022-CT(R)]	Nil



Amendment  
with Respect to  
GST Rate -Goods

## GST Rate – Change in GST Rate –Schedule -I

Sr. No.	HSN	Description	Rate
102A	2207	Ethyl alcohol supplied to refineries for blending with motor spirit (petrol) [Not. No.12/2022-CT(R)]	5%
103A	2302	“Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants [other than aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and additives, husk of pulses including chilka, concentrates including chuni or churi, khanda, wheat bran, de-oiled cake [Not. No.12/2022-CT(R)]	5%

## GST Rate – Change in GST Rate –Schedule -II

Sr. No	HSN	Description	Rate
48.	22029920	“Fruit pulp or fruit juice based drinks [other than Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice]”;  [Not. No.12/2022-CT(R)]	12%
180.	7310 or  7326	“Mathematical boxes, geometry boxes and colour boxes”  [Not. No.12/2022-CT(R)]	12%

## GST Rate – Change in GST Rate –Schedule -III

Sr. No	HSN	Description	Rate
25.	2207	“Ethyl alcohol and other spirits, denatured, of any strength [other than ethyl alcohol supplied to Oil Marketing Companies or Petroleum refineries for blending with motor spirit (petrol)]”. [Not. No.12/2022-CT(R)]	18%

## GST Rate – Change in GST Rate – Nil

Sr. No	HSN	Description	Rate
102.	2301,2302, 2308,2309	“Aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and additives, wheat bran and de-oiled cake [other than rice bran]”;  .[Not. No.13/2022-CT(R)]	Nil
102C	2302,2309	Husk of pulses including Chilka, Concentrates including chuni or churi, Khanda”. .[Not. No.13/2022-CT(R)]	Nil

## GST Rate – Change in GST Rate – Applicability of RCM

Sr. No	HSN	Description	Supplier of Goods	Recipient of Supply
3A	3301 24 00,	Following essential oils other than	Any	Any
	3301 25 10,	those of citrus fruitnamely: -	unregistered	registered
	3301 25 20,	(a) Of peppermint (Mentha piperita);	person	person"
	3301 25 30,	(b) Of other mints : Spearmint oil (ex-		
	3301 25 40,	mentha spicata), Water mint-oil (ex-		
	3301 25 90	mentha aquatic), Horsemint oil (ex-		
		mentha sylvestries), Bergament oil		
		(exmentha citrate), Mentha Arvensis		



Other  
Amendment

## Other Amendments

E-way bill is now required to be generated in case  
of imitation Jewellery (7117)

(Not. No. 26/2022-CT)

The invoice-cum-bill of supply shall contains  
particulars as specified under Rule 46 or Rule 54,  
and Rule 49 of the CGST Rules

[Rule 46A of the CGST Rules]

(Not. No. 26/2022-CT)

## Other Amendments

### Amendment in GST registration procedure (Not. No. 26/2022-CT)

- PAN to be verified with separate OTP
- Amended Rule 8(4A) of the CGST Rules to state that the application for registration shall be deemed to be complete only after the biometric based Aadhaar authentication and taking photograph of the applicant in case of an individual

## Other Amendments

### Amendment in GST registration procedure (Not. No. 26/2022-CT)

- The proper officer may cancel the registration on a request made in writing by a person to whom a registration has been granted. [Rule 12(3) of CGST Rules]

# Other Amendments

## **Rule 46(f) of CGST Rule**

- A tax invoice issued by the registered person shall contain
  - the name and address of the recipient with PIN and the name of the Statesaid address shall be deemed to be the address on record of the recipient, in case where any taxable service is supplied by or through an ECO or supplier of OIDAR or by a services to a recipient who is unregistered, irrespective of the value of such supply.

[Not. No. 26/2022-CT]



Clarifications  
issued

# 1. Clarifications w.r.t. availability of ITC not reflected in GSTR-2A

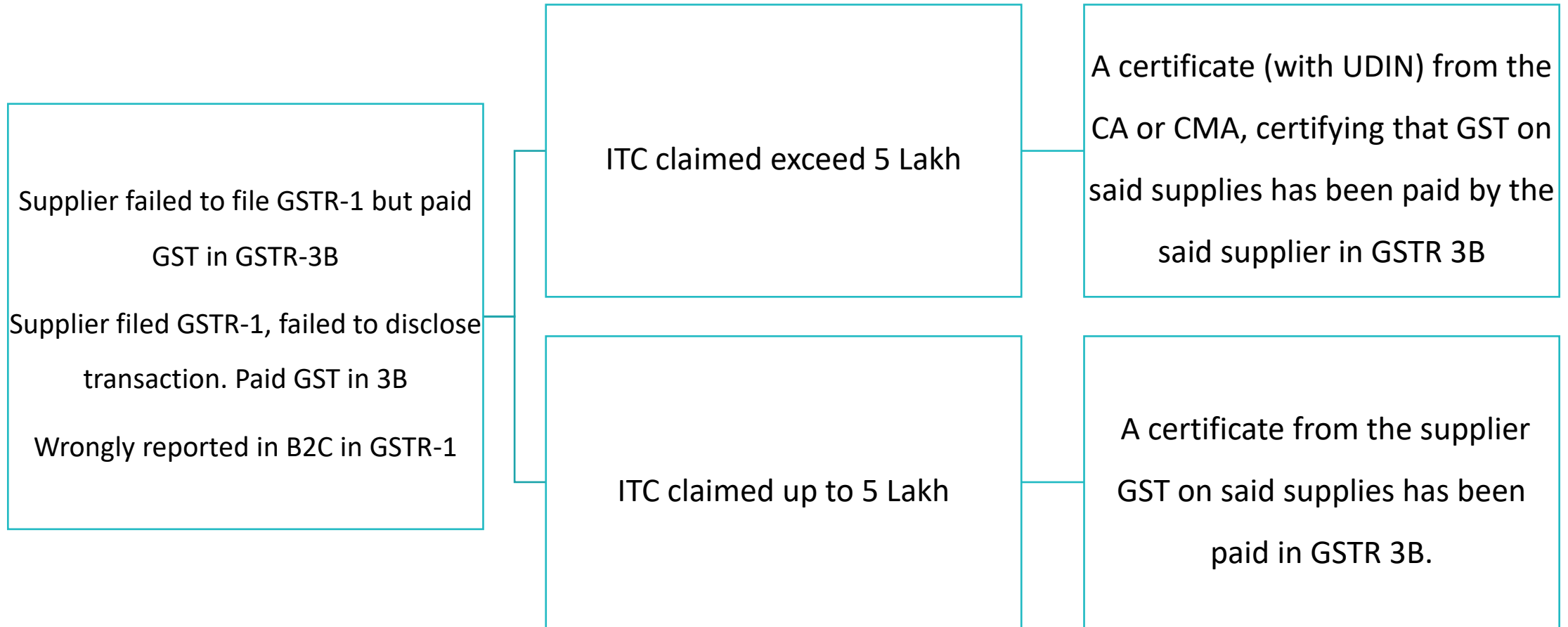
(Circular No. 183/15/2022-GST)

Clarifications w.r.t. availability of ITC not reflected in GSTR-2A

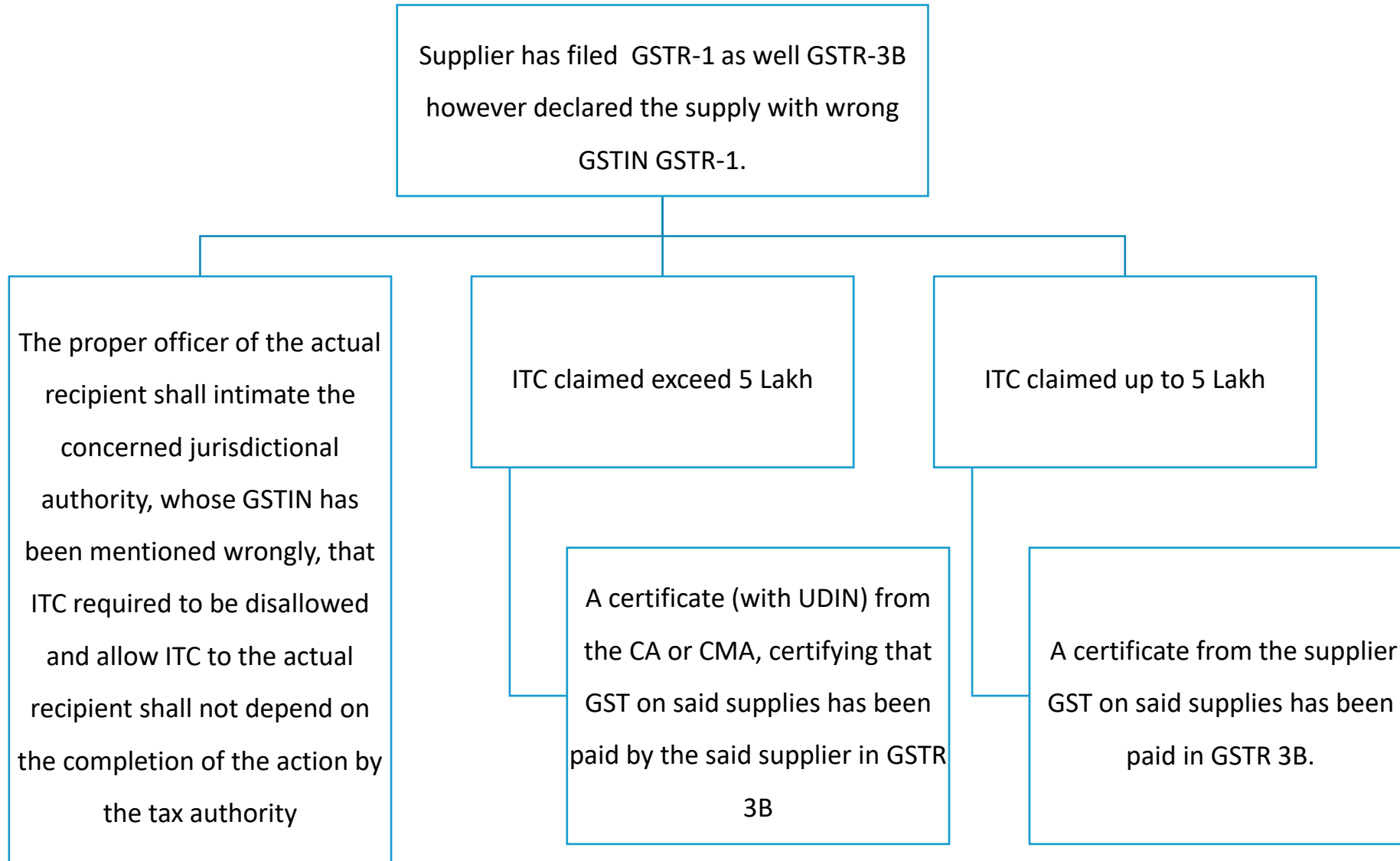
# Applicable for the period

- Financial years 2017-18 and 2018-19

# Clarifications w.r.t. availability of ITC not reflected in GSTR-2A



# Clarifications w.r.t. availability of ITC not reflected in GSTR-2A



2. Clarifications on the entitlement of ITC  
where POS determined u/s 8(12) of the  
IGST Act  
(Circular No. 184/16/2022-GST)

## Clarifications on the entitlement of ITC

Issue

- In case services by way of transportation of goods, including by mail or courier, where location of the supplier as well as the recipient of services is in India POS is POS is outside India. Thus IGST payable
- What is Availability of ITC in case of services where POS is outside India

# Clarifications on the entitlement of ITC

Legal Provision

- **Section 12 (8) of IGST Act**
- *The place of supply of services by way of transportation of goods, including by mail or courier to,—*
  - *(a) a registered person, shall be the location of such person;*
  - *(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.*
- **Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.**

# Clarifications on the entitlement of ITC – Transport of Goods outside India

What is the POS?

- the POS is the concerned foreign destination where the goods are being transported, [Proviso to section 12 (8) of IGST Act, inserted vide IGST (Amendment) Act, 2018 w.e.f. 01.02.2019.

What is the nature if supply?

- Inter-State supply and thus IGST chargeable ‘

ITC availability ?

- The recipient of service of transportation of goods shall be eligible for ITC of IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in section 16 and 17 of the CGST Act.

State code to be used?

- ‘96- Foreign Country

3. Clarification on applicability of section  
75(2) of CGST Act and its effect on  
limitation

(Circular No. 185/16/2022-GST)

## Clarification on applicability of section 75(2) of CGST Act

Issue

- What is the methodology where proper officer is required to determine the tax payable by the noticee, deeming as if the notice was issued u/s 73 (1) in cases where the appellate authority or appellate tribunal or court concludes that the notice issued by proper officer u/s section 74 (1) is not sustainable for reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax have not been established against the person to whom such notice was issued.

# Clarification on applicability of section 75(2) of CGST Act

What is the time  
for re-  
determination?

- Within a period of two years from the date of communication of the said direction by appellate authority or appellate tribunal or the court, as the case may be

How to  
recompute the  
amount payable?

- Amount of tax, interest and penalty to be re-determined, where SCN was issued within 2 years and 9 months from the due date of furnishing of annual return for the respective financial year.

## 4. Other Clarification

(Circular No. 186/16/2022-GST)

# Taxability of No Claim Bonus offered by Insurance companies

Whether the deduction on account of No Claim Bonus allowed by the insurance company from the insurance premium payable by the insured, can be considered as consideration for the supply for agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s)?

- 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) and No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the insurance company

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

Whether the exemption available from E-Invoice is qua transaction or qua entity

- Exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.



# THANK YOU



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