



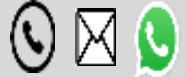
Lawgics

By Nidhi, Advocate



Serial No. 049
Dt.: 17-03-2023

In Continuation to
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Section 49(7), 49(8), 49(9), 49(10), 49(11) and 49(12) read with Rule 85, Rule 88

Section 49(7)	All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.
Rule 85(1)	<u>Electronic Liability Register</u> The electronic liability register specified under sub-section (7) of section 49 shall be maintained in FORM GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register.
Rule 85(2)	The electronic liability register of the person shall be debited by- (a) the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person; (b) the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person; (c) Omitted; or (d) any amount of interest that may accrue from time to time.
Section 49(7) read with Rule 85(1) & 85(2) Interpretation	<u>Maintenance of Electronic Liability Register</u> Electronic Liability Register records all the liabilities of the taxpayer in PMT-01 on GST Portal. This liability can be segregated into two categories: (i) Return related Liabilities, are the ones which can be shown in return are generally such as output tax liability, reversal of any ITC, Debit / credit note impact, Late fee, Interest, penalty as contained in provisions of the act and self-calculated by tax payers etc. (ii) Other than return related liability, such any amount payment due in pursuance of any order passed by proper officer, demand due to any appeal, rectification, review, revision, payment made against any show cause notice, any enquiry, investigation, enforcement or any liability towards any breach of provisions of the Act, which are not shown in Returns.
Section 49(8)	Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely: — (a) self-assessed tax, and other dues related to returns of previous tax periods;

	(b) self-assessed tax, and other dues related to the return of the current tax period; (c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.
Section 49(8) Interpretation	<u>Order of Discharge of liability</u> This Section provides that liability of self-assessed tax, and other dues related to returns of previous tax period shall be discharged first before discharging the liability of self-assessed tax, and other dues related to returns of current period tax and thereafter any other amount payable including the demand determined u/s 73 or 74.
Section 49(9)	Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both. Explanation. —For the purposes of this section, — (a) the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger; (b) the expression, — (i) “tax dues” means the tax payable under this Act and does not include interest, fee and penalty; and (ii) “other dues” means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.
Section 49(9) Interpretation	<u>Deemed passing of incidence of Tax</u> When a supplier pays the tax to the account of the Government in the authorised bank, it is deemed to have passed the full incidence of such tax to the recipient of supply. This means that by virtue of tax liability so discharged by the supplier, gives the right to claim ITC to the buyer.
Rule 85(3)	Subject to the provisions of section 49, section 49A and section 49B, payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger maintained as per rule 86 or the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.
Rule 85(4)	The amount deducted under section 51, or the amount collected under section 52, or the amount payable on reverse charge basis, or the amount payable under section 10, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.
Rule 85(5)	Any amount of demand debited in the electronic liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court and the electronic tax liability register shall be credited accordingly.
Rule 85(6)	The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order and the electronic liability register shall be credited accordingly.
Rule 85(3), 85(4), 85(5) & 84(6) Interpretation	<u>Entries in Electronic Liability Ledger</u> Any discharge of GST liability by taxpayer is reported from Electronic Credit Ledger or from Electronic Cash Ledger. Normally, Tax payments are made from Electronic Credit Ledger and in case of insufficient balance in electronic credit ledger, then liability needs

	<p>to be discharged from Electronic Cash Ledger. Payment of every liability as per the return shall be made by debiting the electronic credit ledger or the electronic cash ledger and the electronic liability register shall be credited accordingly.</p> <p>But certain liabilities cannot be discharged from credit ledger but can be discharged only from Electronic Cash Ledger, such as:</p> <ul style="list-style-type: none"> ➤ TDS or TCS deposit ➤ RCM payment ➤ Tax payment by Composition dealers ➤ Interest, Late fee, penalty ➤ Any other liability under the Act which is paid by debiting the electronic cash ledger <p>In this case, the liability is paid by debiting the electronic cash ledger and the electronic liability register shall be credited accordingly.</p> <p>Please note that if an order is passed by a proper officer resulting into demand, then demand so created shall be recovered by debiting to Electronic Liability Register and in case, Liability Register has no balance then taxpayer is liable to deposit in Electronic Cash ledger for discharge of liability of demand created by proper office. After such debit entry, if taxpayer moves further for appeal and appeal is allowed in his favour then proper officer is duty bound to credit the amount, to the extent of relief, in his Electronic Liability Ledger.</p>
Rule 85(7)	A registered person shall, upon noticing any discrepancy in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in FORM GST PMT-04.
Rule 85(7) Interpretation	<p><u>Discrepancy in Electronic Liability Register</u></p> <p>In case of any discrepancy in the electronic liability ledger, the registered person can file an application in PMT-04 to the jurisdictional officer on the GST portal for communicating such discrepancy.</p>
Section 49(10)	<p>A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for: -</p> <ol style="list-style-type: none"> a) integrated tax, central tax, State tax, Union territory tax or cess; or b) integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25 <p>in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.</p> <p>Provided that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.</p>
Section 49(11)	Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).
Section 49(10) & 49(11) Interpretation	<p><u>Transfer from Electronic Cash Ledger</u></p> <p>A registered person can transfer any amount available in form of tax, interest, penalty to any levy of IGST, CGST or SGST by filing details of such transfer in PMT-09 on the GST portal. Also, the amount available in the electronic cash ledger can be transferred to</p>

	<p>electronic cash ledger of another GSTIN based on same PAN under IGST and CGST head by filing details of such transfer in PMT-09 on the GST portal.</p> <p>It has been provided that amount available in the electronic cash ledger can be transferred to electronic cash ledger of another GSTIN based on same PAN under IGST and CGST head by filing details of such transfer in PMT-09 on the GST portal, only if there is no unpaid liability in the electronic liability register of the transferor GSTIN.</p> <p>Any amount that has been transferred to the electronic cash ledger through PMT-09 is similar to the deposit made in Electronic Cash ledger in PMT-05 on GST portal.</p>
Section 49(12)	Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.
Section 49(12) Interpretation	<p>Section 49(12) states that the Government can specify a maximum limit of output tax that can be paid using balance in the electronic credit ledger. This implies that these taxpayers cannot use ITC to pay off their entire output tax liability.</p> <p>This gives legal backing to Rule 86B. Rule 86B of CGST Rules was made effective from 1st January 2021, which restricted the use of ITC to pay an output tax liability. As per Rule 86B, applicable taxpayers with aggregate outward taxable supply (i.e., excluding exempt and zero-rated supplies) greater than Rs.50 lakhs can utilise ITC up to 99% of their output tax liability, subject to exceptions. The balance liability (a minimum of 1% of total output tax liability) must be paid by cash.</p>
Rule 88(1)	<p><u>Identification number for each transaction</u></p> <p>A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.</p>
Rule 88(2)	The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.
Rule 88(3)	A unique identification number shall be generated at the common portal for each credit in the electronic liability register for reasons other than those covered under sub-rule (2).
Rule 88 Interpretation	<p><u>Identification number for each transaction</u></p> <ol style="list-style-type: none"> 1. A unique identification number (UIN) shall be generated on GST portal for each debit or credit to the electronic cash /credit ledger. 2. UIN relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register. 3. A UIN shall be generated on GST portal for each credit in the electronic liability register for reasons other than discharge of liability.

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