

GST ALERT- JULY 2022

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“Marking the Completion of 5th year of introduction and implementation of the much awaited GST, a slew of Notifications & Circulars have been recently issued on 05.07.2022 & 06.07.2022, on the recommendations of the GST Council with a view to bring in substantial changes. This tax alert aims at giving bird’s eye view of changes brought in through the said Notifications & Circulars.”



- K.Vaitheeswaran

NOTIFICATIONS

Notification No.09/2022- Central Tax dated 05.07.2022

- Central Government appoints 05.07.2022 as the date on which Section 110 (c) & 111 of Finance Act, 2022 shall come into force.
- Section 110(c)- Inserted new sub-clause 10 to Section 49 of CGST Act, 2017 thereby permitting transfer of amounts between electronic cash ledger of distinct persons.
- Section 111- Inserted new sub-clause (3) to Section 50 CGST Act, 2017 thereby prescribing for levy of interest only on the input tax credit wrongly availed and utilized.

Notification No.10/2022- Central Tax dated 05.07.2022

- Exemption granted from filing Annual returns to registered persons whose aggregate turnover in the financial year 2021-22 is upto Rs.2 Crores.

Notification No.11/2022- Central Tax dated 05.07.2022

- The time period for furnishing statement containing details of payments of self assessed tax (in FORM GST CMP-08 of the CGST Rules, 2017) for composition tax payers for the Quarter ending in June 2022 has been extended till 31st day of July, 2022.

Change

- Notification No. 21/2019 - Central Tax [F.NO.20/06/16/2018-GST], dated 23-4-2019 (modified by adding a 5th proviso).

Amended
Notification

Notification No.12/2022- Central Tax dated 05.07.2022

- The late fees applicable for delay in furnishing GSTR-4 returns by **composition tax payers** for the Financial Year 2021-22 stands waived for the period from the 1st day of May, 2022 till the 28th day of July, 2022.
- Earlier the waiver of the late fees was applicable only till 30th June, 2022.

Change

- Notification No.73/2017- Central Tax dated 29.12.2017 substitution in 6th proviso.

Amended
Notification

Notification No.13/2022- Central Tax dated 05.07.2022

- Time limit for issuance of Order u/s. 73 of the Act in respect of Financial Year 2017-18 has been extended upto 30th September, 2023.

Change 1
w.e.f.
01.03.2020

- Period from 1st day of March, 2020 to 28th day of February, 2022 for computing the period of limitation while passing order u/s. 73(9) for recovery of erroneous refund related issues excluded.

Change 2
w.e.f. 01.03.2020

Notification No.13/2022- Central Tax dated 05.07.2022

- Period from 1st day of March, 2020 to 28th day of February, 2022 for computing time limit for filing refund application under Section 54/55 of the CGST Act excluded.

Change 3
w.e.f.
01.03.2020

Notification No.14/2022- Central Tax dated 05.07.2022

- Amends CGST, Rules 2017
- Amends Form GSTR-3B
- Amends Form GSTR- 9 & 9C
- Inserts Form GST PMT-03A
- Amends Form GST PMT-06, 07 & 09
- Amends Form GST RFD-01 & Omits Form GST RFD-10B.

CGST Rules, 2017-Amendments

Amendment to Rule 21-A

Suspension of registration deemed to be revoked after filing of default returns subject to conditions.

Amendment to Rule 43

Duty Credit Scrips to be excluded while computing aggregate value of exempted supplies.

Amendment to Rule 46

Mandatory declaration indicating availment of exemption to be made in invoices issued without Invoice reference number (IRN), whose aggregate turnover exceeds the threshold limit required for generating IRN.

Amendment

1.

- Sub-clause (s) inserted into Rule 46 by mandating a new particular while generating invoices by certain special category of registered assesseees.

2.

- The said amendment makes it mandatory for those special category of taxpayers who are exempted from generating IRN even after passing the threshold limit to make a specific declaration in the invoice indicating such kind of specific exclusion.

3.

- Declaration: *“I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule”*

Amendment to Rule 86

If erroneously sanctioned refunds are paid back by the assessee along with interest and penalty by debiting from its electronic cash ledger, then the electronic credit ledger of the said assessee will be accordingly re-credited by way of issuance of Order in Form GST PMT-03A.

Amendment

1.

- New Sub-rule (4B) inserted. New Form GST PMT-03A introduced.

2.

- If the taxpayer pays back the erroneously sanctioned refund either voluntarily or on being pointed out, the amount so paid will be re-credited to the electronic credit ledger of the assessee. However the amounts needs to be paid in Form GST DRC-03 by way of debiting electronic cash ledger. Interest & penalty, wherever applicable also requires to be paid.

3.

- The crediting to be made by the department by way of issuance of order in Form GST PMT -03A. Applies to only payment of erroneously sanctioned refunds under Section 54(3) & Rule 96 (3) in contravention of Rule 96(10).

Amendment to Rule 87

UPI and IMPS acknowledged as a valid mode for making deposits to electronic cash ledger. Also, transfer of amounts between electronic cash ledgers of distinct persons are now facilitated by prescribing specific form in GST PMT-09

Insertion of Rule 88B

Interest to be levied only in case of net liability paid using cash. Also, no interest to be levied if ITC was availed but not utilized

Amendments

1.

- In case of delayed filing of return and consequent payment of interest, the interest component is to be calculated only on the portion of tax paid by debiting electronic cash ledger if sufficient electronic credit was available at all points of time to the credit of assessee till date of actual filing of return.

2.

- In case of erroneous availment of credit, interest to be calculated only on that portion of credit availed and utilized

3.

- Date of utilization of Input Tax Credit explained.

Amendment to Rule 89

- The term 'Specified Officer' in relation to refunds on account of supplies to SEZ has been identified.
- Documents for claiming refund of ITC on account of export of electricity specifically prescribed.
- The value to be taken as export of goods value has be specified.
- Formula for claiming refund of accumulated ITC on account of exports has been amended.

Amendment

1.

- New explanation inserted after sub rule (1) - clarifying 'specified officer' to mean a 'specified officer' or 'authorized officer' under SEZ rules, 2006

2.

- Sub Rule 2 amended and New sub clause (ba) added thereby prescribing for specified set of documents for claiming refund in case of refund arising on account of export of electricity. A statement 3B has been inserted in Form GST RFD-01 to facilitate such refunds.

3.

- Value of exported goods to be lesser of the two values i.e. (a) FOB value either in Shipping Bill / Bill of export or value declared in Tax invoice or Bill of supply

4.

- The formula for claiming refund on account of accumulated ITC for inverted duty structure has been amended to consider utilization of ITC on account of inputs and services in the same ratio in which ITC was availed during the relevant tax period

Omission of Rule 95A

Supplies from Duty Free Shops (DFS) at international terminal to outgoing international passengers to be treated as exports.

Amendment

1.

- Rule 95A of the CGST Rules omitted with retrospective effect from 01.07.2019

2.

- Supplies from Duty Free Shops (DFS) at international terminal to outgoing international passengers to be treated as exports by DFS and consequential refund benefit to be available to them.

Amendment to Rule 96

- Cross matching of data furnished in GSTR-1 and shipping bill to be undertaken prior to sanctioning of refunds arising on account of export of goods w.e.f. 01.07.2017.
- Refund on account of such exports can now be subjected to further analysis of data and risk parameters prior to sanction of the Commissioner/Officer of the Board for safeguarding interest of revenue w.e.f. 01.07.2017.

Amendment

1.

- In sub rule (1) clause (b) has been retrospectively substituted w.e.f. 01.07.2019 by adding new proviso which specifies for retention of refund incase of mismatch between Shipping Bill and GSTR-1.

2.

- In sub rule (1) new sub clause (c) has been added for such deferring of refund incase the Commissioner/Officer in the Board is of the opinion that further parameters including ITC availed needs to be verified prior to sanctioning refund.

3.

- In case of withholding the refund under sub clause (a) (b) or (c) of Clause 4, the details needs to be communicated to proper officer of CGST/SGST or UTGST & exporter electronically through Form GST RFD-01 and the same will be considered as application for refund and the date of the same will be reckoned as the date of filing of refund. Sub Rule 6 & 7 has been omitted.

Amendment to Form GSTR-3B

- The form has been amended to include declaration of details pertaining to supplies made by E-commerce operators, instructions have also been modified accordingly.
- Blocked credit ITC reversal & credit reversals by Banking Company or Financial Institution details also to be included in GSTR-3B.

Amendment to Form GSTR-9 & 9C

- FORM GSTR-9 & 9C has been amended to include the amendments effected in the rules.

NEW FORM GST-PMT-03A

- New form GST PMT-03A has been introduced for facilitating re-credit of amount to electronic credit ledger in line with the amendment brought to Rule 86 .

Amendment to Form GST-PMT-06 & 07

- Form GST PMT-06 & 07 amended to include newly ratified modes of payment as per Rule 87.

Amendment to Form GST-PMT-09

- Form GST PMT-09 has been amended to facilitate ITC transfer between distinct persons in line with the amendment introduced vide Rule 87.

Amendment to Form GST-RFD-01

- Form GST RFD-01 has been modified to include FOB value details and details pertaining to export of electricity in line with the amendment made in Rule 89.

Omission of GST- RFD-10B

- Omitted with retrospective effect from 01.07.2019
- Pertained to application of refund by any Specialized Agency or UN or any multilateral Financial Institution and Organization, Consulate or Embassy of Foreign Countries etc.

CIRCULARS

Circular No.170/02/2022- GST dated 06.07.2022

- Clarifies procedure for declaring various credit details in GSTR-3B.
- Mandates that correct information is to be furnished in table 3.2 of Form GSTR- 3B case of inter-state supplies made to unregistered person, composition taxable person and UIN holders.
- The details needs to be furnished Place of Supply wise, even if it is already declared in Table 3.1 of the said form. Also Table 3.2 will be auto populated on the portal based on details furnished in Form GSTR-1. Any amendment made in Table 9 or 10 of GSTR-1 or Table 11 of Form GSTR-1 should be declared accordingly in GSTR-3B as well.

(Contd..)

Circular No.170/02/2022- GST dated 06.07.2022

(Contd..)

- Clarifies that available credit will be auto populated from GSTR-2B into Table 4A of GSTR 3B and the assessee will have to further declare permanent and temporary credit reversals in Table 4(B)(1) & (2) of GSTR-3B respectively. Thereafter net ITC will be available in Table 4(C) based on the formula $\{ 4A - [4B(1) + 4B(2)] \}$ and credited to electronic credit ledger.
- ITC not available on account of limitation and on account of recipient of intra state supply located in a different State/UT than that of place of supply are to be declared in Table 4D(2) of GSTR-3B. The same will not be auto populated from GSTR-2B.

Circular No.171/03/2022- GST dated 06.07.2022

- Aims to streamline action in case of fake invoice proceedings.

Clarifies the following:

- Incase of issuance of fake invoices without underlying supply of goods, there is no supply under S.7 of the GST Act.
- Also clarified Sections under which proceedings are to be initiated against each dealer involved in fake invoice transactions wherein multiple dealers are involved in the same line of transaction.
- Any person who has retained the benefit of the said transaction and at whose instance such transactions are conducted are also liable to be penalised under Section 122.

Circular No.172/04/2022- GST dated 06.07.2022

Clarifies that:

- The refund claimed by recipients of deemed supply is not an ITC under Chapter V of the CGST Act and the conditions attached to refund of such ITC need not be complied with.
- The proviso which mandates that ITC on input supplies which are obligatory for an employer to be provided to employees covers all the 3 supplies enumerated U/s.17(5)(b).
- The 'term' leasing used in 17(5)(b) refers only to leasing of motor vehicles, vessels and aircrafts and not any other items.

(Contd..)

Circular No.172/04/2022- GST dated 06.07.2022

(Contd..)

- **The perquisites provided by employer to employee as per contractual agreement will not be subjected to GST.**
- Payments towards output tax whether self assessed in return or payable as consequence of any proceedings instituted under GST can be made from Electronic Credit Ledger, however it cannot be utilized for any other payments such as interest, penalty, fees, erroneous refund sanctioned in cash etc. cash ledger can be utilized for said purposes.

Circular No.173/05/2022- GST dated 06.07.2022

Clarifies the following:

- Even in cases wherein the input and output supplies are the same, if rate of tax on output supply is lesser on account of operation of any concessional notification, the excess credit on inputs will be eligible for refund and will not be barred by the earlier issued clarificatory Circular No.135/05/2020. The same is subject to the condition that such goods or services are not Nil rated or fully exempted and not specifically excluded by Government for claiming refund of accumulated credit.
- The intention of earlier issued Circular is not to block refunds arising out of such instances.

Circular No.174/06/2022- GST dated 06.07.2022

- Clarification issued in line with the amendment introduced to Rule 86 by introduction of sub rule (4B) (Notification No.14/2022- CT dated 05.07.2022).
- Prescribes and clarifies the conditions and manner in which the electronic credit ledger is to be re-credited when the taxpayer pays back the erroneously sanctioned refund.
- A new Annexure-A has been introduced to Form GST DRC-03 to notify the proper officer accordingly in such instances to re-credit the amounts to electronic credit ledger, till such automated facility is made available on the portal. Order will be passed in Form GST PMT-03A by proper Officer.

Circular No.175/07/2022- GST dated 06.07.2022

- Clarifies and Streamlines the procedure to be adopted to claim refund of ITC in case of export of electricity.

Clarification Highlights:

- Refund to be filed under 'any other category'.
- Details to be uploaded in Statement 3B and not statement 3. Statement of scheduled energy for electricity exported also to be uploaded.
- Relevant date for filing refund for electricity export and formula for computing the same has been clarified.

Circular No.176/08/2022- GST dated 06.07.2022

- Withdraws Circular No.106/25/2019-GST dated 29.06.2019 which clarified Rule 95A (refund of taxes on supplies received on inward supply of indigenous goods by retail outlets at departure area of international airports).
- Since Rule 95A has been omitted, the clarificatory circular in relation to the same has also been withdrawn.

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