

GST – SYNOPSIS OF RECENT DEVELOPMENT UNDER GST

[07.07.2022]

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(FOUNDER AND CEO OF VBK AND COMPANY)

OVERVIEW



Two days GST Council Meeting
June 28 and June 29



47th GST Council – Press Release Subject to Notifications to be issued



Notifications Issued



Circular issued

KEY DISCUSSION

Amendment w.r.t levy
of interest

Amendment w.r.t
Transfer of balance in
Cash Ledger

Amendment w.r.t GST
Return

Amendment w.r.t
Cancellation of
Registration

Other Amendments
Notified

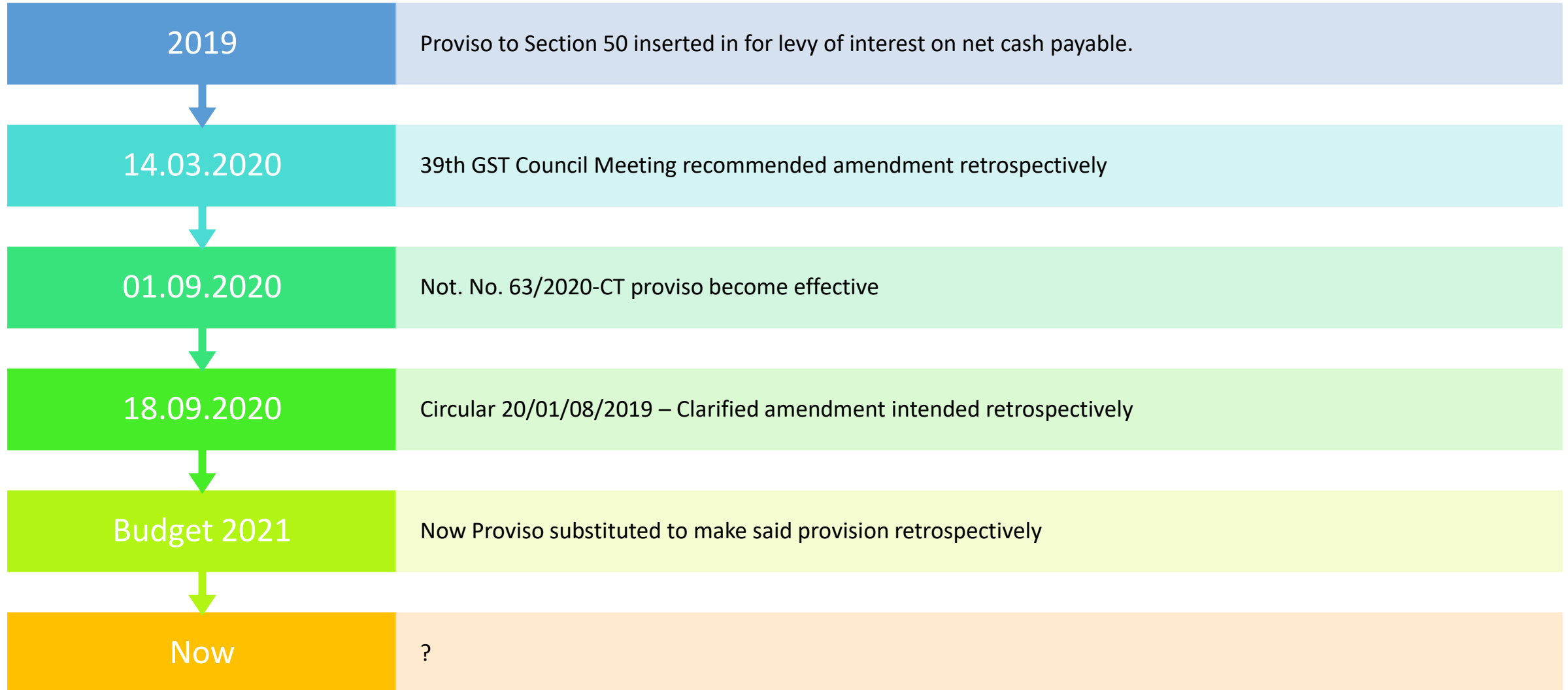




AMENDMENTS NOTIFIED

1. Amendment w.r.t levy of
interest [Not. No.09/2022-CT
and Not. No.14/2022-CT]

Interest Saga



1. Amendment in Section 50

Amendment

- Amendment of Section 50(3) of the CGST Act

Earlier

- *(3) A taxable person who makes an **undue or excess claim of input tax credit** under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty four per cent., as may be notified by the Government on the recommendations of the Council.*



1. Amendment in Section 50

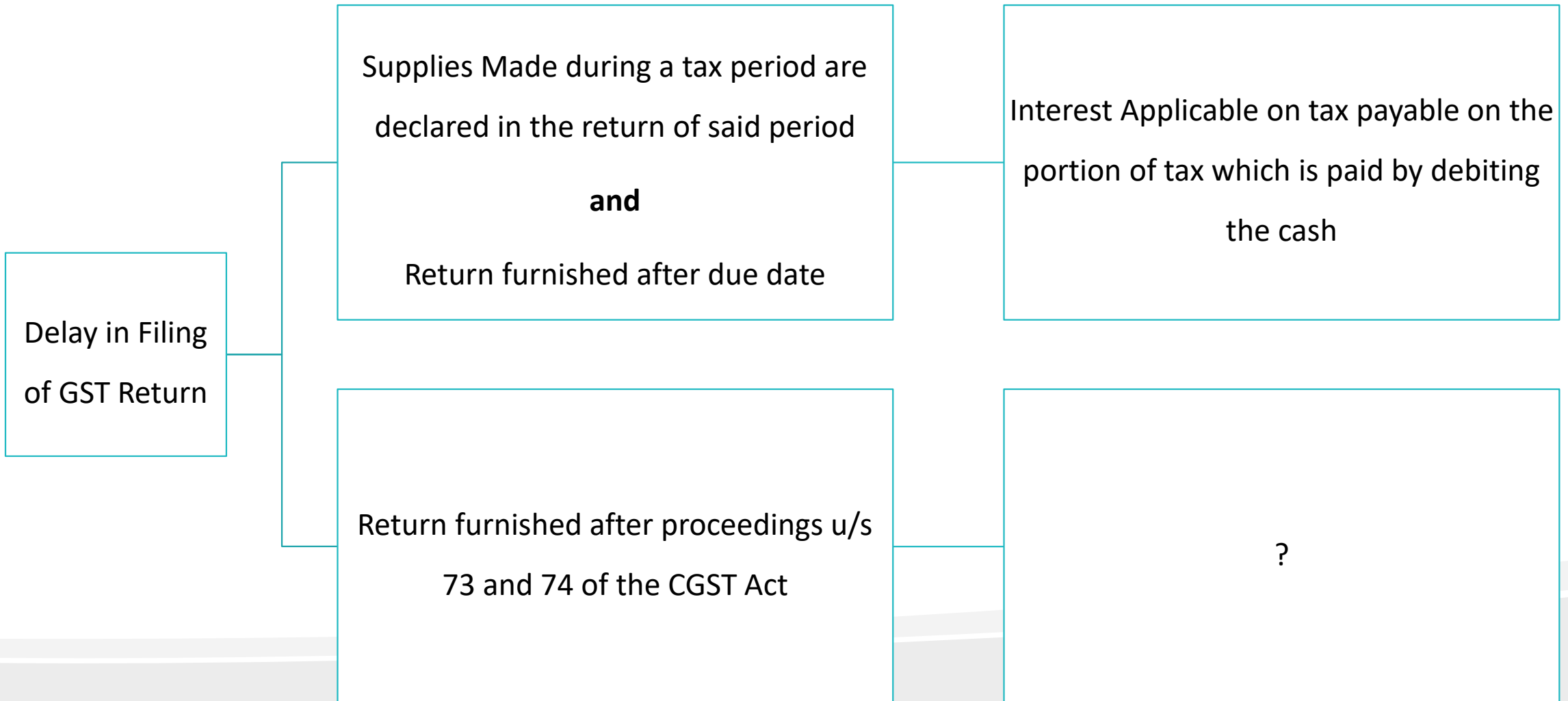
Now

- *(3) Where the input tax credit has been **wrongly availed and utilised**, the registered person shall pay interest on such **input tax credit wrongly availed and utilised**, at such rate not exceeding twenty-four per cent, as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.*

1. Amendment in Notification

Amendment	<ul style="list-style-type: none">• Seeks to amend notification number G.S.R. 661(E), dated the 28.06.2017
Finance Act 2022	<ul style="list-style-type: none">• Proposed to notify rate of interest under section 50 (3) of the CGST Act as 18%, retrospectively, with effect from the 1.07.2017.
Not. No.09/2022-CT	<ul style="list-style-type: none">• Appoints the 5.07.2022 as date to notify date on which section notified
Notification 14/2017	<ul style="list-style-type: none">• Rule 88B inserted w.e.f 01.07.2017
What is the rate of Interest	<ul style="list-style-type: none">• ?

1. Amendment in Rules – Not. No 14/2022-CT



1. Amendment in Rules – Not. No 14/2022-CT

Cases where amount
of ITC wrongly availed
and utilised

Interest is to be calculated on the amount of interest wrongly availed and utilised, for the period starting from the date of utilisation till the date of reversal of such credit or payment of tax

What is the date from which interest is to be computed? (Refer Explanation)

If payment of Tax – Due date or Date of filing of return ↑

Other cases –Date of Debit in Credit ledger



1. Key Highlights

What about retrospective
Period? (w.e.f 1.07.2017)

Provide for levy of interest
only on ITC wrongly availed
and utilized but what about
penalty

What about balance in SGST
but not in CGST and vice
versa?

What if liability of March
disclosed in the month of
May?

What if there is increase
and/or decrease in electronic
credit ledger?

2. Amendment w.r.t Transfer of
balance in Cash Ledger [Not.
No.09/2022-CT and Not.
No.14/2022-CT]

2. Amendment in Section 49

Amendment

- Substituted Section 49(10) of the CGST Act

Earlier

- *[(10) 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 integrated tax, central tax, State tax, Union territory tax or cess, 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..*

2. Amendment in Section 49

Now

- *(10) 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*
- *(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, subsection (5) of section 25, 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:*
- *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*



2. Insertion of Rule 87 (13)

Form

- *FORM GST PMT-09: [Not. No.14/2022 -CT]*

Condition

- Such transfer will not allowed if the said registered person has any unpaid liability in his electronic liability register.



2. Key Highlights

Not. No.09/2022-CT

Appoints the 5.07.2022 as date to notify
date on which section notified

Transfer of the balance of Electronic
Cash Ledger from one head to another is
allowed

Allow the transfer of balance lying in
Electronic Cash Ledger to the Electronic
Cash Ledger of distinct (Branch of same
PAN] person as per Section 25(4)/25(5)

Restriction for transferring to distinct
person is where the registered person
willing to transfer should not have
unpaid liability in the electronic liability
ledger

3. Amendment w.r.t GST Refund [Not.14/2022-CT]

3.1 Re-credit of amount of Refund

Not. No. 14/2022 -CT

- Insertion of Rule 86 (4B) of the CGST Act

Amendment

- *(4B) Where a registered person deposits the amount of erroneous refund sanctioned to him, –*
 - *(a) under sub-section (3) of section 54 of the Act, or*
 - *(b) under sub-rule (3) of rule 96, in contravention of sub-rule (10) of rule 96,*
- *along with interest and penalty, wherever applicable, through FORM GST DRC-03, by debiting the electronic cash ledger, on his own or on being pointed out, an amount equivalent to the amount of erroneous refund deposited by the registered person shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03A.*

3.1 Re-credit of amount of Refund

Not. No. 14/2022 -CT

- Insertion of Rule 86 (4B) of the CGST Act

Amendment

- *(4B) Where a registered person deposits the amount of erroneous refund sanctioned to him, –*
 - *(a) under sub-section (3) of section 54 of the Act, or*
 - *(b) under sub-rule (3) of rule 96, in contravention of sub-rule (10) of rule 96,*
- *along with interest and penalty, wherever applicable, through FORM GST DRC-03, by debiting the electronic cash ledger, on his own or on being pointed out, an amount equivalent to the amount of erroneous refund deposited by the registered person shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03A.*

3.1 Re-credit of amount of Refund

Scenario	<ul style="list-style-type: none">• a. Refund of IGST obtained in contravention of sub-rule (10) of rule 96.• b. Refund of unutilised ITC on account of export of goods/services without payment of tax.• c. Refund of unutilised ITC on account of zero-rated supply of goods/services to SEZ developer/Unit without payment of tax.• d. Refund of unutilised ITC due to inverted tax structure.
Impact	<ul style="list-style-type: none">• Enable the taxpayers to get re-credit of the amount of erroneous refund, paid back in the electronic credit ledger.• Form PMT-03A is prescribed for the recredit.

3.1 Re-credit of amount of Refund – Clarification

Impact

- Enable the taxpayers to get re-credit of the amount of erroneous refund, paid back in the electronic credit ledger.
- Form PMT-03A is prescribed for the recredit.

3.2 Inverted Duty Structure

Legal Provision

- Rule 89(5) of the CGST Rules prescribe the formula for refund claim w.r.t Inverted Duty Structure

Not. No 14/2022-CT

- Change in formula for calculation of refund
- Utilization of ITC on account of inputs and input services for payment of output tax on inverted rated supplies in the same ratio in which ITC has been availed on inputs and input services during the said tax period.

Impact

- This would help those taxpayers who are availing ITC on input services also.

3.2 Inverted Duty Structure

Revised Formula

- Maximum Refund Amount = $\{(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC Adjusted Total Turnover}\} - [\{\text{tax payable on such inverted rated supply of goods and services} \times (\text{Net ITC} \div \text{ITC availed on inputs and input services})\}]$.
- **Explanation:** - For the purposes of this sub-rule, the expressions -
- (a) "Net ITC" shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and
- ["Adjusted Total turnover" and "relevant period" shall have the same meaning as assigned to them in sub-rule (4).]

3.2 Inverted Duty Structure – Clarification - Circular No. 173/05/2022-GST

Issue

- Whether refund of ITC on account of inverted duty structure would be admissible in cases where the supplier is required to supply goods at a lower rate under Concessional Notification issued by the Government?

- Yes refund of ITC on account of inverted duty structure would be admissible in such cases

3.3 Pending IGST Refund

Legal Provision	<ul style="list-style-type: none">• Rule 96 of the CGST Act
Issue	<ul style="list-style-type: none">• Where the exporter is identified as risky exporter requiring verification by GST officers, or where there is a violation of provisions of Customs Act, the refund claims in respect of export of goods are suspended/withheld
Amendment Via Not. No. 14/2022-CT	<ul style="list-style-type: none">• Such IGST refund claims are to be transferred on the portal in a system generated FORM GST RFD-01 to the jurisdictional GST authorities for processing and also intimation is going to be send to the exporter.
Date of filing of refund	<ul style="list-style-type: none">• shall be deemed to have been filed on the date of such transmission.
Impact	<ul style="list-style-type: none">• Expeditious disposal of such IGST refund

3.4 Limitation of Time Period for Refund Claim

Legal Provision

- Section 54 and 55 of the CGST Act

Limitation Period

- 2 years from relevant date

Not. No 13/2022-CT

- Time period from **01.03.2020 to 28.02.2022** to be excluded from calculation of the limitation period for filing refund claim by an applicant

3.4 Limitation of Time Period for Order in case of Erroneous Refund

Legal Provision

- Section 73 of the CGST Act

Limitation Period

- Issue the order within **three years from the due date for furnishing of annual return for the financial year**

Not. No 13/2022-CT

- Time period from 01.03.2020 to 28.02.2022 to be excluded for issuance of demand/order (by proper officer) in respect of erroneous refunds under section 73 of CGST Act

3.5 Other Amendments

Provide for refund of unutilized ITC on account of Export of Electricity along with Required document [insertion of Rule 89 (ba) via Not .

No 14/2022-CT

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

(Rule 95A, Circular No. 106/25/2019-GST and related notifications rescinded via Not. No.

14/2022-CT)

4. Amendment w.r.t GST Return [Not. No. 14/2022-CT]

4.1 GST Return – Notification 14/2022-CT

GSTR-3B

Comprehensive changes in FORM GSTR-3B to be placed in public domain for seeking inputs/suggestions of the stake holders



GSTR-9

Exemption from filing annual return in FORM GSTR-9/9A for FY2021-22 for AATO up to Rs.2 crores. GSTR-9 is applicable for FY 2021-22 and accordingly rule has been amended

4.2 GST Return – Changes in GSTR-3B

Insertion of New table 3.1.1 w.r.t E-Commerce operator

- *(i) Taxable supplies on which electronic commerce operator pays tax under subsection (5) of section 9 [to be furnished by the electronic commerce operator]*
- *ii) Taxable supplies made by the registered person through electronic commerce operator, on which electronic commerce operator is required to pay tax under subsection (5) of section 9 [to be furnished by the registered person making supplies through electronic commerce operator];*

4.2 GST Return – Clarification for GSTR-3B – Outward Supply - Circular No. 170/02/2022-GST

Information regarding inter-State supplies made to URD, composition taxable persons and UIN holders

- Table 3.2 of GSTR-3B is required to be furnished, place of supply-wise
- Supplies to the URD -Place of supply-wise - in Table 3.2 of FORM GSTR-3B and Table 7B or Table 5 or Table 9/10 of FORM

GSTR-1

Amendment carried out in Table 9 or Table 10 of GSTR-1

- Give an effect to while reporting the figures in Table 3.2 of FORM GSTR-3B

4.2 GST Return – Clarification for GSTR-3B –Inward Supply - Circular No. 170/02/2022-GST

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

Ineligible ITC Section
17(5)

Reversal under Rule
37, 42 and 43

Temporary reversal
like 180 days

ITC not available as
per 2A [like Sec 16(4)
and POS]

Table 4B-1 (Part of
total ITC)

Table 4B-1 (Part of
total ITC)

Reversal - Table 4B-2
(Part of total ITC)
Reclaim - Table 4 (A)
(5)

Table 4D (2)
[After net ITC]

4.3 GST Return – Notified Amendment

GSTR-4

Waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22 till 28.07.2022 [Not. No. 12/2022 –CT]



CMP-08

Extend the due date of filing of FORM GST CMP-08 for the 1st quarter of FY 2022-23 from 18.07.2022 to 31.07.2022. [Not. No. 11/2022 –CT]

5. Amendment w.r.t Cancellation of Registration

Automatic Revocation of Suspension of Registration

It is observed that GST registration has been cancelled for many taxpayer on account of non filing of GST Return?

Appeals are pending before Authorities for Order received towards rejection of Revocation of cancellation of registration:

Taxpayers has not took any action after Order received towards rejection of Revocation of cancellation of registration:

Legal Provisions

NT-20/2019-CT

- Rules amended to include proviso inserted in sub rule 1

NT-15/2021-CT

- Amends Rules - Sub Rule (1)

RDO-05/2019

- Application for revocation of cancellation of registration - file by 22-07-2019

RDO-01/2020-CT

- Period of 30 days calculation for revocation of cancellation order

NT-34/2021-CT

- Partially modifies NT-35/2020-CT and NT-14/2021-CT regarding cancellation and

NT -14/2022-CT

- Automatic Revocation

Legal Provisions

CIR-95/14/2019-GST

- Verification of application for grant of new registration

Trade Notice-03/2019

- Application for revocation of cancellation

CIR-148/04/2021-GST

- SOP for extension of time limit to supply revocation of cancellation

Legal Provisions

Not.14/2022-CT –
Insertion in Rule
21A(4)

- *Provided further that where the registration has been suspended under sub-rule (2A) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29 and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns.;*

Remark

- Now, provision for automatic revocation of suspension of registration in case of non filing of return is inserted

5. Other Amendments Notified

Duty Script - Not.14/2022-CT

Amendment

- Explanation 1 to rule 43, after clause (c),

Remark

- No requirement of reversal of input tax credit for exempted supply of Duty Credit Scrips by the exporter

E Invoice- Not.14/2022-CT

Applicability

- To the taxpayer having aggregate turnover in any preceding FY from 2017-18 onwards more than the aggregate turnover as notified under rule 48 (4), however invoice is not required to be issued in the manner specified under sub-rule (4) of rule 48

Insertion of Rule 46(S) – e.g. GTA

- *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.||:‘;*

Other Amendments

Limitation under section 73 for FY 2017-18 for issuance of order in respect of other demands linked with due date of annual return, to be extended till 30.09.2023 [Not. No 13/2022-CT(Rate)

UPI & IMPS to be provided as an additional mode for payment of GST



Recommendations by 47th GST Council

Other Amendments

Waiver of requirement of mandatory registration for person supplying goods through ECOs Subject to

- The aggregate turnover on all India basis does not exceed specified turnover
- The person is not making any inter-State taxable supply

Composition tax payers would be allowed to make intra-State supply through e –commerce subject to certain conditions



Clarifications issued

1. Clarifications w.r.t. Fake
Invoices [Circular No.
171/03/2022-GST]

Clarifications Issued For

Refund under inverted duty structure where the supplier is supplying goods under some concessional notification.

Applicability of demand and penalty in case of fake invoices

Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked ITC and reversal thereof in GSTR-3B

Clarifications Issued For

Refund claimed by the recipients of supplies regarded as deemed export

Issues relating to interpretation of section 17(5) of the CGST Act

Issues related to perquisites provided by employer to the employees as per contractual agreement

utilization of the amounts available in the credit ledger and the cash ledger for payment of tax and other liabilities

Fake Invoices - Circular No. 171/03/2022-GS

A issue Invoice to B without supply – Action Against A

- No action u/s 73 and 74
- liable for penal action u/s 122 (1)(ii) of the CGST Act for issuing tax invoices without supply

A issue Invoice to B without supply and B further used credit for outward supply
– Action Against B

- Reversal of ITC along with interest u/s 50 and along with penal action u/s 74 of the CGST Act.
- No other penalty

Fake Invoices - Circular No. 171/03/2022-GS

A issue Invoice to B without supply and B further used credit for GST against fake invoice – Action Against B

- No tax by B as no supply
- ITC ineligible to B u/a 16(2)(b)
- no demand and recovery of either ITC wrongly/ fraudulently availed by 'B' in such case or tax liability in respect of the said outward transaction by 'B' to 'C' is required to be made from 'B' under the provisions of section 73 or section 74 of CGST Act.
- B' liable for penal action both under section 122(1)(ii) and section 122(1)(vii) of the CGST Act,



Certain Clarifications
Recommended to be
issued

1. Clarifications w.r.t. Services

Clarifications Recommended For

Due to ambiguity in GST rates on supply of ice-cream by ice-cream parlours, GST @ 5% without ITC on the same during the period 1.07.2017 to 5.10.2021 shall be regularized

Application fee charged for entrance or for issuance of eligibility certificate for admission or issuance of migration certificate by universities is exempt from GST.

The exemption under entry 24B of notification No.12/2017- CT (R) w.r.t. Ginned or baled fibre is being rationalized

Clarifications Recommended For

Activity of selling of space for advertisement in souvenirs published in the form of books is eligible for concessional GST at 5%.

Renting of vehicle with operator for transportation of goods on time basis is classifiable under Heading 9966 and attracts GST @ 18%. GST on such renting where cost of fuel is included in the consideration charged is being prescribed at @ 12%.

Renting of motor vehicles for transport of passengers to a body corporate for a period (time) is taxable in the hands of body corporate under RCM

Clarifications Recommended For

Services provided by the guest anchors to TV channels in lieu of honorarium attract GST

Services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF) are covered under the definition of health care services for the purpose of exemption under GST.

Services associated with transit cargo both to and from Nepal and Bhutan are covered by exemption under entry 9B of notification No. 12/2017-CT(R) dated 28.06.2017.

Clarifications Recommended For

The expression 'public transport' used in the exemption entry at SI No. 17(d) of notification No. 12/2017-CT(R), which exempts transport of passengers by public transport other than predominantly for tourism purpose, in a vessel between places located in India, means that such transport should be open to public for point to point transport [e.g. such transport in Andaman and Nicobar islands].

2. Clarifications w,r.t. GST rate on Goods

Clarifications Recommended For

Electric vehicles whether or not fitted with a battery pack, are eligible for the concessional GST rate of 5%.

All fly ash bricks attract same concessional rate irrespective of fly ash content

Stones covered in S. No.123 of Schedule-I (such as Napa stones), even if they are ready to use and polished in minor ways [not mirror polished], attract concessional GST rate of 5%.

Nicotine Polarilex Gum attracts a GST rate of 18%.

Clarifications Recommended For

The GST rate on all forms of mango under CTH 0804, including mango pulp (other than mangoes sliced, dried) attract GST at the 12%. Entry is also being amended to make this apply clear. Raw or fresh mangoes continue to be exempt.

Sewage treated water is exempted from GST and is not the same as purified water provided in S. No. 99 of notification 2/2017-CT(Rate). The word 'purified' is being omitted to make this apply clear

The condition of 90% fly ash content with respect to fly ash bricks applies only to fly ash aggregate, and not fly ash bricks. As a simplification measure, the condition of 90% content is being omitted



More Clarity awaited

Other Amendments

The GST Council re-examine the issues in its terms of reference based on further inputs from States and submit its report within a short duration w.r.t. GST on Casino, Race Course and Online Gaming



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