

**Discussion  
on  
Key Takeaways  
from  
48<sup>th</sup> GST Council Meeting**

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## Key Decisions

- Clarification on dealing with difference in ITC Available in GSTR 3B and as available in GSTR 2A for the Year 2017 - 18 & 2018 - 19
- Clarification with respect to applicability of RCM on renting of residential dwelling in case of proprietor
- Clarification with respect to Inter State Supply for mail / courier service
- Other Clarifications with respect to classification & Taxability
- Changes related to ITC Claim & Eligibility
- Dealing with differential liability in GSTR 1 & GSTR 3B
- Changes in GST Rate of Goods & Services
- Changes Related to GST Registration
- Changes related to Refund claim and eligibility by unregistered person
- Procedural Changes
- Other Miscellaneous Changes

**Clarifications  
Issued  
in  
48<sup>th</sup> GST Council Meeting**

## Clarification on dealing with difference in ITC Available in GSTR 3B and as available in GSTR 2A for the Year 2017 - 18 & 2018 - 19

### Issues

- Mechanism of matching was not available month on month basis for the year 2017 - 18 & 2018 - 19
- Rule 36(4) introduced with effect from 1<sup>st</sup> January,2022 only (Introduction of GSTR 2B)
- Different views taken at the time of audit by department and revenue para raised

## Clarification on dealing with difference in ITC Available in GSTR 3B and as available in GSTR 2A for the Year 2017 - 18 & 2018 - 19

### Situations Covered

- Filed GSTR-3B but failed to file GSTR-1 for the said tax period
- Filed GSTR-1 and GSTR-3B for a tax period but failed to report a particular invoice in GSTR-1
- Filed GSTR-1 and GSTR-3B, invoice was also correctly issued but B2B transactions was wrongly declared as B2C in GSTR-1
- Filed GSTR-1 and GSTR-3B, invoice was also correctly issued but was reported under wrong GSTIN in GSTR-1

## Clarification on dealing with difference in ITC Aailed in GSTR 3B and as available in GSTR 2A for the Year 2017 - 18 & 2018 - 19

### Procedure Proposed

- Officer will obtain all the invoices for which ITC has been availed in GSTR 3B but not reflected in GSTR 2A
  
- Officer will verify compliance of condition laid down under Section 16(4) of CGST Act
  - Possession of original Tax invoice / Debit note
  - Received Goods or Service Both
  - Recipient had made the payment towards such supply along with tax payable thereon
  
- Check for Ineligibility of ITC as per Section 17 & 18 of CGST Act

## Clarification on dealing with difference in ITC Available in GSTR 3B and as available in GSTR 2A for the Year 2017 - 18 & 2018 - 19

### Procedure Proposed

Difference of ITC in respect of a supplier upto Rs. 5,00,000/-	Difference of ITC in respect of a supplier exceeds Rs. 5,00,000/-
<p>Produce Certificate from <u>Supplier</u> stating that</p> <ul style="list-style-type: none"><li>- Supply is actually done</li><li>- Tax is paid on such supply under GSTR 3B filed for the period</li></ul>	<p>Produce Certificate from Chartered Accountant / CMA of Supplier stating that</p> <ul style="list-style-type: none"><li>- Supply is actually done</li><li>- Tax is paid on such supply under GSTR 3B filed for the period</li></ul>

Individual Certificate for each such difference

Certificate issued by CA / CMA with UDIN for verification by authorities

## Clarification on dealing with difference in ITC Availed in GSTR 3B and as available in GSTR 2A for the Year 2017 - 18 & 2018 - 19

### Non Applicability of Circular

- It will not apply in case where supplier had claimed ITC for the Financial Year 2017 - 18 in GSTR 3B filed for October,2018 to March,2019 (Extended period till filing of GST Annual Return) and supplier had not reported such invoice in GSTR 1 filed till due date of March,2019
- These instructions will apply only to the ongoing proceedings in scrutiny, audit, investigation for FY 2017-18 and 2018-19 and not to the proceedings where the taxpayer has paid the taxes and concluded the same.

However it will apply where any adjudication or appeal proceedings are still pending



## Clarification with respect to applicability of RCM on renting of residential dwelling in case of proprietor

### Issue

- With effect from 18<sup>th</sup> July,2022 if any residential dwelling is taken on rent by a registered person for the purpose of residence than it is subject to RCM in the hands of registered person
- Proprietor registered with GSTIN on individual PAN, taking residential dwelling on rent for the purpose of residence falling under the RCM even in the case where it is not in the course of furtherance of business

### Clarification

- In case of proprietor taking a residential dwelling on rent for the purpose of other than business than same is excluded from the applicability of RCM

## Clarification with respect to Inter State Supply for mail/courier service

### Issue

- Determination of Place of Supply where transportation service provider and receiver is located in India and destination of goods are outside India.
- As per Section 12(8) where Supplier of Service & Recipient of Service located in India, place of supply shall be
  - In case recipient is registered person place of recipient
  - In other case location at which such goods are handed over for the transportation
- With effect from 1st February,2019 a proviso inserted to Section 12(8) of IGST Act in case of transportation service
  - If Supplier of Service & Recipient of Service located in India
  - Goods are moving from India to place outside India

Place of Supply shall be destination of Goods i.e. foreign country

## Clarification with respect to Inter State Supply for mail/courier service

### Clarification

- It will be consider as Inter state Supply of Service and IGST will be charged
- Recipient of service shall be eligible to avail ITC
- While filing of GST return by supplier of service State code shall be selected as 96-Foreign Country

## Classification of By-products of milling of Dal/Pulses such as Chika, Khanda and Churi/Chuni

### Issue

- Its taxability was determine based on end use and therefore issues arising with respect to classification and its tax liability

### Clarification

- Irrespective of its end use said goods shall be exempt from the GST

## Classification of Snacks pellets manufactured through extrusion process (such as 'fryums')

### Issue

- Raw Snack Pellets classification as Papad attracting GST Liability at NIL Rate earlier and than from 18<sup>th</sup> July,2022 it was subject to 5% of GST
- Processed Snack Pellets classification as savoury or salted products it was attracting 12% GST
- Issue of GST Classification based on the process adopted and the form of material generated

### Clarification

- Snack Pellets which are manufactured through the process of extrusion (HSN Code 19059030) shall have GST 18%

## Classification “Rab” & GST Implication

### Issue

- Khandsari molasses or lauta gur is presently exempt from GST
- Issue of GST Classification of Rab including Rab Galawat and Rab Salawat

### Clarification

- It is clarified that it will attract GST @ 12%

## Clarification on Applicability of Compensation Cess on SUV

### Clarification

- All the SUV fulfilling following conditions and falling under heading 8703 will attract compensation cess @ 22%
  - Engine Capacity Exceeds 1500 CC
  - Length exceeds 4000 MM
  - Ground Clearance is 170 MM and above

## GST on Accommodation service by Air Force Mess to its personnel

### Clarification

Such service provided to any person other than a business entity are to be considered as Service supplied by Central Government, State Government, Union Territory or local authority and hence exempt from GST

## GST on Incentive paid by MeiTY under incentive scheme for promotion of RuPay Debit Cards and low value BHIM Transactions

### Clarification

Such service are in the nature of financial subsidy and not taxable under GST



## GST on No Claim Bonus by Insurance Company

### **Clarification**

It is clarified that No Claim Bonus is benefit received to policy holder for non-claiming any claim against policy; cannot be considered as a consideration for any supply provided by the insured to the insurance company and therefore while determining taxable value for the insurance premium same shall be reduced from total insurance premium.

Clarification is with respect to valuation of the taxable value for the insurance company where no claim bonus amount is adjusted



**Compliance Provision Changes  
in  
48<sup>th</sup> GST Council Meeting**

## Reversal of ITC on non Payment to Suppliers (Rule 37)

- Second Proviso to Section 16 requires reversal of ITC on account of failure to make payment to the supplier within period of 180 days from the date of issue of invoice
- Concerns were raised with respect to case where only part payment is pending toward entire invoice
- Amendment is done to reverse only proportionate ITC to the extent of unpaid amount to supplier

## Reversal of ITC in case supplier fail to pay Tax in GSTR 3B and Reclaim of such ITC once tax is paid (Rule 37A)

- Where any supplier file GSTR 1 for the period but fails to pay tax under GSTR 3B till 30<sup>th</sup> November from the end of year in which such period falls, than recipient of such supply need to reverse such ITC
- At the time of reversal recipient required to reverse ITC with interest applicable on such ITC for the period
- Such reversed ITC can be reclaim once supplier pay the tax in GSTR 3B for the said tax period

## Dealing with difference in liability reported in GSTR 1 & GSTR 3B

- Where liability as declared in GSTR 1 exceeds total amount paid in GSTR 3B than pursuant to Rule 88C liability declared in GSTR 1 becomes deemed liability
- Proper officer will issue DRC 01B Part A to discharge such liability with interest thereon or reply for the reason of difference in part B within 7 days of notice
- Registered tax person shall not allow to file GSTR1 after issuance of DRC 01B Part A unless reply is submitted or tax is paid within given timeline

## Other Compliance Changes

- Mandatory E-Way bill required to be generated in case of movement of Imitation Jewellery
  
- E Invoice will apply to entity as whole and not only to specific transaction i.e. when any person is exempted from the applicability of e invoices than such exemption is for all the supplies made by such registered person and not restricting to specific supplies
  
- Separate disclosure of following items by E commerce operator while filing GSTR 1
  - Supplies on which E Commerce is liable to collect tax - TCS
  - Supplies on which E Commerce is liable to pay tax – Tax Liability



**GST Rate Changes  
in  
48<sup>th</sup> GST Council Meeting**



## Broadening Scope of RCM Applicability

- Following additional entry is added in Reverse charge mechanism in case of supply of goods

HSN Code	Product Description	Supplier of Goods	Recipient of Goods
3301 25 90	Mentha arvensis	Any Unregistered Person	Any Registered Person

**Date of Applicability:- 1<sup>st</sup> January,2023**



## Change of Rate of Tax on following products

Product Description	Earlier Rate	Revised Rate
Husk of pulses including Chilka, Concentrates including chuni or churi, Khanda	5%	NIL
Fruit pulp or fruit juice based drinks [other than Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice]	18%	12%
Ethyl alcohol supplied to <u>Petroleum refineries</u> for blending with motor spirit (petrol)	5%	18%
Pencil Sharpeners	12%	18%

**Date of Applicability:- 1<sup>st</sup> January,2023**



**Procedural Changes  
in  
48<sup>th</sup> GST Council Meeting**



## Changes related to GST Registration

### ( Pilot Project implementation for Gujarat)

- Implementation of Biometric-based Aadhar authentication along with verification of the original copy of other documents uploaded with the application for registration
- Additionally Risk-based physical verification of the premises of the applicant will be carried out as per requirement
- Contact details like Mobile Number & Email ID will be fetched directly from the CBDT Portal at the time of GST Registration application & conducting OTP based verification

## Clarification on Computation of Limitation Period

### (Section 73 vs Section 74)

#### Time period to issue order for re determination of liability

Proper officer is required to issue the order for re-determination of tax, interest, and penalty 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

(Applicable where Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable with respect to charges of fraud or any wilful-misstatement or suppression of facts to evade Tax has not been established )

- SCN for such cases falling under Section 73 (1) should be issued within period of 2 Years and 9 Months from the date of annual return filing for the year and not invoking extended time period of 4 Years and 6 Months as applicable in case of Section 74(2)

**Provisions for Claim of Refund by  
Unregistered Person  
in  
48<sup>th</sup> GST Council Meeting**

## Eligibility of Refund

- Contract for Construction of Flat/Building cancelled
- Long-term Insurance policy is terminated (Single Premium paid Upfront)

However no refund application filing is required when time period to issue credit note is not expired, in such cases supplier can issue credit note to the unregistered person and can reverse the GST Liability paid earlier

## Time Period for filing Refund

Two years from the date of issuance of letter of cancellation of the contract/ agreement for supply by the supplier will be considered as the date of receipt of the services by the applicant

## Documentation required for claiming refund

- Copy of Invoices issued by supplier and payment proof related thereof
- Copy of agreement or contract entered with the supplier
- Letter issued by the supplier for cancellation or termination of agreement or contract
- Details of payment received from the supplier against cancellation or termination along with proof
- Details of Statement 8
- Certificate issued by the supplier to the effect that he has paid tax, has not adjusted the tax amount

## Procedure for claiming Refund

### ➤ Step I

Temporary Registration on GSTIN using PAN and aadhar authentication

### ➤ Step II

Filing Refund application in RFD 01 under category “Refund for unregistered person”

For all different suppliers individual refund application filing required





**Other Changes  
in  
48<sup>th</sup> GST Council Meeting**



- Allow to update Electronic Cash ledger based on E Scroll generated by RBI matching with challan details in PMT 06
- In case of IBC Proceedings, recovery shall be intimated for the reduced statutory dues. Jurisdictional Commissioner will have power to initiate such proceedings
- Any taxable service is supplied by or through an Electronic Commerce Operator or by a supplier of OIDAR to an Unregistered Person, irrespective of value of supply, the Tax invoice shall contain following details:
  - Name and address of the recipient
  - PIN Code and the name of the State

**THANK YOU**

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