



# NEWS LETTER

2023 June

Issue 6

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## FROM THE CHAIRMAN'S DESK

Esteemed Professional Colleagues,

Warm Greetings and Best Wishes.

I am pleased to communicate with you through this E-Newsletter of our Branch.

During the month of May 2023 we organized a One Day Seminar in which CA. Himanshu Kishnadwala & CA. G. Saravana Kumar addressed the Members. CPE Study Circle Meetings were also held in which CA. S. Ramaprabha, CA. Maalan Bharathi & CA. M. S. Nagaraj addressed the Members. I thank all the faculty Members for sparing their time and sharing their knowledge. I am glad to share with you that a team of Members of our Branch participated in the Pancha Bootha Cricket Tournament organized by the Palakkad Branch of SIRC of ICAI at Palakkad. It was a great experience playing with the Cricket teams from Salem, Erode, Palakkad and Tirupur Branches of SIRC of ICAI.

I would like to inform you that a Week-Long Refresher Course on Direct Taxes will be held in the month of June at our R. S. Puram premises, detailed program invitation will be circulated kindly participate in all the Seminars. As you are aware, 21st June is the International Yoga Day, kindly join us in the Yoga Day Celebrations to be held at our Thudiyalur Branch premises. Yoga being an ancient physical, mental and spiritual practice that gives people peace, the confidence and courage to do many activities more effectively. At all levels of existence, it is a state of harmony a holistic approach to health and well-being. Do spare your time and participate, the details of the program will be shared.

I am glad to inform you that the most awaited and one of the best programs of our Branch, the Residential Refresher Course organized every year at Karl Kubel Institute for Development & Education (KKID) is to be held on 10th & 11th June 2023 at KKID, Maangarai, Coimbatore. As in practice in the entire program will be designed by the Course Director CA. V. Ramnath and coordinated by past Chairmen of our Branch CA. M. P. Panneerselvan, CA. K. P. Gobinath and CA. N.V. Palanisamy. At this juncture, I would like to express my sincere gratitude to CA. V. Ramnath for his valuable contribution for the continuous success of the KKID RRC program.

This Year the Chartered Accountants Day - 1st July 2023 - is a very special one as The Institute of Chartered Accountants of India enters into its 75th Year of glorious existence. Many programs are being planned and will be shared with you at the earliest. I earnestly request you all to take active participation in all the events with your students and family Members. The Profession has been expanding globally and we are being looked upon with more expectations with professionalism. Opportunities are increasing tremendously while Challenges are growing immensely; Let's hold the perseverance to give our best to build a great nation.

I thank all the Members for registering and participating in all the events organized under the Annual Seminar Series 2023 and look forward to the continuous support and cooperation of my fellow professionals in all our future endeavors.

With Best Regards,  
**CA. D. Nagakumar**  
Chairman



Bulletin Editor :  
**CA. R. Harish**

# ONE DAY CPE SEMINAR



# STUDY CIRCLE MEETINGS



# PANCHA BOOTHA CRICKET TOURNAMENT





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## SHAREHOLDER VALUE - THE PRIMARY CORPORATE RESPONSIBILITY

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WHEN I begin an article on shareholder value and corporate profits, it would be highly irresponsible on my part to not quote Milton Friedman, the free-market capitalist that significantly impacted the way corporate America perceived business. Hence, the most famous quote of his aptly finds its place in the beginning of the article: "There is one and only one social responsibility of business-to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud", which not-so-coincidentally was the conclusion of his controversial NYT article.

In the age of a "regulatory" regime of governments over their economies, the corporate executives are torn between maximizing corporate profits and causing positive impact in their community, and rightly so. While one could argue today that a business that only makes money and contributes little to the society causes more harm than good to the society, the counter argument that it is redundant for a for-profit enterprise to not have profits as its primary objective exists and is equally true, if not more.

While I subscribe to the latter, I personally believe that a significant portion the excess returns over the cost of equity capital generated by a business must rightly find its place in sustainable elevation of the living standards of the community (by location and impact). This duality is the very reason why we have the principles of ESG- to focus beyond financial performance and ensure long-term sustainable growth (of the business and the society).

Having addressed the duality in business responsibilities, I would like to leave the ethical

dilemma of profits vs society and finding ways to align these responsibilities as something for the readers to ponder upon. So, in the context of ESG, leaving the E and the S of ESG to the contemplation of the readers (and for subsequent articles), let me proceed to the G in ESG- exploring in-a-nutshell how shareholder value is the primary (not ultimate) responsibility of a corporation and its interplay with corporate governance.

**Shareholder Value**, in the context that is relevant here refers to the worth of the common stock of the company (the Shareholders' Funds), and the concept of shareholder value maximization (something all of us are already familiar with).

The advent of a business enterprise is undertaken by an individual with the intention of earning disproportionate returns on his resources being money, time, skill and knowledge. This stands true even for a corporation, irrespective of whether it is a public corporation or a closely held private enterprise. In such a pursuit of such economic wellbeing, profit (not earned unethically and earned within the rule of law) trumps other objectives.

The goal of shareholder value maximization in a family/ entrepreneur owned and operated enterprise is driven to an extent by self-interest, where the ownership and management vest with the same persons. On the other hand, in large public companies, where the ownership is separated from management, the principles of agency drive the goal of shareholder value maximization, and successful enterprises go one step further, emphasizing on strategic long term value creation.

Respectable enterprises that are known for being great investments and employers and meaningful producers have built such reputation by creating an



environment that aligns the profit objectives of the company and its social responsibilities with an unwavering focus on wealth creation.

Although there is no legal duty requiring the board/management to maximize the shareholder value, since the board is appointed by the shareholders to run the company on behalf of them, the board effectively becomes the agent that acts in the best interest of the principal.

The socially conscious corporations have the resources to act in a socially conscious manner. They have generated enough wealth to be able to forgo/employ returns that belong to the shareholders in the interest of other stakeholders whose contributions and support are imperative for the company to ensure long-term sustainable value creation.

In a large, public corporation that is not controlled by the owners of the enterprise, the management has a fiduciary responsibility towards the shareholders since the primary capital employed in the business run by the corporation is that of the shareholders of the company. It is because of this fiduciary relationship between the management and the owners that the principles of corporate governance were laid down by organizations such as the OECD.

These principles lay down the requirements of corporate governance practices that emphasize on transparency, accountability and responsible decision making in the management of corporations. Emphasis on maximization of shareholder value through sound business decision making and robust corporate governance practices is relevant today more than ever owing to the significant number of enterprises that are established with external funding, where once again, management and ownership are detached.

The G20/OECD Principles of Corporate Governance states that 'The purpose of corporate governance is to help build an environment of trust, transparency and accountability necessary for fostering long-term investment, financial stability and business integrity, thereby supporting stronger growth and

more inclusive societies'. Now, how does this concern us? Although the central theme of the article is shareholder value maximization, the purpose of this article is to remind us all once again about our roles and responsibilities towards the same objective.

While the responsibility of the management towards shareholder value maximization is straightforward, the relationship that we, chartered accountants have with shareholder value is complex, thanks the various hats we wear, when serving our corporate clients.

As the independent auditors of a corporation, we are the first line of defense (although a delayed one) against corporate frauds. Auditors play a key role in ensuring that the company has sufficient safeguards in place to protect the wealth of the shareholders, while also providing an assurance that the management is transparent in all respects with their reporting to the shareholders. Auditors also reduce the risk of mismanagement by holding the management accountable for their actions, irrespective of whether they are acting on their own accord or as agents of the owners, in decision making.

Independent auditors, like the board, are appointed by the shareholders of the company to ensure that the management of the company is held to the highest standards of accountability. Consequently, we address our reports "To the members of the Company..." and we independently assess the functions and components of the company that are related to the financial performance and reporting of the entity, which directly affect the shareholder value.

Further, independent auditors not only review and report on the corporate governance practices of an entity, but also play an integral role in evaluating and implementing effective internal control mechanisms that ensure the integrity and effectiveness of corporate governance practices.

The reason why the regulators emphasize on corporate governance and issue specific corporate governance guidelines and regulations is that



robust corporate governance practices is the key to preventing financial disasters. Strong corporate governance can identify risk factors and handle the same before they escalate into disasters. Hence, it is only fair that independent auditors of the company are held responsible for ensuring that the "Company has complied with the conditions of Corporate Governance".

The conduct and expertise of independent auditors are now closely scrutinised by both regulators and investors, who are placing, on auditors, increasing responsibilities for identifying and reporting frauds in light of increasing business complexities and the serious impact corporate frauds can have on the overall economy. As a result, auditors and professional auditing bodies have committed to improving the quality of audits and enhance standards of reporting by the companies.

Independent auditors have the highest benchmarks, when it comes to integrity and responsibilities because the extent of trust and reliability placed upon us by shareholders and other stakeholders of a company.

All these factors combined, make independent auditors the custodians of financial integrity and defenders of investor confidence.

Professional managers elected to the board of directors of a company or the C-suite are directly responsible for ensuring maximization of shareholder value, while strategically mitigating risks since the operational duties vest with them.

It is common for large, public corporations and companies that are established with external capital to have professional managers at the helm of operations, more than family/ entrepreneur owned and operated enterprises. It is mainly because institutional and activist shareholders demand high standards of corporate governance that require professional management expertise and independence in decision making, not influenced by conflicts of interest. The size and complexity of the business and the industry also require professional management.

Professional managers ultimately act as agents of

the shareholders, operating the company with the best interest of the shareholders in mind. They are responsible for maximizing long term shareholder value by drafting and executing strategic plans and building a strong corporate culture that achieves sustained financial growth and improves the accountability of the management. They are also responsible for compliance with applicable laws and regulations, especially reporting requirements and corporate governance standards.

Other than companies that are large, complex and operate in a highly regulated industry, companies that value stakeholder relationships and have a long-term orientation, prioritising sustainable growth recognize the value of professional management. Investors value professionally managed companies higher because of a certain level of independence and the high standards of corporate governance that professional managers are able to bring to the management.

In the book, 'Economics in One Lesson', Henry Hazlitt elucidates the function of profits to be threefold- act as an incentive to entrepreneurs to create valuable products; encourage efficient utilization of resources and avoiding wastage; drive quality and affordability of goods and services.

While many parameters of evaluation of an enterprise exist, in the modern corporate environment, Return on Equity has become the most significant metric upon which business performance is evaluated. It is so because, the world we live in today provides countless destinations for money to be stored and multiplied and the logical choice is the destination that multiplies it the most, with little risk of losing it. Although companies that score well in that metric thrives in the short-run, corporations that prioritize responsible social behaviour and robust corporate governance practices, looking beyond the bottom have always stood the test of time, creating winning products and the best leaders.

Having seen the oversimplified version of the 'primary' corporate responsibility, let us dive deep into ESG and corporate profits, and the role of professionals in the upcoming months.





## LATEST AMENDMENTS AND CRITICAL ISSUES IN GST

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### GST Collections trend from 2017



**SHALL WE CELEBRATE ON THIS COLLECTION?**

**SHALL WE CONCLUDE THESE INCLUDE REAL COLLECTIONS**

### Amendments in 49<sup>th</sup> GST Council Meeting

#### GST Appellate Tribunal

- Recommended in 49<sup>th</sup> GST Council and brought in Finance Act – Section 109
- The jurisdiction, powers and authority conferred on the tribunal shall be exercised by the principal bench in New Delhi and the State benches in the respective States
- Principal Bench shall comprise of – A president, One Judicial Member, One Technical Member – Centre and One Technical Member – State
- State bench shall comprise of – Two judicial Members, a Technical member – Centre and a Technical Member – State
- The principal Bench and State benches shall hear appeals filed against the orders of appellate authorities and revisional authorities.
- Cases relating to place of supply shall be heard by the principal bench

#### GST Appellate Tribunal

- Cases where the tax or input tax credit involved or the amount of fine, late fee or penalty determined does not exceed Rs. 50 L and which does not involve any question of law – Be heard by a single member with the approval of president and subject to such conditions as may be prescribed
- All other cases – Shall be heard by one judicial member and one technical member
- If after hearing the case, the Members differ in their opinion on any point or points, the president shall refer such case for hearing
  - To another member of a state bench within the state or where no such other state bench is available within the state, to a member of a state bench in another state;
  - Where the appeal was originally heard by members of principal bench, to another member from the principal bench or where no such other member is available to a member of any state bench.

#### One time amnesty for RC cancelled cases – Notification No 03/2023 dt 31.03.2023

\*A registered person whose registration has been cancelled for the reason of not filing his GST returns for continuous period of six months or two quarters in case of person other than composition person or beyond 3 months from the due date in case of composition persons, but failed to apply for revocation of cancellation within the statutory time limit prescribed in sec 30 shall follow the below stated special procedure for revocation.

- Apply for revocation on or before 30.06.2023
- Revocation shall be applied only after filing all the returns due up to the effective date of cancellation of registration and after paying tax + interest + late fee + penalty if any levied
- No further extension shall be available in above cases.

#### One time amnesty for RC cancelled cases – Notification No 03/2023 dt 31.03.2023

\*Cases covered for this purpose:

- Cases whose RC has been cancelled but revocation is not filed
- Cases whose application for revocation has been rejected for the reason of failure to adhere to the time limit for application for revocation
- Cases where the taxable person has appealed against the order of cancellation of registration

#### Amendment of Section 30 by Finance Act 2023

\*The time limit for making application for revocation of cancellation of registration has been increased from present 30 days to 90 days\* and may be further extended by Commissioner for a further period not exceeding 180 days\*

\*\* In the council meeting it is specified as 90 days + 180 days where as in the Act it is stated as "in such manner, within such time and subject to such conditions and restrictions as may be prescribed"

#### One time amnesty for best judgement assessment cases – Notification No 06/2023 dt 31.03.2023

\*The registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th day of February, 2023 under sub-section (1) of section 62 of the said Act, as the classes of registered persons, in respect of whom said assessment order shall be deemed to have been withdrawn, if such registered persons follow the special procedures as specified below, namely

- the registered persons shall furnish the said return on or before the 30th day of June 2023
- the return shall be accompanied by payment of interest due under sub-section (1) of section 50 of the said Act and the late fee payable under section 47 of the said Act.
- irrespective of whether or not an appeal had been filed against such assessment order under section 107 of the said Act or whether or not the appeal, if any, filed against the said assessment order has been decided.



## Amendment of section 62 by Finance Act 2023 – Increase in Time limit

- The time limit for withdrawal of order passed based on best judgement of proper officer under section 62 has been increased from 30 days to 60 days.
- Also, if the taxable person fails to furnish the return within the above said period of 60 days, he shall be allowed to file the same within a further period of 60 days on payment of additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order plus applicable interest and late fee normally applicable.

## One time amnesty from late fee for various GST returns not yet filed though due dates have crossed

- Failure to file GSTR 4 for the quarters July 2017 to March 2019 or for the FY 2019-20 to 2021-22 by the due dates – Late fee stand waived which is in excess of Rs. 250 per return per act and shall stand fully waived where the total amount of tax payable is nil provided the said return is furnished on or before 30<sup>th</sup> day of June, 2023 – Notification No 02/2023-CT dated 31.03.2023.
- Failure to file GSTR 9 for the FY 2017-18 to 2021-22 before the due date – Late fee shall stand waived which is in excess of Rs. 10000 per return per act – Provided the said returns are filed on or before 30<sup>th</sup> day of June 2023 – Proviso to Notification no 07/2023-CT dated 31<sup>st</sup> March, 2023
- Failure to file GSTR 10 by the due date – Late fee stand waived which is in excess of Rs. 500 per return – Provided the said return is filed on or before 30<sup>th</sup> day of June, 2023 – Notification No 08/2023-CT dated 31.03.2023

## Late fee for belated filing of Annual return in GSTR 9 reduced from FY 2022-23 onwards – Notification No 07/2023-CT dated 31.03.2023

- Belated filing of GSTR 9 from the FY 2022-23 onwards stand reduced as per the table below:

Sl NO	Class of registered persons	Amount
(1)	(2)	(3)
1.	Registered persons having an aggregate turnover of up to five crore rupees in the relevant financial year.	Twenty-five rupees per day per Act, subject to a maximum of an amount calculated at 0.02 per Act per cent. of turnover in the State or Union territory. Maximum for 5Cr TO late fee is twenty thousand in total
2.	Registered persons having an aggregate turnover of more than five crores rupees and up to twenty crore rupees in the relevant financial year.	Fifty rupees per day, subject to a maximum of an amount calculated at 0.02 per cent. of turnover in the State or Union territory. Maximum for 20Cr TO late fee is eighty thousand in total.

## Extension of time limit for passing order under section 73(9) – Notification No 09/2023-CT dt 31.03.2023

- Time limit specified under section 73(10) has been extended as below:

Sl NO	Financial Year	Original due date	Extended due date
1.	2017-18	04.02.2023	31.12.2023
2.	2018-19	31.12.2023	31.03.2024
3.	2019-20	31.03.2024	30.06.2024

## Amendments in Finance Act 2023

### Amendment in Composition levy – Sec 10

- The restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy has been lifted.
- Now, taxpayers engaged in supply of goods through E-commerce platform can also opt for composition scheme under GST.
- However a tax payer who supplies services through e-commerce operators is prohibited from opting to pay tax under the composition levy.

### Amendment in input tax credit – second proviso to section 16(2)

- The amended provision is as follows:
  - “Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be **\*[paid by him along with interest payable under section 50],** in such manner as may be prescribed:
    - \*Earlier it was read as **“added to his output tax liability, along with interest thereon”**

### Amendment in input tax credit – Section 17 – Blocked Credits

- Following additional exception has been added under Section 17(3) to restrict the input tax credit (ITC) on the value of exempt supplies, which excludes the value of activities or transactions mentioned in Schedule III, except for the sale of land and buildings +
  - “The value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule”
- Section 17(5) has been amended to restrict input tax credit on Corporate Social Responsibility (CSR) expenditure:
  - The amendment provides that input tax credit shall not be available in respect of goods or services or both received by a taxable person, which are used or are intended to be used for activities relating to obligations under the Corporate Social Responsibility as per Section 135 of the Companies Act, 2013.

### Amendment in Section 23 – Persons not liable for registration under GST

- Wordings in Clause 131 of the bill – amended with retrospective effect from 01.07.2017
  - 23. Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24,—
    - (a) the following persons shall not be liable to registration, namely—
      - (i) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, 2017 (13 of 2017).
      - (ii) an agriculturist, to the extent of supply of produce out of cultivation of land;
      - (b) the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.”



## Amendment in Section 23 – Persons not liable for registration under GST

### • Wordings in Section 140 of the Act – **BIG CHANGE**

- 140. In section 23 of the Central Goods and Services Tax Act, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely—
- "(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act."

## Amendments to section 122 – Penalty for certain offenses

- Any electronic commerce operator shall be liable to penalty of Rs. 10,000 or amount equivalent to tax amount had such supply been made by registered person other than under section 10 whichever is higher, where E-commerce operator
- (i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;
- (ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply;
- (iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act.

## Timelines for GST returns fixed – Sections 37(5) – 39(11) – 44(2) – 52(15)

- Time limit upto which GSTR-1/GSTR-3B/Annual return (GSTR 9) /GSTR-8 for a tax period can be furnished by a registered person is **three years from the due date**. Further, there can be extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.

## Amendments to section 132 – Punishment for certain offenses

- Section 132 of the CGST Act, 2017 was amended and following clauses offences are decriminalized
- (g) Obstruction or preventing any officer from discharging his duties
- (j) Tampering with or destruction of material evidence or documents
- (k) failing to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information.
- Further changes are made to abetment of offence - Abet to the commission of an offence shall be punishable with imprisonment for a term which may extend to six months or with fine or with both

## Amendments to section 54 – Refund of tax

- Under sub-section (6) of Section 54 of the CGST Act, 2017, the words "excluding the amount of input tax credit provisionally accepted," is omitted.
- This means that the reference to the provisionally accepted input tax credit is removed so as to align the same with the present scheme of availing of self-assessed input tax credit as per section 41(1) of the CGST Act, 2017.

## Amendments to section 138 – Compounding of Offences

- The amount for compounding of offences is reduced as follows:
- Minimum amount: 25% of the tax involved from the earlier ten thousand rupees or fifty per cent of the tax, whichever is higher
- Maximum amount: 100% of the tax involved from the earlier thirty thousand rupees or 150% per cent of the tax, whichever is higher

## Amendments to section 56 – Interest on Refund of tax

- Section 56 of the CGST Act, 2017 provides for interest on delayed refunds in case the refund is not made within 60 days from the date of receipt of application for refund under section 54(1) of the Act.
- Amendment to section 56 has been made so as to provide for an enabling provisions to prescribe manner of computation of delayed period for the purpose of calculation of interest on delayed refunds. The manner of computation shall be prescribed by way of rules / notifications after enactment.

## Insertion of section 158A – Consent based sharing of information furnished by taxable person.

- The Government may share the following information of tax payers with other systems after getting the consent of the relevant supplier or the recipient.
- Particulars furnished in application for registration
- Particulars furnished in GSTR 1, 3B and 9/9C
- Invoices uploaded through e-invoice portal
- E-way bill particulars
- Such other details as may be prescribed.





## High-sea sales not to be treated as supply with retrospective effect from 01st July, 2017 – Schedule III amended

Supplies mentioned in para 7 and 8 were brought to schedule III i.e. neither supply of goods nor supply of services with effect from 01st Feb, 2019. Now it is proposed that this would take effect from 01st July, 2017.

GSTR-1/IFF/GSTR-8 Filing Period	GSTR-3B Filing Status	Amendment made, if any
Mar-23	Y	
Mar-23	Y	
Mar-23	Y	
Mar-23	Y	
Mar-23	N	
Mar-23	N	
Mar-23	Y	
Mar-23	Y	
Mar-23	Y	
Mar-23	Y	
Mar-23	Y	
Mar-23	Y	

## Changes in the definitions of OIDAR services and Non-taxable online recipient services: - Sec 2(16) of IGST Act

Scope of OIDAR services is expanded significantly by the amendment in the definition of OIDAR service. The words "essentially automated and involving minimal human intervention" were removed from the definition. By removing these words, now a service would be classified as OIDAR services if they are provided with the assistance of information technology. Also, definition of non-taxable online recipient has also been amended as follows. "Any unregistered person receiving online information and database access or retrieval services located in the taxable territory"

## Manner of dealing with difference in liability reported in GSTR 1 and 3B – Rule 88C Notification No. 26/2022 – Central Tax dated 26-12-2022

- Where tax payable as reported in GSTR 1 exceeds the tax reported in GSTR 3B by such amount and by such percentage as may be recommended by the council, the proper officer shall send notice in Part-A of DRC-01B electronically on the common portal with a copy to registered email directing him to pay the differential liability along with interest u/s 50 through DRC 03 or explain the reason for aforesaid difference in tax payable within a period of 7 days.
- In case the registered person fails to pay the aforesaid amount or fails to reply within a period of 7 days or explanation furnished by him is found to be not acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79.

## Place of supply in case of transportation of goods outside India where supplier and receiver is located in India – Sec 12 of IGST Act

Place of supply in case of transportation of goods outside India where supplier and recipient is located in India the place of supply shall be the location of the registered person where supply is to a registered person and in case supply is to an unregistered person then place of supply shall be location at which such goods are handed over for transportation.

## Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19 - Circular No. 183/15/2022-GST dt 27.12.2022

- During the FY 2017-18 and 2018-19, several suppliers failed to upload correct outward supplies in their GSTR - 1 hence which was not auto populated in GSTR 2A of the recipient. Notices were sent to such recipient tax payers to reverse the credit taken in the aforesaid two years.
- Dept argues that as per section 16(2), in order to take ITC one has to ensure that tax on such supply should have been paid. Hence, credits not available in 2A do not satisfy this condition and hence credit is to be reversed.

### Other Key Amendments in 2022

#### Reversal of ITC in the case of non-payment of tax by the supplier – Rule 37A Notification No. 26/2022 – Central Tax dated 26-12-2022

- Wherever a supplier has filed his GSTR - 1 of any tax period and the said credit auto populated in GSTR 2B, but failed to file his GSTR 3B return till 30<sup>th</sup> Sep of following year, then such ITC shall be reversed by the recipient on or before 30<sup>th</sup> of November of following year.
- In case the said credit is not reversed on or before 30<sup>th</sup> November of following year then such amount shall be payable by the recipient along with interest under section 50.
- However, if the supplier has furnished his GSTR 3B return for the said period subsequently, the receiver may re-avail the credit.

#### Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19 - Circular No. 183/15/2022-GST dt 27.12.2022

- Tax payers argue that matching with GSTR 2A i.e. Rule 36(4) has come into effect only from 09<sup>th</sup> Oct, 2019. Hence, such law cannot be forced. Also, mere non-declaration of outward supply in GSTR 1 do not mean that tax is not paid. Hence, reversal is not required.
- As per the above circular confirmation from the supplier where ITC amount is up to Rs. 5L and confirmation from the CA or CMA in case the ITC amount is more than 5L, need to be received and submitted to the dept. Such confirmation should state that goods or services were actually supplied to the recipient also tax charged on such supply has been paid.



**Manner of calculating interest on delayed payment of tax – Sec 50(3) – Manner prescribed in Rule 88B**

- Wherever GSTR 3B return is filed belatedly, interest under section 50(1) shall be applicable only to the extent amount of debited from Cash ledger – Rule 88B(1)
- In case, where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with sub-section (3) of section 50, the interest shall be calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, at 18% as per Notification No 13/2017-GT.
- Utilization of ITC meaning – when the balance in e-credit ledger falls below the amount of ITC availed and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

**Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1 – GST – Circular No. 170/02/2022-GST dt 06.07.2022**

- **Disclosure requirement in Table 4(A) of GSTR 3B**
  - Total ITC as per 2B (except ineligible marked) shall be auto-populated in Table 4A
  - Registered person shall disclose permanent reversal such as 42,43,17(5) under 4(B)(1)
  - Registered person shall disclose temporary reversal such as 37, 16(2)(b) and 16(2)(c). Can claim those ITC on fulfillment of necessary conditions. In the tax period of reclaim the same shall be disclosed under Table 4D(1).

**Clarification on various issue pertaining to GST – Circular No. 172/04/2022 dt 06.07.2022**

- **Blocked credit under 17(5)(b) incurred as per statutory requirements**
- Proviso to section 17(5)(b) shall be made applicable for all the following cases listed in sub-clause b
  - Food and beverage, Outdoor catering, beauty treatment, health and cosmetic services,
  - Leasing or renting of motor vehicle
  - Membership of club
  - Leave travel concession

**Clarification on various issue pertaining to GST – Circular No. 172/04/2022 dt 06.07.2022**

- **Perquisites provided by employer to the employees as per contractual requirements**
- Perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee.

**Clarification on various issue pertaining to GST – Circular No. 172/04/2022 dt 06.07.2022**

- **Utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities**
- Payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST Laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.

**Clarification on various issue pertaining to GST – Circular No. 172/04/2022 dt 06.07.2022**

- **Utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities**
- As per sub-section (4) of section 49, the electronic credit ledger can be used for making payment of output tax only under the CGST Act or the IGST Act. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said acts. Similarly, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.

**Clarification on various issue pertaining to GST – Circular No. 172/04/2022 dt 06.07.2022**

- **Utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities**
- As per sub – section (3) of section 49 of the CGST Act, the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the GST Laws.

**RULE 88A – Order of utilization of input tax credit.**

- Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order:
- Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.

	IGST	CGST	SGST	Total
<b>ITC available</b>	100000	20000	20000	
<b>Output tax</b>	50000	50000	50000	
<b>Rule 88A</b>				
Output tax	50000	50000	50000	
Less: ITC				
IGST ITC	-50000	-25000	-25000	
CGST ITC	0	-20000	0	
SGST ITC			-20000	
Cash pmt	0	5000	5000	10000
<b>Rule 88A Misunderstood</b>				
Output tax	50000	50000	50000	
Less: ITC				
IGST ITC	-50000	-50000	0	
CGST ITC	0	0	0	
SGST ITC			-20000	
Cash pmt	0	0	30000	30000

**Critical Issues – Points generally taken By the dept while issuing notices and inspections**



## General points for ASMT – 10 – DRC – 01A and DRC - 01

- Difference between GSTR 1 and GSTR 3B
- Difference between GSTR 2A/2B and GSTR 3B
- Difference between E-way bill generated Vs GSTR 1
- Difference between E-way bill generated by the suppliers Vs GSTR 2A
- Ineligible Credits as per GSTR 2A / 2B
- GSTR 1 filed but not filed GSTR 3B – Ground of Rule 37A may be taken

## General points for ASMT – 10 – DRC – 01A and DRC - 01

- Ineligible credits appearing in GSTR 2A – Presumption that tax payers have availed such credits
- Civil construction bills
- RC retrospectively cancelled by suppliers
- Rule 42-43 notices – Comparison of exempted supplies to taxable supplies declared in GSTR 3B with that of Reversal mentioned in Table 4B of GSTR 3B

## General points for Inspection & Audits – Financial statement analysis

- Scrutiny of sales promotional expenses account – Distribution of calendar diaries gold coins issued
- RCM ledgers – Freight – Sponsorship – Rent a cab – Rates and taxes – License fee – Sitting fee – **Residential Rent from 18.07.2022**
- Insurance claim received credited to other income
- Expenditure incurred in foreign currency

## General points for Inspection & Audits

- Difference between Credit notes as per GSTR 2A and ITC reversed in GSTR 3B
- Difference between RCM liability as per GSTR 2A and GSTR 3B
- Reason for amount mentioned in Sl.No 5-O of Table 5 of GSTR 9C
- Reason for amount mentioned in difference columns of Table 5 – 7 – 12 of GSTR 9C
- Difference between Table 12B of 9C of current FY with that of 12C of 9C of previous financial years

## General points for Inspection & Audits

- Difference between Table 8C and Table 13 of GSTR 9
- Difference between Table 13 of GSTR 9 and Table 12C of GSTR 9C
- Rate wise liability declared in Table 9 of GSTR 9C
- Break up and validating the figure mentioned as exempted supplies in Table 5 of GSTR 9

## General points for Inspection & Audits

- Tran analysis – proviso to Section 140(3)
- Suppliers 180 days payment limit
- Advances received from customers – Liability account
- Debtors showing credit balances – Whether represent advances?
- Export commission Received – Taxability
- Export commission paid – Taxability
- Import commission paid – Taxability

## General points for Inspection & Audits – Financial statement analysis

- Export of Services – whether sale proceeds were received within one year from the date of invoice – Rule 96A – In case of non-realization LUT benefit is foregone
- Export of goods – Rule 96B – In case of non-realization of export proceeds within the time permitted under FEMA – refund to be paid back
- Transactions with related parties – Compliance with Rule 28

## E-Way bill issues

- Does all movement require e-way bill
- Threshold limit including tax or excluding tax
- Several bills in one truck – One consignment or several consignment
- Exceptions to e-way bill cases
- Movement for weigh bridge
- Failure to raise e-invoice?
- Storing the goods at transporters place – E-way bill requirement

## E-Way bill issues

- Moving the goods from place of business to transporters place
- Failure to register additional place of business
- Circulars issued by Central and State GST

Thank You





# SICASA ACTIVITIES

