

# **GOODS & SERVICES TAX / IDT UPDATE – 40**

## **Non-transition of CENVAT credit in certain cases**

The Central Government vide *Circular No.33/07/2018-GST dated 23<sup>rd</sup> February, 2018* has clarified that transition of CENVAT credit is not admissible in following cases :

### **Non-utilization of Disputed credit carried forward**

CENVAT credit pertaining to which a show cause notice was issued under rule 14 of the CENVAT credit Rules, 2004, which has been adjudicated and where in the last adjudication order or the last order-in-appeal, as it existed on 1st July, 2017, it was held that such credit is not admissible, then such CENVAT credit is not admissible and shall not be utilized by a registered taxable person to discharge his tax liability under this Act or under the IGST Act, 2017, till the order-in-original or the last order-in-appeal, as the case may be, holding that disputed credit as inadmissible is in existence,

If such disputed credit is utilised, it shall be recovered from the tax payer, with interest and penalty as per the provisions of the Act.

*Comment: It is interesting that recovery of transitional credit is mentioned when the matter is pending in appeal. On one hand there has been an amendment in section 35F where on payment of 7.5%/10% the remainder of disputed tax will not be recovered and on the other the same tax albeit disputed, is sought to be recovered. Tax Payer, at the peril of interest, is welcome to utilize this tax but CBEC seems to think otherwise.*

### **Non-transition of Blocked Credit**

CENVAT credit as is carried forward in the return relating to the period ending with the day immediately preceding the appointed day which is not eligible under the Act in terms of sub-section (5) of section 17 such as telecommunication towers and pipelines laid outside the factory premises. If blocked credit is carried forward and credited to the electronic credit ledger in contravention of section 140 of the Act, it shall not be utilized by a registered taxable person to discharge his tax liability under this Act or under the IGST Act, 2017, and shall be recovered from the tax payer with interest and penalty as per the provisions of the Act.

In cases, where the disputed credit or blocked credit is higher than Rs. 10 lakhs, the taxpayers shall submit an undertaking to the jurisdictional officer of the Central Government that such credit shall not be utilized or has not been availed as transitional credit, as the case may be.

*Comment: TRANI being examined through Circular without any due process being followed. Filing undertaking of abstention from using such credits are very new methods being adopted by Revenue.*

*[Circular No.33/07/2018-GST dated 23<sup>rd</sup> February, 2018]*

**[New features added in Form GSTR 3B and other functionalities made available on the GST Portal](#)**

A) **Filing of Form GSTR 3B** : Filing of Form GSTR 3B has been made easier and user friendly with following features :

- a) While proceeding to payment you can see details of balances as available in cash and credit ledgers at one place.
- b) Tax liabilities as declared in GSTR 3B along with the credits gets updated in the ledgers and reflected in the "Tax payable" column of the payment section and can be seen while hovering on the said headings of credit in the payment section.
- c) GST system auto-populates "Tax to be paid through ITC" fields with optimum utilization amounts based on provisions of the law relating to credit utilization. It is just suggestive and taxpayer may edit the ITC utilization. In case ITC utilization is changed, the cash to be paid also gets changed accordingly.
- d) If available cash balance in Electronic cash ledger is not sufficient to offset the liabilities, additional cash required for paying liability is being displayed in the last column of the Table (Additional cash required). Taxpayers can create Challan for that amount directly by clicking on the **CREATE CHALLAN** button. Once you make online payment, system will navigate back to Payments Table. This reduces chances of payment of tax under wrong head.
- e) Click the **MAKE PAYMENT/POST CREDIT TO LEDGER** button to pay off the liabilities or to claim credit in case of no liabilities.
- f) FAQs and User Manual are provided along with pop ups, to guide you while filling Form GSTR 3B, at relevant pages.
- g) Now, CGST and UGST/SGST need not be filled separately. Filing either of the taxes fills the other tax field automatically.
- h) Assessee can preview or download Form GSTR 3B to verify saved details in any table(s), anytime by Clicking **PREVIEW DRAFT GSTR-3B** button. This button will download the draft Summary page of your GSTR-3B for your review. It is recommended that this Summary page is downloaded and reviewed for the entries made in different sections, before proceeding with the payment of taxes.

B) **Form ITC 03** : Taxpayers who opt to pay tax under Section 10 or where goods or services both supplied becomes wholly exempt, can declare ITC Reversal/ Payment of tax on inputs held in stock or in semi-finished goods or in finished goods and capital goods, in Form GST ITC 03, made available on GST Portal.

C) **Miscellaneous changes** : Following changes has also been done on GST Portal -

- Before logging onto the GST Portal, taxpayers can search results of last 10 Returns Transaction Status. The Status which will be shown as:
  - For Filed-Valid - Status to be shown as Filed
  - For Valid But Not Filed - Status to be shown as Not Filed

- A field to enter cess amount paid on exports has been provided in Table 6A of Form GSTR
- Taxpayers have been provided with facility to give details of supplies made to merchant exporters at rate of 0.1 %, in all returns.
- In GSTR-1 & GSTR-5, on addition of records (Invoices/ Dr. Notes/ Cr. Notes), an option has been provided to taxpayer to select a lower tax rate for motor vehicle leasing businesses, as per Notification No. 37/2017-Central Tax (Rate), dated 13-10-2017.
- A field for providing "Reason for Issuing Note" was available in Credit/Debit note table, in Form GSTR 1, which was to be selected by the Taxpayer, on addition of Credit/Debit note. This dropdown for providing reason, which was a mandatory field, has now been removed from Form GSTR 1.

[GSTN sent this mail to taxpayers]

## CUSTOMS

### Refund of IGST on Export

The Central Government vide [Circular No.05/2018-Customs dated 23<sup>rd</sup> February, 2018](#) has clarified the pre-requisites and precautions that need to be taken for successful processing of refund claims which are as follows:

1. Exporters have to file GSTR 3B with taxable value for export and IGST paid against exports indicated in appropriate fields.
2. Exporters have to file GSTR 1 or Table 6A for the exports made with correct details such as Invoice number, Taxable value, IGST paid, Shipping Bill number, Shipping Date and Port Code.
3. The aggregate IGST paid amount claimed in GSTR 1 or Table 6A should not be greater than the IGST paid amount indicated in Table 3.1(b) of GSTR 3B of the corresponding month. This check is put in the GSTN system to ensure that the refund claimed is not more than the IGST paid by the exporter
4. Exporters may be advised to use Table 9 of GSTR 1 of the following month to amend the records of previous month so as to take care of issues mentioned in paras 2 and 3 above. In cases where exporters have already filed information through Table 9 of GSTR 1, the said information is being validated by GSTN.
5. Exporters may be advised to track the refund status and errors pertaining to their shipping bills on the ICEGATE website. The registration process demo, advisory and the needed IT configurations are hosted on the ICEGATE website under the following links.

Registration Demo link:

[https://www.icegate.gov.in/Download/New\\_Registration\\_Demo\\_Updated\\_APPROVED.pdf](https://www.icegate.gov.in/Download/New_Registration_Demo_Updated_APPROVED.pdf)

Registration Advisory link:

[https://www.icegate.gov.in/Download/v1.2\\_Advisory\\_Registration\\_APPROVED.pdf](https://www.icegate.gov.in/Download/v1.2_Advisory_Registration_APPROVED.pdf)

Java set up for the DSC upload:

<https://www.icegate.gov.in/Download/JavaSetupForDSC.pdf>

6. Further, it has been decided to provide an alternative mechanism to give exporters an opportunity to rectify such errors committed in the initial stages. This envisages an officer interface on the Customs EDI System through which a Customs officer can verify the information furnished in GSTN and Customs EDI system and sanction refund in those cases where invoice details provided in GSTR 1/ Table 6A are correct though the said details provided in the shipping bill were at variance. It is pertinent to mention that refund claims would be processed only in those cases where the error code is mentioned as SB005. Further, it may also be noted that all refunds shall continue to be credited electronically through the PFMS system, and no manual payment / cheque will be issued. The procedure for processing of IGST refund claims in these cases would be as follows:
- a) The exporter shall provide a concordance table indicating mapping between GST invoices and corresponding Shipping Bill invoices, as annexed in support of the refund claim to the designated officer in the Custom house. A scanned copy of concordance table may also be sent to dedicated email address of Customs location from where exports took place.
  - b) Customs EDI system shall display list of all the invoices pertaining to such SBs vis-a-vis the invoice data received from GSTN. The officer shall verify the following:
    - i. Duly certified concordance table submitted by the exporter as per Annexure A indicating mapping between GST invoice and corresponding Shipping Bill invoice;
    - ii. IGST taxable value and IGST amount declared in the Shipping Bill.
    - iii. IGST details declared in the Shipping Bill should be in proportion to the goods actually exported.
  - c) After determining the correct refund amount, the officer need to enter the same into the Customs EDI system. The officer has the facility to edit the IGST paid details in case of short shipment or incorrect calculation by the exporter. The officer shall complete the verification by accepting or rejecting or amending the same.
  - d) Once all the invoices pertaining to Shipping Bill are verified by the officer, the system shall calculate the scroll amount against a shipping bill, after subtracting the drawback amount for each invoice where applicable, and display the refund amount to the officer for approval.
  - e) Invoices in any particular GSTR 1 where refund is sanctioned shall be disabled in

the system to prevent refund against same invoice in future.

- f) Once refund is sanctioned by the officer, the shipping bills would be available for generating scroll as per normal process.
- g) In order to ensure smooth operation of the prescribed procedure, Custom Houses may open a dedicated cell and e-mail address for the purpose of IGST refund

\*This procedure is available only for Shipping Bills filed till 31st December 2017.

[Circular No.05/2018-Customs dated 23<sup>rd</sup> February, 2018]

### **GST Knowledge Sharing**

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<b><i>GST webcasts</i></b>	<a href="http://idtc.icai.org/live-webcasts-series.html">http://idtc.icai.org/live-webcasts-series.html</a>
<b><i>Publications</i></b>	<a href="http://idtc.icai.org/publications.php">http://idtc.icai.org/publications.php</a>
<b><i>Upcoming GST events</i></b>	<a href="http://idtc.icai.org/upcoming-events.php">http://idtc.icai.org/upcoming-events.php</a>

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