

GOODS & SERVICES TAX / IDT UPDATE-145

Guidelines for recovery under section 79 for cases covered under explanation to section 75(12) of the CGST Act, 2017

The CBIC vide [Instruction No. 01/2022-GST dt. 07.01.2022](#) has issued the guidelines for recovery proceedings under the provisions of section 79 of the CGST Act, 2017 in cases covered under explanation to sub-section (12) of section 75 of the Act namely, where the tax payable in respect of details of outward supplies furnished by the registered person in GSTR-1, has not been paid through GSTR-3B return, either wholly or partly, or any amount of interest payable on such tax remains unpaid.

The guidelines provide that there may be some cases where there may be a genuine reason for difference between the details of outward supplies declared in GSTR-1 and those declared in GSTR-3B. Accordingly, it has been provided that wherever any such difference is found, the proper officer may send a communication (with DIN, in terms of guidelines issued vide [Circular No. 122/41/2019-GST dated 5th November 2019](#)) to the registered person to pay the amount short paid or not paid or to explain the reasons for such short payment or non-payment of self-assessed tax, within a reasonable time, as prescribed in the communication.

If the concerned person is able to justify the differences between GSTR-1 and GSTR-3B or is able to explain the reasons of such short-payment or non-payment of tax, to the satisfaction of the proper officer, or pays the amount such short paid or not paid, then there may not be any requirement to initiate proceedings for recovery under section 79.

However, the proper officer may proceed with recovery proceedings under section 79 if :

- the said registered person either fails to reply to the proper officer or fails to make the payment of such amount short paid or not paid, within the time prescribed in the communication or such further period as may be permitted by the proper officer.
- the said registered person fails to explain the reasons for such difference/ short payment of tax to the satisfaction of the proper officer.

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