

# Chapter 13

## Payment of Taxes

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### 1. Introduction

The registered person shall discharge his tax liability or dues on supplies of goods and services electronically on Common portal in the GST regime. The manner of payment of tax or dues in erstwhile provisions of Central Excise and Service Tax was made electronically but not on a common portal. The earlier procedure of manually maintenance of Cenvat register for availment and utilization of Cenvat credit as well as PLA for tax deposit/credit or tax payment/debit, any adjustment duty has been dispensed with in the GST regime.

## **2. Statutory provisions for payment of Tax**

Section 49 of the CGST Act, 2017 has prescribed the manner of payment of tax, interest, penalty and other amounts in the following ways:

- (1) Every deposit made by a person by internet banking or by using prescribed mode of payment or cash (OTC) shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.
- (2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with Section 41; to be maintained in such manner as may be prescribed.
- (3) 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 this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- (4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.
- (5) The amount of input tax credit available in the electronic credit ledger of the registered person shall be utilized as per prescribed provisions. Accordingly, credit on account of IGST, CGST, SGST and UTGST shall be utilized and adjusted in the ledger.
- (6) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of Section 54.
- (7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.
- (8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—
  - (a) self-assessed tax, and other dues related to returns of previous tax periods;
  - (b) self-assessed tax, and other dues related to the return of the current tax period;
  - (c) any other amount payable under this Act or the rules made thereunder including the demand determined under Section 73 or Section 74.
- (9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

- (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, sub-section (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

**[Transfer of Balance in cash ledger to Distinct Person (b) vide Notification No. 09/2022-CT., dated 05.07.2022]**

- (11) where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).” Notified vide Notification No.1/2020-Central Tax dated 1.1.2020.
- (12) Maximum payment of output taxes allowed from electronic ledger: The Government may specify the maximum proportion of output tax liability which may be discharged through the electronic credit ledger for specified class of registered persons. The balance has to be paid through the electronic cash ledger. Vide Notification No. 18/2022-Central Tax, dated 28.09.2022.

### **3. Utilisation of input tax credit subject to certain conditions - Section 49A of CGST Act**

Notwithstanding anything contained in section 49, 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 towards such payment

### **4. Order of utilisation of input tax credit - Section 49B of CGST Act.**

(1) Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of subsection (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.

### **5. Interest on delayed payment of tax - Section 50 of the CGST Act**

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at

such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger. Notified vide Notification No. 09/2022-CT, dated 05.07.2022

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(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.

#### **6. Procedures of maintenance of electronic ledger**

Rule 85, 86 & 87 of the CGST Rules, 2017 has prescribed that in the GST regime, all taxpayers have to maintain 3 types of electronic ledgers on Common GSTN portal namely, Electronic Liability Ledger, Electronic Credit ledger and Electronic Cash Ledger.

#### **7. Electronic Liability Ledger - Rule 85 of CGST Rules**

Rule 85 of CGST Rules, 2017 has specified Electronic Liability Ledger and the details of liability shall be recorded and credited in this ledger as under:—

- (1) The electronic liability register specified under sub-section (7) of Section 49 shall be maintained in **FORM GST PMT-01** on the Common GSTN portal. All liabilities accruing and payable by a taxable person will be recorded in this register and shall be debited to the said register.
- (2) The electronic liability register of the person shall be debited the following amounts:
  - (a) the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;
  - (b) the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person;
  - (c) **Omitted**
  - (d) any amount of interest that may accrue from time to time.
- (3) Subject to the provisions of Section 49, section 49A and section 49B payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger maintained as per Rule 86

or the electronic cash ledger maintained as per Rule 87 and the electronic liability register shall be credited accordingly.

- (4) The amount deducted under Section 51, or the amount collected under Section 52, or the amount payable on reverse charge basis, or the amount payable under Section 10, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger maintained as per Rule 87 and the electronic liability register shall be credited accordingly.
- (5) Any amount of demand debited in the electronic liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or Court and the electronic tax liability register shall be credited accordingly.
- (6) The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order and the electronic liability register shall be credited accordingly.
- (7) A registered person shall, upon noticing any discrepancy in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.

#### **8. Electronic Credit Ledger - Rule 86 of CGST Rules**

Rule 86 of the CGST Rules, 2017 specified for Electronic Credit ledger all the taxes paid on inputs goods, capital goods, inputs services, tax paid reverse charge and credit received through ISD shall be recorded and credited in the ledger shall be maintained as under:

- (1) The electronic credit ledger shall be maintained in **FORM GST PMT-02** for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be credited to the said ledger.
  - (2) The electronic credit ledger shall be debited to the extent of discharge of any liability in accordance with the provisions of Section 49 for section 49A or section 49B.
- **Amount of refund to the extent of claim debited to the electronic credit ledger:**
- (3) Where a registered person has claimed refund of any unutilized amount from the electronic credit ledger in accordance with the provisions of Section 54, the amount to the extent of the claim shall be debited in the said ledger.
  - (4) If the refund so filed is rejected, either fully or partly, the amount debited under sub-rule (3), to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**.

➤ **Admissible refund recredited to the electronic credit ledger:**

- (4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**.

Where a registered person deposits the amount of erroneous refund sanctioned to him along with interest and penalty, wherever applicable, through cash in Form GST DRC-03 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**.

➤ **Deposits of erroneous refund sanctioned and the same recredit to electronic credit ledger:**

- (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**.
- (5) Save as provided in the provisions of this Chapter, no entry shall be made directly in the electronic credit ledger under any circumstance.
- (6) A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common Portal in **FORM GST PMT-04**.

*Explanation.*—For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

**9. Conditions of use of amount available in electronic credit ledger - Rule 86A CGST Rules**

(1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-

- (a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-

- (i) issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
  - (ii) without receipt of goods or services or both; or
  - (b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or
  - (c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
  - (d) the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36, may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.
- (2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.

#### **10. Restrictions on use of amount available in electronic credit ledger - Rule 86B of CGST Rules**

Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:

Provided that the said restriction shall not apply where—

- (a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years for which the time limit to file return of income under sub section (1) of section 139 of the said Act has expired; or
- (b) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of sub-section (3) of section 54; or
- (c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or

- (d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or
- (e) the registered person is -
  - (i) Government Department; or
  - (ii) a Public Sector Undertaking; or
  - (iii) a local authority; or
  - (iv) a statutory body:

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

#### **11. Electronic Cash Ledger - Rule 87 of CGST Rules**

Rule 87 of the CGST Rules, 2017 specified for Electronic Cash ledger shall be maintained electronically on Common GSTN Portal as per the following guidelines:

- (1) The electronic cash ledger under sub-section (1) of Section 49 shall be maintained in **FORM GST PMT-05** for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment there from towards tax, interest, penalty, fee or any other amount.
- (2) Any person, or a person on his behalf, shall generate a challan in **FORM GST PMT-06** on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.

Provided that the challan in **FORM GST PMT-06** generated at the common portal shall be valid for a period of fifteen days.

- (3) The deposit under sub-rule (2) shall be made through any of the following modes, namely:—
  - (i) Internet banking through authorised banks;
  - (ia) Unified Payment Interface (UPI) from any bank;
  - (ib) Immediate Payment Services (IMPS) from any bank;]
  - (ii) Credit card or Debit card through the authorised bank;
  - (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
  - (iv) Over the Counter payment through authorised banks for deposits up to ₹10,000/- per challan per tax period, by cash, cheque or demand draft:

Provided that the restriction for deposit up to ₹10,000/- per challan in case of an Over the Counter payment shall not apply to deposit to be made by—



- (a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;
- (b) Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;
- (c) Proper officer or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any *ad hoc* deposit:

Provided that the challan in **FORM GST PMT-06** generated at the common portal shall be valid for a period of 15 days.

Provided further that a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 or a person supplying online money gaming from a place outside India to a person in India as referred to in section 14A of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) may also make the deposit under sub-rule (2) through international money transfer through Society for Worldwide Inter bank Financial Telecommunication payment network, from the date to be notified by the Board:

*Explanation.*—For the purposes of this sub-rule, it is hereby clarified that for making payment of any amount indicated in the challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.

- (4) Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the common portal.
- (5) Where the payment is made by way of National Electronic Fund Transfer or Real Time Gross Settlement mode from any bank, the mandate form shall be generated along with the challan on the common portal and the same shall be submitted to the bank from where the payment is to be made:

Provided that the mandate form shall be valid for a period of fifteen days from the date of generation of challan.

- (6) On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.
- (7) On receipt of the Challan Identification Number from the collecting bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.

- (8) Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number is generated or generated but not communicated to the common portal, the said person may represent electronically in **FORM GST PMT-07** through the common portal to the bank or electronic gateway through which the deposit was initiated.

“Provided that where the bank fails to communicate details of Challan Identification Number to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the Reserve Bank of India in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.”

- (9) Any amount deducted under section 51 or collected under section 52 and claimed by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger.
- (10) Where a person has claimed refund of any amount from the electronic cash ledger, the said amount shall be debited to the electronic cash ledger.
- (11) If the refund so claimed is rejected, either fully or partly, the amount debited under sub-rule (10), to the extent of rejection, shall be credited to the electronic cash ledger by the proper officer by an order made in **FORM GST PMT-03**.
- (12) A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.

*Explanation 1.*—The refund shall be deemed to be rejected if the appeal is finally rejected.

*Explanation 2.*—For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

- (13) 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 the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in **FORM GST PMT-09**.
- (14) **Cash deposits in electronic cash ledger in GST portal, now can be made through UPI and IMPS payment modes.**

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 the Act to the electronic cash ledger for central tax or

integrated tax of a distinct person as Specified in sub-section (4) or, as the case may be, sub-Section (5) of section 25, in **FORM GST PMT-09**:

**Provided** that no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

#### **12. Identification number for each transaction - Rule 88 of CGST Rules**

Rule 88 of the CGST Rules, 2017 specified Identification number for each transaction shall be generated at the common GSTN Portal and the details of principles as under:

- (1) A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.
- (2) The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.
- (3) A unique identification number shall be generated at the common portal for each credit in the electronic liability register for reasons other than those covered under sub-rule (2).

#### **13. Order of utilization of input tax credit - Rule 88A CGST Rules**

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.

#### **14. Manner of calculating interest on delayed payment of tax - Rule 88B of CGST Rules**

(1) The interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under sub-section (1) of the Section 50.

(2) Interest is payable, as per section 50(1), the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax, as such rate @24% under section 50(3).

(3) 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 such rate as may be notified under said sub-section (3) of section 50.

*Explanation.*—For the purposes of this sub-rule, — (1) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly 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.

(2) the date of utilisation of such input tax credit shall be taken to be,—

- (a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or
- (b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

#### **15. Intimation difference of GSTR-1 Vs. GSTR-3B - Rule 88C of CGST Rules, 2017**

***Rule 88C Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return.***—(1) Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in FORM GSTR-1 or using the Invoice Furnishing Facility in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in FORM GSTR-3B, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in Part A of FORM GST DRC-01B, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to—

- (a) pay the differential tax liability, along with interest under section 50, through FORM GST DRC-03; or
  - (b) explain the aforesaid difference in tax payable on the common portal, within a period of seven days.
- (2) The registered person referred to sub-rule (1) shall, upon receipt of the intimation referred to in that sub-rule, either,—
- (a) pay the amount of the differential tax liability, as specified in Part A of FORM GST DRC-01B, fully or partially, along with interest under section 50, through FORM GST DRC-03 and furnish the details thereof in Part B of FORM GST DRC-01 Electronically on the common portal; or
  - (b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, in Part B of FORM GST DRC-01B,

within the period specified in the said sub-rule.

(3) Where any amount specified in the intimation referred to in sub-rule (1) remains unpaid within the period specified in that sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79.

#### **15.2 Intimation of difference in ITC available in GSTR-2B and availed GSTR-3B.**

In order to align the CGST Rules with recommendations of the 50th GST Council Meeting the CBIC vide *Notification No. 38/2023–Central Tax dated August 04, 2022* issued ‘the Central Goods and Services Tax (Second Amendment) Rules, 2023’ to further amend the CGST Rules.

***“88D. Manner of dealing with difference in input tax credit available in auto-generated statement containing the details of input tax credit and that availed in return.—***

*Where the amount of input tax credit availed by a registered person in the return for a tax period or periods furnished by him in FORM GSTR-3B exceeds the input tax credit available to such person in accordance with the auto-generated statement containing the details of input tax credit in FORM GSTR-2B in respect of the said tax period or periods, as the case may be, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in Part A of FORM GST DRC- 01C, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to—*

- (a) pay an amount equal to the excess input tax credit availed in the said FORM GSTR-3B, along with interest payable under section 50, through FORM GST DRC-03, or*
- (b) explain the reasons for the aforesaid difference in input tax credit on the common portal, within a period of seven days.*
- (2) The registered person referred to sub-rule (1) shall, upon receipt of the intimation referred to in the said sub-rule, either,*
  - (a) pay an amount equal to the excess input tax credit, as specified in Part A of FORM GST DRC- 01C, fully or partially, along with interest payable under section 50, through FORM GST DRC-03 and furnish the details thereof in Part B of FORM GST DRC-01C, electronically on the common portal, or*
  - (b) furnish a reply, electronically on the common portal, incorporating reasons in respect of the amount of excess input tax credit that has still remained to be paid, if any, in Part B of FORM GST DRC-01C, within the period specified in the said sub-rule.*

*(3) Where any amount specified in the intimation referred to in sub-rule (1) remains to be paid within the period specified in the said sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74, as the case may be.*

**vide Notification No. 38/2023-Central Tax, dated August 4, 2023.**

#### **16. Key steps for generation of Challan on common portal**

The taxpayer has to follow the step by step procedure for generation of Challan on common portal for payment of tax as under:

- (i) Access to GSTN common portal for generation of Challan by using user ID and pass word.
- (ii) After log in to GSTN portal fill the draft challan with correct heading of payment.
- (iii) Select the mode of payment by net banking/Credit Card/Debit Card.
- (iv) Then it will direct the website of nominated bank there by choose bank.
- (v) Make the payment through nominated bank it will display the breakup of the total amount payable.
- (vi) A unique CIN (Challan Identification Number) against the CPIN (Common Portal Identification Number) will be created which is an indication of a successful transaction.
- (vii) If the transaction is not completed because of failure of credential verification, by refreshing the bank system menu and wait a respond against CPIN.
- (viii) Upon receipt of completion of the transaction, GSTN will inform the relevant tax authorities about payment. A copy of the paid challan and a statement confirming receipt of the payment will be available by GSTN portal.
- (ix) On successfully completion of the above procedure the tax paid challan CIN will be credited to the tax payer ledger account.

After the generation of challan at Common GSTN Portal, it cannot be modified and is valid for a period of 15 days.

#### **17. Order of Cross Utilisation of input tax credit is being rationalized**

**As per decision of 28th meeting of the GST Council,** a registered person would be able to utilize credit on account of CGST, SGST/UTGST once the registered person exhausted all the ITC on account of IGST.

As per section 49 of the CGST Act, 2017 and inserted new provisions 49A vide (Amendment) Act, 2018 and the manner of utilization of ITC is summarized in the below table: (w.e.f. 1st February, 2019)

<b>ITC Credit to be Set off</b>	<b>Manner of Utilisation of ITC</b>
IGST Output	IGST Input > CGST Input > SGST Input
CGST Output	IGST Input > CGST Input
SGST Output	IGST Input > SGST Input
<b>CBIC, CIRCULAR</b>	

**18. Clarification on utilisation of the amounts available in the electronic credit ledger and electronic cash ledger for payment of tax and other liabilities**

- It is clarified that any 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. Section 49(2) of the CGST Act.
- It is further reiterated that as output tax does not include tax payable under RCM thereby the electronic credit ledger cannot be used for making payment of any tax which is payable under RCM.
- Section 49(4), the electronic credit ledger cannot be used for making payment of any interest, penalty, fees or any other amount like erroneous refund.
- Section 49(3) 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.

**Vide Circular No. 172/04/2022-GST, dated 7-7-2022**

**19. Interest on delayed payment of tax**

(1) If any person fails to pay the tax to the Government within the period prescribed, shall pay voluntarily interest at such rate, not exceeding 18% as may be notified by the Government.

(2) The interest shall be calculated from the day succeeding the day on which such tax due to be paid.

(3) A taxable person, who makes an undue or excess claim of input tax credit or undue or excess reduction in output tax liability, shall pay interest at such rate not exceeding 24% as may be notified by the Government.

<p><b>INTEREST OF 18% ONLY ON ITC WRONGLY AVAILED AND UTILIZED.</b></p>
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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 24% as may be notified by the Government, (*vide* Notification No. 13/2017-CT, dated 28.06.2017, Now the interest rate is 18% with retrospective effect *vide* Notification No. 09/2022-Central Tax, dated 05.07.2022.

## 20. Manner of payment of Taxes

As per 31st GST Council's recommendations single cash ledger for each tax head would be maintained. The modalities for implementation would be finalized in consultation with GSTN and the accounting authorities.

Amendment of Section 50 of the CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit, i.e. interest would be leviable only on the amount payable through the electronic cash ledger. *(Proposed and will be effective only after the necessary amendments in the GST Acts are carried out.)*

The Finance (No. 2) Act, 2019.—Section 50 of the CGST Act, 2017, in sub-section (1), inserted:

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such returns is furnished after commencement of any proceeding under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”

### **Clarified relating to interest on delayed payment of GST**

The Central Board of Indirect Taxes & Customs (CBIC) vide its Notification No. 63/2020-C.T., dated 25th August 2020 clarified relating to interest on delayed payment of GST has been issued prospectively due to certain technical limitations. However, it has assured that no recoveries shall be made for the past period as well by the Central and State tax administration in accordance with the decision taken in the 39th Meeting of GST Council. This will ensure full relief to the taxpayers as decided by the GST Council.

As per the recent CBIC tweet, which clarifies that the Notification No. 63/2020-Central Tax dated August 25, 2020, issued in respect of “Interest in GST to be levied on Net Tax liability w.e.f September 1, 2020” is due to certain technical limitations.

Further, it has been assured that no recoveries shall be made for the past period by the Central and State tax administration in accordance with the decision taken in the 39th GST Council Meeting. This will ensure full relief to the taxpayers as decided by the GST Council.

### **Clarification Recovery of interest on net cash tax liability**

*Interest - Recovery of interest on net cash tax liability w.e.f. 1-7-2017-Instructions.*—In continuation to press release dated 26-8-2020 which clarified that Notification No. 63/2020-C.T., dated 25-8-2020, relating to interest on delayed payment of GST, has been issued prospectively due to certain technical limitations, however, it was assured that no recoveries shall be made for the past period accordance with the decision taken in the 39<sup>th</sup> Meeting of GST Council, the Department of Revenue has decided to address the issue through administrative arrangements, as under:



- (a) For the period 1-7-2017 to 31-8-2020, field formations have been instructed to recover interest only on the net cash tax liability (i.e., that portion of the tax that has been paid by debiting the electronic cash ledger or is payable through cash ledger); and
- (b) Wherever SCNs have been issued on gross tax payable, the same may be kept in Call Book till the retrospective amendment in Section 50 of the CGST Act is carried out.

-M.F. (D.R.) Instruction F. No. CBEC-20/01/08/2019-GST, dated 18-9-2020.

## **21. Payment of Interest on Net Cash Liability – Section 50 of CGST Act:**

Section 50 of the CGST Act is being amended, retrospectively, to substitute the proviso to sub-section (1) so as to charge interest on net cash liability with effect from the 1st July, 2017.

It is to mention that the Finance (No. 2) Act, 2019 inserted proviso to Section 50 stating that interest on delayed payment of tax is leviable only on that portion of output tax liability which is discharged by way of cash. The said proviso has been notified vide Notification No. 63/2020-CT., dated 20.08.2020 with effect from 1-09-2021. This is in line with recommendation of 39th GST Council meeting. With this amendment the issue of payment of tax on gross tax liability will now finally settle. Now, Section 50(1) of the CGST Act has been amended retrospectively from 1st July, 2017 so as to charge interest on delayed payment of GST on net cash liability.

## **22. Case Law**

### **SECTION 50 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - PAYMENT OF TAX - INTEREST ON DELAYED PAYMENT**

Interest was chargeable only on tax amount paid by debiting electronic cash ledger and not on amount paid by debiting electronic credit ledger in respect of returns filed after due date - *Utkal Automobiles (P.) Ltd. v Union of India* [2022] 142 taxmann.com 116 (Orissa)

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### **SECTION 49 (4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 – PRE-DEPOSIT AMOUNT 10% ON CASH LEDGER ONLY.**

Pre-deposit amount is required to be paid from Electronic Cash Ledger in respect of filing Appeal before the Appellate Authority under section 107 of the CGST Act, 2017- in the case of *Jyoti Construction v Deputy Commissioner of CT & GST*, reported in 2021 (54) G.S.T.L. 279(Ori.),

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### **SECTION 49(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 – PRE-DEPOSIT AMOUNT 10% ON CREDIT LEDGER OR CASH LEDGER.**

Pre-deposit amount is required to be paid from Electronic Cash Ledger or Electronic Credit Ledger in respect of filing Appeal before the Appellate Authority under section 107 of the CGST Act, 2017- in the case of Oasis Realty,

*Roma Builders Pvt Ltd. Macrotech Developers Limited v Union of India*  
(Bombay High Court).

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GST: Where appeals are to be filed, necessary pre-deposit can be made by debiting Electronic Credit Ledger instead of Electronic Cash Ledger
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The Hon'ble High Court of Orissa in the case of *M/s Kiran Motors v Additional Commissioner of CT & GST (Appeals)*, reported in (2023) 9 centax 357(Ori.), held that It is seen that by circular dated 6th July 2022 issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, it has been clarified that payment of pre-deposit can be made by using the ECL.

In that view of the matter, the impugned order dated 31-3-2023 is set aside. As the learned counsel for the Petitioner points out that the petitioner has already made the pre-deposit using the ECL, that will now be accepted by the Department. The appeal will now be listed before the 1st appellate authority *i.e.*, the Additional Commissioner of CT & GST on 11th September, 2023. The Petitioner will appear on that date before the appellate authority along with a downloaded copy of this order. The appeal thereafter be disposed of afresh after hearing the petitioner and the Department within a period of three months thereafter.

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