

JULY 2022

NEWSLETTER

TAX

- Income Tax
- Goods and Services Tax



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Income Tax

1. Income-tax (22nd Amendment) Rules, 2022

CBDT

Notification No. 83/2022 dated 12.07.2022

CBDT has notified new Rule 16 which deals with application by Assessing Officer to defer filing of appeal before the Appellate Tribunal if any question of law arising in the case of an assessee is identical with a question of law arising in his case for another assessment year which is pending in appeal before the Supreme Court against an order of High Court which was in favor of assessee, subject to acceptance of the same by the assessee

Application will be filed in Form 8A.

[Notification No.83](#)

2. Specifying Forms, returns, statements, reports, orders, by whatever name called, prescribed in Appendix-II to be furnished electronically under Rule 131(1) & (2)

CBDT

Notification No. 3/2022 dated 16.07.2022

Director General of Income Tax (Systems), has specified that the following Forms, returns, statements, reports, orders, by whatever name called, shall be furnished electronically and shall be verified in the manner prescribed under sub-rule (1) of Rule 131.

S.No.	Form	Description
1	3CEF	Annual Compliance Report on Advance Pricing Agreement
2	10F	Information to be provided under sub-section (5) of section 90 or sub-section (5) of section 90A.
3	10IA	Certificate of the medical authority for certifying 'person with disability', 'severe disability', 'autism', 'cerebral palsy' and 'multiple disability' for purposes of section 80DD and section 80U
4	3BB	Monthly statement to be furnished by a Stock Exchange in respect of transactions in which client codes have been modified after registering in the system.
5	3BC	Monthly statement to be furnished by a Recognized Association in respect of transactions in which client codes have been modified after registering in the system.
6	10BC	Audit report under (sub-rule (1) of rule 17CA) in the case of an electoral trust.
7	10FC	Authorization for claiming deduction in respect of any payment made to any financial institution located in a Notified jurisdictional area.
8	28A	Intimation to the Assessing Officer under section 210(5) regarding the Notice of demand under section 156 for payment of advance tax under section 210(3)/210(4).
9	27C	Declaration under sub-section (1A) of section 206C to be made by a buyer for obtaining goods without collection of tax.
10	58D	Report to be submitted by a public sector company, local authority or an approved association or institution under clause (ii) of sub-section (5) of section 35AC to the National Committee on a notified eligible project or scheme.
11	58C	Report to be submitted under clause (ii) of sub-section (4) of section 35AC to the National committee by an approved association or institution.

[Notification No.3](#)

3. Condonation of delay under Section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No. 9A, 10, 10B & 10BB for Assessment Year 2018-19 and subsequent years

CBDT

Circular No. 15, 16 & 17/2022 dated 19.07.2022

CBDT has issued circular regarding condonation of delay under Section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No. 9A, 10, 10B & 10BB for Assessment Year 2018-19 and subsequent years.

These forms are filed by charitable institutions.

Form 9 A and Form 10 are used for filing application for Accumulation of contribution and Form 10 & Form 10BB are used for filing Audit reports in case of charitable Institutions.

If the delay in filing is up to 365 days, application for condonation of delay shall be made to Commissioner of Income Tax. Beyond 365 days, Application shall be made to the Pr. Chief Commissioners of Income Tax/Chief Commissioners of Income Tax.

Application for condonation of delay will be disposed in 3 months from the date of receipt by Pr. Chief Commissioners of Income Tax/Chief Commissioners of Income Tax/Commissioner of Income Tax as the case may be.

[Circular No.15](#), [Circular No.16](#) & [Circular No.17](#)

<u>Goods & Service Tax (GST)</u>	
1. Amendment in Section 49(10) & section 50(3) of CGST Act, 2017 vide Finance Act 2022	
<div> <div>CBIC</div> <div>Notification No. 9/2022 dated 05.07.2022</div> </div> <p>Vide this notification, CBIC had notified amendment in Section 49(10) of CGST Act 2017 vide Finance Act 2022. Following amendment has been made: -</p> <ul style="list-style-type: none"> ➤ Section 49(10) of the CGST Act, 2017: A registered person can now transfer the balance in electronic cash ledger (ECL) to the ECL of a <i>distinct person</i> for the payment of CGST & IGST. ➤ <i>Distinct Person:</i> Different units of the same entity registered under single PAN over different locations. ➤ Further, balance can only be transferred to the distinct person if the transferor entity has no unpaid liability in its electronic liability register. <p>Notification No.9</p>	
2. Exemption from the filing of the annual return	
<div> <div>CBIC</div> <div>Notification No. 10/2022 dated 05.07.2022</div> </div> <p>CBIC has provided exemption from filing annual return in Form GSTR-9/9A for FY 2021-22 for such registered person whose aggregate turnover in the said year is up to Rs. 2 crores.</p> <p>Notification No.10</p>	
3. Extension of due date of furnishing FORM CMP-08 for the quarter ending June, 2022	
<div> <div>CBIC</div> <div>Notification No. 11/2022 dated 05.07.2022</div> </div> <p>Vide this notification, CBIC has extended due date of furnishing Composition taxpayers self-assessment tax statement (Form CMP-08) deadline for quarter ended April to June'22 from 30th June 2022 to 31st July 2022.</p> <p>Notification No.11</p>	
4. Extension of due date of filing of GSTR-4	
<div> <div>CBIC</div> <div>Notification No. 12/2022 dated 05.07.2022</div> </div> <p>Vide this notification, CBIC has extended date of filing of Form GSTR-4 (Annual return for composition dealers) for FY 2021-22 from 30th June 2022 to 28th July 2022. No late fee will be levied if return is filed by 28th July 2022.</p> <p>Notification No.12</p>	
5. Extension of specified compliances in exercise of powers under section 168A of CGST Act	
<div> <div>CBIC</div> <div>Notification No. 13/2022 dated 05.07.2022</div> </div> <p>Vide this notification, CBIC has extended date of specified compliances in exercise of power under section 168A of CGST Act, 2017: -</p> <ul style="list-style-type: none"> • Time limit to issue notice u/s 73(10) for recovery of tax not paid, short paid or of ITC wrongly utilized for FY 2017-18 shall be allowed till 30th September 2023. • Time period between 1st March 2020 to 28th February 2022 excluded for the computation of period of limitation u/s 73(9) (issuance of orders for recovery of erroneous refunds). • Time period between 01-03-2020 to 28-02-2022 excluded for the computation of period for filing of refund application u/s 54 & 55. 	

Notification No.13

6. CGST (First Amendment) Rules, 2022

CBIC

Notification No. 14/2022 dated 05.07.2022

Vide this notification, CBIC has notified (First Amendment) Rules, 2022.

Following are the key changes: -

- **Revocation of GST registration Suspension:** Registration suspended due to non-filing of GST return but not cancelled by proper officer, shall be deemed to be revoked upon filing of all pending returns.
- **Duty Credit Scrip:** The value of duty credit scripts shall not be included in the aggregate value of exempt supplies for reversal of common credits under Rule 42 and 43.
- **Declaration on the invoice:** Taxpayers having aggregate turnover exceeding ₹20 crores in any of the FY from 2017-18 and onwards, but not mandated to generate e-invoice shall be required to provide a declaration to that effect in the invoices issued by them.
- **Erroneous refund:** If the registered person has deposited erroneous refund amount along with interest & penalty through cash ledger, then an amount equivalent to the deposit by taxpayers through DRC-03, shall be re-credited to electronic credit ledger by proper officer by an order made in FORM GST PMT-03A.
- **UPI and IMPS** shall be allowed as modes of payment towards tax, interest, penalty, fees, or any other amount.
- **FORM GST PMT-09** shall be used for the transfer of Cash ledger amount of CGST to the ECL for CGST or IGST of distinct person.
- **Levy of interest on Net Cash liability and Input Tax Credit (ITC) wrongly utilized:** Changes has been incorporated in Rule 88B regarding: -
 1. Interest calculation only on the Net liability after utilising input for the delay in filing of GST return.
 2. In case of ITC wrongly availed, interest shall be calculated on the amount of ITC wrongly availed & utilized.
 3. ITC wrongly availed shall be construed to have been utilized, when the balance in the Electronic cash ledger (ECL) falls below the amount of ITC wrongly availed, and the extent of such utilization of ITC shall be the amount by which the balance in the ECL falls below the amount of input tax credit wrongly availed.
- **Refund of accumulated ITC on the export of electricity:** The documentary evidence for claiming a refund on accumulated credits on the export of electricity has been notified to ease the process of claiming refunds.
- **Value of exports for claiming refund of accumulated ITC:** For claiming refund of accumulated ITC on the export of goods, the value of goods shall be taken as lesser of the: -
 1. Declared FOB (Free on Board) value in the Shipping bill or Bill of Export or
 2. Value declared in the tax invoice/bill of supply
- **Refund of accumulated credits due to inverted duty structure:** The Formula has been amended to consider utilization of ITC on account of inputs and input services in the same ratio in which ITC had been availed during the said tax period.
- **Rule 95A** providing differential treatment for a refund on supplies from Duty-Free Shops at international terminals has been withdrawn retrospectively from 1st July 2019.
- **Refund of IGST paid on export of goods:** Rule 96 has been retrospectively amended from July 2017 to make refund claims for exports of goods contingent on the matching of shipping details with GSTR-1 and, to provide for withholding of refunds where additional verification may be required.

- **GSTR-3B:** The format of GSTR-3B has been revised for reporting the supply of services through aggregators/e-commerce operators, the tax on which shall be paid by such operators. Table 4 for the ITC claims has also been revised.
- **GSTR-9/9C:** The format for GSTR-9 and 9C for FY 2021-22 and other forms have been amended/inserted in line with the changes in relevant provisions.

[Notification No.14](#)

7. 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

CBIC

Circular No. 170/2022 dated 06.07.2022

Vide this circular, CBIC has clarified the following: -

1. Registered persons making inter-State supplies –
 - To unregistered persons, shall also report the details of such supplies, place of supply-wise, in Table 3.2 of FORM GSTR-3B and Table 7B or Table 5 or Table 9/10 of FORM GSTR-1, as the case may be;
 - To registered persons paying tax under section 10 of the SGST/CGST Act (composition taxable persons) and to UIN holders, shall also report the details of such supplies, place of supply-wise, in Table 3.2 of FORM GSTR-3B and Table 4A or 4C or 9 of FORM GSTR-1, as the case may be, as mandated by the law.
 - Shall update their customer database properly with correct State name and ensure that correct Point of Service(PoS) is declared in the tax invoice and in Table 3.2 of FORM GSTR-3B while filing their return, so that tax reaches the Consumption State as per the principles of destination-based taxation system.
2. Reversal of ITC which are absolute and not reclaimable like under Rule 38, Rule 42, Rule 43 and as per Section 17(5) to be made in Table 4(B)(1).
3. Reversal of ITC which can be reclaimed later such as under Rule 37, Section 16(2)(b) & Section 16(2)(c) to be made in Table 4(B)(2).
4. ITC not available, on account of limitation of time period as delineated in sub-section (4) of section 16 of the CGST Act or where the recipient of an intra-State supply is located in a different State / UT than that of place of supply, may be reported by the registered person in Table 4D (2).

[Circular No.170](#)

8. Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices.

CBIC

Circular No. 171/2022 dated 06.07.2022

Vide this circular, CBIC has provided various case scenarios to clarify the matter of demand of tax and penalty in cases involving fake invoicing:

- If a registered person "A" has issued tax invoice to another registered person "B" without the underlying supply of goods or services or both, such an activity does not satisfy the criteria of "supply", as defined under section 7 of the CGST Act. As there is no supply by 'A' to 'B' in respect of such tax invoice in terms of the provisions of section 7 of CGST Act, no tax liability arises against 'A' for the said transaction, and accordingly, no demand and recovery is required to be made against 'A' under the provisions of section 73 or section 74 of CGST Act in respect of the same. Besides, no penal action under the provisions of section 73 or section 74 is required to be taken against 'A' in respect of the said transaction. The registered person 'A' shall, however, be liable for penal action under section 122 (1)(ii) of the CGST Act for issuing tax invoices without actual supply of goods or services.

- If a registered person “A” has issued tax invoice to another registered person “B” without the underlying supply of goods or services or both and “B” availed and utilized the ITC on this fake invoice then he shall be liable for demand and recovery of the said ITC, along with penal action, under the provisions of section 74 of the CGST Act, along with applicable interest under provisions of section 50 of the said Act.
- If a registered person “A” has issued tax invoice to another registered person “B” without the underlying supply of goods or services or both and “B” avails ITC on this invoice and further passes the said ITC to “C” then the ITC availed by “B” is ineligible ITC as per section 16(2)b of the CGST Act and “B” shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii) of the CGST Act, for issuing invoices without any actual supply of goods and/or services as also for taking/utilizing input tax credit without actual receipt of goods/services.

[Circular No.171](#)

9. Clarification on various issue pertaining to GST

CBIC

Circular No. 172/2022 dated 06.07.2022

Vide this circular, CBIC has clarified the following: -

- **Interpretation of section 17(5) of the CGST Act related to blocked credit under GST.**

The word “leasing” referred in sub-clause (i) of clause (b) of sub-section (5) of section 17 refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items. Accordingly, availment of ITC is not barred under sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act in case of leasing, other than leasing of motor vehicles, vessels and aircrafts.

- **Perquisites provided by employer to the employees as per contractual agreement:**

The 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.

- **Utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities:**

Electronic credit ledger can be used for payment towards any output tax, whether self-assessed in the return or as consequence of any proceedings under GST Act but it cannot be used for payment of penalty, interest, fees or any sum payable under the GST Act.

Electronic credit ledger can be used for payment of penalty, interest, fees or any sum payable under the GST Act.

[Circular No.172](#)

10. Prescribing manner of re-credit in electronic credit ledger (ECL) using FORM GST PMT-03A.

CBIC

Circular No. 174/2022 dated 06.07.2022

Vide this circular, CBIC has prescribed the manner of re-credit in ECL of the taxpayer after taxpayer deposited the amount of erroneous refund received by him from the GST department.

- Taxpayer shall deposit the amount of erroneous refund along with applicable interest and penalty, wherever applicable, through FORM GST DRC-03 by debit of amount from electronic cash ledger.
- Till the time an automated functionality for handling such cases is developed on the portal, the taxpayer

shall make a written request to jurisdictional proper officer.

- The proper officer, on being satisfied that the full amount of erroneous refund along with applicable interest, as per the provisions of section 50 of the CGST Act, and penalty, wherever applicable, has been paid by the said registered person in FORM GST DRC-03 by way of debit in electronic cash ledger, he shall re-credit an amount in electronic credit ledger, equivalent to the amount of erroneous refund so deposited by the registered person, by passing an order in FORM GST PMT-03A, preferably within a period of 30 days from the date of receipt of request for re-credit of erroneous refund amount so deposited.

[Circular No.174](#)

11. Manner of filing refund of unutilized ITC on account of export of electricity

CBIC

Circular No. 175/2022 dated 06.07.2022

Vide this circular, CBIC has stated the manner of filing refund claim for unutilized ITC on account of export of electricity as explained below:

- Applicant would be required to file the application for refund under “Any Other” category electronically in FORM GST RFD-01, on the portal.
- Applicant would be required to furnish/upload the details contained in Statement 3B (and not in statement 3) of FORM GST RFD-01 (in pdf format), containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per agreement.
- Applicant will also be required to upload the copy of statement of scheduled energy for electricity exported by the Generation Plants (in format attached as Annexure-I)
- The relevant date shall be the last date of the month, in which the electricity has been exported as per monthly Regional Energy Account (REA) issued by the Regional Power Committee Secretariat under regulation 2(1) (nnn) of the CERC (Indian Electricity Grid Code) Regulations, 2010.
- Turnover of export of electricity shall be calculated using the lower of the quantum of electricity exported mentioned on the statement of scheduled energy exported and that mentioned on the invoice issued on account of export of electricity.
- If the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the applicant, in writing, if required, to debit the said amount from the electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment order in FORM GST RFD-05.

[Circular No.175](#)

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.

Instead, it is only a listing of some of the circulars/notifications that we considered important



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