

RECENT AMENDMENTS IN GST IN F.Y.22-23



E-Invoicing

Registered Person having turnover more than Rs. 10 crore is required to issue e-invoice w.e.f. 01.10.2022.



Particulars	From	To
Works contract for roads, bridges, railways, metro, effluent treatment plant, crematorium etc.	12%	18%
Works contract supplied to central and state governments, local authorities for historical monuments, canals, dams, pipelines, plants for water supply, educational institutions, hospitals etc. & subcontractor thereof	12%	18%
Works contract supplied to central and state governments, union territories & local authorities involving predominantly earthwork and sub-contracts thereof	5%	12%

Time limit to issue Credit Notes related to FY 22-23 has been increased from Sep 23 to Nov 23

The time limit for declaring the details of credit note is 30th November of the year succeeding the year related to which credit note is issued or the date of furnishing of annual return, whichever is earlier.



Time limit of availing the ITC of FY 2022-23 has been increased from Sep-23 to Nov -23

As per Section 16(4), a registered person is not entitled to claim ITC after; 3. 30th November of the year succeeding the financial year for which he is claiming ITC, or 4. the date of filing of relevant annual return whichever is earlier.

Amendment in formula prescribed in sub-rule (5) of rule 89 of CGST Rules, 2017 for calculation of refund of unutilized Input Tax Credit on account of inverted rated structure

Change in formula for calculation of refund under rule 89(5) to take into account utilization of ITC on account of inputs and input services for payment of output tax on inverted rated supplies in the same ratio in which ITC has been availed on inputs and input services during the said tax period. This would help those taxpayers who are availing ITC on input services also.

GSTN enabled option to utilize the amount in Cash Ledger of one GSTIN by another GSTIN having same PAN

Electronic Cash Ledger –

(14) 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.



Rule 37A. Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof

Where input tax credit has been availed by a registered person in the return in FORM GSTR-3B for a tax period in respect of such invoice or debit note, the details of which have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility, but the return in FORM GSTR-3B for the tax period corresponding to the said statement of outward supplies has not been furnished by such supplier till the 30th day of September following the end of financial year in which the input tax credit in respect of such invoice or debit note has been availed, the said amount of input tax credit shall be reversed by the said registered person, while furnishing a return in FORM GSTR-3B on or before the 30th day of November following the end of such financial year.

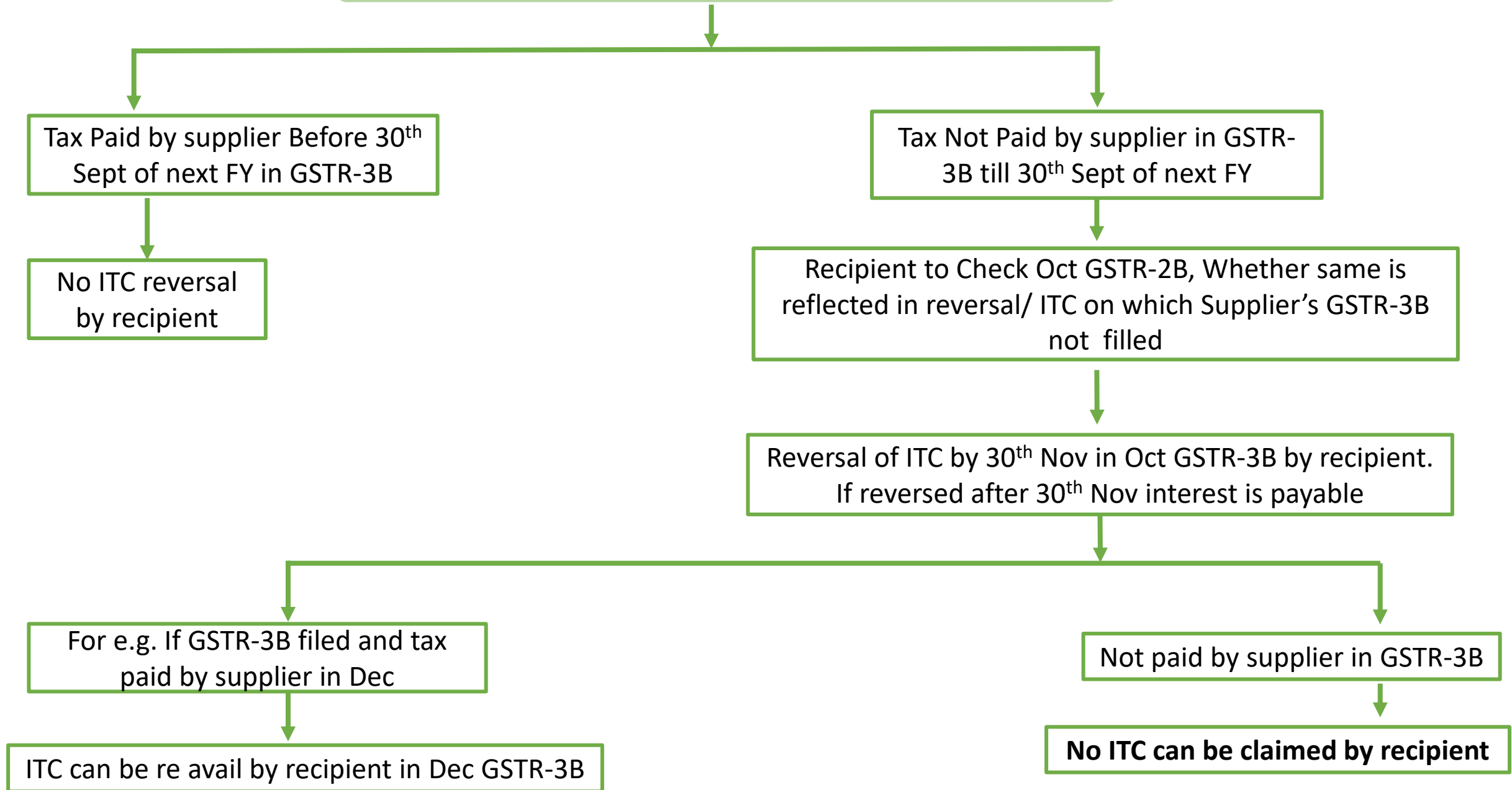


Provided that where the said amount of input tax credit is not reversed by the registered person in a return in FORM GSTR-3B on or before the 30th day of November following the end of such financial year during which such input tax credit has been availed, such amount shall be payable by the said person along with interest thereon under section 50.

Provided further that where the said supplier subsequently furnishes the return in FORM GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in FORM GSTR-3B for a tax period thereafter.



ITC reversal as per Rule 37A



Rule 59. Form and manner of furnishing details of outward supplies.



(d) a registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88C in respect of a tax period, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of sub-rule (2) of rule 88C.



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.



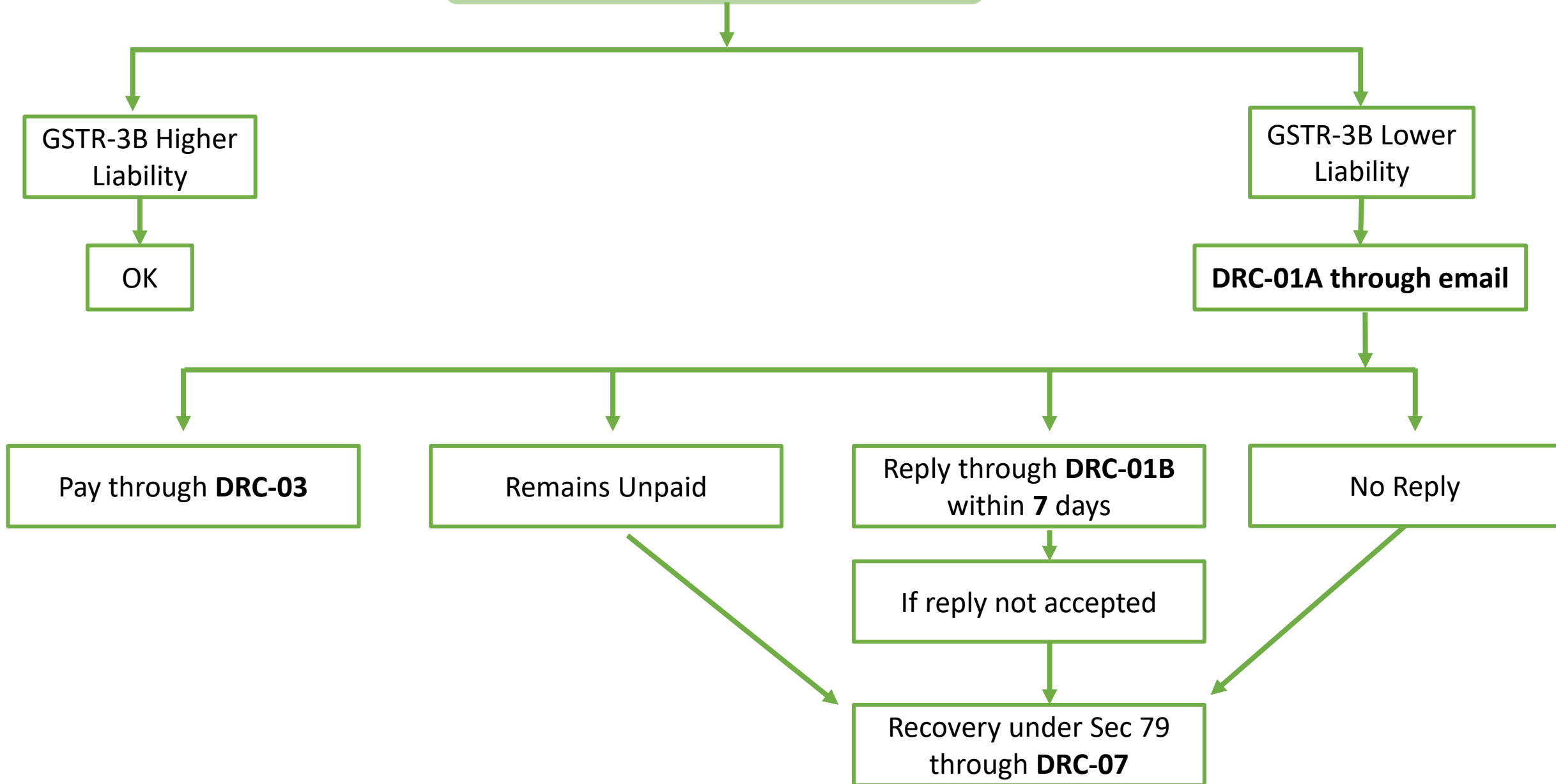
(2) The registered person referred to sub-rule (1) shall, upon receipt of the intimation referred to in that sub-rule, either,-

(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-01B 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.

GSTR-1 VS GSTR-3B





Rule 89. Application for refund of tax for cancelled flat owners

Rule 89(2) The application shall be accompanied by any of the following documentary evidences in Annexure 1 in Form GST RFD-01, as applicable, to establish that a refund is due to the applicant

(ka) a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated;

Rule 89(2) The application shall be accompanied by any of the following documentary evidences in Annexure 1 in Form GST RFD-01, as applicable, to establish that a refund is due to the applicant

(kb) a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated

In clause (m), the following proviso shall be inserted,

Provided further that a certificate is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax.

Circular 188: Prescribing manner of filing an application for refund by unregistered persons in case of cancelled flat owners and insurance policy owners



In order to enable unregistered person to file application for refund under sec 54(1), in cases where the contract/agreement for supply of services of construction of flat/ building has been cancelled or where long-term insurance policy has been terminated, a new functionality has been made available on the common portal which allows unregistered persons to take a temporary registration and apply for refund under the category '**Refund for Unregistered person**' in statement 8 in FORM GST RFD-01. Further, time period of **two years** from the relevant date has been specified for filing an application of refund and no refund shall be paid if the amount is less than 1000 Rs.

Mismatch



Circular 183: Clarification to deal with difference in ITC availed in GSTR-3B as compared to that detailed in GSTR-2A for FY 2017-18 and 2018-19

As GSTR-2A wasn't available during FY 2017-18 and FY 2018-19. Further, restrictions regarding availment of ITC up to certain specified limit beyond the ITC as per GSTR-2A were provided under rule 36(4) w.e.f. 9th October 2019. However, the availability of ITC was subjected to restrictions and conditions specified in Section 16 of CGST Act from 1st July 2017 itself.

So, clarification has been issued. However, it may be noted that for the period FY 2017-18, as per proviso to section 16(4) of CGST Act, the relaxations shall not be applicable to the claim of ITC made in the GSTR-3B return filed after the due date of furnishing return for the month of September 2018 till the due date of furnishing return for March 2019, if supplier had not furnished details of the said supply in his GSTR-1 till the due date of furnishing GSTR 1 for the month of March 2019

Scenario

Where the supplier has failed to file GSTR-1 but has filed GSTR-3B

Where the supplier has filed GSTR-1 as well as GSTR-3B, but has failed to report a particular supply in GSTR-1

Where supplier has wrongly reported supply as B2C, instead of B2B, in his GSTR-1

Where the supplier has filed GSTR-1 & GSTR-3B, but has declared the supply with wrong GSTIN of the recipient in GSTR-1

If difference exceeds Rs 5 lakh,
He shall produce a certificate from the CA / CMA
Certifying that supplies have actually been made by supplier and the tax on said supplies has been paid by the supplier in his return in GSTR 3B. Certificate shall contain UDIN. It can be verified from ICAI/ICMAI website.

If difference does not exceed Rs 5 lakh
He shall produce a certificate from the concerned supplier
Certifying that supplies have actually been made by him and the tax on said supplies has been paid by the him in his return in GSTR 3B

Amendment related to Electronic Commerce Operator

Clause (d)(2)(10) and Clause (c)(2A)(10) of the CGST Act is being amended so as to **remove** the **restriction** imposed on registered persons engaged in **supplying goods** through **electronic commerce operators** from opting to pay tax under the **Composition Levy**.



Summary: Registered person engaged in supplying goods through ECO can now opt for composition Levy

Amendment related to Blocked credit of CSR activities

Sec 17(5) is also being amended so as to provide 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 intended to be used for activities relating to his obligations under **corporate social responsibility** referred to in section 135 of the Companies Act, 2013.



Summary: ITC cannot be claimed in respect of goods or services which are used for Corporate Social Responsibility (CSR) activities

Retrospective Amendment to Sec 23 person not liable for registration

Sub-section (1) and sub-section (2) of section 23 of the CGST Act are being amended, with retrospective effect from 01st July, 2017, so as to provide that persons for compulsory registration in terms of sub section (1) of section and section 22 of the Act **need not register** if **exempt under sub section (1) of section 23**



Summary: Person exempt from registration u/s 23 need not take registration even if liable for registration as per Sec 24

Amendment regarding restriction for filling GSTR-1

A new sub-section (5) in section 37 of the CGST Act is being inserted so as to provide a time limit upto which the details of **outward supplies** under sub-section (1) of the said section for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for **extension of the said time limit**, subject to certain conditions and restrictions, for a registered person or a class of registered persons



Summary: The details of outwards supplies u/s 37(5) (GSTR-1) can be filed up to 3 years only

Amendment regarding restriction for filing GSTR-3B

A new sub-section (11) in section 39 of the CGST Act is being inserted so as to provide a time limit upto which the return for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for **extension of the said time limit**, subject to certain conditions and restrictions, for a registered person or a class of registered persons



Summary: The details of inwards supplies u/s 39(11) (GSTR-3B) can be filed up to 3 years only

Amendment regarding restriction for filling GSTR-9

A new sub-section (2) in section 44 of the CGST Act is being inserted so as to provide a time limit upto which the annual return under sub-section (1) of the said section for a financial year can be furnished by a registered person. Further, it also seeks to provide an enabling provision **for extension of the said time limit**, subject to certain conditions and restrictions, for a registered person or a class of registered persons



Summary: Annual return u/s 44 (2) (GSTR-9 & 9C) can be filed up to 3 years only

Amendment regarding restriction for filing GSTR-8

A new sub-section (15) in section 52 of the CGST Act is being inserted so as to provide a time limit upto which the statement under sub-section (4) of the said section for a month can be furnished by an electronic commerce operator. Further, it seeks to provide an enabling provision for **extension of the said time limit**, subject to certain conditions and restrictions, for an electronic commerce operator or a class of electronic commerce operators.



Summary: Return u/s 52(4) by an ECO (GSTR-8) can be filed up to 3 years only

Amendment regarding sharing of data

A new section 158A in the CGST Act is being inserted so as to provide for prescribing manner and conditions for **sharing of the information furnished** by the registered person in his return or in his application of registration or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or Eway bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified



Summary: This section is to be inserted to interlink E-invoice , E-way bill and GST portal data

Amendment to Sec 132(1)

Sub-section (1) of section 132 of the CGST Act is being amended so as to **decriminalize offences specified in clause (g), (j) and (k)** of the said sub-section and to increase the monetary threshold for launching prosecution for the offences under the said Act from one hundred lakh rupees to two hundred lakh rupees, except for the offences related to issuance of invoices without supply of goods or services or both



4. No GST is payable where the **residential dwelling** is rented to a registered person if it is rented it in his/her **personal** capacity for use as his/her own residence and on his own account and not on account of his business.



5. **Incentive** paid to banks by Central Government under the scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of **subsidy** and thus not taxable



Any Questions?



Thank you!!!

