

GST GUIDE



Interest u/s 50 is charged on Net GST Liability from 1-Sept-20

GST Registration is a must as assets sold by Liquidator is a supply- (AAR-WB)

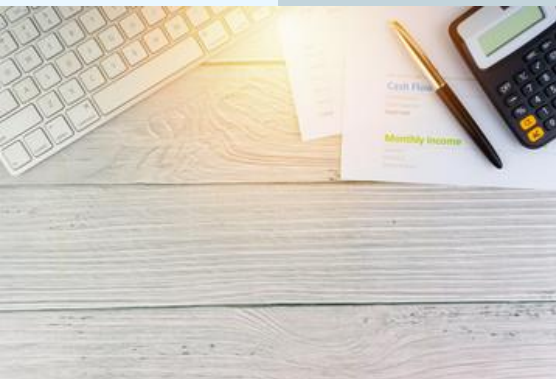
Refund of ITC on Input services under Inverted Duty Structure – Gujarat HC

Downloading document-wise details of Table 8A of Form GSTR-9

Negative figure accepted by GSTR3B

ITC Statement Form GSTR-2B, made available on GST Portal for taxpayers

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Notifications, Circulars and Amendments to Law/Rule



Notification / Orders	Subject	Notification Highlights
Notification No.62/2020-CT 20- Aug-20	Seeks to make Tenth amendment (2020) to CGST Rules – Aadhar authentication for GST Registration	<ul style="list-style-type: none">• With effect from 21-Aug-20, if the taxpayer opted for Aadhar authentication, the date of submission of application shall be the date of Aadhar authentication, or fifteen days from the submission of the application in Part B of Form GST REG-01 whichever is earlier.• For other cases where a person fails to undergo authentication of Aadhaar Number, the registration shall be granted only after physical verification of place of business.• Where the proper officer fails to take any action within the time period prescribed, the application for grant of registration shall be deemed to have been approved. <p>➤ <i>RAMA Says-</i> <i>The above amendment will facilitate genuine and honest taxpayers to get the speedy and faceless GST Registration while at the same time it keeps the fake and fraudulent entities away from GST.</i></p>

Notifications, Circulars and Amendments to Law/Rule



Notification / Orders	Subject	Notification Highlights
<p>Notification No.63/2020-CT- 25-Aug-20</p>	<p>Seeks to notify the provisions of section 100 of the Finance (No. 2) Act, 2019 to amend section 50 of the CGST Act, 2017 w.e.f. 01-Sep-20</p>	<p>Interest u/s 50 is charged on Net GST Liability from 1-Sep-20 and not retrospectively from Jul-17</p> <p>However CBIC clarified on later date that the Aug-25 notification has been issued prospectively due to technical limitations.</p> <p>It has assured that no recoveries shall be made for the past period in accordance with the decision taken by the council.</p> <p>➤ RAMA Says:- Charging of interest on net liability from prospective effect will lead to litigation for large taxpayers and harassment for small taxpayers.</p> <p><i>Although through twitter, CBIC had clarified that no recoveries shall be made by the officer but what will happened for the excess interest which has already been charged to taxpayers? Is he eligible to get the refund of excess interest paid on account of computation of interest on gross liability?</i></p>
<p>Notification No.64/2020-CT – 31-Aug-20</p>	<p>Seeks to extend the due date for filing FORM GSTR-4 for financial year 2019-20</p>	<p>Due date for filing GSTR-4 for FY 2019-20 extended to 31-Oct-20</p>
<p>Notification No. 65/2020-CT-01-Sept-20</p>	<p>Amend notification no 35 to extend due date</p>	<p>Due date for completion of any compliance for anti-profiteering measures falling between 20-Mar-20 to 29-Nov-20 shall be extended upto 30-Sept-20</p>

Advance Authority Rulings

NCLT appointed Liquidator Liable to Register and Pay GST on the sale proceeds of assets sold in the process of Insolvency, WB AAR

Applicant: M/S Mansi Oils & Grains Pvt Ltd.

Facts & Issue of The Case: The applicant M/S Mansi Oils and Grains Pvt. Ltd. is a corporate debtor under the provision of the Insolvency and bankruptcy Code' 2016 and appointed a liquidator Smt Rachana Jhunjunwala. The applicant, seeking an advance ruling in respect of:

Whether any sale done by the liquidator of the assets of the applicant results in a supply of goods and/or services or both within the meaning of "supply" as defined under section 7 of the GST Act?

If the answer is affirmative, then what will be the rate of GST?

Whether the liquidator needs to get registered under the GST Act?

Observations & Ruling:

Sl No 4 (a) of Schedule II of the GST Act says, where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person. The liquidator is appointed under section 34 (1) of IBC after NCLT initiates liquidation in terms of section 33 of IBC. As the applicant – the corporate debtor – is not a going concern, the liquidator is required to sell its assets under clauses (a) to (d) of Regulation 32 of the Insolvency and Bankruptcy Board of India

(liquidation process) Regulations.

The sale of the assets of the applicant by NCLT appointed liquidator is a supply of goods by the liquidator, who is required to take registration under section 24 of the GST Act. If she is already registered as a distinct person of the corporate debtor in terms of [Notification No. 11/2020 – Central Tax dated 21/03/2020](#), she should continue to remain registered till her liability ceases under section 29 (1) (c) of the GST Act.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.

RAMA Says: The registration of the Insolvency Professional (IP) as a liquidator of assets, makes it necessary for the IP to be responsible for all the compliances mandated by the GST legislation. A person once registered under GST has to comply with the GST provisions which includes filing of regular GST Returns along with GST Annual return and GST Audit.

The GST registration by the liquidator can be surrendered, once the liquidation process is complete. However, an application for surrender of registration usually results in an audit notice which the Resolution professional will need to face.

The registration can be only surrendered only on completion of such an audit/enquiry. And till such time, this process of surrender is completed successfully, the RP cannot obtain a new GST registration in her name for any other business as there cannot be two GST registrations for the same person.

Case Laws



Case Law: Gujarat High Court Allows Refund of “Accumulated Input Tax Credit on Input Services” in Case of “Inverted Duty Structure”

In one of the landmark judgment, the Gujarat High Court in the case of VKC Footsteps India Pvt. Ltd. Vs. Union of India held that the Explanation (a) to Rule 89(5) of the CGST Rules, 2017 is ultra vires the provisions of Section 54(3) of the CGST Act, 2017, which denies the refund of ‘unutilized input tax’ paid on ‘input services’ as part of ‘input tax credit (ITC)’ accumulated on account of inverted duty structure.

Facts & Issues of the Case:

The Petitioner, VKC Footwear India Pvt. Ltd., who is into the business of manufacture and supply of footwear & footwear attracts GST at the rate of 5%. The Petitioner procures input services such as job work service, goods transport agency service, etc. and inputs such as synthetic leather, PU Polyol, etc., on payment of applicable GST at the rate of 12% or 18% in the majority.

Based on the above-mentioned structure of its operations, the petitioner has an inverted

duty structure, i.e. GST paid on inward supplies is more than GST paid on its outward supplies and hence there is an accumulation of unutilized ITC in its electronic credit ledger.

The petitioner contended that the Explanation (a) to Rule 89(5) of the CGST Rules, 2017 restricts the refund of accumulated ITC on account of input services under inverted duty structure and therefore is ultra vires the provisions contained in Section 54(3) of the CGST Act, 2017.

It was highlighted that in terms of the proviso to Section 54(3) of the CGST Act, 2017 ***‘no refund of unutilized ITC shall be allowed in cases other than where ‘the tax credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies.’***

The term ‘input tax credit’ is defined under Section 2(63) of the CGST Act, 2017, and provides that input tax credit means the credit of input tax. Similarly, ‘Input tax’ has been defined under Section 2(62) of the CGST Act, 2017, and provides that input tax to a registered person means the CCST, SGST, UTGST, or IGST charged on any supply of goods or services. However, Rule 89(5) of the CGST Rules, 2017 which was amended vide notification No. 26/2018-Central Tax on 13th June 2018, further restricted the GST refund of input tax on input services.

Further Central Board of Indirect Taxes and Customs (CBIC), vide their Circular No. 79/53/2018-GST, dated 31-Dec-18, also clarified that refund of ITC is admissible to the extent of ‘accumulated ITC on account of rate of tax on inputs being higher than the rate of tax on output supplies’ and is not admissible for input service per se.

Case Laws

The petitioner further contended that the basis above mentioned Circular and amended Rule 89(5) of the CGST Rules, 2017, is being interpreted by the GST Authorities that the refund of ITC on 'Input service' on account of inverted duty structure is restricted.

Confronting the above interpretation, certain petitions were filed before Hon'ble Gujarat HC and all such similar petitions have been disposed of by this judgment. The key findings of rulings are as below: -

Key finding of Hon'ble Gujarat HC Ruling:

The Hon'ble Gujarat HC observed that the Explanation (a) to Rule 89(5) is overriding the provisions contained in section 54(3) of the CGST Act, 2017.

The Hon'ble Gujarat HC further noted that the word 'Input Tax Credit' & 'Input Tax' are defined under GST Law which means and includes tax charged on any supply of Goods and Services or both made to the registered person. Therefore, the refund cannot be restricted only to the inputs on goods received as provided in Explanation (a) to Rule 89(5) of CGST Rules, 2017, and should cover Input Services as well.

The Hon'ble Gujarat HC, further observed that the Rule cannot restrict the statutory provision as provided in Section 54(3) of the CGST Act 2017.

The Hon'ble Gujarat HC accordingly held that the explanation (a) to Rule 89(5) of the CGST Rules, 2017 is contrary to the provisions of Section 54(3) of the CGST Act, 2017. In fact, the Net ITC should mean "input tax credit" availed

on "inputs" and "input services" as defined under the Act.

Therefore, the refund of unutilized ITC would be limited to accumulation arising pursuant to GST rates on inputs being higher than GST rates on output supplies, would only operate as a criterion, which once met, would entitle refund of unutilized ITC irrespective of its composition

RAMA Says: Taxpayer operating in an inverted tax structure environment can get a refund of unutilized ITC on 'Input Services' as well, and therefore, it would be a significant relief for industries functioning under this tax set up. The companies who are suffering on account of blocked ITC under a similar situation would be desirous to evaluate the ruling in detail and analyze if the benefit of this ruling can be availed in their case which may support in bringing a substantial cash flow benefit to such companies under the prevailing pandemic situation. One major issue required to be assessed is that, how will companies avail the benefit of this decision, particularly related to the past periods considering the time limit for a filing refund claims under the GST scenario and the fact that assesseees are not permitted to file a refund claim for a particular period twice.

In the view of above discussion, the Hon'ble Court has rightly held that provisions contained in Rule 89(5)(a) of the CGST Rules are contrary to the provisions of Section 54(3) of the CGST Act and accordingly, refund of input services under inverted duty structure is allowed. Having said that, in all likely event, the department would challenge such decision before the Supreme Court. Moreover, it is also possible that relevant amendment can be made in the governing section with a retrospective effect to curb outflow of revenue.

RAMA IRIS GST / Portal Updates

return.gst.gov.in/returns2/auth/gstr9/dashboard

Steps to prepare GSTR-9 return online

1. Download the draft system computed GSTR-9, summary of Form GSTR-1 and GSTR-3B for the financial year by clicking on relevant buttons. This is only for reference for filling the return, and will facilitate in providing details in actual tables.
2. Click on tables (Box) selected and fill in the required details;
3. Summary of added details would be available on the relevant box;
4. Click on 'Preview' button to view summary in PDF or Excel format; and
5. After adding and confirming the details, follow filing process as indicated at the bottom of this page.

Click here to download the system computed GSTR-9 summary in PDF format.

DOWNLOAD GSTR-9 SYSTEM COMPUTED SUMMARY (PDF)

DOWNLOAD GSTR-1 SUMMARY (PDF)

DOWNLOAD GSTR-3B SUMMARY (PDF)

DOWNLOAD TABLE 8A DOCUMENT DETAILS

Downloading document-wise details of Table 8A of Form GSTR-9

There's a new facility on the GST portal for tax filers to get the invoice-wise details of input tax credit that has been auto-populated in Table 8A of the GSTR-9 annual return. The same can be obtained by clicking on the 'Download Table 8A Document Details' button appearing under the instructions, at the top of the GSTR-9 return form.

2. ITC Statement Form GSTR-2B, made available on GST Portal for taxpayers

1. GSTR-2B is an **auto-drafted Input Tax Credit (ITC) statement** generated for every recipient, on the basis of the information furnished by their suppliers, in their respective Form GSTR-1 & 5 and Form GSTR-6 filed by ISD.
2. Taxpayers can now **reconcile data** generated in Form GSTR-2B, with their own records and books of accounts. Using this reconciliation, they can now file their Form GSTR 3B and they can ensure that
 - o no credit is taken twice,

- o credit is reversed as per law, &
- o tax on reverse charge basis is paid.

3. It is a **static** statement, generated **once** on 12th of **following** month.
 - o It consists of all documents filed by suppliers/ISD in their Form GSTR-1, 5 & 6, between 00:00 hours on 12th day of preceding month to 23:59 hours, on 11th day of current month. Thus, statement generated on 12th of August will contain data from 00:00 hours of 12-Jul to 23:59 hours of 11th
 - o The details filed in GSTR-1 & 5 (by supplier) & GSTR-6 (by ISD) would reflect in the next open GSTR-2B of the recipient irrespective of supplier's/ISD's date of filing. For e.g., if a supplier files a document INV-1 dt. 15-Jul-20 on 11-Aug, it will get reflected in GSTR-2B of July (generated on 12-Aug). If the document is filed on 12-Aug-20 the document will get reflected in GSTR-2B of August (generated on 12-Sep).

RAMA IRIS GST / Portal Updates

The screenshot displays the RAMA IRIS GST Portal interface with several key sections:

- Details of outward supplies of goods or services (GSTR1):** Shows a due date of 31/10/2020 and buttons for 'PREPARE ONLINE' and 'PREPARE OFFLINE'.
- Auto Drafted details (For view only) (GSTR2A):** Includes 'VIEW' and 'DOWNLOAD' buttons.
- Auto - drafted ITC Statement (GSTR2B):** Includes 'VIEW' and 'DOWNLOAD' buttons.
- Monthly Return (GSTR3B):** Shows a due date of 20/09/2020 and buttons for 'PREPARE ONLINE' and 'PREPARE OFFLINE'.
- Comparison of liability declared and ITC claimed:** Includes a 'VIEW' button.

- It also contains information on imports of goods from the ICEGATE system including data on imports from Special Economic Zones Units / Developers. (This will be made available in GSTR-2B from 12- Sep-20 onwards). Reverse charge credit on import of services is not part of this statement and need to be entered by taxpayers in Table 4(A) (2) of FORM GSTR-3B.
- Steps to Download:** Taxpayers can access their GSTR-2B through: **Login to GST Portal > Returns Dashboard > Select Return period > GSTR-2B.**
- Important features:** Taxpayers can
 - ✓ View or download Summary Statement or Section wise details in excel or PDF format.
 - ✓ Taxpayers can view supplier wise summary or document wise details.

Email / SMS to taxpayer will be sent informing them about generation of GSTR-2B.

Major Difference Between GSTR2B and GSTR2A

GSTR2A -Sept-20

All invoices pertaining to Sept-20 will be reflected in GSTR2A whenever the supplier furnish it through GSTR1. For e.g.:- If the taxpayer filed Sept-20 return in Dec-20 and also if few invoices of Sept-20 is filed along with return of Dec-20, all these invoices will get reflected in Sept-20 GSTR2A of the recipient.

GSTR2B-Sept-20

Invoices of any month furnished through any month of GSTR1 but filed during the period 12-Oct-20 to 11-Nov-20 then such invoices will get appeared in GSTR2B of Sept-20.

RAMA Says:- This facility will allow the taxpayer to easily reconcile their books of accounts but still issue persist with the department for mismatch in GSR2B and GSTR3B as there are certain instances where purchase invoice of a particular month is booked in subsequent months which needs to be clarified to the department.

RAMA IRIS GST / Portal Updates

GST Portal Accept Negative Figure in GSTR3B

- The GSTN has enabled to enter the negative figure in GSTR3B. This will be a major relief to many taxpayers who are facing problem how to report sales reversal / sales return in case if there is no sales in a particular month. It is to be noted that till date the portal is not accepting negative figures.
- Further the outward supplies figures to be auto populated in GSTR3B on the basis of GSTR-1 filed. This facility will be available for all those taxpayers who have filed GSTR-1 after 04-Sept-20.

RAMA, a boutique consulting firm having expertise in Risk & Business Advisory, Process & Systems (ERP) Consulting & Indirect Taxes across industries for corporates in India, UAE, USA, Africa & Europe.

RAMA is pool of Business, Process, Systems & Tax experts to provide comprehensive Risk, Assurance & Advisory services.

RAMA's IT arm is a **Microsoft Certified Partner** providing ERP Implementation & Consulting services.

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