outward supply being less than the rate of tax on inputs (same goods) at the same point of time, as per some concessional notification issued by the Government providing for lower rate of tax for some specified supplies subject to fulfilment of other conditions. **Accordingly, para 3.2 of the Circular No. 40/2019-20-GST dated 06-04-2020 stands substituted as under:**

"3.2 It may be noted that refund of accumulated ITC in terms of clause (ii) of first proviso to sub-section (3) of Section 54 of the Goa GST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of clause (ii) of the first proviso to sub-section (3) of Section 54 of the Goa GST Act.

3.3 There may however, be cases where though inputs and output goods are same but the output supplies are made under a concessional notification due to which the rate of tax on output supplies is less than the rate of tax on inputs. In such cases, as the rate of tax of output supply is less than the rate of tax on inputs at the same point of time due to supply of goods by the supplier under such concessional notification, the credit accumulated on account of the same is admissible for refund under the provisions of clause (ii) of the first proviso to sub-section (3) of Section 54 of the Goa GST Act, other than the cases where output supply is either Nil rated or fully exempted, and also provided that supply of such goods or services are not notified by the Government for their exclusion from refund of accumulated ITC under the said clause."

3. Difficulties, if any, in implementation of these instructions may be informed to the undersigned.

Ruchika Katyal, IAS, Commissioner of State Taxes, Goa.

Panaji, 2nd August, 2022.

Note: Similar circular is issued under Central Goods and Services Tax Act, 2017 by the GST Policy wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi vide Circular No. 173/05/2022-GST dated 06th July, 2022.

No. CCT/26-4/2022-23/F/1334

Subject: Clarification on various issue pertaining to GST-reg.

Circular

(No. 03/2022-23-GST)

Various representations have been received from the field formations seeking clarification on certain issues with respect to—

i. refund claimed by the recipients of supplies regarded as deemed export;
ii. interpretation of Section 17(5) of the Goa GST Act;
iii. perquisites provided by employer to the employees as per contractual agreement; and
iv. utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the undersigned, in exercise of its powers conferred by Section 168 of the Goa Goods and Services Tax Act, 2017 (hereinafter referred to as "Goa GST Act"), hereby clarify the issues as under:

Sr. No.	Issue	Clarification
	Refund claimed by the recipients of supplies regarded as deemed export	
1.	Whether the Input Tax Credit (ITC) availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports would be subjected to provisions of Section 17 of the Goa GST Act, 2017.	The refund in respect of deemed export supplies is the refund of tax paid on such supplies. However, the recipients of deemed export supplies were facing difficulties on the portal to claim refund of tax paid due to requirement of the portal to debit the amount so claimed from their electronic credit ledger. Considering this difficulty, the tax paid on such supplies, has been made available as ITC to the recipients vide Circular No. 11/2020-21 - GST dated 16-06-2021 only for enabling them to claim such refunds on the portal. The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V

<table>
<tr><th>Sr. No.</th><th>Issue</th><th>Clarification</th></tr>
<tr><td></td><td></td><td>of the Goa GST Act, 2017. Therefore, the ITC so availed by the recipient of deemed export supplies would not be subjected to provisions of Section 17 of the Goa GST Act, 2017.</td></tr>
<tr><td>2.</td><td>Whether the ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is to be included in the “Net ITC” for computation of refund of unutilised ITC under Rule 89(4) & Rule 89 (5) of the Goa GST Rules, 2017.</td><td>The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the Goa GST Act, 2017. Therefore, such ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is not to be included in the “Net ITC” for computation of refund of unutilised ITC on account of zero-rated supplies under rule 89(4) or on account of inverted rated structure under rule 89(5) of the Goa GST Rules, 2017.</td></tr>
<tr><td colspan="3">Clarification on various issues of Section 17(5) of the Goa GST Act</td></tr>
<tr><td>3.</td><td>Whether the proviso at the end of clause (b) of sub-section (5) of Section 17 of the Goa GST Act is applicable to the entire clause (b) or the said proviso is applicable only to sub-clause (iii) of clause (b)?</td><td>1. Vide the Goa Goods and Service Tax (Amendment) Act, 2019, clause (b) of sub-section (5) of Section 17 of the Goa GST Act was substituted with effect from 01-02-2019. After the said substitution, the proviso after sub-clause (iii) of clause (b) of sub-section (5) of Section 17 of the Goa GST Act provides as under:
“Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”
2. The said amendment in sub-section (5) of Section 17 of the Goa GST Act was made based on the recommendations of GST Council in its 28th meeting. The intent of the said amendment in sub-section (5) of Section 17, as recommended by the GST Council in its 28th meeting, was made known to the trade and industry through the Press Note on Recommendations made during the 28th meeting of the GST Council, dated 21-07-2018. It had been clarified “that scope of input tax credit is being widened, and it would now be made available in respect of Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force.”
3. Accordingly, it is clarified that the proviso after sub-clause (iii) of clause (b) of sub-section (5) of Section 17 of the Goa GST Act is applicable to the whole of clause (b) of sub-section (5) of Section 17 of the Goa GST Act.</td></tr>
<tr><td>4.</td><td>Whether the provisions of sub-clause (i) of clause (b) of sub-section (5) of Section 17 of the Goa GST Act bar availment of ITC on input services by way of “leasing of motor vehicles, vessels or aircraft” or ITC on input services by way of any type of leasing is barred under the said provisions?</td><td>1. Sub-clause (i) of clause (b) of sub-section (5) of Section 17 of the Goa GST Act provides that ITC shall not be available in respect of following supply of goods or services or both—
“(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:
Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply”
2. It is clarified that “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</td></tr>
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Sr. No.	Issue	Clarification
		Goa GST 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		
5.	Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?	1. Schedule III to the Goa GST Act provides that "services by employee to the employer in the course of or in relation to his employment" will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment. 2. Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows therefrom that 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		
6.	Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?	1. In terms of sub-section (4) of Section 49 of Goa GST Act, the amount available in the electronic credit ledger may be used for making any payment towards output tax under the Goa GST Act or the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST Act"), subject to the provisions relating to the order of utilisation of input tax credit as laid down in Section 49B of the Goa GST Act read with rule 88A of the Goa GST Rules. 2. Sub-rule (2) of Rule 86 of the Goa GST Rules provides for debiting of the electronic credit ledger to the extent of discharge of any liability in accordance with the provisions of Section 49 or Section 49A or Section 49B of the Goa GST Act. 3. Further, output tax in relation to a taxable person (i.e. a person who is registered or liable to be registered under Section 22 or Section 24 of the Goa GST Act) is defined in clause (82) of Section 2 of the Goa GST Act as the <u>tax chargeable on taxable supply of goods or services or both but excludes tax payable on reverse charge mechanism</u>. 4. **Accordingly, 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**. 5. It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.
7.	Whether the amount available in the electronic credit ledger can be used for making payment of any liability other than tax under the GST Laws?	As per sub-section (4) of Section 49, the electronic credit ledger can be used for making payment of output tax only under the Goa GST Act or the IGST Act. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said acts. Similarly, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.

Sr. No.	Issue	Clarification
8.	Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST Laws?	As per sub–section (3) of Section 49 of the Goa GST Act, 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.

3. Difficulties, if any, in implementation of these instructions may be informed to the undersigned.

Ruchika Katyal, IAS, Commissioner of State Taxes, Goa.

Panaji, 2nd August, 2022.

Note: Similar circular is issued under Central Goods and Services Tax Act, 2017 by the GST Policy wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi vide Circular No. 172/04/2022-GST dated 06th July, 2022.

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No. CCT/26-4/2022-23/F/1335

Subject: Clarification on various issues relating to applicability of demand and penalty provisions under the Goa Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices–Reg.

Circular

(No. 02/2022-23-GST)

A number of cases have come to notice where the registered persons are found to be involved in issuing tax invoice, without actual supply of goods or services or both (hereinafter referred to as “fake invoices”), in order to enable the recipients of such invoices to avail and utilize input tax credit (hereinafter referred to as “ITC”) fraudulently. Representations are being received from the trade as well as the field formations seeking clarification on the issues relating to applicability of demand and penalty provisions under the Goa Goods and Services Tax Act, 2017 (hereinafter referred to as “Goa GST Act”), in respect of such transactions involving fake invoices. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the undersigned, in exercise of its powers conferred by Section 168 of the Goa GST Act, hereby clarifies the issues detailed hereunder.

Sl. No.	Issues	Clarification
1.	In case where a registered person “A” has issued tax invoice to another registered person “B” without any underlying supply of goods or services or both, whether such transaction will be covered as “supply” under Section 7 of Goa GST Act and whether any demand and recovery can be made from ‘A’ in respect of the said transaction under the provisions of Section 73 or Section 74 of Goa GST Act. Also, whether any penal action can be taken against registered person ‘A’ in such cases.	Since there is only been an issuance of tax invoice by the registered person ‘A’ to registered person ‘B’ without the underlying supply of goods or services or both, therefore, such an activity does not satisfy the criteria of “supply”, as defined under Section 7 of the Goa GST 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 Goa GST 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 Goa GST 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 Goa GST Act for issuing tax invoices without actual supply of goods or services or both.
2.	A registered person “A” has issued tax invoice to another registered person “B” without any underlying supply of goods or services or both. ‘B’ avails input tax credit on the basis of the said tax invoice. B further issues invoice along with underlying supply of goods or services or both to	Since the registered person ‘B’ has availed and utilized fraudulent ITC on the basis of the said tax invoice, without receiving the goods or services or both, in contravention of the provisions of Section 16(2)(b) of Goa GST Act, he shall be liable for the demand and recovery of the said ITC, along with penal action, under the