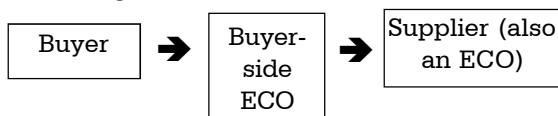


collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.

e.g.: Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, the Seller-side ECO will release the payment to the supplier after deduction of his fees/commissions and therefore will also be required to collect TCS, as applicable and pay the same to the Government in accordance with Section 52 of CGST Act and also make other compliances under Section 52 of CGST Act.

In this case, the Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with Section 52 of CGST Act with respect to this particular supply.

Issue 2: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the Supplier-side ECO is himself the supplier of the said supply, who is liable for compliances under Section 52 including collection of TCS?



Clarification: In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it.

e.g. Buyer-side ECO collects payment from the buyer, deducts its fees and remits the balance to the supplier (who is itself an ECO as per the definition in Sec. 2(45) of the CGST Act). In this scenario, the Buyer-side ECO will also be required to collect TCS, as applicable, pay the same to the Government in accordance with Section 52 of CGST Act and also make other compliances under Section 52 of CGST Act.

4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

5. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2023-24/G/1380

Subject: Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01-04-2019 to 31-12-2021.

Ref.: Circular No. 193/05/2023-GST dated 17th July, 2023 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.

Circular

(No. 02/2023-24-GST)

The Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the CBIC shall be applicable, mutatis mutandis, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017). Copy of the referred CBIC Circular is attached herewith as Annexure.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.
Panaji, August, 2023.

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Circular No. 193/05/2023-GST

File. No. CBIC-20001/5/2023-GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

New Delhi, Dated the 17th July, 2023.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01-04-2019 to 31-12-2021.

Attention is invited to Circular No. 183/15/2022-GST dated 27th December, 2022, vide which clarification was issued for dealing with the difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19, subject to certain terms and conditions.

2. Even though the availability of ITC was subjected to restrictions and conditions specified in Section 16 of Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") from 1st July, 2017 itself, restrictions regarding availment of ITC by the registered persons up to certain specified limit beyond the ITC available as per FORM GSTR-2A were provided under Rule 36(4) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules") only with effect from 9th October, 2019. W.e.f. 09-10-2019, the said rule allowed availment of Input tax credit by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of Section 37, in FORM GSTR-1 or using the Invoice Furnishing Facility (IFF), to the extent not exceeding 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of Section 37 of CGST Act in FORM GSTR-1 or using the IFF. The said limit was brought down to 10% w.e.f. 01-01-2020 and further reduced to 5% w.e.f. 01-01-2021. The said rule was intended to allow availment of due credit in cases where the suppliers may have delayed in furnishing the details of outward supplies. Further, w.e.f. 01-01-2022, consequent to insertion of Clause (aa) to sub-section (2) of Section 16 of the CGST Act, ITC can be availed only up to the extent communicated in FORM GSTR-2B.

3.1 As discussed above, Rule 36(4) of CGST Rules allowed additional credit to the tune of 20%, 10% and 5%, as the case may be, during the period from 09-10-2019 to 31-12-2019, 01-01-2020 to 31-12-2020 and 01-01-2021 to 31-12-2021 respectively, subject to certain terms and conditions, in respect of invoices/supplies that were not reported by the concerned suppliers in their FORM GSTR-1 or IFF, leading to discrepancies between the amount of ITC availed by theregistered persons in their returns in FORM GSTR-3B and the amount as available in their FORM GSTR-2A. It may, however, be noted that such availment of input tax credit was subject to the provisions of Clause (c) of sub-section (2) of Section 16 of the CGST Act which provides that ITC cannot be availed unless tax on the said supply has been paid by the supplier. In this context, it is mentioned that Rule 36(4) of CGST

Rules was a facilitative measure and availment of ITC in accordance with Rule 36(4) was subject to fulfilment of conditions of Section 16 of CGST Act including those of Clause (c) of sub-section (2) thereof regarding payment of tax by the supplier on the said supply.

3.2. Though the matter of dealing with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A has been clarified for FY 2017-18 and 2018-19 vide Circular No. 183/15/2022-GST dated 27th December, 2022, various representations have been received seeking clarification regarding the manner of dealing with such discrepancies between the amount of ITC availed by the registered persons in their FORM GSTR-3B and the amount as available in their FORM GSTR-2A during the period from 01-04-2019 to 31-12-2021.

4. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under Section 168(1) of the CGST Act, hereby clarifies as follows:

- (i) Since Rule 36(4) came into effect from 09-10-2019 only, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, *in toto*, for the period from 01-04-2019 to 08-10-2019.
- (ii) In respect of period from 09-10-2019 to 31-12-2019, Rule 36(4) of CGST Rules permitted availment of Input tax credit by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of Section 37, in FORM GSTR-1 or using IFF to the extent not exceeding 20 per cent of the eligible credit available in respect of invoices or debit notes, the details of which have been furnished by the suppliers under sub-section (1) of Section 37 in FORM GSTR-1 or using IFF. Accordingly, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable for verification of the condition of Clause (c) of sub-section (2) of Section 16 of CGST Act for the said period, subject to the condition that availment of Input tax credit by the registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of Section 37, in FORM GSTR-1 or using IFF shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been

furnished by the suppliers under sub-section (1) of Section 37 in FORM GSTR-1 or using IFF. This is clarified through an illustration below:

Illustration:

Consider a case where the total amount of ITC available as per FORM GSTR-2A of the registered person was Rs. 3,00,000, whereas, the amount of ITC availed in FORM GSTR-3B by the said registered person during the corresponding tax period was Rs. 5,00,000. However, as per Rule 36(4) of CGST Rules as applicable during the said period, the said registered person was not allowed to avail ITC in excess of an amount of Rs. $3,00,000 \times 1.2 = \text{Rs. } 3,60,000$.

In the above case, the ITC of Rs. 1,40,000 which has been availed in excess of Rs. 3,60,000 shall not be admissible as per Rule 36(4) of CGST Rules as applicable during the said period even if the requisite certificate as prescribed in Circular No. 183/15/2022-GST dated 27-12-2022 is submitted by the registered person. Therefore, ITC availed in FORM GSTR-3B in excess of that available in FORM GSTR-2A up to an amount of Rs. 60,000 only (i.e. $3,60,000 - 3,00,000$) can be allowed subject to production of the requisite certificates as per Circular No. 183/15/2022-GST dated 27-12-2022.

- (iii) Similarly, for the period from 01-01-2020 to 31-12-2020, when Rule 36(4) of CGST Rules allowed additional credit to the tune of 10% in excess of the that reported by the suppliers in their FORM GSTR-1 or IFF, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, for verification of the condition of Clause (c) of sub-section (2) of Section 16 of CGST Act for the said period, subject to the condition that availment of Input tax credit by the registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of Section 37, in FORM GSTR-1 or using the IFF shall not exceed 10 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of Section 37 in FORM GSTR-1 or using the IFF.
- (iv) Further, for the period from 01-01-2021 to 31-12-2021, when Rule 36(4) of CGST Rules allowed additional credit to the tune of 5% in excess of that reported by the suppliers in their FORM GSTR-1 or IFF, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be

applicable, for verification of the condition of Clause (c) of sub-section (2) of Section 16 of CGST Act for the said period, subject to the condition that availment of Input tax credit by the registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of Section 37, in FORM GSTR-1 or using the IFF shall not exceed 5 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of Section 37 in FORM GSTR-1 or using the IFF.

5. It is further clarified that consequent to insertion of Clause (aa) to sub-section (2) of Section 16 of the CGST Act and amendment of Rule 36(4) of CGST Rules w.e.f. 01-01-2022, no ITC shall be allowed for the period 01-01-2022 onwards in respect of a supply unless the same is reported by his suppliers in their FORM GSTR-1 or using IFF and is communicated to the said registered person in FORM GSTR-2B.

6. Further, it may be noted that proviso to Rule 36(4) of CGST Rules was inserted vide Notification No. 30/2020-CT dated 03-04-2020 to provide that the condition of Rule 36(4) shall be applicable cumulatively for the period February to August, 2020 and ITC shall be adjusted on cumulative basis for the said months in the return for the tax period of September 2020. Similarly, second proviso to Rule 36(4) of CGST Rules was substituted vide Notification No. 27/2021-CT dated 01-06-2021 to provide that the condition of Rule 36(4) shall be applicable cumulatively for the period April to June, 2021 and ITC shall be adjusted on cumulative basis for the said months in the return for the tax period of June 2021. The same may be taken into consideration while determining the amount of ITC eligibility for the said tax periods.

7. It may also be noted that these guidelines are clarificatory in nature and may be applied as per the actual facts and circumstances of each case and shall not be used in the interpretation of the provisions of law.

8. These instructions will apply only to the ongoing proceedings in scrutiny/audit/investigation, etc. for the period 01-04-2019 to 31-12-2021 and not to the completed proceedings. However, these instructions will apply in those cases during the period 01-04-2019 to 31-12-2021 where any adjudication or appeal proceedings are still pending.

9. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2023-24/G/1381

Subject: Clarification on charging of interest under Section 50(3) of the Goa GST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof.

Ref.: Circular No. 192/04/2023-GST dated 17th July, 2023 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.

Circular

(No. 01/2023-24-GST)

The Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the CBIC shall be applicable, mutatis mutandis, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017). Copy of the referred CBIC Circular is attached herewith as Annexure.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.
Panaji, August, 2023.

Circular No. 192/04/2023-GST

File. No. CBIC-20001/5/2023-GST
Government of India
Ministry of Finance

Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 17th July, 2023.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification on charging of interest under Section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof.

References have been received from trade requesting for clarification regarding charging of interest under sub-section (3) of Section 50 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") in the cases where IGST credit has been wrongly availed by a registered person. Clarification is being sought as to whether such wrongly availed IGST credit would be considered to have been utilized for the purpose of charging of interest under sub-section (3) of Section 50 of CGST Act, read with Rule 88B of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules"), in cases where though the available balance of IGST credit in the electronic credit ledger of the said registered person falls below the amount of such wrongly availed IGST credit, the total balance of input tax credit in the electronic credit ledger of the registered person under the heads of IGST, CGST and SGST taken together remains more than such wrongly availed IGST credit, at all times, till the time of reversal of the said wrongly availed IGST credit.

2. Issue has been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the CGST Act, hereby clarifies the issues as under:

Sr. No.	Issue	Clarification
1	2	3
1.	In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of CGST Rules, whether the balance of input tax credit available in electronic credit ledger under the head of CGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.	Since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B of CGST Rules and for determining as to whether the balance in the electronic credit ledger has fallen