



Handling GST Notices for GSTR-3B Table 4D(2) Reversals, re-claim & Reversals, etc...Filing GSTR-3B the right way henceforth to save litigation

By: Vivek Jalan

FCA, LL.M (Constitutional Law), LL. B, MBA (International Trade), B. Com (H)

Team Tax Connect

The Core Issue is that Circular No. 170/02/22 dated 06.07.2022 was issued with an objective as follows: "It is desirable that correct reporting of information is done by the registered person **in FORM GSTR-3B** and FORM GSTR-1 so as to ensure **correct accountal and accurate settlement of funds between the Central and State Governments**"

Now the SGST Department across the Country are issuing notices with the following -

- ITC reversal on basis of the following computation –
- Table 8(D) of GSTR 9 is required to be reported in GSTR-3B in Table 4D(2) for disclosures of ineligible ITC
- In some states, the requirement is to reclaim the amounts as above in GSTR-3B Table 4B(5) reverse in GSTR-3B Table 4B(1) and then report the ITC in GSTR-3B Table 4D(2)

This brings us to the Pointers -

1. Incase in earlier periods i.e. prior to July 2022 when Circular No. 170/02/22 was issued, disclosures under GSTR-3B Table 4D(1) under ineligible category have not been made, then it is a non-compliance.

A contention of the taxpayers may be that clear directions like Circular 170 were missing earlier.

2. From the tax period in JULY 2022, ie post Circular 170 was effective, the above plea may not suffice, especially after notification of the requirements of circular in around November 2022.

3. To reclaim and reverse old ITC – it would create an issue of time barring under Section 16(4) of the CGST Act, 2017 for the reclamations. However, reversals it would be an admission.

It is important to note here that while SGST Departments may require such a disclosure, yet the CGST Anti-evasion units, may see a non-compliance with Section 16(4) of the CGST Act, 2017. Hence the taxpayers must be careful.

4. As per Proviso to Section 39(9) of the CGST Act, 2017, no rectification of any omission or incorrect particulars shall be allowed in the returns after the thirtieth day of November following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier. Hence, the question remains whether such an ask would stand the test of judiciary.

Notwithstanding the above points, it remains it is now very apparent that filing GSTR-3B should not be seen as a mere formality. Correct disclosures may save taxpayers from litigation and wrong disclosures may put them into litigation. Many taxpayers who had not implemented Circular 170 should start filing the return the right way, else there would be losses to the State Governments and penalties for non-compliances may be made.

LET'S DISCUSS FURTHER!

OUR OFFICES:

MUMBAI

Unit No. 312, Omega Business Park, Near Kaamgar Hospital, Road No. 33, Wagle Industrial Estate, Thane West, Maharashtra- 400604

Contact Person:

Prashant Kumar Jha

Email:

prashant.jha@taxconnect.co.in

BENGALURU

951, 24th Main Road, J P Nagar, Bengaluru, Karnataka – 560078.

Contact Person:

Anil Pal

Email:

anil.pal@taxconnectdelhi.co.in

DELHI

B-139, 2nd Floor, Transport Nagar, Noida-201301 (U.P)

Contact Person:

Poonam Khemka

Email:

poonam.khemka@taxconnect.co.in

KOLKATA

6, Netaji Subhas Road, 3rd Floor, Royal Exchange Building, Kolkata – 700001

Contact Person:

Sandeep Mandal

Email:

sandeep.mandal@taxconnect.co.in

KOLKATA

R No 119; 1st Floor; Diamond Arcade; 1/72, Cal Jessore Road, Kolkata – 700055

Contact Person:

Uttam Kumar Singh

Email:

uttam.singh@taxconnect.co.in

DUBAI

Azizi Feirouz, 803, 8th Floor, AL Furjan, Opposite Discovery Pavillion, Dubai, UAE

Contact Person:

Rohit Sharma

Email:

rohit.sharma@taxconnect.co.in

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