



CMA Shiba Prasad Padhi
Cost Accountant

TREATMENT OF GST WHILE ASSESSING LOSS UNDER A FIRE OR BURGLARY INSURANCE POLICY

A clear understanding of applicable provisions of Goods and Services Tax (GST) law while assessing loss in case of a Fire or Burglary Insurance Policy is always a challenging task for a Surveyor & Loss Assessor. Explaining the same to the Insured at the time of claim settlement is equally challenging. The correct approach for the treatment of GST must be followed by a Surveyor & Loss Assessor to ensure that the Principle of Indemnity is complied with.

Seamless flow of Input Tax Credit (ITC) till the goods reach the end-user/consumer is the essence of GST. An Insured, who is registered as a Regular Taxpayer and engaged in trading or manufacturing or any other economic activity, is eligible to avail ITC on Stock or capital goods, which he deals with in the course or furtherance of business and utilize such ITC while discharging his tax liability.

When there is a loss of stock or capital goods and the Insured lodge his claim with the Underwriter, the gross loss amount so claimed by the Insured is inclusive of GST paid.

Tax cost is also to be indemnified to an Insured in case the liability falls on the Insured. As per provision of Sec. 17 (5) (h) of the Central GST Act, 2017, ITC will not be available to a taxable person in case the goods are lost or destroyed or stolen or they are written off.

An Insured who has already availed ITC after purchase of stock or capital goods should not be paid the GST amount unless the Insured makes a reversal of the same in the above situation.

Illustration – Loss of Stock due to Burglary

The Insured is a Proprietorship entity, engaged in Retail/ Wholesale/Distribution of hardware items of different types. The Insured maintains Stock, Purchase and Sales details in a Computerised Software which is also used for Billing and GST return filing.

The insured lodged a claim for burglary by housebreaking which is a covered peril under a Burglary Policy and the summary of the claim is as under:

Sl.no	Description	UoM	Qty. available as per Stock Register as on 07.04.2022	Qty. Claimed	Without GST Purchase Price as per Tax Invoice	Taxable Value	GST @18%	Gross Loss Amt.
1	Adv. Circular Saw Blade 110mm	PC	4,700	3,400	46.62	1,58,508	28.531	1,87,039
2	TCT Saw Blades 7* 40th Adv.	PC	300	300	118.22	35,466	6.384	41.830
3	Angle Grinder AP-AG-801	PC	21	16	783.90	12,542	2.258	14.800
4	Circular Saw Bland Thin Turbo 110mm	PC	180	180	83.89	15,100	2.718	17.818
5	Cutoff Machine Advance 355mm	PC	5	5	3,584.75	17,924	3.226	21.150



Sl.no	Description	UoM	Qty. available as per Stock Register as on 07.04.2022	Qty. Claimed	Without GST Purchase Price as per Tax Invoice	Taxable Value	GST @18%	Goss Loss Amt.
6	Cutting Wheels 107mm Red	PC	16,400	16,000	6,56	1,04,960	18,893	1,23,853
7	Cutting Wheels 355mm A	PC	880	160	82,21	13,154	2,368	15,521
8	Grinding Wheels Adv	PC	200	200	13.56	2,712	488	3,200
9	Marble Cutting A CM 4SAp	PC	12	12	1,059.33	12,712	2,288	15,000
10	Panel PIN17	PC	2,895	1,250	44.14	55,175	6,932	65,107
11	Polythene Tube B	Kg	2,109	200	83,90	16,780	3,020	19,800
12	TCT Saw Blades 5*30th Adv	PC	600	600	61.02	36,612	6,590	43,202
13	Circular Saw Bland 125mm Adv. Gear	PC	1,300	900	72.04	64,836	11,670	76,506
14	CI Wire 813734B	Kg	150	150	102.54	15,381,	2,769	18,150
TOTAL						5,61,862	1,01,135	6,62,997

The Insured is registered under GST law and filed his GST Returns on monthly basis. It was evident from the Purchase Invoice, Purchase Register and GSTR 3B that the Insured

availed ITC for the stolen goods in the month's purchase. Based on the Policy coverage, Stock Register and other documents, loss assessment can be as under:

Gross Loss Amount (Value of the stolen items with GST as per Claim made by the insured)	6,62,997
Less: Depreciation and Salvage (considered as NIL as it is loss of stock due to burglary)	-
Loss amount after deduction of Salvage	6,62,997
Sum Insurance for Stock	89,00,000
Stock at Risk(Value of Stock with GST as per Stock Register as Available before the peril)	1,25,22,803
Underinsurance	36,22,803
Percentage of Underinsurance	28,93
Deduction due to Underinsurance	1,91,803
Loss amount after deduction of Underinsurance	4,71,194
Less: Policy Excess	-
Net Loss Amount (including GST)	4,71,194
Less: GST Amount for the stolen stock not allowed as the insured is eligible to take ITC on the same. The same may be paid to him upon reversal of the same and submission of the GST Return and other documentary by him subsequently	71,877
Net Loss Amount (excluding GST)	3,99,317

In the above case, the break-up of GST in the Gross Loss Amount and Net Loss Amount is as under:

	Loss Amount (₹)	Taxable Value (₹)	GST (₹)
Gross Loss Amount (as derived separately)	6,62,997	5,61,862	1,01,135
Less: Deduction due to Underinsurance	1,91,803	1,62,545	29,258
Loss Amount after deduction of Under insurance	4,71,194	3,99,317	71,877

The Insured has to actually reverse Rs.1,01,135/- as he had availed this as ITC after purchase of the stock that got stolen and now reversal is required as per the provisions of Sec. 17(5)(h) of the CGST Act, 2017. The Underwriter shall indemnify the insured, the entire GST amount taken as ITC as it is the cost to the Insured upon reversal. Of course, if there is underinsurance then the Insured has to bear the proportionate tax amount which gets deducted automatically in form of a deduction due to Underinsurance. In many situations, it is seen that the Insured neither reverse the ineligible ITC already availed for the damaged/lost goods, due to lack of understanding of the provision nor claim it from the Underwriter. In such a case, the Insured is carrying the risk of payment of interest and penalty apart from the reversal of the ineligible ITC.

Important points that a Surveyor & Loss Assessor must keep in mind while assessing the loss:

1. Type of Registration of a Taxpayer can either be Regular or Composite. If the Insured is registered as a Composite Tax Payer then he is not eligible for ITC and reversal of ITC is not required as such. GST amount is to be considered in the Gross Loss Amount itself.
2. The Insured as a registered as Regular Taxpayer is required to file his tax return and has to claim ITC while filing his GSTR 3B either on a monthly or quarterly basis (depending on his turnover). An Insured may not be indemnified for the tax cost i.e. GST amount if there is non-compliance from his side like non-filing or wrong filing of ITC. However, if the Insured can establish that he had not availed ITC, then the tax cost i.e. GST may be considered while assessing the loss in certain circumstances.
3. The Insured is eligible to avail ITC unless it is restricted or blocked. There are certain conditions like availability of Tax Invoice, receipt of goods, payment within 180 days from the date of Invoice, filing of return and discharge of tax liability by the Supplier needs to comply in order to avail ITC.

4. Stock at Risk is to be considered at Invoice value i.e. with GST. Purchase Register usually records the stock at taxable value as tax amount if taken as ITC. The same needs verification with the last Purchase Invoice before considering for loss assessment.
5. Reversal of ITC is not required for process loss or loss of goods during manufacturing which is inherent.
6. There are specific provisions for reversal of ITC in the case of Plant & Machinery and Capital Goods which needs to be considered while assessing the loss by a Surveyor & Loss Assessor.
7. Sale of Scrap/Salvage is also subject to GST and the impact of the same needs to be examined from case to case basis. In case the Insured prefer to retain the salvage, then he may not be indemnified for the tax cost to that extent as he will charge GST at the time of outward supply of the same.
8. Survey Fees to be charged by a Surveyor & Loss Assessor should be on Gross Loss Amount considered at Invoice Value i.e. with GST.

Conclusion

A Surveyor & Loss Assessor needs to have a clear understanding of the applicable provisions and impact of GST while assessing the loss and making a recommendation to the Underwriter for claim settlement. He can rely on the documents provided by the Insured along with a declaration and if required with a Certificate that can be issued by a CA/CMA with UDIN with respect to availment and/or reversal of ITC.

Declaration and Disclaimer

The author declares that this is an original work, based on his understanding of the GST Law and Insurance framework for loss assessment in case of a Fire or Burglary Insurance Policy. The Opinion is personal and not binding on any one.