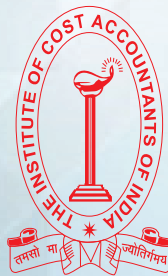




HAND BOOK FOR CERTIFICATION FOR DIFFERENCES BETWEEN GSTR - 2A & GSTR -3B



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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Headquarters: CMA Bhawan, 12, Sudder Street, Kolkata – 700 016

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"The CMA professionals would ethically drive enterprise globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting."

Vision Statement

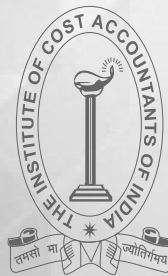
"The institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprise globally."

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1. *Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.*
2. *Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.*
3. *Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.*
4. *Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.*
5. *Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners, stakeholders and also Crash Courses on GST for Colleges and Universities.*



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Edition: January, 2023

Published by

The President

The Institute of Cost Accountants of India

CMA Bhawan

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Chairman's Message

I know you've heard it a thousand times before. But it's true—hard work pays off. If your contributions to be beneficial to one and all, it is patience and perseverance which is to be added to this hard work.

It was my team, who brought me the news of this circular by Commissioner of State Tax, Maharashtra, to which we decided to submit a written submission to the authority for inclusion of CMAs for the 'Certification of difference in Input Tax Credit availed in Form GSTR - 3B as compared to that detailed in FORM GSTR - 2A for the FY 2017-18 and 2018-19'. This was way back on the 28th of February, 2022. But only a written representation was not sufficient, so on the 9th May 2022 at New Delhi, a delegation from the Institute led along with myself, physically met with CBIC Authorities to discuss the roadmaps for the profession and highlighted the issue therein. And it was post incessant efforts, the Cost Accountants have been included for the certification of the same vide Notification no: CBIC - 20001/2/2022 - GST dated 27th December, 2022.

I wish to thank CMA Vijender Sharma, President and CMA Rakesh Bhalla, Vice President of the Institute who gave me opportunity to publish this handbook as the Chairman of Indirect Taxation Committee.

I am sure that my efforts would not have borne fruit had my Team – Tax Research not been by my side all through out. I acknowledge their efforts and hard work that is driven towards the betterment of the professional always.

Best of Luck.

CMA Chittaranjan Chattopadhyay
Chairman – Indirect Taxation Committee
12.01.2023



PREFACE

The new arena of contribution on ‘Certification of difference in Input Tax Credit availed in Form GSTR - 3B as compared to that detailed in FORM GSTR - 2A for the FY 2017-18 and 2018-19’ is surely an interesting field to contribute for the CMA professionals.

The Institute of Cost Accountants of India has Indirect Taxation Committee and Direct Taxation Committee of the Council of the Institute. The Tax Research Department, which works on the guidance of both the Committees, is result oriented and consists of a dedicated team that works together to provide members, students, Governments and other stake-holders with the highest possible level of service, suggestions, training and advisory in the area of taxation. The Organizational team provides their contribution in form of Webinars, Course Management, Release of fortnightly Tax Bulletin with article write-ups on Direct and Indirect Tax and participating in discussion with Government on various tax related Issues, as their main deliverables. Even in the pandemic situation the department sticks by its commitment to serve the best.

We are indebted to CMA Bhogavalli Mallikarjuna Gupta, CMA Udandrao Lakshmana Rao and CMA T K Jagannathan for their contributions in bringing out this publication.

Best Wishes.

*Tax Research Department
12.01.2023*

CONTENTS

<i>Sl. No</i>	<i>Particulars</i>	<i>Page No.</i>
<i>1</i>	<i>Certification for 2A and 3B Mismatch</i>	<i>1</i>
<i>2</i>	<i>Certificate to be issued by CMA_CA</i>	<i>22</i>
<i>3</i>	<i>Certificate to be issued by Supplier</i>	<i>25</i>



Certification for 2A and 3B Mismatch

Introduction

One of the important features of goods and service tax in India is the seamless availability of input tax credits. In the erstwhile tax regime, the input tax credit was not available seamlessly, and cross-utilization was not possible. This has resulted in an increase in the price, with the end consumer was pain. In GST, cross-utilization is possible, and the input tax credit is available seamlessly across the supply chain.

Compared to the erstwhile tax regime, the process of claiming input tax credit is different under GST. Based on the department's experience over the decades, the input tax credit process has been revolutionized in GST. In GST, the taxpayer is eligible to take input tax credit based on the conditions laid down in sections 16 and 17 of the CGST Act 2016 and the corresponding rules. The process of availing input tax credit has been changed in GST to curb the loss to the exchequer caused by the fly-by-night operators or taxpayers who collect taxes from their customers but do not deposit the same in the Government coffers. Under GST, the Input Tax Credit is allowed only on payment of taxes by the supplier of goods or services or both and filing of GST Returns along with a host of other conditions.

During the initial days of the rollout of GST, the taxpayers could not appreciate the changes introduced by the Government and basis of the recommendations/suggestions from the Trade and Industry, the process and been changed. As envisaged, the two-way communication between the Supplier of Goods or Services or both and the Recipient. But the same was not implemented for some reason or the other.

Ed

In Oct 2019, availing of the input tax credit on a provisional basis was introduced, and now it is mandatory for matching. During the first two years of the implementation of GST, the trade and professionals were not ready. As a result, we had some teething troubles apart from the challenges in the GST Portal due to the spurt in the taxpayers compared to the erstwhile tax regime. We have observed various changes in availing the GST input tax credit over the last five



years since its implementation. There was a time when taxpayers could take input tax credits directly in GSTR-3B, and then Form GSTR - 2A was established, and then we had input tax credits on a percentage basis, and now, after the release of Form GSTR - 2B, the input tax credit must be taken based on the same.

Input Tax Credit Availing Process

There is a change in the process of availing input tax credit in GST compared to the erstwhile tax regimes like Central Excise and Service Tax. The matching concept has been introduced in GST, and it was there in a few states under VAT. As it is a new concept, many taxpayers were not ready to adopt the same it had involved changes in the following.

- a) **Business Process** – the taxpayers in GST could not override the invoice details in case of a shortage of goods or deficiency of services. The invoice has to be accounted for the total value, and then for the differences, a Debit Note in the recipient's books basis on the Credit Note Issued by the Supplier. This is clearly stated in the provisions of the law.

Section 34 (1) - *Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, **the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes** for supplies made in a financial year containing such particulars as may be prescribed.*

*(3) Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that **tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes** for supplies made in a financial year containing such particulars as may be prescribed.*

- b) **Correct Entry of Data** – the taxpayers had to enter the correct values in the



books account as matching was mandatory. For example, if the Supplier had issued an invoice number with 14 characters, the recipient in his books, the accountant had to correctly enter all the 14 characters. Even if one character is missed out or not entered correctly, matching the GSTR-2A/2B will not be possible, and it will show differences, and the same had to be identified and corrected. This was envisaged initially where we had GSTR – 2 and GSTR – 3, but now the same have been wholly withdrawn from the provisions of GST effective from 1st Oct 2022

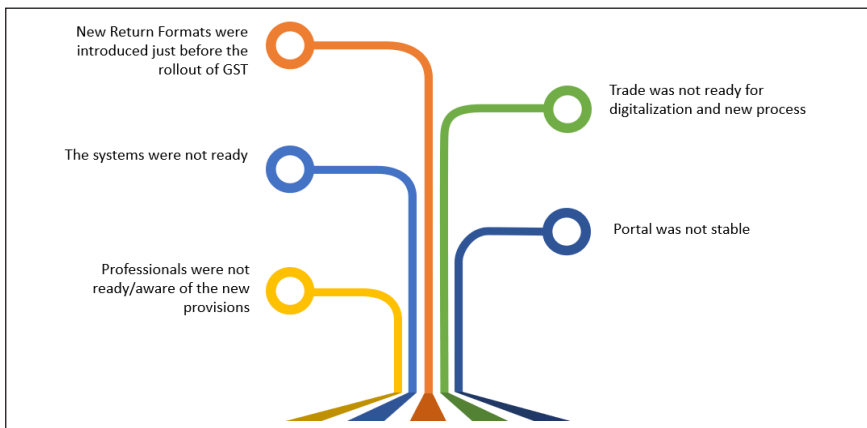
Rule 73. Matching of claim of reduction in the output tax liability .-

The following details relating to the share of reduction in output tax liability shall be matched under section 43 after the due date for furnishing the return in FORM GSTR-3, namely:-

- (a) Goods and Services Tax Identification Number of the supplier;*
- (b) Goods and Services Tax Identification Number of the recipient;*
- (c) credit note number;*
- (d) credit note date; and*
- (e) tax amount:*

Even though it is withdrawn, it is required for all practical purposes for matching the books of account with GSTR – 2A/2B.

c) Master Data – Master data refers to the data which is entered into the System once and re sued wherever required. In the Supplier Master, the Supplier has



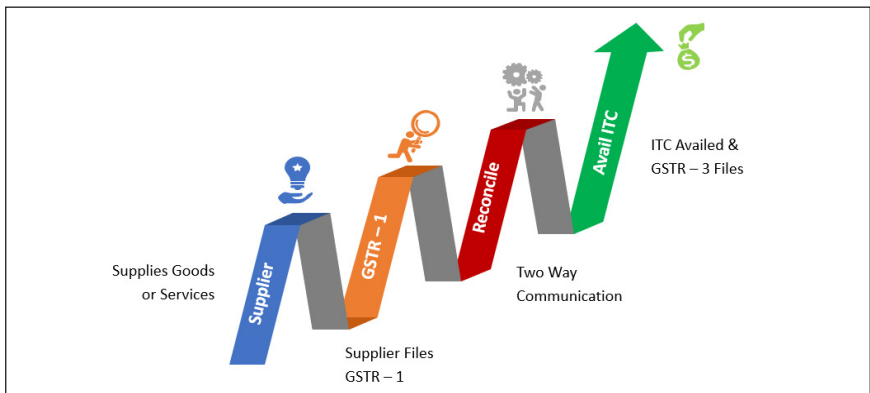
to be Classified as a Registered Taxpayer or not, and if registered, his GSTIN has to be entered correctly. In the initial days, it has been observed that the GSTIN of the Supplier has not been entered correctly, and it has caused a lot of challenges.

d) Resistance to Change – it is the human tendency to adopt change; the same was observed in GST, as well as the taxpayers and professionals were not ready to adopt the new provisions.

Sr. No.	Name of Company	Product Name	Cloud / On-prem	Mobile App
1	Adaquare Info Private Limited	uBooks	Cloud	✓
2	Cygnat Infotech Private Limited	Cygnat FACE	On-prem	✗
3	Focus Softnet Private Limited	FocusLyte	Cloud	✗
4	IRIS Business Services Limited	CaptainBiz (formerly Vyapari)	Cloud	✓
5	Relyon Softech Limited	Saral Accounts	On-prem	✓
6	Seshaasai Business Forms Private Limited	GenieBooks	Cloud	✓
7	Zoho Corporation Private Limited	Zoho Books	Cloud	✓

e) Digitalization – under GST, the return filing is online, and for claiming the input tax credit, matching is required. This will be easy only when the taxpayers adopt digitalization. There is an element of the cost involved, and also training is required for the accountants. Basis of the recommendations from the trade, especially the Government has provided free Accounting Software for small taxpayers initially.

Availing Input Tax Credit – As Envisaged





In the initial scheme of things as designed, for availing input tax credit, it was envisaged to have a two-way communication process. This would have augmented the revenue as the Recipient had the option to report the tax invoices of his inward supplies if the Supplier has missed out while filing his/her GSTR – 1 or has intentionally not reported the same in GSTR – 1. The basis on the information provided by the Recipient, the Department could be behind such errant taxpayers.

The following are the steps for Availing of input tax credit as envisaged

Step – 1: Supplier will file GSTR – 1

Step – 2: The data filed in GSTR – 1 would be auto-populated in GSTR – 2 of the Recipient

Step – 3: The Recipient had an option in GSTR – 2 to “Accept,” “Reject” or “Pending”

Step – 4: The Recipient had the option to report missing invoices

Step – 5: Once Accepted, the amount of Input Tax Credit would flow to GSTR – 3

Step – 6: In GSTR – 3, the Recipient could avail utilize the available Input Tax Credit or discharge the liability in Cash.

Since GSTR – 2 and GSTR – 3 have not been rolled out at the time of the rollout of GST, there was a challenge in the process of availing the input tax credit. This has led to confusion, litigation and loss to the exchequer.

Since GSTR – 2 and GSTR – 3 have not been rolled out, the Department has rolled out GSTR – 2A, wherein the Recipient can download the xls/JSON file with all the details of the purchase invoice he/she had made during the period and which are reported by the Supplier in his GSTR – 1. Form GSTR – 2A was made available only on 31st August 2018, about 425 days after the rollout of GST. During this period, the taxpayers have availed the Input Tax Credit on a Self-Assessment basis as there was no mechanism to cross-verify or validate. This has resulted in the credit being availed in GSTR – 3B being more than the amount reflected in



GSTR - 2A. The process for availing input tax credit has been duly notified and made effective from 1st Jan 2021 wide Notification No 82/2020 – Central Tax, dated 10th Oct 2020.

While filing the Annual Returns for the period 1st July 2017 to 31st March 2018 and FY 2018-19, the taxpayers have predominantly claimed input tax credit basis of their books of accounts. Especially for the period 1st July 2017 to 31st March 2018, basis of a press release issued on 18th Oct 2022

Last date to avail input tax credit in respect of invoices or debit notes relating to such invoices pertaining to period from July, 2017 to March, 2018

There appears to be misgiving about the last date for taking input tax credit (ITC) in relation to invoices or debit notes relating to such invoices pertaining to period from July, 2017 to March, 2018. Such uncertainty seems to stem from the Government's decision to extend the last date for furnishing of details of outward supplies in FORM GSTR-1 from time to time.

2. *According to section 16 (4) of the CGST Act, 2017, a registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains (hereinafter referred to as "the said invoices") or furnishing of the relevant annual return, whichever is earlier.*
3. *With taxpayers self-assessing and availing ITC through return in FORM GSTR-3B, the last date for availing ITC in relation to the said invoices issued by the corresponding supplier(s) during the period from July, 2017 to March, 2018 is the last date for the filing of such return for the month of September, 2018 i.e. 20th October, 2018.*
4. *It is clarified that the furnishing of outward details in FORM GSTR-1 by the corresponding supplier(s) and the facility to view the same in FORM GSTR-2A by the recipient is in the nature of taxpayer facilitation and does not impact the ability of the taxpayer to avail ITC on self-assessment basis in*



consonance with the provisions of section 16 of the Act. The apprehension that ITC can be availed only on the basis of reconciliation between FORM GSTR-2A and FORM GSTR-3B conducted before the due date for filing of return in FORM GSTR-3B for the month of September, 2018 is unfounded as the same exercise can be done thereafter also.

5. It may, however, be noted that the Government has extended the last date for furnishing of return in FORM GSTR-3B for the month of September, 2018 for certain taxpayers who have been recently migrated from erstwhile tax regime to GST regime vide notification No. 47/2018- Central Tax dated 10th September, 2018. For such taxpayers, the extended date i.e. 31st December, 2018 or the date of filing of annual return whichever is earlier will be the last date for availing ITC in relation to the said invoices issued by the corresponding suppliers during the period from July, 2017 to March, 2018.

6. All the taxpayers are encouraged to take note of the legal requirements and be compliance savvy.

The basis on the said press release and also the need for infrastructure for verification of the return filing details, the taxpayers have availed input tax credit on a self-assessment basis purely relying on their books of accounts. The department has issued notices for the difference in the amount claimed in GSTR – 3B against the amount reflected in GSTR – 2A, asking the taxpayers to pay the differential amount along with interest and penalty. GST being a self-assessed tax, the taxpayers have availed input tax credit basis of their books of account.

The same has been reiterated by the Honourable Supreme Court in the case of Union of India Vs Bharti Airtel Ltd & Others.

The Honorable Supreme Court has said that GSTR – 2A is a facilitator and the taxpayers has to maintain their books of accounts and onus is on the taxpayer only.

Extract from Para 20 of the Judgement as stated by the Shri N. Venkataraman, learned Additional Solicitor General of India.

This principle has remained the same both before the GST and also post GST



regime. Indeed, the registered person has been provided with a common electronic portal or tax electronic portal, which is only an enabler and a facilitator in bringing on board all the registered persons which include the supplier, recipient, registered person and other recipient.

Para 33

The common portal is only a facilitator to feed or retrieve such information and need not be the primary source for doing self-assessment. The primary source is in the form of agreements, invoices/challans, receipts of the goods and services and books of accounts which are maintained by the assessee manually/electronically. These are not within the control of the tax authorities. This was the arrangement even in the pre GST regime whilst discharging the obligation under the concerned legislation(s). The position is no different in the post GST regime, both in the matter of doing self assessment and regarding dealing with eligibility to ITC and OTL. Indeed, that self assessment and declarations would be any way subject to verification by the tax authorities. The role of tax authorities would come at the time of verification of the declarations and returns submitted/filed by the registered person.

Form GSTR-2A is only a facilitator for making an informed decision while doing such self-assessment.

Challenges Faced by Taxpayers for availing the Input Tax Credit.

During the last five years after the GST introduction, numerous changes have been made to the process of claiming an input tax credit. There was a time when taxpayers could claim input tax credits in GSTR-3B directly. Later, Form GSTR-2A was developed, and we began to claim input tax credits on a percentage basis. Currently, however, the input tax credit must be claimed only based on Form GSTR-2B.

The annual return, Form GSTR-9, is where the taxpayer can correct any mistakes in the returns submitted throughout the year. The input tax credit shown or reported in the GSTR-9 is final for the taxpayer. If any differences are found

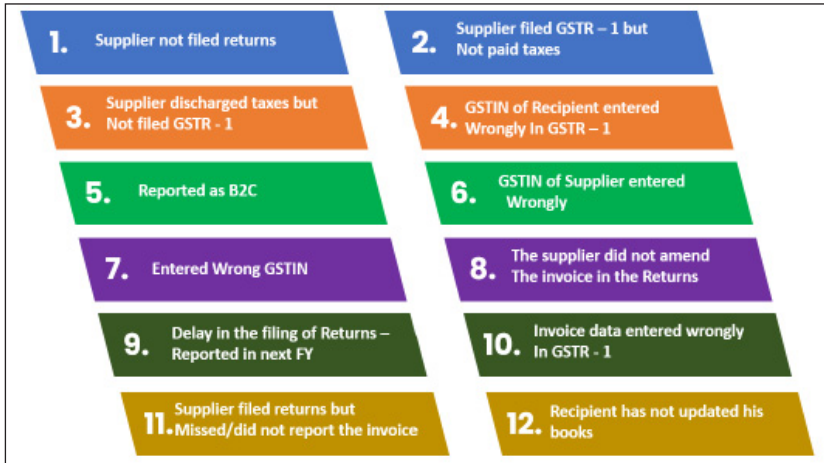


during the audit or scrutiny of the returns of the registered taxpayers by the Department Officers, the Officers will issue notices by Sections 73 or 74 of the CGST Act 2017. If the invoices are part of the Form GSTR – 2A/2B, to reverse the input tax credit they had claimed or pay through DRC-03 along with interest.

Significant challenges faced by taxpayers while matching for availing input tax credits are

- a) The Supplier of Goods or Services or both have not filed GST Returns
- b) The Supplier of Goods or Services or both have filed GST Returns but did not report the tax invoice of the recipient
- c) The Supplier of Goods or Services or both have filed GST Returns but reported them in the next financial year
- d) The Supplier of Goods or Services or both has filed only GSTR – 1 but has not paid the taxes
- e) The Supplier of Goods or Services or both has paid taxes but not filed GSTR – 1
- f) The Supplier of Goods or Services or both has reported the B2B supplies as B2C supplies
- g) The Supplier of Goods or Services or both has entered the GSTIN of the Recipient of the Good or Services or both wrongly
- h) The Supplier of Goods or Services or both has entered the Taxable value of the supply wrongly while filing GSTR -1 and has not made any amendments to rectify the same
- i) The Recipient Goods or Services or both have entered the Taxable value of the supply wrongly while accounting in the books of accounts
- j) The Recipient Goods or Services or both have entered the GSTIN of the Supplier wrongly while accounting

- k) The Recipient Goods or Services or both have entered the same in his books of account in a different GSTIN of his
- l) The Recipient Goods or Services or both have not accounted in his books of accounts
- m) The Recipient Goods or Services or both did not do matching.



Basis on the experience gained, the taxpayers have changed their business process by adopting one or more of the following

- Doing 100% matching or reconciliation every month before the filing of GSTR-3B & GSTR – 9
- Verifying with the supplier for the filing of the returns
- Paying the tax amount to the supplier only on reflection in the GSTR – 2B

Certification Process

In view of the notices being issued for the reversal of the Input Tax Credit or paying the same in cash if the Input Tax Credit claimed has been utilized along with applicable interest and penalty. The Government received representations from the trade & Industry, chamber of commerce and Professional bodies for relaxing the process for availing the input tax credit as there were challenges and issues during the first two years of the rollout of GST; the GST Council has



taken up the matter and discussed it in the 48th GST Council Meeting. Basis of the decision taken in the GST Council Meeting, to provide relaxation for availing the Input Tax Credit on similar lines of Circular issued by the Commercial Tax Department of Maharashtra.

The circular issued the following challenges

1. Supplier has not filed GSTR – 1 but discharged tax liability through GSTR – 3B
2. Supplier has filed GSTR – 1 and GSTR – 3B but, by mistake, did not include the invoice while filing GSTR – 1
3. The Supplier has classified and reported the B2B invoice in B2C
4. The Supplier has filed GSTR – 1 and GSTR – 3B, but inadvertently, the Recipient's GSTIN is mentioned wrongly

In all the above cases, the taxes have been to the Government, and there is an error/mistake in the filing of the Returns being a new Tax Regime, which has resulted in non-reflection in GSTR – 2A of the Recipient.

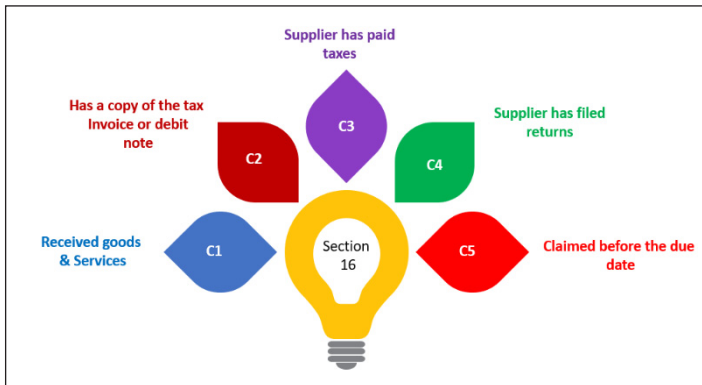
To address these challenges, the circular laid down guidelines on how the officer should process in the said cases

1 The officer will review all invoices for which input tax credit has been claimed where the invoices are not reported in GSTR-1 of the Supplier and not reflected in GSTR-2A of the Recipient. The concerned officer has ensured that all the provisions of Section 16 are met before allowing such Input Tax Credit. The steps to be followed by the officer are

- a) The Recipient has received the Goods or Services or Both
- b) The Recipient has the Tax Invoice/Debit Note issued by the Supplier of Goods or Services or both
- c) The Recipient has paid the Supplier the tax amount along with the taxable value

- d) Input Tax Credit has been reversed if required used partly for exempted supplies or as in special cases as mentioned in Section 17 of the CGST Act 2017
- e) The Supplier of Goods has discharged the tax liability either using the Input Tax Credit or in Cash
- f) The Recipient has availed the Input Tax Credit within the stipulated time period

Provisions of Section 16 of CGST Act 2017



Section 16. Eligibility and conditions for taking input tax credit. -

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, -

(a) he is in possession of a tax invoice or debit note issued by a supplier



registered under this Act, or such other tax paying documents as may be prescribed;

1[(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;]

(b) he has received the goods or services or both.

2[Explanation.- For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;]

3[(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;]

*(c) subject to the provisions of 4[section 41 5[***]], the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and*

(d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or installment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on a



reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income tax Act, 1961 (43 of 1961), the input tax credit on the said tax component shall not be allowed.

*(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the 6[thirtieth day of November] following the end of financial year to which such invoice or 7[****] debit note pertains or furnishing of the relevant annual return, whichever is earlier.*

8[Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.]

**Enforced w.e.f. 1st July, 2017.*

1. Inserted (w.e.f. 1st January, 2022 vide Notification No. 39/2021-C.T., dated 21st December, 2021) by s. 109 of The Finance Act, 2021 (No. 13 of 2021).

2. Substituted (w.e.f. 1st February 2019) for “Explanation.-For the purposes



of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;” by s. 8 of The Central Goods and Services Tax (Amendment) Act, 2018 (No. 31 of 2018).

3. *Inserted (w.e.f. 1st October, 2022 vide Notification No. 18/2022 - CT dated 28.09.2022.) by s. 100 of The Finance Act 2022 (No. 6 of 2022).*
4. *Substituted “section 41” (w.e.f. a date yet to be notified) by s. 8 of The Central Goods and Services Tax (Amendment) Act, 2018 (No. 31 of 2018).*
5. *Omitted “or section 43A” (w.e.f. 1st October, 2022 vide Notification No. 18/2022 - CT dated 28.09.2022.) by s. 100 of The Finance Act 2022 (No. 6 of 2022).*
6. *Substituted (w.e.f. 1st October, 2022 vide Notification No. 18/2022 - CT dated 28.09.2022.) by s. 100 of The Finance Act 2022 (No. 6 of 2022) for “due date of furnishing of the return under section 39 for the month of September”.*
7. *Omitted “invoice relating to such” (w.e.f. 1st January, 2021 vide Notification No. 92/2020-C.T., dated 22nd December, 2020) by s. 120 of The Finance Act, 2020 (No. 12 of 2020) .*
8. *Inserted vide Order No. 02/2018 -Central Tax dated 31st December, 2018.*

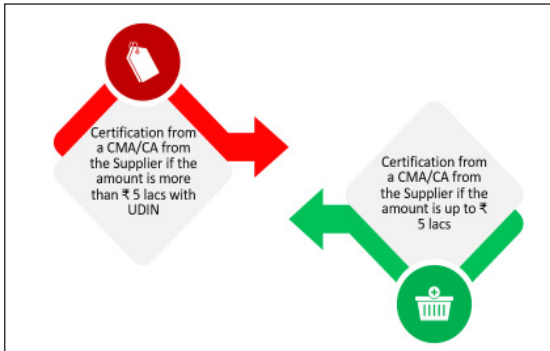
If the officer is satisfied with the above points, the difference can be allowed and initiate the proceeding accordingly if the difference between GSTR – 3B and GSTR – 2A.

The Officer should follow this process.

- a) If the difference in the Input Tax Credit is more than ₹ 5 lacs for a specific supplier, the officer *should obtain a Certificate from a Cost Accountant or a Chartered Accountant with UDIN*

b) If the difference for the Input Tax Credit availed is less than ` 5 lacs, certification should be obtained from the Supplier and submitted to the officer.

Process for Issue of Certificate



The Cost Accountant or Chartered Accountant issuing a certificate has to follow and ensure that all the provisions of the law are met and, at the same time, know the consequences of issuing the certificate.

1. Verify Receipt of Goods or Services

The professional has to verify if the goods or services have been received by the receipt. For this, the professional can verify the Inventory Register against the Goods Receipt Note or Material Note through which the inventory is updated. For the period July 2017 to March 2018, the professional cannot verify the e-waybills as it is not notified for the said period.

In the case of services, proper due diligence should be taken.

The whole objective of this activity is to ensure that there is no invoice where the input tax credit is being claimed without the supply of goods or services or both.





2. Used for Taxable Supplies

Before issuing the Certificate, the Professional must ensure that the goods or services or both have been used for taxable supplies. In case there are common inputs that are being used for making outward Supplies that are taxable and exempted, the Professional has to ensure that the Input Tax Credit has been reversed per provisions of Rule 42 of the CGST Rules 2017.

If the input tax credit has been reversed, ensure that the same is computed correctly before issuing the Certificate.

3. Not falling part of the Blocked Input Tax Credit

The Professional also has to ensure that the invoices on which Input Tax Credit has been allowed through the Certification of the supplies are not falling under the Blocked Input Tax Credit under Section 17 (5) of the CGST Act 2017.

The professional has to verify that the line items of each, and every invoice and it is not falling under the Blocked Input Tax Credit. In the case of a Banking Company, Financial institution, or Non-Banking Financial Company, the input tax credit is being reversed on a pro-rata basis, or 50% of the Input Tax Credit is being claimed as per the provisions of Section 17(4) of the CGST Act 2017.

4. The Supplier discharges Taxes Liability

One of the pre-conditions for availing of the Input Tax Credit is the payment of taxes by the Supplier of Goods or Services or both, either by utilizing the Input Tax Credit or payment in Cash. Verifying this is a very tough thing as the Supplier may not show the GSTR – 1 and GSTR – 3B data of his entity.

The professional can request the Supplier to share the Screenshots of the extract of the invoice being reported in GSTR – 1 along with the total liability of GSTR-1, if possible and the relevant section of GSTR – 3B. This will ensure that taxes have been paid.



In case the tax is discharged through DRC-03, it takes a lot of work to establish the relation.

5. Tax Invoice is issued as per the Provisions

The Professional also has to ensure that the tax invoice is issued as per the provisions of Section 31 of the CGST Act 2017 and Rules 46 to 48 of CGST Rules 2017 have been followed.

The Professional has to check and verify the physical copy of the Tax Invoice or Debit Note to ensure that all the provisions are followed in the true spirit.

6. Input Tax Credit is claimed before the Due Date

The professional must also validate and verify that the input tax credit has been availed before the due dates. To verify this, the Professional has to verify the Reconciliation statements between GSTR -2A and Purchase Register, GSTR – 2A and GSTR – 3B, and the amount of Input Tax Credit Claimed in GSTR – 9.

If the Input Tax Credit has been claimed after the due date, the same is not eligible for claiming input tax credit, and such invoice/s should not be part of the certificate.

7. Payment to Supplier made before 180 days

The professional also has to verify the ledgers and confirm that the supplier's payment is made within 180 days from the date of the issue of the tax invoice.

The professional can verify it by scrutiny of the supplier's ledgers and cross-checking the number of days between the Payment Date, and Invoice Date is not greater than 180`days.

In case it is observed that the payment is not made within 180 days, the same has to be qualified in the certificate stating that the payment is made to the supplier; subsequently, the input tax credit has been reversed along with interest.

If it is found that the same is not reversed, please update the client to make interest payment along with interest for the delayed days and qualify the same in the Certificate.

It is highly recommended to preserve copies of the tax invoices, debit notes, reconciliation statements, Returns and any other working papers for future reference, either in soft copies or hard copies.

Planning and Obtaining Client Engagement Letter

Before issuing the Certificate, the Professional should understand the volume of work involved and the time required for validation and verification. An engagement letter has to be obtained, and the professional fee should be quoted accordingly. The professional has to issue Certificate per Supplier if the difference between the amount reflecting GSTR – 2A and the amount claimed in GSTR – 3B. The fee in such cases also has to be quoted accordingly. It would be ideal to quote per certificate instead of a consolidated amount. As it involves a lot of time and effort, quoting the fee should also be factored in accordingly.



The team to be deputed for the task should have good knowledge of the Client’s business process and the provisions of GST. This will help prepare the Professional to execute the work smoothly, and the Professional need not spend his valuable time on essential work.

Before the commencement of the Work, the Professional should plan the work, delegate it accordingly, and identify the Single Point of Contact from the Client’s side. As the work involves a lot of verification of documents that are almost 4 to 5 years old, retrieving such documents is also time-consuming.



Points to Ponder

As per the Circular, the issue of a Certificate by a CMA/CA will not entitle the taxpayer to avail the input tax credit. The concluding paragraphs 5 & 6 will provide us with an understanding of the implementation side.

*5. It may also be noted that the clarifications given hereunder are case specific and are applicable to the **bonafide errors** committed in reporting during **FY 2017-18 and 2018-19**. Further, 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.*

A careful reading of the above para gives an interpretation that the Certificate will be valid only in some instances and not as discussed in the initial chapters. The usage of the word “bonafide errors” gives us an interpretation that it can be invoked in case of errors caused by the Supplier or Recipient and applicable in case intentional cases. Mere submission of the Certificate will not entitle the Recipient to claim the input tax credit. The officer has to be satisfied with the details provided, and we should be able to answer his queries, if any. The interpretation is that input tax credit will be allowed only in case of genuine cases and that too for the mistakes committed by the taxpayers unknowingly or unintentionally. It also provides a disclaimer that the relaxation of the measures mentioned in the Circular will not impact the implementation or interpretation of the relevant provisions, and the circular will not override the provisions. Technically it is also correct as a circular cannot override the Act passed in the Parliament.

Also, it clearly states that the said relaxation is only applicable for the Financial Years 2017-18 and 2018-19.

*6. These instructions will apply only to the ongoing proceedings in scrutiny/ audit/investigation, etc. for **FY 2017-18 and 2018-19** and not to the completed proceedings. However, these instructions will apply in those cases for **FY 2017-18 and 2018-19** where any adjudication or appeal proceedings are still pending.*

From the above para, it is obvious that the relaxation measures announced in



the Circular are available only for the ongoing proceedings in Scrutiny, Audit, Investigations etc., for the FY 2017-18 and 2018-19 and not for the proceedings which are completed and orders where orders have passed, and the taxpayer has accepted the liability. It will not be applicable for future orders also.

Template of the Certificate

The Circular has not provided any template or format of the Certificate to be issued by a Cost Accountant or a Chartered Accountant. We are providing a template for the benefit of the Members for ready reference. Members are requested to make necessary changes basis on their actual requirements.

Please use annexures where ever required.

Certificate to be issued by CMA/CA with UDIN (Annexure 1)

Certificate to be issued by the Supplier (Annexure 2)

Disclaimer

Any views or opinions represented above are personal and belong solely to the author and do not represent those of people, institutions, or organizations that the author may or may not be associated with in a professional or personal capacity unless explicitly stated. Any views or opinions are not intended to malign any religion, ethnic group, club, organization, company, or individual.

Circular No 183/15/2022-GST dated 27th December 2022.

Circular issued by the Maharashtra Commercial Tax Department. No. CST /JC (HQ-5)/Scrutiny/Issues/File No- /B-1 Internal Circular No. 02A of 2022 Date. 25.02.2022



Certificate to be issued by CMA_CA

<<<<Date>>>>

To

The

<<<<Name of the Officer>>>>

<<< Address of the Officer>>>

I/We _____ have verified the books of accounts along with the GSTR-2A and GSTR – 3B along with the other records maintained for ascertaining the Input Tax Credit claimed in GSTR – 3B, which is not reflected in GSTR-2A.

As per our verification, the following are the details of the Invoices/Debit Notes, which were part of GSTR – 3B but not reflected in GSTR – 2A.

GSTIN of the Supplier :

Name of the Supplier :

Address of the Supplier :

Details of the Documents Verified

Sr. No	Document Number	Document Date	Taxable Value	CGST Amount	SGST Amount	IGST Amount	Compensation Amount	Total
GST – 3B filed and GSTR – 1 not filed								



Sr. No	Document Number	Document Date	Taxable Value	CGST Amount	SGST Amount	IGST Amount	Compensation Amount	Total
GST – 3B filed but not reported in filed GSTR – 1								
B2B Classified as B2C Supplies: GSTR – 1 and GSTR – 3B filed								
B2B Classified as B2C Supplies: GSTR – 1 and GSTR – 3B filed								
GSTN of Supplier entered wrongly: GSTR - 1 and GSTR -3B Filed								
Total								

We have verified all the material information and oral information provided by M/ s. _____ and confirm that the input tax credit is being certified as per the provisions of CGST applicable for the Financial Years 2017-18 and 2018-19.

This Certificate is being issued on request of M/s _____ to enable them to take the input tax credit as per the requirements of Circular No 183/1d5/2022-GST dated 22nd December 2022.

I/We _____ hereby certify that an amount of CGST Amount ₹ _____ SGST Amount ₹ _____ IGST and GST Compensation Cess Amount ₹ _____ is eligible to be availed by the M/s. _____ for the period 201X-201X.



For,

M/s. _____

Firm Registration No.

<<<Partner Name>>>>

M. No. _____

Place: _____

Date: _____

UDIN : _____

* We are providing a template for the benefit of the Members for ready reference. Members are requested to make necessary changes basis on their actual requirements.

Please use annexures where ever required.



Certificate to be issued by Supplier

<<<<<Letter head of the Supplier>>>>>

<<<<Date>>>>

To

The

<<<<Recipient's name>>>>

<<< Address Recipient>>>>

I/We _____ are registered vendors for M/s. _____ having their Principal Place of Business at _____ with GSTIN _____.

GSTIN of the Supplier :

Name of the Supplier :

Address of the Supplier :

We have issued the following Tax Invoices/Debit Notes to M/s. _____ for the FY 201X – 201X.

Sr. No	Document Number	Document Date	Taxable Value	CGST Amount	SGST Amount	IGST Amount	Compensation Amount	Total
GST – 3B filed and GSTR – 1 not filed								



Sr. No	Document Number	Document Date	Taxable Value	CGST Amount	SGST Amount	IGST Amount	Compensation Amount	Total
GST – 3B filed but not reported in filed GSTR – 1								
B2B Classified as B2C Supplies: GSTR – 1 and GSTR – 3B filed								
B2B Classified as B2C Supplies: GSTR – 1 and GSTR – 3B filed								
GSTN of Supplier entered wrongly: GSTR - 1 and GSTR -3B Filed								
Total								

We hereby confirm that we have supplied the goods or services or both valuing ₹_____ out of which ₹_____ is reported in our GSTR – 1 and paid taxes in GSTR – 3B and for the following amount ₹_____ we have by mistake inadvertently not reported in GSTR - 1 or wrongly reported but have paid the respective taxes through GSTR – 3B or DRC – 03.

I/We_____ hereby certify that an amount of CGST Amount ₹_____ SGST Amount ₹_____ IGST and GST Compensation Cess Amount ₹_____ is eligible to be availed by the M/s. _____ for the period 201X-201X basis of Circular No 183/15/2022-GST dated 27th December 2022.



For,

M/s. _____

Authorized Signatory

<<<Partner Name>>>>

Name. _____

Designation: _____

Date: _____

Place: _____

* We are providing a template for the benefit of the Members for ready reference. Members are requested to make necessary changes basis on their actual requirements.

Please use annexures where ever required.



Circular No. 183/15/2022-GST

F. No. CBIC-20001/2/2022 - GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 27th December, 2022

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 FY 2017-18 and 2018-19 – reg.

Section 16 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) provides for eligibility and conditions for availing Input Tax Credit (ITC). During the initial period of implementation of GST, during the **financial years 2017-18 and 2018-19**, in many cases, the suppliers have failed to furnish the correct details of outward supplies in their FORM GSTR-1, which has led to certain deficiencies or discrepancies in FORM GSTR-2A of their recipients. However, the concerned recipients may have availed input tax credit on the said supplies in their returns in FORM GSTR-3B. The discrepancies between the amount of ITC availed by the registered persons in their returns in FORM GSTR-3B and the amount as available in their FORM GSTR-2A are being noticed by the tax officers during proceedings such as scrutiny/ audit/ investigation etc. due to such credit not flowing to FORM GSTR-2A of the said registered persons. Such discrepancies are considered by the tax officers as representing ineligible ITC availed by the registered persons, and are being flagged seeking explanation from the registered persons for such discrepancies and/or for reversal of such ineligible ITC.

2. It is mentioned that FORM GSTR-2A could not be made available to the taxpayers on the common portal during the initial stages of implementation of GST. Further, restrictions regarding availment of ITC by the registered persons upto 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. However, the availability of ITC was subjected to restrictions and conditions specified in Section 16 of CGST Act from 1st July, 2017 itself. In view of this, various representations have been received from the trade as well as the tax authorities, 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 **FY 2017-18 and FY 2018-19**.

3. 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:

S. No.	Scenario	Clarification
a.	Where the supplier has failed to file FORM GSTR-1 for a tax period but has filed the return in FORM GSTR-3B for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-2A of the recipients.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.
b.	Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but has failed to report a particular supply in FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the recipient.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.
c.	Where supplies were made to a registered person and invoice is issued as per Rule 46 of CGST Rules containing GSTIN of the recipient, but supplier has wrongly reported the said supply as B2C	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.



S. No.	Scenario	Clarification
	supply, instead of B2B supply, in his FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the said registered person.	
d.	Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but he has declared the supply with wrong GSTIN of the recipient in FORM GSTR-1.	<p>In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.</p> <p>In addition, the proper officer of the actual recipient shall intimate the concerned jurisdictional tax authority of the registered person, whose GSTIN has been mentioned wrongly, that ITC on those transactions is required to be disallowed, if claimed by such recipients in their FORM GSTR-3B. However, allowance of ITC to the actual recipient shall not depend on the completion of the action by the tax authority of such registered person, whose GSTIN has been mentioned wrongly, and such action will be pursued as an independent action.</p>

4. The proper officer shall first seek the details from the registered person regarding all the invoices on which ITC has been availed by the registered person in his FORM GSTR 3B but which are not reflecting in his FORM GSTR 2A. He shall then ascertain fulfillment of the following conditions of Section 16 of CGST Act in respect of the input tax credit availed on such invoices by the said registered person:

i) that he is in possession of a tax invoice or debit note issued by the supplier or such other tax paying documents;

ii) that he has received the goods or services or both;

iii) that he has made payment for the amount towards the value of supply, along with tax payable thereon, to the supplier.



Besides, the proper officer shall also check whether any reversal of input tax credit is required to be made in accordance with section 17 or section 18 of CGST Act and also whether the said input tax credit has been availed within the time period specified under sub-section (4) of section 16 of CGST Act.

4.1 In order to verify the condition of clause (c) of sub-section (2) of Section 16 of CGST Act that tax on the said supply has been paid by the supplier, the following action may be taken by the proper officer:

4.1.1 In case, where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year exceeds Rs 5 lakh, the proper officer shall ask the registered person to produce a certificate for the concerned supplier from the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR 3B. Certificate issued by CA or CMA shall contain UDIN. UDIN of the certificate issued by CAs can be verified from ICAI website <https://udin.icai.org/search-udin> and that issued by CMAs can be verified from ICAI website <https://eicmai.in/udin/VerifyUDIN.aspx>.

4.1.2 In cases, where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year is upto Rs 5 lakh, the proper officer shall ask the claimant to produce a certificate from the concerned supplier to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B.

4.2 However, it may be noted that for the period **FY 2017-18**, as per proviso to section 16(4) of CGST Act, the aforesaid relaxations shall not be applicable to the claim of ITC made in the **FORM GSTR-3B** return filed after the due date of furnishing return for the month of September, 2018 till the due date of furnishing return for March, 2019, if supplier had not furnished details of the said supply in his **FORM GSTR-1** till the due date of furnishing **FORM GSTR 1** for the month of March, 2019.

5. It may also be noted that the clarifications given hereunder are case specific and are applicable to the *bonafide* errors committed in reporting during **FY 2017-18 and 2018-19**. Further, 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.

6. These instructions will apply only to the ongoing proceedings in scrutiny/audit/investigation, etc. for **FY 2017-18 and 2018-19** and not to the completed proceedings. However, these instructions will apply in those cases for **FY 2017-18 and 2018-19** where any adjudication or appeal proceedings are still pending.

7. 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)

Notes

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Notes

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TAXATION DEPARTMENT - PLAN OF ACTION

Proposed Action Plan:

1. Successfully conduct all Taxation Courses.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/ registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc

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