




Recent Amendments



CA Gadia Manish R
Cell: +919820537986
Email: manish@gmj.co.in
 [@manishgadia_gst](https://twitter.com/manishgadia_gst)

Broad Division of Amendments

- ITC
- Extension of Timelines
- Registrations
- Filing of Returns
- Refunds
- Exemption Provisions
- Others



13-11-2022 CA Gadia Manish R. 2

Input Tax Credit (ITC)



13-11-2022

CA Gadla Manish R.

3

When is ITC available 16(2)

Possession of a tax invoice, etc., issued by **a supplier registered** under GST

Details of above invoice or debit note have been communicated to the recipient (via **GSTR 2B**)

Inserted Via N. No. 39/2021-CT dated December 21, 2021 w.e.f 1.1.2022

Received the goods and/or services

The tax charged in respect of such supply has been **actually paid** to the credit of the appropriate Govt.

How to Know?

Furnished the return under section 39

13-11-2022

CA Gadla Manish R.

4

When is ITC available 16(2)

- Apart from 5 specific conditions as mentioned in last slide;
- W.e.f. 1st October, 2022 one more condition has been added
 - 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**
- **What is section 38?**

13-11-2022

CA Gadia Manish R.

5

What is old section 38?

- Before 01.10.2022, section 38 of the CGST Act dealt with furnishing of details of Inward supply and prescribed for filing of Form GSTR 2 containing detail of inward supplies on which the taxpayer is claiming ITC. However, this mechanism could never be implemented since implementation of GST law.

13-11-2022

CA Gadia Manish R.

6

Mismatched/Wrong Credit

Mismatched Claims

- Both Supplier and Recipient intimated
- If supplier does not rectify within month of communication : Added to recipient's output liability (with interest)
- If supplier rectify later on: Reduce from recipient's output liability with interest paid earlier

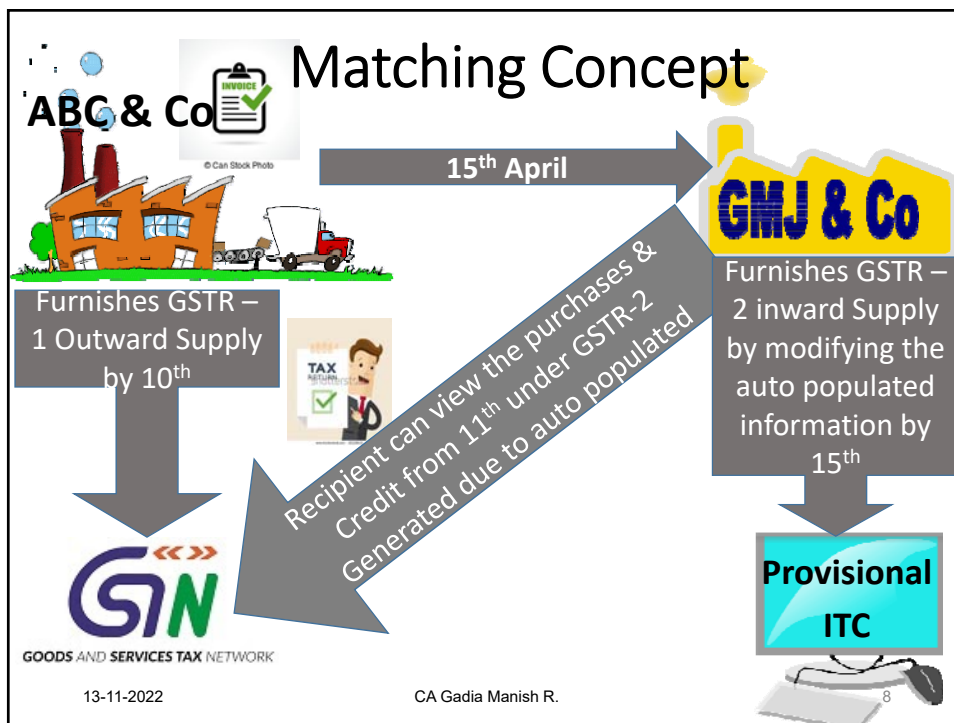
Duplicate Claims

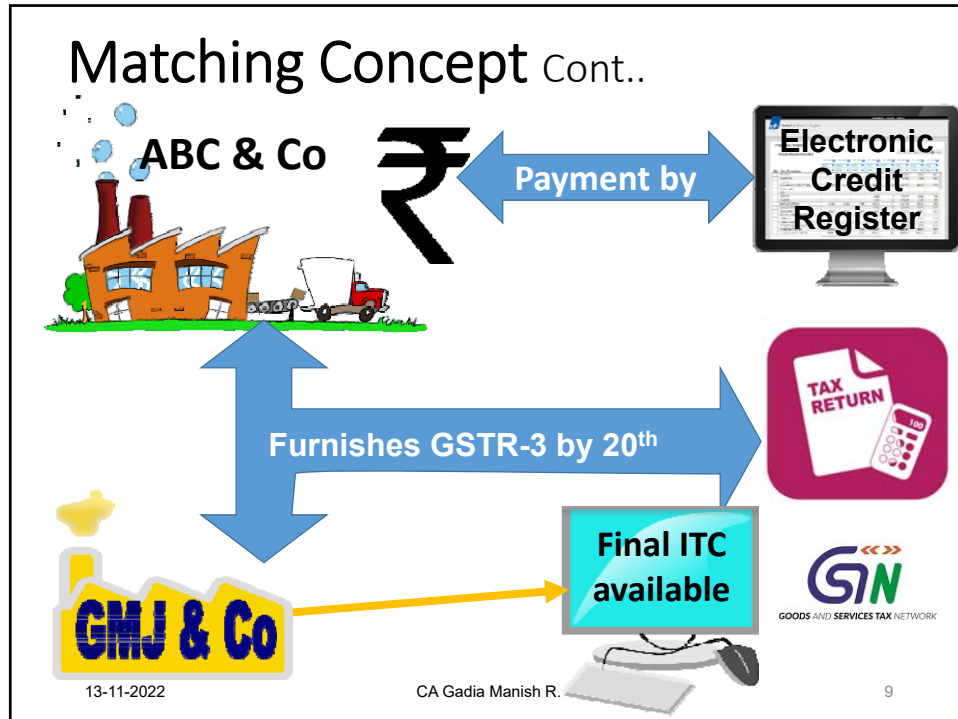
- Recipient's intimated and added to output liability with interest

Wrong Credit Claimed

- Recovery with interest within:
 - 5 years – Fraud/ wilful misstatement/ suppression of fact
 - 3 years – any other reason
- From due date or actual date (whichever is earlier) of filing of Annual return

11/12/2022
CA Gadia Manish R.
7





Section 38

- Entire section 38 is substituted with a new section which provides for 'Communication of details of inward supplies and Input Tax Credit'.

Effective from 1st day of October 2022 vide Notification 18/2022- CT dated 29.09.2022.

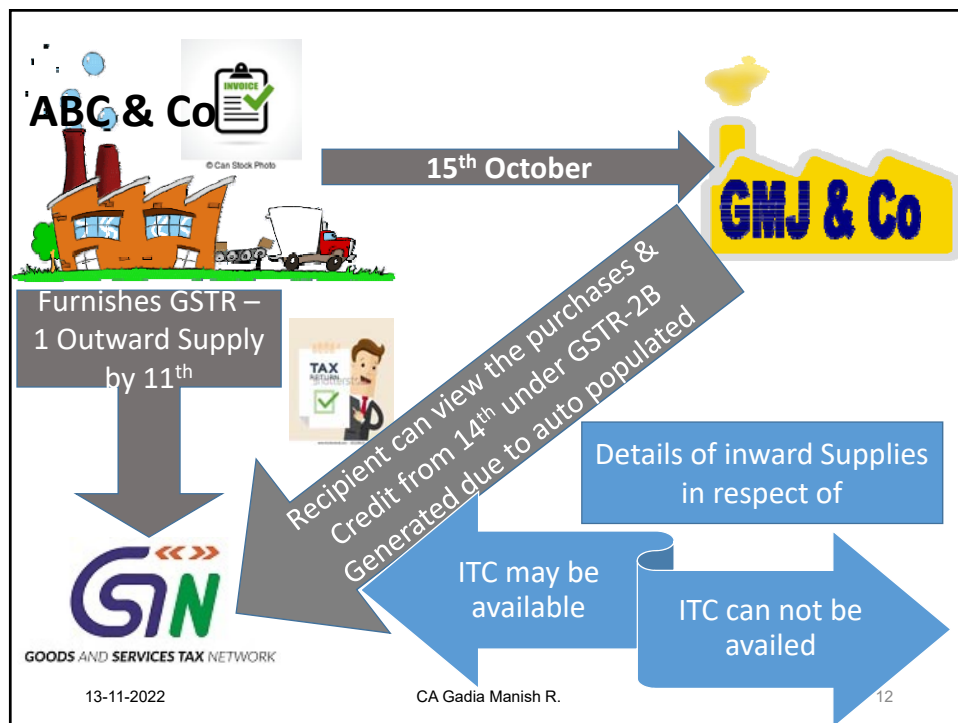
What is section 38?

- As per the new section 38, the details furnished by the supplier in GSTR 1 shall be communicated to the taxpayer in an auto-generated statement GSTR 2B.
- This statement shall consist of 2 parts.
 - i. One part shall consist of details of inward supplies in respect of which credit of input tax may be available to the recipient; and
 - ii. Another part shall provide details of supplies in respect of which such credit cannot be availed, by the recipient.

13-11-2022

CA Gadia Manish R.

11



13-11-2022

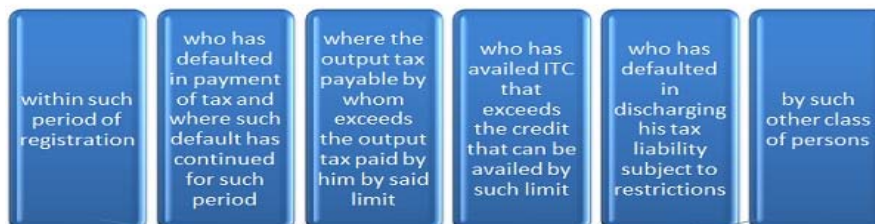
CA Gadia Manish R.

12

What is section 38?

The following is the basis of supplies in respect of which such credit cannot be availed, by the recipient.

Supplies made by any registration person



AS MAY BE PRESCRIBED

No two way Communication as per old Sec 38

13-11-2022

CA Gadla Manish R.

13

Way forward.....

- Seamless ITC..... Credit of Taxes which has been actually received by government.
- Availment of ITC has been made more stringent.
- Can appearance of ITC in GSTR-2B comply with Actual payment of tax by supplier?
- Can recovery be made form recipient if ITC appear in GSTR-2B? Explanation to Sec 75(12) – Supplies declared in GSTR-1 is self assessed liability, only when supplier is non existent than can be recovered from recipient.

13-11-2022

CA Gadla Manish R.

14

Way forward.....

- Change the contract with vendor- Payment after compliance of all the conditions of Section 16(2).
- More compliance and reconciliation of Availment of ITC.
- Ease of doing business or doing compliance for tax authorities?

13-11-2022

CA Gadia Manish R.

15

Clarification

- What is New Time limit for GST Credit Note:
- As per Amended Sec 34(2), now GST Credit Note can be **declared** in GST return till 30th Nov of next F.Y.
- Normally Oct month GSTR 1 will be filed by 11th Nov. Thereafter no GSTR 1 will be filed in Nov month.
- Therefore, for practical purpose -
 - ✓ Maximum time till credit note can be "issued" is 31st Oct of next FY
 - ✓ And, then such credit note can be declared in Oct GSTR 1 and 3B. However kindly ensure to file Oct GSTR 1 and 3B by maximum 30th Nov
- So, in nutshell, Remember to issue credit note till 31st Oct of next FY and its disclosure in GST Return before 30th Nov.
- Nothing can be done in Dec month for GST Credit note (neither issuance nor disclosure will be possible)

13-11-2022

CA Gadia Manish R.

16

Provisional ITC' and 'Matching Concept' – Scrapped

W.e.f. from 1st day of October 2022 vide
Notification 18/2022- CT dated 29.09.2022.

- Section 41 of the CGST Act provided that the ITC claimed by a taxpayer in GSTR 3B shall be provisional, until it is matched and finalised as per provision of section 42 & 43 and corresponding rules. However, this mechanism could also never be implemented as GSTR 2 return was never filed.
- Now this entire concept **is being scrapped** by substituting section 41 and section 42 & 43 being omitted.
- The new section 41 provides that the taxpayer shall self-assess and claim ITC in GSTR 3B. It further provides that in case the taxpayer has claimed ITC of GST which is not paid/ deposited by the corresponding supplier, than the taxpayer / recipient shall reverse the ITC along with interest. **The recipient shall be eligible to re-claim the ITC reversed, on payment of GST by the supplier.**

13-11-2022

CA Gadla Manish R.

17

Restriction on use of amount in Electronic Credit Ledger - Rule 86A

- The Commissioner or an officer not below the rank of an AC,
- Having **reasons to believe** that credit of ITC available in the electronic credit ledger has been **fraudulently availed or is ineligible** in as much as:
 - the credit of input tax has been availed on the strength of tax invoices, etc. as prescribed under rule 36
 - ❖ issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
 - ❖ without receipt of goods or services or both; or
 - Tax has been not paid by the supplier; or
 - The registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
 - The registered person availing any credit of input tax is not in possession of a tax invoice, etc.

07.08.2022

CA Gadla Manish R

18

Restriction on use of amount in Electronic Credit Ledger - Rule 86A

- May, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.
- The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.
- Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.

07.08.2022

CA Gadia Manish R

19

Section 49A

- (4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions **[and restrictions]** within such time as may be prescribed.

W.e.f. from 1st day of October 2022 vide Notification 18/2022- CT dated 29.09.2022.

13-11-2022

CA Gadia Manish R.

20

ITC Utilization under Rule 86B

As per GST Notification No. 94/2020 Dated 22 December, 2020, W.e.f. 1st January, 2021

- Rule 86B has been introduced which has imposed 99% restricted on ITC available in electronic credit ledger of Registered Person.
- According to this Law 1% of Output liability to be paid in cash.
- This limitation is applicable where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees.

13-11-2022

CA Gadia Manish R.

21

ITC Utilization under Rule 86B

Provided that the said restriction shall not apply where

1. If the persons mentioned below **have paid more than Rs.1 lakh** as Income Tax under Income Tax Act, 1961 : The registered person, Proprietor, Karta or Managing Director of the registered person, Any of the partners or whole time directors or any other person as the case may be.
2. If the registered person under concern has received **a refund of amount greater than Rs.1 lakh** in the preceding financial year on account of export under LUT or due to inverted tax structure.
3. If the registered person under concern has discharged his liability towards output tax by **electronic cash ledger for an amount in excess of 1%** cumulatively of the total output tax liability up to the said month in the current financial year.
4. If the registered person under concern is any of the following:
Government department Public sector undertaking Local authority Statutory Authority.

13-11-2022

CA Gadia Manish R.

22

Maximum utilization of ITC

- There has been dispute over validity of this provision since implementation, as there was no section in the CGST Act which allowed such restriction.
- Now an amendment is made to CGST Act by inserting sub-section (12) to Section 49 of the CGST Act.
- *Section 49(12): Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 (13 of 2017) which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed*

Effective from 1st day of October 2022 vide Notification 18/2022- CT dated 29.09.2022.

13-11-2022

CA Gadia Manish R.

23

Extension of Timelines.

THE TIME LIMIT FOR THE FOLLOWING COMPLIANCES IN RESPECT OF A PARTICULAR FINANCIAL YEAR HAS BEEN EXTENDED AND FIXED AS 30TH NOVEMBER OF THE NEXT FINANCIAL YEAR, OR FURNISHING OF THE RELEVANT ANNUAL RETURN, WHICHEVER IS EARLIER

13-11-2022

CA Gadia Manish R.

24

Extension of Timelines

W.e.f. 1st day of Oct 2022
vide Notification 18/2022-
CT dtd 29.09.2022.

Section	Provision
Section 16(4)	Claiming of ITC in respect of any invoice or debit note in the return
Section 34(2)	Declaration of the details of credit notes in the return
Proviso to Section 37(3)	Rectification of particulars in details of outward supplies
Proviso to Section 39(9)	Rectification of particulars furnished in a return
Proviso to Section 52(6)	Rectification of particulars in the statement furnished by a TCS operator

- The extended date for all the above mentioned provisions is **30th November, 2022** i.e. for the F.Y. 2021-22.
- For quarterly filer?

13-11-2022

CA Gadia Manish R.

25

Extension of time limit for claiming missed ITC

Effective from 1st day of October 2022
vide Notification 18/2022- CT dated
29.09.2022.

- Last date for claiming any ITC related to preceding FY (i.e. Tax Invoice or Debit Note) is extended from 20th October (Due date for furnishing GSTR 3B for the month of September) **to 30th November** of the subsequent FY.
- So, if there is any ITC related to FY 2021-22 which is still not claimed, can be claimed upto 30th day of November 2022.
- Similarly, the time limit of 20th October prescribed in section 34 for declaring detail of a **Credit Note** pertaining to any supply made in preceding FY is also revised and allowed **upto 30th November** or furnishing of Annual Return, whichever is earlier.

13-11-2022

CA Gadia Manish R.

26

Rate of Interest u/s 50(3)

- **Retrospective** Amendment – The rate of interest leviable u/s 50(3) i.e. Excess ITC availed & utilized, would be 18% instead of 24%.
- Hence, interest paid @ 24% **earlier is now eligible for refund**. Also, in case of Excess ITC availed but not utilized, **no interest would be leviable**.
- **No interest shall be leviable on ITC availed but not utilised**

Retrospective Amendment vide Notification
9/2022- CT dated 05.07.2022.

13-11-2022

CA Gadia Manish R.

27

Cancellation of Registration.



Registration

13-11-2022

CA Gadia Manish R.

28

Effective from 1st day of October 2022 vide
Notification 18/2022- CT dated 29.09.2022.

Cancellation of Registration.

• **Section 29 of the Central Goods and Services Tax Act,**

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,–

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
- (b) a person paying tax under section 10 has not furnished ~~returns for three consecutive tax periods~~ the return for a financial year beyond three months from the due date of furnishing the said return; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for ~~a continuous period of six months~~ such continuous tax period as may be prescribed;

13-11-2022

CA Gadla Manish R.

29

Cancellation of Registration.

The following clauses inserted in rule 21 of the CGST Rules, 2017 which states, **if the following conditions are not satisfied the registration can be cancelled:**

*(h) being a registered person required to file return under subsection (1) of section 39 for each month or part thereof, **has not furnished returns for a continuous period of six months***

*(i) being a registered person required to file return under proviso to subsection (1) of section 39 for each quarter or part thereof, has not furnished returns for a **continuous period of two tax periods.***

Effective from 1st day of October 2022 vide
Notification 19/2022- CT dated 29.09.2022.

13-11-2022

CA Gadla Manish R.

30

Impact of Cancellation of Registration

- ITC taken by assessee during unregistered period is not available.
- ITC of Tax paid on outward supply by such person shall not be available to his customer.
- Tax not paid by such person shall be recovered from him with interest and penalty.
- Such person may be arrested.

13-11-2022

CA Gadia Manish R.

31



13-11-2022

CA Gadia Manish R.

32

Filing of GSTR 1

- As per Section 37

(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies **for any of the previous tax periods has not been furnished by him**

Effective from 1st day of October 2022 vide Notification 19/2022- CT dated 29.09.2022.

13-11-2022

CA Gadla Manish R.

33

Filing of GSTR 3B

- Every registered non-resident taxable person shall file the GSTR3B on or before 13th of the next month. (Previously the date was 20th)
- GSTR-3B cannot be filed unless GSTR-1 for previous tax period is not filed.

Effective from 1st day of October 2022 vide Notification 19/2022- CT dated 29.09.2022.

13-11-2022

CA Gadla Manish R.

34

Changes in Table 4 of GSTR 3B

- GSTN has made certain changes in Table 4 of GSTR 3B in relation to eligible input tax credit (ITC) of GSTR-3B return.
- It may be noted that the notified few changes in Table 4 of Form GSTR-3B for enabling taxpayers to correctly report information regarding ITC availed, ITC reversal and ineligible ITC in Table 4 of GSTR-3B

Notification No. 14/2022 – Central Tax dated
05th July, 2022

13-11-2022

CA Gadia Manish R.

35

Changes in Table 4 of GSTR 3B

- Accordingly,
 1. All non-reclaimable reversal of ITC needs to be reported in table 4(B)(1)
 2. All reclaimable ITC reversals may be reported in table 4(B)(2). It should be noted that ITC reversed under 4(B)(2) can be reclaimed in table 4(A)(5) at appropriate time and the break-up detail of such reclaimed ITC should be provided in 4(D)(1) in the same return.
 3. The ITC not-available mentioned in [GSTR-2B](#) of the taxpayer has to be reported in 4(D)(2) of table 4.
 4. Any ITC availed inadvertently in Table 4(A) in previous tax periods due to clerical mistakes or some other inadvertent mistake may be reversed in Table 4(B)2.

13-11-2022

CA Gadia Manish R.

36

Late Fees

- A late fee of one hundred rupees for every day shall be applicable for failure in filing TCS return under section 52, subject to a maximum amount of five thousand rupees.

Effective from 1st day of October 2022 vide Notification 19/2022-CT dated 29.09.2022.



Changes in refund claim procedure

Section 54 of the CGST Act is being amended so as to:

(1) explicitly provide that refund claim of any balance in the electronic cash ledger shall be made **in such form and manner as may be prescribed**;

Earlier it was 6 months

(2) provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 (i.e. for specialized agencies of UNO and other notified ones) **as two years** from the last day of the quarter in which the said supply was received;

Effective from 1st day of October 2022
vide Notification 19/2022 and 20/2022- CT
dated 29.09.2022.

13-11-2022

CA Gadla Manish R.

39

Changes in refund claim procedure

Section 54 of the CGST Act is being amended so as to:

(10) extend the scope of withholding of or recovery from refunds in respect of all types of refund;

(iv) provide clarity regarding the relevant date as the due date for furnishing of return under section 39 in respect of such supplies for filing refund claim in respect of supplies made to a **Special Economic Zone developer or a Special Economic Zone unit** by way of insertion of a new sub-clause (ba) in clause (2) of Explanation thereto

13-11-2022

CA Gadla Manish R.

40

Clarifications

- The newly amended [Rule 89\(5\)](#) provides that in the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula-
- Maximum Refund Amount =
- $\{(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}\} - \{\text{tax payable on such inverted rated supply of goods and services} \times (\text{Net ITC} \div \text{ITC available on inputs and input services})\}$.
- The said change shall apply to refund applications made on or after 05-07-2022.
- [N/N 14/2022 dated 05.07.2022 and Circular 181/13/2022-GST dated 10.11.2022]

13-11-2022

CA Gadia Manish R.

41

Exemptions



13-11-2022

CA Gadia Manish R.

42

Retrospective Amendments relating to Exemption provisions.

- The exemption provisions which have been retrospectively amended are:

(a) Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the SG, has been declared as neither Supply of Goods nor Service.

(b) Supply of unintended waste generated during the production of fish meal, except fish oil, is being exempted (only from 01-07-2017 to 30-09-2019). Also, if tax is collected in that period, then it will not be eligible for claiming refund.

Amendments are applicable retrospectively from 01-07-2017 vide Finance Act, 2022

13-11-2022

CA Gadia Manish R.

43

No GST Exemption on Outbound Ocean Freight w.e.f. 01-10-2022

- Till 30-09-2022, there were following exemptions which were available vide N/N. 09/2017 IT(R), as below:
 - 20A Services by way of transportation of goods **by an aircraft** from customs station of clearance in India to a place outside India.-Exempt
 - 20B Services by way of transportation of goods **by a vessel** from customs station of clearance in India to a place outside India.-Exempt
- The above two exemptions were notified with the **sunset clause** and have come to end on **30-09-2022**.

13-11-2022

CA Gadia Manish R.

44

No GST Exemption on Outbound Ocean Freight w.e.f. 01-10-2022

Type	Supplier of Logistics Services	Recipient of Logistic service	Movement of Goods and POS	Taxability
FOB	India	Outside India	From India to outside India. Thus, place of supply is outside India. [Section 13(9) – IGST Act]	For Supplier: The service is export of service.
FOB	Outside India	Outside India	From Outside India to outside India. Thus, place of supply is outside India. [Section 13(9) – IGST Act]	In this case, the logistics service provider, the recipient, and place of supply all are outside India. Hence, No GST applicability

13-11-2022

CA Gadia Manish R.

45

No GST Exemption on Outbound Ocean Freight w.e.f. 01-10-2022

Type	Supplier of Logistics Services	Recipient of Logistic service	Movement of Goods and POS	Taxability
CIF	Outside India	India	From India to outside India. Thus, place of supply is outside India. [Section 13(9) – IGST Act]	In this case, the logistics service provider and place of supply all are outside India. Hence, No GST applicability. No RCM to recipient of service as it is also not an import of service.

13-11-2022

CA Gadia Manish R.

46

No GST Exemption on Outbound Ocean Freight w.e.f. 01-10-2022

Type	Supplier of Logistics Services	Recipient of Logistic service	Movement of Goods and POS	Taxability
CIF	India	India	From India to outside India. The place of supply would be the destination of such goods i.e., outside India. [Proviso to Section 12(8) – IGST Act].	For supplier: It is not an export of service as recipient is located in India. But IGST is chargeable as the POS is other taxable territory. For Recipient: He cannot take the ITC .

13-11-2022

CA Gadia Manish R.

47



13-11-2022

CA Gadia Manish R.

48

Transfer of amount available in ECL under CGST Act to ECL under IGST/SGST/UTGST

- Section 49 of the CGST Act, 2017 has been amended:

(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for:

- (a) integrated tax, central tax, State tax, Union territory tax or cess; or
- (b) integrated tax or central tax of a **distinct person** as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25

in such form and manner and subject to such conditions and restrictions as may be prescribed and **such transfer shall be deemed to be a refund** from the electronic cash ledger under this Act

Provided that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register

Effective vide Notification No. 9/2022-CT dated 05-07-2022

13-11-2022

CA Gadia Manish R.

49

Payment of Pre Depos

Instruction No. CBIC-240137/14/2022-SERVICE TAX SECTION-CBEC of CBIC dated 28-10-2022

- Form DRC-03 is not a prescribed/valid mode of payment for making pre-deposits u/s 35F of the Central Excise Act, 1944 & Section 83 of Finance Act, 1994 read with Section 35F as above.
- There exists a dedicated CBIC-GST Integrated portal – <https://cbic-gst.gov.in> which should only be utilized for making such pre-deposits under both the above mentioned acts.

13-11-2022

CA Gadia Manish R.

50

Payment of Pre Deposit

- Circular No. 1070/3/2019 Central Excise dated 20th June 2019 gives a detailed procedure to make payment of pre deposit.
- Link: https://cbic-gst.gov.in//Documents/Circular1070_2019_CX.pdf



13-11-2022

CA Gadia Manish R.

51

GSTN Portal Open for Transitional Credit

- CBIC issued detailed guidelines for filing and / or revising [TRAN-1](#) / [TRAN-2](#) returns as per directions given by the Apex Court in [UNION OF INDIA & ANR. VERSUS FILCO TRADE CENTRE PVT. LTD. & ANR.\[2022 \(7\) TMI 1232 - SC ORDER\]](#) case recently.
- Guidelines have been issued through Circular No.180/12/2022-GST dated 09-09-2022
- It may be noted that the option of filing or revising [TRAN-1](#) / [TRAN-2](#) on the common portal during the period from 01.10.2022 to 30.11.2022 is a one-time opportunity for the applicant to either file the said forms, if not filed earlier, or to revise the forms earlier filed.
- Guidelines have been issued to the officers of GST to verify the Transitional Credit vide Circular No. 182/14/2022-GST

13-11-2022

CA Gadia Manish R.

52



Opinions or views are like wrist watches.

Every watch shows different time from others.

But every one believes that their time is right!

13-11-2022

CA Gadia Manish R.

53



CA Gadia Manish R

manish@gmj.co.in

GMJ & Co

Ph : 9820537986



@manishgadia_gst

Information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of particular situation.

13-11-2022

CA Gadia Manish R.

54