

Amendments made in GSTR-3B post 47th GSTC Meeting- Analysis & Challenges to be faced by Industry

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The process of return filing under GST has been simplified over the period. With effect from December 2020, FORM GSTR-3B is getting auto-generated on the portal by way of auto-population of input tax credit (ITC) from FORM GSTR-2B (auto-generated inward supply statement) and auto-population of liabilities from FORM GSTR-1 (Outward supply statement), with an editing facility to the registered person. However, there are still some infirmities in information being furnished by the registered person in FORM GSTR-3B.

In order to overcome such infirmities, various changes and clarifications have been made and provided in Form GSTR-3B vide **Notification 14/2022-Central Tax dated 05-07-2022** and **Circular No. 170/02/2022-GST dated 06-07-2022**, the detailed analysis of the same is provided below:

A. Details of Amendment and Clarifications made in Tables relating to Outward Supplies in GSTR-3B

3.1: Details of outward supplies and inward supplies liable to reverse charge *other than those covered in 3.1.1*

Nature of Supplies	Total taxable value	Integrated Tax	Central Tax	Cess
(a) Outward taxable supplies (other than zero rated, nil rated and exempted)				
(b) Outward taxable Supplies (zero rated)				
(c) Other outward supplies (Nil rated, exempted)				
(d) Inward Supplies (liable to reverse charge <i>other than those covered in 3.1.1</i>)				
(e) Non-GST Outward Supplies				

There is no change in the above Table 3.1 except for the heading of this table and a new table 3.1.1 has been inserted in Form GSTR-3B which is as follows:

3.1.1 Details of supplies notified under sub-section (5) of section 9 of the Central Goods and Services Tax Act, 2017 and corresponding provisions in Integrated Goods and Services Tax/Union Territory Goods and Services Tax/State Goods and Services Tax Acts.

<i>Nature of Supplies</i>	<i>Total Taxable value</i>	<i>Integrated Tax</i>	<i>Central Tax</i>	<i>State/UT Tax</i>	<i>Cess</i>
1	2	3	4	5	6
<i>(i) Taxable supplies on which electronic commerce operator pays tax under sub section (5) of section 9 [to be furnished by the electronic commerce operator]</i>					
<i>(ii) Taxable supplies made by the registered person through electronic commerce operator, on which electronic commerce operator is required to pay tax under sub-section (5) of section 9 [to be furnished by the registered person making supplies through electronic commerce operator]</i>					

Thus, from now onwards, an ecommerce operator shall furnish the details of such taxable supplies on which it has paid the tax under Section 9(5) of CGST Act, 2017 in GSTR-3B.

On the other hand, the registered person making supplies through e-commerce operator on which e-commerce operator is required to pay tax under Section 9(5) of CGST Act, 2017 shall furnish the details of taxable supplies and taxes thereon made by such registered person.

Further, an amendment and clarification has been made in Table 3.2 of GSTR-3B vide Notification No. 14/2022-CT dated 05-06-2022 and Circular No. 170/02/2022-GST dated 06-06-2022 which is provided as follows:

3.2 Out of supplies shown in 3.1(a) and 3.1.1(i) above, details of inter-state supplies made to unregistered persons, composition taxable persons and UIN holders

	Place of Supply (State/ UT)	Total Taxable value	Amount of Integrated Tax
1	2	3	4

Supplies made to Unregistered Persons			
Supplies made to Composition Taxable Persons			
Supplies made to UIN holders			

The amendment in the above table has been made with respect to its heading only which covers that although the supplies shown by e-commerce operator on which it has paid the tax under Section 9(5) of CGST Act, 2017 has been shown in Table 3.1.1(i) above, details of inter-state supplies made to unregistered persons, composition taxable persons and UIN holders shall also be shown in Table 3.2.

Furthermore, CBIC vide **Circular No. 170/02/2022-GST dated 06-06-2022** clarified that the information sought in Table 3.2 of FORM GSTR-3B is required to be furnished, place of supply-wise, even though the details of said supplies are already part of the supplies declared in Table 3.1 of the said FORM.

Although the incorrect or non-disclosure of information in table 3.2 does not have direct implications on the revenue collections and neither does it incentivize the taxpayer in any way, it does affect the revenue sharing between the Centre and the States.

Accordingly, it is hereby advised that the registered persons making inter-State supplies –

- a) **to the unregistered persons**, shall also report the details of such supplies, place of supply-wise, in Table 3.2 of FORM GSTR-3B and Table 7B or Table 5 or Table 9/10 of FORM GSTR-1, as the case may be;
- b) to the registered persons paying tax under section 10 of the SGST/CGST Act (**composition taxable persons**) and **to UIN holders**, shall also report the details of such supplies, place of supply-wise, in Table 3.2 of FORM GSTR-3B and Table 4A or 4C or 9 of FORM GSTR-1, as the case may be, as mandated by the law.
- c) shall update their customer database properly with correct State name and ensure that correct PoS is declared in the tax invoice and in Table 3.2 of FORM GSTR-3B while filing their return, so that tax reaches the Consumption State as per the principles of destination-based taxation system.

It is further advised that any amendment carried out in Table 9 or Table 10 of FORM GSTR-1 or any entry in Table 11 of FORM GSTR-1 relating to such supplies should also be given effect to while reporting the figures in Table 3.2 of FORM GSTR-3B.

B. Details of Amendment and Clarifications made in Tables relating to Input Tax Credit in GSTR-3B

4. Eligible ITC

Details before Amendment	Details after Amendment
(A) ITC Available (whether in full or part)	(A) ITC Available (whether in full or part)
(1) Import of Goods	(1) Import of Goods
(2) Import of Services	(2) Import of Services
(3) Inward supplies liable to reverse charge (other than 1 & 2 above)	(3) Inward supplies liable to reverse charge (other than 1 & 2 above)
(4) Inward supplies from ISD	(4) Inward supplies from ISD
(5) All other ITC	(5) All other ITC
(B) ITC Reversed	(B) ITC Reversed
(1) As per Rule 42 & 42 of CGST Rules	(1) As per Rule 38, 42 & 43 of CGST Rules and sub-section (5) of section 17
(2) Others	(2) Others
(C) Net ITC Available (A) – (B)	(C) Net ITC Available (A) – (B)
(D) Ineligible ITC	(D) Other Details
(1) As per Section 17(5)	(1) ITC reclaimed which was reversed under Table 4(B)(2) in earlier tax period
(2) Others	(2) Ineligible ITC under section 16(4) and ITC restricted due to PoS provisions

Thus, the summary of changes made in Form GSTR-3B has been provided as hereunder:

In case of **reversal of ITC made by a banking company or a financial institution under Rule 38** of CGST Rules, 2017 engaged in the supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, shall report such reversal of ITC under Table 4(B)(1) of Form GSTR-3B. Earlier, these companies used to report the reversal of ITC under Other Reversals of Table 4(B)(2) of Form GSTR-3B or show the net ITC after reversal under Table 4(A)(5) of Form GSTR-3B.

As the entire set of data that is available in FORM GSTR-2B is carried to the table 4 in FORM GSTR-3B for the purpose of taking ITC. The ineligible ITC as per Section 17(5) of CGST Act, 2017 forms part of such ITC as the ineligible ITC as per Section 17(5) of CGST Act, 2017 does not form part of the **ITC not**

available as per GSTR-2B. Thereafter, the registered person is required to identify ineligible ITC to arrive at the Net ITC available and the registered person used to report such ineligible ITC under Table 4(D)(1) of GSTR-3B. However, from now onwards, the ineligible ITC as per Section 17(5) shall firstly be included in the sub parts Table 4(A) of GSTR-3B and then it shall be reversed under Part B(1) of Table 4 of GSTR-3B.

Thus, the registered person will, now, report reversal of ITC, which are absolute in nature and are not reclaimable, such as on account of rule 38 (reversal of credit by a banking company or a financial institution), rule 42 (reversal on input and input services on account of supply of exempted goods or services), rule 43 (reversal on capital goods on account of supply of exempted goods or services) of the CGST Rules and for reporting ineligible ITC under section 17(5) of the CGST Act in Table 4 (B)(1).

On the other hand, Registered person will report reversal of ITC, which are not permanent in nature and can be reclaimed in future subject to fulfilment of specific conditions, such as on account of rule 37 of CGST Rules (non-payment of consideration to supplier within 180 days), section 16(2)(b) and section 16(2)(c) of the CGST Act in Table 4(B)(2). Such ITC may be reclaimed in Table 4(A)(5) on fulfilment of necessary conditions. Further, all such reclaimed ITC shall also be shown in Table 4(D)(1). Table 4 (B) (2) may also be used by registered person for reversal of any ITC availed in Table 4(A) in previous tax periods because of some inadvertent mistake.

Therefore, the net ITC Available will be calculated in Table 4(C) which is as per the formula $(4A - [4B(1) + 4B(2)])$ and same will be credited to the ECL of the registered person.

C. Challenges to be faced by the taxpayers on account of change in reporting of reversal of ITC in GSTR-3B

While it may be said that the above changes have been made for the better reporting of reversals of Input Tax Credit in Form GSTR-3B. However, it is pertinent to note that, the following challenges could be faced by the taxpayers on account of such changes in reporting the reversal of ITC.

- **Effective Date of Change:** The amendment in Form GSTR-3B has done vide Notification 14/20202-CT dated 05-07-2022. Thus, there arises confusion among the taxpayers as to from date such changes shall be applicable. As the date of notification is 05-07-2022, then the return

for the month of June 2022, which is due to be filed on 20th of July, 2022, shall be filed as per the amended Form GSTR-3B.

- **Goods and Services Tax Network vs. GST Law:** It is always seen that there is a time lag between the changes made in GST law and simultaneous changes made on the GST portal. Thus, if the amended Form GSTR-3B is to be filed for the month of June-2022 i.e. by 20th July 2022, then whether the amended Form GSTR-3B would be available on the GST portal till such date.
- **Auto-population of ITC in GSTR-3B on the basis of GSTR-2B is not in compliance with laws:** It has been mentioned in the aforesaid Circular that the ITC gets auto-populated in GSTR-3B on the basis of ITC reflecting in GSTR-2B. This auto-populated ITC shall include the ITC on domestic inward supplies, imports of goods, reverse charge supplies received from registered supplier, input service distributor etc. Although, the section 16(2)(aa) of the CGST Act, only refers to the reflection of ITC on inward supplies in GSTR-2B, the details of which are required to be uploaded in the statement of outward supplies. Thus, reflection of ITC on import of goods in GSTR-2B is not mandated as per GST Law. In such case, if the taxpayer varies the amount of auto-populated ITC, whether the GST authorities may issue notice to the taxpayer asking the reason for such variation.
- **Recording of ineligible ITC separately in Books of Accounts:** Entries in the books of accounts need to be passed taking care of ineligible ITC as per the provisions of Section 17(5) of CGST Act, 2017. While recording the inward supplies into books of accounts, ITC must be bifurcated into eligible ITC and non-eligible ITC so that ineligible ITC can be reversed from Table 4(B)(1) of GSTR-3B after including ineligible ITC in sub-parts of Table 4(A) of GSTR-3B.
- **ITC which was reversed earlier under Other Reversals of Table 4(B)(2) of GSTR-3B which is being reclaimed need to be separately reported:** This may require the taxpayer to furnish the details of such ITC once asked by the Authorities.
- **ITC on Goods in transit (GIT) need to be separately disclosed in Form GSTR-3B:** As the ITC on GIT is auto-populated in GSTR-3B, however, ITC on such goods cannot be availed by the taxpayer as the conditions for taking ITC as per Section 16(2) of CGST Act, 2017 does not meet in such cases due to non-receipt of goods, the taxpayer is required to reverse such ITC from

Other Reversals as per Table 4(B)(2) of GSTR-3B. Thus, the taxpayers need to analyze such GIT each month for the purpose of reversal and reclaim once such goods received by the taxpayer.

- **More Disclosure in GSTR-3B:** While recording the inward supplies into books of accounts, ITC must be bifurcated into ITC which is not eligible as per Section 16(4) of CGST Act, 2017 and ITC which is not eligible as per the provisions relating to place of supply under GST as these ITC, now, need to be separately mentioned in Form GSTR-3B.
- **Revamping of Accounting system/ ERP in order to comply with the changed requirements:** To comply with the amended Form GSTR-3B, taxpayers need to make the changes in their books of accounts or ERP systems to get the bifurcation of ITC as per Section 17(5), Section 16(4) etc. However, if the amended Form GSTR-3B is applicable to the return for the month of June-2022, then in such case, as on date, the taxpayers has not made the applicable changes in its books of accounts or ERP system which could lead to hardship for the taxpayer at the time of filing GSTR-3B for the month of June-2022.

All these amendments in GSTR-3B leads to additional efforts for the taxpayers and the taxpayer need to be more cautious for the values to be reported. On the other hand, the above changes will open the doors of more litigation and disputes between the taxpayers and the Authorities as there could be more notice and demands from the Authorities due to any mis-reporting in GSTR-3B and the taxpayer need to make more reconciliation for the purpose of reporting in GSTR-3B, which is against ease of compliance under GST and the ease of doing business for the taxpayers.