

## August 2022

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### Income Tax

- + **DIT (Systems) notifies forms that have to be furnished electronically:** The DIT (Systems) has notified the below forms that needs to be furnished only by electronic mode with effect from 16<sup>th</sup> July, 2022 after verification using a Digital Signature or by generating an Electronic Verification Code by the person responsible for filing the same.

Sr.	Form	Particulars
1	3CEF	Annual Compliance Report on Advance Pricing Agreement
2	10F	Particulars to be filed while claiming relief of tax under a double taxation avoidance agreement
3	10IA	Certificate of the medical authority for certifying 'person with disability', 'severe disability', 'autism', (cerebral palsy' and (multiple disability' for purposes of section 80DD and section 80U
4	3BB	Monthly statement to be furnished by a Stock Exchange in respect of transactions in which client codes have been modified after registration
5	3BC	Monthly statement to be furnished by a Recognized Association in respect of transactions in which client codes have been modified after registration
6	10BC	Audit report for an electoral trust
7	10FC	Authorization for claiming deduction in respect of any payment made to any financial institution located in a Notified jurisdictional area
8	28A	Intimation to the Assessing Officer in response to a notice of demand requirement payment of advance tax
9	27C	Declaration under to be made by a buyer for obtaining goods without collection of tax
10	58D	Report to be submitted by a public sector company, local authority or an approved association or institution to the National Committee on a notified eligible project or scheme
11	58C	Report to be submitted to the National Committee by an approved association or institution
12	68	Form of application to claim indemnity from penalty for under-reporting or misreporting of income

Notification No 03/2022 of DIT (Systems) dated 16.07.2022

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### + **Facility for application and allotment of PAN for new LLPs at the time of registration:**

The DIT (Systems) has notified that new LLPs applying for registration under Ministry of Corporate Affairs ('MCA') in form FiLLiP can now apply for allotment of PAN in the same form. After generation of LLP identification number, the data will be forwarded by the MCA to the Income-tax authority for allotment of PAN.

*Notification No 04/2022 of DIT (Systems) dated 26.07.2022*

- ### + **Condonation of delay in cases of delayed filing of forms 9A, 10, 10B and 10BB:**
- A trust, fund, hospital, institution or university as the case may be claiming certain exemptions on incomes are required to file the above-mentioned forms as applicable to be able to claim the benefit of exemption. The CBDT vide circulars No. 19/2020 dated 3<sup>rd</sup> November, 2020 and Circular No. 2/2020 and Circular No. 3/2020 dated 3<sup>rd</sup> January, 2020 directed that the powers to admit and adjudicate applications for condonation of delay under 119(2) of the ITA, for delay in filing the forms 9A, 10, 10B and 10BB for Assessments years 2018-19 and onwards, where such delay does not exceed 365 days, be vested with the Commissioners of Income tax ('CIT'). In addition to these powers, the CBDT has now directed the CITs to accept cases where such delay in filing these forms does not exceed 3 years.

*Circular No 15 of 2022; Circular No. 16 of 2022 & Circular No. 17 of 2022 all dated 19.07.2022*

## Corporate Law

- ### + **Listed entities to file quarterly return on investor complaints received:**
- National Stock Exchange ('NSE') vide its circular dated 07.07.2022 requires the listed entities to file with the recognized stock exchange(s), a quarterly statement within twenty-one days from the end of each quarter. The statement should contain the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter.

*Circular No. NSE/CML/2022/33 dated 07.07.2022*

- ### + **Extension of time for filing information under Regulations 46 & 62 of Listing Obligations and Disclosure Requirement (LODR) Regulations:**
- NSE vide its circular dated 15.07.2022 has extended the due dates for filing information under Regulation 46 and Regulation 62 of LODR Regulations for equity and debt listed entities to 31.08.2022 considering the practical challenges faced by the listed companies.

*Circular No. NSE/CML/2022/36 dated 15.07.2022*

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### Foreign Exchange Management Act, 1999 ('FEMA')

- + **International trade settlement in Indian rupees:** To encourage and support the increasing interest of global trading community in Indian rupees, the RBI has put in place an additional arrangement for invoicing, payment and settlement of exports / imports in Indian Rupees. The broad framework for cross border trade transactions in Indian Rupees under FEMA are as below:
  - i) Invoicing: All exports and imports under this arrangement may be denominated and invoiced in Indian Rupee.
  - ii) Exchange rate: Exchange rate between the currencies of the two trading partner countries may be market determined.
  - iii) Settlement: The settlement of trade transactions under this arrangement shall take place in Indian Rupees. The responsibility of ensuring the procedural aspects under this settlement is laid on the Authorized Dealer ('AD') banker.

A.P. (DIR Series) Circular No.10 dated 11.07.2022

### Customs

- + **Removal of IGST exemption on import of specified goods by Research Institutions:** Board, to bring parity between rate of GST and rate of IGST payable on import of specified goods (such as scientific and technical instruments, apparatus, equipments (including computers, computer software, accessories parts consumables and live animals (for experimental purposes), by specified public funded research institutions and other research institutions (other than a hospital), department laboratories of Central / State Governments exemption from payment of whole of IGST under the Customs Tariff Act, 1975 has been withdrawn, which was hitherto exempted.

Notification No. 42/2022 – Customs dated 13.07.2022
- + **Amendments to Custom Authority for Advance Rulings Regulations, 2021:** With an intent to ease out the procedure of filing and processing thereto, of an application for Advance Ruling which is preferred under provisions of Customs Act, 1962, the Board has made following amendments to Custom Authority for Advance Rulings Regulations, 2021:
  - Application for an Advance Ruling under provisions of Customs Act, 1962, to be filed only through Common portal. *(Until such portal is not operational, said application to be filed physically, as was applicable before amendment to regulations);*
  - As application is to be filed online, following requirements are done away with:

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- (a) Requirement of making physical submissions of all documents prescribed in this regard;
- (b) Procedures to be followed by tax office like provision of acknowledgment upon filing and entering details into prescribed register;
- (c) Requirement to conduct physical hearings (as hearing too will be conducted virtually);
- Appeal against orders passed by Authority for Advance Ruling will lie directly before jurisdictional High Court – *Removal of provision for appeals before Appellate Authority for Advance Ruling under Customs Act, 1962, by way of an amendment to Customs Act, 1962, vide The Tribunal Reforms (Rationalization and Conditions of Service) Ordinance, 2021.*
- By appointing “Secretary”, all functions that were earlier designated to Board in this regard, are shifted to Secretary, who will be an officer not below the rank of “Assistant Commissioner of Customs” or “Assistant Commissioner of Central Tax”;
- Application for Advance Ruling may now be withdrawn, any time before the ruling is pronounced. Hitherto, applicant had to withdraw an application within 30 days from filing of an application;
- Clerical amendments, wherever necessary in the regulations are also made.

For more details Custom Authority for Advance Ruling Regulations, 2021 may be referred. [Notification No. 63/2022 – Customs \(NT\) dated 20.07.2022](#)

- + **Provisions of MOOWR, 2019 not applicable to entities generating electricity using solar panels or solar cells (imported as capital goods):** The Board, vide its instructions has directed all field formations that facility of licenses issued under the scheme of MOOWR, 2019 cannot be extended to units generating power using items like solar panels or solar modules that generally qualify as capital goods used in process of generating electricity. The reasons cited in the instructions for such inapplicability are such as: (a) resulting electricity regenerated is not capable of being deposited in warehouse; (b) Affixing one time lock to load for transportation of goods in the nature of electricity is not possible; and (c) That, no exemption has been extended in terms of Regulation 20 of MOOWR, 2019 and that the Board has not exempted goods in the nature of electricity from any of the provisions of MOOWR 2019, nor separate regulations relating to removal of electricity have been issued.

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The said instruction issued by the Board has been challenged before Hon'ble Delhi High Court, in the case of Acme Heergarh Powertech Private Limited W.P.(C) 10537/2022 dated 13.07.2022 and notice has already been issued to revenue.

*Instruction No. 13/2022 – Customs dated 09.07.2022*

### Foreign Trade Policy (FTP)

- + **Exemption of IGST & Compensation Cess on imports of goods under AA / EPCG) / EOU Schemes:** In the backdrop of Notification No. 37/2022-Customs dated 30.06.2022, DGFT has issued notification no. 16/2015-20 dated 01.07.2022 thereby, removing the date limitation for the exemption under the aforesaid schemes. Thus, the exemption of IGST and Compensation Cess on goods imported under these Schemes, continues beyond 30th June, 2022 till the validity of the current FTP 2015-20 i.e. 30th September 2022 or any further notice/order, whichever is earlier.

*Circular no.398 dated 04.07.2022*

- + **Relaxation in submission of 'Bill of Export' for supplies made to SEZ units in case of EPCG Authorization:** The DGFT has relaxed procedure in relation to documentary requirements with respect to supplies made to SEZ units in case of export obligation discharge under EPCG authorization prior to 01.04.2015. Exporters can submit corroborative evidence in lieu of 'Bill of Exports' such as:

- ARE- 1 form duly attested by jurisdictional Central Excise/GST Authorities of EPCG authorization holder.
- Evidence of receipt of the supplies by the recipient in the SEZ.
- Evidence of payment made by the SEZ unit to the EPCG authorisation holder

*Policy circular no.43/2015-20 dated 27.07.2022*

- + **DGFT synced the ITC (HS), 2022- Schedule-1 (Import Policy) with the Finance Act, 2022:** The ITC (HS), 2022- Schedule-1 (Import Policy) has been synced with the Finance Act, 2022 by DGFT vide Notification no. 20 /2015-2020 dated 07th July 2022. The List of ITC(HS) codes introduced/deleted/amended/split/merged as per the Finance Act, 2022 and the modifications/amendments in the Section Notes, Chapter-wise Main Notes, Supplementary Notes, Chapter heading, sub-headings and description of ITC(HS) codes as per the Finance Act, 2022 have been provided in the said notification at Annexures I and II respectively. Further, the updated ITC (HS), 2022 is available on the DGFT website <https://www.dgft.gov.in>

*Circular no.401 dated 08.07.2022*

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**Goods and Services Tax (GST)**

- + **Facility introduced for cross transfer of amounts in e-cash ledger:** The CBIC has introduced a facility for transfer of any amount lying unutilized in e-cash ledger from one account head to another and transfers between distinct persons / establishment of distinct persons viz., different GSTINs under same PAN, vide Form PMT-09. Such transfer is allowed only if there is no balance outstanding in the electronic liability register of the transferor's GSTIN. *Further, the transfer of balances of e-cash ledger from 'CGST' to 'SGST' or vice versa is not permitted between different GSTINs under the same PAN.*

Notification No. 9/2022 – Central Tax & Notification No. 14/2022 – Central Tax both dated 05.07.2022

- + **Retrospective change in the rate of interest where ITC has been wrongly availed and utilised:** The rate of interest applicable where a registered person has wrongly availed **and** utilized ITC has been retrospectively reduced from 24% p.a. to 18% p.a. Hitherto, interest at the rate of 24% was applicable where ITC had been wrongly availed, irrespective of its utilisation.

Notification No. 9/2022 – Central Tax dated 05.07.2022

- + **Exemption granted from furnishing Annual Return for FY 2021-22:** Registered Persons with **aggregate turnover up to Rs. 2 Crores in FY 2021-22 have been exempted** from filing Annual Return in Form GSTR 9/9A for FY 2021-22.

Notification No. 10/2022 – Central Tax dated 05.07.2022

- + **Extension granted for filing of Form CMP-08 by Composition Taxpayers:** The CBIC has extended the due date to furnish return in Form CMP-08 for quarter ending June 2022 till July 31, 2022. Hitherto the return filing date was July 18, 2022.

Notification No. 11/2022– Central Tax dated 05.07.2022

- + **Waiver of late fee for delay in filing of Form GSTR-4 by Composition Taxpayers:** The CBIC has waived off the late fee payable for delay in filing of quarterly return in FORM GSTR-4 for the tax period 01.05.2022 to 28.07.2022. Accordingly, late fee will be attracted only if there is a delay in filing of Form GSTR 4 beyond 28.07.2022 at Rs 100/- day (restricted maximum to Rs. 5,000/-).

Notification No. 12/2022– Central Tax dated 05.07.2022



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- + **Period of limitation (time limit) extended for conclusion of assessment, application for refund and recovery of erroneous refund:** Effective 01.03.2020, the CBIC has extended the time limit for issuance of order towards recovery of tax not paid / short paid or ITC wrongly availed or utilized under Section 73(9) of the CGST Act, 2017 upto 30.09.2023. Hitherto the last date for issuance of order was 05.02.2023. Further, the period from 01.03.2020 to 28.02.2022 is to be excluded for computation of period of limitation for **filing of refund applications** and for computation of period of limitation **for issuance of order**.

Notification No. 13/2022 – Central Tax dated 05.07.2022

- + **Deemed revocation of suspension of registration upon furnishing of pending returns:** In cases where a taxpayer's registration was suspended for non-filing of returns, the CBIC has provided for deemed revocation of suspension of registration, once the pending returns are filed by such taxpayer. The said deemed revocation would not be applicable where the registration is **already cancelled** by proper officer.

Notification No. 14/2022 – Central Tax dated 05.07.2022

- + **No reversal of common Input Tax Credit on supply of duty credit scrips:** For the limited purpose of computation of reversal of common input tax credit under Rule 42 and 43 of CGST Rules, 2017 the value of supply of duty credit scrips are to be excluded from the aggregate value of 'exempt supplies'. However, the supply of duty credit scrips should be continued to be declared as exempt supplies in Form GSTR-1, GSTR-3B, GSTR-9 and GSTR-9C.

Notification No. 14/2022 – Central Tax dated 05.07.2022

- + **Mandatory declaration on the invoice issued by persons exempted from e-invoicing:** All invoices to be issued by persons exempted from e-invoicing i.e. SEZ units, Insurance Co., Banking Co. (including NBFC's), GTA, Passenger transportation service provider, Cinema Exhibitors, but crossing the threshold limit for applicability for e-invoicing are required to mandatorily include the following DECLARATION in the tax invoice:

*"I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule".*

Notification No. 14/2022 – Central Tax dated 05.07.2022

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- + **Additional modes of payment introduced:** IMPS & UPI have been added as an authorized mode of payment for deposit of amounts (towards tax, interest, penalty, fees, or any other amount) into the e-cash ledger.

Notification No. 14/2022 – Central Tax dated 05.07.2022

- + **Re-credit to e-credit ledger on depositing amounts relating to erroneous refunds received:** Where a registered person deposits the amount of erroneous refund sanctioned to him by utilizing the electronic cash ledger in Form GST DRC-03, the proper officer shall re-credit an amount equivalent to the amount of erroneous refund deposited by the registered person to the electronic credit ledger of such person in Form GST PMT-3A.

Notification No. 14/2022 – Central Tax dated 05.07.2022 & Circular No. 174/06/2022 – GST dated 06.07.2022

- + **Demand and penalty aspects with respect to fake invoicing matters clarified:** Applicability of demand and penalty with respect to fake invoicing matters has been clarified by way of scenario-based illustrations (based on fundamental principles). The same is explained in detailed as an Annexure 1 at the end of this document.

Circular No. 171/03/2022 – GST dated 06.07.2022

- + **Manner of computation of interest on delayed payment of taxes prescribed:** In cases where there is a delay in filing of returns and the supplies of a tax period are disclosed in the said belated return of the same tax period, interest has to be calculated only on the portion of tax which is paid by cash. In all other cases, interest has to be calculated on the total tax i.e. tax discharged through credit and cash. Further, in respect of ITC wrongly availed and utilised, interest has to be calculated from the date of utilization of ITC till the date of reversal / payment of tax.

**Effective date:** 01.07.2017 Notification No. 14/2022 – Central Tax dated 05.07.2022

- + **Specified Officer for the purpose of refund in case of supply to a SEZ unit / developer, notified:** Specified officer, who shall endorse the documents in relation to a refund application filed in respect of supplies made to SEZ units / SEZ Developers, has been clarified to mean a "specified officer" or an "authorised officer" as defined under Rule 2 of the Special Economic Zone Rules, 2006.

Notification No. 14/2022 – Central Tax dated 05.07.2022

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+ **Value of export of goods explained for claiming refund:** For claiming refund of accumulated ITC on account of export of goods under LUT, the value of export of goods has been defined to mean **lower of:**

- Declared FOB value in the Shipping Bill / Bill of Export; or
- Value declared in the tax invoice / bill of supply.

Notification No. 14/2022 – Central Tax dated 05.07.2022

+ **Change in Refund formula w.r.t refunds under Inverted Duty Structure:** Refund formula has been corrected to ensure that the reduction of output tax on inverted rated supplies is done in the same ratio in which ITC has been availed on input **and input services** during the relevant period.

Notification No. 14/2022 – Central Tax dated 05.07.2022

+ **Withdrawal of refund of tax paid by Duty Free Shops:** Refund of taxes will no longer be available to a retail outlet, where such supplies are further made tax free to an outgoing international tourist.

Notification No. 14/2022 – Central Tax dated 05.07.2022 & Circular No. 176/08/2022 dated 06.07.2022

+ **Date of Refund Application – Involving amendment to Shipping Bill:** A shipping bill will be deemed to be a refund application w.r.t. refund of IGST paid on export of goods, **only when** mismatches (if any) between data as per Form GSTR-1 and Shipping Bill are rectified. In such cases, the date of filing refund application will be deemed to be the date on which such mismatch is rectified by the exporter.

**Effective date:** 01.07.2017 Notification No. 14/2022 – Central Tax dated 05.07.2022

+ **Mandatory verification of refund claims by proper officer where refund of IGST paid on export is withheld:** The proper officer of CGST/SGST or UTGST to verify refund claims of IGST paid on export of goods or services in all cases involving withholding of refund for the specified circumstances. The said refund claims will be transmitted to proper officer in Form GST RFD-01 for verification and two-year time limit will begin from date of such transfer in Form GST RFD-01. Intimation to this effect will also be made to exporter.

**Effective date:** 01.07.2017 Notification No. 14/2022 – Central Tax dated 05.07.2022

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- + **Scope of withholding refund expanded:** Refund may additionally now be withheld in cases involving verification of credentials of exporters to safeguard interest of revenue if the same is required in the opinion of the Commissioner or Board (based on data analysis and risk parameters).  
**Effective date:** 01.07.2017 Notification No. 14/2022 – Central Tax dated 05.07.2022
  
- + **Clarification on refund of Input Tax Credit claimed by recipient of deemed export supplies:** It has been clarified that ITC of tax paid on deemed export supplies was allowed to the recipients as 'ITC' only for the purpose of claiming refund of such tax paid. The said amounts do not qualify as 'ITC' under the GST laws and hence, would not be subjected to provisions of Section 17 of the CGST Act, 2017 i.e. blocked credits. Consequentially, such amounts are NOT to be included in the computations of "Net ITC" for refunds pertaining to zero rated supplies or supplies under inverted duty structure.  
Circular No. 172/04/2022 dated 06.05.2022
  
- + **Clarification on various issues related to blocked Input Tax Credit (ITC) under Section 17(5) of the CGST/SGST Act, 2017:** The CBIC has clarified that ITC would be available in respect of any goods or services which are obligatory in nature to be provided by an employer to its employees under any law, including food and beverages, life insurance, rent-a-cab. Further, it has been clarified that ITC is blocked on leasing, renting or hiring of motor vehicles, vessels or aircrafts only and **not of leasing, renting or hiring of any other items.**  
Circular No. 172/04/2022 dated 06.05.2022
  
- + **Perquisites provided by employer to employee as per Contractual Agreement not taxable:** The CBIC has clarified that perquisites provided by an employer to its employee in terms of the contractual agreement entered into between the said parties are in lieu of services provided by the employee to the employer in relation to his employment and hence, will not be subjected to GST.  
Circular No. 172/04/2022 dated 06.05.2022
  
- + **Clarification on utilization of amount available in e-credit ledger:** Any payment towards output tax, whether self-assessed in the return or payable as a consequence of any GST proceeding, can be made by utilization of the amount available in the e-credit ledger of a registered person.

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Further, since output tax does not include tax payable under reverse charge mechanism, amount in e-credit ledger cannot be used for making payment of tax under reverse charge mechanism. It has been further clarified that amounts in e-credit ledger cannot be used for making payment of interest, penalty, fees or any other amounts including payment of erroneous refund sanctioned.

Circular No. 172/04/2022 dated 06.05.2022

- + **Clarification regarding refund under inverted duty structure where the supplier is supplying goods under concessional rate:** Refund of accumulated ITC on accounted of inverted duty structure would be allowed in cases where accumulation of ITC is on account of rate of tax on outward supply being less than the rate of tax on inputs (same goods) owing to the supply of goods as per notification issued by the Government providing for concessional rate of tax.

Circular No. 173/05/2022 dated 06.05.2022

- + **Services of renting of residential dwelling now covered under RCM:** Services of renting of residential dwelling to a registered person is now taxable and covered under Reverse Charge Mechanism. Accordingly, effective 18.07.2022, the recipient of such services i.e. the registered person, is liable to discharge GST under RCM for receipt of services of renting of residential dwelling. It may be noted that services of renting of residential dwelling for use as residence to an unregistered person continues to be exempt from GST.

Notification No. 05/2022 – Central Tax (Rate) dated 13.07.2022

### **Annexure 1**

Sr.	Scenario	Clarification and Implications under GST
1	Registered person 'A' issues tax invoice to another registered person 'B', without any underlying supply of goods or services.	<p><b>Clarification:</b> Since no underlying goods or services are involved, the transaction does not constitute a "Supply" u/s 7 of CGST Act, 2017;</p> <p><b>Implications:</b> In the absence of "Supply", no tax liability arises in the hands of "A" and hence, the provisions of Section 73 / 74 cannot be invoked.</p> <p>However, "A" shall be liable to penal action u/s 122(1)(ii) of CGST Act, 2017, for issuing fake invoice equal to Rs. 10,000/- or tax evaded, whichever is higher.</p>

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Sr.	Scenario	Clarification and Implications under GST
2	<p>Registered person 'A' issues tax invoice to another registered person 'B', without any underlying supply of goods or services.</p> <p>'B' avails ITC on the basis of such invoice.</p> <p>'B' further issues invoice <b>along with underlying supply of goods or services</b>, to his customer and utilizes ITC on the basis of invoice so issued by 'A'.</p>	<p><b>Clarification:</b> Since no underlying goods / services are involved, the transaction does not constitute a "Supply" u/s 7 of CGST Act, 2017 in the hands of 'A'.</p> <p>Further, since 'B' has availed and utilized fraudulent ITC on the basis invoice without any actual receipt of goods / services hence he has contravened the provisions of Section 16(2)(b) of CGST Act, 2017.</p> <p><b>Implications:</b> Penal consequences for 'A' shall remain the same as discussed in the 1<sup>st</sup> scenario supra.</p> <p>However, 'B' shall be liable for the demand and recovery of ITC along with penal action u/s 74 of CGST Act, 2017, on account of ITC wrongly availed or utilised by reason of fraud or wilful misstatement.</p> <p>Further, since the penal provisions of Section 74 is applicable to 'B', no further penalty can be levied in the hands of 'B' under any other provisions including Section 122 of CGST Act, 2017.</p>
3	<p>Registered person 'A' issues tax invoice to another registered person 'B', without any underlying supply of goods or services.</p> <p>'B' avails and utilises ITC on the basis of such invoice; and 'B' further issues invoice without underlying supply of goods or services and passes on the ITC to a registered person 'C'.</p>	<p><b>Clarification:</b> As no underlying goods or services are involved in the transaction between 'A', 'B' and 'C', hence the transaction does not constitute a "Supply" u/s 7 of CGST Act, 2017 in the hands of any.</p> <p><b>Implications:</b> Penal consequences for 'A' shall be the same as discussed under Scenario I supra.</p> <p>Transaction undertaken by 'B' does not attract any tax liability on account of absence of "Supply", hence no tax was required to be paid in respect of the said transaction.</p> <p>Therefore, no demand and recovery of either ITC wrongly / fraudulently availed by 'B' in such case or tax liability in respect of the said outward transaction by 'B' to 'C' is required to be made from 'B' under the provisions of section 73 or section 74 of CGST Act.</p> <p>However, 'B' shall be liable to penal action under 122(1)(ii) and (vii) of CGST Act, 2017, on account of fake invoicing and availing or utilizing ITC without actual receipt of goods or services.</p>

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