



## ITC related Amendments/ Clarifications

Sr. No.	Particulars	Implication / Clarification
1	<p><b>Effective date of Sec. 111 of FA 2022 is notified:</b>            Providing for amendment to Sec. 50(3) of CGST Act, 2017 – To levy interest on ITC availed only when same is utilized. Provision is amended retrospectively.</p> <p><b>Effective Date: 01.07.2017.</b></p> <p><b>Ref: Notification No. 9/2022 – Central Tax dated 05.07.2022</b></p>	<p><b>Sec. 111 of FA 2022:</b></p> <ul style="list-style-type: none"> <li>• With retrospective amendment to Sec. 50(3), ITC wrongly availed can be subjected to interest, if and only if utilisation of such credits has taken place.</li> <li>• However, as and when any portion of such wrongly availed ITC is utilised, interest would be payable from date of utilisation till such date such utilised ITC is reversed/paid.</li> </ul>
2.	<p>Applicability of Sec. 17 to ITC availed by recipient of deemed export supplies and inclusion of ITC availed by recipient of deemed export supplies in “Net ITC” for Rule 89(4) and Rule 89(5) of CGST Rules, 2017.</p> <p><b>Ref: Circular No. 172/04/2022 dated: 06.05.2022</b></p>	<ul style="list-style-type: none"> <li>• Refund in case of deemed export supplies is always that of refund of taxes paid on such supplies. However, the recipients of deemed export supplies were unable to file a refund application online owing to the requirement of the GST portal to debit the amount claimed from the electronic credit ledger. As a result, Circular 147/03/2021-GST dated 12.03.2021 was issued to enable the claim of ITC for the specific purpose of enabling filing of refund applications on.</li> <li>• It has been clarified that amounts enabled for claim as ITC are not ‘ITC’ under GST laws per se, and hence, ITC so availed by recipient of deemed exports <b>cannot be</b> subjected to provision of Sec. 17 of CGST Act, 2017. Accordingly, no proportionate reversals of common ITC is required in instant case.</li> <li>• Further, since such amounts do not qualify as ‘ITC’ under GST laws per se, it has also been clarified that such amounts are <b>NOT</b> to be included in the computations of “Net ITC”, for refunds pertaining to zero rated supplies or supplies under inverted duty structure.</li> </ul>

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Sr. No.	Particulars	Implication / Clarification
3.	<p>Blocked credits under Sec. 17(5) of CGST Act, 2017</p> <p><b>Ref: Circular No. 172/04/2022 dated: 06.05.2022</b></p>	<ul style="list-style-type: none"> <li>• It has been clarified that ITC would be available in respect of any goods or services which are obligatory for an employer to its employees, under any for the time being in force including all services including food and beverages, life insurance, rent-a-cab. It is however, pertinent to note that, food/beverage under a canteen service is mandated to be made without ITC.</li> <li>• Further, it is clarified that scope of leasing services as restricted u/s 17(5)(b) of CGST Act, 2017 is applicable only on leasing of <b>motor vehicles, vessels or aircrafts</b> and not leasing of any other goods.</li> </ul>
4.	<p><b>No reversal of common ITC on supply of duty credit scrips:</b> Value of supplies of duty credit scrips to be <u>EXCLUDED</u> from the aggregate value of exempt supplies, for the purposes of computation of ITC reversals under Rule 42 / 43 of CGST Rules, 2017.</p> <p><b>Effective Date: 05.07.2022.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>• For the limited purpose of computation of reversal of common ITC under Rule 42 / 43 of CGST Rules, 2017, the value of supply of duty credit scrips are to be excluded from the aggregate value of 'exempt supplies'.</li> <li>• Supply of duty credit scrips should be continued to be declared as exempt supplies in GSTR 1/GSTR 3B/ GSTR 9/GSTR 9C.</li> </ul>

## Compliances / Assessment proceedings

Sr. No	Particulars	Implication / Clarification
1.	<p>Exemption has been granted from furnishing Annual Return in Form GSTR 9/9A for FY 2021-22 to certain specified registered persons</p> <p><b>Ref: Notification No. 10/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>Registered Persons with aggregate turnover upto Rs. 2 Crores in FY 2021-22 have been exempted from filing Annual Return in Form GSTR 9/9A for FY 2021-22.</li> </ul>
2.	<p>Compliance related reliefs granted to composition tax-payers</p> <p><b>Ref: Notification No. 11/2022 and 12/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>Due date to furnish quarterly return in Form CMP-08 for quarter ending June 2022 has been extended to <u>31<sup>st</sup> July 2022</u> from 18<sup>th</sup> July 2022;</li> <li>Late fee payable for delay in filing of quarterly return in FORM GSTR-4 by the composition tax payers for the FY 2021-22 has ben waived for the 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/- per day (upto Rs. 5,000/-)</li> </ul>
3.	<p>Period of limitation of specific assessment and refund related compliances extended</p> <p><b>Ref: Notification No. 13/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>Time limit for issuance of order u/s 73(9) of CGST Act, 2017 for the F.Y 2017-18 towards rrecovery of tax not paid /short paid or of ITC wrongly availed or utilized has been extended upto 30.09.2023 from 05.02.2023;</li> <li><b>Period of 01.03.2020 to 28.02.2022 to be excluded:</b> <ul style="list-style-type: none"> <li>➤ While computing period of limitation for furnishing refund applications u/s 54 and 55 of CGST / SGST Act, 2017;</li> <li>➤ While computing period of limitation for issuance of order u/s 73 (9) of CGST Act, 2017 for recovery of erroneous refund.</li> </ul> </li> </ul>
4.	<p>Deemed revocation of suspension of registration introduced, upon furnishing of pending returns</p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>Once the pending returns are filed by a taxpayer whose registration was suspended for non-filing of returns, the suspension of registration will be deemed to be revoked. Owing to deemed revocation, such matters will no longer be subjected to closure of proceedings by proper officer;</li> <li>However, the said deemed revocation would not be applicable where the registration is already cancelled by proper officer.</li> </ul>

## Compliances / Assessment proceedings

Sr. No	Particulars	Implication / Clarification
5.	<p><b>Mandatory declaration on the invoice by persons exempted from e-invoicing provisions:</b> Declaration to the effect that issuance of invoice in terms of Rule 48(4) of the CGST Rules, 2017 is not applicable, is now made mandatory for persons whose aggregate turnover exceeds the threshold limit for e-invoicing (i.e. currently Rs. 20 Crores) but are exempted from issuance of e-invoice such as SEZ units, Insurance Co., Banking Co. (including NBFC's), GTA, Passenger transportation service provider, Cinema Exhibitors.</p> <p><b>Effective Date: 05.07.2022.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>All invoices to be issued by the specified category of persons w.e.f. 05.07.2022, to mandatorily include the <u>DECLARATION</u>, in the Tax Invoice as under:   <i>"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".</i></li> </ul>
6.	<p><b>Additional modes of payment introduced:</b> IMPS &amp; 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 Electronic Cash Ledger.</p> <p><b>Effective Date: 05.07.2022.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>Deposit of amounts through IMPS and UPI are now permitted in addition to Internet Banking, RTGS, NEFT and Counter payments;</li> <li>Similar to RTGS and NEFT, <u>mandate challan</u> will have to be generated and submitted to the bank for successful credit to Electronic Cash Ledger.</li> </ul>
7.	<p><b>Transfer of cash ledger balances permitted between distinct persons (multiple GSTINs of 1 person):</b> Cash ledger balances available with GSTIN of 1 person is now permitted to be transferred to other GSTINs of the same person (Difference GSTINs under the same PAN), <u>provided there are no unpaid liabilities in the electronic liability register, of person making such transfers.</u></p> <p><b>Effective Date: 05.07.2022.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>Only cash balances in CGST / IGST are permitted for transfer between distinct persons (Difference GSTINs under the same PAN);</li> <li>Tax payer having cash balance in SGST may first transfer the same internally into either CGST / IGST head and then proceed with transfer of the same with distinct person/s;</li> <li>Amongst others, this provision is useful for transfer of cash balances, where one entity has accumulated cash balances on account of TDS/TCS provisions, whereas other entity is in shortage of the same while discharging taxes.</li> </ul>

## Compliances / Assessment proceedings

Sr. No	Particulars	Implication / Clarification
8.	Utilization of amount available in electronic credit ledger and electronic cash ledger for payment of taxes and other liabilities  <b>Ref: Circular No. 172/04/2022 dated: 06.05.2022</b>	<ul style="list-style-type: none"> <li>• <b>Electronic Credit Ledger:</b> It has been clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST Laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person. Further, since output tax does not include tax payable under reverse charge mechanism, amount in Electronic Credit Ledger cannot be used for making payment of tax under reverse charge mechanism. Additionally, amount in Electronic Credit Ledger cannot be used for making payment of interest, penalty, fees or any other amounts including payment of erroneous refund sanctioned.</li> <li>• <b>Electronic Cash Ledger:</b> Amount available in the Electronic Cash Ledger can be utilised for the payment of the following:               <ol style="list-style-type: none"> <li>a. Output Tax Liability (including reverse charge liability);</li> <li>b. Payment of interest, penalty, fees, or any other amount payable under GST Law;</li> <li>c. Payment of refunds wrongly sanctioned where original refund was sanctioned in cash.</li> </ol> </li> </ul>

## Treatment of Perquisites by Employer to Employee

Sr. No	Particulars	Implication / Clarification
1.	Perquisites provided by employer to employee as per Contractual Agreement  <b>Ref: Circular No. 172/04/2022 dated: 06.05.2022</b>	<ul style="list-style-type: none"> <li>• Perquisites provided by employer to the employee in terms of contractual agreement entered into between them are in lieu of services provided by employee to employer in relation to his employment and hence, will not be liable to GST as it is covered within the ambit of Entry no. 1 in Schedule III to CGST Act, 2017.</li> </ul>

## Manner of computation of interest on delayed payment of tax

Sr. No	Particulars	Implication/ Clarification
1.	<p><b>Manner of computation of interest on delayed payment of taxes:</b> New rule i.e., Rule 88B has been inserted in CGST Rules, 2017 which prescribes that, 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 on the portion of tax 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.</p> <p><b>Effective Date: 05.07.2022.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>• Levy of interest in case of remittance of output tax on supplies made in a tax period and declared in the return of the said tax periods which is filed belatedly to be only on the <u>“net tax liability”</u> i.e., on tax paid in cash (except where return is filing after proceedings are initiated (Sec. 73/74);</li> <li>• Meaning, in all other cases where liability is remitted other than by way of filing belated returns, concept of interest on “net tax liability” would <b>NOT</b> be applicable. Hence, in all such cases interest would be computed on <u>tax that is remaining unpaid irrespective of whether it is discharged by way of credit / cash</u>. For Eg: Liability identified during audit/inspection or liability remitted through subsequent return etc..</li> <li>• Following is to be noted for computation of interest on ITC reversals:             <ul style="list-style-type: none"> <li>➤ Interest to be computed only on such ITC that has been wrongly availed <b><i>and utilized</i></b>;</li> <li>➤ Interest to be computed from the <u>date of ITC utilization*</u> for remittance of taxes till the date of reversal / payment of tax.</li> <li>➤ Utilization includes utilization of ITC other than by way of utilization in the return i.e. remittance through GST DRC-03/RFD-01 etc..,</li> </ul> </li> <li>* Date of Utilization of Credit shall be taken to be:             <ol style="list-style-type: none"> <li>a. Earliest of date of filing GSTR-3B or actual due date to furnish GSTR-3B, in which credit falls below the amount of ITC wrongly availed; or</li> <li>b. Date of debit in Electronic Credit Ledger, when balance in credit ledger falls below the amount of ITC wrongly availed</li> </ol> </li> </ul>

## Refunds related Amendments/ Clarifications

Sr. No	Particulars	Implication/ Clarification
1.	<p>'Specified Officer / Authorised Officer' has been defined to mean such officer as defined under the SEZ Rules, 2006</p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>With this amendment, clarity is achieved on the person who has to endorse the documents in relation to a refund application filed in respect of supplies made to SEZ units / SEZ Developers.</li> </ul>
2.	<p><b>Value of export of goods explained for claiming refund:</b> 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 <b>lower of:</b> (a) declared FOB value in the Shipping Bill / Bill of Export; or (b) value declared in the tax invoice/bill of supply.</p> <p><b>Effective Date: 05.07.2022.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>For all other purposes, the value of export will be considered as per Invoice / Bill of Supply</li> </ul>
3.	<p><b>Change in Refund formula w.r.t refunds under Inverted Duty Structure:</b> The reduction of output tax on inverted rated supplies in the said formula has now been amended so as to reduce only a proportionate amount of output tax on inverted rated supplies.</p> <p><b>Effective Date: 05.07.2022.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>Necessary corrections have been made to the refund formula 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</li> <li>However, ITC on capital goods have still been excluded from the said formula and warrants a clarity from the Government</li> </ul>
4.	<p>Refund under inverted duty structure where the supplier is supplying goods under some concessional rate notification (input and output goods are same)</p> <p><b>Ref: Circular No. 173/05/2022 dated: 06.05.2022</b></p>	<ul style="list-style-type: none"> <li>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 some concessional notification issued by the Government providing for lower rate of tax.</li> </ul>



## Refunds related Amendments/ Clarifications

Sr. No	Particulars	Implication/ Clarification
5.	<p><b>Date of Refund Application – Involving amendment to Shipping Bill:</b> Retrospective amendment made, prescribing that 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.</p> <p><b>In such cases date of filing refund application, will be deemed to be the date on which such mismatch is rectified by the exporter.</b></p> <p><b>Effective Date: 01.07.2017.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>Rectification of mismatches is data as per Form GSTR-1 and Shipping Bill are now made a pre-condition for a refund claim.</li> <li>Exporters should always ensure that all invoices are verified on ICEGATE and there is no mismatch between details furnished in Form GSTR 1 with details of exports furnished in shipping bill filed with Custom authorities;</li> <li>Delay in making amendment/s, may result in loss of refund in the hands of exporter of goods upon expiry of the period of limitation.</li> </ul>
6.	<p><b>Circumstances of withholding of refund expanded:</b> Cases involving necessity to verify credentials of exporters to safeguard interest of revenue in the opinion of the Commissioner or Board (based on data analysis and risk parameters), has been included retrospectively as a circumstance where refund can be withheld.</p> <p><b>Effective Date: 01.07.2017.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>Exporter of goods to be vigilant and maintain a good track record, to avoid any circumstance resulting in withholding of refunds.</li> </ul>
7.	<p><b>Re-credit to Electronic Credit Ledger on depositing amounts relating to erroneous refunds received:</b> Proper Officer to re-credit an amount into electronic credit ledger which is equal to the amount of erroneous refund deposited by the taxpayer (which was received by him) along with interest and penalty through Form GST DRC-03.</p> <p><b>Note:</b> following should be mentioned in GST DRC-03:  <i>“Deposit of erroneous refund of unutilized ITC” or “Deposit of erroneous refund of IGST obtained in contravention of R. 96(10)”</i></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<p>Re-credit has been provided for only in the following categories of refund:</p> <ul style="list-style-type: none"> <li>Refund of unutilized ITC on account of zero-rated supply and on account of inverted duty structure - Section 54(3)</li> <li>Refund of IGST paid on exports of goods / services – Rule 96 (10)</li> </ul>

## Refunds related Amendments/ Clarifications

Sr. No	Particulars	Implication/ Clarification
8.	<p><b>Refund of tax paid by Duty Free Shops:</b> Rule providing for refund of taxes (ITC) to retail outlets established in the departure area of an International Airport making tax free supplies to outgoing international tourists has been withdrawn</p> <p><b>Note:</b> Circular providing the process to claim such refund i.e., Circular No. 106/25/2019 dated 29.06.2019 is also rescinded.</p> <p><b>Ref: Circular No. 176/08/2022 dated 06.07.2022</b></p>	<ul style="list-style-type: none"> <li>Owing to this omission, 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;</li> <li>Further, such retail outlets will also not be able make an application for refund of unutilised ITC under Rule 89 of CGST Rules, 2017, as the said rule requires person making a claim to submit details of Shipping Bill/EGM, which would not be available in the instant case.</li> </ul>
9.	<p><b>Verification of refund claims by proper officer mandated where refunds of IGST paid on export of goods or services is withheld:</b> New provisions inserted allowing 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.</p> <p>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.</p> <p><b>Effective Date: 01.07.2017.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022</b></p>	<ul style="list-style-type: none"> <li>As the said refund applications will be governed by provisions of Rule 89 of CGST Rules, 2017 – i.e., Rule prescribing procedures with respect to refund of unutilised ITC, additional details maybe sought by the proper officer such as (a) details of receipt of export proceeds; (b) details / declaration confirming that value of exported goods do not exceed 1.5 times of value of such goods supplied domestically etc.</li> </ul>

## Amendments to Form GSTR – 3B

Sr. No	Particulars	Implication/ Clarification
1.	<p><b>Amendments in Form GSTR 3B:</b> Certain crucial amendments have been carried out in Form GSTR 3B for better and complete as under:</p> <p>(a) Details of supplies made through E-Commerce Operator (ECO), to be disclosed in new Table 3.1.1 - In clause (i) by ECO through whom, such supplies are made; and in clause (ii) by person making such supplies through ECO;</p> <p>(b) Mandatory declaration of inter-State supplies made to URD/UIN holder/Composition Taxable Person, on the basis of each Place of Supply (details will be auto-populated from GSTR 1, if furnished);</p> <p>(c) Details of reversals in Table 4B(1) of Form GSTR 3B to now include ITC reversals under Rule 38 (ITC reversals by Bank/NBFCs) and Sec. 17(5) of CGST Act, 2017. ITC reversals under Rule 42 and 43 (reversal of common ITC, used for taxable and exempt supplies) were already required to be disclosed here– <b>PERMANENT REVERSALS;</b></p> <p>(d) ITC Reversals made under Rule 37 – non-payment to supplier within 180 days, Sec. 16(2)(b) – on account of timing difference of receipt of goods; Sec.16(2)(c) – Non-payment of tax by supplier; and ITC inadvertently availed in Table 4A earlier, will have to be disclosed in Table 4B(2) of Form GSTR 3B – <b>TEMPORARY REVERSALS;</b></p> <p>(e) Heading of Sl. No. D in Table 4 of Form GSTR 3B, changed to “Other Details” from “Ineligible ITC”;</p> <p>(f) In Table 4D(1), details of ITC reclaimed which was reversed earlier (in Table 4B(2)) to be disclosed;</p> <p>(g) In Table 4D(2), ineligible ITC (to the extent it relates to ITC availed beyond specified period and ITC restricted due to provisions of place of supply), to be disclosed.</p> <p><b>Effective Date: 05.07.2022.</b></p> <p><b>Ref: Notification No. 14/2022 – Central Tax dated 05.07.2022 r/w Circular No. 170/02/2022 – GST dated 06.07.2022.</b></p>	<p>(a) ITC auto-populated from GSTR 2B will be reconciled with ITC reflected in Table 4A of Form GSTR 3B in the same month by making necessary disclosures in GSTR 3B of same month;</p> <p>(b) As ITC reversals under Sec. 17(5) are declared in Table 4B(1), requirement to disclose the same in Table 4D(1) is done away with;</p> <p>(c) Net ITC available for utilization will be computed as Table (4A-[4B(1)+4B(2)]) and will be credited to electronic credit ledger</p> <p><b><u>Copy of Amended Form GSTR-3B (in excel format) with comments is enclosed.</u></b></p>

## Clarifications – Demand and Penalty provisions w.r.t. Fake Invoicing

Sr. No	Particulars	Implication/ Clarification
1.	<p><b>The applicability of demand and penalty u/s 73/74 or Sec. 122 of CGST Act, 2017 w.r.t fake invoicing:</b> Applicability of demand and penalty provisions u/s 73/74 or 122 of CGST Act, 2017 is clarified by way of providing various scenario based illustrations (based on fundamental principles) in the following categories:</p> <p>(a) Where invoice is issued without supply of underlying goods or services or both – Implications in the hands of person issuing fake invoice;</p> <p>(b) Where invoice is issued without supply of underlying goods or services or both and recipient of invoice avails ITC based on such invoice and further issues invoice involving underlying supply of goods or services or both – Implications in the hands of person availing ITC without receiving underlying goods or services or both;</p> <p>(c) Where invoice is issued without supply of underlying goods or services or both and recipient of invoice avails ITC based on such invoice and further issues invoice without underlying supply of goods or services or both – Implications in the hands of person availing ITC without receiving underlying goods or services or both and further issuing invoice without any underlying supply.</p> <p><b>Ref: Circular No.171/03/2022 – GST dated 06.07.2022</b></p>	<p>(a) Provisions of Sec. 132 of CGST Act, 2017 (punishment for certain offences) can also be invoked, subject to conditions specified therein;</p> <p>(b) Wherever benefits (resulting in irregular availment of ITC) are retained under Sec. 122(1A) of CGST Act, 2017, penalty equivalent to tax evaded or ITC availed or ITC passed on may be levied.</p>

## Clarifications – Demand and Penalty provisions w.r.t. Fake Invoicing

Scenario	Implication/ Clarification
<p>I Registered person “A” issues tax invoice to another registered person “B”, without any underlying supply of goods or services or both.</p>	<p><b>Clarification:</b> Since no underlying goods/ services are involved, the transaction does not constitute a “Supply” under Sec. 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 Sec. 73/74 cannot be invoked. However, “A” shall be liable to penal action u/s 122(1)(ii) of CGST Act, 2017, for issuing fake invoice <u>equal to Rs. 10,000/- or tax evaded, whichever is higher.</u></p>
<p>II Registered person “A” issues tax invoice to another registered person “B”, without any underlying supply of goods or services or both. “B” avails ITC on the basis of such invoice. “B” further issues invoice along with underlying supply of goods or services or both, 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” under Sec. 7 of CGST Act, 2017 in the hands of “A”. Further, since “B” has availed and utilized fraudulent ITC on the basis invoice without any actual receipt of goods/ services, 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 under Scenario I supra. However, “B” shall be liable for the demand and recovery of ITC along with penal action under Sec. 74 of CGST Act, 2017, on account of ITC wrongly availed or utilised by reason of fraud or wilful misstatement. Further, since the penal provisions of Sec. 74 is applicable to “B”, no further penalty can be levied in the hands of B under any other provisions including Sec. 122.</p>

## Clarifications – Demand and Penalty provisions w.r.t. Fake Invoicing

	Scenarios	Implication/ Clarification
III	<p>Registered person "A" issues tax invoice to another registered person "B", without any underlying supply of goods or services or both.</p> <p>"B" avails and utilises ITC on the basis of such invoice; and</p> <p>"B" further issues invoice without underlying supply of goods or services or both and passes on the ITC to a registered person "C".</p>	<p><b>Clarification:</b> Since no underlying goods or services or both are involved in the transaction between "A", "B" and "C", it 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. Further, transaction undertaken by "B" does not attract any tax liability on account of absence of "Supply", hence provisions of Sec. 73/74 cannot be invoked. 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 / utilizing ITC without actual receipt of goods/ services, respectively. In the instant case, while provisions of Sec. 16(2)(b) gets triggered in the hands of B for utilisation of ITC without receipt of underlying goods, the provisions of recovery under Sec. 73/74 does not apply.</p>

# Coverage - Notifications / Circulars

<b>Notifications</b>	<b>Circulars/ Clarifications</b>
<ul style="list-style-type: none"><li>• Notification 09/2022 – Central Tax dated 05.07.2022</li><li>• Notification 10/2022 – Central Tax dated 05.07.2022</li><li>• Notification 11/2022 – Central Tax dated 05.07.2022</li><li>• Notification 12/2022 – Central Tax dated 05.07.2022</li><li>• Notification 13/2022 – Central Tax dated 05.07.2022</li><li>• Notification 14/2022 – Central Tax dated 05.07.2022</li></ul>	<ul style="list-style-type: none"><li>• Circular 170/02/2022-GST - dated 06.07.2022</li><li>• Circular 171/03/2022-GST - dated 06.07.2022</li><li>• Circular 172/04/2022-GST - dated 06.07.2022</li><li>• Circular 173/05/2022-GST - dated 06.07.2022</li><li>• Circular 174/06/2022-GST - dated 06.07.2022</li><li>• Circular 175/07/2022-GST - dated 06.07.2022</li><li>• Circular 176/08/2022-GST - dated 06.07.2022</li></ul>

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