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INDORE BRANCH OF CIRC OF ICAI

NEWSLETTER

November, 2022 ▶ Price ₹ 20

Chairman's Communique

Dear Members,

Heartiest greetings for this month! After having celebrated our glorious festival seasons with our friends and families, we are now entering this new phase of professional work with renewed vigour and energy, and I am confident it would reflect positively in all our aspects of life. This is truly a boon of living in this nation, which is an abode of festivities.

As we enter this period after having emerged from a hectic September and October due to the audit season and income tax return filing and moving towards further deadlines in December such as the GST annual returns and reconciliation statements, it makes perfect sense to use this period to refresh our knowledge for GST. It is with this purpose in mind that the Indore Branch of ICAI has come up with another GST Refresher Course for the benefit of members who wish to refresh their GST knowledge.

I am glad to be heading this committee where new initiatives are being taken every week for benefit of members, students, and the society in general. As we have often taken pride in the statement that Chartered Accountants are partners in nation building, we wish to emphasise and capitalise on that sentiment to work towards the betterment of our profession and its dignity. This is the most important motivation behind the efforts that your branch and its committee members are putting up every day.

Therefore, this month also the Indore Branch has set up various programs for the benefit of members and students. Detailed schedule of the program is enclosed along with this newsletter. I invite, appeal, and encourage all my seniors, colleagues, and juniors in this profession to be a part of these events with full enthusiasm.

Similarly, we are constantly taking efforts to make this newsletter more informative and useful for our members. To that end, I appeal all the members to not only come up with their suggestions for the same, but also to actively participate by contributing articles in the newsletter and share their knowledge and expertise.

At this note, I am reminded of this quote by Steven Pressfield- *"The professional has learned that success, like happiness, comes as a by-product of work. The professional concentrates on the work and allows rewards to come or not come, whatever they like"*. This quote, influenced by the Bhagwat Gita, has inspired me to focus on work and never on the rewards.

Thanks and regards,

Yours truly,
CA Anand Jain



FINAL OPPORTUNITY TO AVAIL TRANSITIONAL CREDITS IN GST



CA VINEEY PATNI

Various High Courts had held that transitional ITC should be allowed, as disallowing ITC would lead to violation of Article 300A of the Constitution of India and that a legitimate claim of CENVAT credit/ITC on the ground of non-filing of TRAN-1 by 27th December 2017, cannot be denied.

The issue was put to rest by the Hon'ble Supreme Court in the case of UOI Vs Filco Trade Centre Pvt. Ltd. & Anr [2022-TIOL-57-SC-GST] wherein numerous petitions filed by the Government had been disposed off, adjudging as follows:

- GSTN is directed to open common portal for filing concerned forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months i.e. w.e.f. 1st Sept.2022 to 31st Oct. 2022. (the window is now open from 1st Oct. to 30th Nov. 2022, based on request by the Govt. to the SC)
- Considering the judgments of the High Courts on the then prevailing peculiar circumstances, any aggrieved registered assessee is directed to file the relevant form or revise the already filed form irrespective of whether the taxpayer has filed writ petition before the HC or whether the case of the taxpayer has been decided by Information Technology Grievance Redressal Committee.
- GSTN has to ensure that there are no technical glitch during the said time.
- The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.

- Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.
- If required GST Council may also issue appropriate guidelines to the field formations in scrutinizing the claims.

Further to this judgement, the Government had requested the Supreme Court for an extension of 1 month for opening of the window on the GST portal which was granted by the Court on 2nd September 2022 (Miscellaneous Application No.1545-1546/2022 in SLP(C) No. 32709-32710/2018). Thus, the common portal shall open the window for filing/revising of TRAN forms from 1st October 2022 to 30th November 2022. Pursuant to this, the CBIC had issued Circular No. 180/12/2022-GST dated 9th September 2022 wherein guidelines for filing TRAN forms during the 2 months is specified.

In light of the provisions, Supreme Court order and the CBIC circular issued, various issues and solutions/suggestions are discussed hereunder.

Eligibility for filing TRAN forms:

1. For what period is the window being opened for filing of TRAN forms?
The GST common portal is being opened from 1st October 2022 to 30th November 2022 for filing of TRAN forms.
2. Who are eligible to take benefit of TRAN forms window opening?

The following persons are eligible to take benefit:

- a) Those who did not file TRAN-1/2
- b) Those who could not file TRAN-1/2 due to technical issues

- c) Those who could not file TRAN-1/2 due to non-technical issues
 - d) Those who filed TRAN forms but wishes to revise the same
3. What are the instances in which TRAN forms can be revised?

Following are some instances in which TRAN forms can be revised now:

- a) Incorrect values entered due to clerical errors
- b) Inadvertent omission in disclosure amounts in fields due to any other reasons
- c) Remaining 50% of CENVAT credit w.r.t. capital goods (if not carried forward yet)
- d) Could not file TRAN forms due to technical glitches
- e) Revision of TRAN forms in case incorrect values shown due to technical glitches

4. Whether this benefit is available for those who have not filed any writ petition before any High Courts?

Yes. The Hon'ble Supreme Court has specifically provided that any “aggrieved person” can take the benefit of the opening window “irrespective of whether the taxpayer has filed writ petition before the High Court”.

A declaration in Annexure A, which has been specified in the Circular to be uploaded along with TRAN-1/2, the applicant is required to provide details of the petition filed before any High Court against any order by the Department w.r.t TRAN filings. Further, the status of the petition (i.e., whether it has been disposed off or not) is also required to be mentioned in the declaration.

5. Whether TRAN forms can be filed by those persons who have not filed any grievance with the IT grievance cell?

Yes. The Hon'ble SC has specifically provided that any “aggrieved person” can take the benefit of the opening of window “irrespective of whether the case of the taxpayer has been decided by ITGRC.”

The Circular does not provide any guidance with respect to such cases. Thus, going by the Hon'ble SC

order, persons are eligible to avail of the benefit of filing TRAN-1/2 during these 2 months, whether or not they have filed grievance with the IT grievance cell.

Verification by Department:

6. Whether transitional credit filed through TRAN forms will automatically get credited to the taxpayers' electronic credit ledger?

The Circular specifies that the credit claimed through TRAN forms filed during the 2-month period would first be verified by the proper officer based on which an order will be passed.

The transitional credit allowed as per the order passed by the jurisdictional tax officer will be reflected in the Electronic Credit Ledger of the applicant on the common portal. This is also pursuant to the decision by the Supreme Court wherein it was held that:

4. The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.

5. Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.”

Verification of TRAN claims may be prone to create a lot of back-and-forth between the Department and the assessee. This may delay credit of TRAN claims in the electronic credit ledger.

7. What happens if TRAN application gets rejected after verification by department?

As per the Supreme Court order, the department is given 90 days to verify the claim of credit in TRAN-1/2, within which an order is required to be passed after giving the applicant a reasonable opportunity to be heard. Post this, the transitional credit allowed as per the order passed by the jurisdictional tax officer will be reflected in the Electronic Credit Ledger of the applicant on the common portal.

However, if the department rejects the TRAN application of any assessee, no amount would be credited to the electronic credit ledger. The assessee may be forced to appeal against the order on merits. This may lead to further litigation.

Revision of TRAN forms:

8. Where TRAN forms have been revised during the 2-month period, whether such revised TRAN forms replace the forms filed earlier?

Circular No. 180 provides that for persons who wish to revise their TRAN forms, the old forms would be made available online which may be downloaded. There are no clarifications provided in the Circular as to whether the revised forms replace the old ones. For instance, if TRAN-1 was filed earlier for Rs. 1,000 and now a taxpayer wishes to claim Rs. 500 more, whether the TRAN-1 should be filed now for Rs. 500 or for Rs. 1,500? Another issue which arises that if, such Rs. 1,000 has already been accepted by department earlier after verification, then filing Rs. 1,500 in TRAN would lead to entire amount entering litigation process again.

Though there is no clarification for the same provided in the Circular, it is now provided in the GSTN guidelines that in case a taxpayer has already filed his original TRAN and wants to revise his/her earlier filed TRAN, the taxpayer is requested to file the complete form with all the required details and not the differential values (i.e., the difference between originally claimed credit and credit being claimed now).

Thus, in the above example, the taxpayer would be required to file TRAN-1 for Rs. 1,500.

Cases where transitional credit was claimed through GSTR-3B:

9. Where a taxpayer who has availed transitional credit through GSTR-3B and was rejected, whether TRAN forms can be filed now?

Circular No. 180 requires taxpayers to upload a declaration along with TRAN-1/2 wherein the taxpayer is required to provide undertaking as follows:

- 3) (a) *I/We have not claimed any credit, within the meaning of sections 140, 141 and 142 of the Central/ State/ UT Goods and Services Tax Act, 2017, in any return in FORM GSTR-3B filed by me/us; OR
- 4) (b) *I/We have claimed credit, within the meaning of sections 140, 141 and 142 of the Central/ State/ UT Goods and Services Tax Act, 2017, amounting to Rs. _____ on account of central tax and Rs.----- on account of

State/ union territory tax in my/ our return in FORM GSTR-3B filed by me/ us for the period -----and I/ we have reversed an amount of Rs _____ on account of central tax and Rs.----- on account of State/ union territory tax, along with an interest of Rs... vide <<detailsof such debit/ payment to be provided>>*/ have not** reversed the said amount, along with applicable interest.

Thus, the following declaration is required that:

1. No transitional credit claimed through GSTR-3B, or
2. Transitional credit has been claimed through GSTR-3B but has been reversed along with interest, or
3. Transitional credit has been claimed through GSTR-3B but has NOT been reversed along with interest.

It is seen that neither the Supreme Court order nor the Circular restricts any person to file fresh TRAN-1/2 during the 2 months in case TRAN credits were availed through GSTR-3B. However, appropriate declaration as mentioned above is required to be submitted. Although the credit was rejected by the department, whether or not the credit was reversed by the taxpayer, TRAN-1/2 may be filed now to claim such credit.

However, in case a taxpayer opts NOT to reverse the TRAN credit claimed through GSTR-3B and files TRAN-1 now, giving appropriate disclosures, the department may demand the assessee to reverse the credit along with interest. This may lead to long-drawn litigation.

10. What are the implications in case of assessee who have claimed Transitional credit through GSTR-3B pursuant to High Court orders?

Various High Courts in decisions such as Nodal Officer, Jt. Commissioner, It Grievance Vs Das Auto Centre [2022 (56) G.S.T.L. 257 (Cal.)] and Hans Raj Sons Vs UOI [2020 (34) G.S.T.L. 58 (P & H)] allowed assessee to claim transitional credit through form GSTR-3B as filing of TRAN-1 was not feasible due to non-availability in the portal.

In such cases where the assessee has claimed transitional credit in GSTR-3B may be required to file TRAN-1/2 now giving appropriate undertaking as discussed in the answer to the previous question.

From the wordings of the circular and annexure thereof, it could be said that the intention of the Government is to streamline claim of transitional credit through TRAN-1/2 which accordingly provides such declaration.

11. If transitional credit is availed through GSTR-3B and an assessee opts to reverse the same, whether such reversal is to be made with interest?

Para 4(b) to the declaration in Annexure A specified in Circular No. 180 provides an undertaking to be provided by the taxpayer that when any transitional credit is claimed through GSTR-3B, the same is either reversed with interest or not reversed along with interest. Accordingly, the department requires the taxpayers to reverse the credit with interest. But question arises, whether interest for such reversal is applicable or not?

Section 50(3) of CGST Act as retrospectively substituted vide Finance Act 2022 provides as follows: “(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty- four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”

Based on the above, interest at notified rate of 18% is applicable only when “input tax credit” has been wrongly “availed and utilised”. Here, the following arguments arise:

- (a) Whether transitional credit can be considered as input tax credit?
- (b) Even if TRAN credit is considered as ITC, whether it is “wrongly” availed and utilised?
- (c) What will happen when the transitional credit is only availed and not utilised?

Let us analyse the above arguments.

- (a) Whether transitional credit can be considered as input tax credit?

Based on discussion in answer to query 12, an argument is possible that transitional credit does not fall within the definition of “input tax credit” and thus, section 50(3), levying interest on

“Input Tax Credit” wrongly availed and utilised would not apply. Therefore, taxpayers could take a view to reverse TRAN credit availed through GSTR-3B without interest. However, this would lead to litigation.

(b) Even if considered as ITC, whether it is “wrongly” availed and utilised?

A view is possible that TRAN credit availed through GSTR-3B pursuant to High Court decisions may not be considered as “wrongly” availed because the TRAN credit was always available to the taxpayer and the mode of availment does not affect the vested right of credit. Thus, an assessee may opt to reverse the TRAN credit without interest based on this contention.

© What will happen when the transitional credit is only availed and not utilised?

It is clear from the amended Section 50(3) that interest on input tax credit is levied only when wrongly “availed and utilised”. Following the above discussion, even if a stance is taken that TRAN credit is “wrongly” availed, interest will be payable only if such credit is utilised.

The circular providing for reversal of TRAN credit availed through GSTR-3B along with interest may be challenged by the taxpayers in case the monetary value is high. This aspect included in the Circular may tend to bring out more litigation in future.

Cases where proceedings are pending:

12. Where the department has already completed TRAN verification and/or Audit proceedings for the FY in which such TRAN credit was claimed and no issues were raised, whether TRAN forms can be revised now?

Circular No. 180 clarifies that those registered persons, who had successfully filed TRAN-1/TRAN- 2 earlier, and who do not require to make any revision of the same, are not required to file/ revise TRAN-1/TRAN-2 during this period from 01.10.2022 to 30.11.2022.

Thus, in case TRAN verification/audit was already conducted and concluded and no issues were raised by department, TRAN-1/2 need not be filed. However, if

the taxpayer intends to revise the earlier filed TRAN forms due to reasons such as clerical errors, omissions etc., they can do the same during these 2 months. However, the new TRAN-1/2 may be considered as fresh applications and fresh verification and proceedings may begin (although there is no clarifications provided in this regard from CBIC). Thus, unless the monetary value is significant, it is suggested that such taxpayers need not file TRAN forms again now.

13. Whether TRAN-1/2 can be filed now in case of on-going proceedings for TRAN forms already filed earlier?

Para 4.7 of Circular No. 180 specifies the following: “In this context, it may further be noted that in such cases where the credit availed by the registered person on the basis of FORM GST TRAN-1/TRAN-2 filed earlier, has either wholly or partly been rejected by the proper officer, the appropriate remedy in such cases is to prefer an appeal against the said order or to pursue alternative remedies available as per law. Where the adjudication/ appeal proceeding in such cases is pending, the appropriate course would be to pursue the said adjudication/ appeal. In such cases, filing a fresh declaration in FORM GST TRAN- 1/TRAN-2, pursuant to the special dispensation being provided vide this circular, is not the appropriate course of action.”

Thus, the Circular specifies that in case of pending proceedings w.r.t TRAN claims, the appropriate course is to pursue the adjudication/appeal and not file fresh TRAN-1/2. Further, declaration in Annexure A also requires the taxpayer to declare the details of any notice/order issued and appeal/petition filed. Given that filing of fresh TRAN-1/2 would take the application into departmental verification again, it is recommendatory that such taxpayers pursue the already on-going adjudication proceedings and not duplicate litigation.

14. Whether TRAN-1/2 can be filed now for CENVAT Credit which has been utilised for payment of central excise/service tax pursuant to any notice issued under erstwhile law? Declaration in Annexure A to Circular No. 180 requires the applicant to declare the following:

“5)I/Wehavenotutilizedoradjustedanyamountofcredit undertheexistinglaw, inresponse toanydemand/liabilityarisingoutofself-determination or assessment or auditor investigation, out of the amount being claimed as transitional credit in FORM GST TRAN-1/TRAN-2;”

Therefore, if any person has adjusted any amount of transitional credit for self- assessment/demand under erstwhile law, the department could reject the same if such amount is claimed through TRAN-1/2 filed now.

15. A Company had purchased capital goods in FY 2017-18 and claimed 50% CENVAT Credit in its last return of June 2017. Whether it can claim balance 50% through TRAN-1 now?

Sec. 140(2) provides that a registered person shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day.

Thus, the Company would be eligible to claim such unavailed CENVAT credit on capital goods in TRAN-1 to be filed during the 2-month window.

16. Whether CENVAT credit on capital goods in transit as on 1st July 2017 can be availed through TRAN-1?

Sec. 140(5) allows credit of duty and taxes paid on “inputs and input services” received on or after 1st July 2017 but where duties/taxes were paid under existing law. However, the sub-section does not mention “capital goods”, thus leaving a gap for interpretation.

However, a view is possible that such CENVAT credit unclaimed on capital goods in transit is eligible to be availed as per Sec. 140(2), since it is an “unavailed” credit and is not appearing in the last returns filed under erstwhile law.

There are atleast 15 more such open issues on the availment of transitional credit in 2-months window which could be analysed in detail. In this article, the author has tried to cover only those issues which are important and relevant for all.



UPDATED RETURN – SEC. 139(8A) FINANCE ACT, 2022



As soon as the budget 2022 was declared, one topic formed a part of discussion on each forum that is taxability of virtual digital asset. Amidst all these discussions there are also other amendments that require our attention. One such provision introduced is furnishing of updated returns.

In the finance Act 2022, a provision is introduced enabling assesseees to furnish an updated return. The main aim of introducing these provisions is to promote voluntary tax compliance & reduce litigations. Under section 139, there are provisions related to regular return, belated return, revised return that provide for time lines for furnishing return for different categories of assesseees.

In order to reduce litigations and providing ease of compliance to the assesseees, provisions related to updated return are introduced vide section 139(8A), that provide additional time limits for furnishing return after the completion of time limits to file revised or belated return.

UPDATED RETURN – (Applicable from 01.04.2022)

Any person may furnish an updated return for the previous year relevant to the assessment year. It can be furnished irrespective of the fact that whether the assessee has furnished return of income earlier or not. However, if original return is of loss the updated return should be return of income.

If as a result of updated return carried forward loss or MAT / AMT credit is reduced for subsequent year, updated return shall be furnished for each year.

Form notified for updated return (Rule 12AC) - ITR – U
TIME LIMIT - It can be submitted within 24 months from the end of the relevant assessment year. For ex – for AY 2022-23, it can be furnished upto 31.03.2025.

ADDITIONAL TAX - Updated return has to be submitted along with payment of additional tax and the return should be accompanied by proof of payment of tax and additional tax.

Computation of tax on updated return -

If assessee has not furnished return earlier	If assessee has furnished return earlier
<p>TAX-The assessee has to pay tax on the income declared in the updated return along with the additional tax, interest for delay in furnishing the return, interest for default in payment of advance tax, late fees, etc. after considering the following –</p> <ul style="list-style-type: none"> ■ Amount of advance tax already paid ■ any TDS/TCS ■ relief u/s 89, 90,90A,91 ■ AMT /MAT credit <p>INTEREST U/S 234A, 234B, 234C– On the basis of tax on total income as declared in updated return</p>	<p>TAX- The assessee has to pay tax on the additional income declared in the updated return along with the additional tax, interest for delay or default in payment of advance tax (reduced by any interest paid earlier), late fees, etc. after considering the following-</p> <ul style="list-style-type: none"> ■ Tax u/s 140(1), credit of which has been taken in the earlier return ■ TDS/TCS on income declared in the updated return & which is not claimed in the earlier return ■ relief u/s 89,90,90A,91 which has not been claimed in the earlier return ■ AMT /MAT credit which has not been claimed in the earlier return <p>INTEREST U/S 234C On the basis of tax on total income as declared in updated return INTEREST U/S 234B As per assessed tax, where assessed tax means tax as per updated return after considering –</p> <ol style="list-style-type: none"> 1. Tax u/s 140(1), credit of which has been taken in the earlier return 2. TDS/TCS on income declared in the updated return & which is not claimed in the earlier return 3. relief u/s 89,90,90A,91 which has not been claimed in the earlier return 4. AMT /MAT credit which has not been claimed in the earlier return

Note – Interest paid on earlier return, if any shall be reduced for the purposes of computation of computing interest payable on the income in updated return.

Additional tax for the above purposes –

If updated return is furnished within 12 months from the end of relevant assessment year	25% of the amount of tax(+SC+HEC) & interest computed above
If updated return is furnished after 12 months but before completion of 24 months from the end of relevant assessment year	If updated return is furnished after 12 months but before completion of 24 months from the end of relevant assessment year

Let us understand the computation with a numerical example

Mr. A is a resident individual. For the assessment year 2021-22 he submits return of income under section 139(4) on 20.01.2022(Due Date – 31.07.2021) Information available about the original return is as follows-

PARTICULARS	AMOUNT
Net Income	20,25,000
Tax (+ HEC)	4,36,800
Less : TDS / TCS as per ITR	(1,30,000)
Balance	3,06,800
Less: Advance Tax (20.11.2020)	(1,00,000)
Balance	2,06,800
Add : Interest & Fees	
234A	12,408
234B	20,680
234C	11,493
234F	5,000
TOTAL	2,56,380
Self Assessment Tax (20.01.2022) (Tax + Interest + Fees) (2,06,800+44,581+5000)	2,56,380
Balance tax payable	NIL

Information about the updated return - Filed on 10th March,2024

Additional Income to be declared – 35,50,000 TDS against this income that is not claimed in the original return – 2,80,000

COMPUTATIONS IN UPDATED RETURN

PARTICULARS	AMOUNT									
Net Income (20,25,000+35,50,000)	55,75,000									
Tax (+SC+ HEC)	55,75,000									
Less : TDS / TCS as per ITR + Not claimed earlier (1,30,000+2,80,000)	55,75,000									
Balance	55,75,000									
Less: Advance Tax (20.11.2020)	55,75,000									
Balance	55,75,000									
Less : Self Assessment tax (20.01.2022)(Only tax component)	55,75,000									
Balance	55,75,000									
Add : Interest for advance tax										
234B (1.04.2021-20.01.2022) $11,88,840 * 1\% * 10 = 1,18,884$ (01.02.2022-10.03.2024) $9,82,040 * 1\% * 26 = 2,55,330$	3,74,214									
<table border="1"> <tr> <td>15.06.2020</td> <td>$15\% * 12,88,840 = 1,93,326$ $1,93,326 * 1\% * 3 = 5,800$</td> <td rowspan="4">61,086</td> </tr> <tr> <td>15.09.2020</td> <td>$45\% * 12,88,840 = 5,79,978$ $5,79,978 * 1\% * 3 = 17,399$</td> </tr> <tr> <td>15.12.2020</td> <td>$75\% * 12,88,840 = 9,66,630$ $(9,66,630 - 1,00,000) -$ $* 1\% * 3 = 25,999$</td> </tr> <tr> <td>15.03.2021</td> <td>$100\% * 12,88,840$ $(12,88,840 - 1,00,000) -$ $* 1\% = 11,888$</td> </tr> </table>	15.06.2020	$15\% * 12,88,840 = 1,93,326$ $1,93,326 * 1\% * 3 = 5,800$	61,086	15.09.2020	$45\% * 12,88,840 = 5,79,978$ $5,79,978 * 1\% * 3 = 17,399$	15.12.2020	$75\% * 12,88,840 = 9,66,630$ $(9,66,630 - 1,00,000) -$ $* 1\% * 3 = 25,999$	15.03.2021	$100\% * 12,88,840$ $(12,88,840 - 1,00,000) -$ $* 1\% = 11,888$	
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15.03.2021	$100\% * 12,88,840$ $(12,88,840 - 1,00,000) -$ $* 1\% = 11,888$									
TOTAL (INTEREST u/s 234B & C)	4,35,300									
Less: Interest already paid in original return u/s 234B & C	32,173									
Interest payable in updated return	4,03,127									

COMPUTATION OF ADDITIONAL TAX U/s 140B

PARTICULARS	AMOUNT
Tax (+SC+ HEC) (As per income in updated return)	16,98,840
Less : Prepaid Taxes (TDS/TCS, Advance Tax, Self assessment Tax) (1,30,000+2,80,000+1,00,000+2,06,800)	(7,16,800)
Add : Interest payable as computed above	4,03,127
Total	13,85,167
Add: Additional tax (50%* 13,85,167)(As updated return after 12 months but before 24 months)	6,92,584
TOTAL AMOUNT	20,77,750

Cases where updated return cannot be submitted

1. If it is a return of loss.
2. If it has the effect of reducing the tax liability as disclosed in the earlier return
3. If–
 - a. Search under section 132 is conducted or books of accounts are requisitioned under section 132A
 - b. Survey is conducted u/s 133A
 - c. Any money, bullion, books or documents etc. seized under section 132 or requisitioned under section 132A in case of any other person belongs to or pertains to such person.
(This provision is for the AY relevant to the previous year in which search is conducted, requisition is made or survey is done & any other subsequent assessment year.)
4. If–
 - a. Already one updated return has been furnished by the assessee
 - b. Any proceeding for assessment / reassessment / revision of income is pending or has been completed for the relevant assessment year
 - c. The assessing officer has information in his possession under the PMLA, 2002 or Blank Money (Undisclosed Foreign Income & Assets

& Imposition of Tax, 2015 or the Prohibition of Benami Property Transactions Act, 1988 or the Smugglers & Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976

AND the same has been communicated to him before filing the updated return. Information has been received under an agreement referred under section 90 or 90A (DTAA) AND the same has been communicated to him before filing the updated return.

- e. Any prosecution proceedings have been initiated under Chap XXII.

So, in a nutshell it can be seen that this a step with an intention to reduce litigations. The assessee should also keep in mind all the liabilities that come along with this ease of filing the updated return that is the additional tax, etc. It can be said as of now that this will be an effective step to ensure voluntary compliance.



CA PRAJAKTA MONDHE

Business Responsibility and Sustainability Reporting – Indian Avatar of International ESG Standards –

Mandatory Applicability on select Listed Indian Companies



CA GAUTAM JAIN

India has Introduced new BRSR (Business Responsibility and Sustainability Reporting) standards applicable on the Companies. These BRSR standards are in line with the International ESG Reporting (Environment, Social and Governance) Standards and SEBI has made it mandatory on top 1,000 companies by Market capitalisation for financial year 2022-23. It is expected that in a phased manner from next year FY 23-24 more Companies will be covered in its ambit. BRSR Preparations may require of 2-3 years to be compliant on BRSR Reporting, hence Companies need to and have started preparing for the same. Statutory auditors of Listed entities have started asking for CA Certified BRSR Reports.

This reporting shall help Environment, Society and shall bring greater transparency of Corporate Governance. Foreign Investors will develop more trust over Indian Companies. Companies will focus on making eco-friendly products and inline towards green and clean energy. Companies will have to report on what steps have been taken to replenish the nature and publish these BRSR standard reporting parameters in their Annual Reports.

Recently, the International Investors and even Bankers have put BRSR Compliance as a key condition to lend Investment funds and avail loans at cheaper rates to these BRSR Compliant Companies. Recently, Tata Power has availed Sustainably loan at a cheaper rate from bank of America. Coming times will bring many more financial benefits for BRSR Compliant Companies. Even there is Risk of name struck for non-compliant Companies.

1. What is Business Responsibility and Sustainability Reporting (BRSR)?

BRSR is probably a new avatar to a legacy of sustainability reporting.

It focusses on Mitigating climate change and to adapting sustainable and inclusive growth. Stakeholders (Investors, Bankers, Government, Customers etc.) are now focusing on businesses to be responsible and sustainable towards environment and society.

Organizations globally are now required report not only financial and operational performance but their sustainability performance in order to bring transparency with stakeholders.

2. Overview

The BRSR is a quantitative and standardized disclosures on International ESG parameters (Environment, Social and Governance) so as to enable comparability across companies, sectors and time. BRSR seeks disclosure from entities on the Nine principles of the “National Guidelines on Responsible Business Conduct” (NGRBC).

BRSR enables stakeholders to understand an entity more meaningfully by encouraging them to evaluate an entity looking beyond financials and towards Social, Environmental and Governance aspects.

These disclosures will help investors in making better investment decisions considering ESG performance in addition to Financial and Operational performance.

3. Chronology of ESG and BRSR in India

The Evolution of ESG Reporting in India has started with NVGs (National Voluntary Guidelines) issued by MCA (Ministry of company affairs) in 2011. Since then reporting framework have come a long way to BRSR (Business Responsibility and Sustainability Reporting).

In the year 2011 National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business (NVGs) was issued by Ministry of Company Affairs. In 2012, subsequent to the release of the NVGs the SEBI mandated the top 100 listed companies to report their ESG performance through the Business Responsibility Reporting (BRR), a reporting framework based on 9 principles of the NVGs.

Eventually, BRR's relevance faded, owing to rapid global developments. Additionally, an NSE report (2018) revealed that the BRR Reports lacked Standardization, quality, rendering the reporting unreliable. Hence the need for a more robust and globally aligned reporting – enter the BRSR framework!

Realizing the issue, the MCA adopted the National Guidelines for Responsible Business Conduct (NGRBC) in 2020. Subsequently, SEBI replaced BRR with Business Responsibility and Sustainability Reporting (BRSR), formulated by an MCA committee on BRR.

Based on the principles set out in NGRBC new reporting framework i.e. Business Responsibility and Sustainability Reporting (BRSR) was issued by SEBI in 2021. With the introduction of BRSR framework BRR has been discontinued.

Applicability

Securities and Exchange Board of India (SEBI) vide amendment to regulation 34 (2) (f) of LODR Regulations vide Gazette notification no. SEBI/LAD-NRO/GN/2021/22 dated May 05, 2021 has made BRSR Reporting compulsory for the top 1,000 listed entities by Market capitalization.

As per these amendments top 1000 listed companies based on market capitalization has to submit BRSR as per the prescribed framework from FY: 2022-23 onwards.

For FY: 2021-22 option has been given to these companies to submit BRSR voluntarily so that these entities can make themselves ready for compulsory filing from FY: 2022-23 onwards.

Many Companies have done Voluntary reporting in FY 2021-22 in order to be prepared for Mandatory reporting from FY 2022-23.

2011

National Voluntary Guidelines on social, Environmental & Economic Responsibilities of Business (NVGs)

2012

Business Responsibility Report (BRR)-SEBI Top 100 Listed Companies

2015

Business Responsibility Report (BRR)- SEBI Top 500 Listed Companies

2018

National Guidelines for Responsible Business Conduct (NGRBC) MCA Committee Set up for BRR Revision

2019

BRR - SEBI Top 1000 Listed Companies

2020

MCA Committee Report- Proposed Formats For BRSR SEBI Consultation Paper on BRSR

2021

SEBI Circular- BRSR for Top 1000 Listed Companies



5. Some Salient Points About BRSR Reporting are

- NGRBC suggests two versions for BRSR – “Comprehensive” and “Lite”. The 'Comprehensive Version' is for listed organizations, and the 'Lite Version' is for unlisted companies. For now, SEBI has mandated that India's top 1000 listed companies (by market capital) submit the comprehensive version BRSR for FY 2022-23.
- A unique advantage of the BRSR is that it adopts the United Nations Sustainable Development Goals (UN-SDGs) and is benchmarked with other global ESG reporting frameworks like Global Reporting Initiative (GRI) Standards, Task Force on Climate-Related Financial Disclosures (TCFD), etc.
- BRSR comprises three sections –
 - ▶ Section 1: General Disclosures
 - ▶ Section 2: Management and Process Disclosures
 - ▶ Section 3: Principle-wise Disclosures

Essential Indicators

Leadership Indicators

- **Section 1** : focuses on the basic set of information at the Company level.
- **Section 2** : focuses on policy and governance level questions.

Both these sections are mandatory to be reported.

- Section 3 comprises nine principles, each focused on a specialized area.
- Disclosures in section 3 have two categories – Essential Indicators and Leadership Indicators. The essential indicators are mandatory, while the leadership indicators are voluntary.
- BRSR, compared to its predecessor BRR, is considerably heavy on data requirements. It comprises more than 120 reported data points across three sections and nine principles.
- Gathering the raw data (thousands of data points!) across the Finance, HR, CSR, Supply-chain and Operations teams (and various systems such as ERP, CRM, HRMS etc.), collating and indexing it, processing it and then structuring it across these nine principles is an very extensive exercise, and requires specialized focus and alignment.

India is fast progressing to become a developed nation, the Government of India and SEBI have implemented BRSR in a timely manner. We welcome this new Reporting parameter which focusses on all Inclusive growth of the nation.

DIGITAL ERA GST INVOICING

CA SHIVANI VED



In the world of Digitalization where everything is on the mobile or computer devices then “Why to worry about invoices”?

Traditionally invoicing, like any heavily paper-based process, is manually intensive and is prone to human error resulting in increased costs and processing life cycles for companies. Yes it's about E-Invoices. E invoices are a boon for transporters who have to carry bulk invoices. Now no need to carry bulk invoices. We are in digital ERA, where everything is in our hand on just one click.

E-INVOICE : The E-Invoice System is for GST registered person for uploading all the B2B invoices to the Invoice Registration Portal (IRP). The IRP generates and returns a unique Invoice Reference Number (IRN), digitally signed e-invoice and QR code to the user.



The e-Invoicing system for B2B transactions has now been extended to those with an annual aggregate turnover of more than ₹ 10 crore up to ₹ 20 crore starting from 1st Oct. 2022; vide not. no. 17/2022.

BENEFITS OF E-INVOICES

- E - invoice resolves & plugs a major gap in data reconciliation under GST to reduce mismatch errors.
- E-invoices created on one software can be read by another, allowing interoperability and help reduce data entry errors.
- Real-time tracking of invoices prepared by the supplier is enabled by e-invoice.
- Backward integration and automation of the tax return filing process – the relevant details of the invoices would be auto-populated in the various returns, especially for generating the part-A of e-way bills.
- Faster availability of genuine input tax credit.

TAXPAYERS EXEMPTED FROM E INVOICING

- Insurance Company
- Banking Company or a Financial Institution, including a Non-Banking Financial Company (NBFC)
- Goods Transport Agency (GTA) transporting goods by road in a goods carriage

- Transport service provider, providing passenger transportation service
- Registered person providing services of – admission to an exhibition of cinematograph films in multiplex screens
- Special Economic Zone (SEZ units)
- Free Trade & Warehousing Zones (FTWZ)
- B2C invoices issued by notified persons are not under the purview of invoice applicability currently.
- It is not applicable for import Bills of Entry.
- Invoices issued by input Service Distributors (ISD) are not covered under this.
- When notified persons receive supplies:
 - ▶ From an unregistered person (attracting reverse charge) or
 - ▶ Through the import of services, it is not applicable

Can an e-Invoice be cancelled partially/fully?

An e-invoice cannot be partially cancelled, it has to be cancelled fully. Once cancelled, it will need to be reported on the IRN within 24 hours. Cancellation done after 24 hours cannot be done on the IRN and needs to be manually cancelled on the GST portal in the GSTR-1 return, before the same is filed.

GSTAR

दो टुक

एक सोच यह भी



सीए नवीन खंडेलवाल

अगर इनवॉइस वैल्यू का आंशिक पेमेंट हो गया है तो 180 दिन में इनवॉइस वैल्यू का पेमेंट नहीं करने पर लगने वाला ब्याज आनुपातिक रूप से लगना चाहिए ना कि पूरे पर।

ऑनलाइन गेमिंग चूंकि स्किल और माइंड का गेम है और इसमें भाग्य का रोल कम है और बाय चांस वाली बात नहीं है जैसा कि बेटिंग और गैंबलिंग में होता है। इसलिए ये वो एकशनेबल क्लेम है जो शेड्यूल 3 में आता है और इसलिए GST के दायरे में नहीं आएगा।

3/2019 नोटिफिकेशन के मार्फत लाया गया बिल्डर हेतु प्रावधान एक कंसेशनल नोटिफिकेशन है। उसकी शर्तें पूरी होने पर ही बेनिफिट मिल पाएगा। ये अनिवार्य नोटिफिकेशन नहीं है इसलिए अभी भी 18% GST लगाकर एलिजिबल ITC लेने का राइट है।

टीडीआर लैंड का सबसे बड़ा और सब्सटेनशीयल राइट है। ट्रेड पार्लेंस में उसके बिना कोई भी लैंड की वैल्यू नगण्य मानी जाती है इसलिए वो और कुछ नहीं बल्कि लैंड अर्थात ईममोवेबल प्रॉपर्टी ही है इसलिए GST हेतु लायबल नहीं है।

GSTR 2 को प्रामाणिकता नोटिफिकेशन के माध्यम से 9.10.2019 से मिली। उसके पहले इसे एक फैसीलिटेटिंग डॉक्यूमेंट भर माना गया है। कोर्ट एवं बोर्ड द्वारा भी यही कहा गया है।

रूल 36(4) कभी कानूनी वैधानिकता नहीं हासिल कर पाया क्योंकि चार्जिंग सेक्शन में प्रोविजन नहीं था। राष्ट्रीय स्तर पर विवाद होने की वजह से ही सेक्शन 16 में 1 जनवरी 2022 से संशोधन कर के GSTR 2B को वैधानिक प्रामाणिकता मिली है अतः इसके पूर्व की अवधि के लिए सप्लायर द्वारा की गई किसी भी त्रुटि के लिए रिसेवर से ITC रिवर्स करने के लिए कहना लीगली सही नहीं है।

इनकम टैक्स के फॉर्म 26AS के आधार पर टैक्सेबल इनकम मानकर सर्विस टैक्स की डिमांड कर देना कानूनन गलत होगा क्योंकि ये कोई ऑथेंटिक डॉक्यूमेंट नहीं है।

इनकम टैक्स में एक्जुअल एवं सर्विस टैक्स में प्वाइंट ऑफ टैक्सेशन के आधार पर लायबिलिटी आती है।

COMPLIANCE CHART NOVEMBER 2022

Return / Forms	Month/Year	Due/Ext. Dt.	Remark
GSTR 1	October-22	11 Nov. 2022	RP having monthly filing of return
GSTR 3B	October-22	20 Nov. 2022	RP having ATO > Rs 5CR
GSTR 5	October-22	13 Nov. 2022	Non-Resident taxable person
GSTR 6	October-22	13 Nov. 2022	ISD return
GSTR 7	October-22	10 Nov. 2022	TDS return
GSTR 8	October-22	10 Nov. 2022	TCS return
GSTR 2B	October-22	14 Nov. 2022	Auto-populate data for Rule 36(4)
Last date of issuance of Credit Note for invoices relating to FY 21-22 u/s 34	FY 22-23	30 Nov. 2022	As per No.18/2022– Central Tax dated 28-09-2022
Extension in the time limit of availing of ITC			
Ext. in the time limit to rectify errors or omissions in Form GSTR-1/3B or GSTR-8			
Challan for QRMP scheme	Oct.-22	25 Nov. 2022	Taxpayer opting QRMP scheme
IFF for QRMP	Oct.-22	13 Nov. 2022	
Deposit of TDS/TCS	Oct.-22	17 Nov. 2022	
Due date for filing of return of income	AY-22-23	7 Nov. 2022	
Issue of TDS Certificate for tax deducted u/s 194-IA/IB & 194M in the month of July, 2022	Sept.-22	14 Nov. 2022	
Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system	Sept.-22	15 Nov. 2022	
Return of income	AY 23-24	30 Nov. 2022	In the case of an assessee if he/it is required to submit a report U/s. 92E pertaining to international or specified domestic transaction(s)
Form No. 3CEAA	FY 21-22	30 Nov.2022	Report in Form No. 3CEAA by a constituent entity of an international group
Form No. 64	FY 21-22	30 Nov.2022	Statement of income distribution by Venture Capital Co./fund in respect of income distributed during previous Yr. 21-22
Furnishing of Challan - cum - statement in respect of tax deducted U/S 194-IA/ IB & 194M	Oct.-22	30 Nov. 2022	
Form MGT 7	FY 21-22	30 Nov. 2022	MGT-7 must be filed with the ROC by all the Pvt. Ltd. & Public Limited Co's. registered in India every year. (If we take the day of the AGM into consideration)
PF and ESI	Oct. 22	15 Nov. 2022	



Diwali Milan Samaroh with officials of GST Department



Shri Partha Roy Chowdhary (CGST Commissioner) addressing the members during the function



Members enjoying the function



360* Program on Trust, in which CA Bhagwan Agarawal, CA S.N. Goyal, CA Manish Dafria & CA Shailendra Porwal have shared the knowledge



CA Navneet Garg addressing the session on Latest Amendments in GST



Career Counselling Programme at various schools



CONVOCATION 2022





Shri (CA) Suresh Prabhu, (Former Union Minister) addressing the fraternity on the topic **Envisioning India - 2035**



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