

Office of the:
Commissioner of State Tax,
Maharashtra State, Mumbai
8th Floor, GST Bhavan, Mazgaon, Mumbai-
400 010.

INTERNAL CIRCULAR
(Restricted circular for office use only)

To,

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No. CST /JC (HQ-5)/Scrutiny/Issues/File No- /B. 1,
Internal Circular No 02A of 2022.

Mumbai. Date. 25/02/2022

- Sub. : Guidelines with respect to legal issues pertaining to return scrutiny for tax periods 2017-18 and 2018-19.
Ref. : (1) Internal Circular 6A of 2021 dated 11-6-2021.
(2) Internal Circular 1A of 2022 dated 17-1-2022.

Background:

The guidelines with respect to technical issues pertaining to return scrutiny have been issued vide Internal Circular referred at Sr. No. 02. However, there are certain legal issues which have arisen in the course of the work of return scrutiny. From an examination of the issues, it is seen that the issues have cropped up due to the *bonafide* errors committed by the taxpayers in their compliances. Such errors are largely due to lack of understanding of the provisions of law and issues of GSTN system in the initial stage (FY 17-18 and 18-19) of implementation of GST.

Hence, in order to clarify the doubts of field officers, the following guidelines are issued. It must be kept in mind that clarifications given hereunder are case specific and based on facts and circumstances of each case. **This circular applies to return scrutiny of tax periods 2017-18 and 2018-19.**

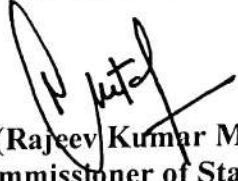
Sr. No.	Issue description	Clarification
Issues arising from incorrect reporting of GSTR 1		
1.	In GSTR-1, the taxpayer under scrutiny has mistakenly reported B2B outward supply transactions in the Table 7 as a B2C transactions. Upon request from their recipients, said taxpayer has re-reported such B2C transactions as B2B transactions in later period GSTR-1. However, while re-reporting they have not reduced B to C	<p>The proper officers may-</p> <ul style="list-style-type: none"> • Obtain the transaction wise details of outward supplies from taxpayer for the period under scrutiny and reconcile it with category wise outward supplies reported in GSTR-1 of the corresponding period. • Identify the transactions reported in B to B and B to C category.

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	supply. These mistake led to excess liability in GSTR-1 as compared to GSTR-3B. How to deal this issue?	<ul style="list-style-type: none"> • Figure out the transactions which have been shifted to B to B from its original B to C. Take on record the details of GSTR-1 in which such shifting had been done.
2.	<p>Some of the taxpayers while furnishing details of outward supplies had committed typographical errors in reporting details of outward supplies in Table 4, 5, 6, 7 or 11. The figures reported are in excess of actual supply figures. These errors led to excess liability in GSTR-1 as compared to GSTR-3B. How to deal with this issue?</p>	<p>The proper officers may-</p> <ul style="list-style-type: none"> • Obtain the transaction wise details of outward supplies from taxpayer for period under scrutiny and reconcile it with category wise outward supplies reported in GSTR-1 of the corresponding period. • Identify the category of difference eg. B to B, B to C, Exports or adjustment to advances. • In case of B to B transactions, take undertaking of recipient that he had not availed excess ITC on account of said errors committed by the supplier. • In case of export, verify it with turnover of export considered while granting the refund.
Issues arising from ITC claim		
3.	<p>Difference in ITC claim of GSTR-3B and ITC available in GSTR-2A of taxpayer under scrutiny on account of:</p> <p>(a) Supplier has reported B2B supplies as B2C supplies in GSTR-1 and they could not amend it till expiry of time limit. So, these transactions have not appeared in GSTR-2A of the actual recipients to whom notices served.</p> <p>(b) Few suppliers have reported B2B supplies against GSTIN of some other taxpayer instead of actual recipient.</p> <p>(c) Supplier had missed reporting of B to B transactions in his GSTR-1.</p>	<p>The proper officer may</p> <ul style="list-style-type: none"> • In cases where difference in ITC claim (CGST+SGST or IGST) per supplier is 2.5 lakh or more, ask the claimant to obtain certification from the Chartered accountant of the said supplier certifying the output transactions and tax paid thereon so as to comply with the provisions of section 16. • In cases where difference in ITC claim (CGST+SGST or IGST) per supplier is below 2.5 lakh, ask the claimant to obtain ledger confirmation of the concerned supplier along with his / her certification. • Difference in ITC claim may be allowed on the basis of the above.

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	<p>(d) Supplier had reported B to B transactions taxable under forward charge in Table 4B of his GSTR-1 instead of Table 4A.</p> <p>However, in above scenarios ITC conditions u/s 16 are met. How to deal with this issue?</p>	
4.	<p>The proviso to section 16(4) inserted vide RoD dated 31/12/2018 for FY 2017-18. In most of the cases, recipients are referring to strict interpretation and contending that this pre-requisite is applicable to recipients who have claimed ITC (by filing of GSTR-3B) after the specified date (after due date of September, 2018 return till due date of March, 2019 return). How to deal with this issue?</p>	<ul style="list-style-type: none"> • The pre-condition that the GSTR-1 should have been filed by the supplier till the due date of filing of GSTR-1 of March 2019 is only applicable to taxpayers who have claimed ITC during the extended period i.e. after due date of September, 2018 return till due date of March, 2019 return.
5.	<p>B2B transactions in GSTR-1, mistakenly reported as transactions liable to tax under RCM i.e., they were reported by the supplier in Table 4B instead of Table 4A. This data entry error is the sole cause of mis-match of liability of recipient taxpayer under scrutiny. How to deal with this issue?</p>	<ul style="list-style-type: none"> • Both type of transactions (forward charge and reverse charge) reported by supplier in GSTR-1 are being auto-populated in the same table of GSTR-2A of recipient with flagging as to whether it attracts reverse charge or not. • The proper officer upon receipt of reply from taxpayer under scrutiny, may verify whether supplier has paid the due tax on such transactions which have been wrongly reported in Table 4B of GSTR-1.
6.	<p>In some of the cases replies are received that the ineligible ITC, which has been pointed out in ASMT-10 was already reversed by taxpayer in the return of subsequent period. However, the format of GSTR-3B is not so exhaustive and no separate column is provided for such reversal. Hence the amount of ITC</p>	<ul style="list-style-type: none"> • In case the taxpayer replies with reference to specific return period, then calculation of reversal in table 4 (B) (2) of that specified return period along with transaction list should be obtained from the tax payers and verified with ITC claim, reversal, other reversal, etc.

Sr. No.	Issue description	Clarification
	reversed for previous period is not legible from the return form itself. How to deal with this issue?	<ul style="list-style-type: none"> Alternatively, it can be verified from DRC-03 filed by the tax payer, if any.

These guidelines are clarificatory in nature and be applied as per the facts and circumstances of the cases. These guidelines shall not be used in the interpretation of the provisions of law. The difficulties in the implementation of this circular shall be brought to the notice of this office.


 (Rajeev Kumar Mital)
 Commissioner of State Tax,
 Maharashtra State, Mumbai.


No. CST /JC (HQ-5)/Scrutiny/Issues/File No- /B . 1,

Mumbai. Date. 25/02/2022

Internal Circular No. 02 A of 2022.

Copy forwarded for information to-

- (1) The Joint Commissioner of State Tax, (MAHAVIKAS) with a request to upload this Internal Circular on MGSTD web-site.
- (2) Deputy Secretary, Finance Department, Mantralaya, Mumbai.
- (3) Under Secretary, Finance Department, Mantralaya, Mumbai.
- (4) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.


 (Vishakha Borse)
 Joint Commissioner of State Tax (HQ-5),
 Mumbai.