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Trade Circular No 1 /2022

Sub:- Mandatory furnishing of correct and proper information of ineligible / blocked Input Tax Credit and reversal thereof in return in **FORM GSTR-3B** – instructions issued-reg.

Ref:-

1. Notification No. 14/2022-Central Tax dated 05.07.2022 of the CBIC, Dept. of Revenue, Ministry of Finance and corresponding notification of the State in S. R.O No. 871/2022 dated 13.09.2022 of the Taxes (B) Dept., Govt. of Kerala.
2. Circular No. 170/02/2022 dated 06.07.2022 of the CBIC, Dept. of Revenue, Ministry of Finance.
3. Trade Circular No. 01/2021 dated 30.01.2021 of the Commissioner of State Tax, Thiruvananthapuram.

1. The process of filing returns under the GST has been substantially changed over a period of time. One of the significant changes is the method for declaration of input tax credit (ITC) in the return in Form GSTR 3B. After the 43rd GST Council Meeting, the procedure for declaring the input tax credit in the return in Form GSTR 3B has been amended, and the same was notified in the notification referred 1st above. The GST Policy Wing of the Central Board of Indirect Taxes and Customs (CBIC) had already issued a clarification in the matter, vide the circular referred to above.

1.1 The input tax credit on the inward taxable supplies of goods or services or both to a registered person is not eligible under certain circumstances provided under Section 17(1), 17(2), 17(4) and 17(5) of the Central GST and Kerala State GST Act, 2017 read with Rules 38, 42 and 43 of the Central GST and Kerala GST Rules, 2017 (*refer to the Central GST Act and Kerala State GST Act, 2017 for detailed provisions*)

1.2 After the recent amendments, **Table 4(A)** of **FORM GSTR 3B** pertaining to the particulars of the input tax credit available get auto populated from the auto drafted input tax credit statement in **FORM GSTR 2B**. The utilization of input tax credit towards output tax dues in **Table 6** of **FORM GSTR 3B** also get auto populated from the available balance in the electronic credit ledger and also from the **Table 4(C)** - “Net ITC available” of the **FORM GSTR 3B** of the respective tax period.

1.3 Instances have been noticed where the taxpayers are deducting the amount of ineligible input tax credit directly by editing the total amount of input tax credit auto populated in **Table 4(A)** of **FORM GSTR 3B**. This will result in incorrect settlement of

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funds to the State. Also, in some cases the taxpayers are not declaring the “ineligible” input tax credits, under **Table 4(B)** of **FORM GSTR 3B** resulting in wrong utilization of ineligible credit. Such taxpayer shall be liable to reverse/pay such input tax credit along with interest @ 18% per annum from the date of utilization till the date of reversal/repayment and shall also be penalized.

Accordingly, in order to ensure uniformity in return filing the Commissioner of State Tax, in exercise of the powers conferred by section 168 of the Kerala State Goods and Services Tax Act, 2017 hereby clarifies the issues detailed hereunder:

2. The procedure to be followed for furnishing of information regarding input tax credit availed, reversal thereof and ineligible input tax credit in Table 4 of FORM GSTR-3B

2.1 Total ITC (**eligible** as well as **ineligible**) of the taxpayer will be auto-populated from statement in **FORM GSTR 2B** in different fields of **Table 4A of FORM GSTR 3B** *(except for the ineligible input tax credit on account of limitation of time period as specified in section 16 (4) of the CGST and KSGST Act, 2017 or where the recipient of an intra-State supply is located in a different State than that of place of supply).*

2.2 The taxpayer shall not deduct the amount of ineligible input tax credit directly by editing the total amount of input tax credit auto populated in **Table 4A** of **FORM GSTR 3B**. If the taxpayer has to declare any amount of ineligible input tax credit under any of the provision, they should strictly adhere to the ensuing instructions in this regards.

2.3 Out of the amounts available in **Table 4A** of **FORM GSTR 3B**, if the taxpayer have any ineligible input tax credit which is to be reversed on account of **Rule 38** *(reversal of credit by a banking company or a financial institution)* or **Rule 42** *(reversal of credit on inputs and input services if the same is used for non business purpose or used for the outward supply of exempted goods or services)* or **Rule 43** *(reversal of credit on capital goods if the same is used for non business purpose or used for the outward supply of exempted goods or services)* of the CGST and KGST Rules, 2017, as the case may be, the same shall be declared in **Table 4 (B) (1)** of **FORM GSTR 3B**. In addition to that, if the taxpayer has any input tax credit which is blocked as per **Section 17(5)** of the CGST and KSGST Act, 2017 the same shall also be declared in **Table 4 (B) (1)** of **FORM GSTR 3B**.

2.4 The taxpayer shall report reversal of ITC which are not permanent in nature and can be reclaimed in future subject to fulfilment of specific conditions, such as on account of **Rule 37** *(non-payment of consideration to supplier within 180 days)* of CGST and KGST Rules, 2017, **Section 16(2)(b)** *(non receipt of goods or services or both in the same tax period in which the invoice has been received)* and **Section 16(2)(c)** *(non payment of tax by the supplier)* of the CGST and KSGST Act, 2017 in **Table 4 (B) (2)** of **FORM GSTR 3B**. Such input tax credit may be reclaimed in the appropriate table in **Table 4 (A)** of **FORM GSTR 3B** on fulfilment of necessary conditions. Further, all such reclaimed input tax credit shall also be shown in **Table 4 (D) (1)** of **FORM GSTR 3B**. **Table 4 (B) (2)** of **FORM GSTR 3B** may also be used by the taxpayer for reversal of any input tax credit availed in **Table 4(A)** of **FORM GSTR 3B** wrongly in any previous tax periods due to any inadvertent/clerical mistakes.

2.5 Accordingly, the “Net ITC Available” in **Table 4 (C)** of **FORM GSTR 3B** will be as

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per the formula $(4A - [4B (1) + 4B (2)])$ and the same will be credited to the electronic credit ledger of the taxpayer and also in **Table 6** of **FORM GSTR 3B** to set-off the out put tax dues, if any.

2.6 Input tax credit not available, on account of limitation of time period as specified in **Section 16 (4)** of the CGST and KSGST Act, 2017 or where the recipient of an intra-State supply is located in a different State / UT than that of place of supply, may be reported by the taxpayer in **Table 4 D (2)** of **FORM GSTR 3B**. Such details are available in **Table 4** of **FORM GSTR-2B**.

3.If any taxpayer has availed ineligible or blocked credits and in cases where the time limit prescribed under Section 39(9) of the Act for rectification by filing **FORM GSTR 3B** is over, they may reverse such input tax credit on his own ascertainment by filing **FORM GST DRC-03**, electronically on the common portal, in accordance with prevailing Acts and Rules, to avoid further litigations and proceedings such as Show Cause Notices demanding tax, interest, imposition of penalty etc.

The Trade Circular vide reference cited as 3rd above stands amended to the above extent.

All the stakeholders including trade associations/organisations are requested to bring the contents of this circular to the attention of their members in particular and to the trade in general.

Sd/-
COMMISSIONER