

## Payment of tax, interest, penalty and other amounts

### 49. <sup>[1]</sup> **Payment of tax, interest, penalty and other amounts** <sup>[2]</sup>     .

(1) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of

such person to be maintained in such manner as may be prescribed <sup>[3]</sup>     .

(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with [section 41 [or Section 43A] <sup>[4]</sup>     ], to be maintained in such manner as may be prescribed.

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed <sup>[5]</sup>     .

(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed <sup>[6]</sup>     .

(5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of—

a. integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;

b. the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

c. the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

*[Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;]* <sup>[7]</sup>     

d. the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

*Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;]* <sup>[8]</sup>     

e. the central tax shall not be utilised towards payment of State tax or Union territory tax; and

f. the State tax or Union territory tax shall not be utilised towards payment of central tax.

(6) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.

(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed <sup>[9]</sup>     .

(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—

a. self-assessed tax, and other dues related to returns of previous tax periods;

b. self-assessed tax, and other dues related to the return of the current tax period;

c. any other amount payable under this Act or the rules made thereunder including the demand determined under

section 73 or section 74;

(9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

[(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).]<sup>[10]</sup>

Explanation.—For the purposes of this section,—

- a. the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;
- b. the expression,—
  - i. “tax dues” means the tax payable under this Act and does not include interest, fee and penalty; and
  - ii. “other dues” means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

#### <sup>[11]</sup> 49A. Utilisation of input tax credit subject to certain conditions

Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.

#### <sup>[12]</sup> 49B. Order of utilisation of input tax credit.

Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.<sup>[13]</sup>

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<sup>[1]</sup> Enforced with effect from 1.7.2017.

<sup>[2]</sup> Refer Not. No. 13/2019, dt. 7.3.2019,

<sup>[3]</sup> Refer rule 87 of the CGST Rules, 2017.

<sup>[4]</sup> Inserted vide CGST Amendment Act, 2018 with effect from a date to be notified by Central Government.

[5]

Refer rule 86 of the CGST Rules, 2017.

[6]

Refer rule 85 of the CGST Rules, 2017.

[7]

Inserted vide CGST Amendment Act, 2018 with effect from 01.02.2019 vide CGST Not. No. 02/2019 dt. 29.01.2019.

[8]

Inserted vide CGST Amendment Act, 2018 with effect from 01.02.2019 vide CGST Not. No. 02/2019 dt. 29.01.2019.

[9]

Refer rule 85 of the CGST Rules, 2017.

[10]

Inserted vide The Finance (No.2) Bill, 2019, with effect from the date yet to be notified.

[11]

Inserted by CGST (Amendment) Act, 2018, w.e.f. 1-2-2019.

[12]

Refer rule 88A.

[13]

Inserted vide CGST Amendment Act, 2018 with effect from 01.02.2019 vide CGST Not. No. 02/2019 dt. 29.01.2019.

## Interest on delayed payment of tax

50.[1]

### Interest on delayed payment of tax.

- (1) [2] Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed [3], shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent, as may be notified [4] by the Government on the recommendations of the Council.

[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.] [5]

- (2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.
- (3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or

undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified<sup>[6]</sup> by the Government on the recommendations of the Council.

[1] Enforced with effect from 1.7.2017.

[2] Refer Cir. Nos. 65/2018, dt. 14.9.2018 & 67/2018- GST, dt 28.9.2018.

[3] See rule 37, 42 and 96A of the CGST Rules, 2017.

[4] For notified rate of interest, refer Not. No. 13/2017- CT, dt. 28.6.2017; Not. No.6/2017- IT, dt. 28.6.2017.

[5] Inserted vide The Finance (No.2) Bill, 2019, with effect from a date yet to be notified.

[6] For notified rate of interest, Refer Not. No. 13/2017-CT, dt. 28.6.2017; Noti No. 6/2017- IT, dt. 28.6.2017.

## Tax deduction at source

51. <sup>[1]</sup> **Tax deduction at source** <sup>[2]</sup>.

(1) <sup>[3]</sup> Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

a. a department or establishment of the Central Government or State Government; or

b. local authority; or

c. Governmental agencies; or

d. such persons or category of persons as may be notified by the Government on the recommendations of the Council, (hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

*Provided that* no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

(2) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed<sup>[4]</sup>.

(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction,

amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed<sup>[5]</sup>.

(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five day period until the failure is rectified, subject to a maximum amount of five thousand rupees.

(5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed<sup>[6]</sup>.

(6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.

(7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.

(8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:

*Provided that* no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

[1] Refer Cir. No. 65/2018- GST, dt. 14.9.2018 & 67/2018- GST, dt. 28.9.2018 & Cir. No. 76/2018- GST, dt. 31.12.2018.

[2] Enforcement with effect from 1.10.2018- Not. No. 50/2018- CT, dt. 13.9.2019.

[3] Refer Not. No. 33/2017-CT, dt. 15.9.2017; Not. No. 50/2018-CT, dt. 13.9.2018; Not. No. 57/2018-CT, dt. 23.10.2018; Not. No. 61/2018-CT, dt. 5.11.2018 & Not. No. 73/2018-CT, dt. 31.12.2018.

[4] Refer rule 85 of the CGST Rules, 2017.

[5] Refer rule 66 of the CGST Rules, 2017.

[6] Refer rule 87 of the CGST Rules, 2017.

## Collection of tax at source

### 53.<sup>[1]</sup> Collection of tax at source<sup>[2]</sup>

(1) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

**Explanation.**—For the purposes of this sub-section, the expression “net value of taxable supplies” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of

section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

(3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed<sup>[3]</sup>.

(4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form<sup>[4]</sup> and manner as may be prescribed<sup>[5]</sup>, within ten days after the end of such month.

[Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]<sup>[6]</sup>

<sup>[7]</sup>Explanation: For the purpose of this sub-section, it is hereby declared that the due date for furnishing the said statement for the months of Oct, Nov & Dec, 2018 shall be the <sup>[8]</sup>7<sup>th</sup> Feb, 2019].

(5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form<sup>[9]</sup> and manner as may be prescribed<sup>[10]</sup>, before the thirty first day of December following the end of such financial year.

[Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]<sup>[11]</sup>

(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

*Provided that* no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed<sup>[12]</sup>.

(8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed<sup>[13]</sup>.

(9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under [section 37 or Section 39]<sup>[14]</sup>, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed<sup>[15]</sup>.

(10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed<sup>[16]</sup>.

(11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—

- a. supplies of goods or services or both effected through such operator during any period; or
- b. stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.

(13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.

(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.

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[1] Enforced with effect from 1.10.2018- refer Not. No. 51/2018- CT, dt 13.9.2018 & Not. No. 52/2018-CT, dt. 5.11.2018.

[2] Refer Cir. No. 74/2018- GST, dt. 31.12.2018.

[3] Refer rule 85 of the CGST Rules, 2017.

[4] Refer Form GSTR-8 of the CGST Rules, 2017.

[5] Refer rule 67 of the CGST Rules, 2017.

[6] Inserted vide The Finance (No.2) Bill, 2019, with effect from a date yet to be notified.

[7] Inserted by the CGST (Fourth removal of difficulties) order, 2018, w.e.f. 31-12-2018.

[8] Substituted for 31<sup>st</sup> Jan, 2019 by the CGST (Second removal of difficulties) order, 2019, w.e.f. 1-2-2019.

[9] See form GSTR-9B of the CGST Rules, 2017.

[10] See rule 80 of the CGST Rules, 2017.

[11] Inserted vide The Finance (No.2) Bill, 2019

[12] See rule 87 of the CGST Rules, 2017.

[13] See rule 78 of the CGST Rules, 2017.

[14] \_\_\_\_\_ Inserted vide CGST Amendment Act, 2018 with effect from 01.02.2019 vide CGST Not. No. 02/2019 dt. 29.01.2019.

[15] \_\_\_\_\_ Refer rule 79 of the CGST Rules, 2017.

[16] \_\_\_\_\_ Refer rule 67 of the CGST Rules, 2017.

## Transfer of input tax credit

### [1] 53. \_\_\_\_\_ **Transfer of input tax credit**

On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49, as reflected in the valid return furnished under sub-section (1) of section 39, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

[53A. Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the State Goods and Services Tax Act or the Union territory Goods and Services Tax Act, the Government shall, transfer to the State tax account or the Union territory

tax account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.]\_\_\_\_\_ [2]

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[1] \_\_\_\_\_ Enforced with effect from 1.7.2017.

[2] \_\_\_\_\_ Inserted vide The Finance (No.2) Bill, 2019, with effect from a date yet to be notified.