

| Sr. No. | Particulars | Author's Comments |
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| 1 | Reversal of ITC for by product or scrap-Loss / destroyed / free samples / gift | It may be always disputed about the quantum of reversal of ITC on scrap or by product which has been lost, destroyed, given free. |
| 2 | Supply to SEZ by registered supplier Without payment of GST but without execution of LUT | Whether SEZ is require to paythe GST in such case? Supplier will have to discharge the GST liabilities as LUT is not executed. |
| 3 | Calculation of reversal of ITC under Rule 42 & 43, since there is no ITC track for exclusive inward supplies of exempted or non-taxable supplies | AMost of the companies have not kept the separate tax for ITC not availed on exclusive inward supplies for exempted or non-taxable supplies and in accordance With Rule 42 & 43, it may have to be given separately. |
| 4 | Reconciliation between GSTR 2A and ITC receivables on account of | Since, GSTR1A, GSTR-3 and mismatch report is not incorporated, provisions of Section 39 and 41 is as such ineffective and hence, ITC may be allowed even on any reasons of mismatch. However, suitable note for safeguarding to interest of auditor to be made in the observation sheet. |
| | a. Mismatch in Invoice no. | |
| | b. Wrong tax head of GST | |
| | c. Wrong GSTN No. | |
| | d. Invoices not uploaded by supplier | |
| | e. ITC as per GSTR-2A is more than ITC availed in books (detected after September of subsequent year) | |
| | f. Suppliers paid the GST through their GSTR-3B and GSTR-1 but shown such supplies as B2C | |
| 5 | 100% amount not paid on account of retention | It can be termed as full payment has not been received and if it is not paid Within 180 days ITC reversal will be disputed |
| 6 | ITC on Assets discarded / written off/ given free on which ITC / Cenvat /VAT set off has been availed | As per Section 17(5)(h) of CGST Act, ITC shall not be available in respect of the following namely; goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; |
| 7 | Payment / facilities to employee Which is not considered as part of Form- 16 Treatment of gift and tracking thereof | What will be taxability of facilities/ gifts given to employees which are not covered under Form16? In our opinion, GST will be payable on Open Market Value. |

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| 8 | ITC on Motor Vehicle insurance, motor vehicle repairs, building repair, | <p>As per Section 17(5)(a) of CGST Act, ITC shall not be available in respect of the following namely;</p> <p>a) motor vehicles and other conveyances except when they are used-</p> <p>i) for making the following taxable supplies, namely:</p> <p>A) further supply of such vehicles or conveyances ; or .</p> <p>B) transportation of passengers; or</p> <p>C) imparting training on driving, flying, navigating such vehicles or conveyances;</p> <p>ii) for transportation of goods;</p> <p>D) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.</p> <p>Explanation-For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;</p> <p>However, the CGST Amendment Act 2018 amends Section 17(5) of CGST Act for disallowance on the ITC on the subject matter. This provision is implemented w.e.f. 1st Feb 2018. Therefore, ITC may be allowed.</p> |
| 9 | ITC on CSR activities done when it is shown below the line as a part of CSR compliance | Since it is not in the course of business or furtherance of business and it is appropriation of profit, no ITC is allowed. |
| 10 | Value of free goods supplied / Amortization when specific clause is absent in PO | As per circular no. 47/21/2018-GST dated 8th Jun 2018 issued by the CBIC, the value of dies / tools / moulds supplied FOC need not be added in the value of the . goods suppliedby manufacturer. Considering the clarification in the circular, every person needs to be ensured that absolute clarity while raising the purchase order when such part / components are going to be sourced from the manufacturers and for which dies / tools / moulds are supplied by the recipient of the component The purchase order should clearly specify that the consideration of parts, components with the separate clause that dies / moulds / tools will be supplied on "FOC basis' till the time such goods are sourced from the manufacturer |
| 11 | Rate of interest on ITC reversal / ITC wrong availed | Interest at the rate of 24% has been specified only on the ITC not reversed on information of mismatch report and mismatches are not removed within the period of 6 months. However, provisions of removing mismatch has not been introduced. Therefore, interest rate to be |
| 12 | Income from Dividend, Mutual Funds, Securities etc. or sale of petroleum products. | These are nontaxable supplies and therefore it should be considered for the purpose of reversal of ITC in terms of Rule 42 and Rule 43 of CGST Rules 2017 |
| 13 | What %age to be applied for the removal of capital goods acquired prior to GST regime? | For Capital goods pertaining to earlier regime and credit is availed of earlier tax on the same identified then 5% per quarter to be identified. The amount identified to be compared with GST applicable on such goods on transaction value and higher amount has to be paid. If above method is not followed necessary comments to be given in the report. |

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| 14 | Exports on FOC basis - reversal? | <p>As per Section 17 (5)(h) of CGST Act, ITC shall not be available in respect of the following namely; goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples</p> <p>As per CGST Rules 42 Manner of determination of input tax credit in respect of inputs or input services and reversal thereof.-(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or subsection (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,</p> <p>16. (1) "zero rated supply" means any of the following supplies of goods or services or both, namely:</p> <p>(a) export of goods or services or both; or</p> <p>(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.</p> <p>(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply may be an exempt supply.</p> |
| 16 | <p>Issues of Tran-1</p> <p>Carry forward of Cenvat Credit on capital goods, inputs & Input Service</p> <p>Material received prior to 30.06.2017 but no GRN prepared and no accounting done upto 30.06.2017</p> <p>Material received prior to 30.06.2017 but GRN prepared and no accounting done upto 30.06.2017 or no application made for extension</p> <p>Stock declared Supported With duty paying documents not directly in the name of tax payer / registered person</p> <p>Invoice With registered person prior to 12 months</p> <p>Stock declared Without duty paying documents. Provision made in the books of accounts based on Tran-1 but not sold before due date</p> <p>Stock declared without duty paying documents. Provision made in the books of accounts based on Tran-1 but sold before due date Tran-2 not filed or not updated</p> | <p>Detailed analysis needs to be done and also considering the retrospective amendment in Section 139 and Section 140 of CGST Act 2017, which is been made effective from 01.07.2017 will have to be considered and therefore, if any credit on account of balance of education cess, higher & secondary education cess and Krishi Kalyan Cess is taken then that will have to be reversed.</p> <p>Further, while doing the amendment, eligible duties do not include service tax and therefore such credit Which has been transferred in Tran-1 will be unnecessarily litigated even though department have issued the clarification that it is not intended.</p> |
| 15 | Partial written off value of goods | <p>As per Section 17(5)(h) of CGST Act, ITC shall not be available in respect of the following namely; goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;</p> <p>Since there is a partial written off and stocks are kept in the books of account, no ITC reversal is required</p> |

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| 16 | ITC on Assets discarded / written off/ given free on which ITC / Cenvat /VAT set off has not been availed | As per Section 17(5)(h) of CGST Act, ITC shall not be available in respect of the following namely; goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; |
| 17 | Allocation and apportionment value is different for the purpose of valuation of WIP and finished goods in the books of accounts visa-vis tax invoice prepared on distinct person | If such apportionment has been accounted in the books of accounts and debited / credited to distinct person, in that case only tax liability Will arise, otherwise if it used only for the purpose of costing/ MIS then in our opinion, cross charge will not prevail in spite of the facts of decision of advance ruling authority in the case of M/s Cummins India Pvt. Ltd. |
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| 19 | Removal of inputs as such which were procured prior to 30.06.2017 and given FOC / lost / destroyed What amount to be reversed | Whether to reverse CGST (w.r.t Excise Cenvat availed at that time) and SGST (w.r.t. VAT set off availed at that time) or to reverse GST on the said items at prevailing GST rates? It will depend on one to one co-relationship, otherwise GST will be payable on transactions value. |
| 20 | Who should pay GST under RCM on ocean freight in case goods are imported by A and stored in bonded warehouse and later clearance is made by B for home consumption? | (26) "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer; From the definition of importer, both A & B can be treated as importer in case A has not paid GST on ocean freight, then B has to pay on reverse charge basis. If not paid, the liability to be reported in GST Audit. |
| 21 | Removal of inputs as such which were procured prior to 30.06.2017 and given FOC / lost / destroyed What amount to be reversed by EOU | Whether to reverse only SGST (to the extent of VAT set off)? It will depend on one to one co-relationship, otherwise GST will be payable on transactions value. |
| 22 | Whether apportionment of expenses to other entities (distinct entity) tax is payable? | COLUMBIA ASIA HOSPITALS PRIVATE LIMITED Advance Ruling No. KAR ADRG 15 / 2018 dtd. 27.07.2018. Kindly refer my article on the subject published in last month. |
| 23 | Supply to SEZ by unregistered supplier Without payment of GST | Whether SEZ needs to pay GST under reverse charge mechanism till 13.10.2017 There is exemption on payment of any tax to SEZ Units and Developer for authorized operations on the reverse charge basis vide Notification No. 18/2017 IGST Rates dtd. 05.07.2017 and hence no tax is required to be paid. |
| 24 | Supply to SEZ unit / developer located at non-processing zone for operation and maintenance | Whether the supplier can avail the benefit of exemption of IGST when goods / services are supplied to be used in non-processing zone for operation and maintenance of SEZ? In our opinion, since it is not covered under authorized operations, it will not be zero rated supply. It will not be treated as supply to SEZ. |
| 25 | Supply to SEZ unit / developer located at non-processing zone for developing infrastructure | If it is for authorized operations, then only such supply will be treated as zero rated supply. |
| 26 | Receipt of goods from unregistered person prior to 13.10.2017 but accounted after 13.10.2017 | Whether GST is payable under reverse charge? In our opinion GST will be payable on reverse charge. |
| 27 | Receipt of goods at prevailing rate of tax and subsequently tax rate is reduced. Return of goods against invoice Rate of Tax ? VIs-a -vis return of goods against credit note | Since rates are different and return can be made through either credit note or tax invoice what should be the applicable & what should be the tax rate? In our opinion, in accordance with time of supply, preparation of invoice / credit note is the relevant date and tax rate is applicable on such |

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| 28 | High Sea Sale | In the GST Amendment Act 2018, it is very clear that High Sea Sale will not be treated as Supply. However this Is not having retrospective effect and therefore whether it Will be considered as exempt supply for the calculation of reversal under rule 42 & 43 for the purpose of finalization of GSTR-9C certification for the year July 2017 to March 2018 and for the period April 2018 to 31st January 2019. |
| 29 | Credit note issued with GST for various reasons | Credit note issued for volume Discount, commission discount after sales, whether tax to charge on credit note? In our opinion, Issuance of the credit note with GST i. e. reducing the tax liability Will have to satisfy the following conditions: 1. It should be known before time of supply. 2. Recipient should reverse the ITC Further, credit note can be issued with tax on or before 30th Sept of the subsequent year, which is extended now for this year upto 31st March 2019. |
| 30 | At the time advance GST rate was higher which was subsequently reduced at the time of supply - Refund voucher | Time of Supply is the date of invoice on which goods or services are supplied and the tax will have to be paid at applicable rate. If advance is received prior and tax is paid more, then it will be adjusted through refund voucher. |
| 31 | When invoice value is higher as reflected in GSTR2A but booked less in the books of accounts on account of certain deduction Taxability thereof | Recipient will be entitled to the proportionate credit of the amount booked in the books of account. |
| 32 | ITC on billing of banquet hall When separate value are available for foods and others / not available | Input tax credit on the banquet hall charges paid is allowed where no separate value of food & other is mentioned. |
| 33 | ITC on CSR activities done when it is shown as business expenditure | As per Section 16(1) of CGST Act, Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person. |
| 34 | Determination of Composite supply Visa-Vis mixed supply and rate thereof | It will be important to determine composite supply & mix-supply base on the facts and correct rate of tax will be applied accordingly. |
| 35 | Quantity received is higher than that of Quantity mentioned on Invoice without mentioning additional quantity as free gift No Debit note / credit note received for same | If the quantity does not have the supporting document, the goods can be confiscated as per section 130(1). 1. How such quantities can be tracked in GST audit as these Will not be reflected in GSTR 2A, Invoice, etc.? 2. Do we have to match the stock as there will be difference in the physical quantities stock and quantity of stock as per books? |
| 36 | Quantity dispatched is higher than that of Quantity mentioned on Invoice without mentioning additional quantity as free gift No Debit note / credit note received for same | If the quantity issued is not mentioned on the invoice then that will be treated as free supply or disposal as gift, thus attracting section 17(5) and reversal of ITC has to be made. 1. How such quantities can be tracked as these will not be PO, Sales Invoice, Delivery Challan, etc.? 2. Do we have to match the stock? |

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| 37 | ITC on material not required for production like uniform, tissue paper, stationery | <p>U/s section 17(5) tax credit related to following will not be allowed;</p> <p>(g) goods or services or both used for personal consumption; Thus Will</p> <p>a. the credit of expenses incurred on the Uniform used by the employees of the company will available to the company? How do you bifurcate that the uniform has been given to the factory workers of admin staff? If the uniform is taken by the employees to his home will it be treated as gift?</p> <p>b. Will the credit related to stationery and tissue papers, etc. will be available to the company?</p> <p><i>Eligibility of ITC will be determined after understanding the facts of the case</i></p> |
| 38 | Cost of rework done on imported goods and such cost is debited to foreign supplier. GST impact on same | Place of Supply has to be ascertained and liability has to be calculated accordingly |
| 39 | ITC on Expenses related to furniture, Electricity & fire extinguisher which can be treated as immovable property allowable or not | <p>1. ITC related to Furniture expenditure as below. How can we determine for which purpose the ply has been issued:-</p> <p>a. ITC of ply and other related material used by the client for creation of cabin, partition, etc., Which is connecting the flooring and ceiling.</p> <p>b. Glass partition created</p> <p>c. Chairs and tables made</p> <p>d. Cupboards made for storage</p> <p>2. Fire Extinguisher form part of building and is immovable property whether credit Will be available?</p> <p>How can we decide if the value is for the system or the hand pumps? The answer will depend on the facts, whether such goods can be dissembled in the original form. If yes, it is the movable goods and ITC Will be allowed. If no, I then it is imlnovable property and no ITC will be allowed. Needles to say, wherever ITC is availed and the said amount should not be included in capitalization of such assets</p> |
| 40 | Anti - profiteering clause compliance if any? | As such there is no provision in GSTR-9C and therefore this aspect need not to be looked into while finalizing GSTR-9C. |
| 41 | Car sale and Disclosure in Returns and if margin value negative, reversal of 42 & 43 to be done and valuationhas to be checked | <p>If the company has sold the used motor vehicle</p> <ol style="list-style-type: none"> 1. what will be the value on which the company has to pay the tax? 2. What will be the rate on which tax is to be paid? 3. What will be the case if no tax is paid? 4. What if the motor vehicle is sold at less than book value, should amount be reversed as per rule 42 & 43? <p><i>Tax liability will be determined based on the facts of the case.</i></p> |
| 42 | Destruction of goods acquired prior to GST regime and destroyed? | The goods destroyed to be linked to the invoice of purchase and tax credit availed on the basis of the invoice to be reversed. If the company has reversed excess no need to comment on Audit Report. However, If , reversal / payment is short, then tax payable to be reported. |

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| 43 | Whether ITC is required to be reversed on impairment of asset made in the books of accounts? | As per Section 17 (5)(h) of CGST Act, ITC shall not be available in respect of the following namely; goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. However, it is the impairment of asset keeping in the books of account, no ITC reversal is required. |
| 44 | Whether ITC is required to be reversed on reimbursement towards sharing of exempt supplies viz; water, electricity | Being exempt supply ITC is required to be reversed. If not reversed necessary action to be taken in the audit report. |
| 45 | Determination of place of supply w.r.t. billing outside India in foreign currency in the matter of Research & Development where goods are also required but output is detailed analysis | It is important to determine place of supply and work Tax liability accordingly. Further, it should be also ensure, if the place of supply is outside India, whether it will be considered as export of service and tax liability to be worked out accordingly |
| 46 | In case where the Company has paid IGST on export and obtained a refund. The Company's supplier had availed the benefit of Notifications referred in Rule 96 (10) of CGST Rules. Whether refund claimed is to be shown as erroneously claimed in audit report | Yes, audit report should be qualified, and appropriate disclosure should be given. |
| 47 | Whether ITC to be availed on the supply received in a place which is not registered as additional place of business. | Yes, ITC to be availed, since it is in the course of business and furtherance of business and appropriate comment should be made in audit report. |
| 48 | Drop Shipment | In the GST Amendment Act 2018, Drop Shipment is covered in Such Schedule III in section 7. However this is not having retrospective effect and therefore whether it will be considered as exempt supply for the calculation of reversal under rule 42 & 43 for the purpose of finalization of GSTR9C certification for the year July 2017 to March 2018 and for the period April 2018 to 31st January 2019 |
| 49 | Interest on debit note / supplementary invoice: | <p>a. Interest on debit note issued on clearance of goods or services provided or agreed to be provided prior to 1st July 2017</p> <p>b. When debit note / supplementary invoices are issued in GST Era on account of price revision, it will be deemed to be issued within 30 days from the date of fixation of price revision and hence tax will be applicable at the rate applicable in GST Era and relevant date will be 30 days of finalizing the rate of differential and interest to be calculated accordingly in accordance With Section 142(2) of CGST Act 2017 .</p> <p>c. When debit note / supplementary invoices are issued in GST Era on account of any other reason for clearance of goods / services agreed or agreed to be provided prior to 1st July 2017 for any reason other than price revision, excise duty / service tax as the case may be will be payable in accordance with Section 11A of Central Excise Act 1944 / Section 78 of Finance Act 1994 as amended alongwith the interest in accordance With Section 11B of Central Excise Act 1944?</p> <p>d. When debit notes are raised for interest, late fees or penalty for delayed payment for any consideration, since, time of supply is on the date of receiving the amount against such debit notes, tax will be payable in accordance With time of supply and interest will be calculated accordingly from such relevant date?</p> |
| 50 | Interest in any other cases other than specific provisions above in general | There are no specific provisions in the CGST Act 2017 other than specific provisions mentioned above. Interest will be applicable from the relevant date of payment of tax and relevant date for tax determination is to be worked out from the date of time of supply in accordance with Section 12 & 13 of CGST Act 2017 |
| 51 | Bus Transport | Non-AC bus transport on fixed route falls is exempted and should be considered for calculation of reversal under rule 42 & 43. However, some of the service provider are charging GST and no ITC is required to be taken. However, if it is provided on chargeable basis, whether subsidized rate or otherwise then tax liability needs to be suitably worked out. |

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| 52 | Whether ISD Registration in compulsory? Cross Charge? | <p>a. In our opinion there is no separate registration is required under ISD if covered under Normal Registration and tax invoice is raised for services rendered. Our stand as mentioned above is correct in spite of the advance ruling in the case of M/s Cummins.</p> <p>b. As far as cross charge is concerned, When all the entities are providing taxable supply only, they are entitled for full ITC and hence whatever value is shown on invoice, Will be treated as Open Market Value. However, if any distinct entity is providing taxable supply as well as exempted supply, then valuation should be based on Rule 30 i.e. Cost + 10%.</p> |
| 53 | Whether ITC needs to be reversed, in case the same is considered as per revised VAT Return in TRAN1? | Section 142 very clearly provides to avail ITC only as per original return and any differential liability / refund on account of filing revised VAT Return, even within time limit, will not have any impact on TRAN-I Return of GST and it has to be dealt with the provisions of earlier Law i.e. MVAT Act 2002 read with CST Act 1956. |
| 54 | ITC eligibility on bus Transport after 1st Feb 2019 | ITC on procurement of Motor vehicle/ leasing, hiring or renting of motor vehicle having capacity more than 13 seats will be allowed, if used in the course of business or furtherance of business. |
| 55 | Schedule III to Section 7 Whether Will be considered as non taxable supply (even though it is not supply) for the purpose of Rule 42 | In the GST Amendment Act 2018, it is very clear that such supplies will not be treated as Supply for the purpose of reversal of ITC. However, explanation has been inserted vide Notification No. 03/2018 C. Tax dtd 23.01.2018 and any explanation to the provision is having a retrospective effect and hence not to be considered for reversal of ITC under rule 42 & 43. E.g. Interest is out of purview of GST and can be considered as a No Supply, but such income should not be considered as exempted service for the purpose of ITC reversal under Rule 42 & 43. |
| 56 | ITC availed in march 2019 for items, which are subsequently covered in 17(5)? For prior to 1st Feb 2019 | <p>ITC is allowed on Input & Input Services, Capital goods subject to eligibility criteria not covered under Section 17(5) of CGST Act 2017. ITC also can be taken on the strength of the following</p> <p>a) Goods or services are received b) Tax invoice is in possession</p> <p>It is undoubtedly that, since invoice is raised prior to date 1st Feb 2019 and invoice can be raised only at the time of supply of goods or services, ITC is eligible subject to having tax invoice in possession. Further, ITC can be availed max upto 12 months from the date of invoice but not later than 30th Sept 2018 or date extended i.e. 31st March 2019. Mere late booking of tax invoice will not change basic criteria of eligibility on the date of receiving the services.</p> <p>In our opinion, if invoices are received against the goods & services received prior to 1st Feb 2019, even if booking is done subsequently, ITC will be allowed. However, ITC will be disputed and litigated by the department.</p> |