

48 GST Council Meeting – Circular / Notifications



GST Registration

PAN-linked mobile number and e-mail address (fetched from CBDT database) to be captured and recorded in FORM GST REG-01

OTP-based verification to be conducted at the time of registration on such PAN-linked mobile number and email address

Proposal to conduct a pilot in State of Gujarat for Biometric-based Aadhaar authentication. and **risk-based physical verification** of registration applicants in both cases of Aadhar based and non Aadhar based. Amendment / Insertion in the Rule 8(4A), (4B), (5), Rule 9

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 18)



GST Registration

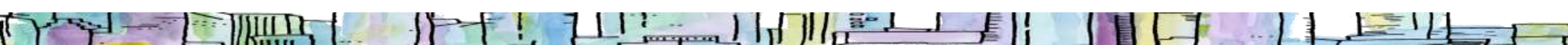


GST Registration

❖ **Inclusion of Electricity Bill Meta data (CA No.) as a data field during registration** by new taxpayers. CA Number shall be verified to improve the quality of registered addresses in GST System.

❖ **The State of Maharashtra** agreed to carry out the **pilot** project in this regard.

❖ **The State of Madhya Pradesh** also volunteered for the validation of **property registration** details from Land Revenue Department and Urban Administration Department.



Refund to Unregistered Person

unregistered buyer enters into contract with a builder for **construction of flats/ building** and have paid the amount along with tax or **long-term insurance policies** where premium is paid upfront for entire policy period, while the **policy is terminated prematurely**.

Said **contract/agreement** is subsequently cancelled

If **period for issuance of credit note under section 34 of CGST Act**, gets **expired** and therefore, the supplier/ insurance companies may refund the amount to the buyer net off GST.

Unregistered persons take a temporary registration and apply for refund under the **category 'Refund for Unregistered person' in Form RFD-01**

Provided further that a certificate is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax. **(No Unjust enrichment)**

Relevant date for refund - Date of issuance of letter of cancellation of the contract/ agreement for supply by the supplier will be considered as the date of receipt of the services by the applicant

Circular No. 188/20/2022 dated 27th December 2022 has been issued in this regard

Refund to Unregistered Person

Sub-rule (2) of rule 89 of 'CGST Rules') has been amended to provide for **statement 8 in FORM GST RFD-01** (vide Notification No. 26/2022-Central Tax dated 26.12.2022) and **certificate from Supplier** that tax has been paid

Notification No. 26/2022-Central Tax dated 26.12.2022 - provide for the **documents** required to be furnished along with the application of refund by the unregistered persons

Circular No. 188/20/2022-GST dated 27th December, 2022 has been issued to **prescribe manner** of filing an application for refund by unregistered persons

Separate applications for refund have to be filed in respect of invoices issued by different suppliers.

suppliers, in respect of whose invoices refund is to be claimed, are registered in different States/UTs, the applicant shall obtain **temporary registration in the each of the concerned States/UTs** where the said supplier are registered.

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 22- Statement 8)

Refund to Unregistered Person

In cases where the amount **paid back by the supplier** to the unregistered person on cancellation/termination of agreement/contract for supply of services is **less than amount paid** by such unregistered person to the supplier, only the **proportionate amount of tax** involved in such amount paid back shall be refunded to the unregistered person.

Circular No. 188/20/2022 dated 27th December 2022 has been issued in this regard



Statement for refund to unregistered person

NN 26/2022-Central Tax 26th December, 2022

In the said rules, after rule 88B, the following rule shall be inserted, namely:-

12. In the said rules, in rule 89, in sub-rule (2),-

(i) after clause (k), the following clauses **shall be inserted, namely:-**

“(ka) a statement containing the **details of invoices** viz. **number, date**, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the **copy of agreement** or registered **agreement or contract**, as applicable, entered with the supplier for supply of service, the **letter issued by the supplier for cancellation** or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof, in **a case where the refund is claimed by an unregistered person** where the agreement or contract for supply of service has been cancelled or terminated;

(kb) a **certificate** issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he **has not adjusted the tax amount involved** in these invoices against his tax **liability by issuing credit note**; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated;”

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 12)



Sec 56

CGST Act 2017

- ⑩ To make an **amendment in section 56** of the CGST Act to provide for **prescribing the manner of computation of period of delay** for calculation of interest payable on delayed refund in CGST Rules.

Rule 94

CGST Rules 2017

- ⑩ To make an **amendment in rule 94** of the CGST Rules to provide for **exclusion of period of delay attributable to taxpayer** for computation of time period of delay for payment of interest on delayed refunds.



Applicability of Provision of Sec 75(2)

Circular 185 dated 27 Dec'22

Section 75(2) provides that the proper officer shall determine the tax payable by the noticee, **deeming as if the notice was issued under section 73(1)**, in cases where the appellate authority or appellate tribunal or court **concludes that the notice issued by proper officer u/s 74(1) is not sustainable** for reason that the charges of fraud/ wilful-misstatement/ suppression of facts etc. **have not been established.**

Then the proper officer shall determine the tax payable by the noticee, deeming as if the notice was issued under sub-section (1) of Section 73.

Doubts regarding the time limit within which the proper officer is required to re-determine the amount of tax payable considering notice to be issued under sub-section (1) of Section 73, specially in cases where time limit for issuance of order as per sub-section (10) of Section 73 has already been over.

Circular 185/17/2022- GST dated 27th December 2022

Applicability of Provision of Sec 75(2)

In case, where the SCN under sub-section (1) of section 74 was issued for tax short paid or tax not paid or wrongly availed or utilized input tax credit beyond a period of 2 years and 9 months from the due date of furnishing of the annual return for the financial year to which such demand relates to and the appellate authority concludes that the notice is not sustainable under sub-section (1) of section 74 of CGST Act thereby deeming the notice to have been issued under sub-section (1) of section 73, the entire proceeding shall have to be dropped, being hit by the limitation of time as specified in section 73.

Further, where the show cause notice under sub-section (1) of Section 74 was issued for **multiple Financial Years**, and where notice had been issued before the expiry of the time period as per sub-section (2) of Section 73 for one financial year but after the expiry of the said due date for the other financial years, then the amount payable in terms of Section 73 shall be re-determined only in respect of **that Financial Year for which show cause notice was issued before the expiry of the time period of 2 years and 9 months.**



Amendment in the CGST Rules, 2017

- I. Amendment in sub-rule (3) of Rule 12
- II. Amendment in sub-rule (1) of Rule 37
- III. Insertion of Rule 37A
- IV. Amendment in Rule 46
- V. Amendment in Rule 46A
- VI. Insertion of proviso in sub-rule (8) of Rule 87
- VII. Amendment in Rule 108 and Rule 109
- VIII. Insertion of Rule 109C
- IX. Deletion of clause (d) of sub-rule (14) of Rule 138
- X. Amendment in Entry (5) of Annexure appended to sub-rule (14) of Rule 138
- XI. Substitution of FORM GST REG-19
- XII. Amendment in FORM GST REG-17
- XIII. Amendment in FORM GST DRC-03

Amendment in the Rule 12(3)

Rule 12(3) of CGST Rules, 2017 to be amended to provide for facility to the registered persons, who are required to collect tax at source under section 52 or deduct tax at source under section 51 of CGST Act, 2017, for **cancellation of their registration** on their request.

Sec 51

- TDS in GST by Govt.

Sec 52

- ECO – Liable to Collect TCS

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 4)



Amendment in Rule 37 – Proportional Reversal

Amend rule 37(1) of CGST Rules, 2017 retrospectively with effect from 01.10.2022 to provide for reversal of input tax credit, only proportionate to the amount not paid to the supplier by the recipient (including tax payable).

Section 16(2)

Claim of ITC

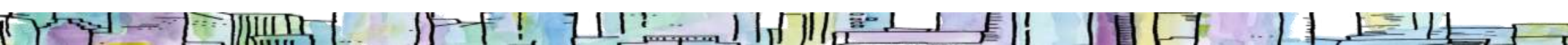
Proviso to Sec 16(2) + Rule 37

Reversal of ITC
if payment not
made by
recipient to
supplier within
180 days

On Payment

Reclaim the
ITC, when
payment is
made by
recipient to
supplier

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 5)



New Rule 37A – Reversal and Reclaim of ITC

Insert Rule 37A in CGST Rules, 2017 for reversal of input tax credit by a registered person in the event of nonpayment of tax by the supplier by a specified date and mechanism for re-availment of such credit, if the supplier pays tax subsequently.

This would ease the process for complying with the condition for availment of input tax credit under section 16(2)(c) of CGST Act, 2017

Section 16(2)(c)

Claim of ITC if
tax is paid by
Supplier to Govt.

Sec 41 + Rule 37A

if tax is not paid to Govt by
Supplier till 30th September
after the end of FY then ITC
need to be reversed by 30th
November after the end of
FY – without Interest

Sec 41(2)

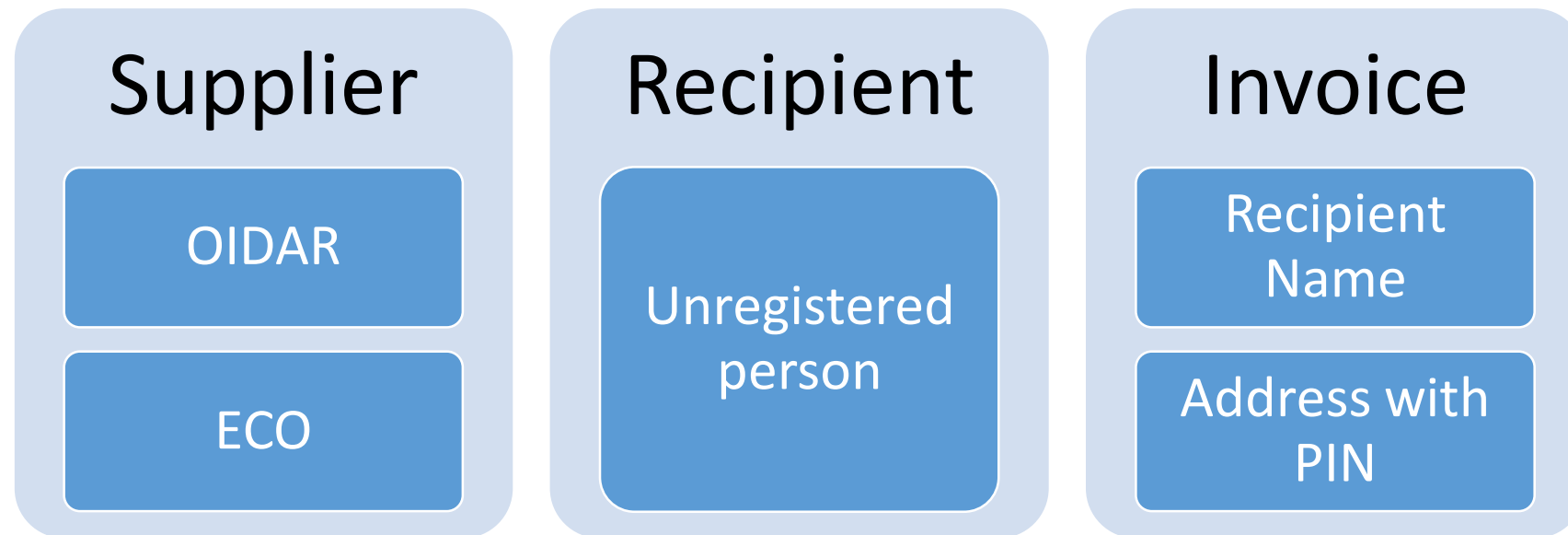
Reclaim the ITC, by
recipient when Tax
is paid by Supplier
to Govt.

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 6)

Amendment in Rule 46

In the Rule 46(f), the following proviso shall be inserted, namely:-

“Provided that where any taxable service is supplied by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services to a recipient who is unregistered, irrespective of the value of such supply, **a tax invoice issued by the registered person shall contain the name and address of the recipient** along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient.”.



Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 7)

Amendment in Rule 46A

Rule 46A. Invoice-cum-bill of supply.-

Notwithstanding anything contained in rule 46 or rule 49 or rule 54, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “invoice-cum-bill of supply” may be issued for all such supplies.

Provided that the said single “invoice-cum-bill of supply” shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49.

Invoice cum Bill of Supply –
B2C (Taxable + Exempt
Supply)

Contain all the Particular of
Rule 46 (Tax Invoice), Rule
49 (Bill of Supply), Rule 54
(Tax invoice in special cases)

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 8)

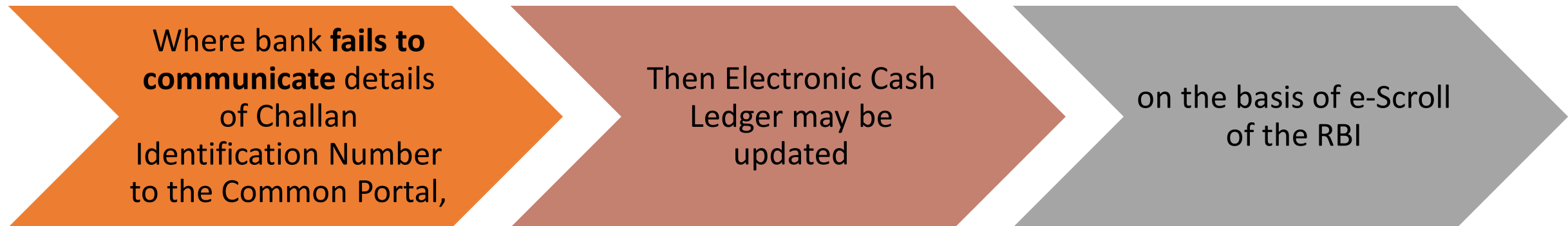


Amendment in Rule 87

Rule 87. Electronic Cash Ledger.-

Following proviso has been inserted in the Rule 87(8)

Provided that where the bank **fails to communicate** details of Challan Identification Number to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the Reserve Bank of India in cases where the details of the said **e-Scroll** are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.]



Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 10)

Amendment in Rule 108 & 109

Amendment in Rule 108(3) and Rule 109

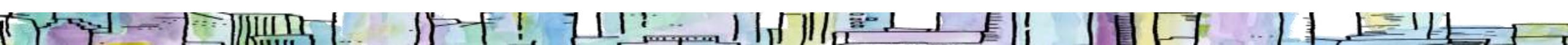
decision or order
appealed against is
uploaded on the
common portal

- No Certified Copy of Order required

decision or order
appealed against is
not uploaded on the
common portal

- self-certified copy of the said decision or order

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 13,14, 23 & 24)



Amendment in Rule 109C

“109C. Withdrawal of Appeal. - The appellant may, at any time before issuance of show cause notice under sub-section (11) of section 107 or before issuance of the order under the said sub-section, whichever is earlier, in respect of any appeal filed in FORM GST APL-01 or FORM GST APL-03, file an application for withdrawal of the said appeal by filing an application in FORM GST APL-01/03W:

Provided that where the final acknowledgment in FORM GST APL-02 has been issued, the withdrawal of the said appeal would be subject to the approval of the appellate authority and such application for withdrawal of the appeal shall be decided by the appellate authority within seven days of filing of such application:

Provided further that any fresh appeal filed by the appellant pursuant to such withdrawal shall be filed within the time limit specified in sub-section (1) or sub-section (2) of section 107, as the case may be.”;

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 15)



Rule 138(14), in the Annexure, in column (2) of the table, against S.No. 5, after the brackets, word and figures “(Chapter 71)”, the words, brackets and figures “excepting Imitation Jewellery (7117)” shall be inserted.

EWAY Bill

- EWAY Bill require for Imitation Jewellery (CTH 7117)
- For other Jewellery – E Way Bill is exempted

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 16)



Under Rule 22(3) of CGST Rules, 2017, **FORM GST REG-19 is the order for cancellation of registration.** Therein, the proper officer is required to select appropriate status from the following options:

- (i) Whereas no reply to notice to show cause has been submitted; or
- (ii) Whereas on the day fixed for hearing you did not appear; or
- (iii) Whereas the undersigned has examined your reply and submissions made at the time of hearing, and is of the opinion that your registration is liable to be cancelled for following reason(s).

There could be more scenarios based on whether the reply to the show cause notice has been submitted or not and whether the concerned person has appeared for personal hearing or not.

“Determination of amount payable pursuant to cancellation” would not be displayed henceforth.

Therefore, GSTN proposed an elaborate list of such options to choose from in **FORM GST REG-19** in order to clearly bring out the status and the same has been approved.

Under Rule 22(1) of CGST Rules, 2017, **FORM GST REG-17** is show cause notice for cancellation of registration.

GSTN proposed that “*Kindly refer to the supportive documents attached for case specific details.*” may be added at the end of **FORM GST REG-17** and the same has been approved.

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 19)



Manner of re-credit of amount of erroneous refund deposited by the taxpayer, in terms of provisions of sub-rule (4B) of Rule 86, in electronic credit ledger using FORM GST PMT-03A.

In this regard, GSTN has been requested to make certain amendments in FORM GST DRC-03 to include the **following options in the drop-down regarding cause of payment:**

- i. Deposit of erroneous refund of unutilised ITC
- ii. Deposit of erroneous refund of IGST, obtained in contravention of sub-rule (10) of Rule 96 of the CGST Rules, 2017.

The same was approved.

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 26)



Supplies by Unregistered Person and Composition through ECO

its 47th meeting held on 28th-29th June, 2022. The Council had given in-principle approval for relaxation in the provisions for suppliers making supplies through E-Commerce Operators (ECOs), as under:

- (I) Waiver of requirement of mandatory registration under Section 24(ix) of the CGST Act, 2017 for person supplying goods through ECOs, subject to certain conditions, such as:
 - a. The aggregate turnover on all India basis does not exceed the turnover specified under sub-section (1) of Section 22 of the CGST Act, 2017 and notifications issued thereunder.
 - b. The person is not making any inter-state taxable supply.



Supplies by Unregistered Person and Composition through ECO

A. Recommendations in respect of unregistered persons supplying goods through electronic commerce operators

4.1. Notification may be issued under Section 23(2) of the CGST Act, 2017 for exempting unregistered persons from obtaining mandatory registration for supplying goods through electronic commerce operators

4.2. Notification may be issued under Section 148 of the CGST Act, 2017 for providing special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons

4.3. **FORM GSTR-8** may be amended for capturing the information of supplies made by unregistered suppliers through electronic commerce operators by insertion of the following two tables in **FORM GSTR-8**:



Supplies by Unregistered Person and Composition through ECO

Details of supplies made through e-commerce operator by un-registered suppliers

Enrolment no. of supplier	Gross value of supplies made	Value of supplies returned	Net value of the supplies
1	2	3	4

Rule 67(2) of CGST Rules, 2017 may be amended to clearly bring out that the details of TCS furnished by ECOs in **FORM GSTR-8** shall be made available **only to the registered suppliers**, as, supplies by unregistered persons do not attract TCS.



Amendment in the Tables of GSTR 1 for ECO Transactions

Amendment in the tables of **GSTR-1** for reporting ECO Supplies made under Section 9(5) of CGST Act and attracting TCS under Section 52 of CGST Act , 2017.

Table 14 & 15 – Introduced

Matching with

1. GSTR 1 of Supplier (Table 14(a) with GSTR 8 of ECO (TCS)

2. GSTR 1 of Supplier (Reported in the Table 14(b)) and GSTR 1 of ECO (deemed Supplier) u/s 9(5) (reported in the Table 15)

“14. Details of the supplies made through e-commerce operators on which e-commerce operators are liable to collect tax under section 52 of the Act or liable to pay tax u/s 9(5) [**Supplier to report**]

Nature of supply	GSTIN of e-commerce operator	Net value of supplies	Tax amount			
			Integrated tax	Central tax	State / UT tax	Cess
1	2	3	4	5	6	7
(a) Supplies on which e-commerce operator is liable to collect tax u/s 52						
(b) Supplies on which e-commerce operator is liable to pay tax u/s 9(5)						

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 21)

Amendment in the Tables of GSTR 1 for ECO Transactions

15. Details of the supplies made through e-commerce operators on which e-commerce operator is liable to pay tax u/s 9(5) **[e-commerce operator to report]**

Type of supplier	Type of recipient	GSTIN of supplier	GSTIN of recipient	Document no.	Document date	Rate	Value of supplies made	Tax amount				Place of supply
								Integrated tax	Central tax	State / UT tax	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13
Registered	Registered											
	Unregistered											
Unregistered	Registered											
	Unregistered											

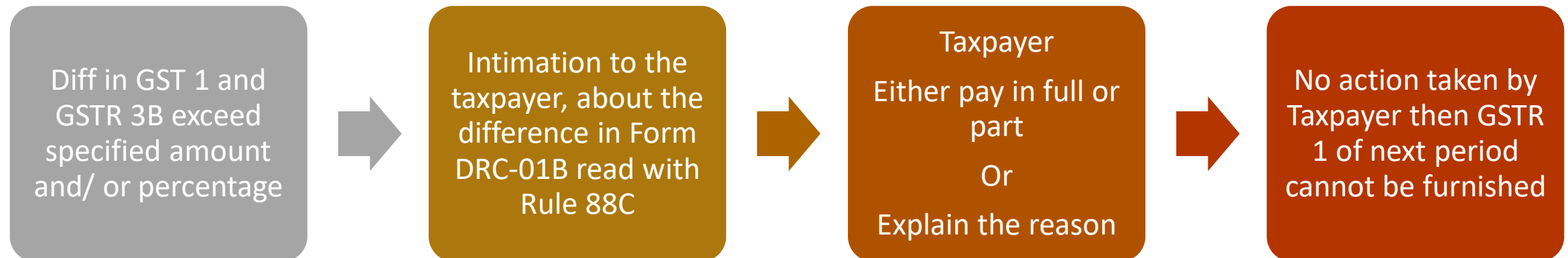
Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 21)



Difference in GSTR 1 and GSTR 3B (Rule 88C and DRC01B)

Rule 88C and FORM GST DRC-01B has been inserted for intimation to the taxpayer, about the difference between liability reported in FORM GSTR-1 and in FORM GSTR-3B, where such difference exceeds a specified amount and/ or percentage, for enabling the taxpayer to either pay the differential liability or explain the difference.

Rule 59(6)(d) of CGST Rules, 2017 to **restrict furnishing of FORM GSTR-1 for a subsequent tax period** if the taxpayer has neither deposited the amount specified in the intimation nor has furnished a reply explaining the reasons for the amount remaining unpaid.



Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 9, 11 and Para 25 DRC01B)

A. Clarification on taxability of No Claim Bonus offered by Insurance companies

**No Claim Bonus offered by insurance companies under GST
(Circular No. 186/18/2022-GST dated 27th December 2022)**

NCB is not a consideration in respect of any service rendered by the insured to the insurance company,

It is an upfront discount from the premium payable by the insured for the supply of insurance services by the insurance company

NCB is deductible for the purpose of calculation of value of supply of insurance services under section 15



B. Clarification on applicability of e-invoicing w.r.t an entity-reg

Applicability of e-invoicing with respect to an entity (Circular No. 186/18/2022-GST dated 27th December 2022)

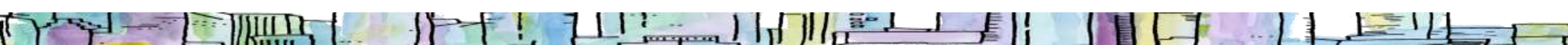
LC has recommended to **clarify through a circular** that the exemption from mandatory issuance of e-invoices is **with respect to the entity as a whole** and **not just** with respect to the **nature of supply/transaction**.

Illustration: A Banking Company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice in terms of Notification No. 13/2020-Central Tax, dated 21st March, 2020, as amended, for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.

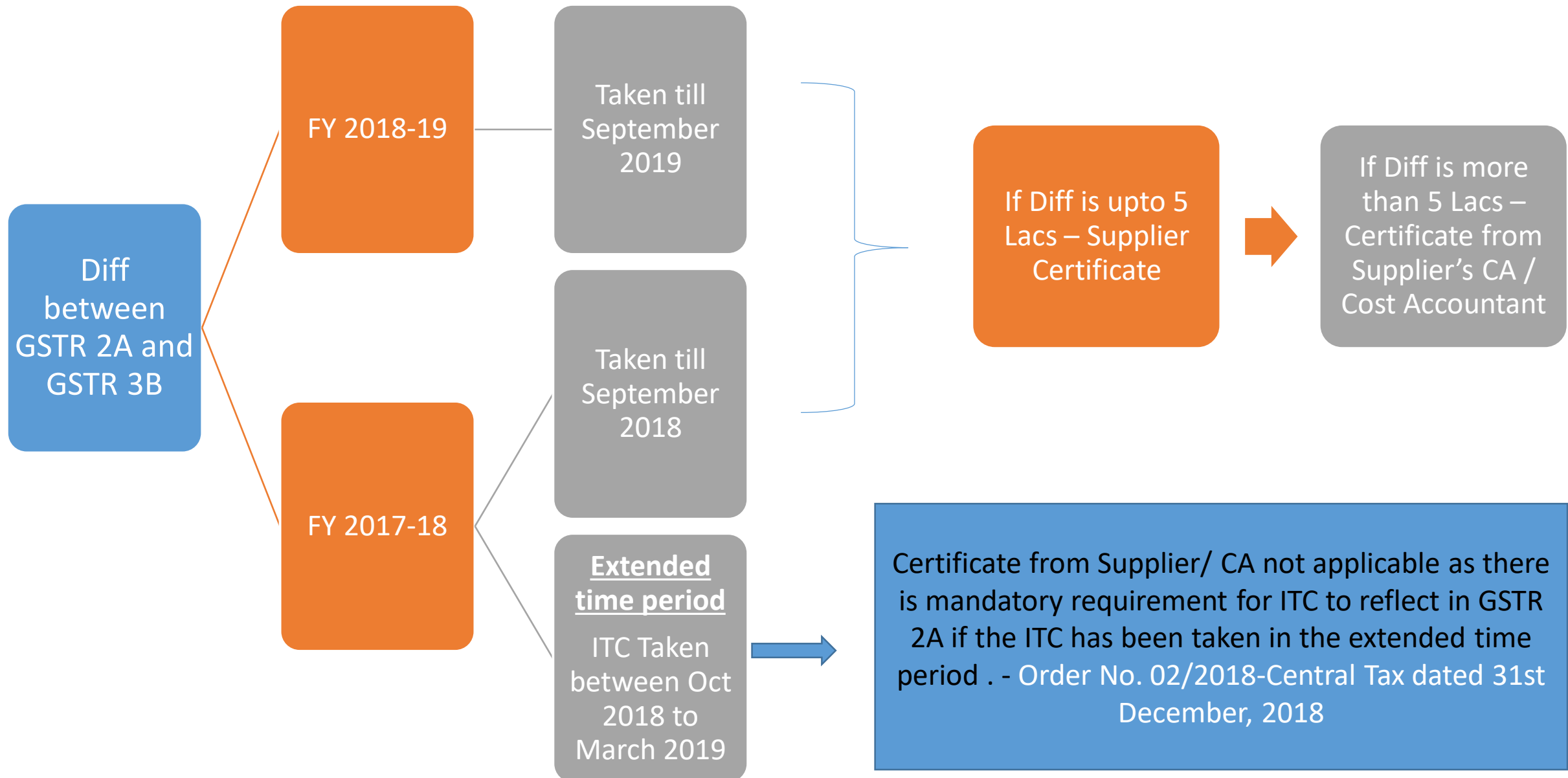


The Law Committee considered the following scenarios for difference in ITC taken in GSTR 3B and reflected in GSTR 2A -

1. Where the Supplier has **failed to file FORM GSTR-1** for a tax period;
2. Where the supplier has filed FORM GSTR-1 but **failed to report the supply** in the same;
3. Where the supplier has filed FORM GSTR-1 but **reported a particular supply as B2C supply instead of B2B supply;**
4. Where the supplier has filed FORM GSTR-1 but **declared the supply under wrong GSTIN.**



Clarification for difference in ITC available in GSTR-3B vs STR-2A for FY 17-18 & 18-19



Treatment of Statutory dues under GST for whom proceeding finalized under IBC Code 2016

Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under the Insolvency and Bankruptcy Code, 2016.

As per Section 84 of the CGST Act, 2017, if the government dues against any person under the CGST Act, 2017 are reduced as a result of any appeal, revision or **other proceedings** in respect of such government dues, then **an intimation** for such reduction of government dues has to be given by the Commissioner to such person and to the appropriate authority with whom the recovery proceedings are pending.

Further, Rule 161 of the CGST Rules, 2017 prescribes **FORM GST DRC-25** for issuing **order** for such reduction of demand.

Rule 161 of CGST Rules, 2017 and FORM GST **DRC-25 also to be amended for facilitating** the same.

Circular 187 dated 27th December 2022, has been issued for clarifying the above matter.

Notification No. 26/2022 – Central Tax dated 26th December, 2022 has been issued (Para 17 & 27) and Circular 187/19/2022 dated 27th December 2022



Thank you

