

Payment of taxes under GST

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CGST Act, 2017 - Chapter-X : Payment of tax

Section	Description
49	Payment of tax, interest, penalty and other amounts
49A	Utilization of input tax credit subject to certain restrictions
49B	Order of utilization of input tax credit
50	Interest on delayed payment of tax
51	Tax deduction at source
52	Collection of tax at source
53	Transfer of input tax credit
53A	Transfer of certain amount

CGST Rules, 2017 - Chapter-IX : Payment of tax

Rule	Description
85	Electronic liability register
86	Electronic credit ledger
87	Electronic cash ledger
88	Identification number for each transaction
88A	Order of utilization of input tax credit

Ledgers and register

- Electronic Cash Ledger
- Electronic Credit Ledger
- Electronic Liability register

Electronic Cash Ledger

- Similar to PLA in Excise regime, consists of the following:
 - Cash deposits through specified modes
 - TDS deducted from payments
 - TCS collected from payments
- Cash payment to be made through banking channels including internet banking / credit card / debit cards / NEFT / RTGS / other prescribed modes such as over the counter - Cash/DD/Cheque etc.
- Cash payment can be of tax / interest/ penalty / fee / other amounts
- Date of credit to government account to be deemed to be the date of deposit in electronic cash ledger
- Balance in cash ledger to be used for making payment towards tax / interest/ penalty / fee / other amounts
- Balance in cash ledger after payment refundable in terms of Section 54 (after debit of equivalent amount)
- Balance in cash ledger transferable from one head to another (IGST, CGST, SGST etc.)
- Proposal in GST Council's 45th meeting on 17.09.2021 - Balance in cash ledger transferable between GST registrations under same PAN number

Electronic Credit Ledger

- Similar to Cenvat credit register in Excise regime, consists of the amount of input tax credit available to a registered person
- Transitional credit carried forward from previous regime also credited to electronic credit ledger
- Balance in credit ledger to be used for making payment towards output tax
- Balance in credit ledger after payment refundable in terms of Section 54 (after debit of equivalent amount): only in specific situations provided under Section 54
- In case of rejection of refund, amount to be recredited
- Balance in credit ledger: can it be used for making payment of pre-deposit in GST appeals?
- Balance in credit ledger to be used for making payment towards arrears of Central Excise/ Service Tax and pre-deposit thereof:
 - Circular No. 42/16/2018-GST dated 13.04.2018 and Circular No. 58/32/2018-GST dated 04.09.2018
 - *Dell International Services India Private Limited v. CCT, 2019-TIOL-286-CESTAT-BANG*

Electronic Credit Ledger

- Rule 86A: Blocking of electronic credit ledger
 - Reasons to believe
 - Fraudulent ITC
 - Blocking to be in force for maximum of one year
- Rule 86B: balance in electronic credit ledger to be utilized for payment of output tax liability upto maximum of 99% of such output tax liability, where value of taxable supply (excluding exempt supply and zero-rated supply) exceeds 50 Lakh rupees

Electronic Liability Register

- To record and maintain all liabilities of a taxable person
- Tax and other dues to be discharged in following manner:
 - Self-assessed tax and other dues, related to returns of previous tax periods
 - Self-assessed tax and other dues, related to returns of current tax period
 - Any other amount payable including demand under Section 73 / 74
- Register to be debited by:
 - Amount payable as tax / interest/ penalty/ late fee/ other amount as per return
 - Amount payable as tax / interest/ penalty/ late fee/ other amount pursuant to any proceedings
 - Amount of tax / interest payable due to mismatch under Section 42/ 43 or Section 50
 - Amount of interest accruing otherwise
- Liability in register to be credited by debiting electronic credit ledger/ cash ledger
- Any demand debited in the register to be reduced to the extent of any relief given by appellate forums
- Person paying tax deemed to have passed on incidence of such tax to recipient: unjust enrichment

Order of utilization of ITC

- IGST ITC against IGST liability
- Remaining IGST ITC against CGST liability
- Remaining IGST ITC against SGST/ UTGST liability
- Thereafter (i.e. after complete exhaustion of IGST ITC):
 - CGST ITC first against IGST liability, if any
 - Remaining CGST ITC against CGST liability
 - SGST/ UTGST ITC first against IGST liability, if any
 - Remaining SGST/ UTGST ITC against SGST/ UTGST liability
- Cross-utilization of ITC of CGST & SGST/ UTGST not permitted

Interest on delayed payment of tax

- Interest payable for failure to pay tax within the prescribed period
- Interest to be calculated for the period of delay, starting from the next day of due date till actual date of payment
- Interest to be recovered at notified rate, not exceeding 18% (currently notified as 18% only)
- Interest also payable for ITC mismatch under Section 42(10) or Output liability mismatch under Section 43(10)
- In such mismatch case, interest to be recovered at notified rate, not exceeding 24% (currently notified as 24% only)
- Interest to be paid by the concerned person on his own: does it mean that no SCN is required to be issued for recovery of interest?
 - Matter pending before Hon'ble Supreme Court in ***Union of India v. LC Infra Projects Private Limited, 2021-TIOL-218-SC-GST***

Interest on delayed payment of tax

- GST Council 35th and 39th meeting- interest to be recovered only on net cash tax liability
- Amendment by inserting Proviso to Section 50(1) w.e.f. 25.08.2020– interest on net cash tax liability restricted only to liabilities declared in returns filed after due date, except where it is filed in pursuance of proceedings under Section 73/ 74 – What happens to demands under Section 73/ 74?
- Amendment not in line with GST Council decision and thus administrative instructions dated 18.09.2020 to recover interest only on net cash tax liability. Later Proviso made effective from 01.07.2017
- ***Maansarovar Motors Pvt Ltd v. AC, 2020-TIOL-1846-HC-MAD-GST*** VERSUS ***Megha Engg & Infra Ltd v. CCT, 2020-TIOL-412-HC-AP-GST***
- Proposal in GST Council's 45th meeting on 17.09.2021 – ITC 'availed and utilized'

Tax deduction at source – Section 51

- Applicable, when supplies made to specified persons including government departments, local authorities, government agencies, governmental authorities, societies established by government/ local authorities, PSUs
- Not applicable when supplies are between the specified persons
- TDS @ 2%, where total value of supply (excluding GST taxes) under a contract exceeds Rs. 2.5 Lakhs
- Not deductible, if location of supplier and place of supply in a State/ UT, different from that of registration of recipient – reason?
- Amount deducted at source by a person (deductor) making payment to supplier (deductee)
- Amount deducted to be paid to Government by deductor within 10 days after end of month of deduction
- Deducor to give a certificate of deduction to deductee, within 5 days of payment to Government (delay to attract late fee)
- Amount deducted to be credited to electronic cash ledger of deductee
- Amount deducted in excess refundable to deductor/ deductee in terms of Section 54

Tax deduction at source – Section 51

S. No.	Contravention	Consequences
1	TDS not deducted	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law
2	TDS certificate not issued or delayed beyond the prescribed period of five days	Late fee of Rs. 100/- per day subject to a maximum of Rs. 5000/-
3	TDS deducted but not paid to the government or paid later than 10 th of the succeeding month	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law.
4	Late filing of TDS returns	Late fee of Rs. 100/- for every day during which such failure continues subject to a maximum of Rs. 5000/-

Tax collection at source – Section 52

- Applicable, when supplies made through an e-commerce operator and consideration for such supplies to be collected by the operator
- Operator to collect tax at source at notified rate, not exceeding 1%
- Amount collected to be paid to Government by operator within 10 days after end of month of collection
- Within the same period, a statement to be submitted by the operator, in respect of outward supplies made through it
- Amount collected and reflected in the statement to be credited to electronic cash ledger of supplier
- Details in statement furnished by operator to be matched with details furnished by supplier and discrepancy, if any, to be rectified by both parties

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THANK YOU!

FOR ANY SUPPORT OR ADDITIONAL INFORMATION WRITE TO:

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