

# SKKA IDT ALERT — 13/2022 DT. 12.03.2022

## MAHARASHTRA STATE GST CIRCULAR NO. 02A OF 2022 DATED 25-02-2022

### INTRODUCTION

On 25<sup>th</sup> Feb, 2022, the Maharashtra State Govt. issued an internal circular which focuses on clarifications/ guidelines with respect to technical issues pertaining to scrutiny of return periods 2017-18 and 2018-19. GST being a new law, many challenges had to be faced by the taxpayers for its first-time implementation and understanding of law. Hence, this Circular will prove to be a blanket for taxpayers in safeguarding their interest as many bonafide errors might have been done by the taxpayers without any malafide attention, hence this will help in supporting the taxpayers without facing any harassment by the officers.

This Circular addresses certain supply and Input tax cases that come across frequently during the GST return scrutiny and provides sufficient guidance for the tax officials in Maharashtra.

### *Issues arising from incorrect reporting of GSTR 1*

<b>Issue No.1</b>	<b>In GSTR 1, taxpayers have reported B2B transaction as B2C which has been rectified during later period but B2C transaction has not been rectified leading to double taxation and mismatch in GSTR 1 and GSTR 3B.</b>
<b>Clarification</b>	The proper officer must reconcile the transaction wise sale entries with the category totals and bifurcate B2B and B2C transparently and then figure out the transaction and the period in which such transaction has been shifted from B2C to B2B .
<b>SKKA Remarks</b>	<i>Every time the taxpayer is not guilty of misreporting the transactions in their monthly returns but some mistakes can be genuine , thus the above guideline for the proper officer will save the taxpayers from undue harassment.</i>
<b>Issue No.2</b>	In case figures are erroneously or typographically overstated in GSTR 1 as compared to GSTR 3B leading to a picture of mismatch in GSTR 1 and GSTR 3B and less liability discharged .
<b>Clarification</b>	In addition to the reconciliation of transaction wise sale details (same as Point No.1) the following needs to be followed- <ul style="list-style-type: none"> <li>a) In case of B2B transaction undertaking of recipient needs to be taken that ITC has been not availed on the excess amount.</li> <li>b) In case of exports, export turnover needs to be verified which has been considered while granting refund.</li> </ul>
<b>SKKA Remarks</b>	<i>A typographical error may not necessarily be a deliberate attempt to willfully evade tax. There may be some authentic mistakes on the part of taxpayer which needs to be given due attention without passing an impugned order by the officer , hence the reconciliation by the officer would be a good initiative to identify actual difference between GSTR 1 and GSTR 3B of the taxpayer.</i>

**Issues arising from Input Tax Credit claim**

<b>Issue No.3</b>	<p>Difference between GSTR 3B and GSTR 2A of taxpayer on account of :-</p> <ol style="list-style-type: none"> <li>B2B transactions reported as B2C transactions and therefore these transactions won't appear in buyer's GSTR 2A , hence recipient won't be able to avail ITC for the same</li> <li>GSTIN mismatch i.e supplier uploaded invoice with a different GSTIN of recipient than that of actual recipient</li> <li>Supplier missed reporting of B2B transaction in his GSTR 1</li> <li>Supplier reported a forward transaction in different Table ,i.e shown under Reverse Charge Column</li> </ol>
<b>Clarification</b>	<p>In this scenario the proper officer may categorise the transaction based on ITC differences which means:</p> <ol style="list-style-type: none"> <li><b>More than 2,50,000/-</b>:-buyer might obtain a CA certificate from the CA of the supplier certifying the output transactions and the tax paid thereon so as to comply with the provisions of Section 16 of CGST Act,2017</li> <li><b>Less than 2,50,000/-</b>:-buyer must obtain ledger confirmation of the concerned supplier along with his/her certification</li> </ol>
<b>SKKA Remarks</b>	<p><i>This is the most debatable topic and of serious concern which needs to be handled very cautiously as denying ITC to the buyer on the ground that supplier has mistakenly reported transactions is not feasible, and this may be challenged by the buyer, hence the guideline to the officer to categorize the ITC differences on a quantum basis is a great move by the Maharashtra Govt. which one may say is a taxpayer friendly guideline. Also, CA's of suppliers need to be very alert and be prepared with any such type of requirement from the buyer's end which means they need to maintain a detailed record at their end of the misreported transactions of their client.</i></p>
<b>Issue No.4</b>	<p>Removal of Difficulty order issued on 31<sup>st</sup> Dec,2018 for FY 2017-18 had been issued which inserted a provision to Section 16(4) which provided that registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019 and this was strictly interpreted by the recipient that the condition applies to recipients who have availed ITC for FY 2017-18 after September 2018 until March 2019.</p>
<b>Clarification</b>	<p>The department has clarified that only in cases where vendors have filed the GSTR-1 until March 2019 these recipients can claim ITC.</p>
<b>SKKA Remarks</b>	<p><i>This clarification will clear the doubts of many taxpayers who were in ambiguity that ITC can be claimed by the recipients who have availed ITC for FY 2017-18 after September 2018 until March 2019 but ITC can be availed for the vendors who have filled GSTR 1 till March 2019. For example if vendor has filled GSTR 1 for any period between 2017-18 till March-</i></p>

	<i>2019 then ITC would be eligible to the recipient i.e vendors who have filled returns till March-19 for FY 2017-18 .</i>
<b>Issue No.5</b>	B2B transaction which is a case of forward charge and should be reported in Table 4A in GST 1 has been mistakenly reported in Table 4B in GSTR 1 which is a Reverse Charge case.
<b>Clarification</b>	In GSTR 2A both type of transactions( forward and reverse charge) are being flagged as to whether it attracts reverse charge or not, so the proper officer may verify whether the supplier has duly reported and paid tax on such wrongly reported transaction.
<b>SKKA Remarks</b>	<i>In many cases it has been found that forward transactions has been reported as reverse charge transactions but tax has been correctly paid by the supplier, thus the verification guideline for the proper officer from GSTR 2A itself will help them in identifying each type of transaction and whether tax has been paid or not.</i>
<b>Issue No.6</b>	In many cases where ASMT 10 have been issued by the Department and the point which is most common is of ineligible ITC i.e department points out that ineligible ITC needs to be reversed by the recipient and the reply which is received by the Department is that the same has been reversed in the subsequent month but which is not legible in monthly returns as there being no separate column for reversal of ineligible ITC
<b>Clarification</b>	Upon receipt of reply for the reversal of ineligible ITC in a specific month the tax officials must obtain the calculation of reversal in Table 4(B)(2) of that specified return along with the transaction list or alternatively the same can be verified through DRC-03 filled by the taxpayer.
<b>SKKA Remarks</b>	<i>This guideline will help in passing an appropriate order without harassing the taxpayers for reversing the ineligible ITC which has already been done by the taxpayer. Though the mechanism has not been provided in GSTR 3B for identifying the reversal of ineligible ITC , therefore it would be a good initiative to verify the same through DRC-03 which is available in GST portal itself.</i>

## CONCLUSION

*At the time of implementation of GST the taxpayers faced many confusions and difficulties as to filling of returns in the initial years. Thus the above circular will help in clarifying many frequent issues that crop up during scrutiny of returns of taxpayers during FY 2017-18 in Maharashtra. While this circular applies to Maharashtra, the CBIC must also consider issuing a similarly detailed clarification for the rest of the taxpayers to avoid harassment faced by the taxpayers for bonafide and genuine mistakes. If this Circular is introduced for all States, then this will prove to be a very tax friendly initiative by the CBIC to prevent undue difficulties faced by the taxpayers all over India and avoid avoidable litigations in this regard.*



## CONNECT WITH US

39A, Jorapukur Square Lane(Behind Girish Park),

Room # 202, Kolkata- 700006, WB, INDIA

T | 033-7960-9924

E | [info@skkassociates.com](mailto:info@skkassociates.com)

W | [www.skkassociates.com](http://www.skkassociates.com)



## Advocate Ankit Kanodia

LLM, LLB, FCA, CS, B.Com(H), CIDT- ICAI

Indirect Tax Litigation & Consultancy

39A, Jorapukur Square Lane(Behind Girish Park),

Room # 205, Kolkata- 700006, WB, INDIA.

T | 098315 43580

E | [ankit@advocateak.com](mailto:ankit@advocateak.com)