

SKKA IDT ALERT

15/2023 DT. 08.7.23

Form DRC-01B- A Bypass to Adjudication Process?

In this treatise, we delve into the intricate details of Form DRC-01B in terms of return compliance.

With effect from 01.01.2022 an explanation was introduced in Section 75(12) of the CGST Act, 2017 which allows for recovery of tax without the issuance of Show Cause Notice if the tax declared in GSTR- 1 is more than the tax paid in GSTR-3B.

Further, Notification No. 26/2022 – Central Tax dated 26-12-2022 was issued by the Government, which introduced Rule 88C which provided that a communication in FORM DRC-01B should be sent to taxpayers for making payment or filing clarification for mismatch in liability disclosed in GSTR-1 and GSTR-3B.

In line with the above notification, GSTN has issued an advisory dated 29.06.2023, regarding online compliance pertaining to liability or difference appearing in returns. This advisory introduces a new functionality on the GST portal, allowing taxpayers to explain differences between their GSTR-1 (outward supplies) and GSTR-3B (summary return) online. The same can be accessed via **Services > Returns > Return Compliance option. Alternatively**, one can directly click on the Return Compliance link available on the dashboard.

In light of the matter at hand, it is crucial to pay heed to the following key points:

- **System Generated monthly intimation** - DRC-01B is a SYSTEM GENERATED intimation for difference in liability declared in GSTR-1 (or IFF) and that paid through FORM GSTR-3B (or 3BQ) issued on monthly basis (quarterly basis for QRMP taxpayers).
- **ARN of DRC-01B to be sent in Mail of taxpayer** - An intimation in the above form is received if the liability declared in GSTR-1 (or IFF) exceeds the liability paid in GSTR-3B (or 3BQ) by a predefined limit or if the percentage difference surpasses a configurable threshold **via email or SMS alert**.
- **Reply in PART B of DRC-01 B electronically** - The communication regarding this mismatch will be conveyed through **Part A of the DRC-01B form**. Subsequently, the appropriate **response** to the aforementioned intimation should be furnished via **Part B of the DRC-01B form**.
- **Reply within seven days** - According to the prevailing regulations, **the response must be submitted within a period of 7 days** from the date of receiving the intimation.
- **Reply must be concise and to the point**– Portal shall allow to give reply in **maximum 500 characters**.
- **No Reply / Unsatisfactory reply may lead to direct recovery** - If reply is not submitted or the explanation provided by the taxpayer in response to DRC-01B is not found acceptable by the proper officer, the disputed liability **can be directly recovered as per the provisions outlined in Section 79 of the CGST Act**. It's important to note that in such cases, **no personal hearing opportunity** will be granted to the taxpayer.
- **If liability acceptable, pay through DRC-03 within 7 days of intimation** – Onus is on the taxpayer to make accepted liability in FORM DRC-03 within seven days of the intimation and inform the department about such payment in its reply in part B of FORM DRC-01B. ARN of DRC-03 needs to be mentioned in the reply.
- **Correct criteria to be selected while making payment in DRC-03** - The cause of payment specified in DRC-03 should be **"Liability mismatch - GSTR-1 to GSTR-3B."** Further, the **overall tax period in DRC-03 must match the period of DRC-01B**. If above details are not correctly reported while making payment through

DRC-03, portal will not accept the ARN of DRC-03 in reply filed by taxpayer and might create unnecessary litigations.

- **GSTR-1 filing to be blocked – If reply to intimation is not filed by the taxpayer, then portal will not allow filing of next GSTR-1 which would consequently lead to blocking of credits of the customer of said taxpayer. Further, it has not been clarified if there will be an opportunity to provide the reply after the 7-day deadline.**
- The One-Time Password (OTP) required for filing the DRC-01B form will be sent to the email address and mobile number of the **Primary Authorized Signatory registered at the GST Portal.**

Our Comments:

The introduction of DRC-01B under the Goods and Services Tax (GST) system has both perks and negative implications. It plays a crucial role in enhancing return compliance under the GST regime. By enabling taxpayers to explain and resolve differences between GSTR-1 and GSTR-3B, this form streamlines the process and reduces the complexity associated with discrepancies. However, the initiation of recovery proceedings without affording the opportunity of being heard is an excessively severe measure imposed on taxpayers. This practice lacks procedural fairness and disregards the Principle of Natural Justice. Also, the prohibition of filing GSTR-1/IFF in the event of non-filing response to DRC-01B is unduly harsh. Nevertheless, it is imperative to underscore that the GST Council has not recommended any precise percentage of mismatch in relation to this specific aspect concerning DRC-01B.

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