



**STATE GOODS AND SERVICES TAX DEPARTMENT**  
**GOVERNMENT OF KERALA**

**STANDARD OPERATING PROCEDURES**  
**FOR MONITORING**  
**INELIGIBLE IGST INPUT TAX CREDIT**  
**REVERSAL BY TAXPAYERS IN RETURN**  
**FORM GSTR 3B**  
**(SOP - 1/2023)**

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## 1. INTRODUCTION

1.1. After the implementation of GST, the State Revenue constitutes SGST paid in Cash and IGST received through Settlement process in GST. Fund transfer from IGST through Settlement is based on the returns filed by taxpayers. Incorrect reporting of Input Tax Credit of IGST on account of inter-state inward supply or import of goods or services or both will result in short settlement of fund transfer to the State.

1.2. The modalities for settlement or transfer of funds from Centre to State or vice versa on account of cross utilisation of IGST or as the case may be of SGST and apportionment of IGST between the Centre, States and within the States are provided in Section 53 of CGST/SGST Act, Section 17 and 18 of IGST Act r/w the Goods and Services Tax Settlement of Funds Rules, 2017. The GSTN Common Portal, based on the returns filed by the taxpayers, periodically transmits the report of such cross utilisation and the IGST funds available for the apportionment to competent authority. According to such periodic reports furnished by the GSTN, the competent authority transfers funds towards settlement of IGST collected by the Centre on the basis of the cross utilisation of ITC of IGST utilised against CGST/SGST liability and vice versa as well as apportionment in terms of Section 17 of the IGST Act 2017 and Goods and Services Tax Settlement of Funds Rules,2017.

1.3. Aforesaid Fund transfer and apportionment is predominantly based on the information contained in GSTR 3B returns available with GSTN. Hence, it necessitates the availability of correct data/information of GSTR 3B with GSTN for proper settlement and apportionment of fund.

1.4. State GST Department had issued Circulars 6/2020 and modified the same vide Trade Circular No. 1/2022 which contained detailed guidelines as to filing of

correct returns declaring details of reversal of ineligible IGST Credit. However Taxpayers are still reluctant to properly fill up all the columns of FORM GSTR 3B with the belief that no legal consequences to pursue as there is no intention on their part to evade tax. Some of the taxpayers are still not aware of filling all the columns in FORM GSTR 3B. Instances are noticed that in the case of some taxpayers there is huge input tax credit on inward supplies, but outward supplies are exempted. In cases where the tax payer is reluctant to reverse the IGST Credit which is ineligible, IGST credit will go to the indivisible pool and settlement on an ad-hoc basis only will be received by the State. By virtue of proviso to sub-section (2A) of section 17 of the Integrated Goods and Services Tax Act, 2017, the amount not apportioned under sub-section (1) and sub-section (2) may, for the time being, on the recommendation of the Council, be apportioned at the rate of fifty per cent to the Central Government and fifty per cent to the State Governments or Union territories, as the case may be, on an ad-hoc basis and shall be adjusted against the amount apportioned under the said sub-sections. If the actual ineligible IGST credit is properly reversed by the taxpayers of the State, the State will get 50% of the ineligible credit so reversed monthly.

1.5. The purpose of this Standard Operating Procedure is to ensure the proper and timely reversal of the IGST credit which is actually ineligible for the taxpayer and thereby ensuring fifty per cent IGST credit settled against state share on monthly basis than yearly ad-hoc settlement. Instructions for mandatory furnishing of correct and proper information of ineligible/blocked Input Tax Credit and reversal thereof in return in Form GSTR-3B has already issued vide Trade Circular No.1/2022 dated 21.11.2022.

1.6. Under certain circumstances, some of the input tax credit on inward taxable supplies of goods or services or both cannot be claimed by a registered taxable person and the same is treated as ineligible credit as provided under Section 17(1), 17(2), 17(4) and 17(5) of the Central GST and Kerala State GST Act, 2017 read with Rules 38, 42 and 43 of the Central GST and Kerala GST Rules, 2017.

## 2. STATUTORY PROVISIONS

2.1. The procedure to be followed vide Trade Circular No.1/2022 dated 21.11.2022 for furnishing of information regarding Input Tax credit availed, reversal thereof and ineligible Input Tax Credit in Table 4 of Form GSTR 3B are as shown below:

2.2. Total eligible ITC as well as ineligible ITC of the taxpayer will be auto populated from statement in FORM GSTR 2B in different fields of Table 4A of FORM GSTR 3B, except ineligible input tax credit on account of limitation of time period as specified in section 16 (4) of the Act or where the recipient of an intra-State supply is located in a different State than that of place of supply.

2.3. The taxpayer shall not deduct the amount of ineligible input tax credit directly by editing the total amount of input tax credit auto populated in Table 4A of FORM GSTR3B. If the taxpayer has to declare any amount of ineligible input tax credit under any of the provision, they should strictly adhere to the instructions in this regard.

2.4. Out of the amount available in Table 4A of FORM GSTR 3B, if the taxpayer have any ineligible input tax credit which is to be reversed on account of Rule 38 towards reversal of credit by a banking company or a financial institution or of Rule 42 towards reversal of credit on inputs and input services if the same is used for non-business purpose or used for the outward supply of exempted goods or services or of Rule 43 towards reversal of credit on capital goods if the same is used for non-business purpose or used for the outward supply of exempted goods or services, as the case may be, the same shall be declared in Table 4 (B) (1) of FORM GSTR 3B. In addition to that, if the taxpayer has any input tax credit which is blocked as per Section 17(5) of the CGST and KSGST Act, 2017 the same shall also be declared in Table 4 (B) (1) of FORM GSTR 3B. Also if the taxpayer has to reverse any other ITC, than the above, then the same shall be entered in Table 4(B)(2) of GSTR 3B.

2.5. The “Net ITC Available” in Table 4 (C) of FORM GSTR 3B will be as per the formula  $(4A - [4B (1) + 4B (2)])$  and the same will be credited to the electronic credit ledger of the taxpayer and also in Table 6 of FORM GSTR 3B to set-off the output tax dues, if any.

### 3. SCENARIOS WITH EXAMPLES

The input tax credit on the inward taxable supplies of goods or services or both to a registered person is not eligible in the following situations;

- a. If such inward supplies, wholly or partially, are used for non-business purposes. (Section 17(1) of the Central GST and Kerala State GST Act, 2017 read with Rule 42 and 43 of the Central GST and Kerala GST Rules, 2017)
- b. If such inward supplies, wholly or partially, are used for exempted outward supplies. (Section 17(2) of the Central GST and Kerala State GST Act, 2017 read with Rule 42 and 43 of the Central GST and Kerala GST Rules, 2017)

*Example:*

*1. ITC on purchase of Scanning Machines, X-ray machines, Lab equipment, etc... by hospitals has to be reversed as the outward supplies using these machines are exempted from GST.*

*2. ITC on purchase of Generators, Transformers, Electric cables, etc by Electricity Companies has to be reversed as the outward supplies i.e, distribution of electricity using these goods are exempted.*

*3. ITC on Purchase of Computers, printers, photocopiers etc. by Local Authorities has to be reversed by the Local Authorities as the outward supplies using these machines are exempted from GST.*

- c. Banking companies or financial institutions including NBFCs, engaged in supplying services by way of accepting deposits, extending loans or advances opted to avail as input tax credit to the extent of an amount equal to fifty per cent. of the eligible input tax credit per month shall not be eligible for the rest of the amount. (Section 17(4) of the Central GST and Kerala State

GST Act, 2017 read with Rule 38 of the Central GST and Kerala GST Rules, 2017). Rest shall be declared as ineligible credit.

**d.** Input tax credit in respect of the inward taxable supplies of goods or services or both which are mentioned in Section 17(5) of the Central GST and Kerala State GST Act, 2017 is not eligible as the same is blocked vide said section.

**(i)** motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for further supply of such motor vehicles or for transportation of passengers or for imparting training on driving such motor vehicles.

*Example:: ITC on purchase of car by a local authority shall be reversed as the same is blocked credit u/s. 17(5).*

**(ii)** Receipt of construction services except it is an input service for further supply of works contract service.

*Example:: ITC on receipt of works contract services availed by a local authority or government department shall be reversed as the same is blocked credit u/s. 17(5).*

**(iii)** Inward supplies of goods or services used for construction of immovable property on his own account even though such constructions are used in the course or furtherance of business.

*Example:: ITC on goods and services procured for own construction by Local Authority shall be reversed as the same is blocked credit u/s. 17(5).*

(iv) Food and beverages, outdoor catering, renting or hiring of motor Vehicles etc.

*Example:: ITC on renting or hiring of motor vehicles by Government departments, Governmental agencies, PSUs etc. shall be reversed if the renting is not meant for transportation of passengers.*

(v) Purchase of goods for giving the same as free or gift.

*Example:: ITC on purchase of computers/laptops or cycles by local authorities for giving the same as free to the eligible citizens of that local authority shall be reversed as the same is blocked credit u/s. 17(5) .*

e. Government vide Tax Rate Notifications like Notification No.11/2017 notified concessional rate of tax for certain services applicable to tax payers on the condition "without input tax credit" . Hence such tax payers are not eligible to take input tax of goods and/or services based on the condition in the notification. Hence in all such cases, the tax payers has to reverse the input tax credit in GSTR 3B.

*Example:*

*1. Chit funds services are taxable at 12% without input tax credit on goods used for that service.*

*2. Construction of residential apartments by a promoter in a Residential Real Estate Project is taxable at 1.5% or 7.5% without input tax credit on goods and services used for that service. Hence taxpayers selling residential apartments (flats) has to reverse the input tax credit in GSTR 3B.*

(Please refer the Central GST Act and Kerala State GST Act, 2017 and Rate Notifications for detailed provisions)



## **4. REVERSAL MONITORING PROCESS**

To ensure inflow of IGST Credit eligible to the State, the disclosure of correct figures in GSTR 3B by the taxpayers shall be ensured through the following steps.

### **4.1. Selection of cases for verification**

Commissionerate will prepare a list of GSTINs registered in State who have excess IGST ITC in GSTR 2B than GSTR 3B and will communicate the same to the field formations through the District Joint Commissioners of Tax Payer Service.

### **4.2. Proper Officer for verification and follow up**

Vide Circular No.05/2023 dated 08.01.2023, proper officers have been assigned and accordingly verification of a return of a taxpayer shall be conducted by the DSTO/ASTO at the taxpayer service unit. Each tax payer in the list shared for verification including those under CGST jurisdiction but coming under the territorial jurisdiction of the concerned TPS circle shall be allotted to a DSTO/ASTO by the controlling officers. This will ensure that proper verification and follow-up is happening in each case.

### **4.3. Verification schedule**

Once the list of GSTINs, whose case has been selected for verification, is communicated to the field formations, the proper officer shall finalise the verification schedule completing the verification within 30 days.

### **4.4. Verification Process**

The Proper officer after selecting tax payers from the list furnished shall verify the details with the GSTR 3B and GSTR 2B filed by the tax payer. After identifying the non-reversal of ineligible credit in Table 4B, the selected taxpayer shall be contacted repeatedly for two times after a week's break over phone and through email and request the taxpayer to file the next monthly GSTR 3B return with the reversal of the ineligible credit. If the taxpayer fails to reverse it in next FORM GSTR 3B, the proper officer shall again contact the taxpayer over phone and email mentioning that he had failed to reverse the credit even after informing to do it in

writing. If the tax payer fails again to reverse the credit, a letter shall be issued to the taxpayer intimating the statutory requirement for mandatory furnishing of correct and proper information of ineligible/blocked Input tax Credit and reversal thereof in Form GSTR -3B and the compliance of instructions issued as per Trade Circular No.1/2022 dated 21.11.2022 in this regard.

#### **4.5. Further Action**

Even after all these, if the tax payer refuses to reply with proof of reversal of the ineligible IGST credit, a notice U/s 127 of the Central Goods and Services Tax Act/Kerala Goods and Services Tax Act, 2017 shall be issued proposing to impose a penalty U/s 125 for furnishing incorrect returns. Such notice shall be issued only to those taxpayers who are under the administrative control of the state. If the taxpayer is under the administrative control of the CBIC, then the case can be referred to the jurisdictional field formation of CBIC for corrective action in a similar manner as proposed for taxpayers under the State.

### **5. REPORTING AND MONITORING**

A Verification Register shall be maintained by the proper officer in respect of the GSTINs allotted for verification. The progress of verification of the cases by the proper officer shall be monitored by the jurisdictional District Joint Commissioners of Taxpayer Service. Further, a Verification Progress Report, shall be prepared by the proper officer at the end of every month and submitted to the District Joint Commissioner and District Joint Commissioners in turn shall furnish a consolidated verification report to the Commissionerate.

**COMMISSIONER OF STATE TAX**