



भारतसरकार/Government of India
वित्तमंत्रालय/Ministry of Finance
राजस्वविभाग/Department of Revenue
केन्द्रीयकरमुख्यआयुक्तकाकार्यालय

Office of The Principal Chief Commissioner of Central Tax
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सी.सं./C.No. IV/16/67/2018 C.C.(BZ)

दिनांक/Date: 19.11.2018

MINUTES OF THE COMBINED GST REGIONAL ADVISORY COMMITTEE (RAC) QUARTERLY
MEETING (4th QUARTER) OF CENTRAL TAX, BENGALURU ZONE HELD ON 17th May 2018.

A Meeting of the Regional Advisory Committee for Bengaluru Central Tax Zone was held on 17th May 2018 at 11:00 Hours in the Conference Hall of the Central Revenue Building, Queen's Road, Bengaluru. Shri. A K Jyotishi, Principal Chief Commissioner presided over the meeting. The list of Officers and Members of Trade present in the meeting is annexed.

The Principal Chief Commissioner of Central Tax welcomed everybody present and the meeting commenced with the introduction of the Members present.

Thereafter the members were invited for discussion on the issues that were of concern.

The Chairman informed that some assesseees have raised the following points in writing and requested the Additional Commissioner (PCCO) to read over the points:

I. Points sponsored by M/s. Recipharm Pharmservices Pvt. Ltd., Bangalore :

M/s Recipharm Pharmservices Pvt. Ltd.	Department Reply
<p>Concern 1: We are importing Free of cost Raw materials under Job-work Customs Notification. 32/97 dt. 01.04.1997. When we import against this Notification in Excise Regime, we use to get full duty Exemption under the concessional rate of duty. After GST implementation, we are getting only Customs duty Exemption and paying the IGST.</p> <p>Since, these Raw Materials are High Value and paying IGST is huge, because of this our ITC is accumulating and also our working Capital is affecting and it leads to other direct and indirect financial crisis.</p> <p>We pray your honour that as interest of Industry we request to take this point with GST Regional Advisory Committee and take it forward with Central Advisory Committee and GST Council to get benefit of IGST Exemption under Customs Notification 32/97.</p>	<p>The taxpayer was requested to submit additional documents relevant to the imports and export of products so that the matter can be examined thoroughly; if necessary a reference will be made to GST policy wing.</p>
<p>Concern 2: In this respect the recent Circular No 37/11/2018-GST (F.No. 349/47/2017-GST) dated 15th March, 2018(copy enclosed) issued by GST Policy wing of CBEC on the subject "clarification on export related refund issues" states that FIRC should be submitted as Foreign Inward Remittance Certificates (FIRC) is required in case of export of services as proof of realization of export proceedings.</p> <p>When we approached our bankers State Bank of India</p>	<p>The matter was taken up with RBI and RBI vide letter dated 26.10.2018 has clarified that, while the FEDAI Circular dated 08.06.2016 had advised the Authorised Dealer Banks to discontinue the issuance of physical FIRC in view of the advent of EDPMS, they had issued another circular dated 07.06.2017, wherein the banks were instructed to issue inward remittance certificate at the request of beneficiary,</p>

<p>(SBI) for obtaining FIRC, they categorically informed us that, in view of Circular No. SPL – 04/2016 dated April 21, 2016(copy enclosed) issued of Foreign Exchange Dealers Association of India (FEDAI) bankers are no longer issuing FIRC for realisation of export of services.</p> <p>The GST authorities are refusing to accept “Certificate of Inward Remittance” from SBI quoting the above Circular issued by CBEC. If value of export of services is not considered for refund claim we are going to lose substantial amount of refund on every refund claim and is going to continue forever in future which will leave an unbearable adverse impact on our finances. In spite of being major foreign exchange earners, we are made to suffer like this</p>	<p>subject to due diligence.</p> <p>Accordingly, it is advised that all exporters who had difficulty in obtaining FIRCs to make a request with their bank in terms of FEDAI circular dated 07.06.2017.</p>
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II. Points sponsored by M/s. KDPMA, Bangalore:

M/s KDPMA , Bangalore	Department Reply
<p>Concern 1 : In export of Services, unless the payment is received, no refund can be claimed. RBI has allowed upto 180 days credit period This impacts small exporters who have to wait for GST refund for extended period to time. A mechanism similar to that available for export of goods like Bond can be considered to help exporter of services.</p>	<p>Rules relating to the export of services and export of goods are different since the export of services does not have same physicality as the export of goods have, the matter will be examined further. The Chairman sought for a write-up so that the same could be examined and forwarded to the concerned Working Group.</p> <p>Addressing the issue of delay in Refund generally, the Chairman informed that delay in refunds was caused on account of non furnishing of hard copies of the Refund - Application Registration Number (ARN) by the Assesses before the Jurisdictional officers for early settlement of the Refund claims. Chairman requested the Associations representing the various trade bodies to enlighten this requirement of the manual submission of ARN before the Jurisdictional Officers (Centre / State) amongst their Members and Trade in general. Chairman also assured that this Physical submission of the ARN was mandatory until the online Refund Module became fully functional.</p>
<p>Concern 2: If there is no Sales for a particular month, no refund can be claimed for that month and refund claim shall be postponed till the month in which sale has been made. This again impacts smaller exporters This clause could be removed.</p>	<p>This issue has been addressed in Circular No 37/11/2018 GST dated 15.03.2018 wherein Para 11 the frequency for filing refunds has been provided and an exporter can file refund claim by clubbing a number of tax periods in a particular financial year.</p>
<p>Concern 3: Currently there is no mechanism to find if the GST collected by Vendors has been remitted or not. It is necessary for the software to be upgraded for the verification of GST remittance by the vendors so that any discrepancies can be sorted out by the Assessee in advance and avoid non compliance.</p>	<p>CBIC vide Press Release dated 4th May 2018 has clarified the key elements of return simplification. Press Release link : http://www.cbic.gov.in/htdocs-cbec/press-release/CBIC%20Press%20Release%20dt%2004.05.2018%20on%20Return%20Simplification.pdf</p>
<p>Concern 4: Currently there is no way an Assessee can identify the Dealers who has opted for Composite Scheme. Software may</p>	<p>The GST portal has a provision to search a taxpayer by GSTIN. The result of the search indicates the type of taxpayer i.e., whether a ‘Regular taxpayer’ or</p>

be upgraded to provide this information.	'Composition scheme taxpayer'.
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III. Points sponsored by M/s. FKCCI, Bangalore:

M/s FKCCI, Bangalore	Department Reply
Concern 1 : Unable to edit core fields especially contact details of authorized signatory	Contact details of Authorized Signatory can be edited in a Non-core amendment (ii) Only addition/deletion of partner /promoter is permitted in an application for amendment of Core fields.
Concern 2: Amendment made in Non-core field is not reflecting after amendment. Ex: when DOB of Director or partner is changed in Non core field the changed DOB is not visible in the Profile.	The Non-core amendment if any made is accepted by the system. On acceptance, the updated DOB can be viewed under - Services-user services-View My submissions, with reference to the ARN number generated. The DOB is not referred anywhere else.
Concern 3: In case someone is applying for cancellation or surrender a prompt to download all returns, ARN, etc.	Each of the returns required can be downloaded separately, before applying for cancellation. The suggestion of a prompt will be forwarded.
Concern 4: If we are trying to link IEC with GST, it randomly asks for basic detail such as pan, authorised signatory etc.	Query is not clear. The exact difficulty is not specified. Concrete details to be furnished to ascertain the real nature of difficulty.
Concern 5: Ambiguity over ITC 04 templates. Goods sent in one lot may be returned in multiple lots. It is not allowing duplicate entries with same original challan reference.	The other members in the meeting informed the Chairman that the issue was being overcome by updating the template when the last lot was returned. However, the Chairman informed that if any Specific instance requiring redressal was brought to notice with documents evidencing the same, it could be looked into and resolved. If required the same can be taken up with GSTN.
Concern 6: If we upload the bulk excel file through offline option in GST common portal then We are getting the error " <i>File could not be processed. Please download the latest version of offline Tool</i> " even though we are uploaded through the latest version	This error did occur on few occasions. But has been resolved since then. Specific instances, if brought to notice can be looked at and if not resolved the same can be taken up with GSTN
Concern 7: Due dates of various returns are not been shown properly, due to which assesses are getting penalized for paying late fees, even tough filing of the return within due date	The Home page of the Common portal https://www.gst.gov.in/ does indicate the last date for each of the returns. The same needs to be adhered to, in order to avoid payment of late fee
Concern 8: Change in authorized signatory mobile number & e mail id is having lots of problem	The Taxpayer can now amend the mobile number and email id of the authorized signatory by initiating a non-core amendment (if login is possible). If not the taxpayer can request the jurisdictional tax officer (LVO if under state jurisdiction / Range Officer if under central jurisdiction) for the same and such amendment is being carried out at the

	backend.
Concern 9: If going for any amendment all the old details uploaded are not been displayed & the same needs to uploaded again	This error occurs only in a few cases migrated taxpayers, who had not completed the migration process. This issue has been raised with GSTN.
Concern 10: Various places unable to attach DSC& file the return, it keeps on showing various errors	DSC errors are purely because of not following the guidelines given on GSTN portal. Most important aspects are updating browser (either Microsoft edge/explorer), latest version of Java and emsigner downloaded from the common portal. Officers at GST Seva Kendra are available for help in any case of difficulty.
Concern 11: In online if you verify the jurisdictional officer details, it shows wrong, as compared with circular which was issued by Karnataka govt.	The assignment of jurisdiction by the order jointly issued by the Central and State Government is final and binding. Specific instances may be brought forward. If any discrepancy is noticed, the same may be brought to notice of GSTN for rectification.
Concern 12: How to identify the jurisdictional office in case of new registration, as it shows both the details of centre & state.	<p>As regards new registration, the jurisdiction will lie with whichever officer processed the application for new registration (state or centre). Taxpayer may find out the same by viewing the track application status on the common portal - Services==> Registration==> Track Application status using the ARN number of the application for registration (Form Reg-01).</p> <p>Taxpayers may find out the ARN number for registration from the portal on your dashboard at Services==> User Services==> View my submissions.</p>
Concern 13: Reset option is not available	The GSTR 3B at present allows to modify return details till the "make payment/post credit to ledger" is opted. After exercising this option, if there are errors, the procedure prescribed in Circular 26/2017-GST dated 29/12/2017 has to be followed.
Concern 14: Liability crystallised under erstwhile law (service Tax) is only CGST but can't update now as SGST gets auto populated	This issue has been taken up with GSTN. However as on date the glitch has been resolved. The Auto population of data is now been removed in table 4(B)(2) – 'Others' of Form GSTR-3B. This means that if SGST reversal amount is Rs. 100/-, taxpayer can now enter CGST amount less than or more than or equal to Rs. 100/-. Instead of system computation of equal amount based on entry of one field, both fields are now made enterable at user's end. There is no change in other tables of GSTR-3B.
Concern 15: How would interest be computed in case of	This is not a common error. Specific

error in 3B. Because, when we now enter interest in CGST column, SGST column would automatically be filled.	instances, if brought to notice along with documentary evidences (including screen shots) can be looked into and forwarded to the Technical Committee.
Concern 16: After clicking on save button in GSTR-3B error generated with below mentioned comment - " <i>Last GSTR-3B save request under process</i> " - Note: These errors window continued 1 to 2 days	This is not a common error. Specific instances, if brought to notice can be looked at and resolved. If not the same can be taken up with GSTN.
Concern 17: Sales returns more than sales in a month. Negative values cannot be shown in return. How to show the values in return.	Refer the procedure prescribed in Circular 26/2017-GST dated 29.12.2017.
Concern 18: Filing with EVC option for companies & LLP is removed, it should be enabled	Rule 26 of CGST Rules 2017 mandate use of DSC for all taxpayers except proprietary/partnership/trust.
Concern 19: Single Credit note for multiple sales invoices. How the same is to be shown in return.	Credit notes have to be issued for each invoice separately. The system does not permit one credit note for multiple invoices.
Concern 20: Delayed update of data (even in non-peak period) post upload	This is not a common error. Specific instances, if brought to notice can be looked at and resolved. If not the same can be taken up with GSTN.
Concern 21: Difference in summary shown and the details within the box	Every time, the taxpayer makes any addition/amendment in any of the fields either through the online/offline mode, the same would be reflected after generation of GSTR 1 summary.
Concern 22: Delay in filling the return post submit	This is not a common error. Specific instances, if brought to notice can be looked at and resolved. If not the same can be taken up with GSTN.
In case of more than 500 invoices following issues are observed : Concern 23 : Very large invoice set is to be broken as JSON more than 5MB is not accepted	The offline utility provides option to upload upto 19000 line items. Separate JSON is required only in case it exceeds the upper limit.
Concern 24: In case of any error, entire data is to be uploaded as the mechanism prescribed does not facilitate identification of error	The common portal provides for download of error report and rectification of the same.
Concern 25: Issue on Sale to SEZ - Tax is CGST + SGST is being reflected instead of IGST	This error may occur only in case of those taxpayers whose status on the common portal is marked as 'Regular' instead of 'SEZ Unit'.
Concern 26: The data structure does not allow setoff of output IGST with CGST & SGST Input	This is possible. The input credit has to be first utilized for the respective heads (i.e. first to CGST liability and then to IGST and similarly in the case of SGST liability and then for IGST liability). In terms of Section 49(5) of CGST Act.
Concern 27: The total of refund computed as per system is in excess of total credit ledger balance for that period	The amount to be claimed as refund is restricted to the lowest of three (i) Value of Refund Amount as per Statement 3A (ii) Balance in Electronic Credit Ledger and (iii)

	Tax Credit Availed during the Period. This has to be manually entered by the Taxpayer.
Concern 28: The system does not factor output liability towards non- inverted duty related turnover	Query is not clear.. The exact difficulty is not specified.
Concern 29: The payment made will not be reflecting on the same day, but the amount is being debited from bank account on the same day. For the period of 2-3 days it keeps on showing as awaiting bank confirmation.	This is not a common error. In many instances, it depends on the number of transactions carried out at a specific point in time, depending on the banks. (This occurs mainly in case of SBI). Specific instances, if brought to notice can be looked at and resolved. If not the same can be taken up with GSTN.
Concern 30 In case a transaction of SEZ is mistakenly recorded in GSTR 1 as "Exports", there is no option to amend the same. The "amendment to Exports" would not allow a deletion of the entry, even you cannot reduce the value to "ZERO". Alternatively, we are now reducing while amending to nominal value and a fresh entry in B2B for SEZ Supplies.	This is an incorrect method. It is not possible to make an entry under Export without giving a Shipping Bill number and date. Even if an erroneous entry is made, a credit note/debit note entry can be made and the invoice cancelled and revised invoice needs to be issued and uploaded.
Concern 31: After updating HSN summary, if we want to add or delete any entry there, following error is popped "Action has already been taken and the invoice is present in pending list please take further actions in pending version until it gets processed."	Specific instances, if brought to notice can be looked at and resolved. If not the same can be taken up with GSTN.

IV Points sponsored by M/s. New Mangalore Port Trust, Mangalore:

M/s NMPT, Mangalore	Department Reply
Concern1 : It is seen that the service provider is not updating the GSTR 1 even after raising the invoice by him for the service provided by him to us. Further, it is seen that GSTR 1 has not been updated even after payment is made by us against the invoices raised by him. This results in postponement of availing the input credit legitimately due to us and results in cash flow problems to the public exchequer.	THE ISSUE PERTAINS TO NOT ENTERING THE INVOICE DETAILS IN TABLE 4(a) of the GSTR-1 by the supplier of goods / services. The Department is reconciling the information in GSTR-3B with details in GSTR-1 and differences are being verified. Taxpayer can bring to the notice of the jurisdictional officer instances where INVOICE DETAILS ARE NOT UPDATED IN THE GSTR-1.
Concern2 : One of the provisions as per GST is that for availing the input credit, the assessee has to match the tax amount paid against the invoice with the data inputted by the service provider before availing the input credit for each transaction. This is practically impossible to match the amount paid by us with the input data given in the system by the service provider resulting in mismatch of ITC availed.	The concept of matching is system driven and is yet to be implemented. CBIC has released a press release on Return Simplification detailing the key elements. Press Release link: http://www.cbic.gov.in/htdocs-cbec/press-release/CBIC%20Press%20Release%20dt%2004.05.2018%20on%20Return%20Simplification.pdf
Concern 3: Credit should be available for Service Tax paid on bills received in the pre-GST period upto 31.07.2018. In the Service Tax regime, input credit was	Credit pertaining to Service Tax should have been availed in the ST-3 returns and transitioned through the TRANS-1.

available upto 1 year from the date of issue of specified documents.	
Concern 4 : In case of old service tax matters relating to Appeals to Tribunal, arbitration or in a court of law, credit for refund of Service Tax paid should be allowed in case consideration amount is reduced subsequently by the competent authority / court of law.	<p>Section 142(6)(a) and 142(7)(b) of the CGST Act, 2017 is very clear that any admissible amount shall be refunded.</p> <p>“(6) (a) every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act:”</p> <p>“(7)(b) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.</p>
Concern 5: At present, there is no option available for revising the returns filed in form GSTR 3B and GSTR 1. Provision should be made for one time revision of GSTR 1 & GSTR 3B filed for the months of July 2017 to March 2018.	Circular No.26/26/2017-GST dated 29.12.2017 clarifies how common errors in GSTR-3B returns can be rectified. Details in the GSTR-1 can be amended in the respective tables provided.

V. Points sponsored by **Kanara Chamber of Commerce, Mangalore:**

M/s Kanara Chamber of Commerce	Department Reply
<p>Concern 1 : <u>Transitional credit:</u> It is requested by trade that all Tran-1 verification relating to CENVAT utilization be completed by 31.07.2018. Further, it is also requested that a mechanism to allow taxpayers to correct any discrepancies related to Cenvat utilization may be implemented and also waiver of penalty and interest may be granted in such cases.</p>	CBEC has issued Circular No. 42/16/2018-GST dated 13.04.2018 regarding procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit.
Concern 2 : <u>Corrections in GSTR-3B:</u> Trade has	❖ CBEC vide Circular No.26/26/2017-

represented that no provision is available for corrections if any to be made in GSTR-3B filed at the end of financial year on 31.03.2018. It is therefore requested by trade that facility for such corrections may be made available as provided under the Act.	GST dated 29.12.2017 has prescribed the procedure for rectification of various errors made while filing GSTR-3B returns.
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VI. Other issues raised by Trade referred by Mangalore Commissionerate

Other Trade bodies from Mangalore	Department Reply
<u>GST refunds:</u> When filing refund claims in Form RFD-01A in the system, Input invoices are to be uploaded for further processing. However, difficulties are faced in filing the details of input invoices in the system as the system is not accepting the same and as a result the refund applications do not get processed. On attempting to file the refund claim in Form RFD-01A, an error message is displayed indicating that the details of input invoices have to be entered	Details have to be entered in the offline tool provided and JSON file created and uploaded. The actual error message may be provided through, Services – User Services – Grievance / Complaints and also matter can be reported to the jurisdictional Nodal Officer appointed in terms of Circular No. 39/13/2018-GST dated 03.04.2018
<u>Issues faced in filing of ST-3 Returns in ACES for the quarter April to June 2017(pre-GST):</u> A special drive has been launched to identify and initiate action against non-filers of ST-3 and ER-1 returns for the quarter April to June 2017(pre-GST). In the course of the identification drive, many assesseees have represented that the non-filing of returns esp. ST-3 returns was due to problems faced by them in ACES at the time of filing ST3 returns. Further, penalty for late filing of returns is deterring such assesseees to file subsequently. Representations are made requesting for waiver of penalty for late filing of returns.	The assessee will be required to justify the claims of technical difficulties with screen shots / documents so that the matter could be taken up for redressal.
<u>Interest and penalty not able to offset in system:</u> Representations have been made by Trade that payments made towards interest and penalty remain in Electronic cash ledger and facility for offset of the same against the respective heads of interest and penalty in the system is not available.	Payments towards Late fee / Interest are to be shown in Table 5.1 of GSTR-3B and the said amounts should be available in the Electronic Cash Ledger under the head of “Fee” and “Interest”.

VII. Points sponsored by M/s. Biocon Limited:

Biocon Limited	Department Reply
<u>Concern1 : Amendment of GSTR Tran-1 and filing of GSTR Tran-2 :</u> We have filed the tran-1 returns within the due date. While filing TRAN-2 we are getting the message “ You have not declared anything in Part 7B of Table 7(a) of TRAN-1 so you are not permitted to fill any details in table 4 of TRAN-2”. There has been an inadvertent mistake on our part in filing TRAN-1 where we failed to populate the details in Part 7B of Table 7(a) of TRAN-1 instead filled the details in Table 7D resulting in loss of substantial deemed credit. There is no change in the credit	<u>Comments:-</u> In terms of Circular No 39/13/2018 GST dated 3 rd April 2018, an IT Redressal Mechanism has been put in place to address the issues of taxpayers who had submitted the TRANS 1 but were not able to file it on or before 27 th Dec 2017 on account of technical glitches in the portal. The procedure for sending the representations was also laid down in the SOP issued by the GSTN. In this case, the taxpayer has not faced any glitches on the portal but has made wrong entries in the

<p>amount and only the correct field needs to be updated. Hence we request to re-submit the Tran-1 or allow us to file Tran-2 online / manual. We have raised a ticket in GST helpdesk; however we did not get positive feedback.</p>	<p>TRANS 1 form which they have requested to be corrected. Their request does not fall within the ambit of the IT Redressal Mechanism scheme. However, since the taxpayer has been assigned to the State jurisdiction, the representation received from M/s Biocon has been forwarded to the Commissioner VAT vide this office letter C.No. IV/16/18/2017 GST Policy Cell dated 10.04.2018.</p>
<p><u>Concern 2: Inventory write off & duty/tax reversal in GST portal:</u> We have certain raw materials/FG / WIP, which are not being put to use and got transitioned into GST and we have availed the ITC in our Tran-1 also. In Q4 of FY 17-18, it is decided to write them off from books and to destroy them as they are declared unfit by our internal quality team. Accordingly, we have computed the tax to be reversed taking the BED/CVD & SAD availed earlier and tried to reverse the CGST as the earlier BED/CVD & SAD was transitioned as CGST.</p> <p>However there is system constraint in GSTN portal and the minute we upload the CGST amount under other reversals, equal amount of SGST gets auto populated. We cannot reverse this amount under IGST as it is not a inter-state transaction. We cannot bifurcate the amount of reversal into CGST and SGST equally as it will tantamount to non-compliance. We have raised a ticket in the GST portal and they replied stating that the GSTR 3B for the month of March, 18 has been successfully filed. We requested the CGST authorities to clarify, but so far there is no reply from their end. Since the write off is in March, 18 now we need to pay interest for the delay in reversal of the ITC, but the system constraint is not allowing us to reverse only CGST. We need a solution for this problem without any further loss of time. Please suggest the way forward.</p>	<p>This issue has been escalated to the Board by this office vide this office letter C.No. IV/16/18/2017 GST Policy Cell dated 12.03.2018. Subsequently a Circular No 42/16/2018 GST dated 13.04.2018 was issued where it was clarified that <i>"The CENVAT credit of central excise duty or service tax wrongly carried forward as transitional credit shall be recovered as central tax liability to be paid through the utilization of amounts available in the electronic credit ledger or electronic cash ledger of the registered person, and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01)."</i></p> <p>As on date the glitch has been resolved. The Auto population of data is now been removed in table 4(B)(2) – 'Others' of Form GSTR-3B. This means that if SGST reversal amount is Rs. 100/-, taxpayer can now enter CGST amount less than or more than or equal to Rs. 100/-. Instead of system computation of equal amount based on entry of one field, both fields are now made enterable at user's end. There is no change in other tables of GSTR-3B.</p>
<p><u>Concern 3 : ITC refund on Zero rated supplies to SEZ units/Developer :</u> In terms of Rule 89 of CGST Rules, for claim of refund, submission of evidence for the goods being admitted into the SEZ for authorized operations, as endorsed by the Specified Officer of the SEZ unit / Developer is required.</p> <p>Generally in SEZs, examination and admittance of goods into the Zone is done by the Authorized Officers and in terms of Rule 30 (7) of SEZ Rules, 2006, it is the responsibility of Authorized Officer to examine and allow the goods. Further, Rule 30 (8) of the rule provides that <i>'a copy of the Bill of</i></p>	<p>Matter will be examined.</p>

<p><i>Export and ARE-1 with an endorsement of the Authorised Officer that the goods have been admitted in full in the Special Economic Zone, shall be treated as proof of export.”. Under the Central Excise provisions also, endorsement by the Authorized Officer was sufficient enough to accept as proof of export.</i></p> <p>Further, the role of Specified Officer is to supervise the functions of Authorized officers and carryout other functions as prescribed under SEZ Act/Rules. Generally, Specified Officers are holding charge of more than one SEZs (each having multiple SEZ units) and required to endorse the invoices related to all the units of multiple SEZs. Hence, it is a practical problem for the SEZ entities and the DTA suppliers to get all the invoices endorsed by Specified Officer, when the invoices are already endorsed by the Authorized Officer for having admitted the goods into the Zone.</p> <p>In view of the above, it is suggested the CGST Rule may be amended to allow refund based on the endorsement of Authorized Officer, which will ease the process of claiming refund in respect of the goods supplied to SEZ units / Developers.</p>	
<p>Concern 4 : <u>Bill to ship to transactions</u>: We need clarity on GST implications on below “bill to ship to” transactions.</p> <ul style="list-style-type: none"> • A DTA customer placed order on our SEZ unit “to bill to DTA unit and ship to FTZ / SEZ entity”. Whether SEZ supplier should treat this transaction as zero rated supplies as the goods are received and acknowledged at FTZ/SEZ gate. • SEZ placed order on DTA supplier to bill to SEZ and ship to another DTA end customer. Whether it is inter-State supply, as the "bill to" party is a SEZ unit. Can the DTA entity claim refund of taxes paid under on account of Zero Rated supply. 	<p>1) In terms of Sec 16 of the IGST Act, “Zero Rated Supply” means</p> <ol style="list-style-type: none"> a) export of goods or services or both b) supply of goods or services or both to a SEZ developer or a SEZ Unit. <p>In this case, the supply is by an SEZ Unit and hence is not covered under Sec 16 as a “Zero Rated Supply”. Such a supply in terms of Sec 7(5)(b) of the IGST Act, is an inter-state supply. Therefore, even though the delivery of the goods is to a SEZ Unit, the supply is not covered under Sec 16 as a “Zero Rated supply” rather it is a supply by an SEZ Unit where billing is to a DTA unit but the delivery is to another SEZ Unit. The place of supply in terms of Sec 10(b) of the IGST Act is the location of the DTA Unit. However, by virtue of the exclusions in proviso (i) to Sec 8(1) of the IGST Act, such supply will be covered under Sec 7(5)(b) as an inter state supply only.</p> <p>2) Goods are being delivered by the supplier located in the territory of India outside the SEZ to a recipient located in the territory of India outside the SEZ, on the direction of a SEZ entity (third person).</p> <p>In this case, with the additional assumption that there is a movement of the goods, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall</p>

be the principal place of business of such (the third) person. The goods may or may not involve the transfer of documents of title

The additional assumptions that apply in this case are:

a. The third person may or may not have acted as an agent.

b. The directions of the third person may have been made before or during movement of goods.

c. The directions of third person are not made after the movement of goods has terminated.

The place of supply of such goods shall be the principal place of business of the SEZ entity which has made the direction above.

That the place of supply is within an SEZ area and that the location of the supplier is outside the SEZ concerned - may not be finally determinative of whether it is an inter- state or an intra- state transaction. This ascertainment has to be done with reference to the factual matrix indicating the location of the supplier and the place of supply.

The IGST Act in Section 8 says that subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply. If the location of the supplier and the place of supply of goods are not in the same State or same Union Territory, then it has to be regarded as an inter- state supply in terms of Section 7 of the Act.

Clearly, in the situation narrated, the supply is made to a 'recipient' which is not a SEZ Developer or a SEZ unit. There is no application in this situation of the proviso to Section 8 (1) – the said proviso deems that supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit shall not be treated as intra-State supply.

This will not be a "zero rated supply" (in terms of Section 16 of the IGST Act) as it is neither an export of goods or services or both; nor is it a supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

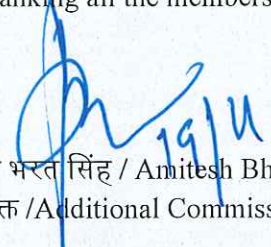
In case, the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient. In case, where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. In case, where the goods are supplied on board a conveyance, including a

<ul style="list-style-type: none"> • A foreign party placed order on DTA supplier to bill to foreign party and ship to SEZ. This case is neither export of goods nor supply to SEZ. At the same time can this be a zero-rated supply as provided under Section 16 of the IGST Act and can the supplier claim GST refund. 	<p>vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.</p> <p>Section 5 of the IGST Act, dealing with the Levy and Collection of IGST states that there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at rates that may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the Taxable Person.</p> <p>Section 9 of the Central Goods And Services Tax 2017 (CGST Act), dealing with the Levy and Collection of IGST states that here shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at rates that may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the Taxable Person. This situation is also not that of export or import of goods as understood in the way they have been defined in Section 2 (5) & (10) respectively, of the IGST Act.</p> <p>This would give a broad idea on the matter, however in order to obtain a clearer understanding, more facts would be required.</p> <p>3) In order to understand the nature of supply engaged in by the third situation indicated and in terms of Sec 7 of the IGST Act 2017, to understand who the providers and recipients of the supply are in terms of Section 2(105) & 2(93) of the CGST Act, 2017, additional facts would be required. There cannot be a summary finding on the basis of such minimal details.</p>
<p>Concern 5 :</p> <p>GST Implication on certain transactions:</p> <ul style="list-style-type: none"> • Biocon provides certain facility to its employees in course of employment or in relation to employment contract. Whether GST applicable on the recoveries made for providing such benefits. ✓ Cab facility to employees at subsidised rates for travelling from office to home and home to office. ✓ Serving subsidised food during office hours. ✓ Gymnasium facility to employees at a concessional fee. Where the company bears the balance of the expenses incurred towards providing such benefits. 	<p>GST is applicable whenever there is a supply of goods or services. The terms 'supply' has been defined in Section 7(1)(a) of the CGST Act to include all forms of supply such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. The term 'business' has been defined in Section 2(17) of the said Act to include (i) any trade, commerce, manufacture, profession, vocation, adventure, wages or any other similar activity, whether or not it is for pecuniary benefit and; (ii) any activity or transaction in connection with or incidental or ancillary to (i). Therefore, the benefits given by the Company to their employees by way of giving subsidized food, gym facilities, crèche facilities cab</p>

<p>✓ Biocon employees who are in need of Creche facility can make use of the same at Subsidised rates, where company bears all the expenses towards running of the same which is being maintained by a third party service provider.</p> <p>Biocon employees serving notice period are entitled to leave the employment early by paying the notice pay for the unserved portion of the notice period. This was already under litigation under the erstwhile service tax law. Whether the same tax position is made applicable in GST regime also.</p>	<p>facilities are activities which are ancillary to the main business of the Company and hence the consideration received from the employees for the provision of these benefits is liable to GST.</p> <p>This is the view taken by the Advance Ruling Authority – Kerala in their order dated 26.03.2018 in respect of the application made by M/s Caltech Polymers Pvt. Ltd. The issue seems to be of the same kind, however the assessee is advised to make a specific application before the Advance Ruling authority for Karnataka if it so wishes.</p>
<p>Concern 6 :</p> <ul style="list-style-type: none"> • Biocon employees travel across the country for marketing events. Employees stay at hotel and consume food and beverage during their stay. Whether ITC on food and beverage is allowed if the same is mentioned separately as part of hotel bill. • To promote the pharma products, Biocon distributes promotional materials to the doctors. Majority of these promotional materials carry Biocon Logo. Whether GST ITC on such Promotional material issued free of charge to doctors • Employees of SEZ unit when they avail stay/accommodation services, they get GST invoices which carry CGST+SGST. Can a SEZ take credit of CGST+SGST invoices and claim GST refunds. 	<p>An SEZ can take credit of GST paid on goods or services which are used or intended to be used in the course or furtherance of business. In the case of invoices having CGST and SGST, the registered person can avail the ITC only if the SGST is of the same State as the registered person. <i>Section 2(62) defines "input tax" in relation to a registered person, to mean the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him. However, in the State GST laws "State Tax" is defined in Section 2 (104) as "State tax" means the tax levied under this Act.</i> Therefore on a reading of the said provisions of the Centre and State GST laws, the credit of a particular State's GST can be taken by a registered person in the same State only and can be used for payment of the same State's GST. It is only IGST mechanism which allows for taxes paid in a particular State to be available as credit in the destination States, so if Place of Supply of Goods or Services or Both Rules Section 9 to 14 of the IGST Act do not call for a levy of IGST on the supply in question, no credit of GST paid is available in the destination State.</p>
<p>Concern 7 :</p> <p>1) <u>GST Refund claim:</u></p> <p>Biocon is predominantly into exports. ITC gets accumulated with respect to the zero rated clearance. Department circulars specifies certain documents to be submitted for claim of cash refunds. Including physical copy of Invoices w.r.t. input, input services and capital goods. For processing of refund claims of input tax credit, verifying the invoice details is using soft copy / electronic copy shared in the CD /pen drive should be accepted in order to avoid huge volume of prints.</p>	<p>The matter will be examined.</p>

<p>Concern 8 :</p> <p>1) <u>GST Returns filings:</u></p> <p>GSTN should allow one time revision / editing of GST returns within in the due date of filing such returns.</p>	<p>Will be escalated to the CBIC – GST Policy Wing.</p>
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The meeting ended with the Principal Chief Commissioner thanking all the members.


 (अमितेश भरत सिंह / Amitesh Bharat Singh)
 अपर आयुक्त / Additional Commissioner (PCCO)

To,

All Members of the combined RAC as per mailing list.

Copy to:-

1. The Principal Commissioner/Commissioner of Central Tax, Bengaluru South / North / East / West / North West / Belgaum / Mangalore / Mysore Commissionerate.
2. The Additional Director General, DGTS, TTMC Building, Above BMTC Bus Stand, Banashankari II Stage, Bangalore 560 070.
3. The Under Secretary (CX-9), CBEC, North Block, New Delhi – 110 001.
4. The DGGSTI, 1st and 2nd Floor, West Block, VIII, Wing No. 6, Sector I R K Puram, New Delhi 110 006.
5. The Additional Director General, DG-GST, Southern Zonal Unit, No. 26/1, Mahathma Gandhi Road, Chennai 600 034.
6. Web Master, Systems for uploading in the departmental website www.gstkarnataka.gov.in

Annexure

List of officers and Members of Trade present in the Meeting held on 17.05.2018:

Officers:-

1. Shri. AK Jyotishi, Principal Chief Commissioner, Bengaluru Zone in Chair.
2. Dr. M. Subramanyam, Commissioner, Mangalore Commissionerate.
3. Shri. G. Narayanaswamy, Commissioner, Bengaluru South Commissionerate.
4. Shri. B K Kar, Commissioner, Belagavi Commissionerate
5. Shri. Dharam Singh, Commissioner, Bengaluru North West Commissionerate.
6. Shri. Amitesh Bharat Singh, Additional Commissioner, CCO, Bengaluru.

Members of the Trade:-

1. Shri. B.G Kulkarni, M/s. The Ugar Sugar Works Ltd., Ugarkhurd;
2. Shri. R Durai, Karnataka Small Scale Industries Association (KASSIA), Bengaluru,
3. Ms. Jayashree Ramesh, BHEL, Bengaluru,
4. Shri Satish Sheth, Karnataka Drugs & Pharmaceuticals Manufacturers Association
5. Shri. B.N. Murali , M/s Reci Pharma Services Pvt. Ltd, Bengaluru
6. Shri. Avinash, M/s New Mangalore Port Trust, Mangalore
7. Shri.Veeresh Prasad M.S, M/s Toyota Kirloskar Motors Pvt Ltd, Bengaluru
8. Shri. Harsha S. Rumale , M/s Biocon Ltd, Bengaluru
9. Shri. B. Sreemannarayana, M/s BEL, Bengaluru.