

## **N D A Update – Mismatch in ITC as claimed in Form GST-3B vis-à-vis amount reflecting in Form GST-2A**

During the financial years 2017-18 and 2018-19, in many cases, the recipients may have availed Input Tax Credit (ITC) in their returns in FORM GSTR-3B despite the amount not being reflected in their FORM GSTR-2A.

Such discrepancies between the amount of ITC availed by the registered persons in their returns in FORM GSTR3B and the amount as available in their FORM GSTR-2A are being noticed by the tax officers during proceedings such as scrutiny/ audit/ investigation etc. because of such credit not reflecting in FORM GSTR-2A of the said registered persons. Such discrepancies have been considered by the tax officers as ineligible ITC availed by the registered persons.

In order to deal with such mismatches, CBIC has issued clarification by way of a circular (No. 183/15/2022-GST dt 27-12-2022).

Scenarios leading to mismatches:

- Supplier has failed to file GSTR-1 but has filed GSTR-3B and paid the taxes
- Supplier has filed GSTR -1 & GSTR-3B but has failed to report a particular supply
- Supplier has filed GSTR -1 & GSTR-3B but the particular supply has been wrongly reflected as B2C supply as against B2B supply.
- Supplier has filed GSTR -1 & GSTR-3B but the GSTIN of the recipient has been wrongly reported.

The procedures provided to handle the aforesaid scenario are as under:

In respect of the mismatches specified above, the proper officer shall seek the details from the registered person regarding all the invoices on which ITC has been availed by the registered person in his FORM GSTR 3B but which are not reflecting in his FORM GSTR 2A. He shall then ascertain fulfillment of the following conditions of Section 16 of CGST Act in respect of the ITC availed on such invoices by the said registered person:

- Possession of a tax invoice or debit note issued by the supplier or such other tax paying documents
- Receipt of goods or services or both
- Payment for the amount towards the value of supply, along with tax payable thereon, to the supplier.

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In order to verify that tax on the said supply has been paid by the supplier, the following procedure has been prescribed:

- In case, where difference of ITC in respect of a supplier for the said financial year exceeds Rs 5 lakh, to obtain Chartered Accountant (CA) or the Cost Accountant (CMA) certificate, certifying that supplies in respect of the mismatched invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR 3B.
- In cases, where difference of ITC in respect of a supplier for the said financial year is upto Rs 5 lakh, to produce a certificate from the concerned supplier to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B.

It may be further noted that ITC is available only if it is claimed within the stipulated period as specified under Section 16(4) of the CGST Act. For the F.Y. 2017-18, the stipulated period was the due date of furnishing return for the month of September, 2018, which was further extended till the due date of furnishing return for the month of March 2019. However, it was also provided that in order to claim ITC within the extended period, it was necessary that the same should reflect in Form GSTR 2A. If it is not reflecting then the relaxation provided in this circular cannot be availed.

These clarifications are applicable in case of bona fide errors.

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/cir-183-15-2022-cgst-28122022.pdf>