INTRODUCTION

ICAI is a statutory body established by an Act of Parliament, viz. *The Chartered Accountants Act, 1949*, for regulating and developing the profession of Chartered Accountancy in the country. The ICAI is the largest professional body of Chartered Accountants in the world, with a strong tradition of service to the Indian economy in public interest.

The GST & Indirect Taxes Committee of the ICAI plays a vital role in supporting the Government's GST initiatives through policy advisory, capacity-building programmes and knowledge dissemination. The Committee extended unwavering support to the Government during the rollout of GST by providing inputs on GST law and procedures and by undertaking extensive awareness and training initiatives.

The GST & Indirect Taxes Committee of ICAI is pleased to present its considered Suggestions on Select Issues under GST for addressing key operational and procedural challenges under GST.

In case any further clarification or data is considered necessary, the Committee shall be pleased to furnish the same. The contact details are:

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SUGGESTIONS ON SELECT ISSUES IN GST

1. **Differential ITC Reversal Liability Under Section 18(6) of the CGST Act on Export of Capital Goods: IGST Payment Route vs. LUT**

Issue

Section 18(6) of the CGST Act requires that on supply of capital goods or plant and machinery, on which input tax credit has been taken, registered person shall pay an amount equal to the input tax credit attributable to the remaining useful life of such capital goods or plant and machinery or the tax on the transaction value of such capital goods or plant and machinery, whichever is higher.

When used capital goods are exported under the IGST payment route, the tax on transaction value is an actual IGST amount. If this exceeds the ITC proportionate to the remaining useful life of the capital goods, the exporter pays IGST, which is thereafter fully refunded as a zero-rated supply. Net cash outflow thus becomes NIL.

When the same capital goods are exported under LUT, the transaction value carries zero tax, being a zero-rated supply. Consequently, the ITC proportionate to the remaining life of the capital goods invariably becomes the higher figure, triggering full ITC reversal with no refund route available for such reversed ITC.

Suggestion

An appropriate mechanism may be designed to provide refund of ITC reversed in compliance of Section 18(6) when capital goods or plant and machinery are exported under LUT.

Justification

Section 18(6) is designed to recover ITC proportionate to the remaining useful life of the capital goods at the time of their supply and not to penalise exporters based on selection of route for export. Providing refund of ITC reversed under section 18(6) in case of capital goods exported under LUT will eliminate an unintended and inequitable cost on exports and will ensure that the two export routes are truly neutral in outcome.

2. Effective Date for Inclusion of Ladakh as a Union Territory

Issue

Section 2(114) of the CGST Act, 2017 defines "Union territory" and includes a list of specified territories. The Union Territory of Ladakh finds mention in this provision through two independent legislative instruments, creating an ambiguity as to the effective date from which Ladakh is to be treated as a Union Territory for the purposes of the CGST Act.

First insertion — Jammu and Kashmir Reorganisation (Adaptation of Central Laws) Order, 2020: The Ministry of Home Affairs, vide order dated 18th March, 2020, inserted sub-clause (ea) in Section 2(114) of the CGST Act to include "Ladakh" as a Union Territory. This order came into force with immediate effect from 18.03.2020.

Second insertion — Finance Act, 2020: The Finance Act, 2020 substituted sub-clauses (c) and (d) of Section 2(114) to read as "*(c) Dadra and Nagar Haveli and Daman and Diu; (d) Ladakh.*" This amendment came into effect from 30.06.2020.

The result is that Ladakh was introduced into Section 2(114) of the CGST Act on two separate occasions — first as sub-clause (ea) with effect from 18.03.2020, and thereafter as sub-clause (d) through substitution with effect from 30.06.2020. This dual insertion creates an ambiguity as to whether Ladakh's status as a Union Territory under the CGST Act is to be reckoned from 18.03.2020 or 30.06.2020 — a gap of over three months.

Suggestion

A clarification may be issued — or a suitable amendment be made — to explicitly recognise 18.03.2020 as the date from which Ladakh is to be treated as a Union

Territory for all purposes under the CGST Act, 2017, in alignment with the Jammu and Kashmir Reorganisation (Adaptation of Central Laws) Order, 2020.

Justification

If 30.06.2020 is treated as the operative date, Ladakh would remain outside the ambit of Section 2(114) of the CGST Act for the period between 18.03.2020 and 30.06.2020 — notwithstanding that it was already a constitutionally recognised Union Territory during this period. This would create an anomalous and unintended legal vacuum, potentially rendering all GST transactions in Ladakh during this period as falling outside the defined territorial framework of the Act.

Where two legislative instruments operate on the same provision, and one is rooted in constitutional reorganisation while the other is a fiscal consolidation measure, the instrument giving effect to the constitutional change must take precedence in determining the effective date. Recognising 18.03.2020 is not only consistent with the constitutional reality but also with the settled principle that statutes must be read in a manner that avoids absurdity and unintended gaps in coverage.

3. **Levy of IGST Under Reverse Charge on Services Received from a Person Located in Non-Taxable Territory Where Place of Supply is Outside India**

Issue

Section 2(11) of the IGST Act, 2017 defines "import of services" as a supply where the supplier is located outside India, the recipient is located in India, and — critically — the place of supply is in India. The definition is conjunctive; all three conditions must be cumulatively satisfied. It follows that where the place of supply is outside India, the transaction does not constitute "import of services" and consequently cannot be treated as an inter-State supply under section 7(4) of the IGST Act.

Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017, issued under section 5(3) of the IGST Act, identifies services supplied by a person located in a non-taxable territory to a person located in the taxable territory as liable to tax under reverse charge. The notification identifies the parties by reference to their location but makes no mention of the place of supply.

Certain field formations are construing this notification in isolation from the parent statute and raising reverse charge demands solely on the basis that the supplier is located outside India and the recipient is located in India — without examining whether the place of supply is in India. While this is not the correct legal position, it has given rise to a further inconsistency in situations where taxpayers have discharged IGST under reverse charge under protest or departmental insistence. The corresponding input tax credit is denied to such taxpayers on the ground that the place of supply is outside India — resulting in a contradictory position where the place of supply is ignored for the purpose of levy but invoked for the purpose of denial of credit.

Suggestion

A suitable clarification or circular may be issued to clarify that Entry No. 1 of *Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017* does not apply where the place of supply of the service is outside India, and that reverse charge demands should not be raised without first establishing that the place of supply is in India.

Justification

Notification No. 10/2017 is delegated legislation issued under Section 5(3) of the IGST Act, which empowers the Government to specify categories of supply on which tax shall be paid by the recipient — it cannot create a new taxable event or enlarge the charging provision.

4. **Difficulty in Filing Refund Applications Due to Annexure-B Offline Utility Requirement for Reporting ITC**

Issue

As per the advisory issued for the Annexure B Offline Utility, taxpayers are required to report details relating to both availment and reversal of ITC, while each invoice can be reported only once in the utility. Para 6 of the same advisory requires that ITC reversals reflected in Table 4(B)(2) of Form GSTR-3B shall be reported in Annexure B accordingly.

When a taxpayer avails ITC on an invoice in Month 1, reverses it in Table 4(B)(2) in Month 1 or Month 2, and thereafter re-avails the same ITC in Table 4A(5) in a subsequent month, the invoice's ITC is captured in Table 4A(5) of Form GSTR-3B on two separate occasions — once at original availment and once at re-availment. Accordingly, the aggregate figure in Table 4A(5) for the refund period reflects the value of that invoice's ITC twice, while Table 4(B)(2) captures the reversal once. The net arithmetic across the three entries correctly represents the ITC ultimately retained by the taxpayer.

When the taxpayer attempts to report such an invoice in Annexure B, either of the following outcomes results, both of which are incorrect:

(a) If the Table 4(B)(2) reversal is reported in the utility, the utility computes the net ITC for that invoice after deducting the reversal amount. Since the reversal was subsequently nullified by re-availment and an entry cannot be separately captured in Annexure B for the same invoice owing to the one-line-item restriction, the net ITC reflected in the utility gets understated.

(b) If the reversal is not reported in the utility, in order to correctly represent the net retained ITC - the Annexure B figures do not reconcile with Table 4(B)(2) of Form GSTR-3B.

The conflict is therefore structural: the utility's one-invoice-one-line-item design, combined with the requirement to report Table 4(B)(2) reversals, does not accommodate the three-stage ITC movement of availment → reversal → re-availment.

Suggestion

Annexure B may be modified to incorporate a field of reclaimed ITC.

Justification

Incorporating a field of reclaimed ITC in Annexure B will help achieve the intended purpose of Annexure B of reconciling ITC claimed as refund and the ITC reflected in the taxpayer's returns.

5. Display of Invoice-Level Net Differential (Delta) Tax Values in Form GSTR-2B

Issue

In the Form GSTR-2B summary sheet, only the net differential ITC amount i.e., the amended tax amount less the original tax amount is reflected against amended invoices. However, the downloadable invoice-level Form GSTR-2B data (specifically the B2BA and CDNRA tables) display the entire amended tax value, rather than the net differential amount arising from the amendment.

As a result, the invoice-level data does not reconcile with the summary figures presented in Form GSTR-2B. Taxpayers are consequently required to manually trace back the original invoice from earlier return periods, extract the originally reported tax value, and independently compute the differential amount in order to reconcile it with the summary sheet. This is a time-consuming, error-prone exercise, particularly for taxpayers dealing with a high volume of amended invoices across multiple return periods.

Suggestion

A separate "Net Differential/Delta Tax" column be introduced in the B2BA and CDNRA tables of the invoice-level GSTR-2B data. This column should reflect the net differential tax value (amended tax less original tax) corresponding to each amended invoice, consistent with the manner in which the net differential figure is already reflected in the Form GSTR-2B summary sheet.

Justification

A dedicated Net Differential/Delta Tax column in the invoice-level data of Form GSTR-2B would enable direct, invoice-wise reconciliation with the summary figures, eliminate the need for manual back-referencing of original invoices, reduce the scope for reconciliation errors, and improve overall accuracy and efficiency in ITC reconciliation for taxpayers.

6. Upper Monetary Limit for Issue of Consolidated Revised Invoice for Inter-State B2C Supplies under Rule 53 of the CGST Rules, 2017

Issue

A disparity presently exists between the upper monetary limit prescribed for consolidated reporting of inter-State supplies made to unregistered persons in Form GSTR-1 under Rule 59(4) of the CGST Rules, 2017 and the upper monetary limit prescribed for issuance of a State-wise consolidated revised invoice in respect of such supplies under Rule 53 of the said Rules.

Pursuant to *Notification No. 12/2024-Central Tax dated 10th July, 2024*, Rule 59(4) was amended, with effect from 1st August, 2024, to require consolidated reporting in Form GSTR-1 of inter-State supplies made to unregistered persons where the invoice value is up to ₹ 1,00,000. However, Rule 53 continues to permit the issuance of a State-wise consolidated revised invoice in respect of inter-State supplies to unregistered persons where the value of a supply does not exceed ₹ 2,50,000.

This has resulted in an inconsistency within the CGST Rules, as the upper monetary limits applicable for consolidation under the two provisions are no longer aligned. Consequently, transactions in respect of which a consolidated revised invoice may be issued under Rule 53 may not correspond with the category of supplies that can be reported on a consolidated basis in FORM GSTR-1 under Rule 59(4).

Suggestion

Rule 53 of the CGST Rules, 2017 may be suitably amended to align the monetary limit for issuance of consolidated revised invoices with the corresponding limit prescribed under Rule 59(4) for consolidated reporting of inter-State supplies to unregistered persons.

Justification

The reduction in the monetary limit under Rule 59(4) from ₹2,50,000 to ₹1,00,000 was intended to enhance invoice-level reporting and improve data analytics. However, the corresponding limit under Rule 53 has not been reduced, resulting in different limits for substantially similar transactions. This may create ambiguity, increase the likelihood of inadvertent reporting errors, complicate ERP and compliance systems, and lead to avoidable reconciliation issues and notices arising from reporting differences.

Alignment of the two provisions would promote consistency, certainty and ease of compliance.

7. Different Due Dates for Filing Form GSTR-4 under Rule 62(1) and Rule 62(5) of the CGST Rules, 2017

Issue

A mismatch exists in the due dates for filing Form GSTR-4 under Rule 62(1)(ii) and Rule 62(5) of the CGST Rules, 2017. Rule 62(1)(ii), as amended by *Notification No. 12/2024-Central Tax dated 10th July 2024*, requires composition taxpayers to file the return in Form GSTR-4, from FY 2024-25 onwards, by 30th June following the end of the financial year. Rule 62(5), however, still requires a taxpayer who withdraws from the composition scheme during the year to file Form GSTR-4 by 30th April following the end of that financial year.

Since Rule 62(5) was not amended when the due date under Rule 62(1)(ii) was extended, taxpayers filing the same return for the same financial year end up with different due dates, depending only on whether they remained in or withdrew from the composition scheme.

Suggestion

Rule 62(5) be amended to align the due date with Rule 62(1)(ii), by replacing "*the thirtieth day of April*" with "*the thirtieth day of June.*"

Justification

The extension of the due date under Rule 62(1)(ii) was meant to give composition taxpayers more time to reconcile annual figures. As Rule 62(5) was not similarly amended, taxpayers exiting the scheme mid-year face a shorter, and unequal, compliance timeline for identical filing. Aligning both provisions would ensure consistency and ease of compliance for all composition taxpayers.

8. Rule 63 of the CGST Rules, 2017 Not Aligned with the Amended Due Date Under Section 39(5) of the CGST Act for Non-Resident Taxable Persons

Issue

A mismatch exists between the due date prescribed under Section 39(5) of the CGST Act, 2017 and Rule 63 of the CGST Rules, 2017 for filing the return by a non-resident taxable person. Section 39(5), as amended, requires Form GSTR-5 to be filed within 13 days after the end of the calendar month, or 7 days after the last day of the registration validity period, whichever is earlier. Rule 63, however, still requires the same return to be filed within 20 days after the end of the tax period, or 7 days after the last day of validity of registration, whichever is earlier.

Since Rule 63 was not amended when the timeline under Section 39(5) was reduced from 20 days to 13 days, the Rule now conflicts with its parent statutory provision.

Suggestion

Rule 63 may be amended to align the due date with Section 39(5), by replacing "*twenty days*" with "*thirteen days*" after the end of the tax period.

Justification

Rules framed under the CGST Act are subordinate legislation and must remain consistent with the parent Act. The continued reference to twenty days in Rule 63, despite the statutory timeline being shortened to thirteen days, creates ambiguity for non-resident taxable persons as to which due date governs, and exposes them to the risk of inadvertent late filing and consequent late fees or interest if the shorter statutory timeline is treated as binding. Aligning Rule 63 with Section 39(5) would remove this inconsistency and provide clarity and certainty in compliance.

9. **Consequential Amendment in *Notification No. 12/2017-Central Tax (Rate)* Pursuant to Enactment of the Income-tax Act, 2025**

Issue

Various exemption entries under *Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017* continue to refer to charitable entities registered under section 12AA or section 12AB of the Income-tax Act, 1961. With the Income-tax Act, 2025 having come into force with effect from 01.04.2026, section 332 of the new Act now provides the statutory framework for registration of Charitable Trusts, replacing section 12AB of the erstwhile Act. Consequently, newly constituted charitable organisations seeking registration after the commencement of the new Act would obtain registration under section 332 rather than under the erstwhile section 12AA/12AB regime.

In the absence of a corresponding amendment to *Notification No. 12/2017-Central Tax (Rate)*, a newly registered charitable organisation under section 332 of the Income-tax Act, 2025 may face uncertainty regarding its eligibility for exemptions that continue to refer specifically to registration under sections 12AA/12AB of the Income-tax Act, 1961.

The entries in *Notification No. 12/2017-Central Tax (Rate)* which have reference to section 12AA/12AB of the Income-tax Act, 1961 are:

Entry No. 1 – Services by an entity registered under section 12AA or 12AB of the Income Tax Act, 1961 by way of Charitable Activities.

Entry No. 9D – Services by an old age home run by Central Government, State Government or by an entity registered under Section 12AA or 12AB of the Income Tax Act 1961 to its residents (aged 60 years or more) against consideration upto twenty-five thousand rupees per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.

Entry No. 13(b) – Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA or 12AB of the Income-tax Act, 1961 or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:".

Entry No. 74A – Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 (34 of 1992) by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centres established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income-tax Act, 1961.

Entry No. 80(b) – Services by way of training or coaching in recreational activities relating to sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.

Suggestion

Notification No. 12/2017-Central Tax (Rate), and corresponding notifications wherever applicable, be suitably amended to incorporate a reference to section 332 of the Income-tax Act, 2025 wherever the existing exemption is presently linked to registration under the erstwhile sections 12AA/12AB, specifically in respect of Entry Nos. 1, 9D, 13(b), 74A and 80(b) listed above.

Justification

Following the introduction of section 12AB under the Income-tax Act, 1961, *Notification No. 07/2021-Central Tax (Rate) dated 30.09.2021* inserted the reference to section 12AB in *Notification No. 12/2017-Central Tax (Rate),* pursuant to the recommendations of the GST Council in its 45th meeting. A similar amendment incorporating section 332 of the Income-tax Act, 2025 would maintain consistency in the exemption framework and provide clarity regarding the eligibility of charitable organisations registered under the new regime.

10. Optional Recipient-Side TDS Mechanism to Protect Input Tax Credit of Genuine Taxpayers

Issue

Under Section 16(2)(c) of the CGST Act, 2017, a recipient's ITC is conditional on the supplier having actually deposited the tax with the Government — not merely on the recipient having paid the supplier in full, including GST. Where a supplier fails to deposit tax already collected from the recipient (due to default, insolvency, or fraud), it is the recipient — not the defaulting supplier — who loses ITC and effectively bears the tax twice, despite having no visibility or control over the supplier's compliance.

Rules 88C and 88D of the CGST Rules, 2017, and the shift to Invoice Management System with hard-locked Form GSTR-3B/GSTR-1 reconciliation, have sped up detection of such mismatches, but they do not change the underlying legal exposure under Section 16(2)(c). For any recipient caught in a tax period where the supplier defaults, the credit loss is total, not partial — faster detection only shrinks how many recipients are exposed over time, not what happens to the ones who are.

Suggestion

It is suggested that an optional recipient-side TDS mechanism may be introduced in the GST law. The recipient may pay the supplier only the taxable value and remit the GST component directly to Government (on the model of Section 51 TDS). The key features of the mechanism would be:

- Optional, exercisable by the recipient for higher-risk suppliers/sectors (e.g., new registrants, sectors prone to missing-trader fraud) — not a universal mandate.
- ITC delinked from supplier deposit, since the tax has already reached Government through the recipient.
- No new burden on the supplier — it continues filing Form GSTR-1 as usual; at Form GSTR-3B stage, liability is set off against ITC first, then cash ledger (now credited with the recipient's TDS remittance).
- Surplus refundable to the supplier under existing "excess cash ledger balance" provisions, refund conditional on the supplier having discharged its full declared Form GSTR-1 liability — so Government retains full verification control.

Justification

This model shifts the fix from detecting diversion faster to eliminating the point at which tax can be diverted, lost to insolvency, or defrauded — while reusing the existing Section 51/52 TDS/TCS framework, so compliance cost for the broader taxpayer base unaffected.

11. Dedicated Fast-Track Refund Mechanism for Refund of Statutory Pre-Deposit under GST

Issue

Refund of statutory pre-deposit — payable under Section 107(6) of the CGST Act, 2017 on success before the Appellate Authority, and under Section 112(8) of the

CGST Act, 2017 on success before the GST Appellate Tribunal (GSTAT) — is currently routed through the general RFD-01 mechanism designed for Section 54 refunds (exports, inverted duty structure, excess cash ledger, etc.). This causes avoidable delay, demands for documents (reconciliations, unjust-enrichment certificates) with no bearing on a pre-deposit refund, and rejection on frivolous grounds — most commonly withholding refund on the ground that the taxpayer has an active demand or that the department's appeal period has not lapsed or an appeal is pending, even without any stay. This issue has so far been litigated mainly at the Appellate Authority level as GSTAT has become operational recently. CBIC Circular No. 175/07/2022-GST clarified the category of the claim but not the processing track, and field-level practice remains largely unchanged for either stage.

Suggestion

A dedicated, time-bound fast-track refund route for pre-deposit, distinct from the general RFD-01/Section 54 workflow may be introduced in the GST law. Its key features would be:

- Auto-triggered refund on the portal once the AA's/GSTAT's favourable order is uploaded, linked to the pre-deposit already reflected in the Electronic Cash/Credit Ledger — no fresh manual filing.
- No unjust-enrichment scrutiny — no CA certificate, self-declaration, or reconciliation documents.
- No adjustment against unrelated disputed demand — the refund should not be set off or withheld against any "active" demand that is itself pending in appeal, under stay, or otherwise not yet final; adjustment should be permissible only against demand that has attained finality and remains unpaid.
- Section 54 limitation expressly excluded for pre-deposit refunds, to end recurring litigation on this point.

- No withholding for pendency/non-expiry of departmental appeal, unless an express stay has been obtained from the competent appellate forum.
- Shorter statutory timeline (e.g., 15–30 days, vs. the general 60 days), since the exercise is verificatory, not adjudicatory.
- Escalation matrix with mandatory reasoned orders where a deficiency memo is issued, to curb arbitrary rejection.

Justification

The Supreme Court, in *State of Jharkhand v. BLA Infrastructure Pvt. Ltd. (affirming Jharkhand HC, 30.01.2025)*, held that pre-deposit refund is governed by Section 107(6) read with Section 115 — not Section 54 — making the Section 54 limitation exercise "unnecessary." The Jharkhand High Court in *BLA Infrastructure* and in *GTL Infrastructure Ltd. v. State of Jharkhand (20.08.2025),* and recently the Bombay High Court in *IBM India Pvt. Ltd. v. Union of India (28.08.2026),* have all held that continued retention of a pre-deposit after the underlying demand stands set aside is wholly unauthorised and offends Article 265 of the Constitution, directing refund accordingly. A separate fast track refund mechanism would therefore provide the needed relief to the taxpayer.