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Interest Under GST

Did you know that the Central Excise Act, 1944, and the Customs Act, 1962, initially did not have any provision for the levy of interest? Levy of interest was first introduced in the Service tax in the year 1994, followed by an amendment in the Central Excise Act and Customs Act through the Finance Act, 1995. Even after 30+ years of its introduction in indirect tax laws, the interest-related provisions are still the subject matter of litigation in the majority of indirect tax laws. GST is also not an exception. The interest-related provisions have been in the Central Goods and Services Tax Act, 2017, since its inception, and even after 8 years, there exist some grey areas. This piece of articulation is focused on three issues related to the levy of interest under GST that are the centre point of litigation in present times.

Issue-I: Proviso to Section 50(1) & Anomalies Therein

Interest on delayed payment of tax is levied through section 50 of the Central Goods and Service Tax Act, 2017, read with rule 88B of the CGST Rules, 2017. The first issue pertains to the proviso to section 50(1). The relevant portion of section 50 is produced as follows: -

"Section 50. Interest on delayed payment of tax, -

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 or section 74A in respect of the said period, shall be levied on that portion

of the tax that is paid by debiting the electronic cash ledger."

A bare reading of this proviso brings out the fact that interest shall be levied on the cash component of the total tax liability. However, this benefit shall be allowed only on the tax payable in respect of "supplies made during a tax period and declared in the return for the said period furnished after the due date". In other words, this proviso seems to extend the adjustment of ITC in respect of the supplies made during the tax period and declared in the returns for the said tax period. However, if the supplies made during the tax period are declared belatedly, in a subsequent return, the benefit of this proviso is not available. This may be understood with the help of the following example: -

ABC Ltd. issued 100 invoices during the month of August 2025. Out of these invoices, 90 invoices were shown in the GSTR-3B for the month of August 2025, filed on 20.10.2025. 10 invoices issued in the month of August 2025 were shown in the GSTR-3B for the month of September 2025, filed on 20.10.2025. As per the language of the proviso to section 50, the benefit of adjustment of ITC while computing the interest shall be allowed only in case of 90 invoices pertaining to the

month of August 2025 and declared in the GSTR-3B for the same month. However, interest shall be computed on "gross tax liability" without extending the benefit of the proviso to section 50 in respect of 10 invoices pertaining to the month of August 2025 & declared in GSTR-3B for the month of September 2025.

It is worthwhile to mention here that the above-referred proviso was added purposely in section 50 to curtail the malpractices. If this proviso were not so worded, there would have been a taxpayer who would have avoided the inclusion of a few tax invoices in GSTR-3B, as there was no balance in the Electronic Credit Ledger, and he was not willing to make payment in cash. However, the language of this proviso, even though thoughtfully drafted, does not address the following issues: -

- Suppose, in the above-referred example, there is sufficient balance in the Electronic Credit Ledger during the month of August 2025 to meet the entire tax liability from ITC; however, the 10 invoices were mistakenly left to be included in the GSTR-3B. As per the language contained in the proviso to section 50, the benefit of adjustment of ITC is not allowed, and interest is

payable on the gross tax liability ignoring the fact that there was a sufficient balance in the Electronic Credit Ledger to cover the entire tax amount pertaining to those 10 invoices on the due date of GSTR-3B for the month of August 2025.

- Suppose there was an invoice on which the date was mistakenly shown as 10.08.2024 instead of 10.08.2025. This is a pure clerical mistake that may be verified from the other data available on the records. However, the Revenue Department still demands the interest on the entire tax amount by mentioning that this case is not covered by the proviso to section 50. Interesting, right?

There are a lot more similar issues that are popping up nationwide, where the interest is demanded without extending the benefit of balance in the Electronic Credit Ledger by following the principle of literal interpretation in this case. A suitable clarification is needed on this issue.

Issue-II: Recovery of Interest Due But Not Paid

A. Legal provisions: -

Section 79 of the Central Goods and Services Tax Act, 2017 provides for the recovery of pending dues under the GST law by various means, including the debit from Electronic Cash Ledger, freezing of bank accounts, recovery from attachment of movable and immovable property belonging to the defaulter, etc. However, this provision cannot be invoked unless the proper procedure prescribed under law is followed. This procedure includes issuance of a show cause notice under section 73, 74, or 74A, allowing the opportunity to file the reply, granting of a personal hearing, which is followed by an order. Once a demand is confirmed by passing an order, thereafter, recovery proceedings under section 79 of the Central Goods and Services Tax Act, 2017, can be initiated. However, there are

certain exceptions to this. One such exception is contained in section 75(12) of the Central Goods and Services Tax Act, 2017. This section reads as follows: -

“(12) Notwithstanding anything contained in section 73 or section 74 or section 74A, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.”

Explanation: For the purposes of this sub-section, the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.”

An analysis of the above sub-section clarifies that where any amount of self-assessed tax remains unpaid or any amount of interest payable on such tax remains unpaid, no show cause notice is required to be served, and recovery can be directly made by invoking provisions of section 79. Further, sub-rule 5 of rule 142 of the Central Goods and Services Tax Rules, 2017 provides that a summary order is required to be issued in case of an order issued under section 75. This sub-rule reads as follows:

“(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 74A or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the person concerned.”

Combined reading of section 75(12) and rule 142(5) brings out the fact that in case interest on self-assessed tax remains unpaid,



the show cause notice in FORM GST DRC-01 is not required to be issued under section 73, 74, or 74A, and directly an order may be issued in FORM GST DRC-07.

If we check the language of sections 73, 74, and 74A under which show cause notice can be issued, it clarifies that the show cause notice can be issued by the proper officer only if “any tax is not paid or short paid or erroneously refunded or input tax credit has been wrongly availed or utilised.” Where the demand is only of interest with tax already paid in GSTR-3B, the pre-requisites laid down in these three sections are not met, and accordingly, a show cause notice cannot be issued in either of these sections. This also substantiates the language of section 75(12) of the Central Goods and Services Tax Act, 2017, which prescribes for direct recovery without issuance of a show cause notice. The validity of these provisions has been upheld by the Hon’ble Gujarat High Court in the case of *Rajkamal Builder Infrastructure (P.) Ltd. v. Union of India* [R/ Special Civil Application No. 21534 of 2019] as decided on March 31, 2021. In this case, the Hon’ble High Court has held that the show cause notice in FORM GST DRC-01 cannot be issued in case of self-assessed tax and interest referred to in section 75(12) of the Central Goods and Services Tax Act, 2017.

Revenue Department's take: -

It is pertinent to mention here that the Revenue Department normally issues a show cause notice for the recovery of interest even if no demand for tax is pending. Section 75(12) is never invoked by it. Perhaps it is done to impose a penalty which is not possible if the amount of interest due is directly recovered under section 79. A taxpayer had already paid the tax amount while filing the GSTR-3B pertaining to the financial year 2018-19. Only the interest of a nominal amount of around ₹ 3,000/- was due. As per provisions of section 75(12) of the Central Goods and Services Tax Act, 2017, the said amount of interest could have been recovered directly under section 79, and the matter would have closed.

However, a show cause notice was issued under section 73 of the Central Goods and Services Tax Act, 2017, despite the fact that no show cause notice can be issued under section 73, as there is no demand for tax in the case. However, a show cause notice was still issued, and it proposed the demand of interest of ₹ 3,000/- along with a penalty of ₹ 10,000/- under section 73. The matter was adjudicated by issuing an order under section 73, in which the demand of interest and penalty was confirmed.

Meanwhile, an amnesty scheme was introduced by the Government by adding section 128A to the CGST Act, 2017. This scheme extends the waiver of interest or penalty, or both, if the tax amount is paid.

As the order was under section 73, an application for waiver of interest and penalty was moved in FORM SPL-02. Interestingly, the application was proposed to be rejected by issuing a notice on the grounds that the case does not pertain to section 73; it is covered by section 75(12), which is not included in the amnesty scheme. This was backed by the Circular No. 238/32/2024-GST dated 15th October, 2024. The Paragraph 4 of the Circular is read as mentioned in the table below.

Here, the Board Circular clearly specifies that where the demand of tax pertains to section 75(12), the direct recovery is to be made under section 79. In other words, there is no need to issue any show cause notice. But what if the order under section 73 is already issued and a penalty is also imposed in the order, which is not lawful, as when a show cause notice is not issuable under section 73, the question of imposing a penalty under this section does not arise. The Circular should have clarified such cases and should have provided for waiver of penalty upon payment of interest. However, this is not done.

Coming back to the case, here is what has happened with the taxpayer in the case discussed in forgoing paragraphs. The demand for interest and penalty was confirmed under section 73, which is an undisputed fact. With a confirmed demand of interest and penalty under section 73, the taxpayer opted for the amnesty scheme; however, the proper officer



switched his approach, stating that the case is not covered under section 73, but rather it is covered by section 75(12), so the benefit of the amnesty scheme is not available to him. However, the order was issued under section 73, which is clearly reflected on FORM DRC-01 as well as FORM DRC-07, and there is no mention of section 75(12) in these documents. Now this is the situation –

- The taxpayer, having paid interest of ₹ 3000/-, wants to claim relief from penalty under amnesty scheme. Penalty is not imposable at all as provisions of section 73 are not applicable in this case.
- The Revenue Department is bent upon recovering the penalty as well because there is one confirmed demand under section 73, and the benefit of the amnesty scheme is not admissible because of clarification given in a Board Circular.
- As the amount involved in the issue is very small, it does not appear feasible to taxpayer to opt for an appeal.

4	<i>Whether the benefit provided under Section 128A will be applicable in cases, where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved?</i>	<i>Where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved, the same shall be considered for availing the benefit of section 128A. However, the benefit of waiver of interest and penalty shall not be applicable in the cases where the interest has been demanded on account of delayed filing of returns, or delayed reporting of any supply in the return, as such interest is related to demand of interest on self-assessed liability and does not pertain to any demand of tax dues and is directly recoverable under sub-section (12) of section 75.[emphasis supplied]</i>
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(Paragraph 4 of the Circular No. 238/32/2024- of GST)

Issue III: Interest on Tax Payable Under the Reverse Charge Mechanism

Time limit for issuing an invoice under the reverse charge mechanism:

Section 31(3)(f) of the Central Goods and Service Tax Act, 2017 provides that where the supplies taxable under the reverse charge mechanism are received from an unregistered person, the tax invoice on such goods and services is required to be issued by such recipient who is liable to pay tax on the same. The time limit for issuance of such an invoice is prescribed in Rule 47A of the Central Goods and Service Tax Rules, 2017. This rule reads as follows: -

“Rule 47A. Time limit for issuing tax invoice in cases where recipient is required to issue invoice.

Notwithstanding anything contained in rule 47, where an invoice referred to in rule 46 is required to be issued under clause (f) of sub-section (3) of section 31 by a registered person, who is liable to pay tax under sub-section (3) or sub-section (4) of section 9, he shall issue the said invoice within a period of thirty days from the date of receipt of the said supply of goods or services, or both, as the case may be.”

Thus, this rule prescribes that where an invoice is required to be issued by the recipient under section 31(3)(f) of the Central Goods and Service Tax Act, 2017, it is mandatory for him to issue the said invoice within a period of thirty days from the date of receipt of the said supply of goods or services or both.

Time of supply of services taxable under the reverse charge mechanism:

The time of supply of services under the reverse charge mechanism is determined as per section 13(3) of the Central Goods and Services Tax Act, 2017. This section reads as follows: -

“(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply

shall be the earlier of the following dates, namely:-

(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier, in cases where invoice is required to be issued by the supplier; or:

(c) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.”

An analysis of the above-referred provision clarifies that in case of services liable to tax under the reverse charge mechanism, the liability to pay tax is determined based on the fact whether the supplier is registered or not. If the supplier is registered, the time of supply is determined as the earlier of the date of making payment (date of making entry or date of debit in bank account, whichever is earlier); or 61st day from the date of issue of invoice by the supplier.

However, where the supplier is not registered, the liability to issue an invoice rests upon the recipient under section 31(3)(f) of the Central Goods and Service Tax Act, 2017. In such a case, the time of supply of services is determined as the earlier of two dates - date of making payment (date of making entry or date of debit in bank account, whichever is earlier); or date of issue of invoice by the recipient.



Where the invoice under section 31(3)(f) is not issued within the time stipulated in rule 47A, whether the interest will be payable?

To understand the anomaly in the above-discussed sections, let us assume a situation. X Ltd. received security services in relation to an event organised by it on 07.07.2025. These services are taxable under reverse charge, and the supplier is not registered. As per section 31(3)(f) read with rule 47A, the invoice is required to be issued by X Ltd. on or before 06.08.2025. However, the invoice is issued by X Ltd. on 15.09.2025, and payment is made to the supplier on 04.10.2025.

X Ltd. is of the view that, as per section 13(3) of the Central Goods and Service Tax Act, 2017, the time of supply of these services will be 15.09.2025 (being earlier of date of issue of invoice, i.e., 15.09.2025, or date of making payment, i.e., 04.10.2025). Thus, the due date of tax payment will be 20.10.2025.

However, the Revenue Department is of the view that the due date of issuance of the invoice under Rule 47A is 06.08.2025, and X Ltd. has knowingly delayed the issuance of the invoice to delay the payment of tax. As per the Department, the time of supply falls in the month of August, tax was due to be paid on 20.09.2025. Since the tax has been paid on 20.10.2025, interest is required to be paid on it.

If we go by the bare language of section 13(3) of the Central Goods and Services Tax Act, 2017, the situation seems to tilt in favour of the assessee. The language of clause (c) of sub-



section 3 of section 13 is clear and unambiguous. It used the word “date of issue of invoice” which is different than “due date of issue of invoice”. The lawmakers have clearly distinguished these two terms while framing the provisions related to the time of supply. This may be ensured from the language of sections 12(2) and 13(2) of the Central Goods and Services Tax Act, 2017, which clearly differentiates between the two terms. As the language of section 13(3) clearly uses the words “date of issue of invoice”, one cannot read it as “due date of issue of invoice”. In this regard, it is worthwhile to mention the Apex Court judgment given in the case of *Trutuf Safety Glass Industries v. Commissioner of Sales Tax, U.P.* [C.A. Nos. 3467 of 2007] as decided on August 6, 2007. In this case, the Hon’ble Supreme Court held that “it is well settled principle in law that the court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the Legislature. The language employed in a statute is the determinative factor of legislative intent.” In view of this judgment, one can say that no interest is payable by X Ltd. in the above-referred illustration.

Now, let us look at another side of the coin. Rule 47A, which prescribes the time limit for issuing the invoice under section 31(3)(f), was added to the CGST Rules 2017 with effect from 01.11.2024 by virtue of the Finance (No. 2) Act 2024. Prior to this date, there was no time limit for issuing an invoice under section 31(3)(f). Also, prior to the amendment made by the Finance (No. 2) Act, 2024, the determination of time of supply under

section 13(3) was also not dependent on the issuance of an invoice by the recipient, as clause (c) was not there in section 13(3). Thus, the time of supply of services under reverse charge was dependent only on two dates – the date of making payment and the 61st day from the date of issue of the invoice by the supplier. Date of issue of the invoice by the recipient had no role to play in determining the time of supply.

Due to these missing provisions, there was also ambiguity as to what the deadline was to claim input tax credit on such invoices in terms of section 16(4) of the Central Goods and Services Tax Act, 2017. To clarify these issues, Circular No. 211/5/2024-GST dated 26th June, 2024 was issued by CBIC. Para 2.6 of this Circular reads as follows: -

“2.6 A combined reading of the above provisions leads to a conclusion that as ITC can be availed by the recipient only on the basis of invoice or debit note or other duty paying document, and as in case of RCM supplies received by the recipient from unregistered supplier, invoice has to be issued by the recipient himself, the relevant financial year, to which invoice pertains, for the purpose of time limit for availment of ITC under section 16(4) of Central Goods and Service Tax Act in such cases shall be the financial year of issuance of such invoice only. In cases, where the recipient issues the said invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax.” Emphasis supplied.

So, this Circular clarifies that where the tax invoice is issued after the time of supply, the interest is required to be paid on the delayed payment of tax. However, whether the clarification issued by this Circular is still binding? Let us examine through the following pointers: -

- The Circular was issued when there was no explicit provision prescribing the due date of issuing invoices under section 31(3)(f). Further, at that time, the language of section 13(3) also did not consider the date of issue of the invoice by the recipient. Whether

this Circular can still be said to be applicable when the statute has specifically amended section 13(3) and has also added rule 47A.

- The language of section 13(3) after amendment is clear and unambiguous, and this Circular is contradictory to the provision contained in this section. Hon’ble Supreme Court in the case of *Commissioner of Central Excise, Bolpur v. Ratan Melting & Wire Industries* [Civil appeal nos. 4022 OF 1999, 3197 & 4789 of 2000, 1469 of 2002, and 3589 to 3592 of 2005] as decided on October 14, 2008, has held that a Circular contradictory to statutory provisions has no existence in law.

Thus, whether the interest is payable on tax paid under reverse charge in cases where there is a delay in the issue of the invoice by the recipient is subject to litigation. The Revenue Department is relying on the above-referred Circular and is demanding interest in case there is a delay in the issue of the invoice under Rule 47A. In my humble view, as the language of section 13(3) is clear, interest is not payable in such cases. However, the penalty may be imposed for non-compliance with Rule 47A of the Central Goods and Services Tax Rules, 2017.

Before Parting

The provisions related to the levy of interest under GST still have several gaps and inconsistencies. The GST Council should come up with necessary amendments to end the litigation in interest-related provisions. Clarity in legal provisions is not just about law; it’s about trust. Clear rules mean fewer disputes, smoother compliance, and more confidence for taxpayers. When the system is predictable, businesses can focus on growth instead of litigation.

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