

**GOVERNMENT OF WEST BENGAL  
DIRECTORATE OF COMMERCIAL TAXES  
14, BELIAGHATA ROAD, KOLKATA-700015**

**TRADE CIRCULAR No. 09/2018  
DATED: 16.04.2018**

**Sub: Clarification regarding procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit.**

Kind attention is invited to the provisions of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the WBGST Act) relating to the recovery of arrears of value added tax and input tax credit thereof, input tax credit carried forward erroneously and recovery of arrears of entry tax and other taxes leviable under the existing law and related interest, penalty or late fee payable arising as a result of the proceedings of assessment, appeal, revision, review and reference etc. initiated before, on or after the appointed date under the provisions of the existing law or due to revision of return under the existing law. In this regard, representations have been received seeking clarification on the procedure for recovery of such arrears in the GST regime. The issues have been examined and to ensure uniformity in the implementation of the provisions of the law across the field formations (i.e., jurisdictional officers), the Commissioner, in exercise of its powers conferred under section 168 (1) of the West Bengal Goods and Services Tax Act, 2017, (hereinafter referred to as the “WBGST Act”) hereby specifies the procedure to be followed for recovery of arrears arising out of proceedings under the existing law.

**2. Legal provisions relating to the recovery of arrears of value added tax and input tax credit thereof or of entry tax and other taxes arising out of proceedings under the existing law** ( the West Bengal Value Added Tax Act, 2003, and the West Bengal Tax on Entry of Goods into the Local Areas Act, 2012, the Bengal Amusement Tax Act 1922, the West Bengal Entertainment and Luxuries (Hotels and Restaurants) Tax Act, 1972 and the West Bengal Entertainment-Cum-Amusement Tax Act, 1982).

**i) Recovery of arrears of wrongly availed input tax credit:**

In case any proceeding of appeal, revision, review or reference relating to recovery for input tax credit had been initiated, whether before, on or after the appointed day, under the existing law, any amount of such credit becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the WBGST Act [Section 142(6)(b) of the WBGST Act refers].

**ii) Recovery of input tax credit carried forward wrongly:**

Input tax credit of value added tax availed under the existing law may be carried forward in terms of transitional provisions as per section 140 of the WBGST Act subject to the conditions prescribed therein. Any credit which is not admissible in terms of section 140 of the WBGST Act shall not be allowed to be transitioned or carried forward and the same shall be recovered as an arrear of tax under the WBGST Act.

**iii) Recovery of arrears of value added tax or of entry tax and other taxes leviable under the existing law:**

- a. Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day under the existing law, any amount of tax, interest, fine or penalty becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the WBGST Act [**Section 142(8)(a)of the WBGST Act refers**].
- b. If due to any proceedings of appeal, review or reference relating to output tax liability initiated, whether before, on or after the appointed day, under the existing law, any amount of output tax becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the WBGST Act [**Section 142(7)(a)of the WBGST Act refers**].

**iv) Recovery of arrears due to revision of return under the existing law:**

Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of input tax credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the WBGST Act [**Section 142(9)(a)of the WBGST Act refers**].

**3.** In view of the above legal provisions, recovery of value added tax and input tax credit thereof arising out of the proceedings under the existing law or recovery of entry tax and other taxes leviable under the existing law, unless recovered under the existing law, and that of inadmissible transitional credit, is required to be made as an arrear of tax under the WBGST Act. The following procedure is hereby prescribed for recovery of arrears:

**3.1. Recovery of value added tax or wrongly availed input tax credit thereof or of entry tax and other taxes leviable under the existing law and inadmissible transitional credit:**

- (a) The input tax credit of value added tax wrongly carried forward as transitional credit shall be recovered as State 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**).
- (b) The arrears of value added tax, or wrongly availed input tax credit thereof or of entry tax and other taxes leviable under the existing law arising out of any of the situations discussed in para 2 above, shall, unless recovered under the existing law, be recovered as State 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**).

### **3.2. Recovery of interest, penalty and late fee payable:**

(a) The arrears of interest, penalty and late fee in relation to input tax credit wrongly carried forward, arising out of any of the situations discussed in para 2 above, shall be recovered as interest, penalty and late fee of Statetax to be paid through the utilization of the amount available in **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**).

(b) The arrears of interest, penalty and late fee in relation to arrears of value added tax or wrongly availed input tax credit thereof or of entry tax and other taxes leviable under the existing law under the existing law arising out of any of the situations discussed in para 2 above, shall, unless recovered under the existing law, be recovered as interest, penalty and late fee of State tax to be paid through the utilization of the amount available in the **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**).

### **3.3. Payment of value added tax and entry tax on account of returns filed for the past period:**

The registered person may file value added tax, and entry tax return for the period prior to 1<sup>st</sup> July, 2017 by logging onto [www.wbcomtax.gov.in](http://www.wbcomtax.gov.in) and make payment relating to the same through GRIPS portal ([wbifms.gov.in/GRIPS](http://wbifms.gov.in/GRIPS)), as per the practice prevalent for the period prior to the introduction of GST.

### **3.4. Recovery of arrears from dealers under the existing law in cases where such dealers are not registered under the WBGST Act, 2017:**

Such arrears shall be recovered in cash, under the provisions of the existing law and the payment of the same shall be made as per the procedure mentioned in para 3.3 supra.

4. Difficulty, if any, in implementation of this circular may please be brought to the notice of the Commissioner.

Sd/-  
(Smaraki Mahapatra)  
Commissioner,  
State Tax, West Bengal

Memo. No. 191CT/PRO  
3C/PRO/2018

Date: 16.04.2018

Copy forwarded to the Additional Commissioner, ISD for information and for uploading it on the official as well as internal website of the Directorate for information of all concerned.

Sd/-  
(Adesh Kumar)  
Addl.CST & PRO