

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

TRADE CIRCULAR No. 16/2023

(Corresponding Central Circular No. 192/04/2023-GST)

DATED: 10.10.2023

Subject: Clarification on charging of interest under section 50(3) of the WBGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof.

References have been received from trade requesting for clarification regarding charging of interest under sub-section (3) of section 50 of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the “WBGST Act”) in the cases where IGST credit has been wrongly availed by a registered person. Clarification is being sought as to whether such wrongly availed IGST credit would be considered to have been utilized for the purpose of charging of interest under sub-section (3) of section 50 of WBGST Act, read with rule 88B of West Bengal Goods and Services Tax Rules, 2017 (hereinafter referred to as the “WBGST Rules”), in cases where though the available balance of IGST credit in the electronic credit ledger of the said registered person falls below the amount of such wrongly availed IGST credit, the total balance of input tax credit in the electronic credit ledger of the registered person under the heads of IGST, CGST and SGST taken together remains more than such wrongly availed IGST credit, at all times, till the time of reversal of the said wrongly availed IGST credit.

2. Issue has been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner, in exercise of his powers conferred by section 168 of the WBGST Act, hereby clarifies the issues as under:

S. No.	Issue	Clarification
1.	In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of WBGST Rules, whether the balance of input tax credit available in electronic credit ledger under the head of IGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.	Since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B of WBGST Rules and for determining as to whether the balance in the electronic credit ledger has fallen below the amount of wrongly availed input tax credit of IGST, and to what extent

		<p>the balance in electronic credit ledger has fallen below the said amount of wrongly availed credit.</p> <p>Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under sub-section (3) of section 50 of WBGST Act if, during the time period starting from such availment and up to such reversal, the balance of input tax credit (ITC) in the electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit. However, when the balance of ITC, under the heads of IGST, CGST and SGST of electronic credit ledger taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in electronic credit ledger under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest as per sub-section (3) of section 50 of WBGST Act, read with section 20 of Integrated Goods and Services Tax Act, 2017 and sub-rule (3) of rule 88B of WBGST Rules.</p>
2.	<p>Whether the credit of compensation cess available in electronic credit ledger shall be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under sub-rule (3) of rule 88B of WBGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.</p>	<p>As per proviso to section 11 of Goods and Services Tax (Compensation to States) Act, 2017, input tax credit in respect of compensation cess on supply of goods and services leviable under section 8 of the said Act can be utilised only towards payment of compensation cess leviable on supply of goods and services. Thus, credit of compensation cess cannot be utilized for</p>

		<p>payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads.</p> <p>Accordingly, credit of compensation cess available in electronic credit ledger cannot be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under sub-rule (3) of rule 88B of WBGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.</p>
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3. Difficulty, if any, in implementation of this Trade Circular may please be brought to the notice of the Commissioner.

Sd/-
(Khalid Aizaz Anwar, IAS)
Commissioner, State Tax,
West Bengal

Memo. No.- 220 /CT/PRO
3C/PRO/2023

Date: 10.10.2023

Copy forwarded to the Special Commissioner, State tax /ISD for information and for uploading it on the official website of the Directorate for information of all concerned.

Sd/-
(Nabanita Pal)
Special Commissioner,
State Tax & PRO