

Date: 17th March, 2025

To,

1. The GST Council
Office of the GST Council Secretariat
5th Floor, Tower II, Jeevan Bharti Building, Janpath Road,
Connaught Place, New Delhi-110 001
2. Hon'ble Chairman, Central Board of Indirect Taxes and Customs
Central Board of Indirect Taxes and Customs,
North Block, Central Secretariat,
New Delhi, Delhi 110001
3. Hon'ble Commissioner of State Tax,
8th Floor, GST Bhavan, Mazgaon
Mumbai - 400010

Sub : Representation on Hard – Locking of auto-populated liability and Input Tax Credit in the GST Returns.

Respected Sir/Madam,

The Chamber of Tax Consultants, established in 1926, is one of the oldest non-profit organizations of tax practitioners, having Advocates, Chartered Accountants and Tax Practitioners as its members spread across Pan India. The Chamber is on the cusp of its Centenary year which will be commencing from July 2025. Many senior tax professionals who regularly appear before the Supreme Court, High Courts and Income-tax Appellate Tribunals are its Past Presidents. The Chamber has been making regular representations before various government agencies.

The Chamber regularly takes up initiatives to act as a bridge between stakeholders and concerned regulatory bodies in order to convey and help in resolving genuine grievances or effectively implement the laws. We would like to draw your attention on the following issue being faced:

Hard - Locking of auto-populated liability in GSTR-3B

1. On 17th October 2024, The GSTN issued an advisory which was uploaded on the GST Portal that tentatively from January 2025 tax period, the GST Portal is going to restrict

making changes in auto-populated liability in pre-filled GSTR-3B from GSTR-1/1A/IFF. This would also apply to Input Tax Credit which would be flowing from the GSTR2B into the GSTR3B.

2. Subsequently, after receiving backlash from the taxpayers and community at large, the original advisory which was issued was withdrawn and a new advisory was replaced in the evening deferring the implementation of hard locking of ITC but continuing with the hard locking of liability flowing from the GSTR1/1A/IFF into the GSTR3B.
3. The revised advisory temporarily halts the hard locking of ITC. However, locking of auto-populated ITC in GSTR-3B, after the roll out of Invoice Management System (IMS), will be implemented from a later date. Meaning thereby, the hard locking of ITC shall be implemented again after giving due intimation in advance to taxpayers but there will be no consultation with the stakeholders.
4. We believe that this hard locking process should be halted and we seek to highlight some of the important issues:

4.1. Self-Assessment

- 4.1.1. Sec 59 of the CGST Act, 2017 provides for self-assessment by the taxpayer. It states that every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39. Implementation of the hard locking of GST return would give a go-by to the concept of Self-Assessment. This invariably is leading to violating the provisions of the GST Laws.
- 4.1.2. The hard locking of GST returns is being implemented with the intention to phase out any possible human errors in return filing process, however, Form GSTR 3B is the only way in which any human errors can be corrected, if that is also hard-locked, the essence of self-declaration and self-assessment is taken away.
- 4.1.3. Alternatively, to make return filing process smoother and error free – the CBIC should consider allowing for revision of returns. Similar view was taken by the Hon'ble Karnataka HC in the case of M/S Wipro Limited India V/s The Assistant Commissioner Of Central Taxes, Bengaluru (2023-VIL-22-KAR) wherein the Karnataka High Court has acknowledged that genuine errors in GSTR-3B can be rectified, allowing the company to revise its returns for the past three years as per a recent circular issued by the Central Board of Indirect Taxes and Customs (CBIC). This rectification pertains to unintentional and bona fide errors in the invoices. Recent news articles also suggest that the CBIC is considering implementing a new proposal for allowing of revision of returns. The introduction of new GSTR1A only allows for addition or certain amendment pertaining to the same return period after the GSTR1 is filled.

4.1.4. As you are aware, the more rigid the structure, the more it is prone to crumble by even a slight jolt. However, keeping the structure flexible ensures scalability.

4.1.5. Today, the maximum of time taken by GST Authorities is spent on reconciliation of GSTR 3B vs Books, thereafter GSTR 3B vs GSTR - 9 and then GSTR 9 vs Books. All this multiplicity of efforts can be saved by a simple mechanism of allowing revision of returns. The system of revision in annual returns is tried and tested under MVAT Act and a similar model can be implemented under GST also. State of Maharashtra has developed one of the most robust return systems under MVAT Act, 2002 which has in recent past formed the basis for other states and also had an influence while developing the structure of the current GST returns.

4.2. Negative Liability

4.2.1. The GST Portal still does-not allow adjustment of negative liability, in a situation where Credit Notes are higher than Supply invoices. In spite of Notification No. 12/2024-Central Tax dated 10 July 2024 providing for adjustment of negative liability in the GSTR1, the same is yet to be implemented.

4.2.2. Should the hard locking be implemented, liability which remains to be adjusted pertaining to prior period will not be adjusted and cause undue hardship to genuine taxpayers. These recommendations of adjustment of negative liability against future liability is as per Circular No. 26/2017-GST dt 29th Dec 2017.

4.3. Hard-locking of ITC

4.3.1. The Invoice Management System (IMS) is optional to be used by the taxpayers. It does not even have a legal backing. By hard locking the data flowing from IMS to GSTR2B to the GST Form GSTR3B, the GSTN is making IMS mandatory. This again is not in consonance of the GST Law and ITC is to be claimed as per self-assessment by the taxpayer after fulfilling all the conditions of claim of ITC u/s 16 of the CGST Act, 2017.

4.4. No Deliberation with the GST Council

4.4.1. The decision to hard lock GST returns data, as announced in the advisory dated 17.10.2024, appears to not even have been placed before the GST Council for deliberation.

4.4.2. Thus it appears that the decision to Hard – Lock auto-populated liability and ITC in the GST Returns is taken unilaterally without the involvement or deliberation in the GST Council. This violates the statutory mandate of Article 279A of the Constitution of India. The GST Council is responsible for making

recommendations to the Union and the States on key GST-related policies. This hard-locking of auto-populated liability and ITC, which could directly affect the rights of taxpayers and their ability to file their GSTR Returns accurately and this falls squarely within the Council's remit. Non consultation with GST council raises concerns about whether this policy aligns with the broader objectives of GST governance. This oversight calls for a reconsideration of the decision to Hard – Lock auto-populated liability and ITC in the GST Returns, with inputs from the GST Council and stakeholders.

5. The issues stated above are crucial and significant affecting taxpayers across the board. The said issue, if not solved, have the potential of taxpayers business' shutting down without recourse to any legal remedy.
6. The above issue requires your immediate attention and intervention and we request to please consider the issues and forward the same to concerned authorities for taking appropriate action. We thankfully request your honour to consider the above issues.

We request you to kindly consider the above suggestion and take necessary corrective actions in the interest of the tax-payers and the society at large. We urge you to please do the needful at the earliest to address these issues.

We look forward for your kind consideration to the genuine request.

Yours Sincerely,

For THE CHAMBER OF TAX CONSULTANTS

Sd/-	Sd/-	Sd/-
Vijay Bhatt	Ketan Vajani	Apurva Shah
President	Chairman	Co-Chairman
	Law and Representation Committee	