

**Interest liability on amount available in Electronic Cash Ledger when  
Form GSTR-3B is not filed on time - A turmoil for taxpayers**

***Ajay Sanwaria, Counsel & Shreya Mundhra, Senior Associate, Argus  
Partners***

---



The provisions relating to levy of interest under [Section 50](#) of the Central Goods and Services Tax Act, 2017 ("**CGST Act**" [\[1\]](#)) have been mired in controversy even since the implementation of the Goods and Service Tax ("**GST**") regime. Earlier, when Form GSTR-3B was filed after the due date, the taxpayers were laden with the interest liability on the tax discharged through the electronic credit ledger as well as the electronic cash ledger. Subsequently, an amendment had been brought by way of insertion of a proviso to Section 50(1) of the CGST Act, such that the liability to pay interest on the balance in the electronic credit ledger was waived off retrospectively [\[2\]](#) and was imposed on that portion of tax which was paid by debiting the electronic cash ledger [\[3\]](#).

However, certain issues with respect to the levy of interest on the cash balance maintained by an assessee in its electronic cash ledger where Form GSTR-3B has not been filed on time, still persist. The present article attempts to analyze the relevant provisions of the GST Law in this respect, keeping in mind the judicial precedents on the subject matter.

In terms of Section 50(1) of the CGST Act, *'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'. Hence, it can be inferred that the liability to pay interest arises on the unpaid tax when the person liable, 'fails to pay tax' within the stipulated time limit.*

The procedure to pay tax has been stipulated under [Section 49](#) of the CGST Act. By virtue of Section 49(1) of the CGST Act, every deposit towards tax, interest, penalty, fee or any other amount by internet banking or credit or debit cards or other modes as prescribed shall be credited to the electronic cash ledger. [Rule 87](#) of the CGST Rules provides that the payments/deposits are made by the assessee in the recognized Bank account of the Government, post which the Challan Identification Number ("**CIN**") is generated by the collecting bank. On successful deposit, the CIN is communicated by the Bank to the GST Portal along with a unique reference number<sup>[4]</sup> generated by the bank, which gets captured and seen as credit balance in the electronic cash ledger of the taxpayer. It would be imperative to note that CIN is generated by the authorised banks only when payment is actually received by it, which then is seen as credit balance in the electronic cash ledger of the taxpayer. Thereafter, at the time of filing of the GST Return, i.e., Form GSTR-3B, the electronic cash ledger of the taxpayer is debited to the extent of the tax liability paid.

The aforesaid mechanism implies that essentially, when an amount is deposited by the taxpayer in the electronic cash ledger for payment of tax within the prescribed period, the same gets credited to the bank account of the Government and retained by it. The said deposit does not remain with the taxpayer and cannot be used by it unless a refund thereof is sanctioned by the department. As such, the pertinent question that needs to be deliberated upon is when the deposit has been made in the electronic cash ledger within the statutory timelines, does any interest liability arise on the taxpayer in case of

delay in filing of Form GSTR-3B and consequent debit in the electronic cash ledger or not.

One school of thought suggests that in terms of Section 50(1) of the CGST Act, no interest will be payable on the amount deposited in the electronic cash ledger since it essentially does not remain 'unpaid' to the Government or amounts to, 'failure to pay'. Further, to augment this, it is contended that when payment is made via the electronic credit ledger, it does not attract any interest as it is merely a book entry debited in the electronic credit ledger. As such, the differential treatment to levy interest on the balance in the electronic cash ledger vis-à-vis electronic credit ledger, creates a disparity.

However, another school of thought suggests otherwise and contends that unless the amount is debited from the electronic cash ledger, tax liability is not discharged. Recently, in a judgment by the Hon'ble Madras High Court in case of **M/s India Yamaha Motor Private Limited v. Assistant Commissioner** [[2022-VIL-605-MAD](#)], the levy of interest on the cash balance maintained by the assessee in its electronic cash ledger has been upheld. The Hon'ble High Court has held that in order to be insulated from levy of interest, mere availability of credit balance in the electronic cash ledger cannot be assumed for payment of tax liability unless it was debited for discharging liability. Similar view has been upheld by the Hon'ble Jharkhand High Court in the case of **M/s RSB Transmissions India Limited v. Union of India & Ors.** ([2022-VIL-745-JHR](#))

At this juncture, it is pertinent to understand that the issue of interest on the balance in electronic cash ledger stems from the inability to file the GSTR-3B Return without full payment of taxes in the GST Portal. Such an issue did not persist during the erstwhile Excise/Service Tax Regime, where the return filings were allowed even if part payment of taxes were made. It cannot be disputed that once the amount is deposited by the taxpayer in the electronic cash ledger for payment of tax, the said deposit does not remain with it and cannot be

utilised and/or enjoyed other than for payment of taxes. However, on account of system related restrictions, the taxpayer is saddled with extra interest liability. Moreover, it encourages the taxpayer to explore loopholes under the GST laws, so as to avoid interest liability by disclosing incorrect information in the statutory returns (GSTR-3B).

Let us understand this by way of an illustration. Suppose an assessee is unable to file its GSTR-3B Return due to shortage of funds required for discharging its liability for any tax period (say shortage of 30% of the total liability). In such a case, it has two options - (a) upfront payment of 70% of the tax liability by filing Form DRC-03 voluntary and balance payment of 30% of the tax liability once the funds are available; (b) make payment of entire amount of tax liability by filing Form GSTR-3B after such funds are available.

In the first scenario, the interest component would have been computed on 30% of tax liability from the date the taxes were due till the date of such payment while filing Form DRC-03. However, in the second scenario, interest would have been computed on the entire unpaid liability of 100% from the date the taxes were due till the date of filing of GSTR-3B return. Thus, it is evident that an assessee filing the GSTR-3B Return and paying taxes is placed in a worse position in comparison to an assessee who deposits the taxes via Form DRC-03. Consequently, the bar to debit the electronic cash ledger in case of shortage of funds and file the return in Form GSTR-3B seems to be arbitrary and causes unequal treatment between persons discharging their GST liability by filing form DRC-03 vis-à-vis filing Form GSTR-3B.

Hence, once the GST portal itself dis-entitles the taxpayer from filing return and debiting the electronic cash ledger (where the balance in the electronic cash and credit ledger does not suffice the liability), one may argue that an additional burden cannot be cast on the assesseees to discharge interest to the extent of amount deposited in the electronic cash ledger for payment of taxes. Reference

in this regard may be placed on the judgment of the Hon'ble Gujarat High Court in case of ***Vishnu Aroma Pouching P. Ltd. v. Union of India***<sup>[5]</sup>, wherein the assessee had deposited the tax amount in its electronic cash ledger but could not file its GSTR-3B return due to some technical glitches in the system. In the said case, the Hon'ble High Court set aside the liability of interest and treated the amount credited in the electronic cash ledger towards discharging the tax payable. The said decision has also been affirmed by the Hon'ble Apex Court. Applying the said ratio, a view may be taken that mere credit in the credit/cash ledger is sufficient to stop the interest meter on the taxpayer.

While the issue in dispute seems to expound an ostensibly simple concept, the ramifications in terms of additional liability of interest is a cause of concern for the entire industry. In future, one can only hope that the judiciary and the legislature understand the plight of the taxpayers and/or establishes a system in the GST portal where the interest liability is clocked once the amount is deposited in the electronic cash ledger and not at the time of debit therefrom, such that the honest taxpayers are safeguarded.

[Date: 06/12/2022]

*(The views expressed in this article are strictly personal.)*

---

[1] Pari materia provisions under respective State Goods and Services Tax Act, 2017

[2] Proviso to Section 50(1) has been substituted vide the Finance Act, 2021 dated March 28, 2021 w.e.f. July 1, 2017

[3] [Rule 88B](#) of the Central Goods and Services Tax Rules, 2017 ("**CGST Rules**"), inserted vide [Notification No. 14/2022-Central Tax](#) dated July 5, 2022 w.e.f. July 1, 2017

[4] Rule 88(1) of the CGST Rules

[5] R/Special Civil Application No. 5629 of 2019 dated November 14, 2019 - [2020-VIL-164-GUJ](#), affirmed in Union of India v. Vishnu Aroma Pouching P. Ltd. [SLP Civil Diary No. 1434 of 2021, Order dated June 29, 2021].