

IMS: Bridging Theory and Practice

Introduction:

The Goods and Services Tax Network¹, aiming to improve compliance and enhance transparency to manage the process of ITC claims, introduced Invoice Management System (IMS), which went live on 14th October 2024 in pilot mode without any legal backup. It is a platform where invoices and other related documents can be verified, accepted, or rejected in real time by the recipient.

The Government of India has passed the Finance Act 2025 being published in official gazette, after getting passed in both the houses of Parliament, Presidential assent accorded for Finance Act 2025 on 29th March 2025.

As per Section 1(2)(b) of the Finance Act 25, sections 121 to 129 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

The sections incorporated in the Act in relation to IMS were:

- 121 - Amendment of section 34.
- 122 - Amendment of section 38.
- 123 - Amendment of section 39.

Accordingly, the amendment with respect to the above sections would come into force as and when notified by the Central Government, presuming to have a prospective effect.

It is a settled principal of law observed by the Judiciary that the law looks forward not backwards as per the legal maxim - '*lex prospicit non respicit*'. Even recently the Kerala High court² reiterated the same.

Furthermore, in terms of legal maxim '*Nova constitutio futuris formam imponere debet, non praeteritis*', which means that a new law would always be prospective and not retrospective. No statute would be construed to have retrospective operation unless it appears very clear in terms of Act or arises by necessary implication. Similar rationale is observed in *CIT Vs. Vatika Township P Ltd (2014) 367-ITR-466 at 486*. Considering the notifications from earlier Finance Acts, provisions have consistently been brought into force prospectively.

Where the notification with retrospective effect is issued with, the same may result in unintended consequences for taxpayers who have not yet implemented IMS. Till then, IMS shall always be construed to be implemented prospectively. Especially, when there is no legal provision backing up the said IMS today, the taxpayer has an option either to follow his current practice without IMS or voluntarily implement and follow the IMS. In this regard, it is pertinent to note that where a taxpayer has multiple options to comply the law, he may opt for the one which is more beneficial to him.

Reference invited to the decision in the matter of *Chief Commissioner of CGST & Others Vs. M/s. Safari Retreats Private Limited & Ors CIVIL APPEAL NO. 2948 OF 2023*, where in the guidelines to interpret the taxing statute have been reiterated in para 25. The relevant guideline is extracted below:

'd) If two interpretations of a statutory provision are possible, the Court ordinarily would interpret the provision in favour of a taxpayer and against the revenue.'

¹ Notified Common electronic portal under section 146 of CGST Act 2017.

² *GAC Shipping (India) Private Limited Versus UOI WP(C) NO. 1992 OF 2021 -Kerala HC.*

Upcoming IMS changes to GST law

1. Section 38 of the CGST Act, 2017 and Rule 60 (7) of the CGST Rules; to be amended to provide a legal framework in respect of the generation of FORM GSTR-2B based on the action taken by the taxpayers on the Invoice Management System (IMS).

*“The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an ~~auto-generated statement~~ **statement** containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.*

*(2) The ~~auto-generated statement~~ **statement** under sub-section (1) shall consist of.....”*

[Rule 60 yet to be amended by way of notification]

2. To amend section 34(2) of CGST Act, 2017, to specifically provide for the requirement of reversal of ITC as is attributable to a credit note, by the recipient, to enable the reduction of output tax liability of the supplier.

~~**Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.**~~

“Provided that no reduction in output tax liability of the supplier shall be permitted, if the--

(i) input tax credit as is attributable to such a credit note, if availed, has not been reversed by the recipient, where such recipient is a registered person; or

(ii) incidence of tax on such supply has been passed on to any other person, in other cases.”

3. To amend section 39 (1) of CGST Act, 2017 and rule 61 of CGST Rules, 2017 to provide that FORM GSTR-3B of a tax period shall be allowed to be filed only after FORM GSTR-2B of the said tax period is made available on the portal.

*“Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, **and subject to such conditions and restrictions**, as may be prescribed.”*

Addition of the words “*subject to such conditions and restrictions*”

[Rule 61 yet to be amended by way of notification]

4. To insert a new rule 67B in CGST Rules, 2017, to prescribe the manner in which the output tax liability of the supplier shall be adjusted against the credit note issued by him. [55th GST council meeting]

[Rule 67B is yet to be inserted by way of notification]

Hence, amendment of the stipulated sections and rules prescribing the functionality or implementation of IMS are yet to be notified.

Decoding Credit Note Treatment and Action under IMS:

The taxpayers currently using the Invoice Management System (IMS) has an option to either accept or reject inward credit notes. Unlike invoices, 'pending' option is not available for credit notes.

Although the recipient may reject the invoice and associated credit note, such invoice rejection does not alter the supplier's liability. However, the amount of the credit note, would be added to the liability of the supplier in GSTR 3B of the subsequent month in which such credit notes are rejected. The same had led to inconveniences and additional tax payments from suppliers' side.

The government, in relief to taxpayers, may revise the rules, permitting the recipients of goods and services to accept or reject a credit note and adjust the Input tax credit up to one month. (source: newspapers)

- 'Pending' action for Credit note would be allowed for one month.
- Taxpayers would get an additional month to decide if the tax return gets delayed.
- No action would be permitted past two months.

The motive of the proposed amendment is to simplify compliance and lessen the financial stress on the businesses. This would bring flexibility and convenience to taxpayers to adjust ITC on credit notes which belong to them yet to be received or reconciled.

Please refer illustration below on understanding of credit note pending option available:

Date of filing of GSTR 1 by the supplier	Action point for recipient available
1 st – 11 th	Keep pending for one Month (defer to M2)
11 th – 20 th	Such credit notes would be reflected in IMS in M1, but action cannot be taken on the same since GSTR 1 was belatedly filed. Keep pending for one Month in M2 (defer to M3)
Post 20 th	Keep pending for one Month in M2 (defer to M3)

While the amendment introduces a change, it also presents a challenge. Keeping credit note pending could lead to interest liability for taxpayers:

- a) If accepted after one month, interest liability for recipient would arise for delayed reversal of ITC on such credit notes.
- b) If rejected after one month, interest liability for supplier would arise for delayed discharge of taxes. Since the amount of such credit note would be added to liability of the supplier in subsequent month leading to delay in discharge of outward taxes.

Liability of supplier on rejected credit notes:

If a recipient rejects his inward credit note through IMS, such amount would be added to the outward liability of the supplier in subsequent GSTR 3B.

The same would result in difference of liability between GSTR 1 & GSTR 3B of the supplier. i.e., GSTR 3B would be higher than GSTR 1. Accordingly, if the supplier intends to reduce the additional liability arising due to credit note rejection, through his subsequent GSTR 3B, an automated DRC 01B would be issued, inquiring the reason for such difference.

The procedure to issue DRC - 01B is laid down in rule 88C of CGST Rules, 2017 authorised by Section 37(3) of CGST Act, 2017 & section 39(9) of CGST Act, 2017.

As per Sec 34 (2) of the CGST Act, amended (refer pg. 2), reduction of outward liability would be allowed to the supplier if any of the following conditions is satisfied:

a. ITC if availed, is reversed by the recipient:

For instance, an invoice raised is accepted by the recipient but the ITC on such invoice is reversed under Table 4.B.1 or 4.B.2 of his GSTR 3B. Subsequently, if credit note is raised against such invoice and recipient rejects the same, supplier would be eligible to reduce such amount from his liability.

Alternatively, recipient may accept such credit note and make necessary adjustments in his GSTR 3B.

b. incidence of tax is not passed on to any other person:

For instance, an invoice is incorrectly raised by the supplier and a credit is subsequently raised to cancel the same. Such invoice or credit note might not be physically sent to the recipient. Therefore, such documents would neither be accounted in recipient's books nor would any payment be made to supplier. However, since the supplier has not passed on the tax incidence, there should not be a requirement of such documents passing through IMS (Although, such mechanism is not available in GST Portal).

Alternatively, where fresh invoice is issued for the supply, then the invoice and credit note raised previously, although accounted in books of accounts, need not be disclosed in GSTR 1 (where not accepted by the recipient)

It can be concluded that, if the supplier is in a position to satisfy the above conditions, he has the eligibility to reduce such credit note value from his outward liability even if such credit note is rejected by the recipient.

Credit note accounted but not reflected:

The recipient is suggested to adjust ITC on such credit notes through GSTR 3B in the month in which it is accounted in books. Subsequently when the same is uploaded by the supplier, it can be accepted in the IMS and added back to ITC available in GSTR 3B.

Downward amendment of B2B invoice and debit notes under IMS:

Through Table 9A of GSTR 1, taxpayer can amend details of taxable outward supplies made to registered person that are already reported in table 4A, 4B, 6B, 6C – B2B Invoices. The table may be used to rectify any error while uploading details in E-invoice Portal/ GST Portal. Accordingly, amendments could be made to match the original invoice raised.

In case a supplier makes downward amendment of invoices or debit notes to match the original invoice, recipient has an option to either accept or reject such amendments based on the status of initial invoices.

Since initial invoice rejection does not add to liability of supplier, rejection of downward amendments also cannot be an addition to liability since the amendment is a mere rectification in Portal to match original invoice.

Also, rules or provisions relating to amendment of invoices/debit notes have not been proposed in the Finance Act 2025 (Although active in IMS Portal).

Persons intending to put IMS into action:

The following would be suggested Dates (of subsequent Month) & Action points

Dates	Action points
5 th – 8 th	Reconcile vendor credit notes including downward amendments. In case of mismatch, communicate with supplier so that the same could be modified by the supplier before filing of his GSTR 1.
11 th / 13 th	Suggested not to take any action in IMS until GSTR 1 is filed. If any action is taken and entry is modified subsequently by the supplier, action taken originally is reset and would be required to take a fresh action.
14 th / 15 th	Download all IMS entries and reconcile with books of accounts. [current month + previous pending items] Action could be taken for entries to be rejected/ kept pending after reconciliation. The remaining invoices with 'No-action' would be deemed accepted.

Any actions taken could be modified before filing GSTR 3B, by selecting 'recompute GSTR 2B'. However, once an invoice/debit note is rejected and GSTR 3B is filed, the entry cannot be got back in GSTR 2B for ITC claim.

Refer the steps to access IMS: <https://www.gst.gov.in/> URL > Login > Services > Returns > IMS Dashboard.

To know more about the IMS process and possible practical scenarios, refer:

https://hnallp.com/assets/articles/1b1b3-ims-article_feb-25_f.pdf

Navigating Legalities with Practical Application

Despite IMS being launched in Oct 2024, there remains ambiguity regarding the mandatory nature of following it, as the requisite rules have not yet been introduced, prescribing its obligatory status or the effective timeline.

Currently, it is observed that the portal is enabling some restrictions and procedures which are not yet legislated. In this reference, courts have referred that the limitation of the software should not become the limitation for implementation of the statute or vice versa. - ***SKP Pharmachem vs Union of India TS 47 HC (GUJ) 2023 GST.***

Going forward, communication between supplier and recipient has become crucial for smooth implementation of IMS. Taxpayers are expected to be trained and equipped with updated IT software systems to reconcile the Invoices appearing on IMS and to automatically communicate with the Supplier/Recipient in case of any discrepancies.

Although the Finance Act has been passed, the lack of formal notification and rules complicates the understanding of the system's expected level of adherence. In the absence of any Judicial precedents, the level of required engagement with the system remains open to interpretation.

Wherever the assessee's face challenges due to IMS the same has to be duly escalated to the department and properly documented. The law helps those who are vigilant, not those who sleep on their rights. "***Vigilantibus non dormientibus jura subveniunt***"

Disclaimer: The views expressed are strictly personal and cannot be regarded as an opinion.

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