

## Automated Notices under GST: DRC-01B & DRC -01C

### Index:

- Introduction to automated notices
- Benefits of automated notices
- Brief explanation of DRC - 01B & procedure
- Portal reasons for Form DRC-01B
- Brief explanation of DRC - 01C & procedure
- Portal reasons for Form DRC-01C
- Drawbacks of Form DRC - 01C
- Practical difficulties of automated notices
- Legally disputable areas of automated notices
- Procedure to verify receipt of notice
- Best practices to avoid or manage automated notices.

### Introduction

In the era where Artificial Intelligence is gaining prominence, the GST department has also become pro-active and has started to adopt automated notices. The last one and half years has seen a sudden rise in litigation. This has burdened the taxpayers, professionals and the departments significantly. With the aim to streamline and automate notices, under the following two circumstances, automated notices have been introduced:

1. Difference between outward taxable supplies & taxes furnished in GSTR 1 & GSTR 3B.
2. Difference of input tax credit available as per GSTR 2B vs input tax credit claimed in GSTR 3B.

### **What are notices? What are Form DRC-01B & 01C?**

Notices are a means of communication between the assessee and the GST department. Notices can be called by different names such as show cause notice, demand notice, scrutiny notice and many more. The automated notices mentioned above fall under the category of scrutiny notices i.e., the department after analyzing the GST returns namely GSTR 1 & GSTR 3B would send a notice to the assessee for further clarification in case of suspicion or ambiguity, or demand of taxes after allowing to assessee to represent.

### **How is this beneficial to GST department or the Taxpayers?**

1. To the department:
  - **Complete Coverage-** Since the notices are generated automatically by the department, the entire tax base gets covered, making it more efficient & effective.
  - **No manual intervention-** The notices are generated automatically which doesn't require manual intervention. This would reduce the administration and manpower costs.
2. To the Taxpayers:

- **Interest** - Early identification of errors between GSTR 1 vs 3B and GSTR 2B vs 3B. Helps immediate corrections and reduces Interest costs.
- **Litigation cost** - Issues are not raised through ASMT-10 (returns scrutiny) anymore. Readily available reasons and format reduces cost w.r.t representational services, drafting of reply and interaction with GST officer.
- **Better Compliance** – Taxpayers will be mindful while filing GSTR 1 & GSTR 3B now. This would automatically instigate a reconciliation process to be in-built into GST returns compliance.
- **Annual Returns** – When the above returns are filed after reconciling with books of accounts on a monthly basis, the filing of GSTR 9 & 9C becomes easier and more accurate, improving overall tax compliance.

### What is From DRC - 01B?

DRC-01B is an intimation which is automatically issued by the department when the taxable value or taxes of outward supplies mentioned in **GSTR 3B (Table 3)** is **lesser to** the taxable value or taxes of outward supplies disclosed in **GSTR 1**.

(Please note that even a minute change can trigger a notice i.e., a decrease in value of tax amount or taxable value more than zero.)

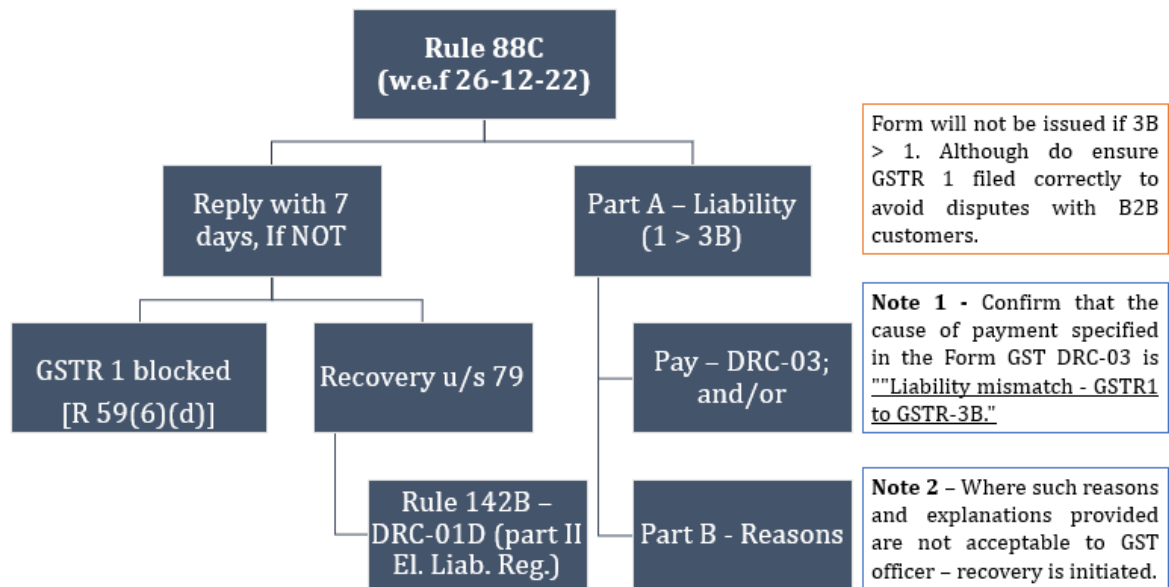
The procedure to issue **DRC- 01B** is laid down in rule **88C of CGST Rules,2017** authorised by Section 37(3) of CGST Act,2017 & section 39(9) of CGST Act,2017.

### The reasons why the difference may rise are as follows (As per Portal):

#### *Authors comments in blue below*

- Excess Liability paid in earlier tax periods in FORM GSTR-3B. – *Compensating difference to be established with a previous tax period(s). [between GSTR 3Bs only]*
- Some transactions of earlier tax period which could not be declared in the FORM GSTR-1/IFF of the said tax period but in respect of which tax has already been paid in FORM GSTR-3B of the said tax period and which have now been declared in FORM GSTR-1/IFF of the tax period under consideration. – *Compensating difference to be established with a previous tax period(s). [Between GSTR 1s & 3Bs]*
- FORM GSTR-1/IFF filed with incorrect details and will be amended in the next tax period (including typographical errors, wrong tax rates, etc.) – *Error made which filing does not require payment of incorrect taxes. Corrections allowed subsequently.*
- Mistake in reporting of advances received and adjusted against invoices. – *Advances related corrections. GST on supply.*
- Any other reasons *(to specify within 500-character limit).*

### What is the procedure laid down in Rule 88C?



### Recovery u/s 79 r/w 142B

As per section 79 read with rule 142B defines the mode in which recovery of any amount unpaid is either wholly or partly calculated under self-assessment.

The proper officer would intimate the taxpayer on the portal along with necessary particulars including tax amount & interest in Form DRC-01D & the same should be paid in 7 days from the date of intimation in form GST PMT-01. (The same amount would be added to Part-II of GST PMT-01).

### What is Form DRC – 01C?

- DRC-01C is a intimation which is automatically issued by the department when the input tax credit availed in **GSTR 3B is greater to** the auto-populated figures of **GSTR 2B** by an agreed percentage or amount.
- The Law Committee recommended on **the difference of more than 20% as well as more than Rs. 25 lakhs** for the purpose of intimation. [50th GST Council; item 3(viii) para 4.35 agreed]
- The procedure to issue Form **DRC- 01C** is laid down in rule **88D of CGST Rules,2017** authorised by section 39(9) of CGST Act,2017.

### System computation of value variance in Form DRC-01C?

The GSTR 3B value arrived by summing up all the tax amounts (IGST, CGST, SGST & CESS) entered in the following tables:

- Table 4(A)(1) - Import of goods
- Table 4(A)(3) - Inward supplies liable to reverse charge.
- Table 4(A)(4) - Inward supplies from Input Service Distributor
- Table 4(A)(5) – All other ITC.

- (Less) Table 4(D)(1) - ITC reclaimed which was reversed under Table 4B (2) in earlier tax period.

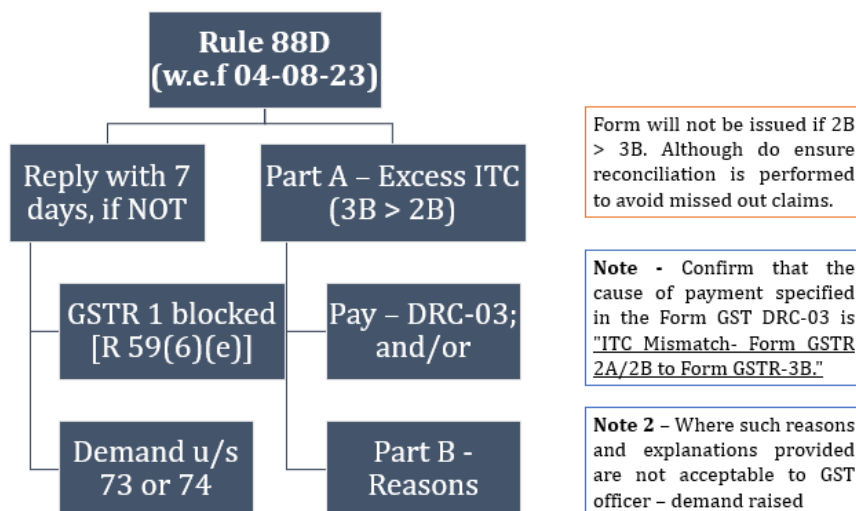
The GSTR 2B value arrived by summing up all the tax amounts (IGST, CGST, SGST & CESS) auto populated in GSTR 2B (Refer "ITC Available" sheet from the GSTR 2B downloaded from the portal):

- Invoices & debit notes along with amendments in table 4(A)(5): All other ITC - Supplies from registered persons other than reverse charge.
- Invoices along with amendments in table 4(A)(4): Inward Supplies from ISD.
- Invoices & debit notes along with amendments in table 4(A)(3): Inward Supplies liable for reverse charge.
- Bill of entries along with amendments in table 4(A)(1): Import of Goods from overseas & SEZ.

& reduce the effect of credit notes auto populated in GSTR 2B from the total calculated above (Refer "ITC Available" sheet from the GSTR 2B downloaded from the portal):

- Credit notes along with amendments in table 4(A)(5). (B2B credit notes)
- Credit notes along with amendments in table 4(A)(3). (B2B Reverse Charge credit notes)
- Credit notes along with amendments in table 4(A)(4). (ISD credit notes)

#### What is the procedure laid down in Rule 88D?



Here demand is raised under Section 73 or Section 74 (fraud, wilful misstatement, suppression of facts, etc.) where taxpayer must respond to an SCN which would additionally have interest and penalties. This is different from DRC-01B (outward taxes) where recovery is linked to Section 79.

#### Drawback in calculation of value difference in input tax credit availed in DRC – 01C

1. **Import of Goods** - It is interesting to note that ITC on import of goods although appearing in GSTR 2B need not be considered for the purpose of reconciliation as specified under Section 16(2)(aa) of CGST Act, since the provision uses the words 'Invoice and Debit Note' only and does not include 'Bill of Entry'. To this extent where the difference arose out of Import of goods, it is

disputable and Form DRC-01C must not be issued. Although, the present calculation methodology includes 4(A)(1).

**Possible Solution** – In part B of DRC-01C, Claim ITC correctly, in Part B DRC-01C give same reason in “Others” column.

2. **RCM** - As per section 9(3) & 9(4) of CGST Act,2017, taxes need to be discharged under reverse charge on inward supplies obtained from both registered & unregistered parties.

Also, by virtue of section 37 of CGST Act,2017, only registered person supplying outward supplies attracting taxes under reverse charge should file GSTR 1 & therefore only this amount would get auto populated in my GSTR 2B (Refer Table III of “ITC available” sheet – “Inward Supplies liable for reverse charge”)

Therefore, the input tax credit availed in GSTR 3B as compared to that of GSTR 2B would not match the input tax credit availed on taxes discharged under reverse charge for inward supplies from registered & unregistered suppliers.

**Possible Solution** – In part B of DRC-01C, Claim ITC correctly, in Part B DRC-01C give same reason in “Others” column.

3. **Credit Notes** –

- Vendor Credit Notes (CN) reflected in GSTR 2B but not acceptable to taxpayer, would be added back to auto-populated figures in table 4(A) of GSTR 1.

**Possible Solution-**

Option 1 – Claim ITC correctly, in case of notice, in Part B DRC-01C give ‘Others’ reasons as CN not acceptable. Also use GST portal to communicate with taxpayer for corrections.

Option 2 (not recommended) – Reduction of permanent ITC reversal for the month (ensuring a claim and 3B < 2B). Issue – ITC claim invoice level will not match 4.A.5 for the month. Tracking of reversal of vendor CN is cumbersome.

- Vendor CN in GSTR 2B, & such input credit is already reversed based on CN received in earlier months and not based on GSTR 2B disclosure. As Vendor CN is a liability, based on acceptable CN once received ITC must be reversed irrespective of GSTR 2B reflection.
  - It is useful to note, section 16(2)(aa) requires matching of ‘invoices and debit notes’ only and not credit notes for the purpose of ITC claim, which does not consider ITC reversals.

**Possible Solution:**

Provide reply in part B - DRC-01C give ‘Others’ reasons.

**The reasons why the difference may rise are as follows (As per Portal):**

*Authors comments in blue below*

- Input tax credit not availed in earlier tax period(s) due to non-receipt of inward supplies of goods or services in the said tax period (including in case of receipt of goods in instalments). – *ITC reflected in GSTR 2B of past period, but, section 16(2) conditions not satisfied, therefore ITC claimed delayed in GSTR 3B filing.*

- Input tax credit not availed in earlier tax period(s) inadvertently or due to mistake or omission. – *ITC availed now, related to invoices whose details were furnished in previous period GSTR 2B, however the same isn't disclosed in 4(D)(1) in GSTR 3B of the concerned period.*
- ITC availed in respect of import of goods, which is not reflected in FORM GSTR-2B.- *ITC availed on import of goods based on bill of entry but however such bill of entry is not reflected in GSTR 2B.*
- ITC availed in respect of inward supplies from SEZ, which are not reflected in FORM GSTR-2B. - *ITC availed on import of goods based on ex-bond bill of entry but however such bill of entry is not reflected in GSTR 2B.*
- Excess reversal of ITC in previous tax periods which is being reclaimed in the current tax period. - *ITC reversed in 4(B)(1) earlier but later if such ITC is found out to be eligible & claimed in the current tax period.*
- Recredit of ITC on payment made to supplier, in respect of ITC reversed as per rule 37 in earlier tax period. – *If such ITC was not reversed in table 4(B)2 earlier tax period & not shown in table 4(D)(1) of current tax period.*
- Recredit of ITC on filing of return by the supplier, in respect of ITC reversed as per rule 37A in earlier tax period. – *If such ITC was not reversed in table 4(B)(2) earlier tax period & not shown in table 4(D)(1) of current tax period.*
- FORM GSTR-3B filed with incorrect details and will be amended in the next tax period (including typographical errors, wrong tax rates, etc.) – *Excess ITC claimed inadvertently. Ensure not utilized to avoid interest costs, corrections could be made subsequently.*
- Any other reasons (Please specify)

**Practical difficulties regarding DRC 01B & DRC 01C along with possible solutions are as follows:**

Difficulty	Possible Solutions
<p><b>I have not responded within timeline</b></p>	<p>The system presently allows delay in reverts, but we have seen technical difficulties where it does not allow. Raise grievance against the issue. <i>[multiple attempts, refresh, remove cookies, use a different browser]</i></p> <p><u>Going forward</u> - Bring in a process to verify such potential differences while filing GSTR 3B itself. Check portal regularly.</p>
<p><b>I have made an error while filing GSTR 3B (ITC – 30L claimed instead on 3L)</b></p>	<p><u>Payment not required</u> - In response to DRC-01C – “FORM GSTR-3B filed with incorrect details and will be amended in next tax period (including typographical errors, wrong tax rates, etc.)”</p> <p>Where such ITC is utilised, then interest would apply @ 1.5%/month.</p>

**I have made an error while filing GSTR 1 (Outward – 15L instead of 15k), but GSTR 3B paid correctly.**

In response to DRC-01B – “FORM GSTR-1/IFF filed with incorrect details and will be amended in next tax period (including typographical errors, wrong tax rates, etc.)”

No interest as taxes paid correctly in GSTR 3B.

#### **Legally disputable areas of automated notices –**

- Facility to upload additional documents should be permitted.
- Can recovery action under section 79 be initiated directly, bypassing appellate remedy.
- Scenarios when section 79 recovery action can be initiated.
- Is 7 days time sufficient to respond to notice, can it be said it is reasonable and fair opportunity given to an assessee to respond to notice.
- Ensuring principles of natural justice are followed.

#### **How to check whether any automated notices are received?**

- You will receive the intimation via email and SMS.
- It will reflect in the GST portal under – Login > Services > Returns > ‘Returns Compliance’
- To be responded to within 7 days.
- To be filed with EVC/DSC.

#### **Best Practices to avoid/manage such Notices:**

- SMS/email details in GST portal – Is it reaching the correct person? [perform GST Regn. Amendment if not so]
- Before filing GSTR 3B – Confirm on the following:
  - GSTR 1 is equal to GSTR 3B (Taxable value + taxes). If not, reasons on invoice level to be maintained.
  - GSTR 3B ITC claim is lower than ITC disclosed as per GSTR 2B. (available in portal 14th onwards of subsequent month). If not, reasons on invoice level to be maintained.
- Where Outward supply and taxes displayed in GSTR 1 is higher than GSTR 3B for the month expect the DRC-01B.
- Where Input Tax Credit claimed in GSTR 3B is higher than GSTR 2B for the month expect the DRC-01C.
- Verify after 3B filing under ‘Returns Compliance’ and ensure reply is made within 7 days.
- Use the option of ‘Communication with Taxpayer’ (CWTP) in GST portal and external communication.

**This article was first published in Taxsutra**

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

For any queries or feedback please write to <mailto:akshay@hnaindia.com> and [shashank@hnaindia.co.in](mailto:shashank@hnaindia.co.in)