

Practical issues of Credit Notes under GST Law

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[One of the issue that has come up for frequent discussions during GST audits is tax adjustment based on credit notes.](#)

The provisions regarding credit notes are governed by Section 34 of CGST Act, 2017 which reads as under:

*“(1) Where one or more tax invoices have been issued for supply of any goods or services or both and **the taxable value or tax charged** in that tax invoice is found to **exceed the taxable value or tax payable** in respect of such supply, or where the **goods supplied are returned** by the recipient, or where goods or services or both supplied are found **to be deficient**, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more **credit notes** for supplies made in a financial year containing such particulars as may be prescribed.*

*(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall **declare the details of such credit note** in the return for the month during which such **credit note has been issued** but **not later than *September following the end of the financial year** in which such supply was made, or the **date of furnishing of the relevant annual return, whichever is earlier**, and the tax liability shall be adjusted in such manner as may be prescribed:*

*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.”*

**the above time limit is sought to be extended to 30th Nov of next financial year as per Union Budget 2022 proposals.*

Basis the above provision, it can be inferred that credit note can only be issued for the following cases:

- Where the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable; or
- Goods are returned by the customer; or
- Goods or services so supplied are found to be deficient.

Section 34 does not cover other scenarios such as amendments in invoice detail, invoice cancellation, etc.

Talking about invoice cancellation/amendment (the requirement may get triggered for multiple reasons including errors in mentioning of certain details in the invoice), as per FAQ issued with respect to GST E-invoice dated 30th March 2021, cancellation of invoice can be done **in the E-invoicing portal** within 24 hours from time of generation of E-invoice.

In case the timeline of 24 hours is breached, any changes in the invoice details reported to IRP can be carried out on GST portal (while filing GSTR-1). In case GSTR-1 has already been filed, the procedure prescribed for amendment in GSTR-1 can be followed. However, there are practical challenges especially for situations where there are errors in invoicing.

In case where invoice has been issued with incorrect details (say wrong GSTN of the customer), one possible approach, as discussed in the preceding para, could be that wrong detail can be rectified through the amendment in GSTR-1. However, this amendment through GSTN portal may not be preferable in this case, as even after the amendment, the underlying invoice would still have inaccurate details which could give rise to challenges when it comes to claim of credit in the hands of recipient/ customer. Also, there would be additional reconciliation that needs to be prepared between data reported in GSTN portal with data reported in e-invoicing portal (which cannot be modified/ cancelled on account of breach of 24 hours time-limit).

Given these practical challenges, the possible, alternate approach (instead of making amendment in GSTR-1) in this situation could be issuance of credit notes to negate (thereby effectively cancelling) the original invoice.

Having stated as above, if one adopts a strict interpretation of the GST law, issuance of credit notes to rectify errors in the invoice is not getting covered under one of the three scenarios under which credit notes can be issued under Section 34 for the purposes of claiming GST adjustment.

The discussion so far can be summarised through the following table:

Scenario	Permissibility	Remarks
Reduction of taxable value	Yes	
Reduction of tax amount	Yes	
Return of goods	Yes	
To rectify the details mentioned in the invoice such as change of GSTIN No, invoice date etc.	No	<p>Rectification through amendment in GST return is fraught with practical difficulties.</p> <p>Issuance of credit notes to negate the invoice could be the only alternate option (from a practical standpoint) though not covered under Section 34</p>

Invoice is correct but amount wrongly mentioned in the GSTN portal	No	It can be rectified through amendment in GST return
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Apart from the above, there are other issues with respect to issue of credit note, some of these are listed below:

1. One of the conditions to issue the credit note is that the recipient should reverse credit. However, it is difficult for any person to verify the credit reversal made by the recipient and recipient may also be reluctant to share detail of reversal with the supplier.
2. In case of issuance of financial credit notes without reducing the GST liability, while there is no revenue loss to the exchequer, ITC availment in the hands of recipient may be questioned on the ground that in case of partial payment (value of supply without GST) to the vendor, the credit should also be proportionately reversed. This issue has also been taken by various advance ruling authorities wherein it has been held that the applicant can avail the Input Tax Credit of the full GST charged on the invoice. Some of the important rulings reference have been provided below:
 - Madhya Pradesh Authority for Advance Ruling in case of M/S Rajesh Kumar Gupta (Advance Ruling Order No. 01/2022 dated 06th Jan 2022)
 - Tamilnadu State Appellate Authority For Advance Ruling in case of M/S MRF Limited (Advance Ruling Appeal No. 03/2019 dated 24th June 2019)
 - Kerala Authority for Advance Ruling in case of M/S Santhosh Distributors (Advance Ruling Order No. KER/60/2019 – dated 16th Sept 2019)

In light of the issues discussed in the preceding paras, from an ease of compliance perspective, the Government may expand the ambit of Section 34 to include all possible business scenarios where credit notes may be issued. Also, the condition that recipient should reverse the credit should either be done away with OR a documentation needs to be prescribed for the supplier basis which they can claim GST adjustments based on credit notes issued. Last but not the least, an explicit clarification needs to be issued stating that there is no credit reversal requirement on the part of the recipients in case of commercial credit notes.