

**GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM, CHENNAI-600 005
PRESENT: DR. T.V. SOMANATHAN, I.A.S.,
COMMISSIONER OF STATE TAX**

Circular No. 24(2018)/2019-TNGST
(RC No.151/2018/A1/Taxation)

Dated:29.03.2019

Sub:	Clarification regarding procedure for the existing law and reversal of inadmissible Input Tax Credit - Reg.
Ref:	Circular No. 42/16/2018-GST, dated 13.04.2018 issued by the Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Kind attention is invited to the provisions of the Tamilnadu Goods and Services Tax Act, 2017 (hereinafter referred to as the TNGST Act) relating to the recovery of arrears of TNVAT, CST, TN Luxury Tax, Entry Tax, Entertainment Tax and input tax credit under the TNVAT Act carried forward erroneously and related interest, penalty or late fee payable arising as a result of the proceedings of assessment, adjudication, appeal etc. initiated before, on or after the appointed date under the provisions of the existing law. In this regard, representations have been received seeking clarification on the procedure for recovery of such arrears in the GST regime.

2 The issues have been examined and to ensure uniformity in the implementation of the provisions of the law, the Commissioner of state tax, in exercise of the powers conferred under section 168 of the Tamilnadu Goods and Services Tax Act, 2017, (hereinafter referred to as the "TNGST Act") hereby specifies the procedure to be followed for recovery of arrears arising out of proceedings under the existing law.

3 Legal provisions relating to the recovery of arrears of TNVAT, CST, TN Luxury Tax, Entry Tax, Entertainment Tax and input tax credit under the TNVAT Act carried forward erroneously thereof arising out of proceedings under the existing law (TNVAT Act, CST Act, TN Luxury Tax Act, Entry Tax Act and Entertainment Tax Act):

i) Recovery of arrears of wrongly availed input tax credit

In case where any proceeding of appeal, review or reference relating to a claim for input tax credit availed wrongly had been initiated, whether before, on or after the appointed day, under the existing law, any amount of such credit becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the TNGST Act [**Section 142(6) (b) of the TNGST Act refers**].

ii) Recovery of input tax credit carried forward wrongly:

Input tax credit availed under the existing law may be carried forward in terms of transitional provisions as per section 140 of the TNGST Act subject to the conditions prescribed therein. Any credit which is not admissible in terms of section 140 of the TNGST Act shall not be allowed to be transitioned or carried forward and the same shall be recovered as an arrear of tax under section 79 of the TNGST Act.

iii) Recovery of arrears of TNVAT, CST, TN Luxury Tax Entry Tax and Entertainment Tax:

- a. Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the TNGST, CST, TN Luxury and

Entry Tax Act, Entertainment Tax and the amount so recovered shall not be admissible as input tax credit under this Act [**Section 142(8)(a)of the TNGST Act refers**].

- b. If due to any proceedings of appeal, review or reference relating to output duty or tax liability initiated, whether before, on or after the appointed day, under the existing law, any amount of output duty or tax becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the TNGST Act and the amount so recovered shall not be admissible as input tax credit under this Act [**Section 142(7)(a)of the TNGST Act refers**].

- iv) **Recovery of arrears due to revision of return under the existing law:** Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of TNVAT, CST, TN Luxury Tax, Entertainment Tax and Entry Tax credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the TNGST Act and the amount so recovered shall not be admissible as input tax credit under this Act [**Section 142(9)(a)of the TNGST Act refers**].

4 In view of the above legal provisions, recovery of TNVAT, CST, TN Luxury Tax, Entertainment Tax and Entry Tax credit thereof arising out of the proceedings under the existing law, unless recovered under the existing law, and that of inadmissible transitional credit, is required to be made as an arrear of tax under the TNGST Act. The following procedure is hereby prescribed for the recovery of arrears

4.1 Recovery of TNVAT, CST, TN Luxury Tax, Entry Tax, Entertainment Tax and wrongly availed input tax credit thereof under the existing law and inadmissible transitional credit:

- (a) The TNVAT, TN Luxury Tax, CST, Entry Tax, Entertainment Tax and input tax credit wrongly carried forward as transitional credit shall be recovered as State tax liability to be paid through the utilization of amounts available in the **electronic credit ledger or electronic cash ledger** of the registered person, and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GSTPMT-01**).
- (b) The arrears of TNVAT, TN Luxury Tax, CST, Entry Tax, Entertainment Tax or wrongly availed input tax credit thereof under the existing law arising out of any of the situations discussed in para 3 above, shall, unless recovered under the existing law, be recovered as State tax liability to be paid through the utilization of amounts available in the **electronic credit ledger or electronic cash ledger** of the registered person, and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GSTPMT-01**).

4.2 Recovery of interest, penalty and late fee payable:

- (a) The arrears of interest, penalty and late fee in relation to TNVAT, TN Luxury Tax, CST, Entry Tax, Entertainment Tax TNVAT, TN Luxury Tax, CST, Entry Tax, Entertainment Tax and input tax credit wrongly carried forward, arising out of any of the situations discussed in Para 3 above, shall be recovered as interest, penalty and late fee of State tax to be paid through the utilization of the amount available in **electronic cash ledger** of the registered person and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GSTPMT-01**).

(b) The arrears of interest, penalty and late fee in relation to arrears of TNVAT, CST, TN Luxury Tax , Entry Tax, Entertainment Tax and wrongly availed input tax credit thereof under the existing law arising out of any of the situations discussed in para 3 above, shall, unless recovered under the existing law, be recovered as interest, penalty and late fee of State tax to be paid through the utilization of the amount available in the **electronic cash ledger** of the registered person and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GSTPMT-01**).

4.3 Payment of TNVAT, CST, TN Luxury Tax, Entry Tax and Entertainment Tax on account of returns filed for the past period:

The registered person may file TNVAT, CST, TN Luxury Tax and Entry Tax return for the period prior to 1st July, 2017 by logging onto **www.ctd.tn.gov.in** and make payment relating to the same through the portal (**www.ctd.tn.gov.in**), as per the practice prevalent for the period prior to the introduction of GST. However, with effect from 1st of April, 2018, the return filing shall continue on **www.gst.gov.in** but the payment shall be made through **www.gst.gov.in**. As the registered person shall be automatically taken to the payment portal on filing of the return, the user interface remains the same for him.

4.4 Recovery of arrears from assesseees under the existing law in cases where such assesseees are not registered under the TNGST Act,2017:

Such arrears shall be recovered in cash, under the provisions of the existing law and the payment of the same shall be made as per the procedure mentioned in para 4.3 supra.

This pari materia circular is issued with reference to the circular issued by the Government of India on the recommendation of the GST Council in the reference cited.

Sd/-T.V.Somanathan
Commissioner of State Tax

To

All the Joint Commissioners (ST) Territorial and Enforcement in the State.

Copy to: (1) Principal Secretary to CT& Regn. Department.

(2) All Additional Commissioners of State Tax in the Commissionerate.

(3) Joint Commissioner (CS) for hosting in Departmental site.

(4) All Deputy Commissioners (ST) in the State.

(5) All Assistant Commissioners (ST) in the State.