

New Provision of 2% TDS on Metal Scrap as Recommended in 54th GST Council Meeting:
Key Points, Modus Operandi, and FAQs

Dear Trade Members,

The 54th GST Council meeting, held on September 9, 2024, has recommended the introduction of a 2% TDS (Tax Deducted at Source) on the supply of metal scrap by registered persons in B2B transactions. This measure aims to curb the long-standing issue of fake invoicing in the scrap industry and ensure a fair and transparent tax system.

Key Points:

1. A TDS of 2% will be applicable on the supply of metal scrap by registered persons in B2B transactions.
2. Reverse Charge Mechanism (RCM) will be introduced on the supply of metal scrap by unregistered persons to registered persons. The supplier shall take registration when they cross the threshold limit, and the recipient liable to pay under RCM shall pay tax even if the supplier is under the threshold.
3. The proposed TDS mechanism will create a trail of transactions, making it easier to identify and weed out fake invoicing practices.
4. The TDS amount deposited by genuine buyers will be reflected in the suppliers' cash ledger, which can be adjusted against their output tax liability or claimed as a refund.
5. Registered persons who are required to deduct TDS under this new provision as TDS deductors will be required to file GSTR-7 (TDS Return) and issue GSTR-7A (TDS Certificate) to the suppliers on whose behalf they have deducted tax.

Modus Operandi:

The following table illustrates how the TDS mechanism will work at each stage of the supply chain, assuming a base transaction rate of Rs. 100 and a tax rate of 18% with minimal value addition at each stage:

Mode of Operation of the Proposed TDS Mechanism under section 51:

Base Transaction Rate: Rs. 100 and Tax rate 18% (assuming on each stage very low amount of value addition)

Supplier	Recipient
1 st hand Supplier (A)	Buyer will pay 116 to supplier and Rs. 2 to Government as GST TDS as per section 51 of the CGST Act, 2017. Rs. 2 will be reflected in supplier Cash Ledger. Supplier can adjust same with output tax or claim as refund.
2 nd hand Supplier (A)	Buyer will pay 116 to supplier and Rs. 2 to Government as GST TDS as per section 51 of the CGST Act, 2017. Rs. 2 will be

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	reflected in supplier Cash Ledger. Supplier can adjust same with output tax or claim as refund
3 rd hand Supplier (A)	Buyer will pay 116 to supplier and Rs. 2 to Government as GST TDS as per section 51 of the CGST Act, 2017. Rs. 2 will be reflected in supplier Cash Ledger. Supplier can adjust same with output tax or claim as refund
Manufacturer	Buyer will pay 116 to supplier and Rs. 2 to Government as GST TDS as per section 51 of the CGST Act, 2017. Rs. 2 will be reflected in supplier Cash Ledger. Supplier can adjust same with output tax or claim as refund

Impact on Bogus or Fake Dealers:

In total Rs. 8 in cash will be deposited to government exchequer in form of TDS & will make it increasingly difficult for bogus or fake dealers to operate in the scrap industry. As TDS creates a transaction trail and ensures that a portion of the tax is collected at source, fake dealers will find it challenging to generate and pass on fictitious ITC without actually depositing the corresponding tax amount.

The applicability of TDS on the buyers of scrap under Section 51 of the CGST Act can help curb fake invoicing. TDS is deducted at the rate of 2% on payments made to the supplier of taxable goods and/or services, where the total value of such supply, under an individual contract, exceeds Rs. 2,50,000.

This measure will help in weeding out unscrupulous elements from the industry and create a more transparent and compliant ecosystem.

We request all our members to take note of this new provision and ensure compliance with the same, including filing GSTR-7 and issuing GSTR-7A as applicable.

For any further clarifications or assistance, please refer to the FAQs below and reach out to the undersigned for any specific queries.

Thanks,
Sincerely,

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Frequently Asked Questions (FAQs)

Question 1: When new provisions will be applicable?

Answer: Applicability of new provisions is subject to issuance of Notification / clarification by CBIC. Normally new notification is issued within 15 days from the date of the Council meeting. So, once notification is issued it may be applicable from immediate effect or may be from a specific prospective date.

Question 2: After the application of TDS @ 2%, will the rate of GST be 18% plus 2% or 16% plus 2%?

Answer: TDS under GST is covered section 51 of CGST Act, 2017. It is only the mechanism of collection of tax not the related to levy of tax. GST rate will remain same i.e. 18% only. There is no additional cost in form of TDS @ 2%. To understand the provision let us refer to the following table as under:

Assuming Base price of Material is Rs. 100/- and rate of Tax is 18% so Invoice value will be 118/-

Before Implementation of TDS	After Implementation of TDS
Under existing scenario, the supplier will raise invoice of Rs. 118/- and the recipient will pay entire 118/- to the Bank Account of the Supplier. Now the supplier will pay Rs.18/- (collected as GST) to the government by utilizing ITC/Cash available in E. credit/Cash ledger.	Under proposed, the supplier will raise invoice of Rs. 118/- and the recipient will pay 116/- to the Bank Account of the Supplier and Rs.2/- will be deposited in E. cash Ledger* of Supplier. Now the supplier will pay Rs.18/- (collected as GST) to the government by utilizing ITC/Cash available in E. credit/Cash ledger. Recipient will file GSTR-7 (TDS Return) within the 10 th day of the following month and supplier will get Credit of cash in its cash ledger by accepting GSTR7A.

Question 3: What is GSTR-7 and 7A?

Answer: GSTR-7 [Rule 66(1)] is single page TDS return containing basic details as under:

Sl. No.	GSTIN	Invoice No.	Invoice date	Value	GST (CGST, SGST, IGST)	Total

GSTR7A is a TDS certificate. Once acceptance of same is filed by the recipient, TDS amount will be credited to cash ledger immediately.

Question 4: Whether TDS is cost?

Answer: TDS is credited to the cash ledger once acceptance of same is filed by the recipient. The cash available in the cash ledger can either be utilized to pay off GST liability or can be claimed as Refund.

Question5: Is there any mechanism for getting a refund of the TDS amount?

Answer: Yes, refund can be claimed through RFD-01, and empowering section is Section 54 of the CGST Act, 2017. Further CBIC also issued a circular No. 166/22/2021 dated 17/11/2021 whereas entry No. 3 clarifies the issue as follows:

Sl. No.	Issue	Clarification
03.	Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51 /52 of the CGST Act can be refunded as excess balance in cash ledger?	The amount deducted/collected as TDS/TCS by TDS/ TCS deductors under the provisions of section 51 /52 of the CGST Act, as the case may be, and credited to electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. It is not mandatory for the registered person to utilise the TDS/TCS amount credited to his electronic cash ledger only for the purpose for discharging tax liability. The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers. Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of CGST Act.

Note:

The conclusions reached and views expressed in the memorandum are matters of opinion. The accuracy of this memorandum necessarily depends on the documents disclosed to us being true, complete, accurate and not misleading, which we have assumed to be the case. We have prepared this memorandum based on our understanding and interpretation of the CGST Act, 2017 and Rules made thereunder as of the date hereof and, as such, there can be no assurance that the regulators will not take a position contrary to that expressed in this report. In particular, we have not, for the purposes of preparing this memorandum, spoken to or otherwise ascertained from, the regulators what their views are likely to be in relation to the issues raised, though, we have, of course, factored in our experience with the regulators. Any change or amendment in the law or relevant regulations would entail a review of our comments and recommendations contained in this memorandum. We do not bear any responsibility to carry out any review of our comments for changes in laws or regulations occurring after the date of issue of this memorandum unless specifically requested. This memorandum is given for a specific



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If you require any further clarification, please let us know.