

# TAX INFO

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**Latest update on GST Law: Payments through DRC-03 under CGST regime is not a valid mode of payment for making pre-deposits under Central Excise and Service Tax.**

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The CBIC vide **CBIC-240137/14/2022-SERVICE TAX SECTION-CBEC dated October 28, 2022** had issued Instructions on payment method of the pre-deposit for cases pertaining to Central Excise and Service Tax.

Some appeals have been rejected by Commissioner (Appeals) for non-compliance of pre-deposit requirements as mandated under section 35F of the Central Excise Act, 1944 (CEA) and Section 83 of the Finance Act, 1994 read with section 35F of the CEA, where such payments have been made through Form GST DRC-03 on common GST portal, by holding that it is not a prescribed method of payment of such pre deposit. The issue has also been referred to the Board by the Hon'ble High Court of Mumbai in writ petition No. 6220 of 2022 in the matter of **Sodexo India Services Pvt. Ltd Vs Union of India**, with directions to examine and issue suitable instructions in this regard.

It may be seen that Form GST DRC -03 is prescribed for payment of tax, interest, penalty under sections 73 and 74, and section 129 (1) of the CGST Act, 2017 or any other payment due in accordance with the provisions of the CGST Act, 2017. Further, in GST regime, in connection with the appeal mechanism under section 107 of the CGST Act, 2017, Rule 108 (1) of the CGST Rules, 2017 provides Form GST APL-01 for filing an appeal with the option of payment of admitted amount and pre-deposit through electronic cash/credit ledger. Thus, under GST Act also, Form GST DRC-03 is not a prescribed mode for payment of pre-deposit.

Miscellaneous transitional provisions that any credit, tax, interest, fine or penalty recoverable from the person before, on or after July 01, 2017 under the existing law (Central Excise Act and Chapter-V of Finance Act. 1994) shall be recovered as an arrear of tax under CGST Act. It is, however, settled that pre deposit as a requirement for exercising the right to appeal neither is in the nature of duty nor can be treated as arrears under the existing law and hence cannot be said to be covered under transitional provisions of CGST Act.

Thus, it is clarified that payments through DRC-03 under CGST regime is not a valid mode of payment for making pre-deposits under section 35F of the Central Excise Act, 1944 and Section 83 of Finance Act, 1994 read with section 35F of the CEA. There exists a dedicated CBIC-GST Integrated portal, <https://cbic-gst.gov.in>, which should only be utilized for making pre-deposits under the Central Excise Act, 1944 and the Finance Act, 1994.

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