Change in Priority Set off of GST Input Credit By Introduction of Sec 49A , 49B of CGST Act, 2017 and Rule 88

Section 49(5) which Previously use to govern such provision has now become defunct

w.e.f Feb,2019

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Order of Utilisation under Sec 49(5)

Before 1st February 2019

Output Liability	First Set off Priority	Balace	Not Allowed to Set off
IGST	IGST	First CGST Balance SGST	-
CGST	CGST	IGST	SGST
SGST/UTGST	SGST/UTGST	IGST	CGST

"**49A.** Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilized towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilized fully towards such payment."

Output Liability	First Set off Priority	Balace	Not Allowed to Set off
IGST	IGST	Either CGST or SGST*	-
CGST	IGST	CGST	SGST
SGST/UTGST	IGST	SGST/UTGST	CGST

** Read Rule 88 on the Following Page*

"49B. Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.".

- **88A is brought vide Notification no 16/2019 dated 29-03-2019 made effective from the 1st April 2019.**
- "**Rule 88A." Order of utilization of input tax credit**. –
- "Input tax credit on account of integrated tax shall first be utilized towards payment of integrated tax, and the amount remaining, if any, may be utilized towards the payment of central tax and State tax or Union territory tax, as the case may be, **in any order***"
- "**Proviso to Rule 88A**"
- ''Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilized towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of **integrated tax has first been utilized fully**."
- As per the latest amendment, the order of utilization after the setoff of IGST liability was compulsory CGST and then SGST/UGST. Now the order has been relaxed wherein either of CGST or SGST/UGST liability can be set off.

Analysis of Section 44B read with Rule 88

Particulars	Impact
IGST	IGST liability will get first priority in set off and balance can be used in either CGST or SGST in any order
CGST	Now taxpayer has to exhaust ITC of IGST first then can be used in any manner , Earlier IGST was used for CGST and then SGST it has now been removed.
SGST	

<u>Illustration 1</u>
As per Sec 49(5)

Old Model

Particulars	ITC Available	Output Liability	Sett off	Balance
IGST	30000	0		20000
CGST	20000	20000	Utilize CGST (20000)	0
SGST	10000	20000	Utilize SGST (10000) Utilize IGST (10000)	0

<u>Illustration 1</u>
As per Sec 49 A , 49 B and Rule 88

New Model

Particulars	ITC Available	Output Liability	Sett off	Balance
IGST	30000	0		0
CGST	20000	20000	Utilize IGST (20000)	20000
SGST	10000	20000	Utilize IGST (10000) Utilize SGST (10000)	0

Illustration 2
As per Sec 49(5)

Old Model

Particulars	ITC Available	Output Liability	Sett off	Balance
IGST	30000	25000	Utilize IGST (25000)	0
CGST	20000	20000	Utilize CGST (20000)	0
SGST	10000	20000	Utilize SGST (10000) Utilize IGST (5000) Electronic Cash Ledger (5000)	0

Illustration 2
As per Sec 49 A , 49 B and Rule 88

New Model

Particulars	ITC Available	Output Liability	Sett off	Balance
IGST	30000	25000	Utilize IGST (25000)	0
CGST	20000	20000	Utilize IGST (5000) Utilize CGST(15000)	5000
SGST	10000	20000	Utilize SGST (10000) Electronic Cash Ledger (10000)	0

Alternatively IGST can be first utilized for SGST

CONCLUSION

- ITC of IGST should me utilized before utilizing any other credit.
- IGST ITC shall be allowed only when IGST liability has been fully paid first. After using it for IGST liability, it can be used for any other tax liability.
- With introduction of this rule, taxpayer can adjust IGST ITC remaining after adjusting IGST liability with CGST/SGST/UTGST as per their discretion.
- Objective of this new order is to block utilization of ITC of CGST and SGST and to promote payment of taxes.