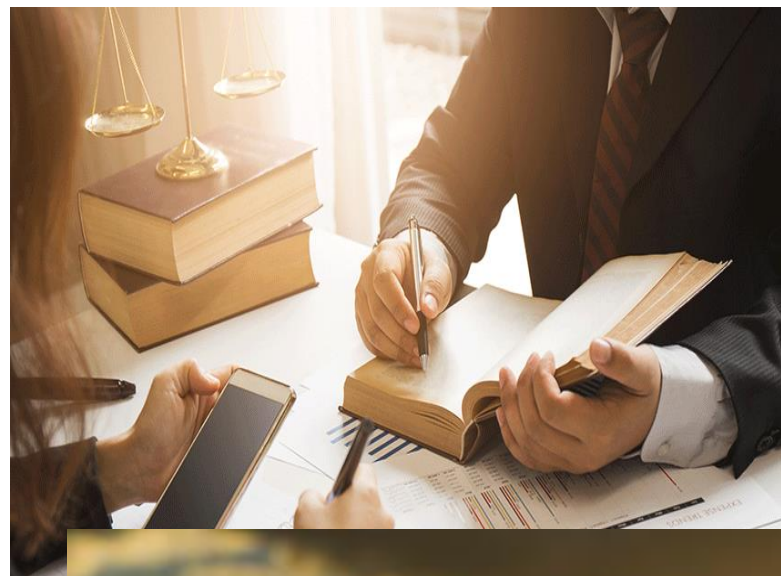




NITYA's Insight Restriction for availing unmatched Input Tax Credit

October 16, 2019

Restriction for availing unmatched input tax credit

Restriction

ITC on invoices and debit notes not uploaded by the suppliers in GSTR-1, shall not be available to the extent it exceeds 20% of ITC on invoices and debit notes uploaded.

Applicability

The restriction shall apply on invoices and debit notes uploaded by the suppliers (including supplies made by registered suppliers covered under reverse charge mechanism).

Non-applicability

The transactions of ISD, import of goods, import of services, other reverse charge procurements from unregistered suppliers (where the suppliers do not upload invoices and debit notes).

The restriction same can be understood by way of following illustration:

(Tax amount in ₹)

(Inward supplies other than Section 17(5) of the CGST Act)

S. No.	Document for availing ITC	ITC	ITC reflected in GSTR-2A	ITC not reflected in GSTR-2A
1	Tax invoice <i>(including issued by registered RCM suppliers)</i>	100	70	30
2	Debit note	50	40	10
3	Bill of entry	50	NA	NA
4	ISD invoice <i>(not relevant for this computation)</i>	20	20	-
5	Self-invoice <i>(issued by recipient for unregistered RCM suppliers)</i>	30	NA	NA
	Total	250	130	40

ITC on invoices and debit notes uploaded by taxpayers (₹ 70+ ₹ 40) = ₹ 110

ITC on invoices and debit notes not uploaded by taxpayers (₹ 30+ ₹ 10) = ₹ 40

Restriction for ITC availment = 110 X 20% = ₹ 22

In the above example, out of ITC of ₹ 40 not reflected in GSTR-2A of the recipient, the taxpayer is eligible to claim ITC of ₹ 22 only.

NITYA Comments:

It is surprising to see that the Government has introduced this restriction before implementing the new return format (which will have a similar mechanism in place). The Government is pushing a mechanism which is likely to create many operational challenges for taxpayers even when the Government's IT system is not capable to handle the same.

The following points are noteworthy in relation to this amendment:

- The legality of this amendment can be challenged on the premise that eligible ITC on which this restriction is applicable, is not constant. Due to the regular updation in GSTR-2A balances, this figure keeps changing. There is absolutely no mechanism provided to recipient to lock ITC balance appearing in GSTR-2A.*
- Since the amendment is applicable from October 9, 2019, the same will apply to ITC availed after this date. Consequently, the restriction will apply for ITC availed in GSTR-3B of September 2019 onwards. Hence, the taxpayers need to comply with this requirement from September 2019 onwards.*
- The taxpayers dealing with GST compliant vendors, will not face challenge in implementing this provision since their procurements will fall within the overall limit of 20%. Still, a broad monthly matching is recommended to ensure compliance of this provision.*

Any credit availed over and above of 20% limit, shall trigger reversal at the taxpayer's end. Notably, in the absence of any substantive provision for recovery of interest in such situations, interest on such ITC reversal should not apply.

Refer **Notification No. 49/2019-Central Tax dated October 9, 2019** whereby Rule 36(4) has been inserted in the CGST Rules.

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