Restriction on availment of Input Tax Credit

Restriction on availment of Input Tax Credit

- **Notification No. 49/2019 dated 09/10/2019 under CGST Rules applicable from 09/10/2019.**

- **Clarification Circular No. 123/42/2019 dated 11/11/2019 to describe implementation of above notification.**

Notification…..

3. In the said rules, in rule 36, after sub-rule (3), the following sub-rule shall be inserted, namely:-

"(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.".

Restriction on availment of Input Tax Credit

Sl. No	Issue	Clarification
1.	What are the invoices / debit notes on which the restriction under rule 36(4) of the CGST Rules shall apply?	The restriction of availment of ITC is imposed only in respect of those invoices / debit notes, details of which are required to be uploaded by the suppliers under sub-section (1) of section 37 and which have not been uploaded. Therefore, taxpayers may avail full ITC in respect of IGST paid on import, documents issued under RCM, credit received from ISD etc. which are outside the ambit of sub-section (1) of section 37, provided that eligibility conditions for availment of ITC are met in respect of the same. The restriction of 36(4) will be applicable only on the invoices / debit notes on which credit is availed after 09.10.2019.
2.	Whether the said restriction is to be calculated supplier wise or on consolidated basis?	The restriction imposed is not supplier wise. The credit available under sub-rule (4) of rule 36 is linked to total eligible credit from all suppliers against all supplies whose details have been uploaded by the suppliers. Further, the calculation would be based on only those invoices which are otherwise eligible for ITC. Accordingly, those invoices on which ITC is not available under any of the provision (say under sub-section (5) of section 17) would not be considered for calculating 20 per cent. of the eligible credit available.

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3.	**FORM GSTR-2A** being a dynamic document, what would be the amount of input tax credit that is admissible to the taxpayers for a particular tax period in respect of invoices / debit notes whose details have not been uploaded by the suppliers?	The amount of input tax credit in respect of the invoices / debit notes whose details have not been uploaded by the suppliers shall not exceed 20% of the eligible input tax credit available to the recipient in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 **as on the due date of filing of the returns in FORM GSTR-1 of the suppliers for the said tax period**. The taxpayer may have to ascertain the same from his auto populated **FORM GSTR 2A as available on the due date of filing of FORM GSTR-1 under sub-section (1) of section 37.**
4.	How much ITC a registered tax payer can avail in his **FORM GSTR-3B** in a month in case the details of some of the invoices have not been uploaded by the suppliers under sub-section (1) of section 37.	Sub-rule (4) of rule 36 prescribes that the ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37. The eligible ITC that can be availed is explained by way of illustrations, in a tabulated form, below. In the illustrations, say a taxpayer "R" receives <u>100 invoices</u> (for inward supply of goods or services) involving ITC of <u>Rs.</u>

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Case 1	Suppliers have furnished in **FORM GSTR-1** 80 invoices involving ITC of Rs. 6 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	Rs.1,20,000/-	Rs. 6,00,000 (i.e. amount of eligible ITC available, as per details uploaded by the suppliers) + Rs.1,20,000 (i.e. 20% of amount of eligible ITC available, as per details uploaded by the suppliers) = Rs. 7,20,000/-

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5.	When can balance ITC be claimed in case availment of ITC is restricted as per the provisions of rule 36(4)?	The balance ITC may be claimed by the taxpayer in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers. He can claim proportionate ITC as and when details of some invoices are uploaded by the suppliers provided that credit on invoices, the details of which are not uploaded (under sub-section (1) of section 37) remains under 20 per cent of the eligible input tax credit, the details of which are uploaded by the suppliers. Full ITC of balance amount may be availed, in present illustration by "R", in case total ITC pertaining to invoices the details of which have been uploaded reaches Rs. 8.3 lakhs (Rs 10 lakhs /1.20). In other words, taxpayer may avail full ITC in respect of a tax period, as and when the invoices are uploaded by the suppliers to the extent Eligible ITC/ 1.2. The same is explained for Case No. 1 and 2 of the illustrations provided at Sl.No.3 above as under: **Case 1**: "R" may avail balance ITC of Rs. 2.8 lakhs in case suppliers upload details of some of the invoices for the tax period involving ITC of Rs. 2.3 lakhs out of invoices involving ITC of Rs. 4 lakhs details of which had not been uploaded by the suppliers. [Rs. 6 lakhs + Rs. 2.3 lakhs = Rs. 8.3 lakhs]

GST Implication

- Input Credit which is reflecting in GSTR 2A upto 11th of next month to be claimed as input credit.

- Follow up with vendors whose credit is not reflecting in GSTR 2A.

- If credit is not reflecting then same has to be reversed.

Conclusion

- Availed only eligible input tax credit reflecting in GSTR 2A of relevant parties; subject to expenses / invoice accounted for in the books of accounts.
- In case of confirm parties filing quarterly return credit can be availed in GSTR 3B of corresponding month on the basis of books of accounts & invoice, even though same is not reflecting in GSTR 2A.
- In books accounts create additional ledgers like IGST Receivable in 2A, IGST Receivable not in 2A, etc.
- In narration/description of the entry mentioned reflecting / claimed in GSTR 3B of October, 2019 / November, 2019, etc.

THANK YOU

Renting of vehicles outside Maharashtra

If companies employee goes to Delhi and taken vehicle on rent for Maharashtra

Service Provider is Registered Individual / Partnership Firm

IGST is Applicable

If companies employee goes to Delhi and taken vehicle on rent for Utter Pradesh

Service Provider is Registered Individual / Partnership Firm

IGST is Applicable, because, company is registered in Maharashtra and provider is registered outside Maharashtra

Renting of vehicles within Maharashtra

If companies employee has to go to Mumbai from Pune, taken vehicle on rent

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Service Provider is Registered Individual / Partnership Firm

↓

CGST & SGST is Applicable

If companies employee has to go to Gujarat from Pune, taken vehicle on rent

↓

Service Provider is Registered Individual / Partnership Firm

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CGST & SGST is Applicable, because, company is registered in Maharashtra & provider is from Maharashtra

Restriction on availment of Input Tax Credit

Rent / Car Hire charges / Cab charges

Receiver being body corporate (Company, LLP, etc.)

Provider should be other than body corporate (Individual, Partnership firm, etc.)

Provider had to charge / declared IGST @ 5% or CGST @ 2.5%

If IGST @ 5% (Outside Maharashtra Vehicle)

Or

If CGST @ 2.5% (Within Maharashtra Vehicle)