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GST:

20% Restriction on ITC Claim

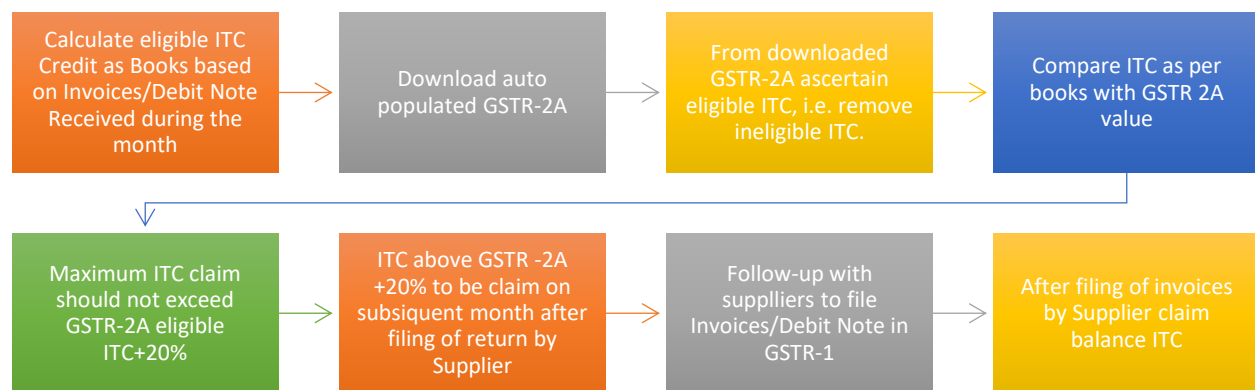
Rule 36(4) of CGST Rules'2017

Restriction in availment of input tax credit in terms of rule 36(4) of CGST Rules, 2017

A new rule for restriction on availment of Input Tax Credit (ITC) is inserted vide Central Goods and Services Tax (Sixth Amendment) Rules, 2019 as notified on 9th October 2019 vide Notification No. 49/2019 of Central Tax. New rule is to be read as below -

Rule 36(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.

Above rule provides restriction in availment of ITC in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers on GST portal, i.e. supplier have not filed GSTR-1 on time. Taxpayer is required to assess his monthly eligible ITC as per invoices or debit notes received by him with eligible ITC reflecting in his auto populated GSTR 2A as on the due date of furnishing GSTR-1 by suppliers. Taxpayer is not allowed to take ITC more than 20% of eligible ITC reflecting on his auto populated GSTR 2A as on the due date of furnishing of the details of outward supplies by the suppliers.



Thus, rule provides for additional 20% ITC which can be availed over and above eligible ITC as reflecting on portal (auto populated GSTR-2A). It became most important to check cross check ITC with GSTR-2A on monthly basis and follow-up with suppliers who are not furnishing returns on time.

Some Key Points:

- This restriction will be applicable only on the invoices / debit notes on which credit is availed after 9th October 2019.
- This restriction is not imposed through common portal, it is the responsibility of the taxpayer and shall be done on self-assessment basis.
- The restriction of availment of ITC is imposed only in respect of invoices / debit notes which are required to be uploaded by the suppliers on GST portal and which have not been uploaded. Therefore, taxpayers may avail full ITC in respect of IGST paid on import, credit under RCM, credit received from ISD etc., provided that eligibility conditions for availment of ITC are met.

- The restriction imposed is not supplier wise. The credit available is linked to total eligible credit from all suppliers against all supplies whose details have been uploaded by the suppliers.
- The calculation would be based on only those invoices which are eligible for ITC. Accordingly, invoices on which ITC is not available under GST Act (such as section 17(5)) would not be considered for calculating 20 % of the eligible ITC available.
- 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. Taxpayer can claim proportionate ITC as and when details of *some* invoices are uploaded by the suppliers.
- Taxpayer may avail full ITC in respect of a tax period, as and when the invoices are uploaded by the suppliers reaches 83.333% (Eligible ITC/120%).

Illustration:

Taxpayer receives 100 invoices involving ITC of Rs 10 lakhs, from various suppliers during the month of October 2019 and has to claim ITC in his GSTR-3B of October, to be filed by 20th November 2019.

S. No.	Supplier furnished Invoices in GSTR-1	20% of eligible ITC of uploaded invoices	Eligible ITC to be taken in GSTR3B	Balance ITC to be claimed in subsequent months
1	80 invoices ITC of Rs. 6 lakhs	Rs. 1.2 lakhs	Rs. 7.2 lakhs (Rs. 6 lakhs + Rs. 1.2 lakhs)	Rs. 2.8 lakhs
2	80 invoices ITC of Rs. 7 lakhs	Rs. 1.4 lakhs	Rs. 8.4 lakhs (Rs. 7 lakhs + Rs. 1.4 lakhs)	Rs. 1.6 lakhs
3	80 invoices ITC of Rs. 8.5 lakhs	Rs. 1.7 lakhs	Rs. 10 lakhs (Rs. 8.5 lakhs + Rs. 1.50* lakhs) <i>*Maximum ITC available on 100 Invoices</i>	Nil

How to Comply with GST Provisions:

Our expert team can help you in ensuring all compliances under GST Act. You may contact us via www.labhyansh.com or e-mail us at arpit@labhyansh.com.

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Last updated on: 11/11/19
Version: N/TAX/GST/19/11/004.V.1