



PROVISIONS IMPACTING GST CREDIT

IMPORTANT PROVISIONS

**S. 16 and
17(5)**

**Reconciliation
with GSTR-2A
& 2B**

**% of Rule
36(4)**

Rule 86B

**Fraudulent ITC
as per Rule
86A**

**Rule 42 & 43
for Reversal
on account of
Exempt Supply**

Section 16 (2)

CONDITIONS FOR AVAILING INPUT TAX CREDIT UNDER GST



MUST BE IN POSSESSION OF A TAX INVOICE OR DEBIT NOTE ISSUED BY A REGISTERED SUPPLIER OR SUCH OTHER TAX PAYING DOCUMENTS.



GOODS OR SERVICES HAVE BEEN RECEIVED.



HE HAS FILED RETURN u/s 39



TAX HAS BEEN PAID TO GOVT. IN CASH OR THROUGH ITC

Maximum Time Limit to Avail Credit

A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both **after the due date of furnishing of the return under section 39 for the month of September** following the end of financial year to which such invoice or debit note pertains **or** furnishing of the relevant **annual return, whichever is earlier.**

Section 17(5)

Block credit on Immovable Property, Construction, Car, Food Beverages etc.

Rule 42 & 43

Manner of determination of input tax credit in respect of inputs or capital goods or input services and reversal thereof.

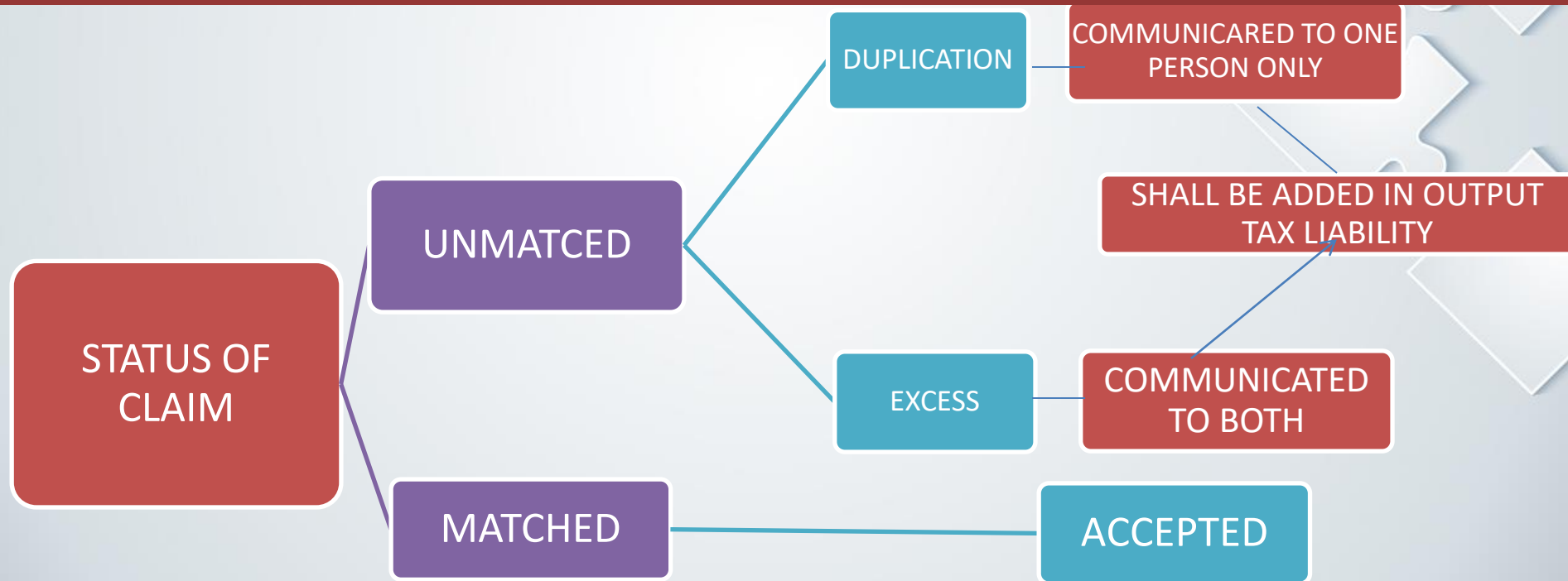
Proportionate reversal of ITC relating to exempt supply.

PROPOSED MECHNISIM AT THE INCEPTION OF GST

SECTION 41. PROVISIONAL ACCEPTANCE OF ITC CLAIM

EVERY REGISTERED PERSON SHALL BE ENTITLED TO TAKE THE CREDIT OF ELIGIBLE INPUT TAX, AS SELF-ASSESSED, IN HIS RETURN AND SUCH AMOUNT SHALL BE CREDITED ON A PROVISIONAL BASIS TO HIS ELECTRONIC CREDIT LEDGER, WHICH SHALL BE UTILISED ONLY FOR PAYMENT OF SELF ASSESSED OUTPUT TAX LIABILITY.

SECTION 42 & 43. MATCHING, REVERSAL AND RECLAIM





Notf. No. 82 /2020 – CT dated 10 November, 2020

Introduction of Form 2B by substituting new Rule 60 w.e.f. 01st of Jan 2021

Extract of Notf. 82/2020 relating to GSTR 2B

Sub Rule (7) An auto-drafted statement containing the details of input tax credit shall be made available to the registered person in **FORM GSTR-2B**, for every month, electronically through the common portal, and shall consist of –

- i. The details of outward supplies furnished by his supplier, other than a supplier required to furnish return for every quarter under proviso to sub-section (1) of section 39, in **FORM GSTR-1**, between the day immediately after the due date of furnishing of **FORM GSTR-1** for the previous month to the due date of furnishing of **FORM GSTR-1** for the month.
- ii. The details of invoices furnished by a non-resident taxable person in **FORM GSTR-5** and details of invoices furnished by an Input Service Distributor in his return in **FORM GSTR-6** and details of outward supplies furnished by his supplier, required to furnish return for every quarter under proviso to sub-section (1) of section 39, in **FORM GSTR-1** or using the IFF, as the case may be-
 - a) For the first month of the quarter, between the day immediately after the due date of furnishing of **FORM GSTR-1** for the preceding quarter to the due date of furnishing details using the IFF for the first month of the quarter.
 - b) For the second month of the quarter, between the day immediately after the due date of furnishing details using the IFF for the first month of the quarter to the due date of furnishing details using the IFF for the second month of the quarter.

Extract of Notf. 82/2020 relating to GSTR 2B

- c) For the third month of the quarter, between the day immediately after the due date of furnishing of details using the IFF for the second month of the quarter to the due date of furnishing of **FORM GSTR-1** for the quarter.
- (iii) The details of the integrated tax paid on the import of goods or goods brought in the domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry in the month.
- (8) The Statement in **FORM GSTR-2B** for every month shall be made available to the registered person,-
- (i) For the first and second month of a quarter, a day after the due date of furnishing of details of outward supplies for the said month, in the IFF by a registered person required to furnish return for every quarter under proviso to sub-section (1) of section 39, or in **FORM GSTR-1** by a registered person, other than those required to furnish return for every quarter under proviso to sub-section (1) of section 39, whichever is later.
- (ii) In the third month of the quarter, a day after the due date of furnishing of details of outward supplies for the said month, in **FORM GSTR-1** by a registered person required to furnish return for every quarter under proviso to sub-section (1) of section 39.

GSTR-2B

- It is an **auto generated statement** of ITC available from the details submitted by their suppliers through GSTR-1, GSTR-5 and GSTR-6. It also **contains information of import from the ICEGATE system including inward supplies of goods received from Special Economic Zone.**
- It can be used to take exact input in **GSTR-3B** , because the data in **GSTR-2B is static** that will not change after a month.
- **It contains ITC information from the filing date of GSTR-1 for the preceding month (M-1) up to the filing date of GSTR-1 for the current month (M). For instance, GSTR-2B generated for December 2020 will contain documents filed by their suppliers from 12 a.m. on 12th December 2020 up to 11:59 p.m. on 11th January 2021. The statement for December 2020 will be generated on 12th January 2021.**
- The documents would reflect in the next open GSTR-2B of the recipient irrespective of the date of the document. e.g. INV-1 dated 15.05.2020 uploaded in December 2020 return filed on 11th January 2021, it would be reflected in GSTR 2B of December 2020 generated on 12th January 2020 and not in GSTR 2B of May 2020.

RULE 36 (4)

As per Rule 36(4) ITC is allowed only upto a specified % of ITC as appearing in GSTR 2A.

Notf.No 49/2019/CT dated 09-10-2019 -ITC claimed cannot exceed **120%** of ITC available in 2A (applicable w.e.f. 1st of Nov. 2019)

Notf. No. 75/2019/CT dated 26-12-2019-ITC claimed cannot exceed **110%** of ITC available in 2A (applicable w.e.f. 1st of Jan, 2020)

Notf .No.94/2020/Ct dated 22-12-2020-ITC claimed cannot exceed **105%** of ITC available in 2A (applicable w.e.f. 1st of Jan, 2021 -

Relaxation in Rule 36(4) Due to COVID 19

Notf. 30/2020/CGST -Dated-03/04/2020

In the said rules, in sub-rule (4) of rule 36, the following proviso shall be inserted, namely:-

“Provided that the said condition shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in **FORM GSTR-3B** for the Tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.

**Rule 86B - Restriction on Use of
ITC in Excess of 99%
for
Registered Person having Monthly
Taxable Supply Exceeding 50L to
curb the ongoing fake invoices
transactions**

In the said rules, after rule 86A, with effect from the 1st day of January, 2021, the following rule shall be inserted, namely: -

86B. Restrictions on use of amount available in electronic credit ledger.-Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax **in excess of ninety-nine per cent.** of such tax liability, in cases where the value **of taxable supply other than exempt supply and zero-rated supply,** in a month **exceeds fifty lakh rupees.**

Provided that the said restriction shall not apply where –

➤ **Income Tax Payment in Excess of Rs. 1L**

- (a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, **have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years** for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired; or

NOTE: Income tax payment can be in cash or TDS or MAT through MAT credit.

Notf.94/2020/CGST – Dated-22/12/2020

➤ **Refund More than Rs. 1L of ITC on zero rated supplies made without payment of tax;**

(b) the registered person has **received a refund amount of more than one lakh rupees** in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of sub-section (3) of section 54; or

➤ **Refund More than Rs. 1L of ITC under Inverted Duty Tax Structure**

(c) the registered person has received **a refund amount of more than one lakh rupees** in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or

➤ **Cumulative cash payment in excess of 1%**

(d) the registered person has **discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1%** of the total output tax liability, applied **cumulatively**, upto the said month in the current financial year; or

- (e) the registered person is –
 - (i) Government Department; or
 - (ii) a Public Sector Undertaking; or
 - (iii) a local authority; or
 - (iv) a statutory body:

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

Turnover other than exempted and export turnover is more than Rs. 50 lakhs in a month.

This provision of **Rule 86B** will be applicable only if the turnover other than exempted and export turnover (i.e. is **more than Rs. 50 lakhs** in a month.

S. No.	Exempt Turnover	Export Turnover	Taxable Turnover	Rule 86 B applicable
1	52 Lakhs	50 Lakhs	46 Lakhs	No as Taxable Turnover not exceeding 50L
2	52 Lakhs	50 Lakhs	50 Lakhs	No as Taxable Turnover not exceeding 50L
3	52 Lakhs	50 Lakhs	55 Lakhs	Yes as Taxable Turnover exceed 50L

Impact of Rule 86B on businesses & working capital

- ❑ There will be no impact on micro and small businesses. The motto behind the introduction of this rule is to control the issue of fake invoices to use the fake input tax credit to discharge liability. Further, it restricts fraudsters from showing high turnovers without having any financial credibility.
- ❑ CBIC has further clarified that 1% is to be calculated on the tax liability in a month and the turnover of the respective month.

Notf.75/2019/CGST -Dated -26/12/2019

Further to restrict fraudulent ITC Rule 86A was introduced which reads as follows:-

“86A. Conditions of use of amount available in electronic credit ledger.-

(1) The Commissioner or an officer authorized by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-

- a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-
 - i. issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained;
 - ii. without receipt of goods or services or both; or
- b) The credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or

c) The registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or

d) The registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,

may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.

(2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.”.

Provisions to Implement Effectively Rule 86A & 86B

Blocking of GSTR-01 in case of non filing of GSTR-3B

Notification No. 01/2021–CT dated 1st January, 2021

Where a taxpayer fails to file GSTR-3B for two subsequent months, his GSTR-1 shall now be blocked. Earlier non filing of GSTR-3B used to result in blocking of E way Bill facility but from now on it shall also result in blocking of GSTR-1 of the taxpayer.

Relevant provisions are introduced by inserting following Sub rule 6 in Rule 59 i.e. “Form & Manner of Furnishing Details of Outward Supplies”

(6) Notwithstanding anything contained in this rule, -

- A registered person shall not be allowed to furnish the details of outward supplies of goods or services or both **under section 37 in FORM GSTR-1**, if he has not furnished the return in **FORM GSTR-3B for preceding 2 months.**
- A registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to goods furnish the details of outward supplies of or services or both **under section 37 in FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished **the return in FORM GSTR-3B for preceding tax period.**
- A registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent. of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both **under section 37 in FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period.

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THANK YOU