

NDA Update – Clarification on restriction in availment of Input Tax Credit (ITC) under GST

Vide a notification (No 49/2019 – Central Tax, dated 09-10-2019), a new provision was inserted putting a restriction on availment of ITC in certain cases. The new provision was applicable in case of invoices or debit notes, the details of which have not been uploaded by the suppliers under Section 37(1) and it was provided that ITC in such cases shall not exceed 20% of the eligible ITC available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under Section 37(1).

Central Board of Indirect Taxes & Customs has issued certain clarifications on 11-11-2019, the summary is as under:

The restriction of 20% is not imposed through the GST common portal thus the tax payers shall be required to work out the amount of restricted ITC on self assessment basis.

- The restriction will be applicable on the invoices / debit notes on which credit is availed after 09-10-2019.
- The restriction is not individual supplier wise. Amount of 20% will be calculated with reference to total eligible credit in respect of invoices / debit notes issued by all suppliers. Thus the invoice on which ITC is not eligible, would not be considered.

In the clarificatory circular, illustration has also been provided. If a tax payer has received 100 invoices involving ITC of Rs 10 lacs then the ITC shall be as follows under various circumstances based on uploading of invoices by suppliers

Sl No	Particulars	Amount (Rs in lacs)		
A	Total ITC as per invoices received by tax payers	10.00	10.00	10.00
B	Invoices uploaded by suppliers involving of ITC of	6.00	7.00	8.50
C	Invoices not uploaded by suppliers involving of ITC of (A-B)	4.00	3.00	1.50
D	Amount of ITC on invoices not uploaded being 20% of eligible credit on invoices uploaded (20% of B)	1.20	1.40	1.70
E	Total eligible ITC to be considered by tax payers = (B + D) subject to maximum of A above	7.20	8.40	10.00

Balance ITC may be claimed in succeeding months proportionately on uploading of pending invoices by the suppliers. The balance amount may be availed in full if the invoices having ITC to the extent of 83% of the total ITC are uploaded by the suppliers.

Thus the restriction of 20% will not apply if the invoices are uploaded to the extent of 83% of the eligible input credit initially.

The aforesaid calculation is very cumbersome and the tax payers will have to keep a track over uploading of the invoices involving ITC by their suppliers.

Source: http://www.cbic.gov.in/resources/htdocs-cbec/gst/circular-cgst-123_New.pdf;jsessionid=5C7BD44B50230124AB5A315BA309BEFC