

GST UPDATES

November 11, 2024



Reversal of ITC in case not payment of tax by Supplier

Relevant provision for F Y 2023-24

Reversal of ITC in case of non-filing of GSTR 3B by Supplier for corresponding period.

Input Tax Credit (ITC) is a key provision under the Goods and Services Tax (GST) framework that enables businesses to offset the tax paid on purchases against their output tax liability. Section 16 of the CGST Act, 2017, serves as the principal section outlining the conditions for availing ITC.

This section also mandates the reversal of ITC after it has been claimed if the conditions for post-availment are not met.

Relevant Applicable Law

This provision is introduced by way of insertion of Rule 37A vide Notification No. 26/2022-Central Tax dated December 26,2022.

As per the Rule,

- a) In case Supplier has issued the invoice for Supply of Goods / service / Both and,
- b) Details of the said invoice has been reported in the GSTR 1/ GSTR 1A/IFF and
- c) However, corresponding GSTR 3B has not been furnished by the 30th September from the end of Financial year, for which said GSTR 1/ GSTR 1A/IFF was filed.

Then ITC related to such invoice shall be reversed by the recipient by 30th November from the end of Financial year, for which said GSTR 1/ GSTR 1A/IFF was filed.

However re-credit can be availed once the corresponding GSTR 3B is filed by the supplier.

Analysis of the above amendments.

In the context of F Y 2023-24, above provision can be discussed with following example.

i.e. During the F Y 2023-24, Mr X (Supplier) has issued the invoice on

December 15, 2023 for Rs 100000 + 18% GST. and filed the GSTR 1 on January 7, 2024. Since the GSTR 1 is filed within due date, ITC of Rs 18000 will get reflected in GSTR 2B of Ms. P (recipient) for the month of December 2023 on January 14,2024.

As, GSTR 3B is not filed by the Mr X for the month of December 2023 till November 15, 2024, then as per the new rule inserted, Mr X was supposed to file the GSTR 3B by September 30, 2024, but not filed till this date, **Ms P is required to reverse the ITC till November 30, 2024.**

However, once GSTR 3B is filed by Mr X on November 15, 2024, re-credit of the ITC reversed as per rule 37A, can be availed.

In case Ms P does not reverse the ITC by November 30, 2024, then interest @ 18% will be applicable from the date of availment and utilization.

Summery.

Section 155 of the CGST Act, 2017 places the responsibility of proving the validity of Input Tax Credit (ITC) on the individual claiming it, ensuring compliance with Section 16 of the CGST Act, 2017. Recently, in the case of *Karumpelil Medicals*, the Kerala High Court dismissed a petition where the taxpayer failed to meet this burden under Section 155, also considering the requirements under Section 16(2)(c) of the CGST Act, 2017.

It is therefore crucial to verify that, even if transactions are reflected in GSTR 2A/2B for the FY 2023–24, the tax has indeed been remitted to the government treasury to support the recipient’s eligibility to claim ITC.

To aid in the review process given these challenges, GSTN has recently introduced functionality to view return filing status from the inception of GST in July 2017.

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