

Utilisation of Balance in Electronic Credit Ledger
(With Special Reference to NN 94/2020-CT dt. 22-12-2020)

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Abstract

In the pre-GST era, there was a multiplicity of indirect taxes being levied by various authorities, and the cross utilisation of taxes was unavailable. For instance, the levies of the Central Government against the State Government levies were not allowed, which led to cascading taxes. The dealer could not utilise CST paid on inter-state purchases against VAT payable on sales. All these limitations became history on 1st July 2017, when the new indirect tax system “GST” was introduced, which has subsumed many erstwhile indirect taxes. The new tax structure provides the utilisation of GST paid on input towards GST payable on outputs. Gradually the lawmakers unearthed the issue of bogus invoices, which led to fraudulent availment of ITC. Therefore, various amendments have been made to related provisions. The Government has issued many notifications in this regard. The present article highlights the statutory provisions along with practical case studies. The recent notification, which has inserted Rule 86B, has also been thoroughly analysed. The study is purely based on the legal provisions given in CGST Act, 2017 and CGST Rules, 2017, as amended from time to time.

Keywords: Utilisation of ITC, Sections 16/49/49A/49B of CGST Act, Rule 49 A and 49B, NN 94/2020-CT, Restriction on utilisation of ITC

Introduction

Under GST laws, the GST paid on inward supplies by the registered person can be used towards the payment of GST on outward supplies made by it. This input tax credit (ITC) is available to avoid cascading effects. It is based on the VAT concept of allowing ITC on inputs,

input services and capital goods. Section 2(63) of the CGST Act, 2017 has defined this credit of input tax as Input Tax Credit (ITC). This tax may be Central Tax, State Tax, Integrated Tax or Union Territory Tax. The availability of ITC is subject to the eligibility and conditions given under section 16 of the CGST Act.

Further, the provisions regarding apportionment of credit and blocked credit are also given in section 17. Such ITC is credited in the Electronic Credit Ledger maintained in FORM GST PMT-02 by the Government at GST Portal. The utilisation of ITC is subject to sections 49, 49A and 49B, and Rule 86A prescribe the order of utilisation of ITC. Further, a new rule 86B was notified on 22-12-2020, effective from 1st January 2021, which states the restriction on the use of amount available in Electronic Credit Ledger. The present article briefly covers these provisions and rules along with practical case studies.

Eligibility and conditions for taking ITC

As per section 16(1), “Every registered person shall, subject to such conditions and restrictions as may be prescribed and, in the manner, specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.”¹ Thus, the benefit of ITC is available only to a registered person when the goods or services are used or intended to be used in the course of or in furtherance of his business. Further, section 16(2) provides four conditions to be satisfied for availing of ITC. These conditions are possession of invoice, receipt of supplies, payment of tax to the Government and filing of valid return under section 39. The related provisions have been prescribed under Rule 36 of CGST Rules, 2017.

Unmatched Credit for details not uploaded by Supplier

The supplier must upload the details of outward supplies under section 37(1) in GSTR-1. The Rule 36(4) was introduced w.e.f. 9-10-2019 to specify the quantum of ITC that can be claimed against the invoices/debit notes not furnished by the supplier. At that time the ITC in respect of invoices/debit notes, the details of which have not been furnished by the supplier in GSTR-1 was allowed up to 20% of the eligible ITC available in respect of furnished

Utilisation of Balance in Electronic Credit Ledger

invoices/debit notes. This limit was changed to 10% w.e.f. 1-1-2020 and finally to 5% w.e.f. 1-1-2021. It has been explained through case study-1, which is as follows:

Case Study-1

During January 2021, ABC Limited receives 50 tax invoices (pertaining to taxable inward supply of inputs, input services and input capital goods). The following is the status of corresponding ITC:

Eligible ITC (42 invoices) : Rs. 50,80,000 (as per books)

Ineligible ITC (42 invoices): Rs. 11,15,000 (as per books)

The ITC reflected in FORM GSTR-2A for January 2021 is Rs. 42,00,000 (total invoices 35).

Let's find out the amount restricted or blocked for January 2021 as per recently revised Rule 36(4).

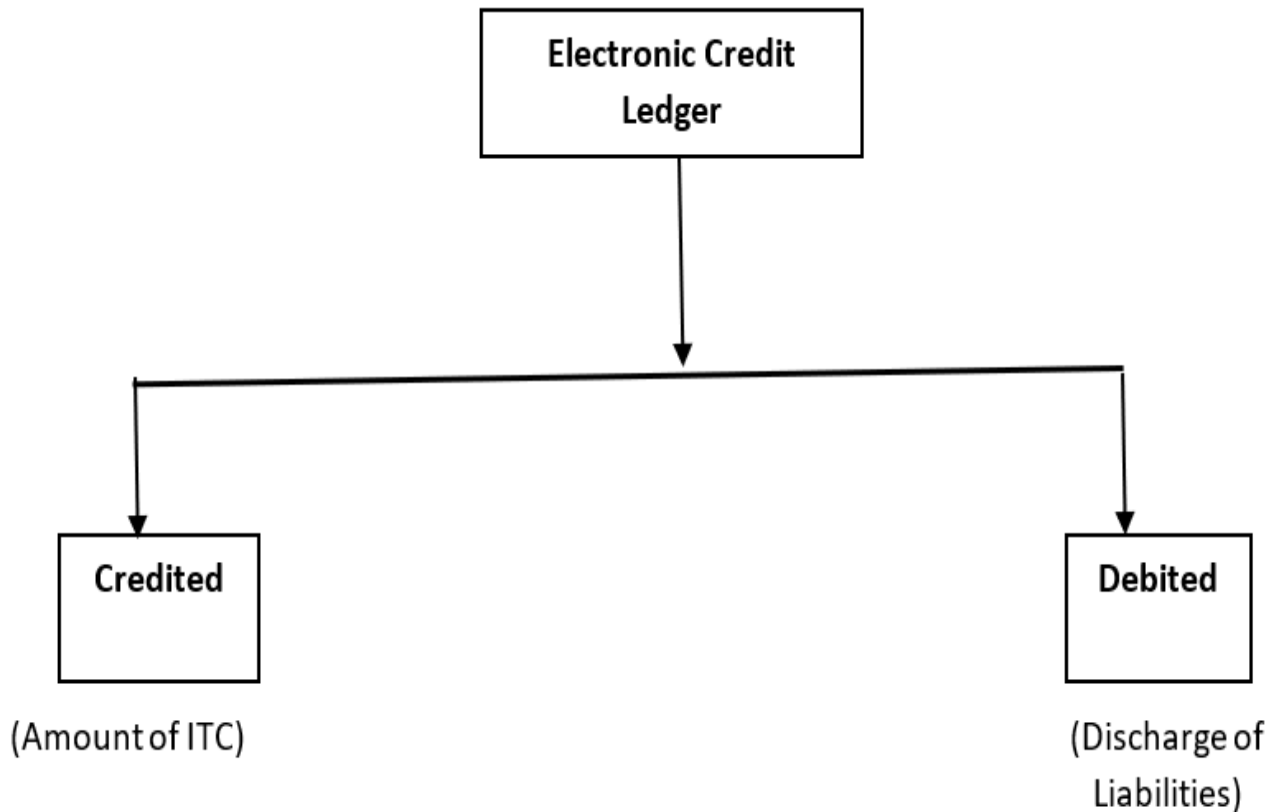
		Amount (Rs.)
(a)	Eligible ITC as per records	50,80,000
(b)	Eligible ITC as reflected in FORM GSTR-2A	42,00,000
(c)	105% of amount in GSTR-2A	44,10,000
(d)	Eligible ITC as per Rule 36(4) [Lower of (a) and (c)]	44,10,000
	Amount restricted or blocked for January 2021 as per Rule 36(4)	6,70,000

In the above case study, if ITC reflected in GSTR-2A was Rs. 49,00,000, then 105% of this amount would have been Rs. 51,45,000. In that scenario, the entire amount of ITC as per books (i.e., Rs. 50,80,000) becomes available, and no amount is restricted or blocked.

Electronic Credit Ledger

As per section 49(2) of CGST Act, "The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section

41 or section 43A, to be maintained in such manner as may be prescribed.” It means the self-assessed ITC by a registered person shall be credited to its electronic Credit Ledger. For each registered person, this ledger is maintained at GST Portal in FORM PMT-02.



Blocking of Credit (Rule 86A)

As stated above, Electronic Credit Ledger (ECL) balance can be used to discharge the GST liability towards outward supplies.

The Government lately unearthed multiple fraudulent cases of ITC availed on fake invoices, i.e., issuance of invoices without supply, oversupply and other fraudulent activities, which has made a dent in the revenue collections of the exchequer.

In order to prevent such misuse, with effect from 26.12.2019, Rule 86A was inserted in the CGST Rules, 2017. Rule 86A of CGST Rules provides broad powers to the Commissioner or an officer authorized by him, not below the rank of Additional Commissioner.²The following is the text of Rule 86A:

Utilisation of Balance in Electronic Credit Ledger

Replica of Rule 86A inserted vide NN 75/2019³	
Rule 86(1)	<p><i>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-</i></p> <ul style="list-style-type: none"> <i>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: <ul style="list-style-type: none"> <i>(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; or</i> <i>(ii) without receipt of goods or services or both; or</i> </i> <i>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</i> <i>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</i> <i>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.</i>
Rule 86(2)	<p><i>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.</i></p>
Rule 86(3)	<p><i>Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.</i></p>

Gujarat High Court's Take on Rule 86A³

In the case of *S.S. Industries v. UOI* [2020] 122 taxmann.com 296 (Guj.), the honourable Gujarat High Court has held that the Rule 86A casts an obligation upon the authority concerned to form an opinion but is silent with regard to the passing of any specific order assigning prima facie reasons for invoking Rule 86A. To this extent, the Government needs to look into the matter, issue appropriate guidelines and lay down some procedures to be followed to exercise power under Rule 86A of the Rules. The High Court also observed that Rule 86A of the CGST Rules should not be used as a tool to harass the taxpayers.

What led to the insertion of Rule 86(A)⁴

Large number of GST fraud cases involving the use of fake invoices for wrong availment of ITC, which was further used to pay GST on outward supply were detected since the rollout of GST by the Central GST authorities as well as State GST authorities. Prior to the insertion of

Rule 86(A), ITC could not be provisionally blocked as it was held in the matter of **M/s Alfa Enterprise**.

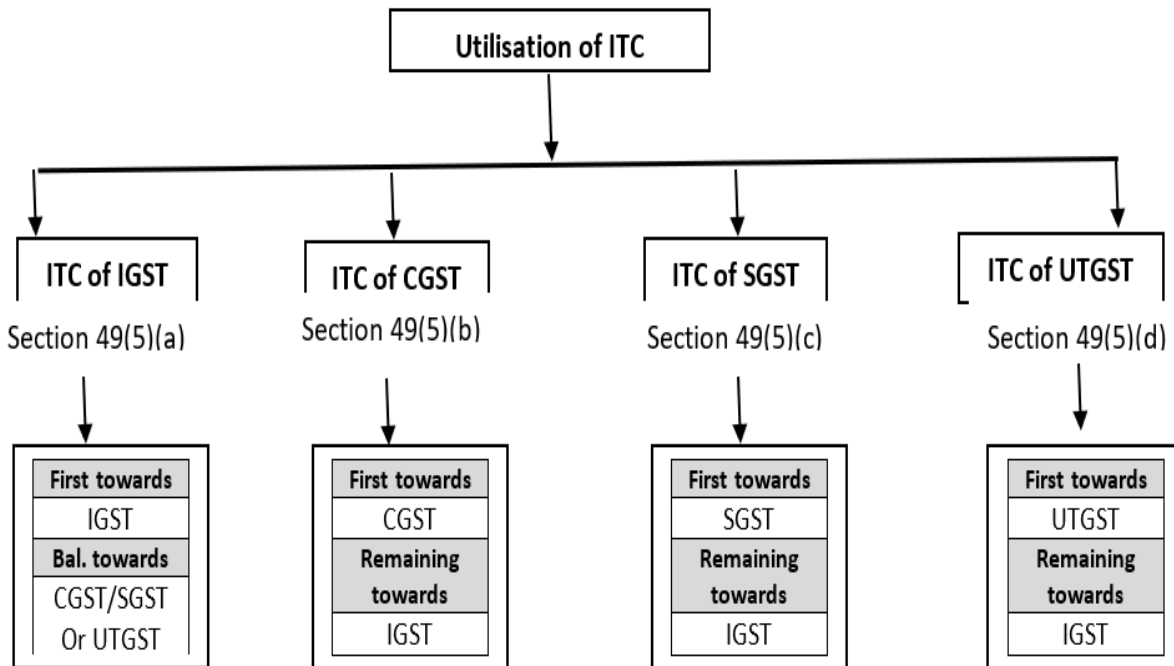
M/s Alfa Enterprise was served with an order under section 83 of the CGST Act, 2017 attaching bank account, sealing of godown/office and blocking of credit available in electronic credit ledger.

High Court held that the order of attachment of bank accounts is without authority of law and the order of blocking of credit is not backed by any statutory provision. The Court withdrew the attachment of the bank account of the petitioner and to unblock the credit available in the electronic credit ledger.

Soon after the decision of the HC, the CGST Rules were amended with the insertion of Section 86(A).

Utilisation of ITC

The method of utilisation of ITC on account of IGST, CGST or SGST/UTGST has been given in different clauses of section 49(5) of CGST Act, 2017. The following is the summary of these provisions.



It is important to note that under clauses (e) and (f) of section 49(5), the ITC of CGST cannot be used towards SGST/UTGST and vice-versa.

Provisions inserted vide CGST (Amendment) Act, 2018

The CGST (Amendment) Act, 2018 has inserted two sections regarding utilisation of ITC subject to certain conditions. These two sections (49A and 49B) override section 49. The net effect of these two sections is that if ITC of Integrated tax is available (after setting off outward Integrated Tax in total), then Central/State/UT tax cannot be utilized. Further, Rule 88A provides that the excess of ITC of IGST can be used towards CGST and SGST/UTGST in any order. The CBIC clarification dated 23rd April 2019 inserted the words “in any proportion” after “in any order”.

Practical Steps of Manner of Utilisation of ITC (Based on Sections 49, 49A and 49B read with Rule 88A)

The careful cross-sectional analysis of these provisions depicts the picture of the Manner of Utilisation of amounts of IGST/CGST/SGST/UTGST available in the electronic credit ledger. These have been summarized in the following steps:

STEP 1 Adjustment for ITC of IGST

STEP 1A: Firstly, the ITC balance in IGST shall be utilised towards the payment of IGST.

STEP 1B: The balance shall be utilised towards payment of CGST and SGST/UTGST in any order and proportion at the taxpayer's option. (It is due to newly inserted Rule 88A.)

Tutorial Remarks: The ITC of IGST has to be utilised to the maximum extent possible. It implies that the balance of ITC of IGST will be carried forward if and only if the output liability of CGST and SGST/UTGST is reduced to Zero.

STEP 2 Adjustment for ITC of CGST

CONDITION: Before moving to this Step 2, it must be ensured that the ITC on account of IGST has been wholly exhausted in step 1 (supra).

STEP 2A: Firstly, the ITC balance in CGST shall be utilised towards the payment of CGST (which is left after step 1B).

STEP 2B: The balance, if any, shall be utilised towards payment of IGST, if any, left after Step 1A.

Tutorial Remarks: The balance of ITC of CGST (left after the above adjustment, i.e. as per Step 2B) will be carried forward as it cannot be used for SGST/UTGST.

STEP 3 Adjustment for ITC of SGST/UTGST

CONDITION: Before moving to this Step 3, it must be ensured that the ITC on account of IGST has been wholly exhausted in step 1(supra).

STEP 3A: Firstly, the ITC balance in SGST/UTGST shall be utilised towards the payment of SGST/UTGST (which is left after Step 1).

STEP 3B: The balance, if any, shall be utilised towards payment of IGST, if any, left after step 1A.

Tutorial Remarks: The balance of ITC of SGST/UTGST (left after the above adjustment, i.e. as per Step 3B) will be carried forward as it cannot be used for CGST.

Case Study-2 [Covering IGST Adjustment only (Intra and Inter Head)]⁵

Mr. B is a registered dealer in GST. He purchases the goods majorly from other states and partly from the same state. The following is the status of ITC available with him:

- (i) **IGST** : Rs. 4,88,000
- (ii) **CGST** : Rs. 1,75,000
- (iii) **SGST** : Rs. 2,10,000

The output GST payables as per Electronic Liability Register are as follows:

	GST Payable	Amount (Rs.)
a.)	Outward IGST	4,00,000
b.)	Outward CGST	3,24,000
c.)	Outward SGST	3,24,000

Let us prepare a statement showing the manner of utilisation of ITC.

Utilisation of Balance in Electronic Credit Ledger

Computation of GST payable through cash ledger

Particulars	IGST	CGST	SGST
GST Payable on Outward Supplies	4,00,000	3,24,000	3,24,000
Less: <u>Adjustment of ITC on account of IGST as per section 49(5)(a) read with section 49A:</u>			
Intra Head Adj. towards IGST	(4,00,000)	-----	-----
Inter Head Adj. towards CGST	-----	(44,000)	-----
Inter Head Adj. towards SGST	-----	-----	(44,000)
Net GST Payable through Cash Ledger	Nil	2,80,000	2,80,000
Less: <u>Intra Head Adjustment of ITC on account of CGST/SGST as per section 49(5)(b)/(c):</u>			
Intra Head Adj. towards CGST	-----	(1,75,000)	-----
Intra Head Adj. towards SGST	-----	-----	(2,10,000)
Net GST Payable through Cash Ledger	Nil	1,05,000	70,000

Computation of ITC Carried Forward to next period

Particulars	IGST	CGST	SGST
ITC available for Utilisation	4,88,000	1,75,000	2,10,000
Less: ITC Adjusted as per above table	(4,88,000)	(1,75,000)	(2,10,000)
Balance ITC carried forward to next period	Nil	Nil	Nil

Explanation:

As per section 49A, the ITC on account of Central Tax, State Tax or Union Territory Tax shall be utilised towards payment of Integrated Tax, Central Tax, State Tax or Union Territory Tax, as the case may be, **only after** the ITC available on account of Integrated Tax has been utilised fully towards such payment. It means, firstly, the ITC of IGST has to be utilised to the maximum extent possible. In the given question, the ITC of IGST was sufficient enough towards outward IGST and the excess amount of Rs. 88,000 was utilized equally towards outward CGST and SGST.

In respect of the above case study, there may be multiple solutions. This is due to Rule 88A and CBIC clarification dated 23rd April, 2019, according to which the excess of ITC of IGST can be utilized towards CGST and SGDT in any proportion and in any order.

There may be a situation where the ITC of IGST is inadequate, but that of CGST and SGST are in excess. In that scenario, due to sections 49(5)(c) and (d), this excess shall be used towards IGST. The following case study explains this concept.

Case Study-3 [Comprehensive problem covering all Adjustments]⁶

Mr. C has the following balances in ITC for the utilisation towards GST on Outward supplies:

- (i) **IGST** : Rs. 95,000
- (ii) **CGST** : Rs. 2,52,000
- (iii) **SGST** : Rs. 2,68,000

The following is the output GST payable as per Electronic Liability Register:

	Type of GST Payable	Amount (Rs.)
a.)	Outward IGST	3,90,000
b.)	Outward CGST	2,10,000
c.)	Outward SGST	2,10,000

Let us determine the amount payable through cash ledger:

Computation of GST payable through cash ledger

Particulars	IGST	CGST	SGST
GST Payable on Outward Supplies	3,90,000	2,10,000	2,10,000
Less: <u>Adjustment of ITC on account of IGST as per section 49(5)(a) read with section 49A:</u>			
Intra Head Adj. towards IGST	(95,000)	-----	-----
Inter Head Adj. towards CGST	-----	N.A.	-----
Inter Head Adj. towards SGST	-----	-----	N.A.
Balance	2,95,000	2,10,000	2,10,000
Less: <u>Intra Head Adjustment of ITC on account of CGST/SGST as per section 49(5)(b)/(c):</u>			
Intra Head Adj. towards CGST	-----	(2,10,000)	-----
Intra Head Adj. towards SGST	-----	-----	(2,10,000)

Utilisation of Balance in Electronic Credit Ledger

Balance	2,95,000	Nil	Nil
Less: <u>Inter Head Adjustment of ITC on account of CGST as per section 49(5)(b):</u>			
Inter Head Adj. towards IGST	(42,000)	-----	-----
Less: <u>Inter Head Adjustment of ITC on account of SGST as per section 49(5)(c):</u>			
Inter Head Adj. towards IGST	(58,000)	-----	-----
Net GST Payable through Cash Ledger	1,95,000	Nil	Nil

Computation of ITC Carried Forward to next period

Particulars	IGST	CGST	SGST
ITC available for Utilisation	95,000	2,52,000	2,68,000
Less: ITC Adjusted as per above table	(95,000)	(2,52,000)	(2,68,000)
Balance ITC carried forward to next period	Nil	Nil	Nil

Tutorial Note:

1. In the first stage, the ITC of IGST (Rs. 95,000) has been utilised fully. Since, the ITC was insufficient even for IGST itself, no inter head adjustment is possible.

$$\text{IGST Still Payable} = \text{Rs. } 3,90,000 - \text{Rs. } 95,000 = \text{Rs. } 2,95,000$$

2. In the second stage, the balances in ITC of CGST and SGST have been utilised for the same head (Intra head Adjustment). However, still the following balances of ITC exist:

$$\text{(a) ITC of CGST} = \text{Rs. } 2,52,000 - \text{Rs. } 2,10,000 = \text{Rs. } 42,000$$

$$\text{(b) ITC of SGST} = \text{Rs. } 2,68,000 - \text{Rs. } 2,10,000 = \text{Rs. } 58,000$$

3. Since the balances in ITC on account of CGST and SGST are available and IGST is payable, the inter head adjustments (Out of CGST & SGST) are made in the following sequence:

- (i) As per proviso to section 49(5)(c), “the ITC of SGST can be used towards IGST only after full utilisation of ITC of CGST.” That is why the balance in ITC of CGST (i.e. Rs. 42,000) has been utilised for IGST liability.

Dr. Kamal Mohan Bansal

IGST Still Payable = Rs. 2,95,000 – Rs. 42,000 (ITC of CGST) = Rs. 2,53,000

(ii) Since the balance of ITC of CGST has been utilised and IGST liability still exists, the balance in ITC of SGST shall be used.

IGST Payable = Rs. 2,53,000

ITC of SGST available = Rs. 58,000

IGST Still Payable = Rs. 2,53,000 – Rs. 58,000 = Rs. 1,95,000

4. There is no balance of any ITC which can be carried forward to next period.

RESTRICTIONS ON USE OF AMOUNT AVAILABLE IN ELECTRONIC CREDIT LEDGER [RULE 86B]

Vide NN 94/2020-CT, dated 22-12-2020, a new rule has been inserted in CGST Rule, 2017. This rule overrides all other rules.

Statutory Provisions Prescribed Under Rule 86B⁸
<p><i>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:</i></p> <p><i>Provided that the said restriction shall not apply where –</i></p> <p><i>(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</i></p> <p><i>(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</i></p> <p><i>(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</i></p> <p><i>(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</i></p> <p><i>(e) the registered person is – (i) Government Department; or (ii) a Public Sector Undertaking; or (iii) a local authority; or (iv) a statutory body:</i></p> <p><i>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.</i></p>

Utilisation of Balance in Electronic Credit Ledger

Analysis of RULE 86B

Firstly, rule 86B applies where the value of taxable supplies in a month exceeds Rs. 50,00,000. The exempt and zero-rated supplies are not considered in the value of taxable supplies. Such a registered person is not allowed to discharge its output tax liability fully through the balance in Electronic Credit Ledger. This rule has put a cap of 99% on such utilisation. The following case studies explain the effect of the implementation of Rule 86B.

Case Study-4

D Limited is in the business of manufacturing Kitchen Appliances for the domestic market. The company is located in Bawana Industrial Area, Delhi. Its total value of inter-state supplies for November 2021 is Rs. 50 Lakhs, which is taxable @ 18% IGST. The amount available in the Electronic Credit Ledger is Rs. 9,15,000. What is the amount to be discharged by the company through electronic cash ledger following Rule 89B?

Firstly, let us find out the output tax liability.

Output Tax Liability = 18% of Rs. 50,00,000 = Rs. 9,00,000

Amount available in Electronic Credit Ledger = Rs. 9,15,000

STEP-1	To check applicability of Rule 89B	
	It is applicable in cases where the value of taxable supplies, other than exempt and zero-rated supply, exceeds Rs in a month. 50 lakhs. In the given case, the value of a taxable supply does not exceed Rs. 50,00,000. Thus, Rule 86B is NOT APPLICABLE.	
STEP-2	Manner of utilisation of ITC	
	Since Rule 89B is not applicable, Anuj Limited can discharge 100% of its output tax liability from the amount available in Electronic Credit Ledger.	
STEP-3	Determination of amount payable through Cash Ledger	
	Output tax liability	9,00,000
	Less: Discharged through amount available in Electronic Credit Ledger	(9,00,000)
	Tax payable through Cash Ledger	Nil

	Note: The balance of Rs. 15,000 in electronic credit ledger will be carried forward for adjustment in the next tax period.
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Case Study-5

S. K. International Limited is one of the leading manufacturers of textile auxiliaries for the construction, leather and paint industry. It is located in Bandra (West), Mumbai, Maharashtra. The total value of the company's inter-state supply for December 2021 is Rs. 150 Lakh. This supply is taxable @ 18% IGST. The company has Rs. 30 Lakh available in its electronic credit ledger. Determine the amount to be discharged by the company through electronic cash ledger, if any.

The output tax liability is 18% of Rs. 150 Lakh i.e., Rs. 27 Lakh

The amount available in Electronic Credit Ledger = Rs. 30 Lakh

STEP-1	To check the applicability of Rule 89B Since the value of taxable supplies of the company in a month exceeds Rs. 50 Lakh, Rule 86B is applicable.
STEP-2	Manner of utilisation of ITC Since Rule 89B is applicable, S. K. International Limited shall not use the amount available in the electronic credit ledger to discharge the liability towards output tax in excess of 99% of such tax liability .
STEP-3	Discharge of Output Tax Liability Regarding the restriction imposed by Rule 86B, S. K. International Limited can discharge 99% of its output tax liability, i.e. Rs. 26,73,000 (calculated as 99% of Rs. 27,00,000) from the amount available in electronic credit ledger. Therefore, it must mandatorily discharge the balance of 1% of the output tax liability, i.e. Rs. 27,000 (calculated as 1% of Rs. 27,00,000) through electronic cash ledger.

Industry Response to Rule 86B

The response of GST professionals to rule 86B is not encouraging. However few people believe that this Government's move is good. For instance, as per CA Pratibha Goel (Dec. 2020)⁷, "This move is getting a large amount of criticism from the Taxpayers. There is a common myth. I still believe that an instance of a genuine taxpayer paying tax under section 86B is very low. Even if he has to pay tax, the tax liability will be very low. Just 1% of the Tax Liability."

In the opinion of CA Hitesh Patel (2020), This has generally been considered a bad move and has made many tax professionals and taxpayers, outraged at the audacity of the Government to bring out such a drastic change in GST Laws which may potentially affect huge section of taxpayers.⁸

IRS K Srinivasan (Dec. 2020)⁹ in his article argued that, "The important point to note here is electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, up to the said month in the current financial year, is allowed to be off-set from Electronic Credit Ledger, which is said to be its saving grace. Since the taxpayer will have balance in ECL after meeting output tax liability, taxpayer still needs to pay the tax through cash and this will lead to direct impact on the working capital requirements." NJ Jain and Associates, a CA firm (2020)¹⁰ has correctly pointed out the problem of liquidity. As per them, "Working capital is the oxygen of any business and more so in these difficult times, for this system to work, all will have to file their returns within the stipulated time else that very oxygen will get sucked into GST tax payments. Vendors are given credit periods for variety of reasons which will in turn force the taxpayer to dig into his own pockets for payment of GST on accrual basis."

"Now let's come to this bizarre rule 86B which I firmly believe will be struck down at the earliest by the first High court it meets, arbitrary is too small a word to describe it, it's an example of bureaucratic monstrosity. If I pay 1% of the output tax in cash, I am allowed to utilise 99% of the credit, if I pay more than 1 lac of income tax then I can utilise 100% of the ITC, but a genuine person who has just established a small business where he has ITC available due to capital expenditure can utilise just 99% of the ITC. In case this hapless taxpayer wants to safeguard his working capital requirements he will have to seek the commissioner's approval to utilise 100% ITC."

Conclusion

The concept of ITC was provided under GST laws for the benefit of registered suppliers. It was inevitable to avoid the cascading effect of taxes. However, this provision was misused in the initial implementation phase of GST. Few people started issuing fake and bogus invoices, and the law was mistreated as a measure of fraudulent availment of ITC, which led to the government's revenue loss. Therefore, in 2018 an amendment was made to CGST Act, IGST Act, SGST Act and UTGST Act. The Lawmakers have made stringent rules through notifications. These are related to conditions and manner of utilisation of ITC. The latest Rule 86B prescribes the cap of 99% on the use of ITC for specified persons.

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