



The Institute of Chartered Accountants of India

GST & Indirect Taxes Committee

GOODS & SERVICES TAX UPDATE-223

1. Clarification on time limit under section 16(4) of the CGST Act for availing ITC in case of supplies received from unregistered suppliers in respect of RCM supplies

It is being clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) of CGST Act, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of section 16 and 17 of CGST Act.

In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of section 122 of CGST Act.

[Circular No. 211/5/2024-GST dated 26.06.2024](#)

2. Mechanism for providing evidence of compliance of conditions of section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers

Presently, there is no system functionality/ facility available on the common portal to enable the supplier or the tax officer to verify the compliance of the said condition of proportionate reversal of input tax credit by the recipient.

In view of the above, till the time a functionality/ facility is made available on the common portal to enable the suppliers as well as the tax officers to verify whether the input tax credit attributable to such discounts offered through tax credit notes has been reversed by the recipient or not, the supplier may procure a certificate from the recipient of supply, issued by the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that the recipient has made the required proportionate reversal of input tax credit at his end in respect of such credit note issued by the supplier.

The said CA/CMA certificate shall contain UDIN and may include the following details:

- (a) details of the credit notes,
- (b) the details of the relevant invoice number against which the said credit note has been issued
- (c) the amount of ITC reversal in respect of each of the said credit notes along with the details of the FORM GST DRC-03/return/ any other relevant document through which such reversal of ITC has been made by the recipient.

In cases, where the amount of tax (CGST+SGST+IGST and including compensation cess, if any) involved in the discount given by the supplier to a recipient through tax credit notes in a Financial Year is not exceeding Rs 5,00,000, then instead of CA/CMA certificate, the said supplier may procure an **undertaking/ certificate from the said recipient** that the said input tax credit attributable to such discount has been reversed by him.

The supplier shall produce such certificates/undertakings before the tax officers, if required, during any proceedings such as scrutiny, audit, investigations, etc. including past period proceedings.

[Circular No. 212/6/2024 GST dated 26.06.2024](#)

***Vice - Chairman
GST & Indirect Taxes Committee***

***Chairman
GST & Indirect Taxes Committee***

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