

**GOVERNMENT OF ASSAM**  
**OFFICE OF THE COMMISSIONER OF TAXES, ASSAM :: KAR BHAWAN**  
**DISPUR, GUWAHATI-781006**

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**CIRCULAR NO. 78/2019-GST**

Dated Dispur the 23rd December, 2019.

**Subject: Restriction in availment of input tax credit in terms of sub-rule (4) of rule 36 of Assam GST Rules, 2017 – reg.**

**No. CT/GST-15/2017/243.**— Sub-rule (4) to rule 36 of the Assam Goods and Services Tax Rules, 2017 (hereinafter referred to as the “Assam GST Rules”) has been inserted *vide* the Assam Goods and Services Tax (Sixth Amendment) Rules, 2019. The said sub-rule provides restriction in availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37 of the Assam Goods and Services Tax Act, 2017 (hereinafter referred to as the “Assam GST Act”).

2. To ensure uniformity in the implementation of the provisions of the law across the field formations, the Commissioner of State tax, Assam in exercise of its powers conferred under section 168 of the Assam GST Act hereby clarifies various issues in succeeding paragraphs.
3. The conditions and eligibility for the ITC that may be availed by the recipient shall continue to be governed as per the provisions of Chapter V of the Assam GST Act and the rules made thereunder. This being a new provision, the restriction is not imposed through the common portal and it is the responsibility of the taxpayer that credit is availed in terms of the said rule and therefore, the availment of restricted credit in terms of sub-rule (4) of rule 36 of Assam GST Rules shall be done on self-assessment basis by the tax payers. Various issues relating to implementation of the said sub-rule have been examined and the clarification on each of these points is as under: -

Sl.No.	Issue	Clarification
1	What are the invoices/debit notes on which the restriction under rule 36(4) of the Assam GST Rules shall apply	The restriction of availment of ITC is imposed only in respect of those invoices / debit notes, details of which are required to be uploaded by the suppliers under sub-section (1) of section 37 and which have not been uploaded. Therefore, taxpayers may avail full ITC in respect of IGST paid on import, documents issued under RCM, credit received from ISD etc. which are outside the ambit of sub-section (1) of section 37, provided that eligibility conditions for availment of ITC are met in respect of the same. The restriction of 36(4) will be applicable only on the invoices / debit notes on which credit is availed after 09.10.2019.

2	Whether the said restriction is to be calculated supplier wise or on consolidated basis?	The restriction imposed is not supplier wise. The credit available under sub-rule (4) of rule 36 is linked to total eligible credit from all suppliers against all supplies whose details have been uploaded by the suppliers. Further, the calculation would be based on only those invoices which are otherwise eligible for ITC. Accordingly, those invoices on which ITC is not available under any of the provision (say under sub-section (5) of section 17) would not be considered for calculating 20 per cent. of the eligible credit available.										
3	<b>FORM GSTR-2A</b> being a dynamic document, what would be the amount of input tax credit that is admissible to the taxpayers for a particular tax period in respect of invoices / debit notes whose details have not been uploaded by the suppliers?	The amount of input tax credit in respect of the invoices / debit notes whose details have not been uploaded by the suppliers shall not exceed 20% of the eligible input tax credit available to the recipient in respect of invoices or debit notes the details of which have been uploaded by the suppliers under subsection (1) of section 37 <b>as on the due date of filing of the returns in FORM GSTR-1 of the suppliers for the said tax period.</b> The taxpayer may have to ascertain the same from his auto populated <b>FORM GSTR 2A as available on the due date of filing of FORM GSTR-1 under sub-section (1) of section 37.</b>										
4	How much ITC a registered tax payer can avail in his <b>FORM GSTR-3B</b> in a month in case the details of some of the invoices have not been uploaded by the suppliers under subsection (1) of section 37.	<p>Sub-rule (4) of rule 36 prescribes that the ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37. The eligible ITC that can be availed is explained by way of illustrations, in a tabulated form, below.</p> <p>In the illustrations, say a taxpayer “R” receives 100 invoices (for inward supply of goods or services) involving ITC of Rs. 10 lakhs, from various suppliers during the month of Oct, 2019 and has to claim ITC in his FORM GSTR-3B of October, to be filed by 20th Nov, 2019.</p> <table border="1" data-bbox="762 1951 1401 2069"> <thead> <tr> <th data-bbox="762 1951 1010 2069"></th> <th data-bbox="1010 1951 1193 2069">Details of suppliers' invoices</th> <th data-bbox="1193 1951 1329 2069">20% of eligible credit where</th> <th data-bbox="1329 1951 1401 2069">Eligible ITC to be taken in GSTR3B</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>				Details of suppliers' invoices	20% of eligible credit where	Eligible ITC to be taken in GSTR3B				
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			<b>for which recipient is eligible to take ITC</b>	<b>invoices are uploaded</b>	<b>to be filed by 20th Nov.</b>
		<b>Case 1</b>	Suppliers have furnished in <b>FORM GSTR-1 80</b> invoices involving ITC of Rs. 6 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	Rs.1,20,000/-	Rs. 6,00,000 (i.e. amount of eligible ITC available, as per details uploaded by the suppliers) + Rs.1,20,000 (i.e. 20% of amount of eligible ITC available, as per details uploaded by the suppliers) = Rs. 7,20,000/-
		<b>Case 2</b>	Suppliers have furnished in <b>FORM GSTR-1 80</b> invoices involving ITC of Rs. 7 lakhs as on the due date of furnishing of the details of outward supplies by the	Rs. 1,40,000/-	Rs 7,00,000 + Rs. 1,40,000 = Rs. 8,40,000/-

		suppliers.				
		<b>Case 3</b>	Suppliers have furnished in <b>FORM GSTR-1</b> 75 invoices having ITC of Rs. 8.5 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	Rs. 1,70,000/-  Rs. 8,50,000/- + Rs.1,50,000/- * = Rs. 10,00,000  * The additional amount of ITC availed shall be limited to ensure that the total ITC availed does not exceed the total eligible ITC.		
5	When can balance ITC be claimed in case availment of ITC is restricted as per the provisions of rule 36(4)?	<p>The balance ITC may be claimed by the taxpayer in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers. He can claim proportionate ITC as and when details of some invoices are uploaded by the suppliers provided that credit on invoices, the details of which are not uploaded (under sub-section (1) of section 37) remains under 20 per cent of the eligible input tax credit, the details of which are uploaded by the suppliers. Full ITC of balance amount may be availed, in present illustration by “R”, in case total ITC pertaining to invoices the details of which have been uploaded reaches Rs. 8.3 lakhs (Rs 10 lakhs /1.20). In other words, taxpayer may avail full ITC in respect of a tax period, as and when the invoices are uploaded by the suppliers to the extent Eligible ITC/ 1.2. The same is explained for Case No. 1 and 2 of the illustrations provided at Sl.No.3 above as under:</p> <p>Case</p> <table border="1"> <tr> <td><b>Case 1</b></td> <td>“R” may avail balance ITC of Rs. 2.8 lakhs in case suppliers upload</td> </tr> </table>			<b>Case 1</b>	“R” may avail balance ITC of Rs. 2.8 lakhs in case suppliers upload
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			details of some of the invoices for the tax period involving ITC of Rs. 2.3 lakhs out of invoices involving ITC of Rs. 4 lakhs details of which had not been uploaded by the suppliers. [Rs. 6 lakhs + Rs. 2.3 lakhs = Rs. 8.3 lakhs]
		<b>Case 2</b>	“R” may avail balance ITC of Rs. 1.6 lakhs in case suppliers upload details of some of the invoices involving ITC of Rs. 1.3 lakhs out of outstanding invoices involving Rs. 3 lakhs. [Rs. 7 lakhs + Rs. 1.3 lakhs = Rs. 8.3 lakhs]

4. This Circular is clarificatory in nature and not meant for any interpretation of provisions of the Act and rules.
5. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Commissioner at an early date.
6. This Circular shall be deemed to have been issued on 11th November, 2019.


Sd/- Anurag Goel, IAS.,  
Commissioner of State tax, Assam,  
Dispur, Guwahati

Memo No. CT/GST-15/2017/243-A

Dated Dispur the 23rd December, 2019.

Copy to :

1. The Additional Chief Secretary to the Government of Assam, Finance Department, Dispur, Guwahati-6 for favour of kind information.
2. The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
3. The Commissioner of Central GST, Guwahati / Dibrugarh for information.
4. The Additional Commissioner of State tax (All) / Joint Commissioner of State tax (All)/ Deputy Commissioner of State tax (All) / Assistant Commissioner of State tax (All) / Superintendent of State tax (All) / Inspector of State tax (All) for information and necessary action.
5. The Information Technology Officer, Office of the Commissioner of State tax, Assam for uploading it on the website of the Commissionerate for information of all concerned.

  
Commissioner of State tax, Assam,  
Dispur, Guwahati