**Note on Eligibility of Un-Reconciled ITC**

The Government vide Notification No. 49/2019-Central Tax Dt. 09.10.2019, have introduced the following sub-rule (4) under Rule 36 of CGST Rules, 2017.

*“Input tax credit 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”*

Essence of the amendment is that in respect of the inward supplies where invoices have been received but the suppliers have not filed GSTR-1 or have not uploaded such invoices in the GSTR-1, the recipient is not entitled to avail the entire credits. The recipient can avail only maximum of 20% of the eligible credit which is reflecting in the GSTR-2A on the common portal in respect of invoices not uploaded by the supplier.

For example:

Let us assume that a recipient has invoices involving a total ITC of Rs. 20 lakhs against the inward supplies invoices during the month. The details of the transactions are tabulated below:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Total credit available based on the inward supply invoices available** | **Credit** **Auto populated** **in Form** **GSTR 2A** | **Total eligible credit out of the auto populated invoices****(after excluding ineligible credits, if any)** | **Total credit in respect of which invoice has not been uploaded** | **20% of the eligible credit available with respect of the non- uploaded invoice \*** | **Total credit entitled to the recipient** |
| (A) | (B) | (C) | (D)= (A)-(B) | (E)= 20% of (C) | (F)= (C) + (E) |
| 20L | 15L | 14L | 5L | 2.8L | 16.8L |
| 20L | 18L | 18L | 2L | 3.6L | 20L |

*\*For the purpose of 20% calculation, the taxpayer need not take into account the tax paid under RCM.*

The effective date of this rule is from 09.10.2019 as per the said notification. It is informed, that the newly inserted rule was non-existent during the tax period September 2019. Further, the credit is availed in the tax period for which the return is filed and not in the tax period in which the return is filed i.e. the credit for the inward supplies made during the month of September is availed in GSTR3B filed on October 2019. **Therefore, this rule is effective for the October GSTR 3B return filed in November 2019 onwards.**

Considering the above amendments, the taxpayers are advised to follow up with the suppliers who have not filed their GSTR-1 returns to file the same as early as possible.

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