

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
LOK SABHA
UNSTARRED QUESTION No. 3218

TO BE ANSWERED ON MONDAY, MARCH 20, 2023/PHALGUNA 29, 1944 (SAKA)

GST INPUT TAX CREDIT

3218. Shri Sanjay Jadhav:

Shri Omprakash Bhupalsinh alias Pawan Rajenimbalkar:

Will the Minister of FINANCE be pleased to state:-

- (a) whether it is a fact that the availability of Goods and Services Tax (GST), Input Tax Credit (ITC) has been restricted to the date of return in the month of September in the coming year;
- (b) whether it is a fact that if any businessmen has filed return on the basis of their accounts and bills due to some personal or monetary reasons but their ITC are being freezed/not considered and if so, the details thereof and the corrective steps taken by the Government in this regard;
- (c) whether the actual ITC of these businessman are being invalidated reportedly due to some error in the laws despite the fact that they are fulfilling their duties of filing return with late fee and if so, the details thereof and the reaction of the Government thereto;
- (d) the step taken by the Government in correcting the error and providing justice to businessmen; and
- (e) the steps being taken by the GST Council to address the issue and provide relief to the common man?

ANSWER

THE MINISTER OF STATE FOR FINANCE

(SHRI PANKAJ CHAUDHARY)

- (a) Sub-section (4) of Section 16 of the Central Goods & Services Tax Act, 2017, as amended w.e.f. 1st October, 2022 vide the Finance Act 2022, provides that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the 30th day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

(b) to (e) As per provisions of the CGST Act, 2017, a registered person can avail input tax credit only subject to the conditions and restrictions as specified in section 16 and section 17 of CGST Act, 2017, read with Rules made thereunder, *inter alia*, including –

- (i) furnishing of return under section 39,
- (ii) possession of tax invoice or debit note issued by the supplier,
- (iii) furnishing of details of the said invoice or debit note by the concerned supplier in the statement of outward supplies and communication of such details to the recipient,
- (iv) receipt of the goods or services or both,
- (v) actual payment of the tax charged in respect of such supply to the Government by the concerned supplier,
- (vi) availment of input tax credit not later than 30th day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier, and
- (vii) non-availment of input tax credit in respect of supplies specified in sub-section (5) of section 17.

To facilitate recipients in availment of due input tax credit in respect of supplies received by them and to nudge suppliers towards timely reporting of their supplies, the CGST Act has been amended to provide for sequential filing of details of outward supplies in FORM GSTR-1 and to provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 in FORM GSTR-1 as a condition for furnishing the return under section 39 for the said tax period in FORM GSTR-3B.

Further, to ease the process for complying with the condition for availment of input tax credit under section 16(2)(c) of CGST Act, 2017, a mechanism has been prescribed vide Rule 37A of CGST Rules, 2017, whereby the time period for reversal of input tax credit by a registered person in the event of non-payment of tax on the said supply by the supplier has been extended till 30th September of next financial year and for re-availment of such credit, if the supplier pays tax subsequently.

Moreover, all the changes in law and procedures in relation to Central Goods & Services Tax Act, 2017 and Central Goods & Services Tax Rules, 2017 take place on recommendations of GST Council.
