

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
**LOK SABHA**

**UNSTARRED QUESTION No. †400**

TO BE ANSWERED ON MONDAY, FEBRUARY 5, 2024/MAGHA 16, 1945 (SAKA)

**AVAILABILITY OF GST INPUT TAX CREDIT**

†400. Shri Gajanan Kirtikar:

Will the Minister of FINANCE be pleased to state:-

- (a) whether availability of GST input tax credit was limited to date of filing of return of month of September and if so, the details thereof;
- (b) whether the traders who have filed their return due to some genuine personal as well as economic reasons, their particular account as well as Input Tax Credit (ITC) made on the basis of bills was withheld, if so, the details thereof and the reasons therefor;
- (c) whether these cases have been settled and if so, the details thereof;
- (d) whether traders have fulfilled their liabilities by paying late fees as well as depositing penal interest while filing their return after the due date;
- (e) whether the Government has rejected their original ITC merely because of the error that they forgot to mention the relevant section/law, if so, the details thereof and the reasons therefor;
- (f) the steps taken or likely to be taken by the Government to bring justice to them; and
- (g) the steps being taken by the GST council for resolution as well as to provide relief to common men?

**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. 1<sup>st</sup> 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 30<sup>th</sup> 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) and (c) As per provisions of the CGST Act, 2017, a registered person can avail input tax credit subject to the conditions and restrictions as specified in section 16 and section 17 of CGST Act, 2017, read with Rules made thereunder. The said conditions, inter alia, include –

- (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 registered persons in availment of correct input tax credit and to help them ascertain discrepancies, if any, between input tax credit available as per FORM GSTR 2B and that availed in FORM GSTR 3B, a comparison report is made available on the common portal.

(d) As per the provisions of CGST Act, 2017 any registered person who fails to furnish his returns by the due date, has to pay late fees as per section 47 of the CGST Act, 2017. Further, the said registered person is required to pay interest on delayed payment of tax as per the provisions of section 50 of the CGST Act, 2017.

(e) There is no such requirement in CGST Act, 2017 for mentioning section/law by the registered person for claiming input tax credit in his return.

(f) and (g) 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 November of next financial year. The mechanism also provides 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 are made on recommendations of GST Council.

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