

Disclosure of Ineligible ITC & ITC Reversal in GSTR-3B - Time to change the Practice

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GSTR-3B is a summary return which came into existence since GSTR-2 and GSTR-3 never saw the light of the day due to the technical glitches in functioning of Matching System as stated in Sec 42 and Sec 43 of the CGST Act, 2017. Recently, Rule 61(5) of CGST Rules have been amended vide Notification No. 49/2019 – Central Tax dated 09-10-2019 w.e.f. 01-07-2017, where it has been provided that where a return in FORM GSTR-3B is required to be furnished by a person referred to in rule 61(1) then such person shall not be required to furnish the return in FORM GSTR-3. Thus, GSTR-3B has got the status of Monthly Return filed under Sec 39 of CGST Act.

As per the contents of GSTR-3B, Table 4 contains the details on Eligible Credit. In this table, one needs to capture the following details:

- **ITC Available:** On inward supplies on which the ITC was availed, such as Import of Goods or Services, supplies liable to reverse charge, supplies from ISD, and other inward supplies, as applicable.
- **ITC Reversed:** On inputs / input services / capital goods used for non-business purpose, or partly used for exempt supplies. Also, if the depreciation is claimed on tax component of capital goods, plant and machinery - then the ITC will not be allowed. Such reversals needs to be captured in this table.
- **Eligible ITC:** Calculated by deducting ITC Reversed from ITC Available.
- **Ineligible ITC:** Details of GST paid on inward supplies listed in negative list, which are not eligible to input tax credit. This is only required to be reported for disclosure purpose as far as taxpayer is concerned.

However the practice followed in the Industry by majority of Tax payers is that;

- a) Only Eligible ITC which is required to be claimed is captured in GSTR-3B or
- b) ITC Available & ITC Reversed if any is captured in GSTR-3B

It has been observed in most of the GSTR-3B, Ineligible ITC is not captured/reported in GSTR-3B. One of the major factor for the above is that all the Ineligible input tax credit is clubbed with relevant expenses and booked as a part of the total cost in the books of accounts and does not impact the Input Tax Credit GL of the taxpayer. Thus, in the absence of availability of this information relating to ineligible ITC, many tax payers do not report this information in Column 4(D) of GSTR-3B.

Recently a Circular has been issued by Commissioner, SGST Dept., Govt. of Kerala, Thiruvananthapuram [Circular No : CT/3626/2020-C1 dated 16th June, 2020] whereby the issue of Non-disclosure of Ineligible ITC has been highlighted which is resulting in significant tax losses to the State exchequer due to short transfer of IGST Funds to the State kitty.

Fund Transfer Mechanism by Centre to States

As per the Circular, the modalities of transfer of funds from Centre to States and vice -versa on account of cross utilization of IGST or SGST as the case may be and apportionment of IGST between Centre, States and within states are laid down in Section 53 of CGST/SGST Act and Section 17 and 18 of IGST Act read with Goods & Services Tax Settlement of Funds rule, 2017.

The above data is furnished by GSTN to the competent authority who in turns transfer the funds to State basis the statutory provisions as mentioned above. The aforesaid funds transfer is predominantly based on the data furnished under GSTR-3B. Thus, the success of the above process is dependent on the correct and complete disclosure of data in GSTR-3B.

Correct Mechanism for Reporting ITC in GSTR-3B

The Circular has further clarified the following in respect of reporting in Table 4 of GSTR-3B;

Details	Reporting Guidelines
(A) ITC Available (whether in full or part)	All Eligible Credit <u>Including</u> Reversal but excluding Ineligible credit to be reported under respective heads
(1) Import of goods	
(2) Import of services	
(3) Inward supplies liable to reverse charge (other than 1 & 2 above)	
(4) Inward supplies from ISD	
(5) All other ITC	
(B) ITC Reversed	
(1) As per rules 42 & 43 of CGST Rules	ITC Reversal as per Rule 42 & 43
(2) Others	ITC Reversal as per Rule 37 and any other Reversal
(C) Net ITC Available (A) – (B)	Auto-populated

(D) Ineligible ITC	
(1) As per section 17(5)	Ineligible Credit as per Sec 17(5)
(2) Others	Shall Include Ineligible/ Blocked Credit as per Sec 17(4) read with Rule 38 and any Other Ineligible ITC

Corrections in Earlier Period Returns

Since the data disclosed in GSTR-3B by majority tax payers is not correctly depicted, the Circular has instructed to make following corrections where data in respect of Ineligible ITC and ITC reversal is not correctly reported;

- a) **Correction in data in respect of FY 2018-19-** To be Corrected in Annual Return GSTR-9 of FY 2018-19.
- b) **Correction in data in respect of FY 2019-20-** To be reported in GSTR-3B filed between April 2020 to September 2020.
- c) **Correction in data in respect of April 2020 and subsequent period-** To be adjusted in GSTR-3B of subsequent period.

Author's Recommendations

It is recommended that the circular has made an important clarification in respect of disclosure of ITC. Since the incorrect disclosure is costing significant tax losses to State exchequer, it is quite possible that the above data is requisitioned at the time of assessment and notices with respect to same may be received by Tax payers.

Thus the following Actionable are recommended;

- ❖ Preparation of Data with respect to Ineligible ITC and ITC reversal made for FY 2017-18, 2018-19 and 2019-20.
- ❖ Disclosure of the above Data in respect of FY 2018-19 in the GSTR-9 of FY 2018-19.
- ❖ Disclosure of Data in respect of FY 2019-20 in GSTR-3B of September 2020.
- ❖ Making required changes in accounting GLs and manner of recording various expenses so that the above data is readily available for subsequent periods and it should be disclosed accordingly in GSTR-3B.

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