

Section 16(4) and the Bill of Entry: Decoding the Legislative Silence on Limitation

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Introduction

When the Goods and Services Tax regime was introduced in India, one of its foundational objectives was to ensure a seamless input tax credit mechanism that would eliminate cascading, preserve neutrality, and improve efficiency in taxation. Input tax credit, therefore, is rightly described as the lifeblood of GST. However, this mechanism is not unfettered; it is circumscribed by conditions, documentary requirements, and timelines, carefully laid out by Parliament to balance facilitation with compliance.

Time limitation for availment of ITC

Though the intention is to allow seamless flow of credit such freedom is subjected to reasonable restriction to ensure accountability and responsibility within the registered persons. As vindicated by the Supreme Court¹, ITC is a creature of legislature, the input tax credit may not be an indefeasible and a vested right unless the vested conditions are fulfilled.

Among the provisions of Section 16 of the Central Goods and Services Tax Act, 2017, which embodies the structure of ITC, subsection(4) is particularly notable, as it imposes a rigid deadline: no registered person shall be entitled to claim credit **in respect of any invoice or debit note** after the 30th of November following the close of the financial year to which such invoice or debit note pertains, or the filing of the annual return, whichever is earlier.

These timelines seem reasonable and correspondence to the time limit provided under section 37 and 39 for making any rectification of any omission or incorrect particulars. Moreover, the amendment made vide Finance Act 2020 delinking the original invoice to which the debit note pertains from the limitation of section 16(4) supports this analogy.

¹ Safari Retreats Private Limited TS-622-SC-2024_GST

Analysis of section 16(4)

While it is clear that why the limitation to avail input tax credit is provided on invoices or debit notes, but extensive application of such limitation even to Bill of Entry triggers a complex interpretative issue.

To understand the scope of Section 16(4) vis-à-vis imports, it is necessary to traverse the statutory landscape of ITC carefully. Section 2(63) describes “input tax credit” *as the credit of such input tax* and the input tax credit is defined in section 2(62) of the CGST Act which expressly include the integrated tax paid on import of goods.. From this definitional framework alone, it is clear that IGST paid at the time of import forms part of input tax credit under CGST Act 2017.

Moreover, section 16(2)(a) read with Rule 36(1) of CGST allows the availment of input tax credit based on invoice or debit note or Bill of Entry or any similar document prescribed under Customs Act 1962 or rules made thereunder for the assessment of integrated tax on imports.

Section 2(38) of CGST defines a debit note, Section 2(66) of CGST defines an invoice or tax invoice, and Rule 36(d) explicitly recognizes a Bill of Entry or any similar document prescribed under the Customs Act, 1962.. Thus, the statutory chain is both precise and indispensable: domestic credit requires an invoice or debit note, and import credit requires a Bill of Entry.

Therefore, the provision in its expressive language has specifically excluded the Bill of Entry from the ambit of its limitation. So, one can understand that there is no time limit provided under the law when the credit is taken based on the bill of entry. This also aligns with the customs law wherein there is no time limit provided as of date for amending a Bill of Entry.

Is there any Role for Section 20 of IGST Act 2017.

In certain instances, revenue have attempted to invoke Section 20 of the IGST Act to bridge any perceived gaps between CGST and IGST provisions. Section 20 of IGST Act 2017 put forth that the provisions of Central Goods and Service Tax Act relating to input tax credit shall, **mutatis mutandis**, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act.

The expression **mutatis mutandis** is of Latin origin and literally means “*with the necessary changes having been made*” or “*with due alteration of details*.” It embodies the idea of adaptation rather than duplication, signifying that a provision from one context may be extended to another with suitable modifications, but without altering its essence. The courts have consistently upheld this limited and careful interpretation. In the landmark case of *Ashok Service Centre v. State of Orissa* (1983)², the Supreme Court held that the phrase brings in the idea of adaptation, but only as far as necessary for the purpose, making a change without altering the essential nature of the thing changed.

In the guise of *mutatis mutandis* the authorities intend to add even Bill of Entry within the limitation ambit under section 16(4) of the CGST Act 2017.

Such an adaptation is unnecessary as the CGST Act already expressly recognizes IGST on imports as input tax (Section 2(62)), defines ITC (Section 2(63)), and prescribes the Bill of Entry as the valid document (Rule 36). The statutory scheme is complete and self-contained. Applying Section 20 and *mutatis mutandis* in this context would be redundant and potentially confusing, stretching the provision beyond its intended scope.. Such extension of time limit to Bill of Entry is legislation in the guise of interpretation.

Platinum Holdings Pvt. Ltd. v. Additional Commissioner of GST & Central Excise (Appeals-II), Chennai, reinforces this principle, holding that “it is a settled position that there can be no insertion of a word or phrase in a statutory provision or in a rule which must be read and applied, as framed. No restriction or amplification of the rule are permissible by the interpretation.”

Legislative Silence on Bills of Entry in Section 16(4)

The deliberate legislative silence of Section 16(4) on Bills of Entry is particularly telling, as it indicates Parliament’s intention to treat imports differently from domestic supplies, leaving the temporal limitation applicable only to invoices and debit notes issued within the GST system While the provision clearly prescribes a cut-off for invoices and debit notes, it makes no mention of Bills of Entry.

Applying the principle of *expressio unius est exclusio alterius*—that the express mention of one thing excludes another—it becomes evident that Parliament intended imports to

² *Ashok Services Centre v. state of Orissa*, AIR 1983 SC 394, (1983) 2 SCR 363

be treated differently. Section 16(2)(a) requires that a registered person be in possession of a tax invoice or debit note issued by a supplier registered under the Act, or such other document as may be prescribed. For imports, the prescribed document is the Bill of Entry under Rule 36. However, while drafting Section 16(4), Parliament deliberately referred only to invoices and debit notes, thereby explicitly recognizing this distinction. This choice removes any ambiguity regarding the applicability of the time limit in Section 16(4) to other prescribed documents, such as the Bill of Entry, and eliminates the need to invoke *mutatis mutandis* adaptation to extend the cut-off to import-related ITC.

Conflicting Advance Rulings

At the outset it is necessary to mind that the Advance Rulings are not a binding precedent. It applies only to the applicant and to his jurisdictional authority in his context. Only for the academic purpose the following AAR is being discussed for readers cognizance.

In M/s. Adi Enterprises³ (April 2025), the Maharashtra Authority for Advance Ruling observed that the Bill of Entry should be treated as a tax invoice for the purposes of ITC and concluded that the limitation under Section 16(4) applies, thereby disallowing credit if availed after the statutory cut-off.

Similarly, in Becton Dickinson India Pvt. Ltd⁴. (2025), the Tamil Nadu Authority for Advance Ruling held that ITC on IGST paid through a reassessed Bill of Entry is also subject to the limitation period under Section 16(4).

Our distinguishment on these rulings

These rulings adopt a literal and mechanical interpretation, overlooking the fact that Parliament deliberately refrained from including Bills of Entry in the text of Section 16(4). By attempting to assimilate BoEs with tax invoices, these rulings conflate two distinct legislative streams—domestic supplies under GST and imports under customs-linked GST—resulting in unnecessary uncertainty for taxpayers.

A holistic reading of the statutory provisions reinforces the position that ITC on imports operates under a separate mechanism. The CGST Act explicitly acknowledges IGST paid on imports as “input tax,” and the Bill of Entry has been designated as the evidentiary

³ *Adi Enterprises (2025) 31 Centax 431 (A.A.R. - GST - Mah.)*

⁴ *Becton Dickinson India Pvt. Ltd (2025) 32 Centax 248 (A.A.R. - GST - T.N.)*

document for availing such credit. No further adaptation under Section 20 of the IGST Act or any fiction is required to place BoE on par with invoices. To nonetheless read BoE into Section 16(4) would amount to judicial legislation and would run contrary to the principle that tax statutes must be construed strictly, neither extending nor curtailing the scope of words beyond their natural meaning.

Therefore, the express mention of invoices and debit notes in Section 16(4) must be read as an intentional exclusion of Bills of Entry. The temporal limitation applies only to ITC claims based on domestic invoices or debit notes and cannot be extended to imports. Importers are thus entitled to claim ITC of IGST paid at the time of import irrespective of the November cut-off, so long as all other eligibility conditions are satisfied and the Bill of Entry is duly maintained as supporting documentation. While Advance Rulings may provide procedural guidance, they cannot override the explicit language of the CGST Act or impose restrictions not contemplated by Parliament.

Conclusion

The legislative scheme is clear: invoices and debit notes, being central to domestic supplies, are subject to the time bar under Section 16(4), while Bills of Entry, forming the tax-paying document for imports, remain outside its purview. This ensures that importers can fully avail of the statutory credit mechanism without being fettered by artificial temporal constraints. The Bill of Entry remains the passport to ITC on imports, and its deliberate exclusion from Section 16(4) underscores Parliament's intent to keep import-related credits free from the cut-off otherwise applicable to domestic procurements.

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