

Rule 36(4): ITC restriction upto 120% of eligible credit in GSTR 2A

H&A Suggestions to ensure compliance:

1. Ensure ITC register, i.e. ITC as per books is updated with all headings such as:
 - Name & GSTIN of Vendor
 - Invoice/CN/DN number & date. (with original reference where required)
 - Bill of entry & date
 - Self-invoice & payment voucher details (for RCM)
 - Type of Credit - Import of Goods/Services, domestic RCM, intra-state ITC, inter-state ITC
 - Details of taxable value, HSN, tax rate, place of supply, CGST/SGST/IGST/Cess
 - Eligible/Ineligible credit
2. Downloaded GSTR 2A (excel) on 12th of the month and perform preliminary functions:
 - Additional GSTR 2A download required as on day after the last day of the month for the quarter for persons filing Quarterly GSTR 1. (Ex: 1st November for quarter ending September, GSTR 1 due date being 31st October).
 - Make a copy (original to be maintained separately as portal data is dynamic)
 - Remove invoices on which RCM is applicable (Where column - RCM applicable is "Yes")
 - Remove invoices received from ISD through GSTR 6.
 - Remove invoices uploaded but not submitted.
 - Remove invoices that do not pertain to your inward supplies. (supplier has incorrectly used recipient GSTIN).
 - Action on incorrectly uploaded data – keep pending or claimed as part of 20% ad-hoc.
 - Keep pending invoices uploaded but not satisfying ITC eligibility conditions under Section 16 r/w Rules.

- Now perform eligibility & ineligibility exercise [Section 17(5)] on remaining invoices.
 - **Consider 120% of eligible invoices (from above) as maximum limit of ITC eligible under GSTR 3B for the month.**
 - *Note: ITC on import of goods/services & other RCM paid would not reflect in 2A.*
However, 100% of such credits is available. Also suggested to create additional accounts in the books, to bifurcate credits & maintain track of the same (*ledgers required under each tax head*):
 - Ledger 1 - Eligible ITC matched and claimed
 - Ledger 2 - Eligible ITC unmatched and claimed (where 20% limit applied and claimed)
 - Ledger 3 - Eligible ITC unmatched and unclaimed
3. Concept of vendor analysis can be implemented:
- Study of vendors who are compliant and non-compliant for the past 6 months.
 - Non-compliant vendors to be provided payment terms wherein taxes would be paid after GSTR 1 is filed and data correctly reflects in recipient portal.
4. Other useful suggestions:
- To reduce burden, consider Pareto analysis - 80% of ITC generally arises from 20% of vendors. Recipient could concentrate on their compliance under GST.
 - Could perform YTD GSTR 2A analysis every month to ensure all ITC is considered. Although, the 20% limit is limited to ITC of such month.

Difficulties & Way forward:

Various types of variations, issues, and difficulties listed below have been provided with possible suggestions:

1. The supplier has not uploaded in his GSTR-1:

- **Recipient action:** Communicate to the supplier that the invoice/debit note has not been uploaded in his GSTR-1.
- **Supplier action:** To upload the said invoices in subsequent GSTR-1.
- **Rule 36(4) impact:** ITC which is not reflected in GSTR-2A, even if the invoice is received. This will either form part of ad-hoc 20% claimed in the month or unmatched and unclaimed ITC to be claimed subsequently.

2. The supplier has incorrectly uploaded in his GSTR-1:

- **Recipient action:** Communicate to the supplier that invoice has been uploaded incorrectly in his GSTR-1.
 - **Supplier action:** To amend the said invoice in subsequent GSTR-1. It is to be noted that any invoice could be amended only once in GSTR-1.
3. **Rule 36(4) impact:** Recipient suggested not to avail ITC on these invoices as incorrectly uploaded. Await for amendment and claim ITC in such month.
- Previous period invoices received and accounted in current period:
- *Possible scenarios - delay in quality check, goods in transit, invoice not provided to accounts team within the tax period, etc.*
 - **Recipient action:** Not to avail, ITC in the month in which it is reflected as conditions of ITC eligibility are not satisfied.
 - **Supplier action:** Invoice would be uploaded in previous tax period itself. No action required from the supplier.
4. **Rule 36(4) impact:** Such cases have not been considered while making the rule. Where the entire 120% of eligible ITC from GSTR 2A has not been claimed in a month, such amounts cannot be carried forward to be utilized in the next month.

5. The supplier would be filing GSTR-1 quarterly (T3), invoice received in T1/T2:

- **Recipient action:** May avail ITC in the current tax period based on invoice alone as part of 20% ad-hoc.
- **Supplier action:** Invoice would be uploaded on last day of the month after the end of quarter.
- **Rule 36(4) impact:** Notification & circular does not seem to address such scenario.

6. Supplies that are not related to the registered person but reflected in his GSTR 2A:



- **Recipient action:** No action required by the recipient. Can ignore those invoices.
- **Supplier action:** Invoice has to be amended by the supplier.
- **Rule 36(4) impact:** ITC cannot be availed. No impact on the recipient.

For any further queries/comments please write to akshay@hiregange.com.

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