

GST UPDATE

CBIC Clarifies
Implementation of Rule 36(4)
of CGST Rules 2017



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2017- Circular No. 142/12/2020

CBIC has issued clarification vide Circular No 142/12/2020 – GST dated 09.10.2020 relating to application of Rule 36(4) of the CGST Rules, 2017 for the months of February, 2020 to August, 2020. Where the government provided relaxation on implementation of Rule 36(4) while considering the fact that taxpayers are unable to file their respective returns well with due time limit due to the situation prevailing because of pandemic, vide Notification No 30/2020 – Central Tax dated 03.04.2020. In the said notification it has been prescribed that the condition made under sub-rule (4) of rule 36 of the CGST Rules shall apply **cumulatively for the tax period February, March, April, May, June, July and August, 2020** and that the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months.

To ensure proper implementation of the said provision across the industry, CBIC hereby clarified some points to be taken care of while applying to the conditions of Rule 36(4):

- Taxpayers shall reconcile the ITC availed in GSTR-3B for the period of February to August 2020 with the details of the invoices uploaded by their suppliers of the respective months till the due date of furnishing GSTR-1 for month of September 2020.
- The cumulative amount of ITC availed for the said months in FORM GSTR-3B **should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes** the details of which are reflecting in GSTR-2A of respective months.
- Further, it should be noted that the maximum credit that can be availed should be in compliance with Section 16 of CGST Act.

- The excess ITC availed (if any) arising out of the reconciliation, shall be reversed in Table 4(B)(2) of Form GSTR-3B of September 2020. **Any failure to reverse such excess availed ITC on account of cumulative application of Rule 36(4) of the CGST Rules would be treated as availment of ineligible ITC during the month of September, 2020.**
- ITC reversal basis Rule 36(4) for the month of September shall be done on individuality basis and not clubbed with reconciliation for period February to August 2020.
- CBIC further clarifies the manner of reconciliation through an example –

Tax period	Eligible ITC as per the provisions of Chapter V of the CGST Act and the rules made thereunder, except rule 36(4)	ITC availed by the taxpayer (recipient) in GSTR – 3B of the respective months	Invoices on which ITC is eligible and uploaded by the suppliers till due date of FORM GSTR-1 for the tax period of September , 2020	Effect of cumulative application of rule 36(4) on availability of ITC.
Feb, 2020	300	300	270	Maximum eligible ITC in terms of rule 36 (4) is 2450 + [10% of 2450] = 2695. Taxpayer had availed ITC of 2750. Therefore, ITC of 55 [2750-2695] would be required to be reversed as mentioned in para 3.4 above.
Mar, 2020	400	400	380	
Apr, 2020	500	500	450	
May, 2020	350	350	320	
Jun, 2020	450	450	400	
Jul, 2020	550	550	480	
Aug, 2020	200	200	150	
TOTAL	2750	2750	2450	
ITC Reversal required to the extent of 55				
Sep, 2020	500	385	350	10% Rule shall apply independently for September, 2020

For more details, Read the Circular from the Link below:

https://www.cbic.gov.in/htdocs-cbec/gst/Circular_Refund_142_11_2020.pdf

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