

ITC Utilisation Order under GST

#GSTUPDATES/2018-19/17

GSTUPDATES.COM

SHAH TEELANI & ASSOCIATES 

CHARTERED ACCOUNTANTS

Compiled By
Team Shah Teelani

Information in this book is intended to help the common tax payers understand the subject. Authors have taken utmost care to ensure the correctness and completeness of this information. However, readers are advised to seek professional help before acting on any information, advice, or interpretation, whether explicit or implicit, given in this book.

ITC Utilisation order under GST (New ITC Set Off Rules)

Section 49 was amended and Section 49A and Section 49B were inserted vide CGST Tax (Amendment) Act, 2018 with effect from 1st February 2019.

Based on the representations received from the trade and industry regarding challenges being faced by taxpayers due to bringing into force of section 49A of the CGST Act, 2017, that this is resulting in accumulation of input tax credit for one kind of tax (say State tax) in electronic credit ledger and discharge of liability for the other kind of tax (say Central tax) through electronic cash ledger in certain scenarios.

The order of utilization of ITC (Input Tax Credit) has undergone a lot of changes in the recent past.

There are 3 phases for the same:

1st phase (w.e.f 01.07.2017 to 31.01.2019).

Section 49(5) of CGST Act 2017 provides the order of utilization of ITC.

It provides that IGST ITC has to be first used for payment of liability under IGST, then CGST and then SGST.

CGST ITC has to be first used for payment of liability under CGST and then IGST.

SGST ITC has to be first used for payment of liability under SGST and then IGST.

CGST and SGST ITC can't be set off against each other.

This can be illustrated with the help of following table:

Output Tax	First Set off	Condition	Then Set off
IGST	IGST	No Condition	CGST & SGST
CGST	CGST		IGST
SGST	SGAT		IGST

2nd phase (w.e.f 01.02.2019 to 31.03.2019)

After insertion of section 49A and 49B, the ITC on account of IGST has to be utilized first before ITC of CGST/SGST can be utilized for discharge of any tax liability.

This can be illustrated based on the below table:

Output Tax	First Set off	Condition	Then Set off
IGST	IGST	IGST ITC has to completely utilised first before making use of CGST/SGCT ITC	CGST & SGST
CGST	IGST		CGST
SGST	IGST		SGST

3rd phase (w.e.f 01.04.2019).

Rule 88A under CGST Rules 2017 has been inserted w.e.f 01.04.2019, which provides that IGST ITC has to be first utilized for payment of IGST liability and the remaining balance of IGST ITC can be used towards payment of CGST/SGST liability in any order.

This can be illustrated based on the below table:

Output Tax	First Set off	Condition	Then Set off
IGST	IGST	IGST ITC has to completely utilised first before making use of CGST/SGCT ITC	CGST & SGST
CGST	IGST credit in any order or proportion		CGST
SGST			SGST

We can understand the above provisions with the help of below example:

Example :

Say a dealer has following output liability and Input tax Credit at end of month

Particulars	IGST	CGST	SGST	Total
Output tax	1,000.00	300.00	300.00	1,600.00
Available ITC balance	1,300.00	200.00	200.00	1,700.00

Find out the amount of tax to be paid and closing ITC balance after set off of ITC.

Solution:

1st phase (w.e.f 01.07.2017 to 31.01.2019).

If the month would have been between 01.07.2017 to 31.01.2019.

Particulars	IGST	CGST	SGST	Total	Closing Balance
Output tax	1,000.00	300.00	300.00	1,600.00	–
ITC for:					
CGST		200.00		200.00	–
SGST			200.00	200.00	–
IGST	1,000.00	100.00	100.00	1,200.00	100.00
Total ITC	1,000.00	300.00	300.00	1,600.00	100.00
Cash payment to be made	NIL	NIL	NIL	NIL	

2nd phase (w.e.f 01.02.2019 to 31.03.2019).

If the month would have been between 01.02.2019 to 31.03.2019.

Particulars	IGST	CGST	SGST	Total	Closing Balance
Output tax	1,000.00	300.00	300.00	1,600.00	–
ITC for:					
CGST				–	200.00
SGST			200.00	200.00	–
IGST	1,000.00	300.00	–	1,300.00	–
Total ITC	1,000.00	300.00	200.00	1,500.00	200.00
Cash payment to be made	–	–	100.00	100.00	

Hence we can see that in 2nd phase (i.e after insertion of sec 49A) payment of SGST of Rs 100 is required to be made even when there is excess balance in Electronic Credit Ledger.

3rd phase (w.e.f 01.04.2019).

If the month would have been after 01.04.2019

Option 1					
Particulars	IGST	CGST	SGST	Total	Closing Balance
Output tax	1,000.00	300.00	300.00	1,600.00	–
ITC for:					
CGST		200.00		200.00	–
SGST			100.00	100.00	100.00
IGST	1,000.00	100.00	200.00	1,300.00	–
Total ITC	1,000.00	300.00	300.00	1,600.00	100.00
Cash payment to be made	NIL	NIL	NIL	NIL	

Option 2					
Particulars	IGST	CGST	SGST	Total	Closing Balance
Output tax	1,000.00	300.00	300.00	1,600.00	–
ITC for:					
CGST		100.00		100.00	100.00
SGST			200.00	200.00	–
IGST	1,000.00	200.00	100.00	1,300.00	–
Total ITC	1,000.00	300.00	300.00	1,600.00	100.00
Cash payment to be made	NIL	NIL	NIL	NIL	

Hence we can conclude that in 2nd phase (i.e after insertion of section 49A) payment of SGST of Rs 100 was required to be made. But by way of insertion of Rule 88A, this payment of SGST has been dispensed with.

Difference in the provisions of the law and set off mechanism in GST portal

We know that we can take Input tax Credit by way of filing GSTR3B in GST portal.

While filing GSTR3B the set off of ITC happens automatically and there is no manual intervention (i.e dealer can't change the order of utilization of ITC).

As of now the GST portal allows ITC set off under the old provisions (i.e without incorporation of section 49A and Rule 88A) and the dealer can't change the order of utilization of ITC to incorporate the provisions of section 49A and Rule 88A while filing GSTR3B.

In order to bring out clarification Circular No. 98/17/2019-GST dated 23.04.2019 has been issued which provides that taxpayers may continue to utilize their input tax credit as per the functionality available on the GST portal.

So in short the dealer can't be penalized for non compliance of provisions section 49A and Rule 88A as the ITC set off order is auto filled by GST portal. The same has been ratified by the above Circular No 98/17/2019 dated 23.04.2019 as well.

SHAH TEELANI & ASSOCIATES

CHARTERED ACCOUNTANTS



302-303, Shubh House, Bh Jain Dairy,

Swastik Cross Road, Off C G Road, Ahmedabad – 380009

M-9978292929, L-079 48492929

Email- gst@shahteelani.com

Web- www.shahteelani.com