

No. 12-25/2018-19-EXN-GST-(575)-667-85
Government of Himachal Pradesh,
Excise and Taxation Department

To

1. The Additional/Jt. Commissioner of State Taxes and Excise, (South Zone, North Zone, Central Zone), Shimla, Palampur, Mandi, H.P.
2. The Joint Commissioner of State Taxes and Excise, Enforcement Zones, (Central Zone, North Zone, South Zone), Una, Palampur, Parwanoo, H.P.
3. The Dy. Commissioner of State Taxes and Excise, Shimla, Solan, BBN Baddi, Sirmour, Bilaspur, Hamirpur, Mandi. Kullu, Chamba, Kangra, Revenue Distt Nurpur and Una, H.P.
4. The Asstt. Commissioner of State Taxes and Excise, Incharge Distt. Kinnour, H.P.

Dated

Shimla-9

6th Jan., 2021.

Sir,

Subject: Clarification relating to application of sub-rule (4) of rule 36 of the HPGST Rules, 2017 for the months of February, 2020 to August, 2020 – reg.

Vide Circular No. 123/42/2019 – GST dated 10th Dec., 2019, various issues relating to implementation of sub-rule (4) of rule 36 of the Himachal Pradesh Goods and Services Tax Rules, 2017 (hereinafter referred to as the HPGST Rules) relating to availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37 of the Himachal Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the HPGST Act) were clarified.

2. Keeping the situation prevailing in view of measures taken to contain the spread of COVID-19 pandemic, vide notification No. 30/2020-ST, dated 16th July, 2020, it had been prescribed that the condition made under sub-rule (4) of rule 36 of the HPGST 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.

3. In order to ensure uniformity in the implementation of the provisions of the law, in exercise of powers conferred under section 168 of the HPGST Act, certain issues are clarified in succeeding paragraphs.

3.1 It is re-iterated that the clarifications issued earlier vide Circular No. 123/42/2019 – GST dated 10.12.2019 shall still remain applicable, except for the cumulative application as prescribed in proviso to sub-rule (4) of rule 36 of the HPGST Rules. Accordingly, all the taxpayers are advised to ascertain the details of invoices uploaded by their suppliers under sub-section (1) of section 37 of the HPGST Act for the periods of February, March, April, May, June, July and August, 2020, till the due date of furnishing of the statement in **FORM GSTR-1** for the

month of September, 2020 as reflected in GSTR-2As.

3.2 Taxpayers shall reconcile the ITC availed in their **FORM GSTR-3Bs** for the period February, 2020 to August, 2020 with the details of invoices uploaded by their suppliers of the said months, till the due date of furnishing **FORM GSTR-1** for the 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 have been uploaded by the suppliers under sub-section (1) of section 37 of the HPGST Act, till the due date of furnishing of the statements in **FORM GSTR-1** for the month of September, 2020.

3.3 It may be noted that availability of 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the HPGST Act does not mean that the total credit can exceed the tax amount as reflected in the total invoices for the supplies received by the taxpayer i.e. the maximum credit available in terms of provisions of section 16 of the HPGST Act.

3.4 The excess ITC availed arising out of reconciliation during this period, if any, shall be required to be reversed in Table 4(B)(2) of **FORM GSTR-3B**, for the month of September, 2020. Failure to reverse such excess availed ITC on account of cumulative application of sub-rule (4) of rule 36 of the HPGST Rules would be treated as availment of ineligible ITC during the month of September, 2020.

4. The manner of cumulative reconciliation for the said months in terms of proviso to sub-rule (4) of rule 36 of the HPGST Rules is explained by way of illustration, in a tabulated form, below.

Table I

Tax period	Eligible ITC as per the provisions of Chapter V of the HPGST 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.
March, 2020	400	400	380	
April, 2020	500	500	450	
May, 2020	350	350	320	
June, 2020	450	450	400	
July, 2020	550	550	480	
August, 2020	200	200	150	
TOTAL	2750	2750	2450	

ITC Reversal required to the extent of 55				
September, 2020	500	385	350	10% Rule shall apply independently for September, 2020
In the FORM GSTR-3B for the month of September, 2020, the tax payer shall avail ITC of 385 under Table 4(A) and would reverse ITC of 55 under Table 4(B)(2)				

5. This circular shall come into force w.e.f. 09.10.2020.
6. Difficulty, if any, in the implementation of this Circular may be brought to the notice of this office immediately.

Yours Faithfully,

Sd/-

**(Rohan Chand Thakur), IAS
Commissioner of State Taxes and Excise,
Himachal Pradesh**