

## IT IS AN ANTI SMALL SCALE INDUSTRY GST NOTIFICATION

CGST Notification No. 49/2019 – Central Tax dated 09.10.2019, the same was amended vide Notification No. 75/2019 – Central Tax dated 26.12.2019

MONISH BHALLA

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IT IS AN ANTI SMALL-SCALE INDUSTRY NOTIFICATION: CGST Notification No. 49/2019 – Central Tax dated 09.10.2019, amended vide Notification No. 75/2019 – Central Tax dated 26.12.2019

1. Rule 36(4) was inserted vide Notification No. 49/2019 – Central Tax dated 09.10.2019, the same was amended vide Notification No. 75/2019 – Central Tax dated 26.12.2019 (effective from 01.01.2020). The said sub-rule is as under:

*Rule 36(4) Input tax credit to be availed by a registered person 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, shall not exceed [10 per cent.] 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.*

2. The above said rule restricts the availment of non-appearing of ITC in 2A. Only 10% of the ITC is to be availed by registered person in respect of invoices or

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debit notes, the details of which have not been uploaded by the supplier, to the extent of eligible credit available in respect of invoices or debit note shown in GSTR-2A.

3. This rule is making difficulties for the person who is dealing with the small vendor whose turnover is less than 1.5 Crore and who has opted for filing GSTR-1 quarterly. These vendors even though pay tax in GSTR-3B on monthly basis, however, they file their GSTR-1 returns **quarterly**. For example, Invoices pertaining to April, May and June will be uploaded by 31<sup>st</sup> July. Hence, these invoices will be available for ITC in August only. Thus, the ITC for the purchase Invoices pertaining to April, May and June, with respect to the goods bought from a small vendor (one who files quarterly returns) is denied to the buyer till 1st of August.

4. Due to this, the invoices are not available in GSTR-2A of that particular month even though tax has been paid only because one has opted option to file return quarterly. Furthermore, the supplier who has opted for

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quarterly return filing cannot even change to monthly GSTR-1 filing in between the year. Whereas Government has changed the system during the course of financial year. If the Government is changing the law and rules at any time, the GSTN should be also in line and it should be flexible enough for assessee to adhere to the law. Why there are blockades only for the assessee.

5. Further not only that, those invoices which are appearing after 3 months, the ITC is restricted again to the extent of ITC on bills available for that particular month which ultimately blocking credit of one month. If we see the calculation of 3-4 months the ITC of one month is not available in any month. Hence this rule is blocking one month ITC and this ITC not available in perpetuity.

6. Why would you buy from a small scale industry, as you land up paying unwarranted tax in cash, even though the government has collected the payment from your vendors in 3B return AND EFFECTIVELY

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so you land up paying twice, one to the vendor who collected GST from you in his invoice and paid to the government (As He Has Filed GSTR-3b) and second time to the government as the ITC is not available due the faulty and skewed law and rigid online system.  
It Is An Anti Small Scale Industry Notification

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*My Candid views*

*Monish Bhalla*

*Mobile - 9925006599*

*Email - [contact@taxolegal.com](mailto:contact@taxolegal.com)*

*Twitter : [@bhallamonish](https://twitter.com/bhallamonish)*