

ITC time limit for Purchases made from Unregistered Persons

[Circular No. 211/1/2024-GST dated 26.06.2024]

I. Issue Involved

Clarity on the applicability of time limit specified under section 16(4) of CGST Act, 2017 for the purpose of availment of input tax credit (ITC) by the recipient on the tax paid by him under reverse charge mechanism (RCM) in respect of supplies received from unregistered persons.

II. Transactional understanding of the issue involved

Example:

Facts of the example are as under:

1. Mr. X (unregistered person in India) located in USA supplies some services to a person Y located and registered in Ahmedabad for a value of Rs. 1 crore, OR
2. Unregistered lawyer Mr A located in Ahmedabad supplies Legal Services to a person Mr B registered and located in Ahmedabad.
3. Both the services were supplied in the month of March 2020.
4. Consideration was also paid in March 2020.
5. However, both Y and B missed paying GST thereon under RCM.
6. Both are ready to discharge their liability in June 2024

Once they pay the GST under RCM, would they be eligible for availing ITC thereof. This question is answered by this circular



III. Circular clarifies as under:

Legal Background:

- a. Credit can be availed only if the recipient is in possession of a Tax Invoice of the said services.
- b. In cases involving receipt of goods or services from unregistered persons, as per section 31 (3)(f) of the CGST Act, recipient is required to issue (self) invoice on his own and pay the tax in cash on the same under RCM. This Self Invoice will be considered as a Tax Invoice for the purposes of the law for availment of ITC.
- c. Section 16(4) of CGST Act, deals with time limit to avail ITC.
- d. Further, section 16(4) links the time limit for ITC availment with the financial year to which the invoice or debit note pertains.

Clarification:

- a. Time Limit prescribed in section 16(4) for availment of ITC shall be the financial year of issuance of such invoice only,
- b. Where the recipient issues the said invoice after the due date prescribed in section 12 or 13 (time of supply) of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax
- c. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of CGST Act.

Answer to the above the example basis the clarification

- a. Y and B both will have to issue self-tax invoice in June 2024
- b. Pay the tax under RCM



- c. Time limit for availing ITC of the tax paid under RCM would be applicable as applicable to FY 2024-25, i.e. both Y and B can avail the ITC on the basis of invoice so raised till 30.11.2025
- d. Y and B both will be liable to pay Interest from March 2020 to June 2024 (till the date they pay the tax)
- e. They could be made liable to Penalty u/s 122 as well.

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