

INTRODUCTION TO GST
INPUT TAX CREDIT_02-PART 2

CMA ANIL SHARMA

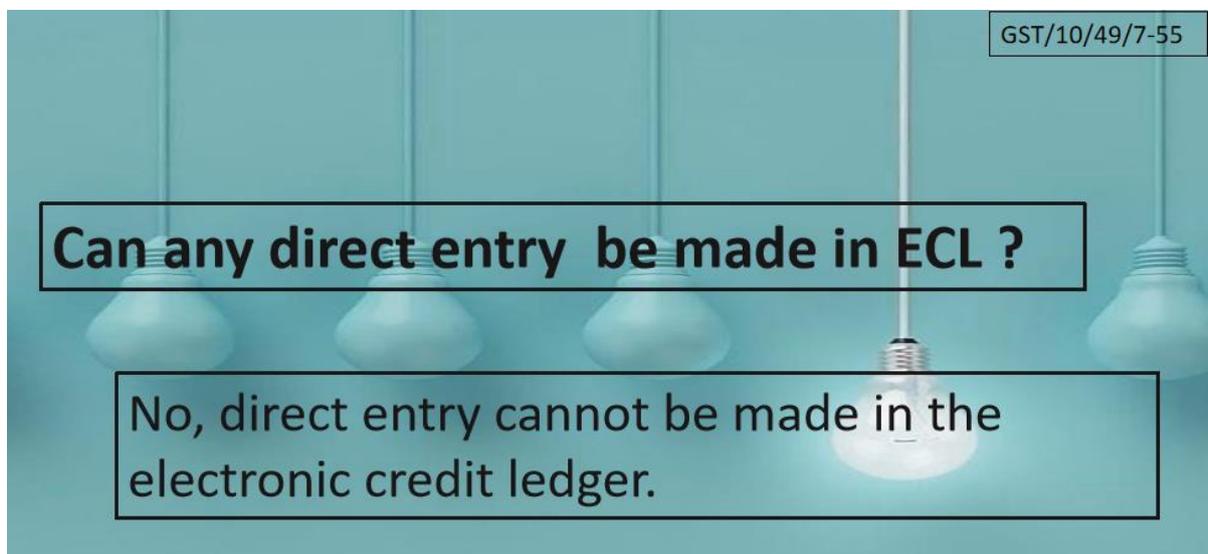
(B.com. (Hons.), M. Com., FCMA, TIOL Awardee, Practising Cost Accountant)

Management

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Friends question comes can I post any entry or can I make any entry into electronic credit ledger by just logging into GST portal; or open credit ledger and post an entry? Answer is it is not possible. In electronic credit ledger entry comes through your procurement, through your purchases only, through your sale and through your refund application. There is a set mechanism whenever you are posting any entry into electronic credit ledger, it cannot be entered straight away. It will be entered, it will be updated through some other document, through some other window on GST portal. Another windows/option/medium is your returns. Returns can be GSTR-1 that is liability, GSTR-2A, GSTR-2B or GSTR-3B as your claims for ITC. We will study these also. So, this way electronic ledger is maintained which shows you; How much is ITC available to you? How much tax liability you are having? And if you set off this liability against your ITC ledger, then how much balance is available to you? If your liability is more than what balance is available in credit ledger, then you have to pay in cash.

In case of any discrepancy in electronic credit ledger what action can be taken by the registered person?

A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.

Friends, in accounting, it's a normal practice that accounts, though are maintained very carefully, still due to some reason, there are mistakes. There are wrong entries passed maybe because of clerical mistake or maybe some wrong interpretation of the transaction. Same thing can happen at GST portal also. Because GST came in from first July 2017 and because people were not aware of GST concept because it was all together a different story of indirect taxes, people were not aware and failed to map the transaction as per GST portal or GST law, so they made so many mistakes. Mistakes happen in electronic credit ledger also.

Law says, if there is any discrepancy in your electronic credit ledger, discrepancy means if as per your calculation, your credit balance should be of one lakh rupees. i.e as per your calculation, you must have this much of balance in your credit ledger at GST portal. But actually, it's showing 90,000 rupees. It is showing less amount. It can be other way also. It may be a case where it is showing 1 lakh 10,000 rupees. Though it is good for you that you are having good balance but technically it is wrong and legally also it is wrong and it will be recovered from you with interest, so better maintain your accurate/actual balance with all logics and evidence.

So, there can be a case when there is a discrepancy in your credit ledger then a registered person means in whose credit ledger because credit ledger is maintained by for each and every registered person who is having GST number it is registered person wise. So, person who is having any discrepancy who has noticed any discrepancy in credit ledger shall upon noticing any discrepancy in electronic credit ledger communicate the same to officer of his jurisdiction to whom he is reporting or who is having jurisdiction on his business in GST PMT-04 form.

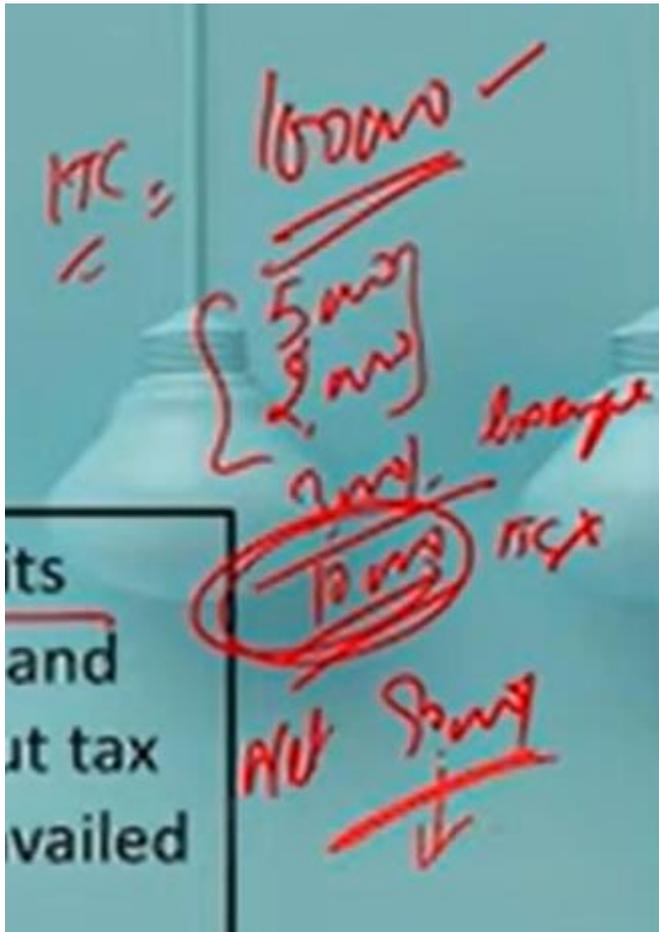
It's an online form available on GST portal. Fill this form and submit it to the GST portal and when you will submit it, it will go to that concerned officer to look into. So, they will check why it has happened; if it is because of some clerical or maybe some other mistake at their end, they will refer this case to GST network limited. GST Network Limited is the company responsible for the functioning of GST portal. We will talk about this GST network (GSTN) also. They will look into and see and correct the things to 1 lakh rupees. You have to give evidence also for that. The time has gone when there is any discrepancy in record of sales tax department or excise department, you approach their local officer and they solve the problem. Now things have changed. You need not to go to your concerned officer straight away. You have to move the things through GST portal in prescribed format. Submit it, it may take 24 hours or 48 hours and your problem will be resolved and you will be intimated accordingly.

GST/10/49/9-55

What is Rule 86A “*Conditions of use of amount available in electronic credit ledger*” which is Inserted vide Notification no.75/2019- CT dated 26.12.2019.?

Rule 86A of CGST Rules, 2017 empowers the Commissioner or its authorized officers to disallow debit of electronic credit ledger and block the credit **based on a reasonable belief** that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible.
*Such restriction shall cease to have effect after the expiry of a period of **one year** from the date of imposing such restriction*

Friends in my previous slides or previous sessions I mentioned that ITC is a balance available to you to meet your tax liability subject to the conditions as mentioned in section 16 and section 17. So, all your procurements where you have paid GST, it is not possible that you are having ITC benefit on each and every bill. I told you that if you purchase a car, ITC is not available. If you construct a building, tax paid on building material is not available as ITC. So, that much of amount you have to reduce.

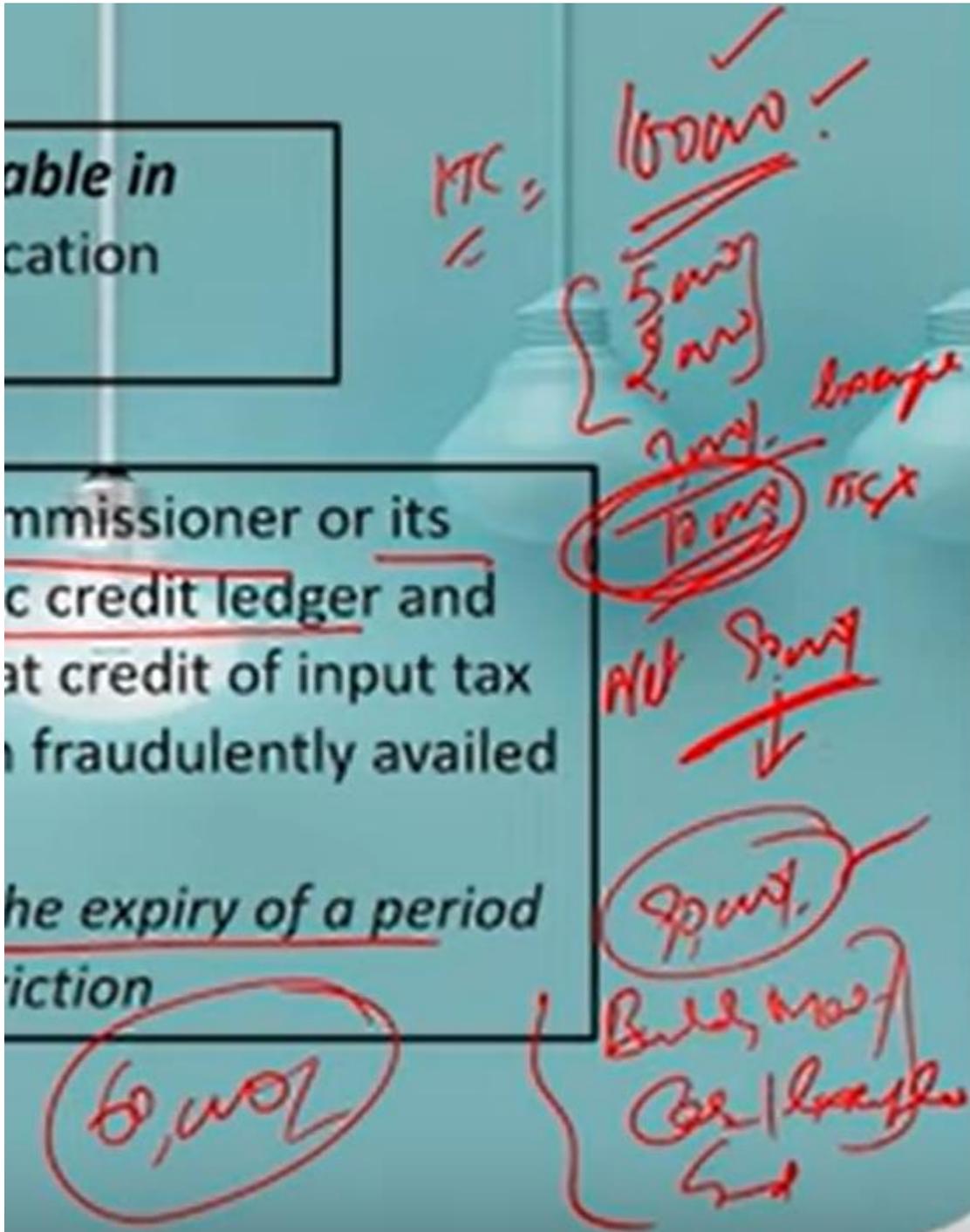


So, at any given point of time, if you procure, suppose, 1 lakh rupees of procurements (where ITC amount is 1 lakh), i.e. total tax paid by you is 1 lakh rupees to your suppliers for so many inputs. And out of these, tax on car is 5000 rupees. Tax on building material is 2000 rupees. Like this. So, this 7000 rupees ITC is not available to you because of section 16 or section 17. Or 3000 rupees is used for some exempted item, as I told you in my previous slide. So here total 10,000 rupees ITC is not available to you. So, net ITC available is 90,000. So, you can pay your tax liability up to 90,000 rupees straight away by using this amount. There is no problem.

But friends, there is a rule under these sections; Rule 86A of CGST Act. This rule has some more conditions on your uses/availing of your ITC benefit. It gives powers to officers of the department and what it says? It says rule 86 CGST 2017 empowers the commissioner or its authorized officer. Commissioner means CGST office in charge or state government in charge in the state. So, commissioner of CGST or commissioner of SGST has power through this rule. And if they have some information, if they have some evidence at their end and they believe that you are availing ITC without following proper rules or there is some fraudulent activities going on through your business and you are using this balance which is not permitted as per

law but you have used that balance if such type of things has happened in your business in your transactions, “the officer to disallow debit electronic ledger.”

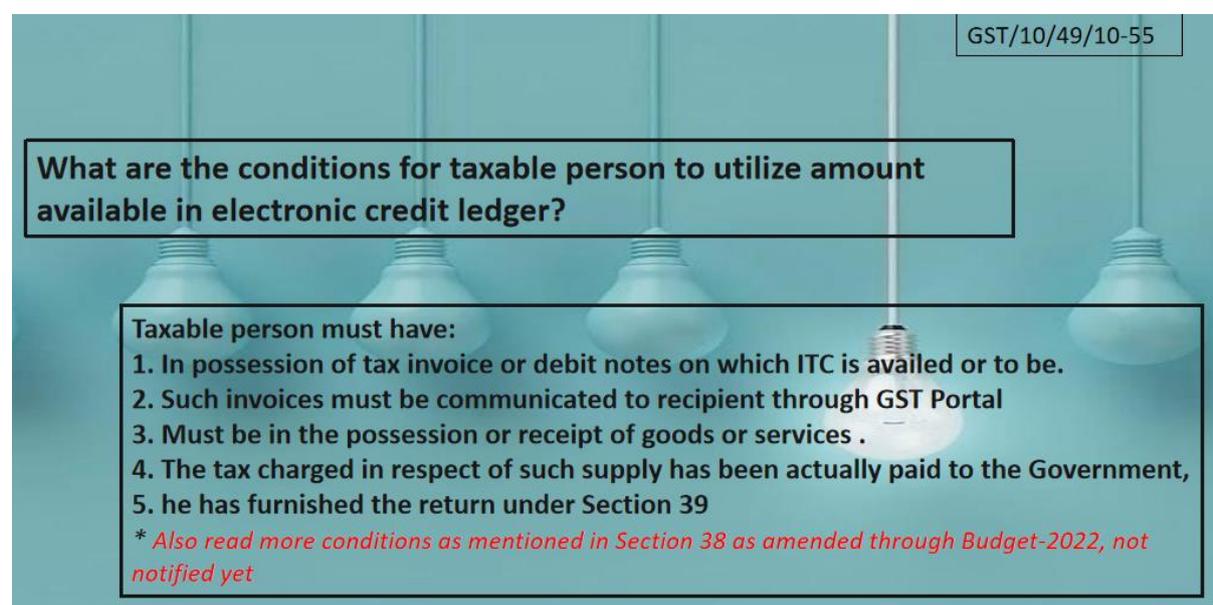
Means they can stop your debiting, means stop you from availing this benefit of ITC. They have access to GST portal where they will block that particular credit mechanism. You will not be able to pass entries through this electronic credit ledger against your tax liability. So, such restrictions shall be ceased to have effect after expiry of one year. Means, they can seize your account, block your account, block the transaction in your credit ledger up to one year. They have powers if they found that some fraudulent activities are going on in your business.



Let's take again same example if you have total ITC on your procurement or you have paid one lakh rupees as tax on your procurement, and out of this one lakh rupees 90,000 is on account of building material, car or exempted goods.

Because I told you ITC is available only if your final product or your sale is subject to GST. If your sale is exempted from GST you cannot avail ITC. So, if that is the case where 90 000 out

of this 1 lakh rupees are on account of building material (I told you ITC it is not available on motor car or car having sitting capacity less than 13 persons. It is not available on your exempted goods). This 90 000 pertains to these items and you have debited your credit ledger electronic credit ledger by 60 000 rupees means you have used out of this one lakh sixty thousand rupees to pay your tax liability. You have done violation as per the law provision. You have done a fraud. So, in this situation, officers have power to block your credit ledger. And in that case, the 60,000 you have already availed by wrong procedure. You need to reverse it. You have to pay 60, 000 back to the government along with interest on it. And in addition to that you are supposed to pay your tax also.



GST/10/49/10-55

What are the conditions for taxable person to utilize amount available in electronic credit ledger?

Taxable person must have:

- 1. In possession of tax invoice or debit notes on which ITC is availed or to be.**
- 2. Such invoices must be communicated to recipient through GST Portal**
- 3. Must be in the possession or receipt of goods or services .**
- 4. The tax charged in respect of such supply has been actually paid to the Government,**
- 5. he has furnished the return under Section 39**

** Also read more conditions as mentioned in Section 38 as amended through Budget-2022, not notified yet*

So, friends in nutshell if you require this credit ledger balance you need to fulfil some things. Means you have to keep something in mind when you are availing benefit of this electronic credit ledger or using this credit ledger for your tax liability. And since it says ‘taxable person’, definitely it means that electronic credit ledger is of a taxable person only. It cannot be of an unregistered person or an individual. Same conditions which we read in section 16. He must have tax invoice with him because he has procured goods. So, he must have goods with him.

I told you that electronic credit ledger or ledgers are updated through GST portal. So, your electronic credit ledger must be updated through GST portal and the invoices read by your supplier will also be communicated to you and all invoices which have been raised to you by your supplier will be depicted in GSTR-2A and GSTR-2B.

Must be in the possession: Goods must be practically delivered to the buyer. Supplier has actually paid this tax to the government, wherefore keeping tax with you is a crime. And you

have also filed your own return. Your tax liability you have declared to the government, i.e. How much is your tax liability? That's why. So that if you have tax liability, so that you can use your ITC balance.

So, friends, there are so many conditions when you are using your ITC. And if you are adopting wrong practices, your registration can be cancelled. Your electronic ledger can be blocked and action will be taken against you. Because payment of GST on your procurement, on your purchases is simple. But taking benefit of it to meet your own tax liability is tough. So, you have to comply with each and every procedure, each and every provision of the law when you are availing this benefit. Because ultimately what happens, whatever ITC you are using, basically you are using government money. Because tax was paid by your supplier to the government and it is now in government account. And whenever you are withdrawing this amount for your own benefit, for your own payment of tax, you are basically withdrawing this money from government, and government money is very tough to use.

GST/10/49/11-55

What is RULE 86B of CGST Rules 2017 and how it impact ITC Credits?

RULE 86B deals with restrictions on use of amount available in electronic credit ledger beyond 99% (*inserted vide Notification No. 94/2020-CT dated 22.12.2020 which is applicable from 01.01.2021.*)

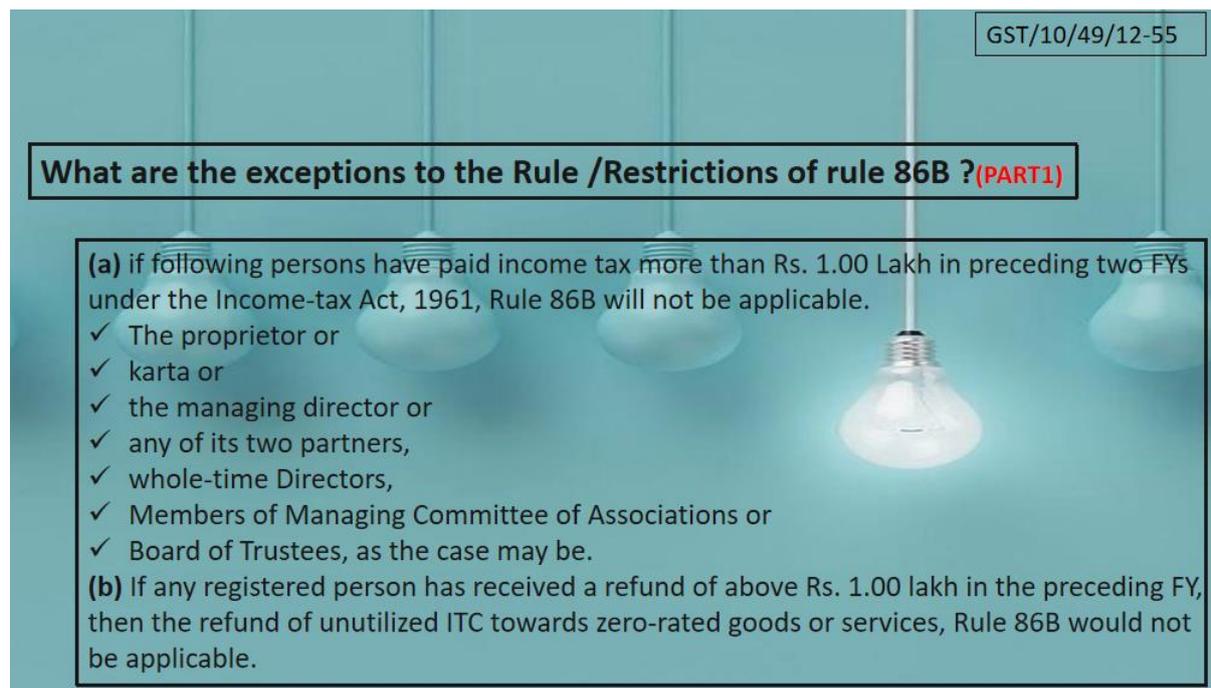
In simple words, more than 99% of the output tax liability cannot be discharged by using input tax credit.

This rule is applicable to registered persons having taxable value of supply (other than exempt supply and Zero rated supply) more than Rs. 50 lakh in a month

There is another Rule, 86B under CGST Act. It further imposes some conditions on use of ITC. These are checks and balances under system in GST law so that ITC cannot be misused. People use this money fraudulently or wrongly. So, provisions are so strict. So is the case under 86B. 86B deals with restrictions on use of amount available in electronic credit ledger beyond 99%. So, in general, law says you can use your net ITC available (eligible ITC available) to you in electronic credit ledger without any problem, but not beyond 99%. So, 1% ITC; if you have any tax liability 99% you can use from your credit ledger, balance one percent you are supposed to pay in cash only.

This is a new provision inserted in 2020, applicable from 1st January 2021. Before first January 2021, means up to 31st December 2020 there was a provision of using 100% from electronic credit ledgers. There was no issue. You could pay 100% tax from that but after that only up to 99% you can pay from there; one percent remaining will be paid from cash only.

Further it says, 99% of your output tax liability of that particular tax period. The rule is applicable to registered person having taxable value of supply more than 50 lakh rupees. So, this rule is not applicable to small traders' small businessman. Any businessman any registered person taxable person having turnover more than 50 lakh rupees a month, this rule will be applicable. Because, when he has more than 50 lakh rupees of turnover his tax liability will be more, so this person has been restricted to use or pay tax liability 100% from ITC. He can use ITC up to 99% of your tax liability and one percent he is supposed to pay in cash only. So, these are different restrictions imposed in GST to avail the benefit of ITC. So, whenever you are using your ITC make sure you are correct in your understanding of the law.



GST/10/49/12-55

What are the exceptions to the Rule /Restrictions of rule 86B ?(PART1)

(a) if following persons have paid income tax more than Rs. 1.00 Lakh in preceding two FYs under the Income-tax Act, 1961, Rule 86B will not be applicable.

- ✓ The proprietor or
- ✓ karta or
- ✓ the managing director or
- ✓ any of its two partners,
- ✓ whole-time Directors,
- ✓ Members of Managing Committee of Associations or
- ✓ Board of Trustees, as the case may be.

(b) If any registered person has received a refund of above Rs. 1.00 lakh in the preceding FY, then the refund of unutilized ITC towards zero-rated goods or services, Rule 86B would not be applicable.

Friends in last slide we mentioned that 86B rule is applicable where monthly turnover of a person is 50 lakh rupees or more. This rule further says the restrictions under Rule 86B is not applicable to following class of people. So, it makes things more complicated. It is not easy to understand. We must have all restrictions related to ITC in our mind. Only then we will be able to compliance with the law. Otherwise, there are 100% chances that we will commit a mistake. It says, following persons having paid income tax more than 1 lakh in preceding two financial years under Income Tax Act, 86B will not be applicable. So, any person as listed here,

proprietor or 'karta', managing director, any two partners, whole time directors, members of managing committee of association, board of trustee, etc., are having business and if they have paid income tax more than one lakh rupees in previous two years under income tax act, then restriction of 86 B is not applicable even if your turnover is more than 50 lakh rupees. Further, if any registered person has received refunds because of their exports, this restriction of 99% is not applicable on that business house also. Zero rated goods mean export. So, any business house who is getting one lakh rupees refund in previous times, this restriction of 99% is not applicable on that business house also.

GST/10/49/13-55

What are the exceptions to the Rule /Restrictions of rule 86B ? (PART2)

- (c) Exporters claiming refund of ITC on export or inverted duty structure of more than Rs. 1 lakh in preceding FY shall not be hit by Rule 86B.
- (d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, up to the said month in the current financial year; or
- (e) the registered person is -
 - (i) Government Department; or
 - (ii) a Public Sector Undertaking; or
 - (iii) a local authority; or
 - (iv) a statutory body

Further it says, "exporters claiming refund of ITC on export or inverted duty structure for more than 1 lakh rupees." This is again related with refund under GST, under section 54. If they are having refunds more than 1 lakh rupees, this restriction of 99% is not applicable. Further, registered person has discharged his tax liability towards outward tax through the electronic cash ledger for an amount which is in excess of 1% of the total. So, it is another condition. If you are meeting this condition, then again, this 86B rule is not applicable to you. Registered person like government department, public sector undertakings, local authorities, statutory bodies, this rule is not applicable on them. So, such type of reasons make sometimes law complicated. But as a student of law, we need to understand these concepts and need to understand the business transaction, need to understand the constitution of the business and then act accordingly.

Can restrictions imposed under Rule 86B, be removed or relaxed.

Yes, the **Commissioner** or an **officer authorized by him** in this behalf may remove the said restriction

So, if government has imposed some restriction through some rules, through some notifications, through some circulars, and if these/such type of restrictions is having any major impact or reverse impact on business or the revenue, then there are powers with commissioner or the officer authorized to give some relaxation. So, if any particular business house or a particular person thinks so that this restriction is creating hurdle or is not ease of doing business or creating complication for them, they can approach commissioner for relaxation and commissioner if he is satisfied, they can give relaxation to that particular business house, that particular taxpayer, or that particular taxable person to have relief from this 86B. And in this case if relaxation is given then this fellow will be in a position to use 100% amount of ITC available to him to meet his tax liability for that particular period. So, relaxation can be there provided commissioner should be satisfied with the plea.

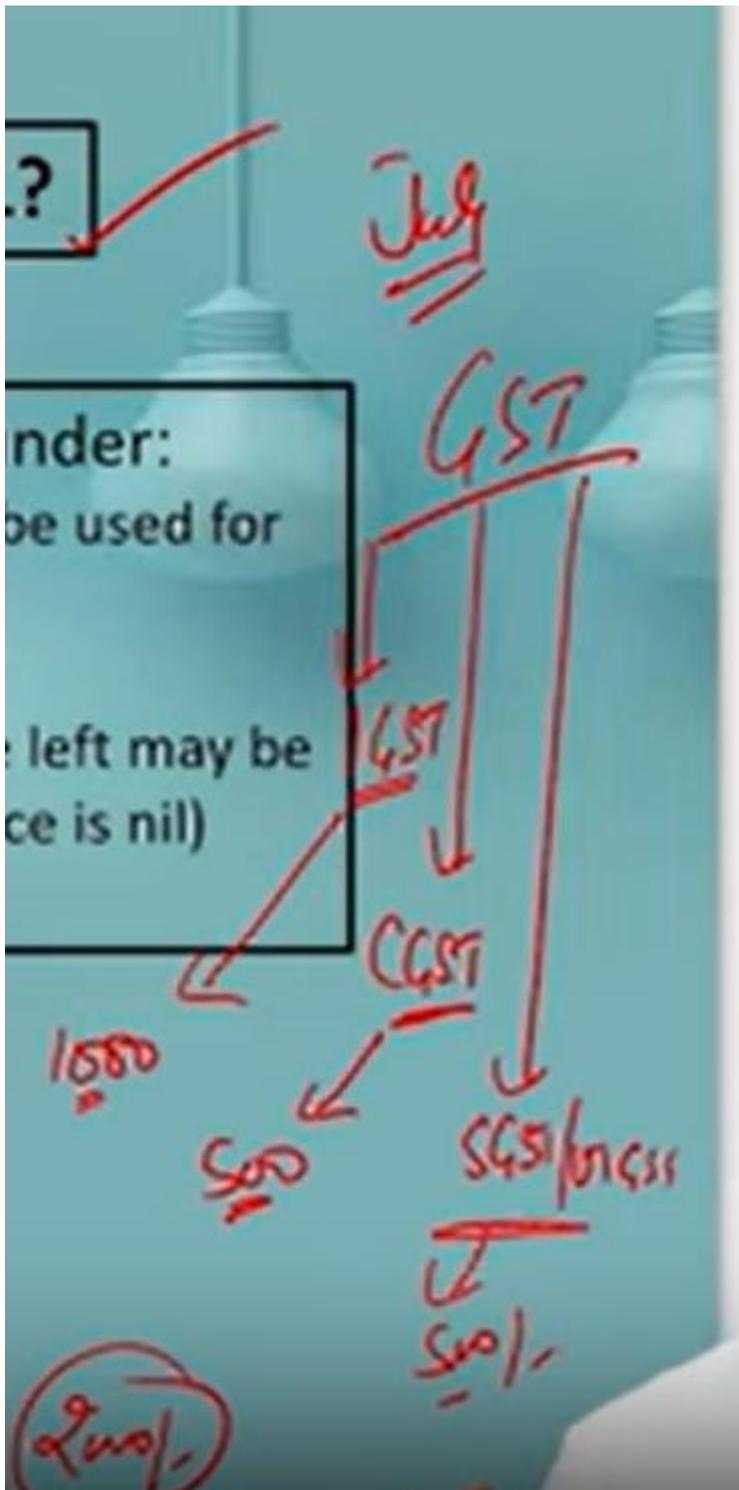
Is there any set procedure to avail credits available in ECL?

Yes , there is set procedure to avail the credits available in ECL as under:

- ✓ IGST- to be used first for the payment of IGST, if balance left, the same may be used for CGST/SGST
- ✓ CGST – to be used for payment of CGST, if balance left may be used for IGST.
- ✓ SGST/UTGST- to be used first for the payment of SGST/UTGST and if balance left may be used for IGST. (But SGST/UTGST balances can be used for IGST, if CGST balance is nil)
- ✓ CGST can't be used for SGST/UTGST OR VISE-A VERSA.

So, friends I mentioned earlier also that in GST everything is very clear, transparent in set system and we have to follow that set system for dealing with the business transaction when

you are complying under the GST law. So yes, there is a set procedure to have ITC benefit and to use electronic credit ledger. It says in GST when we have tax liability, the tax liability will be for IGST, will be for CGST, and will be for SGST or UTGST. So, these three taxes we are supposed to pay under GST. If it is interstate transaction IGST is applicable and if it is intrastate transaction CGST and SGST or UTGST is applicable. So, by having these transactions in your sale in a particular month, let's take example of July month.



In this July month my IGST liability is for rupees 1000, then my CGST liability is of 500 and my SGST/UTGST liability is also of 500. So, friends for IGST we have separate mechanism and for CGST and SGST payment we have separate mechanism under GST, at GST portal. So, in a particular month of July though we have total liability of 2000 rupees, but if you will say that I will pay 2000 straight away to the government, my work is over. No friends. You need to pay 1000 separately under different account head, 500 separately in different account head and 500 separately in different account head. Because when you will pay IGST through GST portal or through your filing returns, it will go to central pool. And from central pool, it will be distributed to central government and the respective state where goods have been consumed. And if it is intrastate transaction, 500 will go to central GST account and 500 will go to state GST account through your return only or through your chalan if you are paying in cash. And if you are using your credit ledger ITC, then again accordingly this amount will be set off. So same thing is mentioned over here that whenever you are having liability, your liability is 1000 rupees for IGST.

So, it says your IGST liability must be set off from your IGST balance in your electronic credit ledger. It means what? It means your electronic credit ledger is maintained separately for IGST, for CGST and for state GST. So electronic ledger has three parts. It is not showing all together, but separately. So electronic credit ledger for IGST balance, electronic credit ledger for CGST balance, electronic credit ledger for state GST balance. So, whenever you are having IGST liability with you; you have sold your goods in interstate transaction (out of the state) and your IGST liability will be there and if in this particular case we have IGST liability of 1000 rupees and in your electronic credit ledger IGST balance is 800 rupees only so you can use straight away this balance of IGST against this liability and 200 rupees will be paid in cash. So, law says IGST liability to be used first for the payment of IGST. So IGST credit ledger can be used only first for IGST. If balance left, the same may be used for payment of CGST and SGST.

In this case we have only 800 rupees credit balance but my liability is 1000 rupees so there is no balance left and IGST I am paying in 100 rupees 200 rupees in cash, so I cannot use any balance from IGST for the payment of CGST in SGST. But if here I have balance of 1800 rupees in my electronic ledger under IGST category; I have balance of 1800 rupees and 1000 is my liability, so here I have 800 rupees excess after meeting my tax liability of IGST during July. These 800 rupees which is in excess I am having can be used for the payment of these liabilities. IGST can be used for payment of IGST, for the payment of CGST, for the payment

of SGST. But first use IGST balance against IGST tax liability only. And if there is no IGST tax liability, then straight away you can use for CGST or SGST. There is no issue.

Further, CGST. What if you have CGST balance with your electronic credit ledger? Here suppose we have 2000 rupees CGST in my electronic credit ledger. So CGST, if you are having, first use this CGST balance to make the payment of CGST tax. So straightaway, pay 500 rupees out of this 2000 rupees. And remaining you are having 1500 rupees over here. And this 1500 rupees can be used if it is required for the payment of IGST. This 1500 rupees which is in excess of your liability because liability is 500 you are having balance of 2000 rupees. So, 1500 rupees you are having with you, can be used for payment of IGST. And this amount of 1500 rupees you cannot use against SGST. So, rule is CGST cannot be used for state GST or UTGST. This is basic rule for payment of taxes from electronic credit ledger.

Similarly, friends state GST can be used for state GST payment, can be used for IGST payment but cannot be used for CGST payment. IGST can be used for IGST, CGST and SGST. CGST can be used for CGST and then for IGST. And SGST can be used for payment of SGST first and if balance is there it can be used for IGST but it cannot be used for CGST. So, there is set procedure under law to apply your ITC ledgers or ITC balance in your electronic credit ledger. And electronic credit ledger is maintained separately for all taxes, because when you are procuring things/goods from open market in some of the cases you might be paying IGST and on some of the cases you might be paying CGST/SGST under interstate transactions. So, we have to keep that in mind that whenever you are meeting your liability by using electronic credit ledger it should be in such procedure. So, CGST can't be used for SGST/UTGST or vice versa. You have to keep this in mind otherwise it will create problem for us.