Introduction of Section 88A on Utilizing Input Tax Credit (ITC) w.e.f. 29.03.2019

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Section 49 of the CGST Act, 2017 contains provisions in relation to payment of tax, interest, penalty and other amounts.

Section 49 (5) of CGST Act, 2017 provides manner of utilizing Input Tax Credit (ITC) for payment of GST output tax liability, e.g IGST can be set off against IGST and then CGST and SGST, CGST can be set off against CGST and then against IGST, and SGST can be set off against SGST and then against IGST.

Prior to 01.02.2019

The amount under various heads of credit could be used in the following order of preference:

I. IGST can be used:
   (a) For payment of tax as IGST
   (b) For payment of tax as CGST
   (c) For payment of tax as SGST

ii. CGST can be used:
   (a) For payment of tax as CGST
   (b) For payment of tax as IGST, in case balance is available

iii. SGST can be used:
   (a) For payment of tax as SGST
   (b) In case balance available, payment of tax as IGST

The following matrix depicts the manner of availing input tax credit prior to 1st February, 2019, i.e. upto 31.01.2019:

Payment For	First set off from	Then set off from
SGST	SGST	IGST
CGST	CGST	IGST
IGST	IGST	CGST & SGST

W.e.f. 01.02.2019

By CGST (Amendment) Act, 2018, section 49A was inserted w.e.f. 1.2.2019.

Accordingly, Government had changed the order of setoff of input tax credit by introducing section 49A w.e.f. 01.02.2019 according to which, IGST Credit was to be set off fully before taking any setoff of CGST or SGST, which meant that IGST Credit has to be first utilized fully for payment of IGST then for CGST and then for SGST liability as the case may be, even before utilization of ITC of CGST or SGST w.e.f. 01.02.2019.

The following matrix explains the manner of credit w.e.f. 01.02.2019 for any tax payments to be made:

Payment for	First set off from	Then set off from
SGST	IGST	SGST
CGST	IGST	CGST
IGST	IGST	CGST & SGST

Remedial Measures

FADA had represented before all necessary forums including Prime Minister's Office (PMO) / Ministry of Finance (MoF) etc. to remove the hardship of dealers due to the amended provisions. **Now, Ministry of Finance has come out with a possible solution by inserting new Rule 88A in CGST Rules to remove the hardship caused to dealers w.e.f. 01.02.2019.**

W.e.f. 29.03.2019

Vide Notification No. 16/2019-CT dated 29.03.2019, following Rule 88A has been inserted which is effective from 29.03.2019 itself. It provides as follows:

"Rule 88A. Order of utilization of input tax credit.- *Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order:*

Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory

tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully."

Dealers may, therefore, note the following to be implemented w.e.f. 29.03.2019 which seeks to nullify the impact of change and even the provision before 01.02.2019.

a) ITC on IGST has to be first fully utilized towards IGST and balance towards CGST / SGST / UTGST.

b) For utilization of balance IGST credit towards CGST / SGST / UTGST, there is no order of set off as earlier prescribed.

c) Credit can be taken in any order as per convenience / requirement.

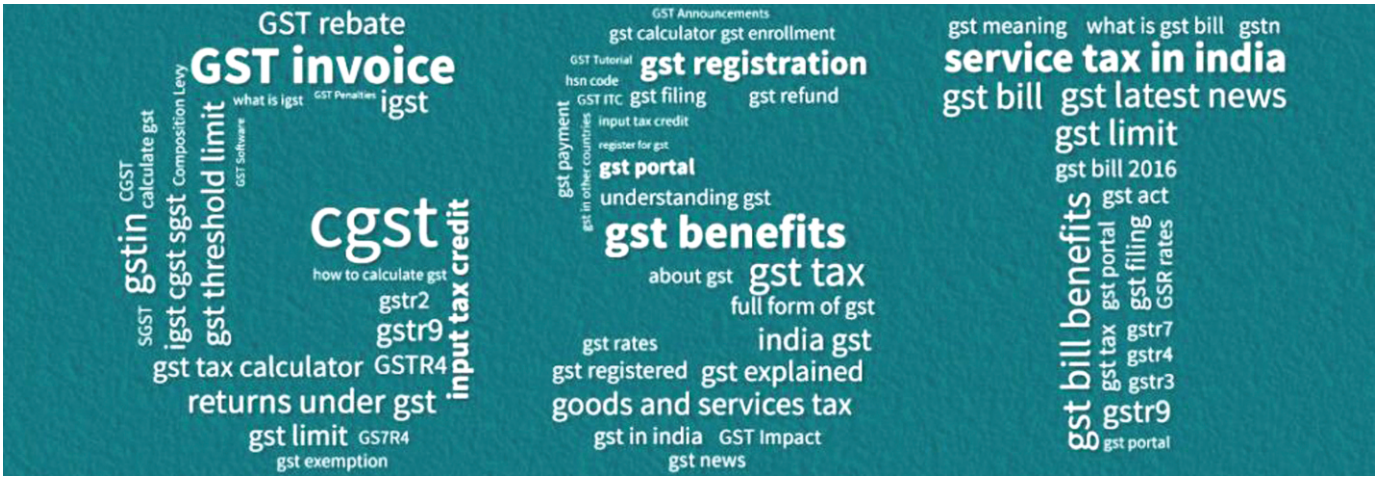
d) Set off ITC of CGST / SGST / UTGST can be utilized towards IGST, CGST, SGST or UTGST but only after fully exhausting the ITC of IGST.

Following tables illustrate the new provision

Utilization of ITC w.e.f. 29.03.2019 (with no IGST outward liability)

	IGST	*CGST*	*SGST / UTGST*
Input tax available	**100**	**100**	**100**
Output tax payable	**-**	**200**	**200**
Under new rule 88A			
IGST utilized	**-**	**50**	**50**
CGST utilized	**-**	**100**	**-**
SGST utilized		**-**	**100**
ITC Balance	**-**	**-**	**-**
Cash payment		**50**	**50**

Utilization of ITC w.e.f. 29.03.2019 (with IGST outward liability)

	IGST	*CGST*	*SGST / UTGST*
Input tax available	**100**	**100**	**100**
Output tax payable	**50**	**50**	**50**
Under new rule 88A			
IGST utilized	**50**	**25**	**25**
CGST utilized	**-**	**25**	**-**
SGST utilized		**-**	**25**
ITC Balance c/f	**-**	**75**	**75**

In view of the legal provisions, depending upon the time, there are three sets of manner of utilizing Input tax credit i.e., 01.07.2017 to 31.01.2019, 01.02.2019 to 28.03.2019 and from 29.03.2019 onwards. Taxpayers are advised to keep in mind the provisions of Input tax credit depending upon the relevant period.