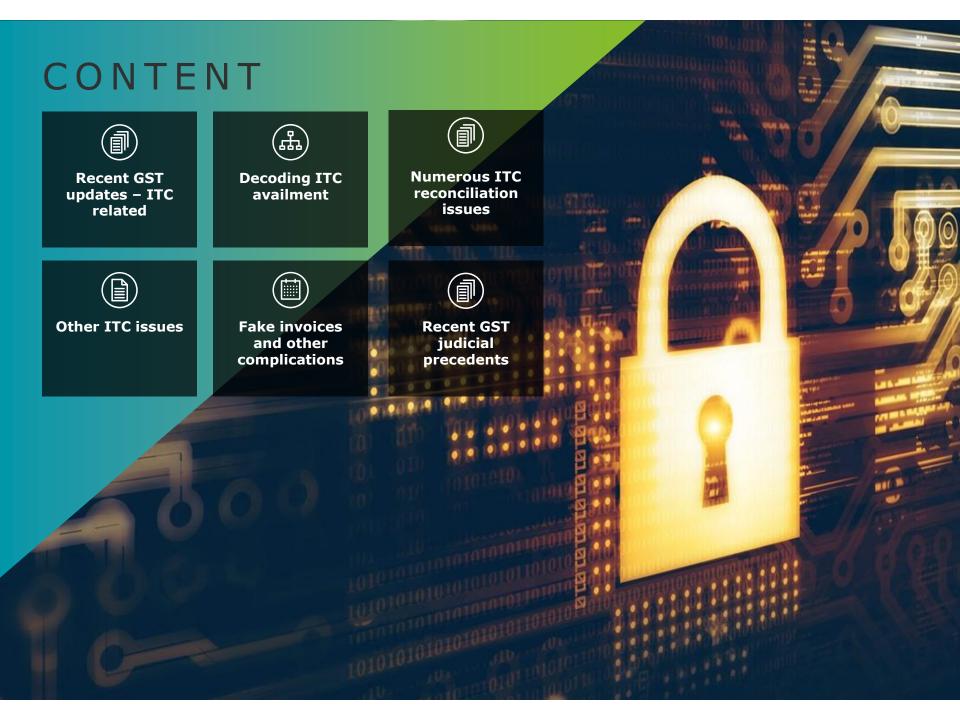
ACAE

GST and Seamless Input Tax Credit

M.S.Mani

Webinar

28 January 2021

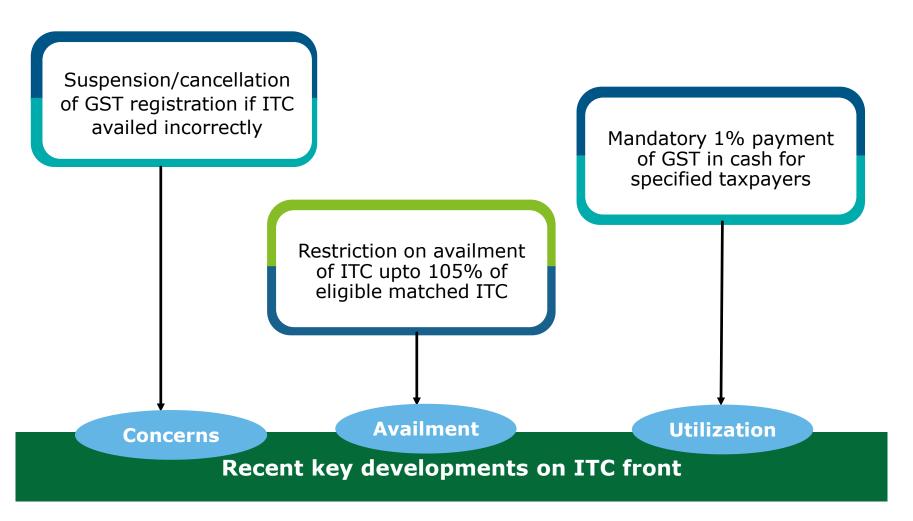




Recent GST updates - ITC related

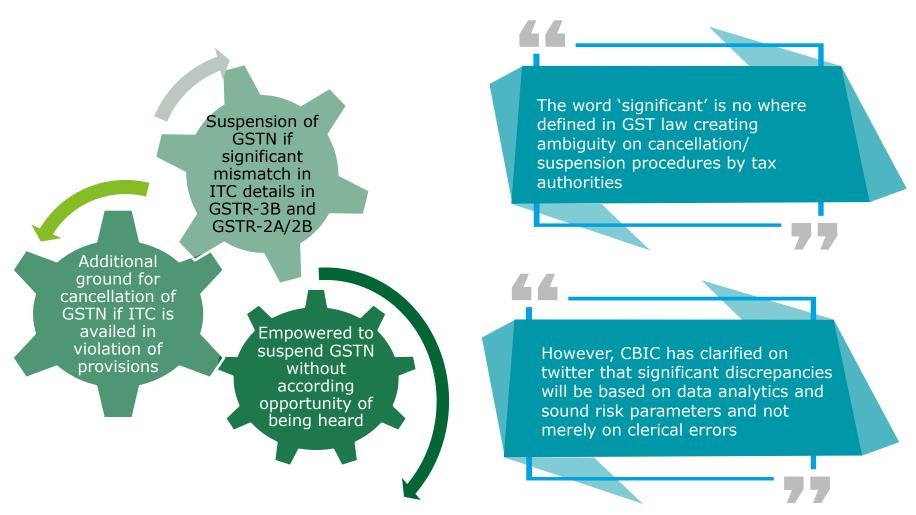
New Year Amendments - GST ITC

Input Tax Credit



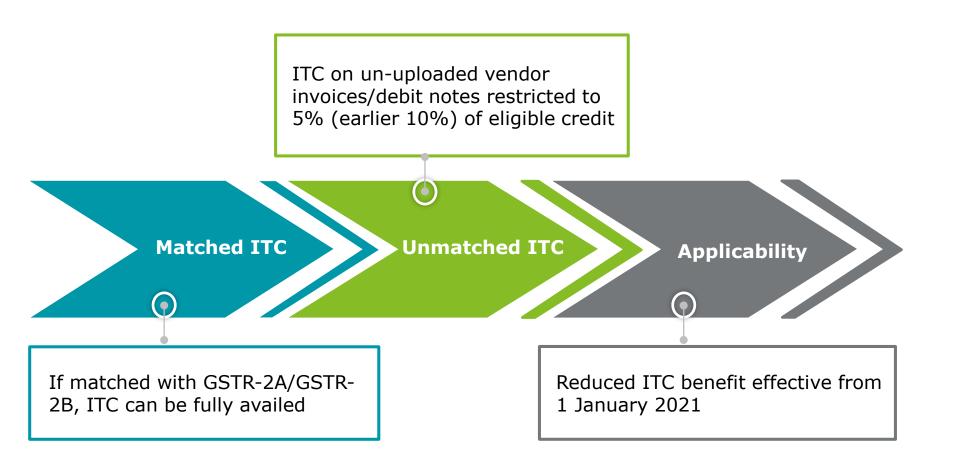
New Year Amendments - GST ITC

Suspension/cancellation of GST registration

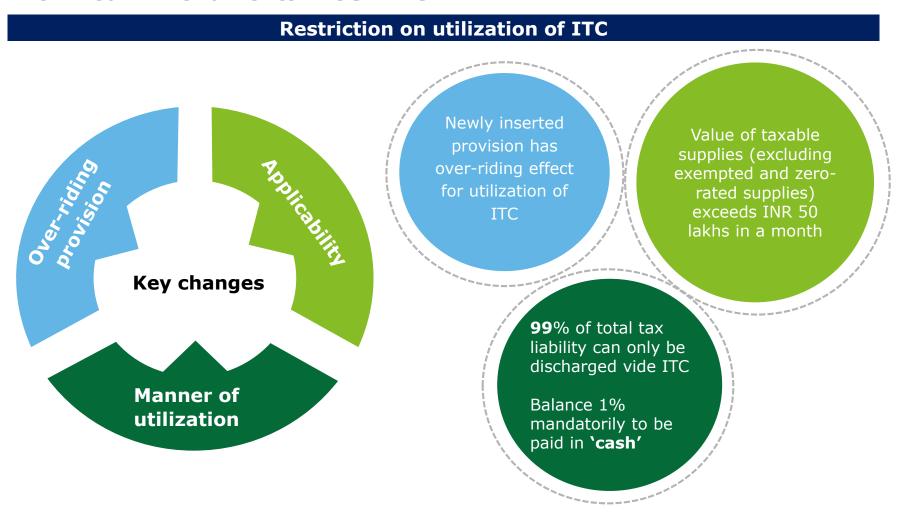


New Year Amendments - GST ITC

Restriction on availment of ITC



New Year Amendments – GST ITC



New Year Amendments – GST ITC

Restriction on utilization of ITC

Exceptions to restriction of ITC utilization

Refund

Refund received exceeding INR 1 Lakh of unutilized ITC on zero-rated supplies and inverted duty structure

Cumulative

1% of total

Person is a government department, PSU, local authority or statutory body

Said person or

or any of its two

partners, whole-

time directors,

has paid income

financial years

Managing Director tax exceeding INR 1 Lakh in last two

discharge of tax liability by using cash in excess of liability upto said month in current

Nature of person

Income Tax

Manner of cumulative payment

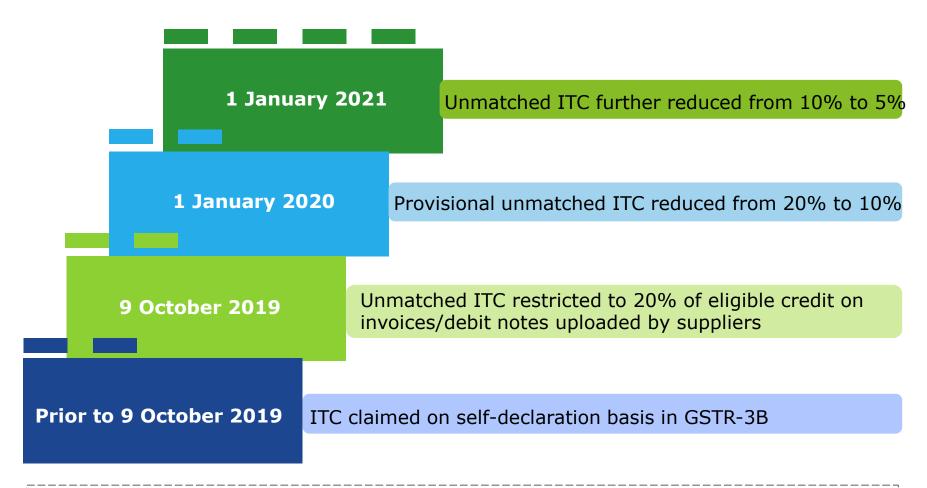
Uncertainty on profile and payment under Income Tax to decide genuineness of GST taxpayer



Decoding ITC availment

Decoding ITC availment

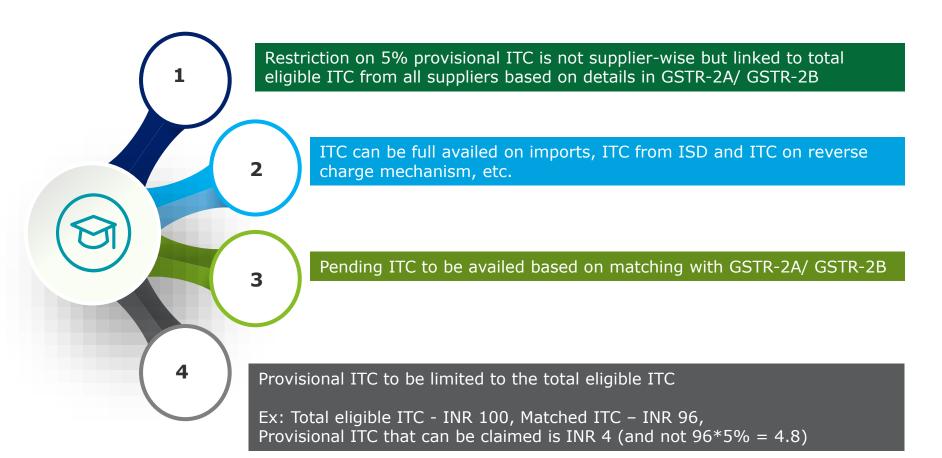
ITC availment since introduction of GST



Relief for ITC matching with purchase statement was granted during the period Feb'20-Aug'20 with condition that all ITC should be matched by Sep'20 GST return

Decoding ITC availment

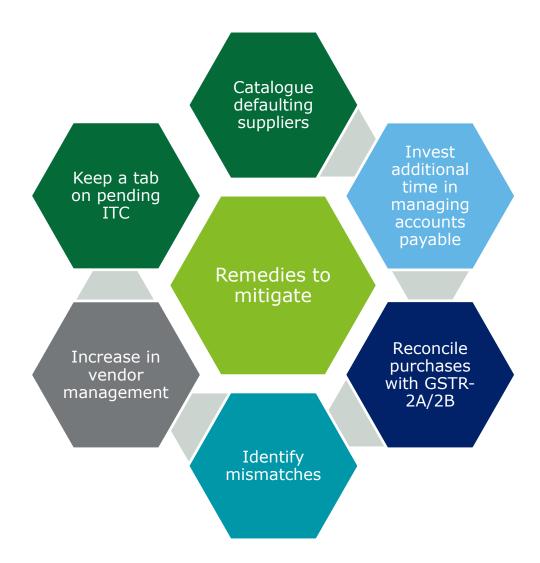
Key points to be noted

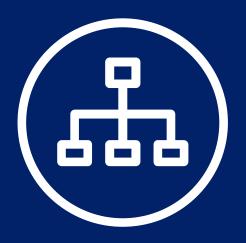


Affects cash flows of a taxpayer as despite having paid taxes to supplier, ITC cannot be availed on unuploaded invoices by supplier

Decoding ITC availment

Few remedies to mitigate issues





Introduction of GSTR-2B

Recently introduced auto-populated ITC statement in Form GSTR-2B Is static in nature and available only on 12th of succeeding month tax period Contains details only between two dates, however, GSTR-2A captures data on real time basis For Ex: GSTR-2B of December 2020 period contains details of returns filed between 12th of December 2020 to 11th January 2021 Considers ITC as not available if place of supply and supplier state is in same state but recipient in other state or if invoice/debit note date is after time limit as per Section 16(4) Contains the tax period and filing date of GSTR-1 in which supplier has uploaded the details

Preparation of various reconciliation

Three way reconciliation statements between

Purchase register and GSTR-3B

Categorize eligible and ineligible ITC basis the provisions of Section 16 and Section 17

GSTR-3B and GSTR-2A

ITC availed on vendor invoices to be compared with the invoices reflecting in GSTR-2A.

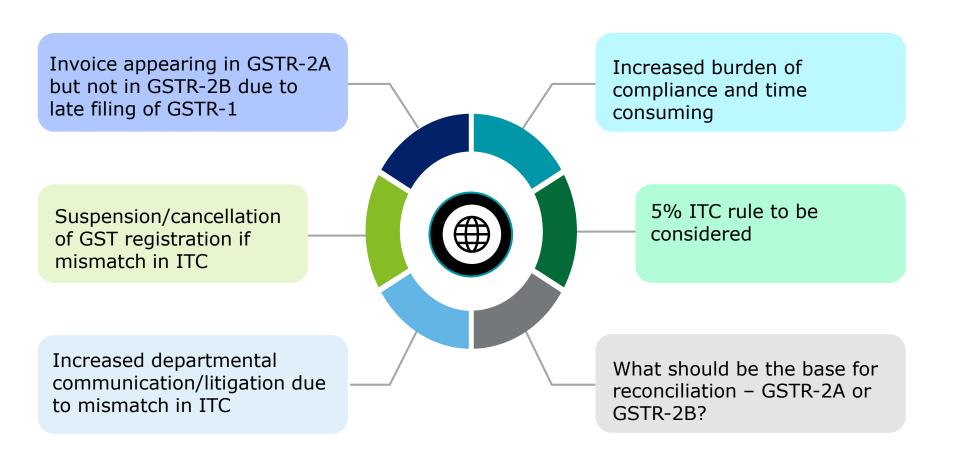
Matched ITC to be availed with the cushion of 5% for unmatched ITC

GSTR-2A and GSTR-2B

GSTR-2A is dynamic whereas GSTR-2B is static and therefore, a reconciliation to be prepared between the two.

GSTR-3B gets autopopulated basis GSTR-2B

Key teething issues



Key teething issues

Mismatch in ITC

May lead to denial of refund

May lead to blocking of E-way bill

ITC reversal

Any ITC reversal for exempt/other than business/others to be computed separately

GSTR-9/9C – reconciliation differences

ITC of previous year availed in current year

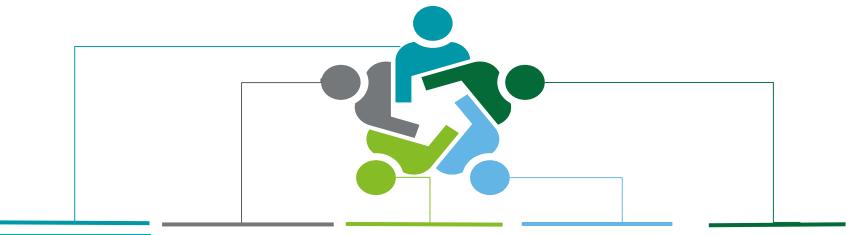
ITC of current year availed in subsequent year



Other ITC issues

Other ITC issues

Key concern areas



Interest on net cash tax liability

GST output
liability paid
through ITC
should not bear
interest. Interest
is to be paid only
on net cash
payment of GST
liability

ITC on debit note

Debit note has been de-linked from original invoice. Accordingly, time limit to avail ITC has increased

ITC on mediclaim

Not eligible.

However, as per MHA order, same could be available if policy subscribed between 15 April 2020 and 18 May 2020

Blocking of ECL

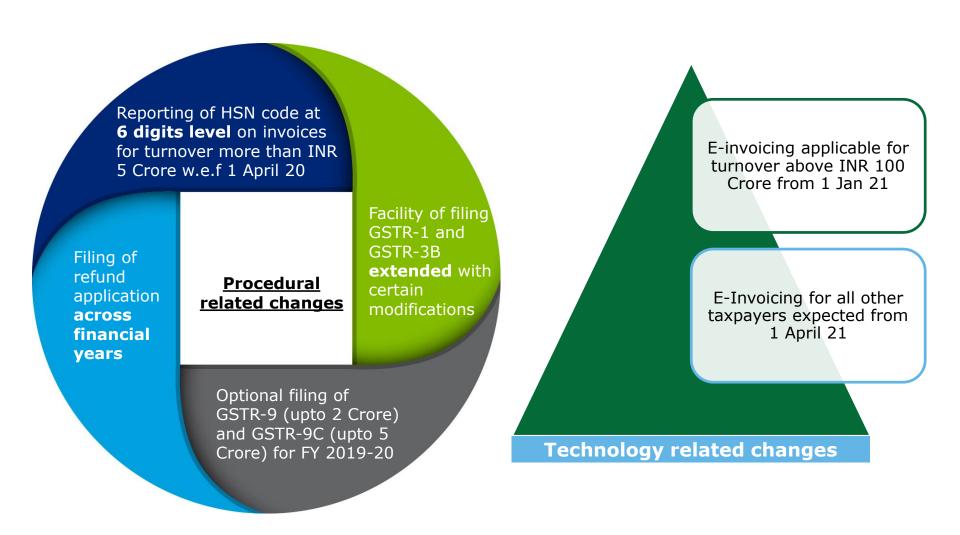
In case the authorities have adequate reasons to believe [including mismatch between GSTR-3B and GSTR-2A/2B] they can block the Electronic credit ledger thereby creating huge working capital blockage

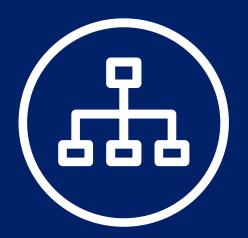
Provisional attachment

Similarly, in case any notice is already furnished for any mismatch in ITC, then property, including bank account can be provisionally attached

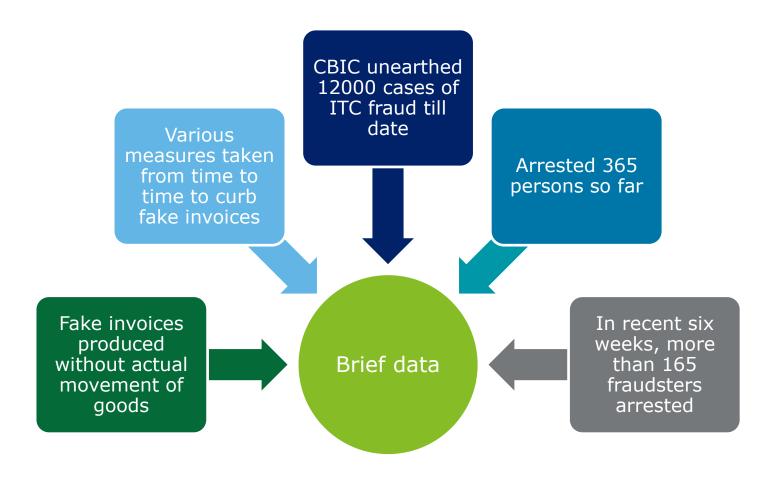
Other ITC Issues

Procedural and Technology related changes impacting ITC





Some numbers



Some numbers



DGGI Rohtak arrested one person in Hisar for issuing fake invoices to pass ITC of INR 13 crore fraudulently

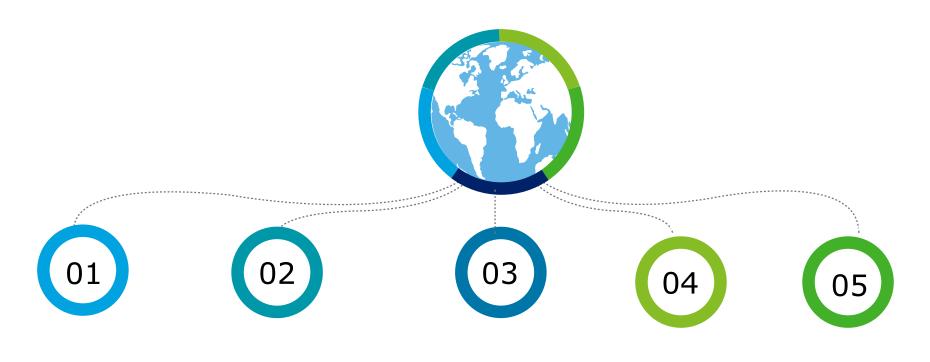


Anti-evasion officials of Delhi busted a major racket wherein seven different fake firms were floated with intent of passing credit of INR 137 crore. Searches were conducted in nine different places



DGGI Nagpur unearthed PAN-India invoice racket involving INR 78.13 crore ITC. Probe revealed 23 firms across India from Tamil Nadu to Delhi were involved

Measures taken to curb fake invoices



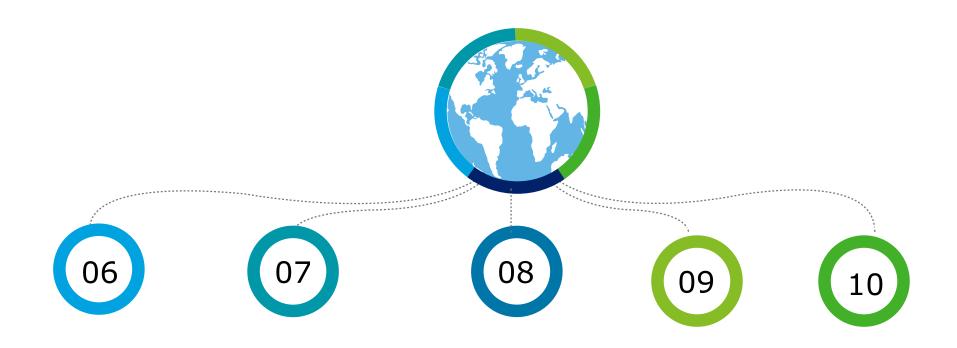
Tracking of movement of goods through E-Way bill ITC reconciliation with GSTR-2A/GSTR-2B

Introduction of E-invoicing

Cancellation/ suspension of GST registration

Blocking of Electronic Credit Ledger

Measures taken to curb fake invoices



Provisional attachment of property (including bank account)

Recognized as cognizable and non-bailable offence

Scrutiny of refunds issued since 2017

Data collected from Income Tax, Banks, etc. Sophisticated tools applied such as BIFA, data analytics, AL & ML to segregate fraudsters



Recent GST judicial precedents

Recent GST judicial precedents

Few Case Laws

High Court Verdicts

M/s. S.S. Industries v/s. Union of India (Gujarat HC)

Brief Facts:

 Justification for invoking Rule 86A pending inquiry relating to alleged fraudulent transactions

Issue:

 Whether CGST Rules envisage passing of a specific order to block or debit ITC in the electronic credit ledger with an obligation to 'communicate' the same to affected person

Held by the Hon'ble High Court (HC):

- Submission of the writ applicants as regards the indefeasible right to avail ITC vis-a-vis Rule 86A fails
- Rule 86A casts an obligation upon authority to form an opinion but is silent with regard to passing of any specific order assigning prima facie reasons for invoking the said Rule
- Cannot be said that exercise of power for blocking ITC is malafide/without application of mind
- Writ petition of taxpayer failed and rejected.

Recent GST judicial precedents

Few Case Laws

High Court Verdicts

M/s. Siddharth Mandavia v/s. Union of India (Bombay HC)

Brief Facts:

· Investigation for claim of input tax credit on the basis of ineligible documents

Issue:

• Whether importer exporter code (IEC code) and freezing of bank accounts belonging to petitioner and his family members

Held by the Hon'ble High Court (HC):

- There is no allegation or any averment made that any money belonging to petitioner or to his firm have been credited into joint accounts of petitioner with his wife or with his minor son or into the account of his wife
- They being not the tax payers in this case, provisional attachment of their bank accounts therefore would be unjustified
- Blocking of IEC code by any authority other than DGFT or by his authorized officer would be unauthorized, unwarranted and without jurisdiction
- Answered in favour of petitioner.

Questions

