F. No. CBIC/20/06/14/2020-GST Government of India Ministry of Finance Department of Revenue Central Board of Indirect Taxes and Customs GST Policy Wing

New Delhi, the 9th October, 2020

To

The Pr. Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All),
The Principal Director Generals / Director Generals (All)

Madam / Sir,

Subject: Clarification relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017 for the months of February, 2020 to August, 2020 – reg.

Vide Circular No. 123/42/2019 – GST dated 11th November, 2019, various issues relating to implementation of sub-rule (4) of rule 36 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) relating to availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) were clarified.

- 2. Keeping the situation prevailing in view of measures taken to contain the spread of COVID-19 pandemic, vide notification No. 30/2020-CT, dated 03.04.2020, it had been prescribed that the condition made under sub-rule (4) of rule 36 of the CGST Rules shall apply cumulatively for the tax period February, March, April, May, June, July and August, 2020 and that the return in **FORM GSTR-**3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months.
- 3. To ensure uniformity in the implementation of the said provisions across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies certain issues in succeeding paragraphs.
- 3.1 It is re-iterated that the clarifications issued earlier vide Circular No. 123/42/2019 GST dated 11.11.2019 shall still remain applicable, except for the cumulative application as prescribed in proviso to sub-rule (4) of rule 36 of the CGST Rules. Accordingly, all the taxpayers are advised to ascertain the details of invoices_uploaded by their suppliers under subsection (1) of section 37 of the CGST Act for the periods of February, March, April, May, June, July and August, 2020, till the due date of furnishing of the statement in FORM GSTR-1 for the month of September, 2020 as reflected in GSTR-2As.
- 3.2 Taxpayers shall reconcile the ITC availed in their **FORM GSTR-3Bs** for the period February, 2020 to August, 2020 with the details of invoices uploaded by their suppliers of the said Page 1 of 3

months, till the due date of furnishing **FORM GSTR-1** for the month of September, 2020. The cumulative amount of ITC availed for the said months in **FORM GSTR-3B** should not exceed 110% of the cumulative value 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 of the CGST Act, till the due date of furnishing of the statements in **FORM GSTR-1** for the month of September, 2020.

- 3.3 It may be noted that availability of 110% of the cumulative value 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 of the CGST Act does not mean that the total credit can exceed the tax amount as reflected in the total invoices for the supplies received by the taxpayer i.e. the maximum credit available in terms of provisions of section 16 of the CGST Act.
- 3.4 The excess ITC availed arising out of reconciliation <u>during this period</u>, if any, shall be required to be reversed in Table 4(B)(2) of FORM GSTR-3B, for the month of September, 2020. Failure to reverse such excess availed ITC on account of cumulative application of sub-rule (4) of rule 36 of the CGST Rules would be treated as availment of ineligible ITC during the month of September, 2020.
- 4. The manner of cumulative reconciliation for the said months in terms of proviso to subrule (4) of rule 36 of the CGST Rules is explained by way of illustration, in a tabulated form, below.

Table I **Invoices on Eligible ITC** which ITC is as per the **ITC** eligible and provisions of availed by uploaded by the Chapter V of suppliers till the the CGST taxpayer due date of Act and the (recipient) FORM GSTR-1 for the tax in GSTRrules made 3B of the thereunder, period of Effect of cumulative except rule respective September, application of rule 36(4) Tax period 36(4) months 2020 on availability of ITC. Maximum eligible ITC in Feb, 2020 300 300 270 terms of rule 36 (4) is 2450 400 400 380 March, 2020 + [10% of 2450] =2695. April, 2020 500 500 450 Taxpayer had availed ITC 320 May, 2020 350 350 of 2750. Therefore, ITC of June, 2020 450 450 400 55 [2750-2695] would be July, 2020 550 550 480 required to be reversed as 200 August, 2020 200 150 mentioned in para 3.4. **TOTAL** 2750 2750 2450 above. ITC Reversal required to the extent of 55 10% Rule shall apply independently for September, 2020 385 **350** | September, 2020 **500**

385 under Table 4(A) and would reverse ITC of 55 under Table 4(B)(2)

In the FORM GSTR-3B for the month of September, 2020, the tax payer shall avail ITC of

- 5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. Hindi version will follow.
- 6. Difficulty, if any, in implementation of this circular may please be brought to the notice of the Board.

(Yogendra Garg) Principal Commissioner (GST) y.garg@nic.in