



ITC Denial: A Burden on Honest Taxpayers!

 Saurabh Giri



CURRENT GST INPUT TAX CREDIT ISSUES



🛑 ITC Denial Due to Supplier's Default –

What is ITC & Section 16(2)(c) of CGST Act?

- **Input Tax Credit (ITC)** allows businesses to claim credit for GST paid on purchases.
- **Section 16(2)(c)** states that ITC can only be claimed if the **supplier has actually paid the tax** to the government.
- If the supplier **fails to remit GST**, the buyer **loses ITC**, even though they have paid the tax to the supplier.



Example: A manufacturer purchases goods worth ₹1,00,000, paying ₹18,000 GST to the supplier. If the supplier **fails to deposit GST**, the manufacturer's **ITC is denied**, leading to an unfair additional tax burden.



CURRENT GST INPUT TAX CREDIT ISSUES



Judicial View: & Court Rulings🔍-

- **Madras High Court (Pinstar Automotive case)** ruled that **buyers must ensure** the supplier pays GST; otherwise, ITC will be denied.
- **Pre-GST cases (Kay Kay Industries, Juhi Alloys Ltd.)** held that buyers **cannot be expected** to verify supplier tax payments.
- **GST-era rulings (Arise India Ltd., D.Y. Beathel Enterprises, Infiniti Wholesale Ltd.)** stated that ITC should not be denied to genuine buyers. Courts ruled that **action should be taken against the supplier instead**



CURRENT GST INPUT TAX CREDIT ISSUES



Government's Stand

- ✓ **2018 GST Council clarified** that ITC should not be reversed automatically if the supplier defaults; recovery should be from the supplier first.
- ✓ The **28th GST Council Meeting** recommended that tax collection focus on **defaulting suppliers, not buyers**.
- ✓ The current law creates **practical challenges** and contradicts the **ease of doing business** goal of GST



CURRENT GST INPUT TAX CREDIT ISSUES



Why is this unfair?

- ◇ **Buyers have no control** over whether the supplier pays GST.
- ◇ **Courts (Arise India Ltd., D.Y. Beathel Enterprises)** have ruled that action should be taken against the defaulting supplier, not the buyer.
- ◇ **GST Council (2018 Press Release & 28th Meeting)** clarified that ITC should not be reversed automatically.



Practical Challenge:

Despite court rulings and departmental clarifications, the current law contradicts the ease of doing business and unfairly penalizes buyers for supplier non-compliance.



CURRENT GST INPUT TAX CREDIT ISSUES



The Way Forward:

- ☒ Amend Section 16(2)(c) to protect buyers from supplier defaults.
- ☒ Introduce a tax tracking system to verify GST payments.
- ☒ Ensure judicial intervention to safeguard genuine taxpayers.

 Should businesses bear the burden of supplier non-compliance?



CURRENT GST INPUT TAX CREDIT ISSUES



⚠ Suggestion for Buyers:

To avoid ITC denial, ensure:

- ✓ Dealing with compliant suppliers
 - ✓ Regularly checking GST return filings (GSTR-1 & GSTR-3B)
 - ✓ Keeping track of tax remittances
- 🔍 Stay vigilant to safeguard your ITC!



🙏 Gratitude Post 🙏

Thank you for taking the time to read and engage with my posts. Your support, insights, and interactions mean a lot to me. Let's continue sharing knowledge and growing together!

📢 If you found this post valuable, **share & repost** to help others stay informed.

Stay connected: [Saurabh Giri](#)

