

ELIGIBILITY OF INPUT TAX CREDIT ON COMPOSITION SCHEME WITHDRAWAL BY DEPARTMENT



In the given article we are going to understand whether the supplier registered under composition scheme is eligible to claim ITC in case the composition scheme is withdrawal by the Department.

To understand this first we need to understand the composition scheme.

A registered person whose aggregate turnover in the preceding year does not exceed Rs.1.5crore , may opt to pay amount of tax calculated as per the composition scheme.



Suppose, Mr. A is registered under the composition scheme. GST officers come for investigation in the office premise of Mr. A and found that the aggregate turnover of Mr. A is more than 1.5crore and he is not eligible to pay tax under the composition scheme and issue an order for withdrawal of composition levy.

Now, the question is whether Mr. A is eligible to take ITC or not.

The answer of this question contained in Rule 6 of CGST Act which we are going to discuss below.

Rule 6 of CGST Act,2017

- (1) The option exercised by a registered person to pay tax under section 10 (composition scheme) shall remain valid as long as he satisfies all the conditions mentioned in the said section and under these rules.
- (2) The person covered under composition scheme shall be liable to pay tax under sub section(1) of section 9 from the day he ceases to satisfy any of the conditions mentioned in section 10 and he shall also file an intimation for the withdrawal from the scheme in FORM GST CMP-04 within seven days from the date of the occurrence of such event.
- (3) The registered person who intends to withdraw from the composition scheme shall before the date of such withdrawal , file an application in GST FORM CMP-04, duly signed or verified through electronic verification code, electronically on the common portal.
- (4) Where the officer has proper reason to believe that the registered person is not eligible to pay tax under section 10 or has contravened the provision of the act ,he may issue a notice to such person in GST FORM CMP-05 to show cause within fifteen days of the receipt of the such notice as to why the option to pay tax under section 10 shall not be denied.

(5) The registered person is required to send reply to the show cause in FORM GST CMP -06. The officer

shall issue an order in FORM GST CMP-07 within a period of thirty days of the receipt of such supply, that whether the department accept the reply or denying the option to pay tax under section 10. from the date of the option or from the date of the contravention, as the case may be.

(6) **6)** Every person who has furnished an intimation under sub-rule (2) or filed an application for withdrawal or a person against whom an order of withdrawal of option has been passed in **FORM GST CMP-07** , may electronically furnish at the common portal, either directly or through a Facilitation Centre notified by the Commissioner, a statement in **FORM GST ITC- 01** containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within a period of thirty days from the date from which the option is withdrawn or from the date of the order passed in **FORM GST CMP-07**, as the case may be.

(7) Any intimation or application for withdrawal under sub-rule (2) or (3) or denial of the option to pay tax under [section 10](#) in accordance with sub-rule (5) in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

Conclusion



It is concluded that the person is eligible to take input even if the Department has withdrawn composition levy within a period of thirty days from the days on which the order for withdrawn has been passed.