



GST ki गणित

Burden of Proof of ITC (Section 155 of CGST Act, 2017)

Let us understand the implications of Section 155 of the CGST Act, 2017 through an interesting story.





Miss Emma, a business owner is duly registered under GST. She claimed ITC for the month of July, 2023 as per her GSTR-3B.

After sometime, she received a show cause notice, on the GST Portal, stating that the ITC claimed by her in GSTR-3B of July, 2023 was inadmissible as it included input in respect of hotel accommodation in a different state.

In reply to the said notice, Emma told the GST Officer that:

Why is the ITC in respect of hotel accommodation inadmissible when it is appearing in my GSTR-2B? I have claimed all the ITC in accordance with section 16 of the Act. Therefore, I am eligible to claim the ITC.

ITC in respect of hotel accommodation in a different state is ineligible as place of supply and supply state are the same state, while the recipient state is different. Even then, if you claim that you are eligible to claim the ITC, then the burden of proof lies on you.



After the conversation with the proper officer, Emma was confused about the meaning of *'burden of proof'*. So, she asked for advice from her Chartered Accountant friend.



Hey, Anuprav! I had a conversation with the GST Officer about eligibility to claim ITC appearing in GSTR-2B. He told me that it is inadmissible and said that the burden of proof of the same lies on me. What do we mean by *'burden of proof'*?



Hello, Emma. The officer was referring to Section 155 of the CGST Act, 2017. This section states that if a person claims to be eligible to avail ITC, then the burden of proof shall lie upon the person so claiming. In other words, if a person claims that he is eligible to claim ITC, then he will have to prove the same.





In your case, you have claimed in front of the proper officer that you are eligible to claim the ITC. Thus, the burden of proving the same to him shall lie on you. You will have to prove that you were eligible, by law, to claim the said ITC and have claimed the same rightfully. It doesn't matter if the ITC is appearing in GSTR-2B. If it is ineligible, you cannot claim it. The same is true for hotel accommodation in a different state.



**Ok. I understood what you were trying to say. Thank you.
In future, if ever I am denied genuine ITC, I will prove that I am eligible to claim the same, as per section 155 of the Act.**



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