

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.



Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

CHALLENGES IN THE INPUT TAX CREDIT MECHANISM UNDER INDIA'S GOODS AND SERVICES TAX REGIME: A CRITICAL ANALYSIS

AUTHORED BY - PA.KAARTHHIK,
B.TECH, LL.B, LL.M

CO-AUTHOR - R.S.DHIVYA
B.A.B.L, LL.M

Abstract

This paper examines the structural and operational challenges in the Input Tax Credit (ITC) mechanism under India's Goods and Services Tax (GST) framework. Through analysis of judicial precedents, statutory provisions, and practical implementation issues, this research identifies key bottlenecks in the ITC system and proposes comprehensive solutions for reform. The study particularly focuses on the disconnect between substantive rights and procedural requirements, technical glitches in the GSTN portal, and jurisdictional challenges affecting seamless credit flow.

1. Introduction

The introduction of Goods and Services Tax (GST) in India on July 1, 2017, marked a paradigm shift in the country's indirect tax regime. While GST aimed to create a unified national market by subsuming multiple indirect taxes, the Input Tax Credit (ITC) mechanism—its cornerstone—continues to face significant challenges. This paper critically examines these challenges and proposes solutions based on empirical evidence and legal analysis.

2. Legislative Framework of Input Tax Credit

2.1 Statutory Provisions

The right to ITC is primarily governed by Section 16 of the Central Goods and Services Tax Act, 2017 (CGST Act). The provision stipulates four essential conditions:

- Receipt of goods/services
- Possession of tax invoice or debit note

- Payment of tax to government by supplier
- Filing of returns under Section 39

2.2 Procedural Requirements

The procedural aspects are governed by:

- Section 37 (Outward supply details)
- Section 38 (Communication of ITC)
- Section 39 (Returns)
- Section 41 (Claim of ITC and provisional acceptance)

3. Critical Analysis of Major Challenges

3.1 Substantive Right vs. Procedural Requirements

The Supreme Court in *Eicher Motors Ltd. v. Union of India* (1999) 2 SCC 361 recognized ITC as a vested right. However, procedural requirements often override this substantive right. The Delhi High Court in *Bharti Airtel Limited v. Union of India* 2021 SCC OnLine Del 4091 highlighted this dichotomy, emphasizing that technical glitches should not defeat substantive rights.

3.2 Technology-Related Issues

3.2.1 GSTN Portal Limitations

The GSTN portal's technical constraints have led to numerous challenges:

- Time-outs during peak filing periods
- Auto-population errors in GSTR-2B
- Mismatches between GSTR-1 and GSTR-3B

3.2.2 Judicial Response

In *Blue Bird Pure Pvt. Ltd. v. Union of India* (2019) 68 GSTR 340 (Delhi), the court directed manual intervention where technical glitches prevented ITC claim within the prescribed timeline.

3.3 Supplier Non-Compliance Impact

The condition linking ITC availability to supplier's tax payment has created significant challenges:

- *Arise India Limited v. Commissioner of Trade & Taxes, Delhi* (2018) 53 GSTN 65 (Delhi)
- *On Quest Merchandising India Pvt. Ltd. v. Government of NCT of Delhi* (2018) 54 GSTN 337 (Delhi)

4. Jurisdictional Challenges

4.1 Inter-State Transactions

Complex jurisdictional issues arise in:

- Place of supply determination
- Cross-jurisdictional verifications
- Interstate credit transfer

4.2 Constitutional Implications

The Supreme Court in *Union of India v. Mohit Minerals Pvt. Ltd.* (2019) 2 SCC 599 emphasized the need for harmonious interpretation of GST provisions with constitutional principles.

5. Impact Analysis

5.1 Economic Impact

- Working capital blockage
- Compliance costs
- Business efficiency
- Market competitiveness

5.2 Sectoral Analysis

Different sectors face unique challenges:

- Export sector: Refund delays
- Construction sector: Restricted credit
- E-commerce: Marketplace complexities

6. International Best Practices

6.1 European Union Model

The EU VAT system provides valuable insights:

- Reverse charge mechanism
- Real-time reporting
- Standardized documentation

6.2 Australian GST System

Australia's GST framework offers lessons in:

- Simplified compliance
- Electronic invoicing
- Risk-based verification

7. Proposed Solutions

7.1 Legislative Reforms

7.1.1 Short-term Measures

- Amendments to Section 16(2) removing supplier compliance linkage
- Extended timelines for ITC claims
- Simplified documentation requirements

7.1.2 Long-term Reforms

- Proper Implementation of invoice matching system
- Real-time verification mechanism
- Automated refund processing

7.2 Technical Solutions

- Enhanced GSTN portal capacity
- API-based real-time verification
- Blockchain integration for transparency

7.3 Administrative Reforms

- Specialized ITC grievance redressal mechanism
- Risk-based audit approach
- Standardized operating procedures

8. Conclusion

The ITC mechanism under GST requires significant reforms to achieve its intended objectives. While recent judicial interventions have provided temporary relief, sustainable solutions require a combination of legislative, technical, and administrative measures. This paper's recommendations provide a roadmap for comprehensive reform of the ITC system.

References

Statutory Materials

1. The Central Goods and Services Tax Act, 2017
2. The Integrated Goods and Services Tax Act, 2017
3. GST Council Meeting Minutes (1st to 49th meetings)

Case Laws

1. *Eicher Motors Ltd. v. Union of India* (1999) 2 SCC 361
2. *Bharti Airtel Limited v. Union of India* 2021 SCC OnLine Del 4091
3. *Blue Bird Pure Pvt. Ltd. v. Union of India* (2019) 68 GSTR 340
4. *Arise India Limited v. Commissioner of Trade & Taxes, Delhi* (2018) 53 GSTN 65
5. *Union of India v. Mohit Minerals Pvt. Ltd.* (2019) 2 SCC 599

Academic Sources

1. Empowered Committee of State Finance Ministers. (2009). First Discussion Paper on GST in India
2. Reserve Bank of India. (2023). Study on GST Impact on Indian Economy
3. GST Network. (2023). Annual Report on GSTN Operations
4. World Bank. (2022). Ease of Doing Business Report - India Chapter
5. ICAI. (2023). Technical Guide on GST Annual Return and Audit