

1552  
02/11/2021

**CBEC-20/16/05/2021-GST**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Indirect Taxes and Customs**  
**GST Policy Wing**  
\*\*\*\*\*

New Delhi, dated 2<sup>nd</sup> November, 2021

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /  
Commissioners of Central Tax (All)  
The Principal Directors General / Directors General (All)

Madam/Sir,

**Subject: Guidelines for disallowing debit of electronic credit ledger under Rule 86A of the CGST Rules, 2017 –Reg.**

Rule 86A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “the Rules”) provides that in certain circumstances, Commissioner or an officer authorised by him, on the basis of reasonable belief that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible, may not allow debit of an amount equivalent to such credit in electronic credit ledger.

2. Doubts have been raised by the field formations on various issues pertaining to disallowing debit of input tax credit from electronic credit ledger, under rule 86A of the Rules. Further, Hon’ble High Courts in some cases have emphasized the need for laying down guidelines for the purpose of invoking rule 86A. In view of the above, the following guidelines are hereby issued with respect to exercise of power under rule 86A of the Rules:

**3.1 Grounds for disallowing debit of an amount from electronic credit ledger:**

**3.1.1** Rule 86A of the Rules is reproduced hereunder for reference:

*“86A. Conditions of use of amount available in electronic credit ledger.-*

*(1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-*

- a) *the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-*
  - i. *issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or*
  - ii. *without receipt of goods or services or both; or*
- b) *the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or*
- c) *the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or*
- d) *the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,*

*may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.*

*(2)The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.*

*(3)Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.”*

**3.1.2** Perusal of the rule makes it clear that the Commissioner, or an officer authorised by him, not below the rank of Assistant Commissioner, must have "reasons to believe" that credit of input tax available in the electronic credit ledger is either ineligible or has been fraudulently availed by the registered person, before disallowing the debit of amount from electronic credit ledger of the said registered person under rule 86A. The reasons for such belief must be based only on one or more of the following grounds:

- a) The credit is availed by the registered person on the invoices or debit notes issued by a supplier, who is found to be non-existent or is found not to be conducting any business from the place declared in registration.
- b) The credit is availed by the registered person on invoices or debit notes, without actually receiving any goods or services or both.
- c) The credit is availed by the registered person on invoices or debit notes, the tax in respect