

Taxman may get to block doubtful input tax credit

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The Govt. is set to tweak GST law that would allow taxman to block input tax credit of cos if they suspect fraud.

The government is set to amend Section 49 of the Goods and Services Tax (GST) law that would allow tax officers to block input tax credit of companies if they suspect fraud, an agenda note for the GST council meeting circulated to all state finance ministers and senior tax officials indicated.

“Fraudulent ITC (input tax credit) avilment based on fake invoices has become quite rampant. As investigations get initiated, if the utilization of such suspected credit continues, the investigation efforts get frustrated,” the government document reads.

“The commissioner or an officer authorized by him on this behalf, may restrict utilisation of full or part amount from the credit available in the electronic credit ledger for making any payment towards output tax or claiming input tax credit refund,” part of the amended section reads.

Industry trackers said giving additional powers to the tax officers may create problems in the coming days. Senior tax officers would be able to partially or fully block input tax credit of companies henceforth. This comes at a time when indirect tax officers have been arresting promoters if they suspect “circular trading” with an aim to avail input tax credit.

“Giving arbitrary and unfettered powers to commissioners to reject or withhold input credit claims based on whims and fancies will lead to harassment and eventually impact the already traumatised economy. There is a problem in the law which needs to be changed, but to propose to amend a section without actually coming out with regulations on how to determine whether the input tax credit is actually fake, will only add to the existing problems,” said Sujay Kantawala, high court advocate who also represents several promoters arrested by indirect tax officials.

Tax experts also question what would happen in cases where a company challenges taxman’s stand and wins a case in the court. “It is important to understand whether in cases where credit has been wrongly blocked, the taxpayer will get the interest for the delayed period of non-utilisation as the tax payer should be appropriately compensated for delay in utilisation of credit,” said Abhishek A Rastogi, partner at Khaitan & Co.

Several promoters have challenged in different forums indirect tax officials’ right to arrest them. ET on December 11 reported that several promoters had filed a joint writ petition in

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the high court, challenging the validity of the GST statutory provisions related to arrest and freezing of bank accounts.