

INPUT TAX CREDIT



The section numbers referred to in the Chapter pertain to CGST Act and rule numbers referred to in the Chapter pertain to CGST Rules, unless otherwise specified. For the sake of brevity, input tax credit has been referred to as ITC in this Chapter. Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

LEARNING OUTCOMES

After studying this Chapter, you will be able to:

- describe what are inputs, input services, capital goods and other relevant terms in relation to ITC.
- explain the various conditions, timelines, restrictions and processes for taking ITC on goods and services in general and special circumstances.
- identify the items on which ITC is available as also the blocked items on which ITC is not available.
- comprehend and apply the above provisions as also the provisions relating to utilization of ITC to compute the GST liability of a registered person.

CHAPTER OVERVIEW**Input Tax credit**

Relevant definitions

Eligibility and conditions for taking ITC

Blocked credits

Availability of credit in special circumstances

How ITC is utilised

**1. INTRODUCTION**

In earlier indirect tax regime, the credit mechanism for indirect taxes levied by the Union Government, (central excise duty and service tax) was governed by the CENVAT Credit Rules, 2004; and the credit mechanism for state-level on sale of goods was governed by the States under their respective VAT laws.

TAX CREDIT

The VAT legislations allowed ITC of VAT on inputs and capital goods in transactions within the State, but not on inputs and capital goods coming in the State from outside the State, on which central sales tax was paid. CENVAT Credit Rules, 2004 allowed availing and utilizing credit of duty/tax paid on both goods (capital goods and inputs) and services by the manufacturers and the service providers across the country.

The credit across goods and services was integrated vide the CENVAT Credit Rules, 2004 in the year 2004 to mitigate the cascading effects of central levies namely, central excise duty and service tax. However, the credit chain remained fragmented on account of State-Level VAT as the credit of central taxes could not be set off against a State levy and *vice versa*. The chain further got distorted as ITC was not available on the inter-State purchases. This resulted in cascading of taxes leading to increase in costs of goods and services.

The GST regime promises seamless credit on goods and services across the entire supply chain with some exceptions like supplies charged to tax under composition scheme, blocked credits and supply of exempted goods and/or services. ITC is considered to be the lifeline of the GST regime. In fact, it is the provisions of ITC, which essentially make GST - a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.

Chapter V of the CGST Act [Sections 16 to 21] & Chapter V: Input Tax Credit of the CGST Rules [Rules 36-45] prescribe the provisions relating to ITC. Further, section 41 contains provisions for availment of ITC, sections 49(5), 49A, 49B and rule 88A which together prescribe the sequence of utilisation of ITC and rules 86A and 86B stipulate the conditions of use of amount available in electronic credit ledger and restrictions on use of amount available in electronic credit ledger. State GST laws also prescribe identical provisions in relation to ITC. In this Chapter, provisions of sections 16, 17, 18 and 41 have been discussed;¹ first the statutory provisions of these sections together with the relevant rules have been extracted followed by their analysis.

Provisions of ITC under the CGST Act have also been made applicable to the IGST Act vide section 20 of the IGST Act.

¹Provisions of ITC relating to job work and input service distributor (ISD) [Sections 19, 20 and 21] and provisions relating to ITC claim by banking companies, distribution of ITC by ISD, determination of ITC on inputs, input services and capital goods and reversal thereof [Rules 38, 39, 42 and 43] will be discussed at the Final level.

Scheme of ITC - At a Glance

Given below are the salient features of the scheme of ITC as contained in the provisions of sections 16, 17 and 18 read with the relevant rules. The scheme has been discussed in detail in the ensuing pages of this Chapter.

- The scheme is designed to avoid cascading effect of taxes and make GST - a destination-based tax.
- Broadly, ITC is available on all inputs, input services and capital goods used for purposes of business by a taxable person. The exception is 'blocked credit', where ITC is not available even when these goods or services are used for the purposes of business.
- ITC is used for payment of tax on taxable output supply to avoid cascading effect of taxes.
- GST law does not require 'one to one' co-relation between inputs/input services and final products/services. Any eligible ITC can be used for payment of tax on any taxable output supply.
- IGST is another core aspect of GST. It is a transitory tax to enable transfer of ITC when goods or services move from one State to another. This is a unique feature of Indian GST.
- Since ITC can be availed & utilized for payment of tax on taxable output supply, as a natural corollary, ITC cannot be availed in respect of exempt output supply on which tax is not payable.
- The exception to the above principle is 'zero rated supply'², i.e. exports or supplies to a special economic zone (SEZ) developer/unit, where ITC is available even if no tax is payable on output supply as zero-rated supplies are not exempt supplies. Such ITC can be utilized either for making supplies by paying tax or refund of the unutilized ITC can be obtained. This simple mechanism is used to make exports and supplies to SEZ completely tax free.
- If a taxable person is making both taxable and exempt supply, he is entitled to avail full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all can be availed for inputs, input services and capital goods exclusively used for exempt supply.

²The concept of zero- rated supply and the refund of ITC will be dealt in detail at the Final level.

- If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available. The common ITC is apportioned in the ratio of value of taxable supply and exempt supply. Elaborate provisions have been made in the GST law to prescribe the manner of calculation of proportionate ITC.

Before proceeding to understand the provisions of sections 16, 17, 18, 41 and the relevant rules, let us first go through few relevant definitions.



2. RELEVANT DEFINITIONS

- **Agent** means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].
- **Business** includes
 - (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
 - (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
 - (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
 - (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
 - (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
 - (f) admission, for a consideration, of persons to any premises;
 - (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

- (h) activities of a race club including by way of totalisator or a licence to book maker or activities of a licenced book maker in such club; and
 - (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities [Section 2(17)].
- Capital goods** means goods, the value of which is capitalized in the books of account of the person claiming the ITC and which are used or intended to be used in the course or furtherance of business [Section 2(19)].
- Conveyance** includes a vessel, an aircraft and a vehicle [Section 2(34)].
- Exempt supply** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the IGST Act, and includes non-taxable supply [Section 2(47)].
- Input** means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business [Section 2(59)].
- Input service** means any service used or intended to be used by a supplier in the course or furtherance of business [Section 2(60)].
- Input tax** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
- (a) the integrated goods and services tax charged on import of goods;
 - (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
 - (c) the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;
 - (d) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or
 - (e) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,
- but does not include the tax paid under the composition levy[Section 2(62)].
- Input tax credit** means the credit of input tax[Section 2(63)].

□ **Invoice or tax invoice means** the tax invoice referred to in Section 31 [Section 2(66)].

□ **Inward supply** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration [Section 2(67)].

□ **Motor vehicle** shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988[Section 2(76)].

Motor vehicle or vehicle under the Motor Vehicles Act, 1988 means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty five cubic centimetres. [Section 2(28) of Motor Vehicles Act, 1988].

□ **Non-resident taxable person** means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India [Section 2(77)].

□ **Principal** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both [Section 2(88)].

□ **Quarter** shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year [Section 2(92)].

□ **Recipient** of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

- **Registered person** means a person who is registered under section 25 of CGST Act but does not include a person having a Unique Identity Number [Section 2(94)].
- **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied:
Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims. [Section 2(105)].
- **Taxable supply** means a supply of goods or services or both which is leviable to tax under CGST Act [Section 2(108)].
- **Works contract** means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract [Section 2(119)].
- **Zero-rated supply** means any of the following supplies of goods or services or both, namely:—
 - (a) export of goods or services or both; or
 - (b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit [Section 16(1) of the IGST Act].



3. ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT [SECTION 16]



STATUTORY PROVISIONS

| Section 16 | Eligibility and conditions for taking input tax credit | |
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| Sub-section | Clause | Particulars |
| (1) | | <i>Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.</i> |
| (2) | | <i>Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—</i> |
| | (a) | <i>he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;</i> |
| | (aa) | <i>the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;</i> |
| | (b) | <i>he has received the goods or services or both.</i> |
| | | <i>Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—</i> |
| | (i) | <i>where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an</i> |

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| | | | <i>agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</i> |
| | (ii) | | <i>where the services are provided by the supplier to any person on the direction of and on account of such registered person.</i> |
| | (ba) | | <i>the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;</i> |
| | (c) | | <i>subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and</i> |
| | (d) | | <i>he has furnished the return under section 39:</i> |
| | | | <i>Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:</i> |
| | | | <i>Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be paid by him along with interest payable under section 50, in such manner as may be prescribed:</i> |
| | | | <i>Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him to the supplier of the amount towards the value of supply of goods or services or both along with tax payable thereon.</i> |
| (3) | | | <i>Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.</i> |

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| <p>(4)</p> | <p><i>A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.</i></p> |
| <p>(6)</p> | <p><i>Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—</i></p> |
| <p>(i)</p> | <p><i>filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or</i></p> |
| <p>(ii)</p> | <p><i>for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration,</i></p> |
| <p><i>whichever is later.</i></p> | |
| <p>Section 41</p> | |
| <p>Availment of input tax credit</p> | |
| <p>(1)</p> | <p><i>Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.</i></p> |
| <p>(2)</p> | <p><i>The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall</i></p> |

be reversed along with applicable interest, by the said person in such manner as may be prescribed.

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

Chapter V: Input Tax Credit of the CGST Rules

Rule 36

Documentary requirements and conditions for claiming input tax credit

(1)

The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely:-

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| (a) | <i>an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;</i> |
| (b) | <i>an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;</i> |
| (c) | <i>a debit note issued by a supplier in accordance with the provisions of section 34;</i> |
| (d) | <i>a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;</i> |
| (e) | <i>an input service distributor invoice or input service distributor credit note or any document issued by an input service distributor in accordance with the provisions of sub-rule (1) of rule 54.</i> |

(2)

Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document.

Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of

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| | <i>goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.</i> |
| (3) | <i>No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts under section 74.</i> |
| (4) | <p><i>No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under subsection (1) of section 37 unless,-</i></p> <p><i>(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1, as amended in FORM GSTR-1A if any, or using the invoice furnishing facility; and</i></p> <p><i>(b) the details of input tax credit in respect of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under sub-rule (7) of rule 60.</i></p> |
| Rule 37 | <i>Reversal of input tax credit in the case of non-payment of consideration</i> |
| (1) | <p><i>A registered person, who has availed of input tax credit on any inward supply of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, but fails to pay to the supplier thereof, the amount towards the value of such supply whether wholly or partly, along with the tax payable thereon, within the time limit specified in the second proviso to sub-section (2) of section 16, shall pay or reverse an amount equal to the input tax credit availed in respect of such supply, proportionate to the amount not paid to the supplier, along with interest payable thereon under section 50, while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of one hundred and eighty days from the date of the issue of the invoice.</i></p> <p><i>Provided that the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.</i></p> |

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| | <i>Provided further that the value of supplies on account of any amount added in accordance with the provisions of clause (b) of sub-section (2) of section 15 shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.</i> |
| (2) | <i>Where the said registered person subsequently makes the payment of the amount towards the value of such supply along with tax payable thereon to the supplier thereof, he shall be entitled to re-avail the input tax credit referred to in sub-rule (1).</i> |
| (4) | <i>The time limit specified in sub-section (4) of section 16 shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or the provisions of this Chapter, that had been reversed earlier.</i> |
| Rule 37A | <i>Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof</i> |
| | <i>Where input tax credit has been availed by a registered person in the return in FORM GSTR-3B for a tax period in respect of such invoice or debit note, the details of which have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1, as amended in FORM GSTR-1A if any, or using the invoice furnishing facility, but the return in FORM GSTR-3B for the tax period corresponding to the said statement of outward supplies has not been furnished by such supplier till the 30th day of September, following the end of the financial year in which the input tax credit in respect of such invoice or debit note has been availed, the said amount of input tax credit shall be reversed by the said registered person, while furnishing a return in FORM GSTR-3B on or before the 30th day of November following the end of the financial year</i> |
| | <i>Provided that where the said amount of input tax credit is not reversed by the registered person in a return in FORM GSTR-3B on or before the 30th day of November following the end of such financial year during which such input tax credit has been availed, such amount shall be payable by the said registered person along with interest thereon under section 50.</i> |

Provided further that where the said supplier subsequently furnishes the return in FORM GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in FORM GSTR-3B for a tax period thereafter.



ANALYSIS

(i) Eligibility for taking ITC [Section 16(1)]

(a) Registration under GST

Every registered person shall be entitled to ITC of GST charged on inward supply of goods and / or services. This is subject to the provisions relating to use of ITC under section 49 and the conditions and restrictions prescribed in the relevant rules. *[Section 49 prescribes provisions relating to payment of tax, interest, penalty & other amounts. The same has been discussed in detail in Chapter 13: Payment of Tax in this Module of the Study Material.]*

(b) Goods/services to be used for business purposes

ITC of GST will be available on goods and/or services which are used or intended to be used in the course or furtherance of the business [See definition of business]. The "intention to use" the goods and/or services in the course or furtherance of business would also suffice for availing ITC on such goods and/or services. Thus, tax paid on goods and or/services which are used or intended to be used for non-business purposes cannot be availed as credit. ITC will be credited to electronic credit ledger.

(ii) Conditions for taking ITC [Section 16(2)]

This sub-section starts with a non-obstante clause and hence all the conditions specified therein must be fulfilled irrespective of fulfillment of any other conditions given under any other sub-section of section 16 for the purpose of taking of input tax credit. The registered person will be entitled to ITC on an inward supply only if **ALL** the following **six** conditions are fulfilled:

(a) Possession of tax paying document [Section 16(2)(a) read with rule 36]

ITC can be availed on the basis of any of the following documents:

- (i) Invoice or revised invoice³ issued by the supplier of goods and/or services
- (ii) Invoice issued by the recipient receiving goods and/or services from unregistered supplier in case of reverse charge, subject to payment of tax
- (iii) Debit note issued by the supplier
- (iv) Bill of entry or similar document prescribed under the Customs Act⁴
- (v) Document issued by input service distributor⁵

The documents on the basis of which ITC is being taken should contain **at least** the following details:

- (i) Amount of tax charged
- (ii) Description of goods or services
- (iii) Total value of supply of goods and/or services
- (iv) GSTIN of the supplier and recipient
- (v) Place of supply in case of inter-State supply

No ITC of tax paid towards demands involving fraud [Rule 36(3)]:

Tax paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts under section 74⁶ cannot be availed as ITC.



³ Provisions relating to revised invoice have been discussed in detailed in Chapter 10: Tax Invoice: Credit and Debit Notes in this Module of the Study Material.

⁴Provisions relating to the Customs Act, 1962 will be dealt with at the Final level.

⁵Concept of Input Service Distributor (ISD) will be dealt with at the Final level.

⁶ Section 74 contains the provisions for determination of tax not paid or short paid or erroneously refunded or ITC wrongly availed or utilized by reason of fraud or any wilful-misstatement or suppression of facts, pertaining to the period upto financial year 2023-24.

(b) Details of invoices/debit notes uploaded by the supplier in his GSTR-1 or using IFF and details communicated in Form GSTR-2B [Section 16(2)(aa) read with rule 36(4)]

ITC in respect of any supply of goods or services or both can be taken by a registered person only if the details of the invoice/debit note in respect of said supply have been furnished by the supplier in the statement of outward supplies (Form GSTR-1, as amended in FORM GSTR-1A if any, or using IFF) and such details have been communicated to the recipient of such invoice/debit note in Form GSTR-2B.

GSTR-1 is a monthly/quarterly statement containing details of outward supplies made by a registered supplier. In case where GSTR-1 is furnished quarterly under QRMP (Quarterly Return Monthly Payment) scheme, supplier can furnish such details for 1st two months of the quarter using invoice furnishing facility (IFF). This facility is provided to the taxpayer, to pass on the credit to their recipients.

Such details of outward supplies furnished by the supplier are communicated and made available electronically (auto populated) to the respective recipient(s) in GSTR- 2B. GSTR-2B is an auto-generated ITC statement for every registered person based on details furnished in GSTR-1/using IFF by the supplier⁷.

GSTR-1A is a form wherein a registered person at his own option, amend or furnish additional details of outward supplies of goods and/or services after furnishing the details of outward supplies of goods and/or service in FORM GSTR-1 for a tax period but before filing of return in FORM GSTR-3B for the said tax period.

Thus, in respect of invoices/debit notes the details of which are not furnished by the suppliers in their GSTR-1s, as amended in FORM GSTR-1A if any, or using IFF (and thus they are not visible in GSTR-2B of the recipient), ITC cannot be availed by such recipient.

⁷The provisions relating to QRMP, filing of GSTR-1/IFF, GSTR-1A and GSTR-2B have been discussed in detail in Chapter 15: Returns in this Module of the Study Material.

ITC on such invoices/debit notes, not reflected in GSTR-2B of the current month, may be claimed by the taxpayer in any of the succeeding months when the details of said invoices/debit notes are furnished by the suppliers.

The above concept has been illustrated as follows:

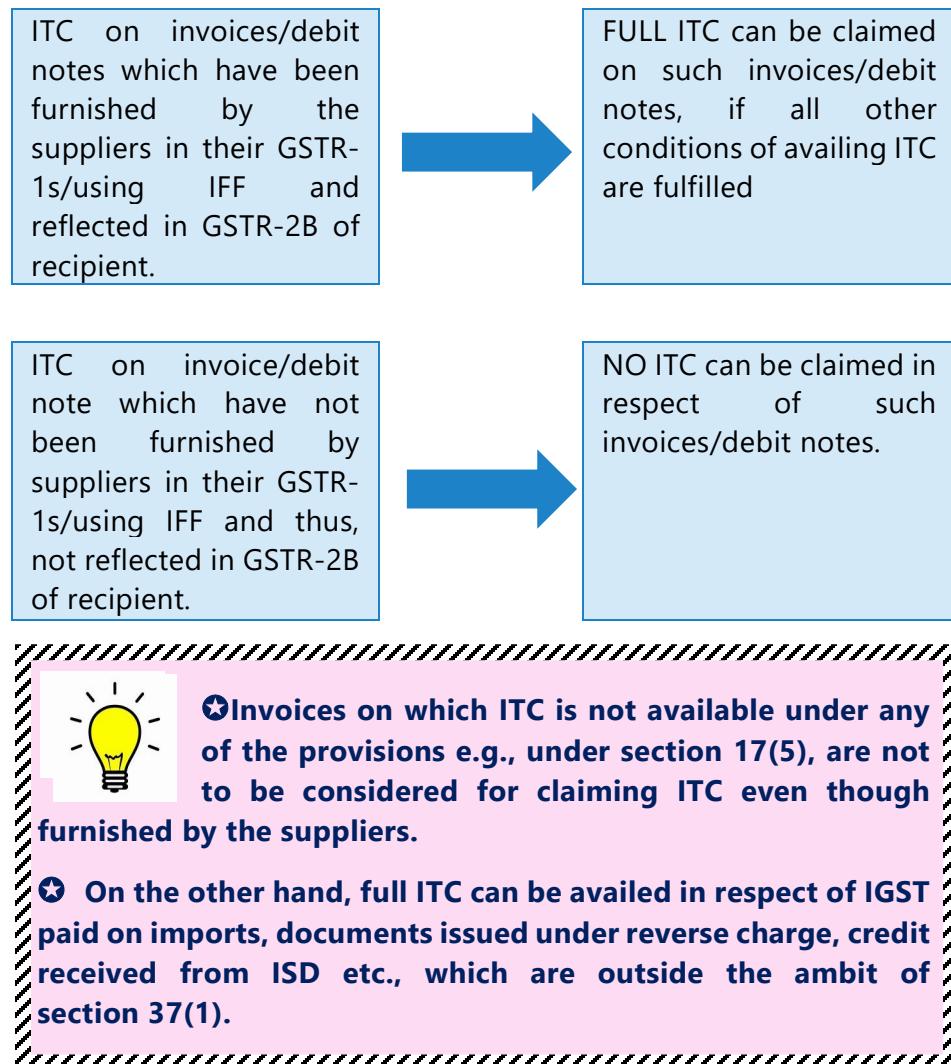


ILLUSTRATION 1

Vijay Sales, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of ₹ 10 lakh, from various suppliers during the month of October.

Out of 100 invoices, details of 80 invoices involving GST of ₹ 6 lakh have been furnished by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor and are reflected in GSTR-2B of Vijay Sales. There was no amendment made in GSTR-1s by such suppliers using GSTR-1A for the month of October.

Compute the ITC that can be claimed by Vijay Sales in its GSTR-3B for the month of October to be filed by 20th November assuming that GST of ₹ 10 lakh is otherwise eligible for ITC.

ANSWER

ITC to be claimed by Vijay Sales in its GSTR-3B for the month of October to be filed by 20th November will be computed as under-

| Invoices | Amount of ITC involved in the invoices (₹) | Amount of ITC that can be availed (₹) |
|-------------------------------------|--|---------------------------------------|
| 80 invoices furnished in GSTR-1 | 6 lakh | 6 lakh [Refer Note 1] |
| 20 invoices not furnished in GSTR-1 | 4 lakh | Nil [Refer Note 2] |
| Total | 10 lakh | 6 lakh |

Notes:

- (1) 100% ITC can be availed on invoices furnished by the suppliers in their GSTR-1s and reflected in GSTR-2B of Vijay Sales.

- (2) As per rule 36(4), the ITC in respect of invoices not furnished by the suppliers in their GSTR-1s and thus, not being reflected in GSTR-2B of recipient, cannot be claimed. Thus, in respect of 20 invoices which are not furnished in GSTR-1s of suppliers and are not reflected in GSTR-2B of Vijay Sales, no ITC can be availed⁸.

(c) Receipt of the goods and / or services [Section 16(2)(b)]

The registered person taking the ITC must have received the goods and / or services.

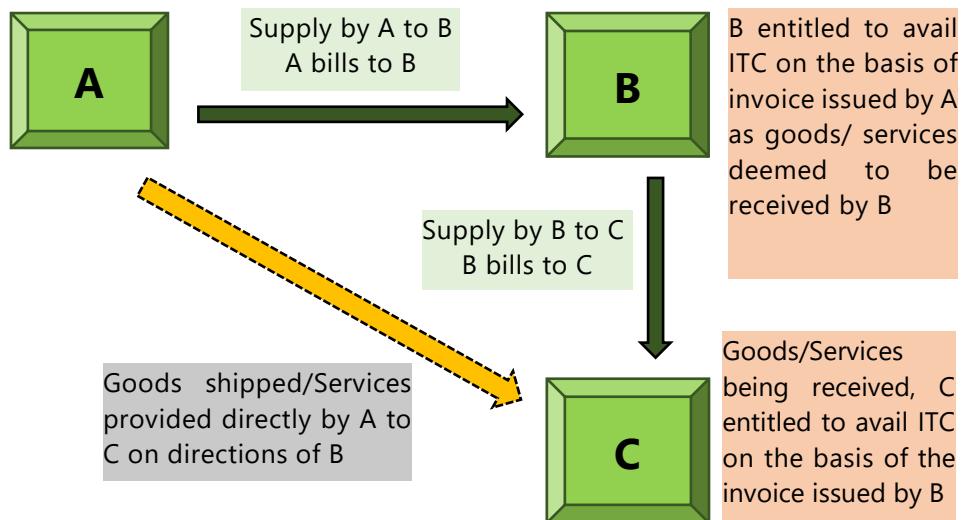
"Bill to Ship to" Model: Under this model, the goods are delivered to a third party - 'C' on the direction of the customer (registered person)- 'B' who purchases the goods from the vendor (supplier) – 'A'. In other words, 'A' bills to 'B' but ships the goods to 'C' on direction of 'B'. In effect, two supplies take place in this scenario viz., from 'A' to 'B' and from 'B' to 'C'. Thus, under this model, the customer (registered person) who receives such goods does not actually receive the said goods.

For such cases, by virtue of **explanation to section 16(2)(b)**, it is deemed that the registered person (customer) has received the goods. In other words, goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. So, ITC will be available to the registered person, on whose order the goods are delivered to a third person.

Similarly, services may also be provided to a third party by the service provider (supplier) on the direction of the service recipient (registered person). In this case also, though the service recipient (registered person) does not receive the service, by virtue of explanation to section 16(2)(b) it is deemed that the registered person (service recipient) has received the service. In other words, service provided to any person on the direction of and on account of the registered person, is deemed to

⁸Let us suppose, subsequently, the suppliers of these 20 invoices furnish the details of said invoices in their GSTR-1s for the month of November, the details shall be reflected in GSTR-2B of Vijay Sales of November month and Vijay Sales can take credit of such invoices in its GSTR-3B for the month of November.

have been received by such registered person. So, ITC will be available to the registered person, on whose direction the services are provided to a third person.



(1) Badri is a trader who places an order on Aatmaram for a consignment of soda ash. Badri receives a buying order from Champak for the same quantity of soda ash. Badri instructs Aatmaram to deliver the goods to Champak, and in turn Aatmaram raises an invoice on Badri as Badri is the actual buyer of the goods who have instructed Aatmaram to deliver the goods to Champak. Though the goods are not physically received at the premises of Badri, section 16(2)(b) allows ITC of such goods to Badri.



(2) The registered head office (New Delhi) of ABC Pvt. Ltd. enters into a contract with DEF Pvt. Ltd. of New Delhi for repair and maintenance of computers systems installed at its registered branch office in Bengaluru, Karnataka. DEF Pvt. Ltd. issues an invoice on ABC Pvt. Ltd., New Delhi for the services provided by it. Though the actual services are received by the branch office and not by the head office, section 16(2)(b) allows ITC of such repair and maintenance services to head office.

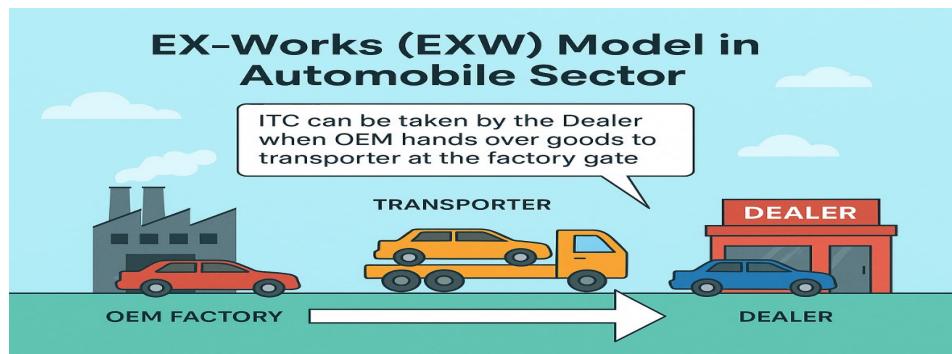
Clarification on availability of ITC in respect of goods delivered under ex-works contract

In automobile sector, the contract between the automobile dealers and the Original Equipment Manufacturers (OEMs) is generally an Ex-Works (EXW) contract, and as per the terms of the contract, the property in goods (i.e. vehicles) passes to the dealer at the factory gate of the OEM, when the goods are handed over to the transporter at the instance of the dealer, and the delivery on the part of the OEM is complete at his factory gate.

The transport may be arranged by the OEM on behalf of the dealer and where insurance is arranged, it may also be done on behalf of the dealer. Any claim in case of loss has to be lodged by the dealer.

The issue which arose for consideration was whether ITC can be availed by the dealer only after the vehicles are physically received by automobile dealers at his business premises or ITC can be availed on the date the vehicles are billed to him and handed over to the transporter by the OEM at his factory gate.

It has been clarified that in such a scenario, the property in the said goods can be considered to have been passed on to the dealer by the OEM upon handing over of the said goods to the transporter at his factory gate, meaning thereby that the goods can be considered to have been delivered to the registered person (the dealer), through the transporter, by the supplier (the OEM) at his factory gate and the supply of the said goods can be considered to have fructified at the factory gate of the OEM, even though the goods may be physically received by the registered person (the dealer) after the transit period.



Accordingly, it is clarified that as per Explanation to section 16(2)(b), the registered person (the dealer) can be considered to have "received" the said goods at the time of such handing over of the goods by the supplier to the transporter, at his factory gate, for their onward transmission to the said registered person (the dealer).

The same principle is applicable in respect of supply of other goods also where the contract between the supplier and recipient is an EXW (Ex Works) contract, and as per terms of the contract, the goods are to be delivered by the supplier to the recipient, or to any other person (including a transporter) on behalf of the recipient, at his (supplier's) place of business and the property in the goods stands transferred to the recipient at the time of such handing over.

In such cases, the said goods can be construed to have been "received" by the said recipient at the time of handing over the said goods to the recipient or to the transporter, as the case may be, as per provisions of section 16(2)(b).

It is also mentioned that as per provisions of section 16(1) (discussed earlier), a registered person is entitled to ITC only in respect of supply of goods and/or services, which is used or intended to be used in the course or furtherance of business.

Thus, if the goods are found to have been diverted for non-business purposes at any stage, either before physically receiving the said goods at his business premises or subsequently, the registered person shall not be entitled to ITC on such goods in terms of section 16(1).

Further, if at any time after "receiving" the goods, such goods are lost, stolen, destroyed, written off or disposed of by way of gift or free samples, the registered person would not be entitled to the ITC in respect of such goods as per provisions of section 17(5)(h) [Section 17(5) contains the provisions relating to Blocked credit and will be discussed subsequently in this chapter]⁹.

⁹ Circular No. 241/35/2024 GST dated 31.12.2024

(d) Details of ITC in respect of the said supply communicated to the registered person under section 38 not restricted [Section 16(2)(ba)]

Section 38 stipulates that the details of outward supplies furnished by the registered suppliers in GSTR-1 (as amended in Form GSTR-1A if any)/using IFF and an auto-generated statement containing the details of ITC is made available to the recipients of such supplies every month. This auto-generated statement is GSTR-2B.

GSTR-2B contains the details of inward supplies (i) on which ITC is available to the recipient as well as (ii) on which ITC cannot be availed, whether wholly or partly, by the recipient. Section 38 stipulates that ITC cannot be availed in case where the details of the outward supplies in GSTR-1/using IFF have been furnished by specified registered persons.

- Accordingly, ITC will not be available in respect of inward supplies details of which have been furnished by a registered supplier: who is a new registrant (within such prescribed period of taking registration).
- who has defaulted in payment of tax and where such default has continued for a prescribed period.
- whose output tax payable as per GSTR-1/IFF exceeds the output tax paid in GSTR-3B for a particular tax period by prescribed limit.
- who has availed ITC of an amount that exceeds the credit that can be availed by him as per GSTR-2B during prescribed period and by prescribed limit.
- who has defaulted in discharging his tax liability in accordance with the provisions of section 49(12) read with rule 86B, i.e. who has discharged more tax liability from electronic credit ledger than prescribed under rule 86B¹⁰.
- other specified classes of persons.

¹⁰Rule 86B provides that the registered person shall not utilise the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds ₹ 50 lakh subject to specified exceptions. It has been discussed subsequently in this chapter.

(e) Tax leviable on supply actually paid to Government [Section 16(2)(c)]

The supplier should have actually paid the tax charged on the goods and/or services, for which ITC is being taken, either in cash or by utilizing ITC, subject to the provisions of section 41.

Availment of self-assessed ITC [Section 41]

A registered person can avail the credit of eligible ITC as self-assessed in his return. Such amount shall be credited to his electronic credit ledger.

Reversal of ITC in the case of non-payment of tax by the supplier and re-availment thereof [Section 41 read with rule 37A]

(I) Reversal of ITC: If the tax payable corresponding to such ITC availed is not paid by the supplier to the Government, ITC so availed shall be reversed by the said person along with applicable interest.

A registered person (recipient) can avail ITC in GSTR-3B for a tax period in respect of such invoice/debit note, the details of which have been furnished by its supplier in the statement of outward supplies (in GSTR-1, as amended in Form GSTR-1A if any/using IFF).

However, if supplier does not furnish return in Form GSTR-3B for the tax period corresponding to the said statement of outward supplies till 30th September following the end of FY in which the ITC in respect of such invoice/ debit note has been availed; the said amount of ITC shall be reversed by the said recipient, while furnishing a return in GSTR-3B on or before 30th November following the end of such FY during which such ITC has been availed.

However, where the said amount of ITC is not so reversed by recipient, such amount shall be payable by the said person along with interest thereon under section 50.

(II) Re-availment of reversed ITC: Where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him.

Thus, where the said supplier subsequently furnishes the return in GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in GSTR-3B for a tax period thereafter.



(3) Jhamku, a registered supplier, supplies goods to Chamku valuing ₹ 10,000 on which he charged CGST and SGST of ₹ 900 each in the invoice raised in March, 2024.

Jhamku uploaded the details of the said invoice in his GSTR-1 for the said month filed before the due date based on which Chamku availed the said ITC of ₹ 900 each towards CGST and SGST while filing his GSTR-3B for March, 2024 as the said ITC was also reflected in his GSTR-2B. However, Jhamku failed to furnish the corresponding GSTR-3B (for the month of March, 2024) up to September, 2024.

Accordingly, while filing GSTR-3B for the month of October, 2024 on 20th November, 2024, Chamku reversed an amount of ITC earlier availed by him. Subsequently, suppose if Jhamku files GSTR-3B on 20th December, 2024 and pays the said amount of ₹ 900 each towards CGST and SGST, Jhamku can now re-avail the said input tax credit of ₹ 900 towards CGST and SGST which he has reversed earlier.

(f) Filing of return [Section 16(2)(d)]

The registered person taking the ITC must have filed his return in GSTR-3B under section 39. Thus, a taxpayer should file GSTR-3B to avail ITC on eligible inward supplies.

(iii) Goods received in lots: ITC available only on receipt of last lot [First proviso to section 16(2)]

In case the goods covered under an invoice are not received in a single consignment but are received in lots / instalments, ITC can be taken only upon receipt of the last lot / instalment.



(4) XYZ enters into a contract with ABC for supply of 10 MT of a chemical for ₹ 1,18,000 (inclusive of GST of ₹18,000) in the month of August. The chemical is to be delivered in lots over a period of three months. ABC raises the invoice for the entire amount in August and XYZ also makes the payment in the same month but the supply is completed in November. Though XYZ paid the full tax as early as August, it can take the ITC of the same only on receipt of the last lot of the chemical in the month of November.

(iv) Payment for the invoice to be made within 180 days [Second proviso to section 16(2) read with rule 37]

The registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice [Second proviso to section 16(2)].

However, where a registered person, who has availed of ITC on any inward supply fails to pay to the supplier thereof, the amount towards the value of such supply, **whether wholly or partly**, along with the tax payable thereon, within 180 days from the date of issue of invoice by supplier, **shall pay or reverse an amount equal to the ITC availed in respect of such supply, proportionate to the amount not paid to the supplier, along with interest payable thereon under section 50, while furnishing the return in Form GSTR-3B for the tax period** immediately following the period of 180 days from the date of the issue of the invoice.

Exceptions

This condition of payment of value of supply plus tax within 180 days does not apply in the following situations:

- (a) Supplies on which tax is payable under reverse charge

- (b) Deemed supplies without consideration – Schedule I
- (c) Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply as per section 15(2)(b).

Under situations given in points (b) & (c), the value of supply is deemed to have been paid.



(5) Due to a quality dispute, PZP Ltd withheld payment on a machine supplied by a vendor till it could be rectified. More than 180 days went by in this dispute. The credit taken by PZP on the invoice needs to be paid / reversed along with interest in GSTR-3B furnished for the month after completion of 180 days. Only after the vendor rectified the machine and PZP released the payment, could PZP take the credit again.

(v) If depreciation claimed on tax component, ITC not allowed [Section 16(3)]

If the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed. Thus, in respect of the tax paid on such items, dual benefit cannot be claimed under Income-tax Act, 1961 and GST law simultaneously. In other words, either depreciation on the tax component can be claimed under Income Tax Act or ITC of such tax paid can be availed under GST law.

(vi) Time limit for availing ITC: 30th November of succeeding financial year or date of filing of relevant annual return, whichever is earlier [Section 16(4)]

ITC on invoices pertaining to a financial year or debit notes issued in a financial year can be availed any time till **30th November** of the succeeding **financial year** or the date of filing of the relevant annual return, whichever is earlier.

Here, in case of debit notes, the date of issuance of debit note and not the date of underlying invoice is relevant to determine the relevant financial year¹¹.

Clarification on time limit under section 16(4) in respect of RCM supplies received from unregistered persons¹²

It is clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) **the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f)**, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of sections 16 and 17.

In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of section 122¹³.



(6) A debit note dated 07.07.2024 is issued in respect of the original invoice dated 16.03.2024. As the invoice pertains to F.Y. 2023-24, the relevant financial year for availment of ITC in respect of the said invoice in terms of section 16(4) shall be FY 2023-24. However, as the debit note has been issued in FY 2024-25, the relevant financial year for availment of ITC in respect of the said debit note shall be FY 2024-25 in terms of section 16(4).

¹¹ Circular No. 160/16/2021 GST dated 20.09.2021

¹² Circular No. 211/5/2024 GST dated 26.06.2024

¹³ Section 122 containing the penal provisionss shall be discussed in detail at the Final level.



(7) Hercules Machinery delivered a machine to XYZ, a monthly return filer under GST, in the month of January under Invoice no. 49 dated 28th January 2024 for ₹ 4,15,000 plus GST and undertook trial runs and calibration of the machine as per the requirements of XYZ. The amount chargeable for the post-delivery activities was covered in a debit note raised in the month of April 2024 for ₹ 50,000 plus GST. XYZ did not file its annual return for FY 2023-24 till November, 2024.

The time-limit to avail ITC in respect of tax paid on supply for Invoice No. 49 would be 30th November, 2024.

Since the debit note is received in the next financial year, the time limit for taking ITC available on ₹ 50,000 is 30th November 2025, [earlier of the date of filing the annual return for the preceding financial year or 30th November of the succeeding year].

Exception

The time limit u/s16(4) does not apply to claim for re-availing of credit that had been reversed earlier.

(vii) Time limit for taking ITC in case of revoked registration cancellation **[Section 16(6)]**

In case where registration of a taxpayer is cancelled and subsequently, it is revoked, return for the period from date of cancellation/ effective date of cancellation till the date of revocation of cancellation cannot be filed on the portal by the taxpayers till their cancellation of registration is revoked. In such cases, where the recipient has not claimed the ITC in respect of any invoice/debit note pertaining to that financial year and in the meantime, time-limit stipulated in section 16(4) lapses, he would not be able to claim ITC on the said invoice/debit note.

Consequently, relaxation has been given and the time limit to avail ITC under section 16(4) in respect of any invoice/debit note, is extended till the date of filing return in cases where the returns for the period from date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed within 30 days

of revocation of cancellation of registration, subject to the condition that the time limit to avail ITC in respect of the said invoice or the debit note under section 16(4) had not already expired on the date of cancellation of registration.

(viii) Restriction of ITC in proportion of (i) taxable supplies (ii) business purposes [Sub-sections (1) and (2) of section 17]

ITC is restricted in proportion of the use of the goods and/or services (i) in the taxable and / or zero-rated supplies (ii) for business purposes. This is elaborated in heading (4) below.

(ix) ITC not allowed on certain supplies [Section 17(5)]

ITC has been blocked for specified goods and services. This is elaborated in heading (4) below.



**Quiz
Time!**

1

Following amounts of GST are being reflected in GSTR-2B of Sukhiya Associates, registered under GST, for the month of April:

| | |
|--|------------|
| Raw material purchased | ₹ 20,000 |
| Machinery purchased for manufacturing goods | ₹ 1,00,000 |
| Raw material purchased for construction of immovable property to be capitalised in the books of accounts | ₹ 5,00,000 |

Apart from this, an invoice for purchase of raw materials containing GST of ₹ 30,000 is not reflected in GSTR-2B of April as the supplier has not furnished his GSTR-1. Moreover, GST of ₹ 25,000 is paid on GTA services received from Sindhu Transporters in April for transport of raw materials.

Compute the amount of ITC that Sukhiya Associates is eligible to avail for the month of April.

- | | | | |
|----------------|----------------|----------------|----------------|
| (a) ₹ 1,45,000 | (b) ₹ 6,20,000 | (c) ₹ 6,45,000 | (d) ₹ 6,75,000 |
|----------------|----------------|----------------|----------------|



4. APPORTIONMENT OF CREDIT & BLOCKED CREDITS [SECTION 17¹⁴]



STATUTORY PROVISIONS

| Section 17 | <i>Apportionment of credit and blocked credits</i> | |
|-------------|--|---|
| Sub-section | Clause | <i>Apportionment of credit and blocked credits</i> |
| (1) | | <i>Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.</i> |
| (2) | | <i>Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.</i> |
| (3) | | <p><i>The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.</i></p> <p><i>Explanation.— For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except,—</i></p> <p><i>(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and</i></p> <p><i>(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule;</i></p> |

¹⁴Provisions relating to ITC claim by banking companies and determination of ITC on inputs, input services and capital goods and reversal thereof [Rules 38, 42 and 43] will be discussed at the Final level.

(5)

Notwithstanding anything contained in sub-section (1) of section 16 and sub- section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—

(a) *motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—*

(A) *further supply of such motor vehicles; or*

(B) *transportation of passengers; or*

(C) *imparting training on driving such motor vehicles;*

(aa) *vessels and aircraft except when they are used—*

(i) *for making the following taxable supplies, namely:—*

(A) *further supply of such vessels or aircraft; or*

(B) *transportation of passengers; or*

(C) *imparting training on navigating such vessels; or*

(D) *imparting training on flying such aircraft;*

(ii) *for transportation of goods;*

(ab) *services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):*

Provided that the input tax credit in respect of such services shall be available—

(i) *where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;*

(ii) *where received by a taxable person engaged—*

(I) *in the manufacture of such motor vehicles, vessels or aircraft; or*

| | | | |
|--|-----|-------|---|
| | | (II) | <i>in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;</i> |
| | (b) | | <i>the following supply of goods or services or both—</i> |
| | | (i) | <i>food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:</i> |
| | | | <i>Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</i> |
| | | (ii) | <i>membership of a club, health and fitness centre; and</i> |
| | | (iii) | <i>travel benefits extended to employees on vacation such as leave or home travel concession:</i> |
| | | | <i>Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force¹⁵.</i> |
| | (c) | | <i>works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;</i> |
| | (d) | | <i>goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such</i> |

¹⁵ Circular No. 172/04/2022 GST dated 06.07.2022 clarifies that this proviso is applicable to the whole of section 17(5)(b).

| | | |
|-----|---|--|
| | | <i>goods or services or both are used in the course or furtherance of business.</i> |
| | | <i>Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.</i> |
| | (e) | <i>goods or services or both on which tax has been paid under section 10;</i> |
| | (f) | <i>goods or services or both received by a non-resident taxable person except on goods imported by him;</i> |
| | (fa) | <i>goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;</i> |
| | (g) | <i>goods or services or both used for personal consumption;</i> |
| | (h) | <i>goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and</i> |
| | (i) | <i>any tax paid in accordance with the provisions of section 74 in respect of any period up to Financial Year 2023-24.</i> |
| (6) | <i>The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.</i> | |
| | <i>Explanation.— For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—</i> | |
| | (i) | <i>land, building or any other civil structures;</i> |
| | (ii) | <i>telecommunication towers; and</i> |
| | (iii) | <i>pipelines laid outside the factory premises.</i> |



ANALYSIS

Section 17 requires apportionment and concomitant restriction of ITC in two situations as also blocking of ITC on specified inward supplies.

A. Apportionment of ITC [Sub-sections (1) and (2) of section 17]

- (i) The fundamental principle of credit scheme under value added tax is that tax paid on inputs, input services and capital goods can be availed as credit only when the output is taxable. Thus, when tax is not payable on output, credit cannot be availed.

Accordingly, ITC under GST can be availed and utilised for payment of tax on output supply. Consequently, ITC cannot be availed when tax is not payable on output supply, i.e. on exempt supply. The only exception to the above principle is 'zero rated supply, where ITC is available even if no tax is payable on output supply as zero rated supply is not an exempted supply.

If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all can be availed for inputs, input services and capital goods exclusively used for exempt supply.

If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available. The common ITC is apportioned in the ratio of value of taxable supply and exempt supply.

- (ii) Also, in case goods and/or services are used by the taxable person partly for the business purposes and partly for non-business purposes, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for business purposes and no credit at all can be availed for goods and/or services exclusively used for non-business purposes.

If common inputs, input services and capital goods are used partly for business and partly for non-business purposes, only proportionate ITC attributable to the business purpose is available.

Elaborate provisions have been made in sub-sections (1) and (2) of section 17 and rules 42 and 43 for calculation of such proportionate ITC. Such provisions will be discussed in detail at the Final level.



Section 16(2) of the IGST Act specifies that ITC may be availed on inward supplies for making zero-rated supply. Zero-rated supply is an expression that covers two kinds of supplies: (i) exports, and (ii) supplies for authorised operations to a SEZ unit or SEZ developer. Therefore, ITC is available on goods and / or services used for supplies made in the course of export or to an SEZ unit or SEZ developer¹⁶.



(8) A registered person is in the business of manufacturing shoes. He gave 50 pairs of shoes to his friends free of cost. ITC on inputs and input services attributable to such 50 pair of shoes, being used for non-business purposes will not be available.



(9) A registered person manufactures a product 'X' chargeable to 18% GST, a product 'Y' chargeable to NIL rate of tax and a product 'Z' which is exported without payment of tax under bond. All the three products are manufactured from common inputs and input services. ITC on inputs and input services attributable to product 'Y' being an exempt supply, will not be available.

B. Blocked credits [Section 17(5)]

ITC of tax paid on almost every inputs, input services or capital goods used for supply of taxable goods and/or services is allowed under GST except a small list of items provided u/s 17(5). Thus, ITC on such items is not allowed even though the same may qualify as inputs, input services or capital goods and are used in the course or furtherance of business.



¹⁶Provisions relating to zero-rated supplies have been discussed at the Final level.

The blocked list of credit covers mainly items of personal consumption, inputs and input services use of which results into formation of an immovable property (except plant and machinery), telecommunication towers, pipelines laid outside the factory premises, etc. and taxes paid as a result of detection of evasion of taxes, etc.

The various goods and/or services on which credit is blocked are discussed hereunder:

(i) Motor vehicles and other conveyances and related services (insurance, servicing and repair and maintenance)

Motor vehicles and conveyances have been defined in the CGST Act/[See definition under the heading *Relevant Definitions*].

Motor vehicles exclude –

- vehicle running upon fixed rails
- special purpose vehicles for being used in a factory or any enclosed premises
- vehicle with less than 4 wheels fitted with engine capacity of upto 25cc–(Thus, railways, two/three wheelers with engine capacity of upto 25cc, bicycle etc. do not fall in the definition of motor vehicle.)

Broadly, ITC is blocked on motor vehicles, vessels and aircrafts with certain exceptions. Further, ITC is also blocked on certain services relating to motor vehicles, vessels and aircrafts namely, general insurance, servicing and repair and maintenance. The basic principle here is that the motor vehicles, aircrafts and vessels on which ITC is blocked, the ITC on services of insurance, servicing and repair and maintenance pertaining to such motor vehicles, vessels and aircrafts is also blocked. The blocked credits relating to motor vehicles, vessels, aircrafts and related services are discussed in the next page:

| S. No. | Goods and/or services on which credit is blocked | Exceptions to goods and/or services mentioned in column (2) on which credit is allowed | Remarks |
|-----------|---|---|--|
| (1) | (2) | (3) | (4) |
| (i) | Motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) – <u>Referred to as ineligible motor vehicle in this table</u> | <p>Ineligible motor vehicles when used for any of the following eligible purposes-</p> <ul style="list-style-type: none"> ➤ making further taxable supply of such motor vehicles (e.g. traders of motor vehicles)* <p>[Refer discussion on availability of ITC on demo vehicles given below this table.]</p> <ul style="list-style-type: none"> ➤ making taxable supply of transportation of passengers (e.g. travel operator offering | <p><input type="checkbox"/> ITC on ineligible motor vehicles used for any purpose other than the eligible purposes is not allowed.</p> <p><input type="checkbox"/> ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.</p> <p><input type="checkbox"/> ITC on motor vehicles other than ineligible motor vehicles (e.g. motor vehicle used for</p> |

| | | | |
|------|----------------------|---|---|
| | | <p>transportation services);</p> <ul style="list-style-type: none"> ➤ Making taxable supply of imparting training on driving such motor vehicles (e.g. motor vehicle driving schools). | <p>transportation of goods, dumpers, tippers etc.) used for any purpose is allowed.</p> |
| (ii) | Vessels aircrafts | <p>and</p> <p>Vessels and aircraft when used for any of the following eligible purposes-</p> <ul style="list-style-type: none"> ➤ making further taxable supply of such vessels or aircraft; ➤ making taxable supply of transportation of passengers; ➤ making taxable supply of imparting training on navigating such vessels; ➤ making taxable supply of imparting training on flying such aircrafts; | <p>ITC on vessels and aircrafts used for any purpose other than the eligible purposes is not allowed.</p> |

| | | | |
|-------|---|---|--|
| | | ➤ transportation of goods. | |
| (iii) | General insurance, servicing, repair and maintenance relating to: ➤ Ineligible motor vehicles ➤ Vessels ➤ Aircraft | <input type="checkbox"/> Such services relating to ineligible motor vehicles, vessels or aircraft when used for eligible purposes <input type="checkbox"/> Such services when received by- <ul style="list-style-type: none"> ○ Manufacturer of ineligible motor vehicles, vessels or aircraft; or ○ Supplier of general insurance services in respect of ineligible motor vehicles, vessels or aircraft insured by him | <input type="checkbox"/> ITC is not allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is not allowed. <input type="checkbox"/> ITC is allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is allowed. |
| (iv) | Leasing, renting or hiring of motor vehicles, vessels or | <input type="checkbox"/> Such services when used for making an outward taxable | <input type="checkbox"/> ITC on leasing, renting or hiring of motor vehicles, |

| | | | |
|--|--------------------------------------|--|--|
| | aircraft on which ITC is not allowed | supply of the same category of services or as an element of a taxable composite or mixed supply <input type="checkbox"/> Such services when provided by an employer to its employees under a statutory obligation | vessels or aircraft on which ITC is allowed, is also allowed**. <input type="checkbox"/> ITC on such services is allowed in the case of subcontracting, i.e. when such services are used by the taxpayer who is in the same line of business. |
|--|--------------------------------------|--|--|



****The term "leasing" referred in above table refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items.**

Accordingly, availment of ITC is not barred in case of leasing, other than leasing of motor vehicles, vessels and aircrafts¹⁷.

Clarification on availability of input tax credit in respect of demo vehicles which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5)¹⁸

As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. Therefore, as demo vehicles promote sale of similar type of motor vehicles, they can be considered to be used by the dealer for making

¹⁷ Circular No. 172/04/2022 GST dated 06.07.2022

¹⁸ Circular No. 231/25/2024 GST dated 10.09.2024

'further supply of such motor vehicles'. Accordingly, input tax credit in respect of demo vehicles is not blocked under clause (a) of section 17(5) of CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause.



- (10)** ITC on cars purchased by a manufacturing company for official use of its employees is blocked.
- (11)** ITC on cars purchased by a car dealer for sale to customers is allowed.
- (12)** ITC on cars purchased by a company engaged in renting out cars for transportation of passengers is allowed.
- (13)** ITC on cars purchased by a car driving school for imparting training on driving is allowed.
- (14)** ITC on buses (seating capacity for 24 persons) purchased by a company for transportation of its employees from their residence to office and back, is allowed.
- (15)** ITC on trucks purchased by a company for transportation of its finished goods is allowed.
- (16)** ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked.
- (17)** ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed.
- (18)** ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes is blocked.
- (19)** ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed.
- (20)** ITC on general insurance services taken on cars manufactured by a car manufacturing company is allowed.
- (21)** A business jet purchased for the official travel of the company's directors is blocked.

(ii) Food & beverages, outdoor catering, health services and other services

| S. No. | Goods and/or services on which credit is blocked | Exceptions to goods and/or services mentioned in column (2) on which credit is allowed | Remarks |
|-----------|--|--|--|
| (1) | (2) | (3) | (4) |
| (i) | <ul style="list-style-type: none"> ➤ Food and beverages ➤ Outdoor catering ➤ Beauty treatment ➤ Health services ➤ Cosmetic and plastic surgery ➤ Life insurance and health insurance | <p><input type="checkbox"/> Such goods and/or services when used by a registered person for making an outward taxable supply of the same category of goods and/or services or as an element of a taxable composite or mixed supply</p> <p><input type="checkbox"/> Such goods and/or services when provided by an employer to its employees under a statutory obligation</p> | <p><input type="checkbox"/> ITC on such goods and/or services is allowed in the case of subcontracting, i.e. when such goods and/or services are used by the taxpayer who is in the same line of business, e.g. outdoor catering service availed by another outdoor caterer.</p> <p><input type="checkbox"/> When such goods and/or services are provided by the employer to its</p> |

| | | | |
|-------|---|--|---|
| | | | employees without any statutory obligation, ITC thereon is blocked. |
| (ii) | Membership of a club, health and fitness centre | Such services when provided by an employer to its employees under a statutory obligation | When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is blocked. |
| (iii) | Travel benefits extended to employees on vacation such as leave or home travel concession | | |



(22) A manufacturing company purchases food items for being served to its customers, free of cost on its 10th year of incorporation. ITC on such goods is blocked.

(23) AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana.

The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. ITC on such outdoor catering services availed by AB & Co., is allowed.

(24) ITC on outdoor catering services availed by a garment exporter for a marketing event organised for its prospective customers, is blocked.

(25) Outdoor catering service is availed by a company to run a free canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering is allowed.

(26) The Managing Director of a company has taken membership of a club, the fees for which is paid by the company. ITC on such service is

blocked.

(27) A company avails services of a travel agency for organizing a free vacation for its top performing employees. ITC on such services is blocked.

(iii) Works contract services for construction of immovable property [Clause (c) of section 17(5)]

One major input service, ITC on which is blocked is input service relating to construction activity like construction of office building, factory building etc. (except in case of persons like builders, developers and contractors who are undertaking construction for others). However, ITC is available for routine construction related services like repairs, maintenance, renovation etc. of office and factory building. Thus, broadly, ITC of construction services is not available when the expenses are capitalised in the books of account. Here, it needs to be noted that capitalisation of an expense does not depend on whether the taxpayer intends to avail ITC, but on the basis of Accounting Standards and GAAP.

Works contract has been defined in the CGST Act [*See definition under the heading Relevant Definitions*]. Essentially, works contract is a composite supply involving both goods and services. Under the erstwhile laws, definition of works contract included works in relation to both movable and immovable properties. However, under GST law, the ambit of works contract has been **confined only to immovable property**.

Meaning of immovable property

Immovable property has not been defined under the GST law. Therefore, we will have to look for the definition of immovable property in other laws. Section 3(26) of the General Clauses Act, 1897, defines the term immovable property to include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.

The term "attached to the earth" is defined in section 3 of the Transfer of Property Act, 1882 to mean:

- (a) *rooted in the earth, as in the case of trees and shrubs; [However, the term "immovable property" under the Transfer of Property Act does not cover standing timber, growing crops or grass.]*
- (b) *embedded in the earth, as in the case of walls or buildings.*
- (c) *attached to what is so embedded for the permanent beneficial enjoyment of that to which it is attached.*

Under GST law, a composite supply of works contract is treated as supply of services in terms of para 6(a) of Schedule II to the CGST Act.

ITC on works contract services for construction of an immovable property is blocked **EXCEPT WHEN**

- It is an input service for further supply of works contract service (sub-contracting);

[ITC on works contract services can be availed only by that taxpayer who is in the same line of business, i.e. only a works contractor can avail ITC on works contract services received by him.]

- Immovable property is plant and machinery

[Plant and machinery affixed permanently to the earth constitutes an immovable property. However, ITC on works contract services used for construction of such plant and machinery is allowed as an exception.]

Meaning of construction

"Construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

Thus, if re-construction, renovation, additions or alterations or repairs are not capitalized, it would not tantamount to construction under GST law. Consequently, ITC on works contract services availed for such construction, which is not capitalized, whether for any immovable property or for any plant and machinery, would be allowed to all the recipients irrespective of their line of business.

Meaning of plant and machinery

"Plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural supports that are used for making outward supply of goods and/or services **and includes such foundation or structural support**

but excludes

land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

Thus, ITC on works contract services availed for construction of eligible plant and machinery is allowed to the recipient irrespective of the line of business of such recipient and irrespective of whether expense is capitalized or not by the recipient.

For instance, ITC on works contract services for construction of machinery fixed to earth by a foundation, would be allowed. However, ITC on works contract services for construction of telecommunication tower(s), would be blocked.



(28) ITC on works contracts services availed by a software company for construction of its office, is blocked.

(29) CD & Co., a works contractor of Noida, has been awarded a contract for construction of a commercial complex in Lucknow. The firm avails services of EF & Co., a local works contractor of Lucknow, for the construction of complex. ITC on such works contract services availed by CD & Co., is allowed.

(30) ITC on works contract services availed by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed.

(31) ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is blocked.

(32) A consulting firm has availed services of a works contractor for repair of its office building. The company has booked such expenditure in its profit and loss account. ITC on such services is allowed.

(33) A telecommunication company has availed services of a works contractor for repair of its office building. The company has capitalized such expenditure. ITC on such services is blocked.



ITC on works contract services for construction of immovable property is available only in the following three situations:

- (i) When the works contract service is availed by a works contractor for being used in further providing the works contract service.**
- (ii) For construction of eligible plant and machinery. In this case, ITC is allowed to all recipients irrespective of their line of business and whether expense capitalized or not.**
- (iii) When the value of works contract service is not capitalized. In this case, ITC is allowed to all recipients irrespective of their line of business.**
- (iv) Self-construction of immovable property [Clause (d) of section 17(5)]**

So now we know that ITC on works contract services availed by a taxpayer, other than a works contractor, for construction of immovable property (other than plant and machinery) is not available. But what happens if a taxpayer procures goods and services and constructs an immovable property, for being used in the course or furtherance of business, without availing services of a works contractor? Will ITC be allowed in such a case?

The answer is No. ITC is not allowed on goods and/or services received by a taxable person for construction of an immovable property (other than plant and machinery) **on his own account** even though such goods and/or services are used in the course or furtherance of business. Thus, ITC on goods and/or services used in the construction of an immovable property is blocked only in those cases where the taxable person constructs the immovable property for his own use even if the immovable property being constructed is used in the course or

furtherance of his business.

The discussion on terms, 'construction' and 'plant and machinery' for works contract services [Elaborated in point (iii) above] applies to construction on own account also.



ITC on goods and/or services used in construction of immovable property is available only in the following three situations:

- (i) For construction of eligible plant and machinery**
- (ii) When the value of goods and/or services is not capitalized**
- (iii) When the construction is not on own account**



(34) A company buys cement, tiles etc. and avails the services of an architect for construction of its office building. ITC on such goods and services is blocked.

(35) MN & Constructions procures cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients. ITC on such goods and services is allowed to MN & Co.

(36) A company buys cement, tiles etc. and avails the services of an architect for renovation of its office building. The company has booked such expenditure in its profit and loss account. ITC on such goods and services is allowed.

(37) ITC on goods and/or services used by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed.

Clarification on availability of ITC on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5)¹⁹

Issue: Whether the input tax credit on the ducts and manholes used in network of optical fiber cables (OFCs) for providing telecommunication

¹⁹ Circular No. 219/13/2024 GST dated 26.06.2024

services is barred in terms of clauses (c) and (d) of section 17(5), read with Explanation to section 17?

Clarification: Ducts and manholes are basic components for the optical fiber cable (OFC) network used in providing telecommunication services. The OFC network is generally laid with the use of PVC ducts/sheaths in which OFCs are housed and service/connectivity manholes, which serve as nodes of the network, and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance. In view of the Explanation in section 17, it appears that ducts and manholes are covered under the definition of "plant and machinery" as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another.

Moreover, ducts and manholes used in network of optical fiber cables (OFCs) have not been specifically excluded from the definition of "plant and machinery" in the Explanation to section 17 as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.

Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in network of optical fiber cables (OFCs), either under clause (c) or under clause (d) of section 17(5).

(v) Inward supplies charged to tax under composition levy [Clause (e) of section 17(5)]

A supplier registered under composition scheme cannot collect tax from its customers. Thus, such supplier issues bill of supply and not a tax invoice. A composition supplier pays a lumpsum tax at a specified rate on its quarterly turnover.

Tax paid on goods and/or services under composition scheme is not available as ITC for the recipient.

Since a composition supplier cannot collect any tax on its supplies, from the recipient of its supplies, it is obvious that no ITC can be availed in

respect of such supplies by the recipients. Nevertheless, section 17(5)(e) specifically blocks the ITC on inward supplies received by a taxable person from a composition supplier.

**(vi) Inward supplies received by a non-resident taxable person
[Clause (f) of section 17(5)]**

Non-resident taxable person has been defined in the CGST Act [*See the definition under the heading Relevant Definitions*]. Essentially, a non-resident taxable person has no fixed place of business in India but he sporadically supplies goods or services in India.

Tax paid on goods and/or services received by such non-resident taxable person, is not available as ITC. However, tax paid by him on **imported goods** is allowed as ITC.



Whereas ITC on goods imported by a non-resident taxable person is allowed, ITC on services imported by him is blocked.

**(vii) Inward supplies used/intended to be used for purpose of CSR
[Clause (fa) of section 17(5)]**

ITC shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility (CSR) referred to in section 135 of the Companies Act, 2013.

CSR is a strategy undertaken by companies to not just grow profits, but to take an active and positive social role in the world around them. Corporate social responsibility programs aim to give structure to a company's efforts to give back to the community, participate in philanthropic causes, and provide positive social value. Businesses increasingly turn to CSR to make a difference and build a positive brand around their company.

(viii) Inward supplies used for personal consumption [Clause (g) of section 17(5)]

One of the foremost conditions laid down in section 16 for availing ITC on goods and/or services is that such goods and/or services should be used **in the course or furtherance of business**. Further, where goods and/or services are used partly for the purpose of any business and partly for other purposes, section 17(1) restricts the credit to so much of the ITC as is attributable to business purposes.

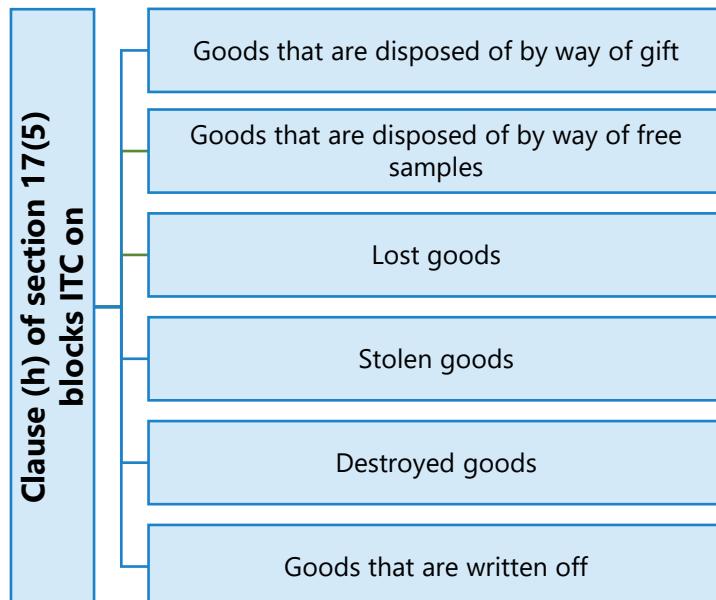
Furthermore, section 17(5)(g) also specifically blocks the ITC on goods and/or service used for personal consumption.

The term 'personal consumption' has not been defined in the GST law. Thus, it may be understood in the general sense which would mean non-business use.



(38) Mr. X owns a grocery store. He procures rice, wheat and biscuits for being sold in its store. Out of the inventory so purchased, he gives 10 kgs each of rice and wheat to his wife for household use. Being used for personal consumption, ITC on 10 kg of rice and 10 kg of wheat is blocked.

(ix) Free samples, gifts, goods lost/stolen etc. [Clause (h) of section 17(5)]



ITC in respect of goods that are disposed of by way of gift or free samples is not available. Also, ITC is blocked on lost goods, stolen goods, destroyed goods and goods that are written off. This is because principally, ITC is available only for payment of tax on output supply. If no tax is payable on output supply, ITC on inputs/input services/capital goods relating to such output supply is not eligible. Hence, ITC on gifts and free samples is blocked as no tax is payable on its outward supply. In case of lost/destroyed/stolen written off goods also, ITC is not available as these goods cannot be said to have been used for making a taxable supply.

Meaning of 'gift'

The term gift has not been defined in the GST law. Therefore, we will have to look for the definition of gift in other laws. Section 122 of the Transfer of Property Act, 1882, defines gift as transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee.

In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right.

Meaning of 'sample'

Sample is also not defined in the GST law. The dictionary meaning of sample is "a small part or quantity intended to show what the whole is like". In commercial parlance, samples are given to prospective customers to enable them to test the quality of the item before making a decision to buy the same.

ITC in the hands of the supplier in respect of sales promotional schemes

Circular No. 92/11/2019 GST dated 07.03.2019 has clarified the entitlement of ITC in the hands of supplier in respect of various sales promotional schemes as under [Taxability of such schemes has been discussed at relevant places in Chapter 2: Supply Under GST and Chapter 7: Value of Supply in Module 1 of the Study Material.]:

A. Samples and free gifts

Samples which are supplied free of cost, without any consideration, do not qualify as "supply" under GST, except where the activity falls within the ambit of Schedule I of the CGST Act.

ITC shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of "supply" on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail the ITC.

B. Buy one get one free offer

This is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8.

ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including 'Buy more, save more' offers

Discounts offered by the suppliers to customers (including staggered discount under "Buy more, save more" scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

However, the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the

supply of goods or services or both on such discounts.

D. Secondary discounts

These are the discounts which are not known at the time of supply or are offered after the supply is already over. Such discounts shall not be excluded while determining the value of supply. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

ITC reversal when return of time expired medicines/drugs are treated as fresh supply

The common trade practice in the pharmaceutical sector is that the drugs or medicines (hereinafter referred to as "goods") are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. Such goods have a defined life term which is normally referred to as the date of expiry. Such goods which have crossed their date of expiry are colloquially referred to as **time expired goods** and are returned to the manufacturer, on account of expiry, through the supply chain.

Circular No. 72/46/2018 GST dated 26.10.2018 has clarified that the retailer/ wholesaler can return the time expired goods, **either by treating the same as fresh supply or by issuing credit notes²⁰**.

Return of time-expired goods by treating the same as fresh supply

In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, "return supply"). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail ITC of the tax levied on the said return supply subject to the fulfillment of the conditions specified in section 16.

²⁰The procedure for return of time expired drugs or medicines by issuing credit note is covered in Chapter 10: Tax Invoice; Credit and Debit Notes in this Module of the Study Material.

In case the person returning the time-expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply. In case the person returning the time-expired goods is an unregistered person, he may return the said goods by issuing any commercial document without charging any tax on the same.

Where the goods returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h). It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

The clarification may also be applicable to return of goods for reasons other than being time expired.



(39) If a manufacturer has availed ITC of ₹10/- at the time of manufacture of medicines valued at ₹ 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is ₹ 15/-. So, when the time expired goods are destroyed by the manufacturer, he would be required to reverse ITC of ₹ 15/- and not of ₹ 10/-.

(x) Tax paid in fraud cases, detention, confiscation etc. [Clause (i) of section 17(5)]

Tax paid under sections 74, 129 and 130²¹is not available as ITC. These sections prescribe the provisions relating to tax paid as a result of evasion of taxes, or upon detention of goods or conveyances in transit, or towards redemption of confiscated goods/conveyances.

²¹ Declaration is to be filed in Form GST ITC-01 where a registered person ceases to pay composition tax and switches to regular scheme or his exempt supplies become taxable supplies.

**Quiz
Time!**

2

Cheeku Ltd., a registered person, is engaged in manufacturing of taxable goods. It provides following details in relation to GST paid on inward supplies procured by it during the month of January:

| | |
|--|------------|
| Raw material purchased (to be received in the month of February) | ₹ 2,00,000 |
| Capital goods purchased (Invoice for one of the machines is missing. GST paid on the same is ₹ 70,000) | ₹ 4,80,000 |
| Free samples distributed | ₹ 80,000 |
| Trucks used for transport of minerals | ₹ 1,20,000 |

Determine the amount of ITC that can be availed by Cheeku Ltd. for the month of January. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

- (a) ₹ 7,30,000 (b) ₹ 5,30,000 (c) ₹ 6,80,000 (d) ₹ 7,60,000

**Quiz
Time!**

3

Dheeru Ltd., a registered person, is engaged in manufacturing of toys. It provides following details in relation to GST paid on inward supplies procured by it during the month of October:

| Particulars | GST (₹) |
|--|----------------|
| Raw material purchased | 2,00,000 |
| Construction of pipelines laid outside the factory premises | 3,00,000 |
| Insurance charges paid for trucks used for transportation of goods | 80,000 |

Determine the amount of ITC that can be availed by Dheeru Ltd. for the month of October. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

- (a) ₹ 5,00,000 (b) ₹ 2,80,000 (c) ₹ 3,80,000 (d) ₹ 5,80,000



5. CREDIT IN SPECIAL CIRCUMSTANCES [SECTION 18]



STATUTORY PROVISIONS

| Section 18 | Availability of credit in special circumstances | |
|-------------------------|--|---|
| Sub- section | Clause | Particulars |
| (1) | | <i>Subject to such conditions and restrictions as may be prescribed—</i> |
| | (a) | <i>a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;</i> |
| | (b) | <i>a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;</i> |
| | (c) | <i>where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:</i> |
| | | <i>Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;</i> |

| | | |
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| | (d) | <p><i>where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:</i></p> <p><i>Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.</i></p> |
| (2) | | <p><i>A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.</i></p> |
| (3) | | <p><i>Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.</i></p> |
| (4) | | <p><i>Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:</i></p> <p><i>Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.</i></p> |

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| (5) | <i>The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.</i> |
| (6) | <i>In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:</i> <i>Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.</i> |

Chapter V: Input Tax Credit of CGST Rules

| Rule 40 | Manner of claiming credit in special circumstances |
|----------------|---|
| (1) | <i>The input tax credit claimed in accordance with the provisions of sub-section (1) of section 18 on the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, shall be subject to the following conditions, namely -</i> |
| | <p style="margin-left: 20px;"><i>(a) the input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person.</i></p> |
| | <p style="margin-left: 20px;"><i>(b) the registered person shall within a period of thirty days from the date of becoming eligible to avail the input tax credit under sub-section (1) of section 18, or within such further period as may be extended by the Commissioner by a notification in this behalf, shall make a declaration, electronically, on the common portal in FORM GST ITC-01</i></p> |

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| | | <i>to the effect that he is eligible to avail the input tax credit as aforesaid:</i> |
| | | <i>Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.</i> |
| (c) | | <i>the declaration under clause (b) shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods-</i> |
| | (i) | <i>on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under clause (a) of sub-section (1) of section 18;</i> |
| | (ii) | <i>on the day immediately preceding the date of the grant of registration, in the case of a claim under clause (b) of sub-section (1) of section 18;</i> |
| | (iii) | <i>on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under clause (c) of sub-section (1) of section 18;</i> |
| | (iv) | <i>on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under clause (d) of sub-section (1) of section 18;</i> |
| (d) | | <i>the details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds two lakh rupees;</i> |
| (e) | | <i>the input tax credit claimed in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 18 shall be verified with the corresponding details furnished by the corresponding supplier in FORM GSTR-1 and in FORM GSTR-9A.</i> |

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| | | 1A, if any, or as the case may be, in FORM GSTR- 4 , on the common portal. |
| (2) | | <i>The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of sub-section (6) of section 18, shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.</i> |
| Rule 41 | | Transfer of credit on sale, merger, amalgamation, lease or transfer of a business |
| (1) | | <i>A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in FORM GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:</i> |
| | | <i>Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.</i> |
| | | <i>Explanation: - For the purpose of this sub-rule, it is hereby clarified that the "value of assets" means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.</i> |
| (2) | | <i>The transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.</i> |
| (3) | | <i>The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in FORM GST ITC-02 shall be credited to his electronic credit ledger.</i> |
| (4) | | <i>The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.</i> |

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| Rule 41A | Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory |
| (1) | <p>A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such separate registrations, the details in FORM GST ITC-02A electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:</p> <p>Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.</p> <p>Explanation.- For the purposes of this sub-rule, it is hereby clarified that the 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.</p> |
| (2) | <p>The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilised input tax credit specified in FORM GST ITC-02A shall be credited to his electronic credit ledger.</p> |
| Rule 44 | Manner of reversal of credit under special circumstances |
| (1) | <p>The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18 or sub-section (5) of section 29, be determined in the following manner, namely,-</p> <p>(a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding</p> |

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| | | <i>invoices on which credit had been availed by the registered taxable person on such inputs;</i> |
| | (b) | <i>for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.</i> |
| (2) | | <i>The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.</i> |
| (3) | | <i>Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of the goods on the effective date of the occurrence of any of the events specified in sub-section(4)of section 18 or, as the case may be, sub-section (5) of section 29.</i> |
| (4) | | <i>The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in FORM GST ITC-03, where such amount relates to any event specified in sub-section (4) of section 18 and in FORM GSTR-10, where such amount relates to the cancellation of registration.</i> |
| (5) | | <i>The details furnished in accordance with sub-rule (3) shall be duly certified by a practicing chartered accountant or cost accountant.</i> |
| (6) | | <i>The amount of input tax credit for the purposes of sub-section (6) of section 18 relating to capital goods shall be determined in the same manner as specified in clause (b) of sub-rule (1) and the amount shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax:</i> |
| | | <i>Provided that where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in FORM GSTR-1.</i> |



ANALYSIS

Section 18 provides for

- (1) entitlement of ITC on inputs in stock and inputs contained in finished goods or work-in-progress, and in last two cases in respect of capital goods as well
 - (i) at the time of registration/voluntary registration,(ii) on coming into regular tax-paying status by exiting composition levy, (iii) on coming into tax-paying status on account of exempt supply becoming taxable supply for a registered person
- (2) reversal of ITC on inputs in stock and inputs contained in finished goods or work-in-progress and capital goods (i) at the time of exit from regular tax-paying status by opting for composition levy, (ii) at the time of exit from tax-paying status on account of taxable supply becoming exempt supply for a registered person
- (3) amount payable on supply of capital goods or plant and machinery on which ITC has been taken
- (4) transfer of ITC on account of change in constitution of the registered person

(i) Entitlement of ITC at the time of registration/voluntary registration or switching to regular tax paying status or coming into tax-paying status [Sub-sections (1) and (2) of section 18 read with rule 40]

The credit on inputs held in stock and contained in semi-finished goods or finished goods held in stock and capital goods at the time of registration/voluntary registration or coming into regular tax/tax-paying status is available in the following manner:

| S. No. | Persons eligible to take credit | Goods entitled to ITC | | Restriction/ conditions |
|-----------|--|---|---|--|
| | | Inputs held in stock/ capital goods | As on | |
| (1) | (2) | (3) | (4) | (5) |
| 1. | Person who has applied for | Inputs held in stock and inputs | The day immediately preceding the | → ITC to be availed within 1 year from the |

| | | | | |
|----|---|--|---|---|
| | registration within 30 days from the date on which he becomes liable to registration and has been granted such registration | contained in semi-finished or finished goods held in stock | date from which he becomes liable to pay tax | date of the issue of the tax invoice by the supplier. |
| 2. | Person who is not required to register, but obtains voluntary registration | Inputs held in stock and inputs contained in semi-finished or finished goods held in stock | The day immediately preceding the date of registration | |
| 3. | Registered person who ceases to pay composition tax and switches to regular scheme | Inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods | The day immediately preceding the date from which he becomes liable to pay tax under regular scheme | <ul style="list-style-type: none"> → ITC on capital goods will be reduced by 5% per quarter of a year or part of the year from the date of invoice. → ITC claimed shall be verified with the corresponding details furnished by the corresponding |
| 4. | Registered person whose exempt supplies become taxable | Inputs held in stock and inputs contained in semi-finished or finished goods held in | The day immediately preceding the date from which such supply becomes | |

| | | | | |
|--|----------|--|---------|---|
| | supplies | stock relatable to such exempt supply and capital goods exclusively used for such exempt supply | taxable | supplier. → ITC to be availed within 1 year from the date of the issue of the tax invoice by the supplier. |
|--|----------|--|---------|---|

In all the above cases, the registered person has to make an electronic declaration in the prescribed form²²on the common portal, clearly specifying the details relating to the inputs held in stock, inputs contained in semi-finished or finished goods held in stock and capital goods on the days mentioned in column (4) of table above. The declaration is to be filed within 30 days(extendable by Commissioner/Commissioner of State GST/Commissioner of UTGST) from the date when the registered person becomes eligible to avail ITC. If the claim of ITC pertaining to CGST, SGST/UTGST, IGST put together exceeds ₹ 2,00,000, the declaration needs to be duly certified by a practicing Chartered Accountant/Cost Accountant.



(40) 'Z' becomes liable to pay tax on 1st August and has obtained registration on 15th August w.e.f. 1st August. 'Z' is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 31st July. 'Z' cannot take ITC on capital goods.



(41) 'A' applies for voluntary registration on 5th June and obtains registration w.e.f.22ndJune. 'A' is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 21st June. 'A' cannot take ITC on capital goods.



(42) 'B', a registered taxable person, was paying tax under composition scheme upto 30th July. However, w.e.f. 31st July, 'B' becomes liable to pay tax under regular scheme. 'B' will be eligible

²² Declaration is to be filed in Form GST ITC-01 where a registered person ceases to pay composition tax and switches to regular scheme or his exempt supplies become taxable supplies.

for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30thJuly. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of the invoice.

(ii) Reversal of ITC on switching to composition levy or exit from tax-paying status [Section 18(4) read with rule 44]

- Section 18(4) requires reversal of ITC when a registered person who has availed ITC switches to composition levy or when his supplies get wholly exempted from tax.
- ITC on **inputs** should be reversed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs. If invoices are not available, ITC can be reversed on the basis of the prevailing market price of such goods on the date of switch over/exemption. The details furnished on the basis of prevailing market value need to be duly certified by a practicing Chartered Accountant/Cost Accountant.
- ITC involved in the remaining useful life (in months) of the **capital goods** should be reversed on *pro-rata* basis, taking the useful life as 5 years.



(43) Capital goods have been in use for 4 years, 6 month and 15 days. The useful remaining life in months = 5 months ignoring a part of the month.

ITC taken on such capital goods = C

ITC attributable to remaining useful life that should be reversed
 $= C \times 5/60$

- The registered person has to debit the electronic credit or cash ledger by the reversal amount in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods on the day immediately preceding the date of switch over/ date of exemption.
- Balance of ITC, if any, lying in the electronic credit ledger lapses.
- Cancellation of registration also requires reversal of ITC on inputs held in stock/ contained in semi-finished goods or finished goods held in

stock, capital goods or plant and machinery on the day immediately preceding the cancellation date. The amount to be reversed on inputs and capital goods is computed in the manner as applicable for sub-sections (4) of section 18 (discussed above).

- ITC to be reversed on inputs and capital goods is calculated separately for ITC of CGST, SGST/UTGST and IGST.
- The reversal amount is added to the output tax liability of the registered person.

(iii) Amount payable on supply of capital goods or plant and machinery on which ITC has been taken [Section 18(6) read with rule 40(2) & rule 44(6)]

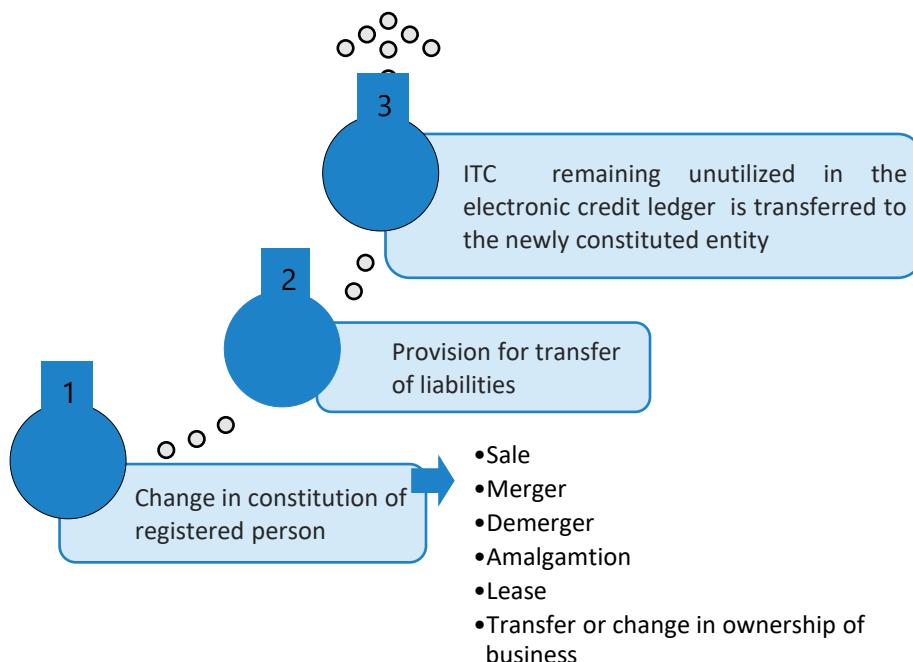
- If capital goods or plant and machinery on which ITC has been taken are supplied outward by the registered person, he must pay an amount that is the **higher of the following:**
 - ✓ ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods (i.e., ITC pertaining to remaining useful life of the capital goods), or
 - ✓ tax on transaction value of such capital goods/plant & machinery
- ITC pertaining to remaining useful life of the capital goods should be computed separately for ITC of CGST, SGST/UTGST and IGST.
- Where the amount of ITC remaining so determined exceeds the tax payable on the transaction value of the capital goods, such amount need to be paid and thus, should be added to the output tax liability.
- If refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value.

***Note:** Under rule 44(6), ITC involved in the remaining useful life (in months) of the capital goods is reversed on *pro rata* basis, taking the useful life as 5 years.

(iv) Transfer of ITC on account of change in constitution of registered person [Section 18(3) read with rule 41]

In case of sale, merger, demerger, amalgamation, lease, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities in such change of constitution. *Circular No. 96/15/2019 GST dated 28.03.2019* has clarified that transfer or change in the ownership of business includes transfer or change in the ownership due to death of the sole proprietor.

The above provisions have been explained with the help of the diagram on next page:



In the case of demerger, ITC will be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. Here, "**value of assets**" means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should duly record the inputs and capital goods so transferred in his books of account.

(v) Transfer of ITC on obtaining separate registrations for multiple places of business within a State/ Union Territory [Rule 41A]

Section 25 enables a taxpayer to obtain separate registrations for multiple places of business within a State/ Union territory [*Provisions of section 25 are discussed under Chapter 9: Registration in this Module of the Study Material*]. The registered person (transferor), having separate registrations for multiple places of business within a State/Union Territory, can transfer the unutilised ITC (wholly or partly) lying in his electronic credit ledger to any or all of the newly registered place(s) of business in the ratio of the value of assets held by them at the time of registration. Here, the ‘value of assets’ means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations. Upon acceptance of such details by the newly registered person (transferee) on the common portal, the unutilised ITC gets credited to his electronic credit ledger.


Quiz Time!

4

Vrinda Enterprises is a trader of electronic items in Haryana. It opted for the composition scheme on 1st April of current financial year. However, with effect from 1st July, it switched to regular scheme of paying the tax since its aggregate turnover crossed ₹ 150 lakh. The stock of goods (purchased during last 6 months) and machinery (purchased on 3rd May) on 30th June is ₹ 16,00,000 and ₹ 6,20,000 respectively. Compute the amount of ITC that can be availed by Vrinda Enterprises assuming the applicable rate of GST to be 18%.

| | | | |
|---------|----------------|----------------|----------------|
| (a) Nil | (b) ₹ 3,94,020 | (c) ₹ 3,96,000 | (d) ₹ 2,88,000 |
|---------|----------------|----------------|----------------|

6. HOW ITC IS UTILISED

|  STATUTORY PROVISIONS | | |
|---|---|--|
| Section 49 | Payment of tax, interest, penalty and other amounts (Relevant extract) | |
| Sub-section | Clause | Particulars |
| | | <i>The amount of input tax credit available in the electronic credit ledger of the registered person on account of—</i> |
| | (a) | <i>integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;</i> |
| | (b) | <i>the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;</i> |
| | (c) | <i>the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;</i> |
| | | <i>Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;</i> |
| | (d) | <i>the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;</i> |
| | | <i>Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax</i> |

| | | |
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| | | <i>credit on account of central tax is not available for payment of integrated tax;</i> |
| | (e) | <i>the central tax shall not be utilised towards payment of State tax or Union territory tax; and</i> |
| | (f) | <i>the State tax or Union territory tax shall not be utilised towards payment of central tax.</i> |
| Section 49A | <i>Utilisation of input tax credit subject to certain conditions</i> | |
| | <i>Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.</i> | |
| Section 49B | <i>Order of utilisation of input tax credit</i> | |
| | <i>Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.</i> | |
| <i>Chapter IX: Payment of Tax of the CGST Rules</i> | | |
| Rule 86A | <i>Conditions of use of amount available in electronic credit ledger</i> | |
| (1) | <i>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-</i> | |
| | (a) | <i>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> |

| | | | |
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| | | i. | <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</i> |
| | | ii. | <i>without receipt of goods or services or both; or</i> |
| | (b) | | <i>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</i> |
| | (c) | | <i>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</i> |
| | (d) | | <i>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,</i> |
| | | | <i>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.</i> |
| (2) | | | <i>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.</i> |
| (3) | | | <i>Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.</i> |
| Rule 86B | | | <i>Restrictions on use of amount available in electronic credit ledger</i> |
| | | | <i>Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of</i> |

ninety-nine per cent. of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:

Provided that the said restriction shall not apply where -

- (a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired; or
- (b) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of sub-section (3) of section 54; or
- (c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or
- (d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or
- (e) the registered person is -
 - (i) Government Department; or
 - (ii) a Public Sector Undertaking; or
 - (iii) a local authority; or
 - (iv) a statutory body;

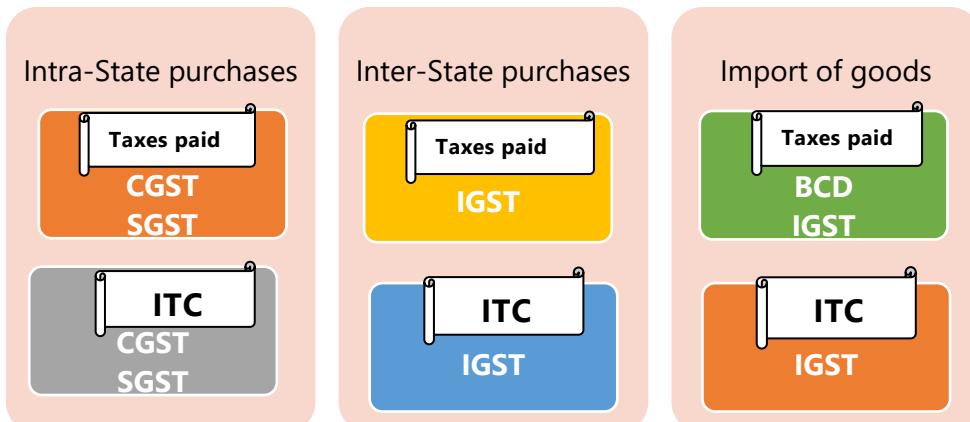
| | |
|-----------------|---|
| | <i>Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit</i> |
| Rule 88A | <p>Order of utilization of input tax credit</p> <p><i>Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order.</i></p> <p><i>Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.</i></p> |



ANALYSIS

ITC is credited to a registered person's electronic credit ledger. A taxable person is entitled for ITC of CGST, SGST/UTGST and IGST depending upon the nature of supplies received by him.

To illustrate, a supplier making purchases intra-State, inter-State and via import (of goods) is eligible for ITC as under:



The person may use the ITC to pay his output tax liability. As we know that Indian GST is a dual GST wherein two taxes viz, CGST and SGST/UTGST are levied concurrently on a supply transaction. While the CGST revenue accrues to Central Government, SGST and UTGST revenue accrue to respective State Government and Union Territory, respectively. Hence, ITC of CGST and SGST/UTGST is not interchangeable and thus, **cross utilisation of CGST and SGST/UTGST is not permissible.**

IGST is a transitory tax. IGST paid by taxpayer initially goes to the Central Clearing Authority. ITC of IGST can be utilised for payment of CGST or SGST/UTGST (or vice versa). Thus, cross utilization of IGST and CGST, SGST/UTGST is permissible. Flexibility has been provided to the taxpayer to utilise ITC of IGST for first payment of IGST and then towards payment of CGST and/or SGST/UTGST in any proportion and in any order subject to the condition that the entire input tax credit on account of Integrated tax is completely exhausted before the input tax credit on account of Central Tax or State/Union territory tax can be utilized. If ITC of IGST is used for payment of SGST/UTGST (or vice versa), corresponding debit/credit is made to respective State Government/Union Territory.

Sections 49(5), 49A, 49B, rule 88A and Circular No. 98/17/2019 GST dated 23.04.2019 together prescribe the sequence of utilisation of ITC. A combined reading of such provisions shows that the order of utilization of ITC is as per the order (of numerals) given below:

| ITC of | Output IGST liability | Output CGST liability | Output SGST/UTGST liability |
|--|---|---|-----------------------------|
| IGST | (I) | (II) – In any order and in any proportion | |
| (III) ITC of IGST to be completely exhausted mandatorily | | | |
| CGST | Permitted | Permitted | Not permitted |
| SGST/UTGST | Permitted | Not permitted | Permitted |
| The numerals given above can be further explained in the following manner: | | | |
| (I) | IGST credit should first be utilized towards payment of IGST. | | |

| | |
|---|---|
| (II) | Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion, i.e. remaining ITC of IGST can be utilized – <ul style="list-style-type: none"> • first towards payment of CGST and then towards payment of SGST; or • first towards payment of SGST and then towards payment of CGST; or • towards payment of CGST and SGST simultaneously in any proportion e.g. 50: 50, 30: 70, 40: 60 and so on. |
| (III) | Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST. |
| <ul style="list-style-type: none"> • Cross-utilization of credit is available only between CGST - IGST and, SGST/UTGST - IGST. • CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST. • ITC of IGST need to be exhausted fully before proceeding to utilize the ITC of CGST, SGST/UTGST. | |



(44) Amount of ITC available and output tax liability under different tax heads

| Head | Output tax liability (₹) | ITC (₹) |
|--------------|--------------------------|-------------|
| IGST | 1000 | 1300 |
| CGST | 300 | 200 |
| SGST/UTGST | 300 | 200 |
| Total | 1600 | 1700 |

Option 1

| ITC of | Discharge of output IGST liability (₹) | Discharge of output CGST liability (₹) | Discharge of output SGST/UTGST liability (₹) | Balance of ITC (₹) |
|---|--|--|--|--------------------|
| IGST | 1000 | 200 | 100 | 0 |
| ITC of IGST has been completely exhausted | | | | |
| CGST | 0 | 100 | - | 100 |

| | | | | |
|--------------|-------------|------------|------------|------------|
| SGST/UTGST | 0 | - | 200 | 0 |
| Total | 1000 | 300 | 300 | 100 |

Option 2

| ITC of | Discharge of output IGST liability (₹) | Discharge of output CGST liability (₹) | Discharge of output SGST/UTGST liability (₹) | Balance of ITC (₹) |
|---|--|--|--|--------------------|
| IGST | 1000 | 100 | 200 | 0 |
| ITC of IGST has been completely exhausted | | | | |
| CGST | 0 | 200 | - | 0 |
| SGST/UTGST | 0 | - | 100 | 100 |
| Total | 1000 | 300 | 300 | 100 |

Option 3

| ITC of | Discharge of output IGST liability (₹) | Discharge of output CGST liability (₹) | Discharge of output SGST/UTGST liability (₹) | Balance of ITC (₹) |
|---|--|--|--|--------------------|
| IGST | 1000 | 150 | 150 | 0 |
| ITC of IGST has been completely exhausted | | | | |
| CGST | 0 | 150 | - | 50 |
| SGST/UTGST | 0 | - | 150 | 50 |
| Total | 1000 | 300 | 300 | 100 |

There can be other options also for utilization of ITC of IGST against CGST and SGST liabilities. In this example, three options for utilizing ITC of IGST against CGST and SGST liabilities are shown.

Restrictions on utilisation of ITC [Rule 86A]

The Commissioner/ an officer (not below the rank of an Assistant Commissioner) authorised by him is empowered to impose restrictions on utilization of ITC available in the electronic credit ledger if he has **reasons to believe** that such ITC has been fraudulently availed or is ineligible.

The restrictions can be imposed in the following circumstances:

- (i) ITC has been availed by the registered person on the basis of tax invoices/debit notes/prescribed documents -
 - issued by a non-existent registered person (supplier) or by a supplier not conducting any business from the place declared in registration; or
 - without actual receipt of goods or services or both; or
 - in respect of any supply the tax in respect of which has not been paid to the Government
- (ii) the registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or
- (iii) the registered person availing ITC is not in possession of tax invoice/debit note or any other prescribed valid document for it.

If the ITC is so availed, the restrictions can be imposed by not allowing such ITC to be used for discharging any liability under section 49 or not allowing refund of any unutilised amount of such ITC. Such restrictions can be imposed for a period up to 1 year from the date of imposing such restrictions. However, the Commissioner/officer authorised by him, can withdraw such restriction if he is satisfied that conditions for imposing the restrictions no longer exist.

Restrictions on the use of amount available in electronic credit ledger [Rule 86B]

Rule 86B restricts the use of ITC available in the electronic credit ledger for discharging output tax liability. The aforesaid rule starts with a non-obstante clause and thus, has an over-riding effect on any other provisions of the CGST Rules.

□ Applicability of rule 86B

- ❖ Rule 86B is applicable to the registered person having value of taxable supply (other than exempt supply and zero-rated supply) in a month exceeding ₹ 50 lakh.
- ❖ Therefore, in cases wherein value of taxable supply in a month is upto ₹ 50 lakh, then this restriction would not be applicable.

Nature of restriction imposed

The registered person to whom the said rule is applicable cannot use ITC to discharge the output tax liability in excess of 99% of such tax liability. In other words, amount available in electronic credit ledger shall be utilized only to the extent of 99% of the output tax liability while discharging such tax liability. Balance 1% of the output tax liability needs to be discharged from electronic cash ledger.

Minimum 1% of the output tax liability be discharged using electronic cash ledger

The above restriction can be explained with the help of numerical example:



(45) The total value of inter-State supply of Raman & Sons for the month of February is of ₹ 100 lakh. Said supply is taxable @ 18% IGST. Thus, total output tax liability of Raman & Sons is ₹ 18 lakh. Amount available in electronic credit ledger is ₹ 20 lakh (IGST).

In terms of restriction imposed by rule 86B, Raman & Sons can discharge 99% of its output tax liability, i.e. ₹ 17,82,000 (99% of ₹ 18,00,000) from the amount available in electronic credit ledger. However, it has to mandatorily discharge the balance 1% of the output tax liability i.e. ₹ 18,000 (1% of ₹ 18,00,000) through electronic cash ledger only.

Exceptions to rule 86B

In order to strike a balance between restricting potential misuse of ITC and providing relief to compliant taxpayers, few exceptions to rule 86B have been carved out. They take into account different circumstances and ensure that taxpayers who have fulfilled certain criteria are not unduly burdened by the restrictions imposed by rule 86B.

➤ **Payment of income tax of more than ₹ 1 lakh**

Restriction under rule 86B is not applicable in cases where the below mentioned person(s) have paid a sum of more than ₹ 1 lakh as income tax (under the Income -tax Act, 1961) in each of the last 2 FYs for which the time limit to file return of income under section 139(1) of the Income-tax Act has expired:

- ❖ Registered person /proprietor/Karta/managing director/any of its two partners
- ❖ Whole-time directors,
- ❖ Members of Managing Committee of Associations
- ❖ Board of Trustees

➤ **Receipt of refund of input tax credit of more than ₹ 1 lakh**

Rule 86B is not applicable where the registered person has received a refund amount of more than ₹ 1 lakh on account of unutilized ITC under:

- ❖ zero-rated supplies made without payment of tax
- ❖ inverted duty structure

It is pertinent to note that refund should have been received in preceding FY.

➤ **Payment of output tax liability through electronic cash ledger in excess of 1% of total output tax liability in current FY**

If the registered person has discharged his output tax liability through the electronic cash ledger for an amount in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year, the restrictions under rule 86B shall not apply.

This exception provides relief to registered persons who have consistently made substantial cash payments towards their GST liabilities. The total cash payment of GST made by the registered person is considered cumulatively for all preceding months of the current FY. The cumulative approach ensures that the registered person is given credit for its consistent cash payments throughout the year, rather than assessing each month in isolation.



(46) Assuming a scenario wherein in the current FY upto September month, the value of outward supply is ₹ 80 lakh. Output tax liability discharged through electronic cash ledger till August month is ₹ 1 lakh. Rule 86B would not be applicable in the September month even though the value of supply during this month

exceeds ₹ 50 lakh, since cumulative payment of tax made in cash is more than 1% of total output tax liability (1% of ₹ 80 lakh is ₹ 80,000).

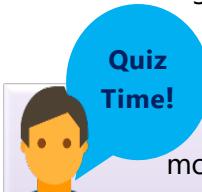
It is pertinent to note that GST liability paid under reverse charge mechanism should not be taken into account while calculating the total output liability paid through electronic cash ledger.

➤ Specified registered persons

Rule 86B is not applicable in case of below-mentioned registered person:

- ❖ Government Department; or
- ❖ a Public Sector Undertaking; or
- ❖ a local authority; or
- ❖ a statutory body.

However, Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.



**Quiz
Time!**

5

Dua & Co made an outward inter-State supply of ₹ 80 lakh in the month of March. During the month, it purchased raw material worth ₹ 70 lakh and procured cement of ₹ 5 lakh for making foundation and structural support to a plant and machinery. Assuming that the opening balance of ITC for IGST for the relevant period is ₹ 2 lakh and all inward and outward supplies undertaken in the month of March are inter-State, compute the amount of net IGST payable in cash, if any, for the month of March. Rate of GST applicable is 18%. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

(a) ₹ 14,400

(b) Nil

(c) ₹ 14.40 lakh

(d) ₹ 9,000

ILLUSTRATION 2

ABC Ltd., registered under GST, is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

| S. No. | Items | GST (₹) |
|--------|--|----------|
| (i) | Electrical transformers to be used in the manufacturing process | 5,20,000 |
| (ii) | Trucks used for the transport of raw material | 1,00,000 |
| (iii) | Raw material | 2,00,000 |
| (iv) | Confectionery items. These items were supplied free of cost to the customers in a customer meet organized by the company | 25,000 |

Determine the amount of ITC that can be availed by ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

ANSWER

Computation of ITC that can be availed by with ABC Co. Ltd. for the month of July

| S. No. | Items | ITC (₹) |
|--------|---|----------|
| (i) | Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)] | 5,20,000 |
| (ii) | Trucks used for the transport of raw material [ITC on motor vehicles used for transportation of goods is not blocked under section 17(5)(a)] | 1,00,000 |
| (iii) | Raw material | 2,00,000 |

| | | |
|------|--|----------|
| | [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)] | |
| (iv) | Confectionery items for consumption of customers at customers meet [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)] | Nil |
| | Total ITC | 8,20,000 |

ILLUSTRATION 3

XYZ Ltd., registered under GST, is engaged in manufacture of taxable goods. Compute the ITC that can be availed by XYZ Ltd. for the month of October from the following particulars:-

| S. No. | Inward supplies | GST (₹) | Remarks |
|--------|-----------------|----------|--|
| (i) | Inputs 'A' | 1,00,000 | One invoice on which GST payable was ₹ 10,000, is missing |
| (ii) | Inputs 'B' | 50,000 | Inputs are to be received in two lots. First lot has been received in October |
| (iii) | Capital goods | 1,20,000 | XYZ Ltd. has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value. |
| (iv) | Input services | 2,25,000 | One invoice dated 20 th January on which GST payable was ₹ 50,000 was missing and has been found in October |

Note:

- (i) Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.
- (ii) The annual return for the previous financial year was filed on 15th September.

ANSWER**Computation of ITC that can be availed by XYZ Ltd. for the month of October**

| S. No. | Inward supplies | ITC (₹) |
|--------|---|-----------------|
| (i) | Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)] | 90,000 |
| (ii) | Inputs 'B' [When inputs are received in lots, ITC can be availed only on receipt of last lot-First proviso to section 16(2)] | Nil |
| (iii) | Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)] | Nil |
| (iv) | Input services [As per section 16(4), ITC on an invoice cannot be availed after 30 th November following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the previous financial year has been filed on 15 th September (prior to 30 th November), ITC on the invoice pertaining to previous financial year cannot be availed after 15 th September] | 1,75,000 |
| | Total ITC | 2,65,000 |

ILLUSTRATION 4

XT Pvt. Ltd., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:

| Particulars | Amount (₹) |
|-----------------------------|-------------------|
| Intra-State supply of goods | 8,00,000 |
| Inter-State supply of goods | 3,00,000 |

It has also furnished the following information in respect of purchases made by it in that tax period:

| Particulars | Amount (₹) |
|--------------------------------|-------------------|
| Intra-State purchases of goods | 2,00,000 |
| Inter-State purchases of goods | 50,000 |

The company has following opening balance of ITCs for the tax period:

| Particulars | Amount (₹) |
|--------------------|-------------------|
| CGST | 57,000 |
| SGST | Nil |
| IGST | 70,000 |

Note:

- (i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.
- (ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.
- (iii) All the conditions necessary for availing the ITC have been fulfilled.

Compute the minimum GST, payable in cash, by XT Pvt. Ltd. for the tax period. Make suitable assumptions as required.

ANSWER**Computation of GST payable on outward supplies**

| S.No. | Particulars | CGST @ 9% (₹) | SGST @ 9% (₹) | IGST @ 18% (₹) | Total (₹) |
|-------|--|---------------|---------------|----------------|-----------------|
| (i) | Intra-State supply of goods for ₹ 8,00,000 | 72,000 | 72,000 | | 1,44,000 |
| (ii) | Inter-State supply of goods for ₹ 3,00,000 | | | 54,000 | 54,000 |
| | Total GST payable | | | | 1,98,000 |

Computation of total ITC

| Particulars | CGST @ 9% (₹) | SGST @ 9% (₹) | IGST @ 18% (₹) |
|---|---------------|---------------|----------------|
| Opening ITC | 57,000 | Nil | 70,000 |
| Add: ITC on Intra-State purchases of goods valuing ₹ 2,00,000 | 18,000 | 18,000 | Nil |
| Add: ITC on Inter-State purchases of goods valuing ₹ 50,000 | Nil | Nil | 9,000 |
| Total ITC | 75,000 | 18,000 | 79,000 |

Computation of minimum GST payable from electronic cash ledger

| Particulars | CGST @ 9% (₹) | SGST @ 9% (₹) | IGST @ 18% (₹) | Total (₹) |
|-------------------------------|---------------|---------------|----------------|-----------|
| GST payable | 72,000 | 72,000 | 54,000 | 1,98,000 |
| Less: ITC [First ITC of IGST] | (Nil) | (25,000) | (54,000) | 79,000 |

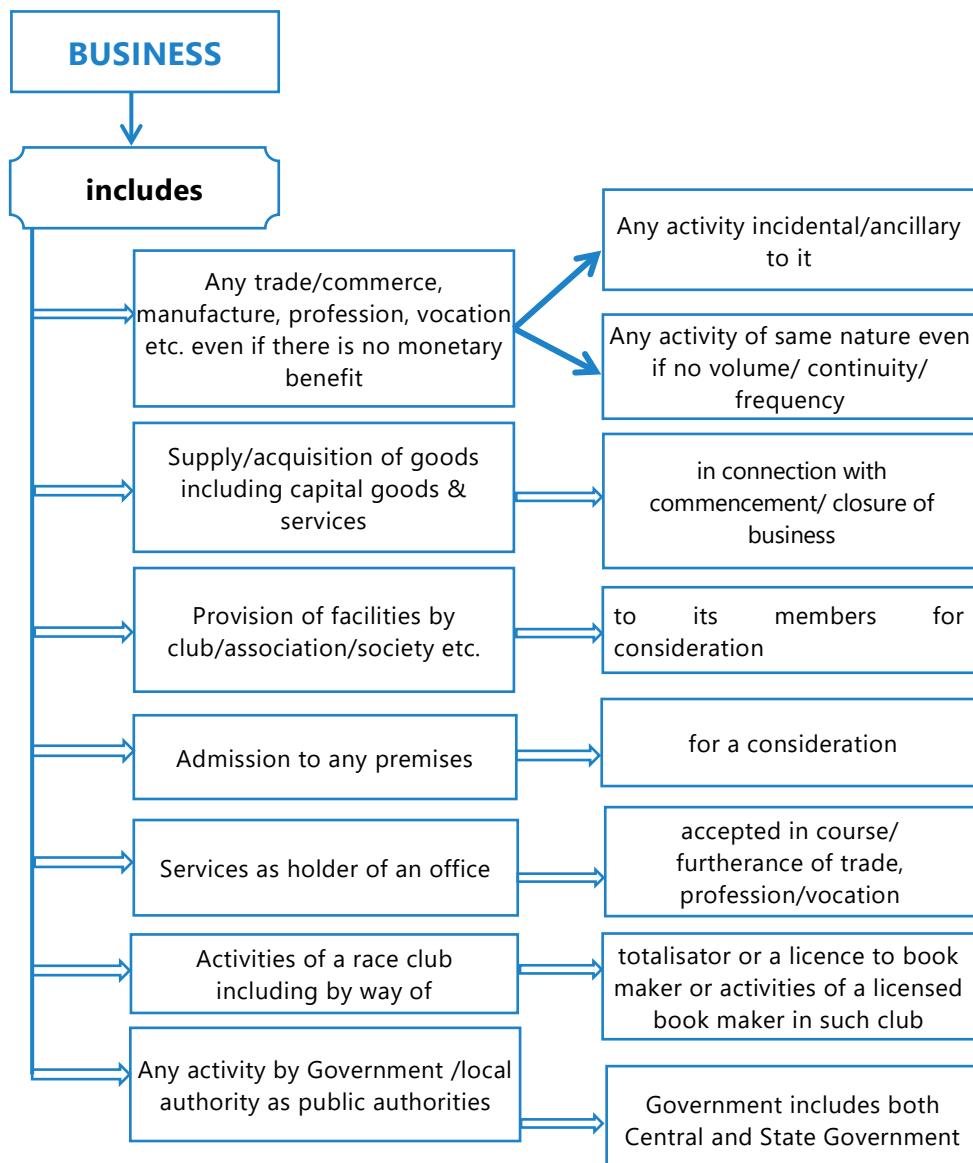
| | | | | |
|--|------------------|------------------|------------|---------------|
| should be utilized in full - first against IGST liability and then against CGST and SGST liabilities in a manner to minimize cash outflow] | IGST | IGST | IGST | |
| ITC of CGST and SGST set off against CGST and SGST respectively | (72,000) CGST | (18,000) SGST | | 90,000 |
| Minimum GST payable in cash | Nil | 29,000 | Nil | 29,000 |

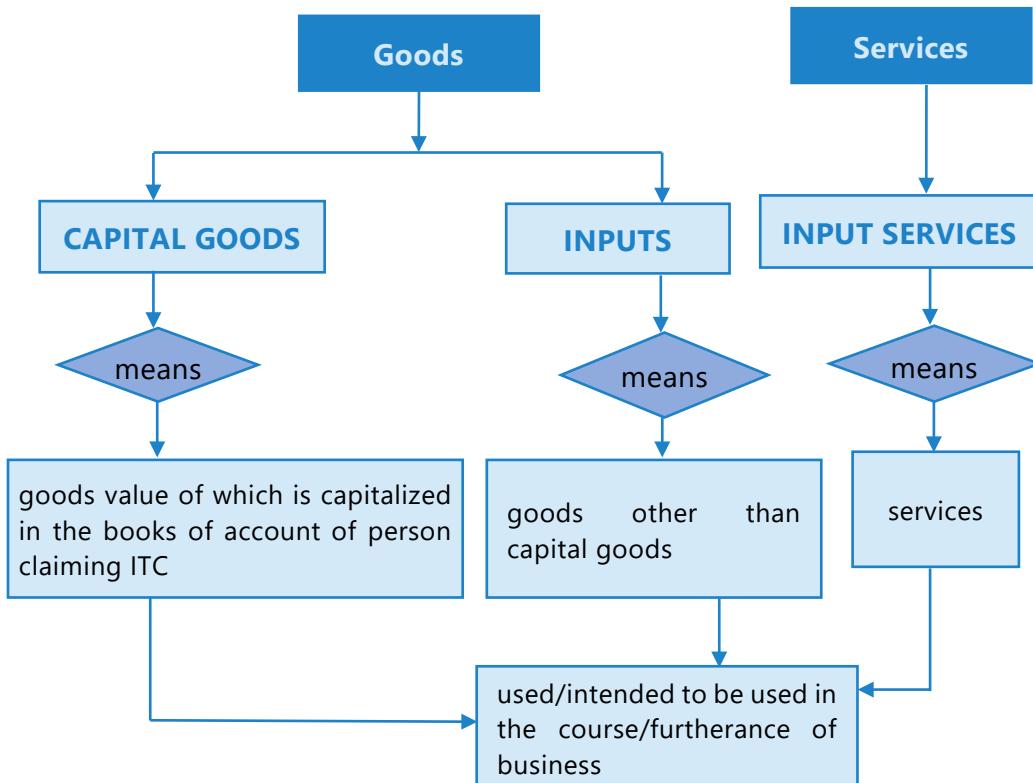
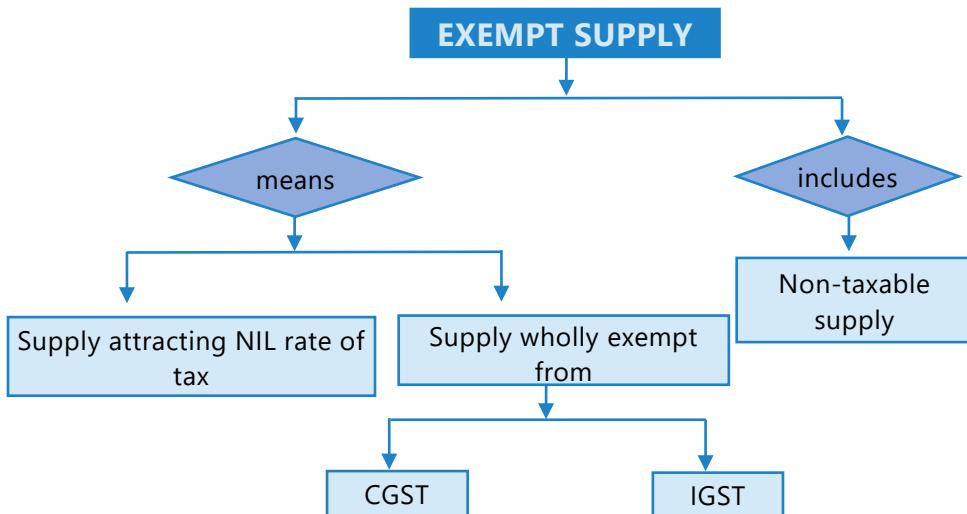
Note : Since sufficient balance of ITC of CGST is available for paying CGST liability and cross utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cash outflow.

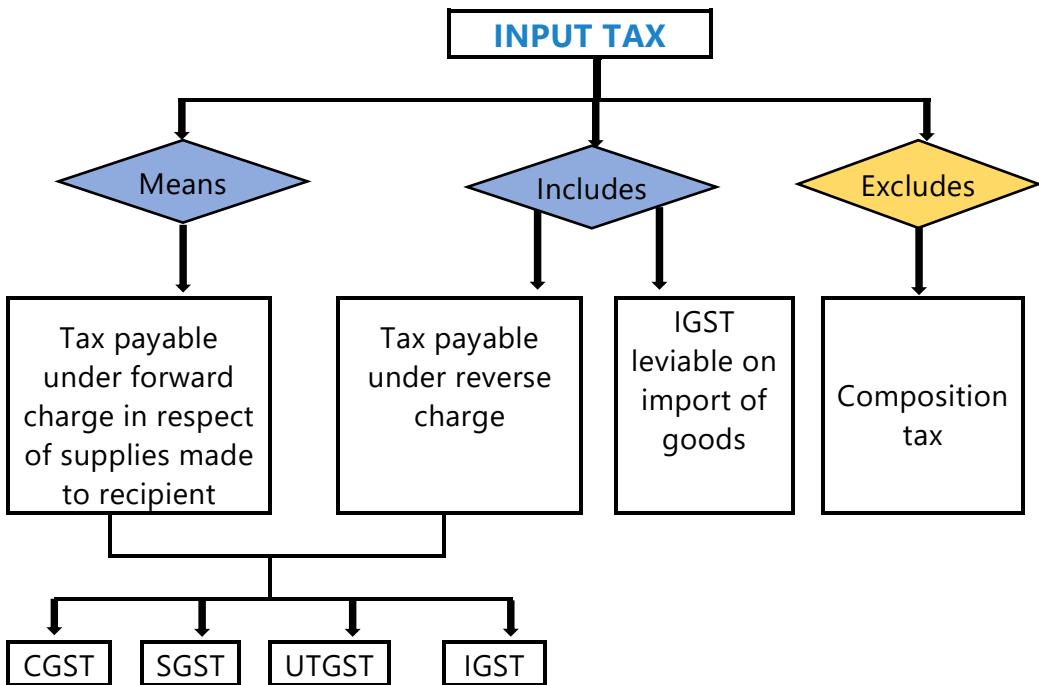


LET US RECAPITULATE

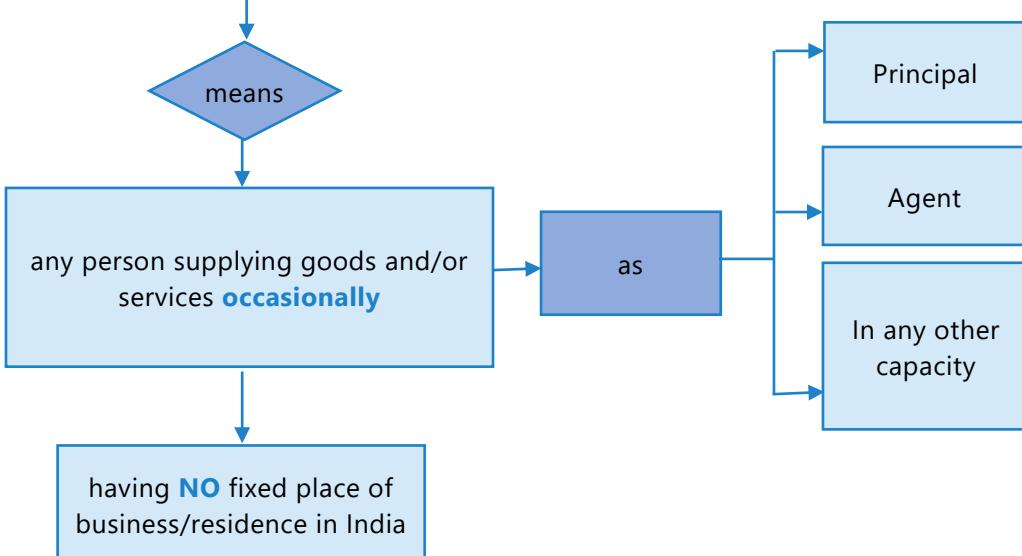
I. Definitions of certain key terms are summarized by way of diagrams as under:

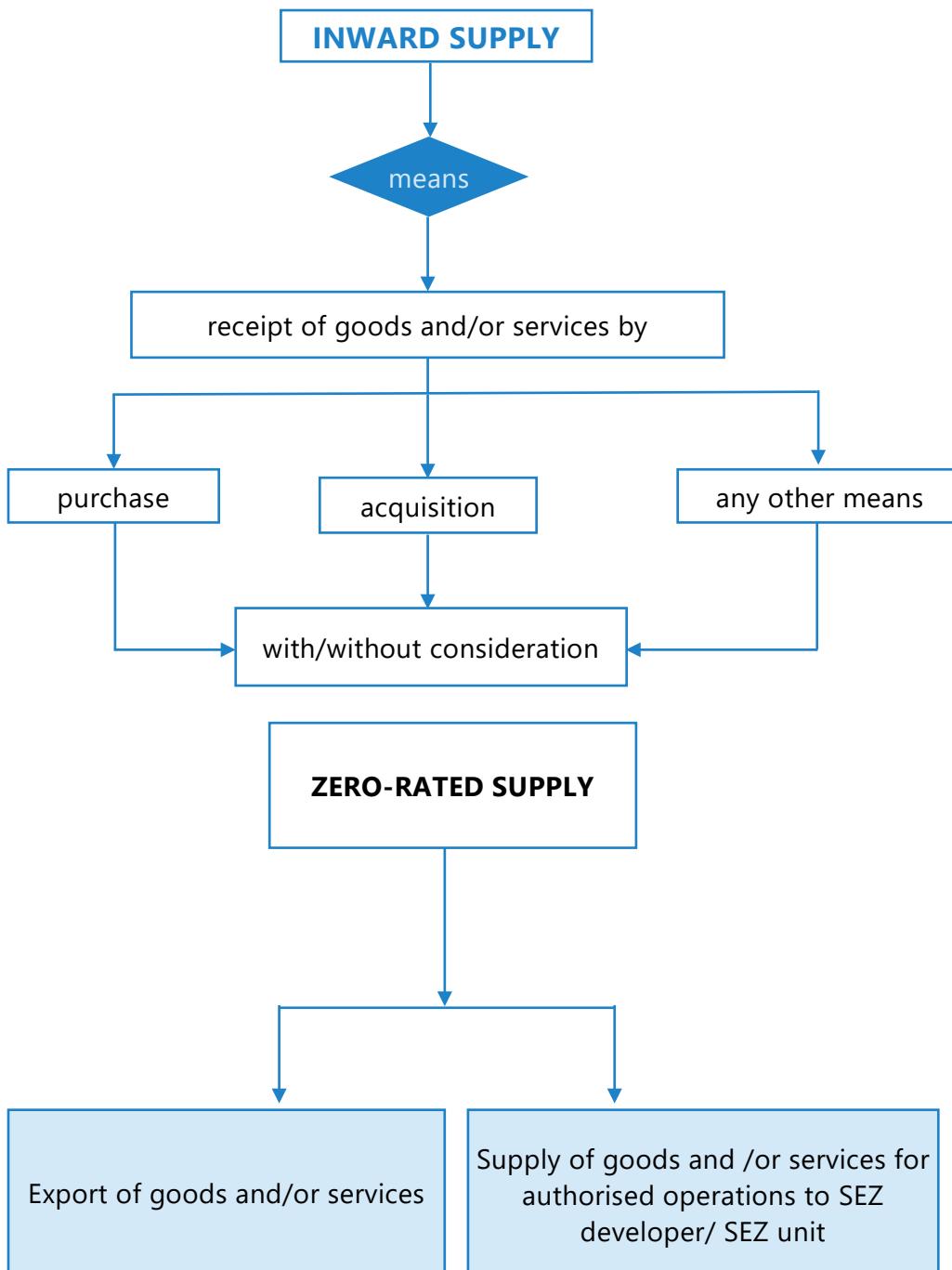




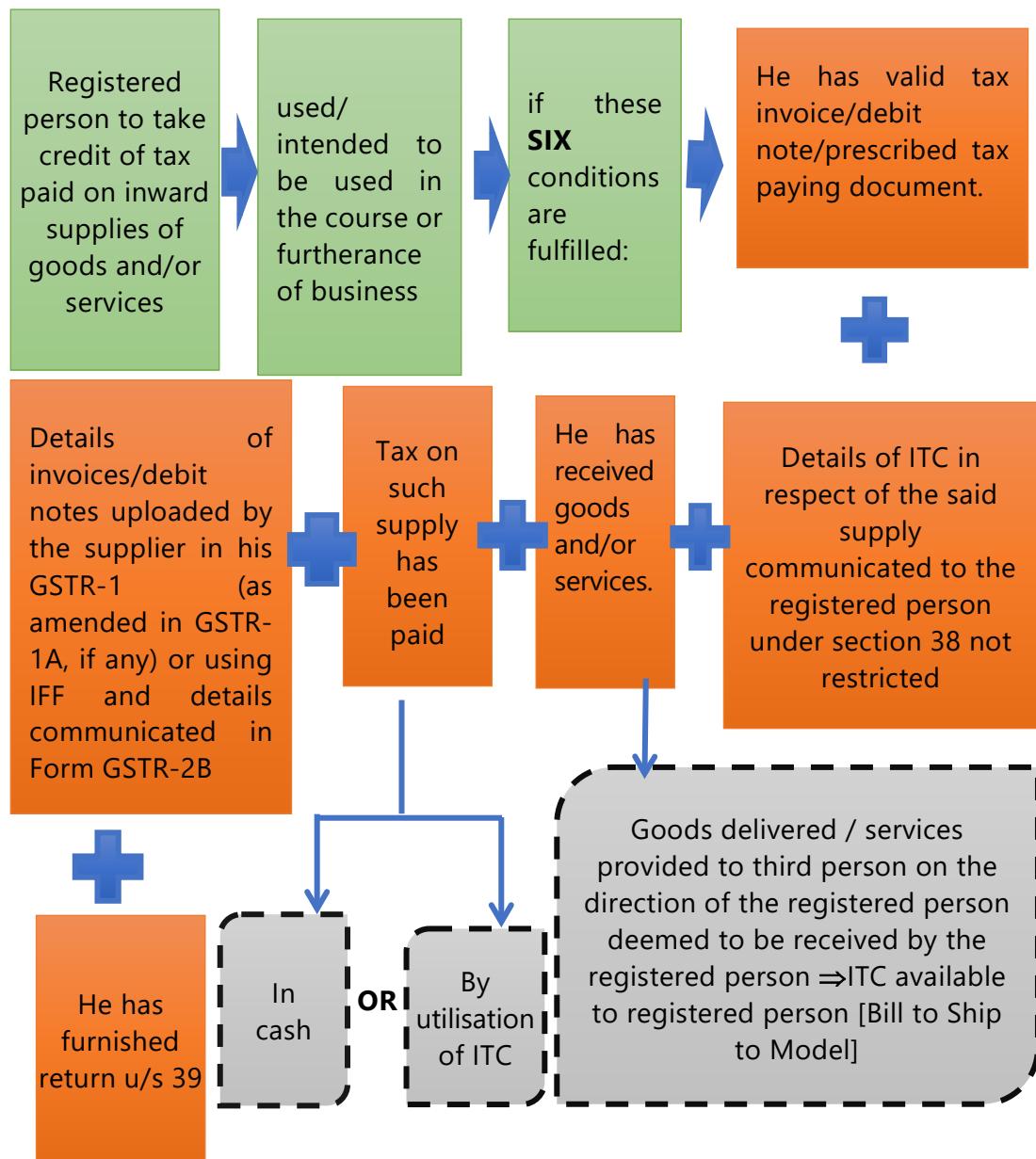


NON-RESIDENT TAXABLE PERSON





II. Provisions of section 16 relating to eligibility and conditions for taking ITC read with relevant rules are summarized below:



If depreciation claimed on tax component, ITC not allowed.

Goods received in lots → ITC allowed upon receipt of last lot

Time limit for availing ITC - ITC pertaining to a particular FY can be availed by 30th November of next FY or filing of annual return, whichever is earlier.

Exception: Re-availment of ITC reversed earlier

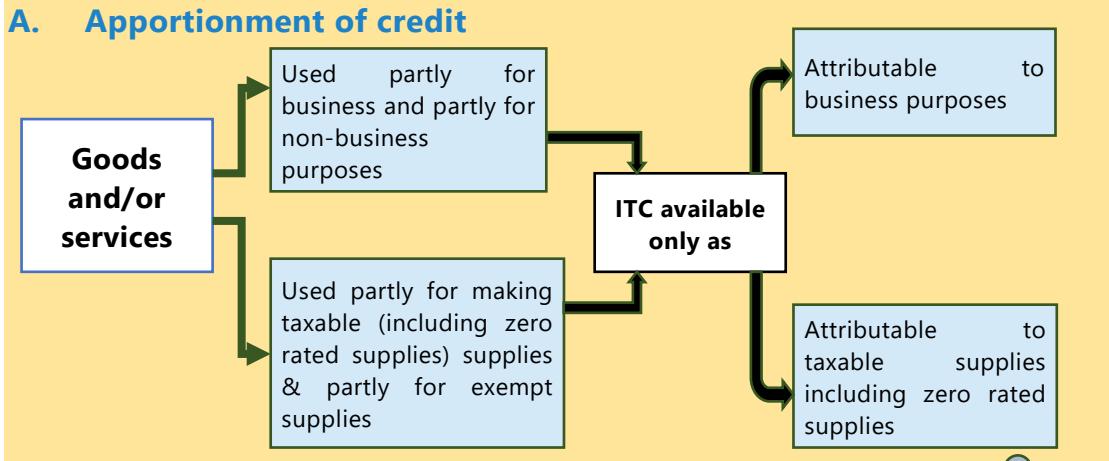
- ❖ Proportionate ITC to be reversed/paid with interest if whole/part of value + tax of goods and /or services is not paid within 180 days of the issuance of invoice.
- ❖ On payment to supplier, the ITC could be re-availed without any time limit.

EXCEPTIONS

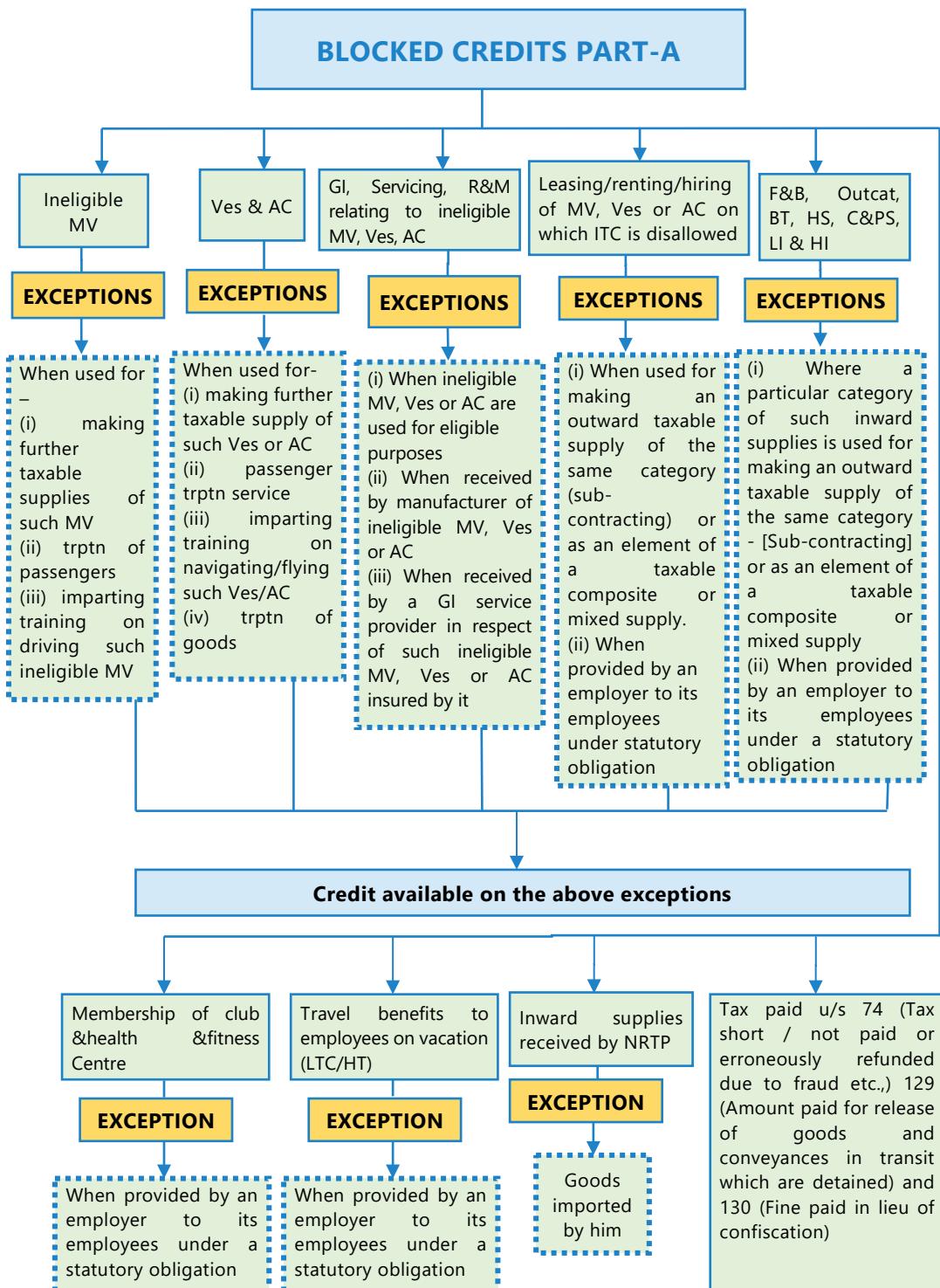
- Reverse charge supplies
- Deemed supplies without consideration
- Additions made to value of supplies on account of supplier's liability being incurred by the recipient of the supply

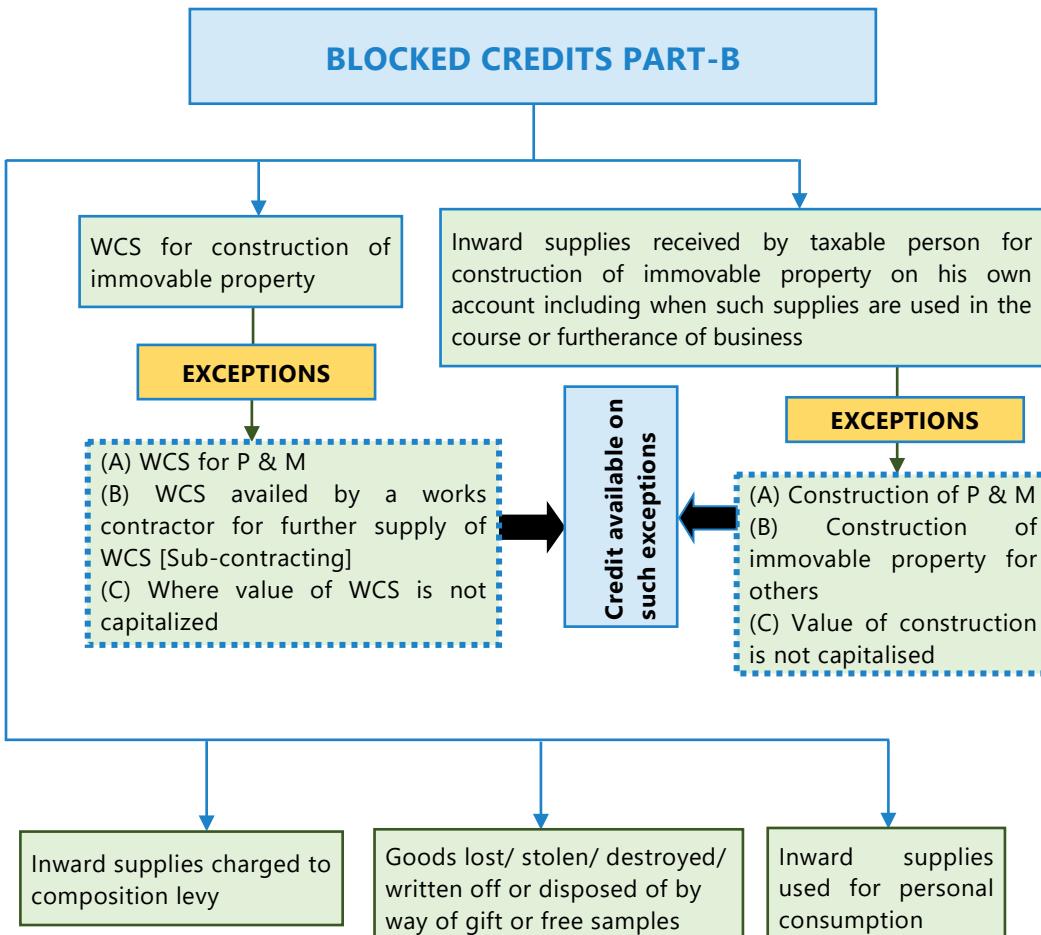
III. Provisions of section 17 relating to apportionment of credit and blocked credits read with relevant rules are summarized as under:

A. Apportionment of credit



Exempt supplies include reverse charge supplies & transactions in securities and exclude activities specified in Schedule III except sale of land and sale of building when entire consideration is received post completion certificate/first occupation, whichever is earlier and the value of such activities/transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.





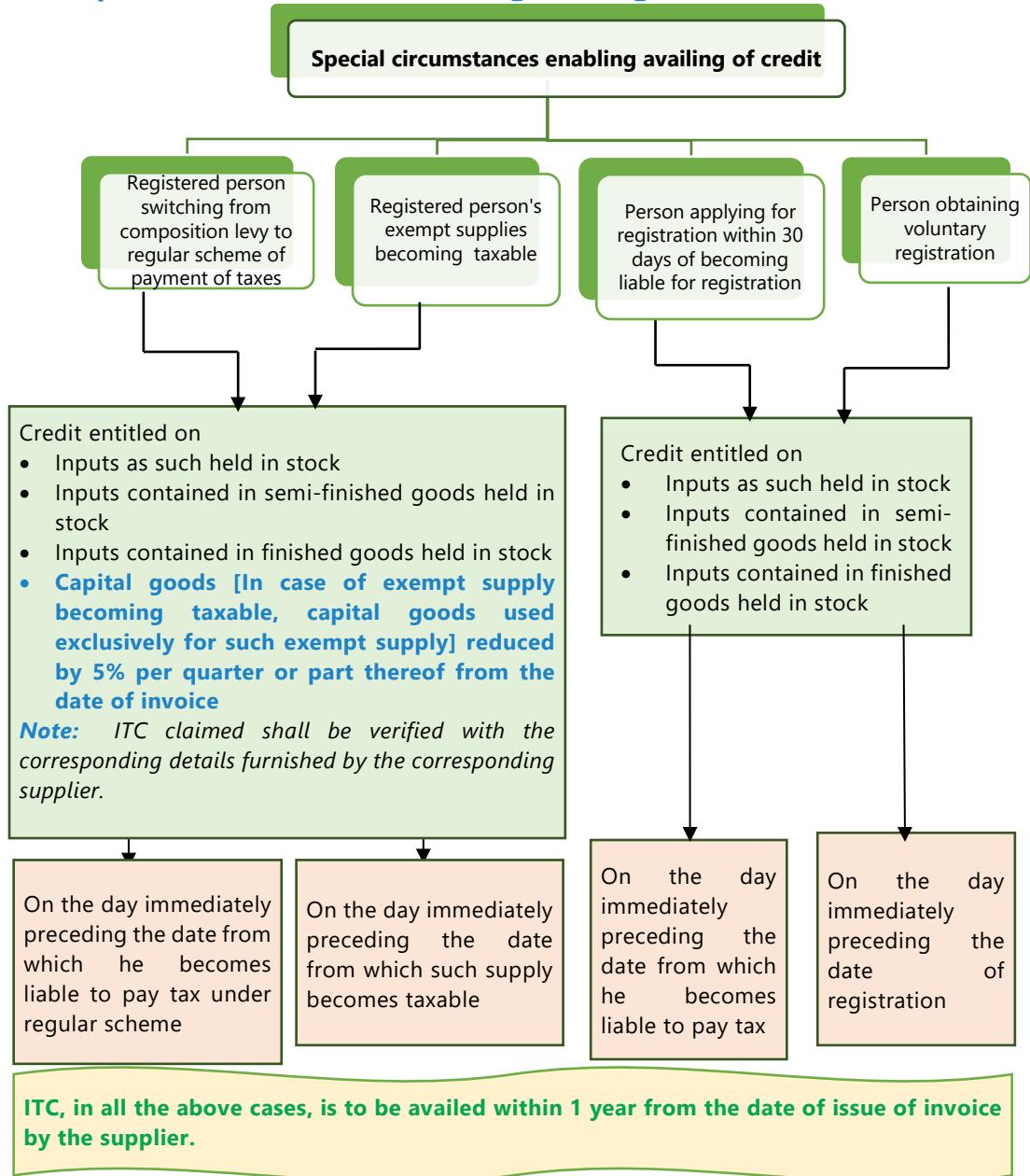
Ineligible MV-Motor vehicle for transportation of persons with seating capacity of ≤ 13 persons (including driver); Ves & AC-Vessel & Aircraft; GI-General insurance; R&M-Repairs & maintenance; F&B-Food & beverages; Outdoor catering; BT-Beauty treatment; HS-Health services; C&PS-Cosmetic & plastic surgery; LI-Life insurance; HI-Health insurance; NRTP-Non-resident taxable person; WCS-Works contract service; LTC-Leave Travel Concession; HT-Home town; trptn-transportation; P & M-Plant & machinery

(A) Construction includes re-construction/ renovation/ addition/ alterations/ repairs to the extent of capitalisation to said immovable property.

(B) P & M means apparatus, equipment, & machinery fixed to earth by foundation or structural supports but excludes land, building/ other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

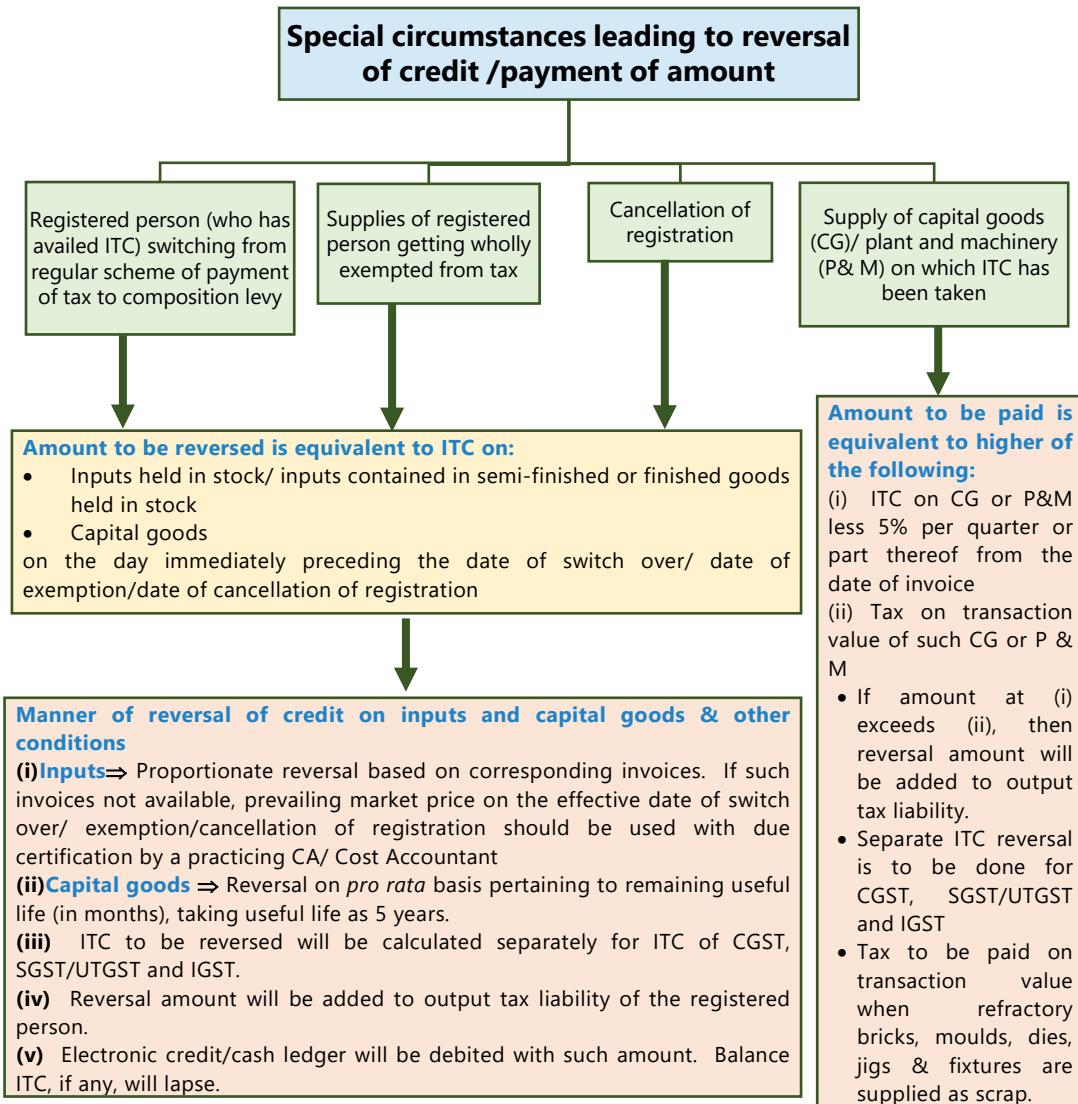
IV. Provisions of section 18 read with relevant rules are summarized as under:

A. Special circumstances enabling availing of credit



Conditions for availing above credit:

- (i) Filing of electronic declaration giving details of inputs held in stock/contained in semi-finished goods and finished goods held in stock and capital goods on the day immediately preceding the day on which credit becomes eligible.
- (ii) Declaration has to be filed within 30 days from becoming eligible to avail credit.
- (iii) Details in (i) above to be certified by a practising CA/ Cost Accountant if aggregate claim of CGST, SGST/ IGST credit is more than ₹ 2,00,000.

B. Special circumstances leading to reversal of credit/payment of amount

Transfer of unutilised ITC on account of change in constitution of registered person

In case of sale, merger, amalgamation, lease or transfer of business, unutilised ITC can be transferred to the new entity if there is a specific provision for transfer of liabilities to the new entity. The inputs and capital goods so transferred should be duly accounted for by the transferee in his books of accounts.

In case of demerger, ITC is apportioned in the ratio of value of entire assets (including assets on which ITC has not been taken) of the new units as per the demerger scheme.

Details of change in constitution are to be furnished on common portal along with request to transfer unutilised ITC. CA/Cost Accountant certificate is to be submitted certifying that change in constitution has been done with specific provision for transfer of liabilities.

Upon acceptance of such details by the transferee on the common portal, the unutilized ITC is credited to his Electronic Credit Ledger.

Transfer of unutilised ITC on obtaining separate registrations for multiple places of business within a State/UT

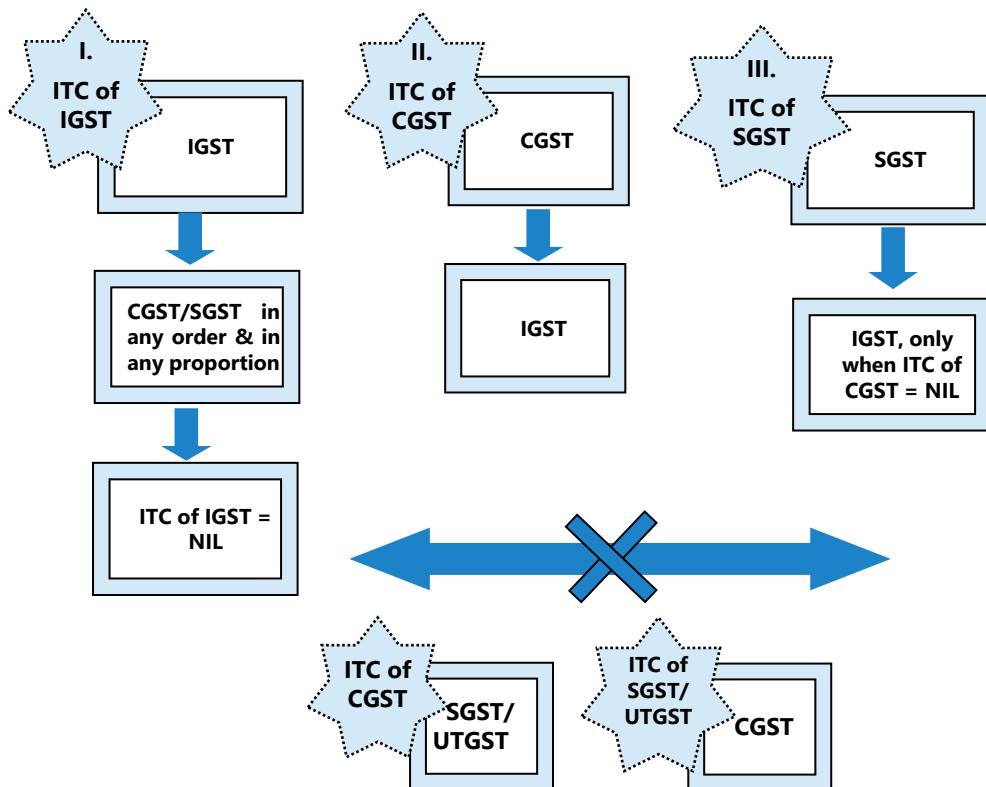
Registered person having separate registrations for multiple places of business can transfer the unutilised ITC to any or all of the newly registered place(s) of business in the ratio of the value of assets held by them at the time of registration.

Value of assets means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations.

Upon acceptance of such details by the newly registered person (transferee) on the common portal, the unutilised ITC is credited to his electronic credit ledger.

V. Provisions relating to utilization of ITC are summarized as under:





TEST YOUR KNOWLEDGE

1. *What is input tax?*
2. *What are the conditions necessary for availing ITC?*
3. *Can a person take ITC without payment of consideration for the supply along with tax?*
4. *What is the time limit for taking ITC and reasons therefor?*
5. *What is the ITC entitlement of a newly registered person?*
6. *What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?*
7. *A registered person transfers its business to another person. Is such registered person allowed to transfer the unutilized ITC lying in its electronic credit ledger to such transferred business? Discuss.*
8. *Swastik Pvt. Ltd. is a manufacturer of taxable goods. It purchased a machinery for ₹ 8,00,000 on which IGST of ₹ 14,400 is paid. The company has claimed depreciation under the Income-tax Act, 1961 on the full value of the machine, i.e. including the IGST component as also availed ITC of ₹ 14,400 paid by it as IGST.*
Examine if the stand taken by the company is correct in law.
9. *A taxable person is in the business of information technology. He buys a car (maximum seating capacity – 5 persons) for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such car?*
10. *A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ for authorised operations without payment of GST as these supplies are not taxable.*
The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

11. 'AB', a registered person, was paying tax under composition scheme up to 30th July. However, w.e.f. 31st July, 'AB' becomes liable to pay tax under regular scheme.

Is 'AB' eligible for any ITC?

12. Babla Enterprises is exclusively engaged in making exempt supply of goods and is thus, not registered under GST. On 1st October, the exemption available on its goods gets withdrawn. On that day, the turnover of Babla Enterprises was ₹ 45 lakh.

Examine the eligibility of Babla Enterprises for availing ITC, if any.

13. Mamta Trade Links trades in exempt goods and provides taxable services. It is registered under GST. On 1st October, the exemption available on its goods gets withdrawn.

Analyze the scenario and determine the eligibility of Mamta Trade Links for availing ITC, if any, on inputs and/or capital goods used in the supply of exempt goods.

14. Harshgeet Pvt. Ltd., a registered supplier, is engaged in the manufacture of taxable goods. The company provides the following information pertaining to purchases made/services availed by it during the month of July:

| S. No | Particulars | GST (₹) |
|-------|---|----------|
| (1) | Raw materials (to be received in the month of September) | 2,50,000 |
| (2) | Membership of a club availed for employees working in the factory (not obligatory to be provided under any law) | 1,45,000 |
| (3) | Inputs to be received in 5 lots, out of which 3 rd lot was received during the month | 80,000 |
| (4) | Trucks used for transport of raw material | 40,000 |
| (5) | Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those items is ₹ 80,000) | 1,50,000 |

Determine the amount of ITC that can be availed by Harshgeet Pvt. Ltd. for the month of July by giving the necessary explanation for the treatment of various

items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

15. Jamku Ltd., a registered person, is engaged in the business of spices. It provides following details in relation to GST paid on inward supplies procured by it during the month of October.

| S.No. | Particulars | GST (₹) |
|-------|--|------------------|
| (1) | Raw spices purchase - Raw spices sold to customers - Raw spices used for personal use of directors | 50,000 20,000 |
| (2) | Electric machinery purchased for being used in the manufacturing process | 25,000 |
| (3) | A 6 seater motor vehicle used for transportation of employees | 55,000 |
| (4) | Payment made to a contractor for construction of staff quarters | 1,25,000 |

Determine the amount of ITC that can be availed by Jamku Ltd. for the month of October by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

16. Dina Ltd., a registered supplier from Maharashtra, is engaged in the manufacture of passenger autos. The company provides the following details of purchases made/services availed by it during the month of March:

| S. No. | Particulars | GST (₹) |
|--------|---|----------|
| (1) | Purchase of iron which is used as a raw material [Goods were received in two lots - first in March and the second in April] | 2,50,000 |
| (2) | Purchase of accessories which were delivered directly to the dealers of the company on the direction of Dina Ltd. [Only invoice was received by Dina Ltd.] | 90,000 |

| | | |
|-----|---|----------|
| (3) | <i>Purchase of bus (seating capacity 15) for the transportation of employees from their residence to company and back</i> | 1,97,000 |
| (4) | <i>General insurance taken on a car (seating capacity 5) used by executives of the company for official purposes</i> | 5,200 |

You are required to determine the ITC that can be availed by Dina Ltd. for the month of March, by giving brief explanations for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

17. Comfortable (P) Ltd. is registered under GST in the State of Odisha. It is engaged in the business of manufacturing of iron and steel products. It has received IT engineering services from High-Fi Infotech (P) Ltd. for ₹ 11,00,000/- (excluding GST @ 18%) on 28th October. Invoice for service rendered was issued on 5th November.

Comfortable (P) Ltd. made part payment of ₹ 4,20,000/- on 30th November. Being unhappy with service provided by High-fi Infotech (P) Ltd., it did not make the balance payment. Deficiency in service rendered was made good by High-Fi Infotech (P) Ltd. by 15th April of next financial year. Comfortable (P) Ltd. made the balance payment on 6th July of next financial year.

Examine the availability of ITC with Comfortable (P) Ltd. in respect of IT engineering services received by it from High-Fi Infotech (P) Ltd.

18. M/s. Diwan & Sons of New Delhi, has placed an order for 250 kg of plastic granules @ ₹50 per kg (exclusive of GST) on M/s. Karim & Bros. of Noida, U.P. M/s. Karim & Bros. has agreed to deliver the goods at the warehouse of M/s. Diwan & Sons at New Delhi.

While the order was getting packed at the factory of M/s. Karim & Bros., M/s. Diwan & Sons got an order from Shubhkamna Sales of Hapur, U.P., for 250 kg of plastic granules @ ₹ 60 per kg (exclusive of GST). In order to save on transportation cost, M/s. Diwan & Sons asks M/s. Karim & Bros. to directly deliver the plastic granules to Shubhkamna Sales at its godown located in Hapur. Accordingly, M/s. Karim & Bros. has delivered the plastic granules at the godown of Shubhkamna Sales at Hapur.

Examine the availability of ITC with M/s. Diwan & Sons & M/s. Karim & Bros.

Note: All the parties are registered under GST and rate of GST is 18%.

19. *Paritosh& Co., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:*

| Particulars | Amount (₹) |
|-----------------------------|-------------------|
| Intra-State supply of goods | 10,00,000 |
| Inter-State supply of goods | 8,00,000 |

It has also furnished the following information in respect of purchases made by it in that tax period:

| Particulars | Amount (₹) |
|--------------------------------|-------------------|
| Intra-State purchases of goods | 3,00,000 |
| Inter-State purchases of goods | 2,50,000 |

Paritosh & Co. has following opening balance of ITCs for the tax period:

| Particulars | Amount (₹) |
|--------------------|-------------------|
| CGST | 57,000 |
| SGST | 60,000 |
| IGST | 1,40,000 |

Note:

- (i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.
- (ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.
- (iii) All the conditions necessary for availing ITC have been fulfilled.

Compute the minimum GST, payable in cash, by Paritosh & Co. for the tax period and the ITC to be carried forward to the next month. Make suitable assumptions as required.



ANSWERS

1. Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.
2. Following conditions are to be satisfied by the registered taxable person for obtaining ITC:
 - (a) he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;
 - (aa) the details of the invoice or debit note referred above has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;
 - (b) he has received the goods or services or both;
 - (ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted
 - (c) subject to section 41, the supplier has actually paid the tax charged in respect of the supply to the Government; and
 - (d) he has furnished the return under section 39.
3. Yes, the recipient can take ITC. However, he is required to pay the amount towards value of supply along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.
4. Refer point (vi) "Time limit for availing ITC: 30th November of succeeding financial year to which such invoice or debit note pertains or date of filing of relevant annual return, whichever is earlier" under Heading No. 3 "Eligibility and Conditions for Taking Input Tax Credit [Section 16]".
5. (i) A person who has applied for registration within 30 days from the date

on which he became liable to registration, can take ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

- (ii) In case of voluntary registration, ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of registration can be taken.
- 6. In case of supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery reduced by 5% per quarter or part thereof from the date of invoice or the tax on the transaction value of such capital goods or plant and machinery, whichever is higher.

However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person can pay tax on the transaction value.

- 7. As per section 18(3), in case of sale, merger, demerger, amalgamation, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities to the new entity.

The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should duly account for the inputs and capital goods so transferred in his books of account.

- 8. As per section 16(3), if the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed.

Since in the given case, Swastik Pvt. Ltd. has claimed depreciation on the tax component of the cost of the machine, it cannot claim ITC of IGST of ₹ 14,400 paid by it on the machine. It can either claim depreciation on the

tax component or avail ITC of such tax but cannot avail both the benefits simultaneously.

9. No. ITC on motor vehicles for transportation of persons with approved seating capacity of up to 13 persons (including driver), can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving such motor vehicles or is in the business of further supply of such motor vehicles. Also, ITC can be availed on motor vehicles used for transportation of goods.
10. ITC is disallowed only to the extent it pertains to supplies used for non-business purposes or supplies other than taxable and zero-rated supplies. Supplies to SEZ units for authorised operations are zero rated supplies in terms of section 16(1) of the IGST Act. Thus, full ITC is allowed on inward supplies of BMT Ltd. used for effecting supplies to the unit in the SEZ for authorised operations.
11. 'AB' is eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.
12. Since the exemption available on goods being supplied by Babla Enterprises, an unregistered person, gets withdrawn, it becomes liable to registration as its turnover had crossed the threshold limit on the day when the exemption is withdrawn.

Assuming that Babla Enterprises applies for registration within 30 days of 1st October and it obtains such registration, it will be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which it becomes liable to pay tax, i.e. 30th September [Section 18(1)(a)]. Input tax paid on capital goods will not be available as ITC in this case.

13. If the exempt supply made by a registered person becomes a taxable supply, provisions of section 18(1)(d) become applicable. In the given case, since Mamta Trade Links is a registered person, section 18(1)(d) will be applicable.

As per section 18(1)(d), Mamta Trade Links will be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and

on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable, i.e. 30th September. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

14. Computation of ITC that can be availed by Harshgeet Pvt. Ltd. for the month of July:

| Particulars | ITC (₹) |
|--|-----------------|
| Raw Material [ITC not available as raw material is not received in July] | Nil |
| Membership of a club availed for employees working in the factory (not obligatory to be provided under any law) [Blocked credit in terms of section 17(5)] | Nil |
| Inputs to be received in 5 lots, out of which 3 rd lot was received during the month [In case of goods received in lots, ITC can be taken only upon receipt of the last lot] | Nil |
| Trucks used for transport of raw material [ITC of GST paid on motor vehicles used for transportation of goods is allowed unconditionally] | 40,000 |
| Capital goods [ITC can be availed only on the basis of a valid document (invoice). Thus, GST paid on items for which invoice is missing, i.e. ₹ 80,000, is not available.] | 70,000 |
| Total ITC | 1,10,000 |

15. Computation of ITC that can be availed by Jamku Ltd. for the month of October

| Particulars | ITC (₹) |
|--|---------------|
| Purchase of raw spices which are sold to customers [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.] | 50,000 |
| Purchase of raw spices for personal use of directors [ITC is not available on goods used for personal consumption.] | Nil |
| Electric machinery purchased for being used in the manufacturing process [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.] | 25,000 |
| Motor vehicle used for transportation of employee [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. In the given case, since the supplier is in the business of spices, ITC on a 6 seater motor vehicle used for transportation of employees is blocked credit.] | Nil |
| Payment made to a contractor for construction of staff quarters [ITC is not available for works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service] | Nil |
| Total ITC | 75,000 |

16. Computation of ITC that can be availed by Dina Ltd. for the month of March:

| Particulars | ITC (₹) |
|--|-----------------|
| Purchase of iron used as a raw material [When inputs are received in lots, ITC can be availed only on the receipt of last lot. Hence, since last lot is received in April, ITC cannot be availed in March.] | Nil |
| Purchase of accessories delivered directly to the dealers of the company [Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. Thus, ITC is available to the registered person, on whose order/direction the goods are delivered to a third person.] | 90,000 |
| Bus for the transportation of employees [ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.] | 1,97,000 |
| General insurance taken on car (seating capacity 5) used by executives of the company for official purpose [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. Further, ITC is not allowed on services of general insurance relating to such ineligible motor vehicles. Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on general insurance taken on such car is also blocked.] | Nil |
| Total ITC | 2,87,000 |

- 17.** Every registered person is entitled to take credit of input tax charged on any supply of goods and/or services which are used or intended to be used in the course or furtherance of his business if, *inter alia*, he is in possession of a tax invoice issued by a supplier and he has received the goods and/or services.

The registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice. In the event of failure to do so, the corresponding credits availed by the registered person would be required to be reversed or paid by such person alongwith interest. However, once the recipient makes the payment of value of goods and/or services along with tax, he will be entitled to avail the credit again without any time limit. In case part-payment has been made, proportionate credit would be allowed.

In the given case, High-fi Infotech (P) Ltd. provides the service in the month of October and Comfortable (P) Ltd. receives the invoice in the month of November. Therefore, in view of the above provisions and assuming all other conditions required for availing ITC having been fulfilled, ITC of ₹ 1,98,000 ($\text{₹ } 11,00,000 \times 18\%$) will be availed by Comfortable (P) Ltd. for the month of November when it receives the invoice issued by High-fi Infotech (P) Ltd.

However, proportionate ITC amounting to ₹ 1,33,932 $\Rightarrow [(\text{₹ } 12,98,000 - \text{₹ } 4,20,000)/118] \times 18]$ will be reversed in GSTR-3B of Comfortable (P) Ltd. for May month, to be paid along with interest thereon, as full payment has not been made within 180 days of issuance of the invoice, i.e. by 4th May of next F.Y. ITC of ₹ 1,33,932 can, however, be availed again by Comfortable (P) Ltd. for the month of July next F.Y. when it makes the balance payment to High-Fi Infotech (P) Ltd.

- 18.** One of the conditions for availing ITC is that the registered person taking the ITC must have received the goods and / or services. However, goods delivered to a third person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. So, ITC is available to the registered person, on whose direction the goods are delivered to a third person even though the registered person does not receive the goods by itself.

In the given case, goods have been delivered by M/s. Karim & Bros. (supplier) to Shubhkamna Sales (third person) on the direction of M/s. Diwan & Sons (registered person). Therefore, in view of the above provisions, ITC of ₹ 2,250

(₹50 x 250 x 18%) will be available to M/s. Diwan & Sons (registered person) on the purchase of 250 kg of plastic granules @ 50 per kg.

Further, in this case there is another supply between Diwan & Sons (supplier) and Shubhkamna Sales (recipient). Therefore, Shubhkamna Sales can avail ITC of ₹ 2,700 (₹ 60 x 250 x 18%) on the purchase of 250 kg of plastic granules @ 60 per kg.

19.

Computation of GST payable on outward supplies

| S. No. | Particulars | CGST @ 9% (₹) | SGST @ 9% (₹) | IGST @ 18% (₹) | Total (₹) |
|---|---|---------------|----------------|----------------|-----------------|
| (i) | Intra-State supply of goods for ₹ 10,00,000 | 90,000 | <u>90,000</u> | | 1,80,000 |
| (ii) | Inter-State supply of goods for ₹ 8,00,000 | | | 1,44,000 | 1,44,000 |
| Total GST payable | | | | | 3,24,000 |
| Computation of total ITC | | | | | |
| Particulars | CGST @ 9% (₹) | SGST @ 9% (₹) | IGST @ 18% (₹) | | |
| Opening ITC | 57,000 | 60,000 | 1,40,000 | | |
| Add: ITC on Intra-State purchases of goods valuing ₹ 3,00,000 | 27,000 | 27,000 | Nil | | |
| Add: ITC on Inter-State purchases of goods valuing ₹ 2,50,000 | Nil | Nil | 45,000 | | |
| Total ITC | 84,000 | 87,000 | | | 1,85,000 |

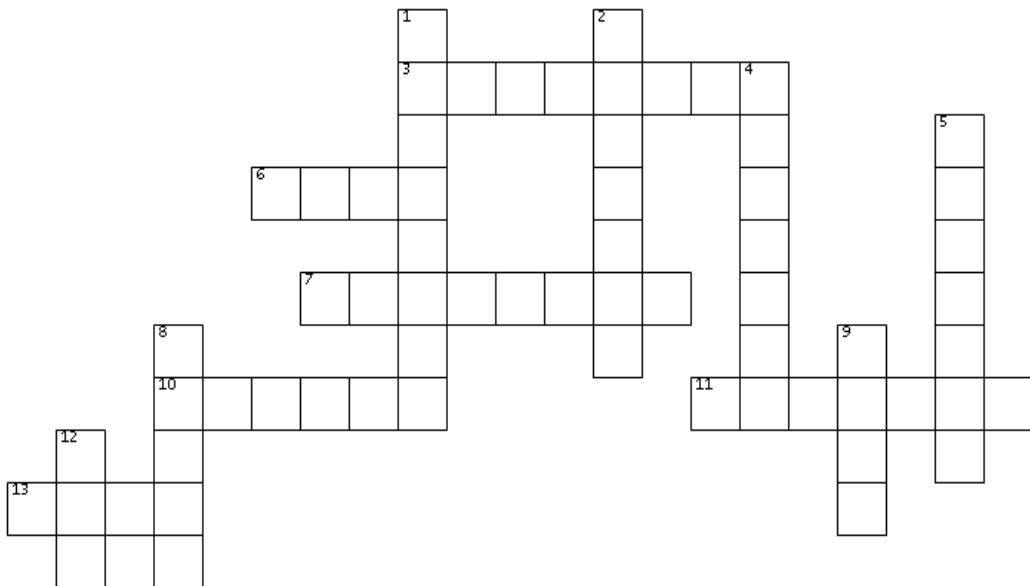
Computation of minimum GST payable from electronic cash ledger

| Particulars | CGST @ 9% ₹) | SGST @ 9% ₹) | IGST @ 18% ₹) | Total ₹) |
|---|-------------------------|-------------------------|--------------------------|-----------------|
| GST payable | 90,000 | 90,000 | 1,44,000 | 3,24,000 |
| Less: ITC [First ITC of IGST should be utilized in full - first against IGST liability and then against CGST or SGST liabilities in any order to minimize cash outflow] | (22,000) IGST | (19,000) IGST | (1,44,000) IGST | 1,85,000 |
| CGST and SGST ITC utilized against CGST and SGST output Tax liability respectively | (68,000) CGST | (71,000) SGST | | 1,39,000 |
| Minimum GST payable in cash | Nil | Nil | Nil | Nil |
| ITC balance to be carried forward next month | 16,000 | 16,000 | Nil | 32,000 |

Note : The above computation is one of the many ways to set off the ITC of IGST (₹ 41,000-after set off against IGST liability) against CGST and SGST liability to compute minimum GST payable in cash and carry forward both CGST and SGST ITC equally. To illustrate, IGST of ₹ 10,000 can be set off against SGST payable and IGST of ₹31,000 can be set off against CGST payable. In this situation also, the net GST payable will be nil but the ITC of CGST and SGST to be carried forward will be ₹25,000and ₹7,000 (totaling to ₹ 32,000), respectively. However, if the entire ITC of ₹ 41,000 is set off against CGST payable, then SGST of ₹ 3,000 will be payable in cash thus, increasing the cash outflow. Therefore, such a set-off would not be advisable for computing the minimum GST payable.



CROSSWORD



ACROSS

3. Plant and machinery ____ pipelines laid outside the factory premises.
6. ITC on capital goods is reduced by ____% per quarter of a year or part of the year from the date of invoice in case a registered person who ceases to pay composition tax and switches to regular scheme.
7. A registered person is not entitled to take ITC in respect of any invoice after 30th ____ following the end of financial year to which such invoice pertains or furnishing of the relevant annual return, whichever is earlier.
10. ITC on ____ supplies received by a taxable person from a composition supplier is blocked.
11. ITC on cars purchased by a car dealer for sale to customers is ____.

13. Where the goods against an invoice are received in lots, the registered person is entitled to take credit upon receipt of the ___ lot.

DOWNWARDS

1. For availment of credit by registered person, services should have been actually _____.
2. ____ percent ITC can be claimed on invoices furnished by the suppliers in their GSTR-1s and reflected in GSTR-2B of recipient.
4. Motor vehicles exclude ___ purpose vehicles for being used in a factory.
5. ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is _____.
8. Where the value of taxable supply of a registered person exceeds ₹ _____ lakh in a month, he shall have to pay at least 1% of his output tax liability in cash.
9. ITC is not available in case of ___ goods.
12. Either depreciation on the ___ component can be claimed under Income-tax Act or ITC can be availed under GST law.

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



Scan the code

AMENDMENTS MADE VIDE THE FINANCE ACT, 2025

The Finance Act, 2025 has come into force from 29.03.2025. However, most of the amendments made under the CGST Act and the IGST Act vide the Finance Act, 2025 would become effective only from a date to be notified by the Central Government in the Official Gazette. Such a notification has not been issued till 30.04.2025. Therefore, the applicability or otherwise of such amendment for May 2026, September 2026 and/or, January 2027 examinations shall be informed by the ICAI by way of an announcement.

In the table given below, the existing provisions of section 17(5)(d) is compared with the provisions as amended by the Finance Act, 2025.

Once the announcement for applicability of such amendments for examination(s) is made by the ICAI, students should read the amended provisions given hereunder in place of the related provisions discussed in the chapter.

| Section No. | Existing provisions | Provisions as amended by the Finance Act, 2025 | Remarks |
|-----------------|--|--|---|
| 17(5)(d) | goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. | goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. | Clause (d) of sub-section (5) of section 17 is being amended to substitute the words "plant or machinery" with words "plant and machinery". |

| | | | |
|--|---|---|--|
| | <p>Explanation — For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.</p> | <p>"construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.</p> <p><i>Explanation 2- For the purposes of clause (d), it is hereby clarified that notwithstanding anything to the contrary contained in any judgment, decree or order of any court, tribunal, or other authority, any reference to "plant or machinery" shall be construed and shall always be deemed to have been construed as a reference to "plant and machinery".</i></p> | |
|--|---|---|--|

