

GST- INPUT TAX CREDIT



*Eligibility and conditions for taking Input Tax
Credit*

Section 16 of CGST Act, 2017

Eligibility and condition for ITC

- 1) 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.
- 2) 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,—
 - a) 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;
 - b) he has received the goods or services or both.

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods 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 agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

c) 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 utilization of input tax credit admissible in respect of the said supply; and

d) he has furnished the return under section 39:

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:

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 added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

- 3) 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.

- 4) 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 due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Apportionment of credit and blocked credits

Section 17 of CGST Act, 2017

- 1) 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.
- 2) 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.
- 3) 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.

- 4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty percent of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty percent shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

- 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 and other conveyances except when they are used—
 - i. for making the following taxable supplies, namely:—
 - A. further supply of such vehicles or conveyances ; or
 - B. transportation of passengers; or
 - C. imparting training on driving, flying, navigating such vehicles or conveyances;
 - ii. for transportation of goods;

- b) the following supply of goods or services or both:—
- i. food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery **except** where an inward supply of goods or services or both of a particular category 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;
 - ii. membership of a club, health and fitness center;
 - iii. Rent-a-cab, life insurance and health insurance except where:
 - A. the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

- B. such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and
- iv. travel benefits extended to employees on vacation such as leave or home travel concession;
- c) 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;
- 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.

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;

- e) goods or services or both on which tax has been paid under section 10;
- f) goods or services or both received by a non-resident taxable person except on goods imported by him;
- g) goods or services or both used for personal consumption;
- h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

- e) Any tax paid in accordance with the provisions of sections 74, 129 and 130.
- 6) The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

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. land, building or any other civil structures;
- ii. telecommunication towers; and
- iii. Pipelines laid outside the factory premises.

Availability of credit in special circumstances

Section 18 of CGST Act, 2017

- 1) Subject to such conditions and restrictions as may be prescribed—
 - a) 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;
 - b) 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;

- c) 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 10 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:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;

- d) 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:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

- 2) 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.
- 3) 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.

Availability of Credit

- 4) 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:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

- 5) 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.

- 5) 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:

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.

*Taking input tax credit in respect of inputs and
capital goods sent for job work
Section 19 of CGST Act, 2017*

ITC inputs and capital goods sent for job work

- 1) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job-worker for job-work.
- 2) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without being first brought to his place of business.
- 3) Where the inputs sent for job work are not received back by the principal after completion of job-work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (a) or clause (b) of sub-section (1) of section 143 within 1 year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out:

Provided that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

- 4) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.
- 5) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job-work without being first brought to his place of business.
- 6) Where the capital goods sent for job work are not received back by the principal within a period of three years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out:

ITC inputs and capital goods sent for job work

Provided that where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

- 7) Nothing contained in sub-section (3) or sub-section (6) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

Explanation.—For the purpose of this section, “principal” means the person referred to in section 143.

Manner of distribution of credit by Input Service

Distributor

Section 20 of CGST Act, 2017

- 1) The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.
- 2) The Input Service Distributor may distribute the credit subject to the following conditions, namely:—
 - a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;
 - b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;
 - c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

Distribution of Credit by ISD

- d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;
- e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Explanation.—For the purposes of this section,—

a. the “relevant period” shall be—

i. if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or

ii. if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;

b. the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

- c) the term ‘turnover’, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

Manner of recovery of credit distributed in excess

Section 21 of CGST Act, 2017

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of amount to be recovered.

Input Tax Credit 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:-
 - a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
 - b) a debit note issued by a supplier in accordance with the provisions of section 34;
 - c) a bill of entry;
 - d) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31;
 - e) a document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule invoice.7;

- f) a document issued by an Input Service Distributor, as prescribed in clause (g) of sub-rule (1) of rule 4.
- 2) Input tax credit shall be availed by a registered person only if all the applicable particulars as prescribed in Chapter ---- (*Invoice Rules*) are contained in the said document, and the relevant information, as contained in the said document, is furnished in **FORM GSTR-2** by such person.
- 3) 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 raised on account of any fraud, willful misstatement or suppression of facts.

Rule 37- Reversal of input tax credit in case of non-payment of consideration

- 1) A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof the value of such supply along with the tax payable thereon within the time limit specified in the second proviso to sub-section (2) of section 16, shall furnish the details of such supply and the amount of input tax credit availed of in **FORM GSTR-2** for the month immediately following the period of 180 days from the date of issue of invoice.
- 2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished.
- 3) The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule(2), is paid.

Rule 38- Claim of credit by a banking company or a financial institution

A banking company or a financial institution, including a non-banking financial company, engaged in supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of that section, shall follow the procedure specified below -

- a) the said company or institution shall not avail the credit of tax paid on inputs and input services that are used for non-business purposes and the credit attributable to supplies specified in sub-section (5) of section 17, in **FORM GSTR-2**;
- b) the said company or institution shall avail the credit of tax paid on inputs and input services referred to in the second proviso to sub-section (4) of section 16 and not covered under clause (a);

- c) fifty percent of the remaining input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in **FORM GSTR-2**;
- d) the amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, be credited to the electronic credit ledger of the said company or the institution.

***Rule 39- Procedure for distribution of input tax
credit by Input Service Distributor***

- 1) An Input Service Distributor shall distribute input tax credit in the manner and subject to the conditions specified below-
 - a) the input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR-6** in accordance with the provisions of Chapter ---- (*Return Rules*);
 - b) the Input Service Distributor shall, in accordance with the provisions of clause (d), separately distribute the amount ineligible as input tax credit under the provisions of sub-section (5) of section 17 and the amount eligible as input tax credit;
 - c) the input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);

- d) the input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of subsection (2) of section 20 to one of the recipients 'R1', whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, "C1", to be calculated by applying the following formula:-

$$C1 = (t1 \div T) \times C$$

where,

"C" is the amount of credit to be distributed,

"t1" is the turnover, as referred to in section 20, of person R1 during the relevant period, and

"T" is the aggregate of the turnover of all recipients during the relevant period;

- e) the input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;
- f) the input tax credit on account of central tax and State tax shall,
 - i. in respect of a recipient located in the same State in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax respectively;
 - ii. in respect of a recipient located in a State other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax that qualifies for distribution to such recipient in accordance with clause (d);
- g) The Input Service Distributor shall issue an ISD invoice, as prescribed in sub-rule (1) of rule invoice-7, clearly indicating in such invoice that it is issued only for distribution of input tax credit.

- h) The Input Service Distributor shall issue an ISD credit note, as prescribed in sub-rule (1) of rule Invoice-7, for reduction of credit in case the input tax credit already distributed gets reduced for any reason.
- i) Any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (g) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) above and such credit shall be distributed in the month in which the debit note has been included in the return in **FORM GSTR-6**.
- j) Any input tax credit required to be reduced on account of issuance of a credit note to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which input tax credit contained in the original invoice was distributed in terms of clause (d) above, and the amount so apportioned shall be,-

- i. reduced from the amount to be distributed in the month in which the credit note is included in the return in **FORM GSTR-6**; and
 - ii. added to the output tax liability of the recipient and where the amount so apportioned is in the negative by virtue of the amount of credit to be distributed is less than the amount to be adjusted.
- 2) If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process prescribed in clause (j) of sub-rule (1) shall, *mutatis mutandis* apply for reduction of credit.
- 3) Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the ISD credit note specified in clause (h) of sub-rule (1), issue an ISD Invoice to the recipient entitled to such credit and include the ISD credit note and the ISD Invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

***Rule 40- Manner of claiming credit in
special circumstances***

1) Input tax credit claimed in accordance with the provisions of sub-section (1) of section 18 on the inputs lying in stock or inputs contained in semi-finished or finished goods lying 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 -

- 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 invoice or such other documents on which the capital goods were received by the taxable person.
- b) The registered person shall within thirty days from the date of his becoming eligible to avail of input tax credit under sub-section (1) of section 18 shall make a declaration, electronically, on the Common Portal in **FORM GST ITC-01** to the effect that he is eligible to avail of input tax credit as aforesaid;

- c) The declaration under clause (b) shall clearly specify the details relating to the inputs lying in stock or inputs contained in semi-finished or finished goods lying in stock, or as the case may be, capital goods—
- i. on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act, in the case of a claim under clause (a) of sub-section (1) of Section 18,
 - ii. on the day immediately preceding the date of grant of registration, in the case of a claim under clause (b) of sub-section (1) of Section 18,
 - iii. 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,
 - iv. on the day immediately preceding the date from which supplies made by the registered person becomes taxable, in the case of a claim under clause (d) of sub-section (1) of Section 18.

- d) The details furnished in the declaration under clause (c) shall be duly certified by a practicing chartered account or cost accountant if the aggregate value of claim on account of central tax, State tax and integrated tax exceeds Rs. 2 lakh.
- e) The input tax credit claimed in accordance with 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** or as the case may be, in **FORM GSTR- 4**, on the Common Portal.

Rule 41 - Transfer of credit on sale, merger, amalgamation, lease or transfer of a business

1) 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:

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.

Rule 41 - Transfer of credit on sale, merger, amalgamation, lease or transfer of a business

2) 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.

(3) 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.

(4) The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

Rule 42- Manner of determination of input tax credit in certain cases and reversal thereof

- 1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-sections (1) or (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempted supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-
 - a) total input tax involved on inputs and input services in a tax period, be denoted as 'T';
 - b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for purposes other than business, be denoted as 'T1';
 - c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T2';

- d) the amount of input tax, out of 'T', in respect of inputs on which credit is not available under sub-section (5) of section 17, be denoted as 'T3';
- e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as:

$$C1 = T - (T1 + T2 + T3);$$

- f) the amount of input tax credit attributable to inputs and input services used exclusively in or in relation to taxable supplies including zero rated supplies, be denoted as 'T4';
- g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in **FORM GSTR-2**;

- h) Input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C2' and calculated as:

$$\mathbf{C2 = C1 - T4;}$$

- i) The amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as:

$$\mathbf{D1 = (E \div F) \times C2}$$

where,

'E' is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and
'F' is the total turnover of the registered person during the tax period:

Rule 7- Manner and Reversal of Credit

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, the aggregate value of exempt supplies and total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

- j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', and shall be equal to five per cent. of C2; and

- k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting taxable supplies including zero rated supplies and shall be denoted as 'C3', where,-

$$\mathbf{C3 = C2 - (D1+D2);}$$

- l) The amount 'C3' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax;
- m) The amount equal to 'D1' and 'D2' shall be added to the output tax liability of the registered person:

Provided that if the amount of input tax relating to inputs or input services which have been used partly for purposes other than business and partly for effecting exempt supplies has been identified and segregated at invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such input or input services shall be included in 'T4'.

Rule 7- Manner and Reversal of Credit

- 2) The input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for filing the return for the month of September following the end of the financial year to which such credit relates, in the manner prescribed in the said sub-rule and,
 - a) where the aggregate of the amounts calculated finally in respect of 'D1' and 'D2' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2', such excess shall be added to the output tax liability of the registered person for a month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from first day of April of the succeeding financial year till the date of payment; or

Rule 7- Manner and Reversal of Credit

- b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2' exceeds the aggregate of the amounts calculated finally in respect of 'D1' and 'D2', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.

Rules 43- Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases

1) Subject to the provisions of sub-section (3) of section 16, the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in **FORM GSTR-2** and shall not be credited to his electronic credit ledger;

b) the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting taxable supplies including zero-rated supplies shall be indicated in **FORM GSTR-2** and shall be credited to the electronic credit ledger;

- c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

- d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as 'Tc', shall be the common credit in respect of capital goods for a tax period:

Provided that where any capital goods earlier covered under clause (b) is subsequently covered under this clause, the value of 'A' arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value 'Tc';

- e) the amount of input tax credit attributable to a tax period on common capital goods during their residual life, be denoted as ‘T_m’ and calculated as:-

$$T_m = T_c \div 60$$

- f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose residual life remains during the tax period, be denoted as ‘T_r’ and shall be the aggregate of ‘T_m’ for all such capital goods.

- g) the amount of common credit attributable towards exempted supplies, be denoted as ‘T_e’, and calculated as:

$$T_e = (E \div F) \times T_r$$

where,

‘E’ is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and

‘F’ is the total turnover of the registered person during the tax period:

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' calculated by taking values of 'E' and 'F' of the last tax period for which details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, the aggregate value of exempt supplies and total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

h) the amount T_e along with applicable interest shall, during every tax period of the residual life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.

2) The amount T_e shall be computed separately for central tax, State tax, Union territory tax and integrated tax.

*Rule 44-Manner of reversal of credit under
special circumstances*

- 1) The amount of input tax credit, relating to inputs lying in stock, inputs contained in semi-finished and finished goods lying in stock, and capital goods lying in stock, for the purposes of sub-section (4) of section 18 or sub-section (5) of 29, shall be determined in the following manner namely,-
 - a) For inputs lying in stock, and inputs contained in semi-finished and finished goods lying in stock, the input tax credit shall be calculated proportionately on the basis of corresponding invoices on which credit had been availed by the registered taxable person on such input.
 - b) For capital goods lying in stock the input tax credit involved in the remaining residual life in months shall be computed on pro-rata basis, taking the residual life as five years;

Illustration

Capital goods have been in use for 4 years, 6 month and 15 days.

The residual remaining life in months= 5 months ignoring a part of the month

Input tax credit taken on such capital goods= C

Input tax credit attributable to remaining residual life= C multiplied by $5/60$

- 2) The amount, as prescribed in sub-rule (1) shall be determined separately for input tax credit of IGST and CGST.
- 3) Where the tax invoices related to the inputs lying in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of goods on the effective date of 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.

- 4) 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 cancellation of registration.

44A. Manner of reversal of credit of Additional duty of Customs in respect of Gold dore bar.

The credit of Central tax in the electronic credit ledger taken in terms of the provisions of section 140 relating to the CENVAT Credit carried forward which had accrued on account of payment of the additional duty of customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), paid at the time of importation of gold dore bar, on the stock of gold dore bar held on the 1st day of July, 2017 or contained in gold or gold jewellery held in stock on the 1st day of July, 2017 made out of such imported gold dore bar, shall be restricted to one-sixth of such credit and five-sixth of such credit shall be debited from the electronic credit ledger at the time of supply of such gold dore bar or the gold or the gold jewellery made therefrom and where such supply has already been made, such debit shall be within one week from the date of commencement of these Rules.

***Rule 45- Conditions and restriction in respect of
inputs and capital goods sent to the job
worker***

- 1) The inputs or capital goods shall be sent to the job worker under the cover of a Challan issued by the principal, including where the inputs or capital goods are sent directly to job-worker.
- 2) The Challan issued by the principal to the job worker shall contain the details specified in rule Invoice.8:
- 3) The details of challans in respect of goods dispatched to a job worker or received from a job worker during a tax period shall be included in **FORM GSTR-1** furnished for that period.
- 4) If the inputs or capital goods are not returned to the principal within the time stipulated in section 143, the challan issued under sub-rule (1) shall be deemed to be an invoice for the purposes of this Act.

Explanation.- For the purposes of this Chapter,-

- 1) “capital goods” shall include “plant and machinery” as defined in the Explanation to section 17;
- 2) for determining the value of an exempt supply as referred to in sub-section (3) of section 17:-
 - a) the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and
 - b) the value of security shall be taken as one per cent. of the sale value of such security.

Thank You

CA Atul Kumar Gupta

Email: atul@servicetax.net,

Mobile: 9810103611