

GST in INDIA

Input Tax Credit

COMPONENTS



- ▶ **Legal Frame work**
- ▶ **Eligible & Ineligible credit**
- ▶ **Conditions and Restrictions**
- ▶ **ITC**
- ▶ **ITC in specific circumstances**
- ▶ **Input Service Distribution**
- ▶ **Recovery of erroneous credit**

LEGAL FRAMEWORK



S.No	Description	Section	ITC Rules
1	Eligibility	16(1)	
2	Conditions for taking ITC	16(2), (3)	Rule 1 & 2, 8
3	Time limit for taking ITC	16(4)	
4	Apportionment of credit for business purpose & non business purpose, taxable & exempt supply	17(1) to (3)	Rule 7 & 9
5	Options for Banks, NBFC	17(4)	Rule 3
6	Blocked credit	17(5)	
7	Availability of credit in special circumstances	18	Rule 5 & 6
8	ITC and Job work	19	Rule 10
10	Input Service Distributor	20	Rule 4

DEFINITIONS



❖ **Input Tax Credit** means credit of input tax [Sec.2(63)]

❖ **Input Tax** means CGST, SGST, IGST, UTGST charged on any supply of goods or services and includes IGST payable on import of goods, tax payable under Reverse Charge mechanism but does not include the tax leviable under the Composition levy [Sec.2(62)]

❖ **Input** means any goods other than capital goods used or intended to be used by a supplier in the course or for furtherance of business [Sec.2(59)]

❖ **Capital goods** means goods the value of which is capitalised in the books of account of the person claiming ITC and which are used or intended to be used in the course or for furtherance of business [Sec.2(19)]

DEFINITIONS



❖ **Input service** means any service used or intended to be used by the supplier in the course or furtherance of business [Sec.2(60)]

❖ **Zero rated supply** means any of the following supplies of goods or services or both, namely:—

1. export of goods or services or both; or

2. supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

❖ **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 and includes non-taxable supply;

❖ **Job work** means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly;

CONDITIONS



❖ ITC is allowed subject to the following four conditions:

- ✓ Possession of Invoice
- ✓ Receipt of goods and services
- ✓ Tax actually paid by the supplier to the Govt
- ✓ Furnishing of valid Return by the supplier

❖ In the case of bill to ship to model, the taxable person can avail input tax credit even if the goods are delivered to third party

❖ If goods are received in lots / instalments, credit can be taken on receipt of the last lot / instalment

CONDITIONS



- ❖ Credit is not allowed to be taken on the basis of receipt voucher by the supplier for receipt of advance - only upon receipt of goods / services
- ❖ If tax payer fails to pay the supplier the value of supply along with tax payable within 180 days, ITC is disallowed
- ❖ The details of such supplies and ITC availed should be furnished in the return following the period of 180 days from the date of issue of invoice
- ❖ The registered person shall pay interest for the period starting from the date of availing credit
- ❖ Credit can be availed back after payment

CONDITIONS



- ❖ Credit on Capital Goods allowed in one instalment
- ❖ ITC not allowed if tax is depreciated
- ❖ Credit cannot be taken after October 20th of the next FY or furnishing of the Annual Return, whichever is earlier
- ❖ In cases of new registration, change from composition to normal scheme, from exempt to taxable supplies, ITC cannot be availed after the expiry of one year from the date of issue of tax invoice

INELIGIBLE



- ❖ ITC is admissible if used in furtherance of business
- ❖ ITC allowed for all items except a few goods & services for personal consumption
- ❖ MITC not allowed on Motor vehicles and other conveyances except when used for further supply of such vehicles, transportation of passengers and imparting training on driving, flying, transportation of goods
- ❖ Food, beverages, outdoor catering, beauty treatment, health services, plastic surgery except for outward supply of the same

INELIGIBLE



- ❖ Club membership, health and fitness centre
- ❖ Rent - a - Cab, Life insurance and Health insurance.
- ❖ Exception: If it is used as inward supply for making outward supply of the same category of goods or services or if the Govt notifies the services which are obligatory for an employer to provide the services under any law
- ❖ Travel benefits extended to employees on vacation such as leave or LTC

INELIGIBLE



- ❖ **WCS for construction of immovable properties (other than plant and machinery) except where it is an input service for further supply of WCS**
- ❖ **Goods and services received for construction of immovable property (other than plant and machinery) on his own account including when such goods or services are used in the course of for furtherance of business**
- ⦿ **“construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property**

INELIGIBLE



❖ **“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 -**

- ⦿ **land, building or any other civil structures;**
- ⦿ **telecommunication towers; and**
- ⦿ **pipelines laid outside the factory premises**

INELIGIBLE



- ❖ Goods and services on which tax paid under composition scheme
- ❖ Goods and services used for personal consumption
- ❖ Goods lost, stolen, destroyed, written off, or disposed off by way of gift or free sample
- ❖ Taxes paid as a result of detection of tax evasion cases

SPECIAL SITUATIONS



- ❖ New registrant is entitled to take credit for inputs held in stock and input contained in semi-finished goods or finished goods on the day immediately preceding the date from which he becomes liable to pay tax under GST
- ❖ The credit on pre-registration stock would not be admissible if the registration has not been obtained within a period of 30 days from the date on which he becomes liable for registration
- ❖ Any person who obtains voluntary registration is entitled to take the credit for stock held on inputs and inputs contained in semi-finished and finished goods on the day immediately preceding the date of registration.

SPECIAL SITUATIONS



- ❖ ITC on stock held on input, semi-finished goods, finished goods and capital goods when composition levy ceases
- ❖ Where an exempt supply of goods and services become taxable ITC on stock, semi-finished goods, finished goods and capital goods available
- ❖ The credit on capital goods is admissible on reduced percentage points

SPECIAL SITUATIONS



- ❖ Where any registered person who has availed ITC opts to pay tax under composition scheme or, where the goods or services supplied by him become wholly exempt he shall pay an amount equivalent to the credit of ITC on inputs , semi-finished goods & finished goods and the balance, if any, shall lapse.
- ❖ Supply of used 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 such percentage points or the tax on the transaction value of such capital goods or plant and machinery, 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.*

APPORTIONMENT



- ❖ Proportionate credit is allowed on inputs, input services and capital goods in case if they are partly used for business and partly for non-business purpose.
- ❖ If inputs, input services and capital goods are used for taxable supply including Zero - rated supply and exempt supplies, proportionate credit attributable to taxable supply including Zero rated supply is allowed
- ❖ Rule 7 of ITC Rules prescribes the method of proportionate reversal

APPORTIONMENT



- ❖ All inward supplies and corresponding ITC available in the Electronic Credit Ledger (T).
- ❖ At the first level, the following invoices have to be identified and credit pertaining to such invoices should be eliminated from the ECL
- ❖ Goods and services, exclusively used for non-business purposes (T1)
- ❖ Goods and services, exclusively used for making exempted supplies (T2)
- ❖ Goods and services, for which credit is not allowed under Section 17 (5) (T3)
- ❖ The balance credit would represent the total eligible credit (C1), from which the ineligible portion pertaining to exempted supplies has to be identified.

APPORTIONMENT



- ❖ Next step would be identifying those invoices, where the goods and services are used exclusively for making taxable supplies and zero-rated supplies. This credit is fully entitled (T4)
- ❖ (C1) minus (T4) would be the common credit and denoted as (C2)
- ❖ The proportion of value of exempted supplies to total turnover in every month, shall be applied to the common credit and this would represent the ineligible credit for that month
- ❖ This should be added to the output tax liability of the month
- ❖ In any month, if there is either no exempted supplies or no turnover, the previous month figures can be taken.

APPORTIONMENT



❖ Credit attributable to exempt supplies $D1 = C2 * E / F$

C2 = Common Credit.

E = Value of exempt supplies in the tax period.

F = Total turnover for the tax period.

D1 should be added to the output tax liability of the tax period.

❖ Credit pertaining to goods and services used for non business purposes is to be taken as 5 % of the total common credit and the same shall also be added to the output tax liability (D2).

APPORTIONMENT



- ❖ Once the financial year is over, the same exercise has to be done for the whole financial year.
- ❖ If the ineligible credit calculated at the year end is more than the amount already added to output tax liability every month, the differential amount has to be paid, before September.
- ❖ Interest has to be paid from 1 st April of succeeding year till the date of payment.
- ❖ If the reversed amount is in excess, the additional amount paid has to be claimed back as credit not later than September in the next financial year.

ISD



- ❖ **“Input Service Distributor”** means an office of the supplier of goods or services which receives tax invoices towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit having the same PAN as that of the said office;
- ❖ An ISD is required to obtain a separate registration even though it may be separately registered.
- ❖ The threshold limit of registration is not applicable to ISD.
- ❖ The registration of ISD under the existing regime (i.e. under Service Tax) would not be migrated in GST regime.
- ❖ All the existing ISDs will be required to obtain fresh registration under new regime in case they want to operate as an ISD.

ISD



- **Distribution of credit would be done through a special document.**
- **The said document would contain the amount of ITC being distributed.**
- **The ITC of input services shall be distributed only amongst those registered persons who have used the input services in the course or furtherance of business.**

ISD



- The ITC shall be distributed in the same month.
- ITC to be apportioned and distributed to recipients including those who are engaged in exempted supply or otherwise not registered for any reason.
- Both in-eligible and eligible credit has to be distributed.
- ITC attributable exclusively to a person shall be distributed only to that recipient.
- Common ITC should be distributed on pro-rata basis based on the turnover in a State during a relevant period.
- Relevant period means the previous financial year or previous quarter in case previous financial year turnover is not available.

ISD



- Firstly, distribution would be done only amongst those recipients of ITC to whom the input service being distributed are attributable.
- Secondly, distribution would be done amongst the operational units only.
- Thirdly, distribution would be done in the ratio of turnover in a State or Union Territory of the recipient during the period to the aggregate of all recipients to whom input service being distributed is attributable.
- Lastly, the credit distributed should not exceed the credit available for distribution.

ISD



- 1. CGST credit can be distributed as IGST**
- 2. IGST credit can be distributed as CGST**
- 3. SGST Credit can be distributed as IGST**
- 4. Distribution of excess credit will be recovered from the recipient along with interest**

***“Improper tax administration is a crime by the government
”***

- Barry Goldwater

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