

Understanding Input Tax Credit



What is Input Tax?

- **Input tax refers to the below tax charged on the supply of goods or services or both**
 - Central tax (**CGST**)
 - State tax (**SGST**)
 - Integrated tax (**IGST**)
 - Union territory tax (**UTGST**)
 - It includes IGST charged on imports of goods

However, it does not include tax paid under the composition levy.

- IGST is levied on inter-State supply.
- CGST and SGST/UTGST are levied on intra-State supply.

Input Tax Definition as per ACT

Section 2 (62) of the CGST Act, 2017 defines input tax as follows

Input tax in relation to a registered person means Central tax, State tax, Integrated tax, or Union territory tax charged on any supply of goods or services or both made to a registered person **but does not include the tax paid under the composition levy**

It shall also include:—

- (a) The integrated goods and services tax which is charged on import of goods
- (b) The tax payable as per section 9(3) and (4) of the CGST Act
- (c) The tax payable as per section 5(3) and (4) of the IGST Act
- (d) The tax payable as per section 9(3) and (4) of the respective SGST Act
- (e) The tax payable as per section 7(3) and (4) of the UTGST Act

Rationale Behind ITC Under GST

- The credit mechanism under the indirect tax aims to mitigate the cascading effect of duty on duties.
- It provides for credit of duties paid on goods or services which are used as inputs in the production of output goods or provision of output services.
- This aim was not achieved to the fullest as various duties, taxes, and cess were levied at the central and state levels and all were not adjusted against each other.
- With the introduction of GST, credit on goods and services is available across the entire supply chain barring a few exceptions

What is Input Tax Credit?

An input tax credit means credit of tax (CGST, SGST, IGST, UTGST) paid on input, input services, and capital goods

1. Input

Input means any goods other than capital goods used or intended to be used by a supplier in the **course or furtherance of business**.

2. Input Service

Input service means any service used or intended to be used by a supplier in the **course or furtherance of business**.

3. Capital Goods

Capital goods mean goods the value of which is capitalized in the books of accounts of the person claiming the input tax credit and which are used or intended to be used in the **course or furtherance of business**

Legal Framework of ITC

The various provisions related to INPUT TAX CREDIT (ITC) are given under Chapter V (Section 16-19 & Section 41 - 42) of the CGST Act, and CGST Rules.

The aspects covered under various sections are:—

Section	Aspects Covered
Section 16:	Eligibility and Conditions for taking Input tax credit
Section 17:	Apportionment of credit and blocked credits
Section 18:	Availability of Credits in Special Circumstances
Section 19:	Taking input tax credit in respect of inputs and capital goods sent for job work.
Section 41:	Utilization of ITC
Section 42:	Matching, Reversal and Reclaim of ITC.

CGST RULES, 2017 RELATING TO ITC

The Chapter V of CGST Rules, 2017 contains the following rules in relation to ITC:

Section	Aspects Covered
Rule 36:	Documentary requirements & conditions for claiming ITC
Rule 37:	Reversal of ITC in the case of Non-Payment of consideration
Rule 38:	Claim of credit by a Banking Company or a Financial Institution
Rule 39:	Procedure for distribution of ITC by Input Service Distributer (ISD)
Rule 40:	Manner of claiming credit in special circumstances
Rule 41:	Transfer of credit on sale, merger, etc.

SectionS	Aspects Covered
Rule 42:	Manner of determination of ITC in respect of inputs or input services & reversal
Rule 43:	Manner of determination of ITC in respect of Capital goods & reversal thereof
Rule 44:	Manner of reversal of credit under special circumstances
Rule 44A:	Manner of reversal of credit of Additional Duties of Customs
Rule 45:	Conditions and restrictions in respect of inputs and Capital Goods to the job worker

Eligibility and Conditions for taking Input tax credit - Section 16



Section 16: Eligibility and Conditions for taking Input tax credit

As per section 16(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 business and the said amount shall be credited to the electronic credit ledger of such person.”

Condition	Analysis of Section 16 (1)
1. Registered Person	<p>As per Section 16(1), Input tax credit is available only to a registered Person.</p> <p>Exception: There is one exception wherein ITC is not available although the person is registered. This exception applies to a person who pays tax under section 10 of the CGST Act, under the compounded levy scheme (Composition Scheme)</p>
2. In the course of or in furtherance of business:	<p>In the course or furtherance' is not defined but is broad enough to include any activity or transaction which is incidental or ancillary to the business activities.</p> <p>The relation of inputs and input services with business can be direct or indirect. 'Intention to use' implies that ITC can be availed as soon as inputs or input services are received, though the same may be utilized later.</p>

Condition	Analysis of Section 16 (1)
3. Credit Ledger:	The amount of ITC shall be credited to the Electronic Credit Ledger of the person entitled.
4. Manner of Utilisation	The ITC shall be utilised in the manner specified in section 49.
5. Rules under CGST Rules, 2017	The conditions and restrictions have been specified in Chapter V of CGST Rules, 2017 (Rule 36 to Rule 45).

Section 16(2): Conditions to be satisfied for Availing ITC

The registered person is entitled to the credit of any input tax credit on a supply only if all the following conditions are fulfilled:

1. Possession of a Tax Invoice or Debit Note
2. Furnishing and communication of details
3. The ITC is not restricted
4. Receipt of goods and/or services
5. Payment of tax to the Government
6. Furnishing the valid return under section 39

NOTE: The above conditions are given in section 16(2), which starts with “Notwithstanding anything contained in this section”. It implies that it is an overriding section.

Moreover, these conditions are cumulative, therefore, they all must be satisfied in order to be eligible for availing tax credit.

1. Possession of a Tax Invoice or Debit Note

- (a) an invoice
- (b) a debit note
- (c) an invoice raised by the recipient in case of inward supply from unregistered.
- (d) a bill of entry or any similar document prescribed under the Customs Act, 1962
- (e) an Input Service Distributor invoice or Input Service Distributor credit note, or any document issued by an Input Service Distributor for distribution of credit. (Rule 54).

The document must mention the following

- (a) the details of the amount of tax charged
- (b) description of goods or services,
- (c) total value of supply of goods or services or both
- (d) GSTIN of the supplier and recipient
- (e) place of supply

<p>2. Furnishing and communication of details</p> <p>Section 16(2)(aa), the ITC claims will be allowed only when the details of such invoice/debit note have been furnished by the supplier in his GSTR-1 and subsequently it appears in GSTR-2A. Thus, now the recipient can no longer claim provisional ITC. In other words, the ITC claimed should be reflected in GSTR-2A.</p>	<ul style="list-style-type: none"> (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 or using the invoice furnishing facility; and (b) the details of ITC in respect of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under rule 60(7)
<p>3. The ITC is not restricted</p>	<ul style="list-style-type: none"> (a) The input tax credit in respect of the supply communicated to the registered person under FORM GSTR2B / GSTR2A has NOT been restricted.
<p>4. Receipt of Goods or Services or both (section 16(2)(b))</p>	<ul style="list-style-type: none"> (a) The registered person should have received the goods or services or both. This means the ITC will not be available unless the goods are received by the registered person. (b) the goods delivered to a third party on the direction of the customer will be deemed to have been received by the customer. (Bill to Ship to Model)
<p>5. Payment of Tax to the Government</p>	<ul style="list-style-type: none"> (a) the tax should have actually been paid to the government for which ITC is being taken. This payment can be done by the supplier either by <ul style="list-style-type: none"> (i) Making the payment through cash or (ii) through utilization of ITC.
<p>6. Filing of valid Return (Section 16(2)(d))</p>	<ul style="list-style-type: none"> (a) the registered person should have furnished the return under section 39

Reversal of ITC in case of Non-Payment of Consideration

Reversal of ITC in case of Non-Payment of Consideration
[Second Proviso to Section 16(2)]:

- (a) Where a recipient fails to pay to the supplier of goods or services or both, the amount towards the value of supply along with tax payable thereon, within 180 days from the date of issue of invoice by the supplier, an amount equal to ITC availed by the recipient shall be added to his output tax liability, along with interest thereon, in the manner as may be prescribed.
- (b) Related provisions as prescribed under Rule 37 of CGST Rules, 2017

Related provisions as prescribed under Rule 37 of CGST Rules, 2017

As per Rule 37(1), 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 section 16(2), 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 180 days from the date of the issue of the invoice.

Re-Entitlement when payment is made subsequently

- (a) As per Rule 37(2), 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 rule 37(1).
- (b) The time limit of availing credit as specified in section 16(4) 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.

No ITC if Depreciation is claimed on Tax Component [Section 16(3)]

[Section 16(3)]

(a) 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. It is clear that in respect of tax paid on such items, double benefit cannot be claimed under GST laws and Income-tax Act, 1961 simultaneously. Therefore, the assessee has the option to either claim depreciation on tax component of capital goods by capitalizing the capital goods inclusive of tax in the books of account or to claim ITC. A person is not allowed to take the dual benefit under two different laws simultaneously.

Time Limit for availing the Input Tax Credit [Section 16(4)]

[Section 16(4)]

- (a) The Finance Act, 2022 has amended section 16(4), w.e.f. 1-1-2022, to extend the period to take ITC. Pursuant to this amendment, a taxable person shall not be entitled to take ITC in respect of any invoice or debit note or supply of goods or services or both, after the 30th November following the end of the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.
- (b) In view of this, it can be concluded that the ITC on invoices which pertains to a particular financial year must be availed as per the following:

Earlier of

- 30th November of the next financial year
- Date of filing Annual Return in FORM GSTR-9 under section 44

Additional points as regards the time limits for claiming ITC

- (a) Relevant Date for Debit Note: After the amendment made by Finance Act, 2020 w.e.f. 1-1-2021, the date of issue of invoice relating to debit note is of no relevance for determining time limit to take ITC on Debit Note.
- (b) No time limit for reclaiming ITC reversed due to non-payment within 180 days
- (c) One Year from the date of Invoice in special cases:
- The Section 18(2) provides that in special circumstances, like new registration or voluntary registration, the 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

Apportionment of credit and blocked credits - Section 17



Apportionment of Input Tax Credit

As regards the apportionment of ITC, the provisions are contained in section 17 of CGST Act, 2017, which are as follows:

Section	Aspects Covered
Section 17(1)	Where goods or services are used partly for business purposes and partly for other purposes
Section 17(2)	Where goods or services are used partly for effecting taxable supply including zero rated supply and partly for exempted supply
Section 17(3)	Items included in exempted supplies
Section 17(4)	Optional method for Banks for taking ITC
Section 17(5)	Blocked Credits

Section 17(1) – ITC for Business & personal use & Section 17(2) – ITC on Taxable supplies and exempted supply

1. Where goods or services are used partly for business purposes and partly for other purposes [Section 17(1)]

For Example: Suman owns a Business entity and deals in textiles. She has purchased goods for the business, in respect of which ITC admissible is ` 42,500. If 15% of such goods have been used by her for personal purposes, then ITC will not be available in relation to such goods which are used for non-business purposes. Therefore, as per section 17(1), Suman shall be entitled to take credit of ` 36,125 (calculated as 85% of ` 42,500).

- (a) Where the goods and/or services are used by the registered person partly for the purposes 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 goods or services are used partly for effecting taxable supply including zero rated supply and partly for exempted supply [Section 17(2)]

- (a) When the goods are used for business purposes, they may either be used in effecting the following supplies:

- Taxable supplies, which includes zero-rated supplies or
- Exempted supplies or
- Partly taxable and partly exempted supplies.

- (b) 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.”

- (c) In other words, the ITC shall be available only for that portion of Input tax which is attributable to the purposes of business of providing taxable supplies including zero-rated supplies.

Section 17(3) - Items included in exempt supplies

Section 17(3) provides that for the purpose of ITC reversal, the value of exempt supply would include the following transactions:

- (a) Supplies subject to GST under reverse charge (say sponsorship services by an event company)
- (b) Transactions in security (say sale of shares)
- (c) Sale of Land
- (d) Sale of Building (except under-construction building)

Section 17(3) is not providing that the above transactions would be treated as exempt supply. Instead, it merely provides that for ITC reversal, the value of exempt supply would include the value of the above transactions.

Explanation to Section 17(3) provides that the value of exempt supply shall not include the value of activities/transactions specified in Schedule III except those specified in paragraph 5 of the said Schedule.

Paragraph 5 of Schedule III covers the transaction of sale of land and sale of the building (except under construction).

Therefore, as per the explanation, except for the sale of land and constructed building, value of other transactions/activities of Schedule III is not included in the value of exempt supply.

Section 17(4) read with Rule 38 : Optional method for Banks for taking ITC

The provision of Section 17(4) read with Rule 38 are as follow

- (a) Registered person shall be a banking company or a financial institution including a NBFC engaged in supplying of Services by way of accepting deposit , extending loans and advances
- (b) The said company shall have the option to avail ITC as
 1. proportionately in accordance with the provision of Section 17(2)
 2. avail every month an amount equal to 50% of the eligible ITC in that month in FORM GSTR3B and and the balance ITC to be reversed every month
- (c) The option once exercised shall not be withdrawn during the remaining part of the Financial Year
- (d) The restriction of 50% ITC would not be applicable on tax paid on supplies made by one registered person to another registered person having same PAN (E.g. - Branches of bank in different states)

Blocked Credits i.e. Ineligible Inputs/Capital Goods/Services for ITC [Section 17(5)]

The section 17(5) of CGST Act, 2017 has listed down specific goods and services, in respect of which ITC is not available, irrespective of their use in business. These are termed as Blocked Credits.

1. Motor vehicles
 - (a) ITC is not allowed on Motor vehicles for transportation of persons with seating capacity ≤ 13 (including the driver), used for any purpose [other than ones mentioned in (A), (B) and (C)],.
 - (A) further supply of such motor vehicles (Car Dealer, Car renting company)
 - (B) transportation of passengers (Taxi – OLA , UBER)
 - (C) imparting training on driving such motor vehicles (Motor Driving School)
 - (b) ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) is allowed.
 - (c) In the case of a motor vehicle (which is not for transportation of persons) like Truck, dozer, dumper, digger, crane, fork-lift truck, etc., input tax credit is not blocked provided such vehicle is used for business purposes for making taxable supplies.

Blocked Credits i.e. Ineligible Inputs/Capital Goods/Services for ITC [Section 17(5)]

1. Motor vehicles

Examples: Where ITC is not allowed [ITC is blocked]

1. X purchased one motor car, having seating capacity of 5 passengers, to be used by him for going to factory.
2. A registered person, purchases a motor vehicle (Seating capacity: 10 passengers) for commutation of employees from their residence to factory and back.
3. Car purchased by a marketing company for official use of its employees.

Examples: Where ITC is allowed [Exception to Section 17(5)(a)]

1. Mr X purchased motor car for running as taxi.
2. Cars purchased by the company engaged in renting out cars for transportation of passengers.
3. A car dealer has purchased cars for resale.
4. A driving school has purchased cars for use in imparting driving skills.
5. Trucks purchased by a company for transportation of its finished goods.
6. Buses purchased by a company for transportation of employees from their residence to office and back.

Blocked Credits i.e. Ineligible Inputs/Capital Goods/Services for ITC [Section 17(5)]

2. Vessels and Aircraft

(a) ITC is not allowed on Vessels and Aircraft used for any purpose [other than ones mentioned in (A), (B) and (C)],.

(A) further supply of such such vessels or aircraft

(B) transportation of passengers or goods

(C) imparting training on navigating such vessels or aircraft

Examples: Where ITC is not allowed [ITC is blocked]

1. If a manufacturing company purchases an aircraft for official use of its executive officer.

Examples: Where ITC is allowed

1. If aircraft is purchased by an Aviation school providing training on flying aircrafts.

2. Liberty Limited purchases an aircraft for the purpose of transportation of goods manufactured by it.

3. Indian Airline, an operates a fleet of Airbus A 320. It has added 5 aircraft in its fleet. These will be used for transportation of goods/passengers

Blocked Credits i.e. Ineligible Inputs/Capital Goods/Services for ITC [Section 17(5)]

3. Specific Services relating to Motor vehicles, Vessels and Aircraft

(a) ITC is not allowed 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):

(b) 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

- in the manufacture of such motor vehicles, vessels or aircraft; or
- in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

Examples: Where ITC is not allowed [ITC is blocked]

1. If a car is used by the employees of a manufacturing company for official purposes, then ITC on car is blocked. Now, the ITC on general insurance taken on this car is also not allowed.

Examples: Where ITC is allowed

1. If a truck is purchased by a manufacturing company for transportation of its finished goods, the ITC on truck is allowed. Simultaneously, ITC on maintenance and repair services availed for this truck will also be allowed.

Blocked Credits i.e. Ineligible Inputs/Capital Goods/Services for ITC [Section 17(5)]

4. Specific Supply of Goods or services or both

- Food and beverages
- Outdoor Catering
- Beauty Treatment
- Health Services
- Cosmetic and plastic surgery
- 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
- Membership of a club, health and fitness center
- Travel benefits extended to employees on vacation such as leave or home travel concession:

(a) Input tax credit would not be allowed of taxes paid on supplies of goods or services or both for the mentioned Goods or services or both

(b) There are two exception to the above restriction

1. 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.
2. Input tax credit in respect of Goods or services or both shall be available, if it is obligatory for an employer to provide to its employees under any law for the time being in force

Examples: Where ITC is allowed

1. A company has set up a canteen in its factory as a statutory obligation under Factories Act, 1948. The company has availed outdoor catering services to run the canteen. The ITC on such outdoor catering is allowed.
2. Arun, a caterer of Mumbai, has been awarded catering contract in a grand birthday party to be held at Pune. Arun has given the contract for supply of food articles, to be served in the party, to a local caterer of Pune (Mr. Bhanu). ITC on such outdoor catering services availed by Arun is allowed.

Blocked Credits i.e. Ineligible Inputs/Capital Goods/Services for ITC [Section 17(5)]

5. Works Contract Services

- (a) This category includes works contract services when supplied for construction of an immovable property (other than plant and machinery)
- (b) Construction of an immovable property includes following activities
- Re-Construction
 - Renovation
 - Addition / Alteration
 - Repairs

Composition Scheme

- (a) No ITC is available to the person who has made the payment of tax under composition scheme

Non – Resident

- (a) ITC cannot be availed on goods/services received by a non-resident taxable person.
- (b) ITC is only available on any goods imported by him.

Free samples and destroyed goods

- (a) No ITC is available for goods lost, stolen, destroyed, written off or given off as gift or free samples.

Reversal of ITC Rule 42 & Rule 43



Rule 42 & 43 – Reversal of ITC

Why is there a need for Reversal of ITC under Rules 42/43

1. Where the goods or services or both are used by the registered person
 - partly for effecting taxable supplies including zero-rated supplies and
 - partly for effecting exempt supplies
2. the amount of ITC shall be restricted to the amount of ITC that can be attributable directly or indirectly to the taxable supplies including zero rated supplies i.e. exports.
Therefore, the ITC directly attributable to exempt and Non-taxable supply shall be reversed if wrongly taken.
3. Also, ITC directly attributable to non-business or personal purposes shall be reversed if wrongly availed.
4. In case of common credits which are used for both taxable as well as non-taxable/exempt supplies proportionate ITC amount to the extent of supplies that are non-taxable/used for personal consumption shall be identified and reversed as per Rules 42 and 43.

Rule 42

Determining common credit of ITC on Inputs and services

Rule 43

Determining common credit of ITC on Capital Goods

Rule 42 – Reversal of ITC on Inputs and services

Formula for determining reversal of proportionate ITC used both taxable as well as non-taxable purposes

T = TOTAL ELIGIBLE CREDIT

The total ITC on inputs and input services

(-)

Amt of ITC on used for Personal Use

(-)

Amt of ITC used for exclusively for effecting exempt supplies

(-)

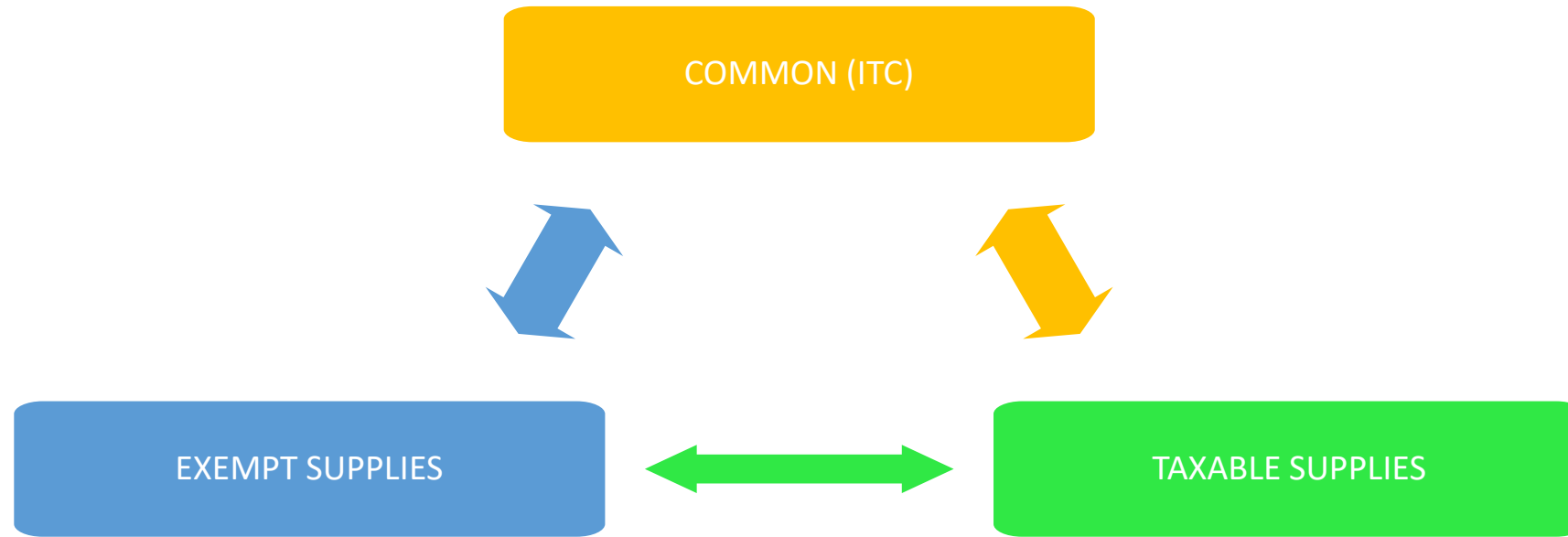
Amt of ITC which is not available (Block Credit)

S = SPECIFIC CREDIT

(ITC intended to be used exclusively for effecting taxable supplies including zero rated supplies)

C (COMMON CREDIT) = T (TOTAL ELIGIBLE CREDIT) – S (SPECIFIC CREDIT)

Rule 42 – Reversal of ITC on Inputs and services



REVERSAL OF ITC (R1) is the ITC attributable towards exempt supplies from COMMON ITC

$$R1 = \frac{\text{TOTAL EXEMPT SUPPLIES}}{\text{TOTAL TURNOVER}} \times \text{COMMON ITC}$$

REVERSAL OF ITC (R2) is the ITC attributable towards Non- business purpose shall be equal to 5% of COMMON ITC

$$R2 = 5\% \times \text{COMMON ITC}$$

Rule 42 – Reversal of ITC on Inputs and services

CASE STUDY

Consider the following situation for the month of January 2023 relating to supplies made in Maharashtra :

Total ITC available 15,00,000/-

ITC on inputs attributable to supply used for personal – 7500

ITC on inputs to be used exclusively for making exempt supply – 15,000

Blocked credits under Section 17(5) - 77,500

ITC on inputs used exclusively for making taxable supplies – 2,50,000

The aggregate value of exempt supplies made in January'2023 (E) – 3,00,000

Total turnover in Maharashtra - 30,00,000

Rule 42 – Reversal of ITC on Inputs and services

SOLUTION	The total ITC on inputs and input services	15,00,000
	(-)	
	Amt of ITC on used for Personal Use	7,500
	(-)	
	Amt of ITC used for exclusively for effecting exempt supplies	15,000
	(-)	
	Amt of ITC which is not available (Block Credit)	77,500
	TOTAL ELIGIBLE CREDIT (T)	14,00,000
	SPECIFIC CREDIT (S)	2,50,000
	COMMON CREDIT (T-S)	11,50,000
	TOTAL EXEMPT SUPPLIES	3,00,000
	TOTAL SUPPLIES	30,00,000
	REVERSAL OF CREDIT (R1) (TOTAL EXEMPT SUPPLIES / TOTAL TURNOVER X COMMON ITC) (3,00,000 / 30,00,000 X 11,50,000)	1,15,000
	REVERSAL OF CREDIT (R2) (5% X COMMON ITC) (5% X 11,50,000)	57,500
	BALANCE ITC AVAILABLE (T - R1 -R2)	12,27,500

Rule 43 – Reversal of ITC on Capital Goods

Formula for determining reversal of proportionate ITC used both taxable as well as non-taxable purposes

1. Not Eligible Capital Goods – Identify Capital Goods which are to be used exclusively for exempted supplies. ITC of Capital Goods used exclusively for exempted Goods is not to be taken
2. Specific Capital Goods - Identify Capital Goods which are to be used exclusively for Taxable supplies. 100% ITC of Capital Goods used exclusively for Taxable supplies is to be taken.
3. Common Capital Goods - Thereafter the remaining Capital Goods are those which are used for exempted supplies and Taxable supplies.
4. Steps for credit of ITC on common capital goods
 - The ITC in relation to the common capital goods is to be taken and credit to electronic credit ledger
 - Considering useful life of capital goods as 5 years / 60 months
 - Reversal of ITC is to be made each month by dividing it by a ratio between exempted supplies and total supplies
5. The calculation are to be made separately for IGST / CGST / SGST / UTGST

Rule 43 – Reversal of ITC on Capital Goods

Formula for determining reversal of proportionate ITC used both taxable as well as non-taxable purposes

6. For Real Estate (building construction) services, the ratio between exempt supplies and taxable supplies will be calculated on a project basis

where:

- Exempt supplies will be the aggregate carpet area of exempt construction project or apartments sold after construction is over
- Total supplies stands for aggregate carpet area of the apartments in the project

Rule 43 – Reversal of ITC on Capital Goods

Example:

ABC company operating in Maharashtra had availed the following ITC on various capital goods purchased in the month of June 2023:

Particulars	Amount (in Rs)
ITC on Machine A (used exclusively in the supply of exempt goods)	1,50,000
ITC on Machine B (used exclusively in the supply of taxable goods)	9,00,000
ITC on Machine C (used exclusively for non-business purposes)	20,000
ITC on Machine D (used partly in the supply of taxable and exempt goods)	4,50,000

The company had also made the following type of output supplies in Maharashtra in the month of June:

Turnover in relation to exempt supplies: Rs. 20,00,000

Turnover in relation to taxable supplies: Rs. 80,00,000

Calculate the ITC available for the month of June.2023

Rule 43 – Reversal of ITC on Capital Goods

Solution:

1. ITC on machine A and C will not be credited to the electronic credit ledger ($1,50,000+20,000 = 1,70,000$).
2. ITC on machine B will be credited to the electronic ledger: Rs. 9,00,000
3. ITC on machine D will also be credited to the electronic credit ledger: Rs 450,000

Total common credit (Tc) = 4,50,000

Total monthly common credit (Tm) = $Tc \div 60$
= 7,500

The amount of ITC to be reversed for the month of June, 2023 would be:

= (Exempt supplies \div Total Supplies) \times Tm
= $(20,00,000 \div 80,00,000) \times 7,500$
= 1,875

Thus, the total ITC credited to the electronic ledger for the month of June 2023

= Rs. $(900,000 + 450,000 - 1875)$
= Rs 13,48,125/-

Availability of Credits in Special
Circumstances - Section 18



Section 18 - Input Tax Credit (ITC) availability to a taxable person who becomes liable to pay GST at a later stage (Availability of Credits in Special Circumstances)

The liability to pay GST at a later stage may arise due to the following reasons:

1. Turnover exceeds the limit from the prescribed limit for registration (40 L / 20 L /10L) / Voluntary Registration
2. Opts out of Composition scheme
3. Exemption to the Supply of Goods or Service is withdrawn & goods or services becomes taxable
4. Merger, Amalgamation, Sale of business
5. Sale of Capital Goods

Section 18 - Availability of ITC in Special Circumstances

- Section 18(1)(a)** A taxable person who has applied for registration within thirty days from the date on which he becomes liable to registration is entitled to take Credit of input tax on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the CGST Act. Example: Mr. R become liable to register (turnover exceeds 40 Lakhs) on 02 April 2020 and applied for registration on 20 April 2020 (within 30 days from 02 April 2020) He is entitled to take Credit of input tax held in stock on 01 April 2020.
- Section 18(1)(b)** **Voluntary Registration:** A person who has applied for voluntary registration be entitled to take Credit of input tax, on the day immediately preceding the date of grant of registration.
- Example: Mr. V applied for Voluntary registration on 20 April and granted registration on 18 May 2020. He is entitled to take Credit of input tax held in stock on 17 May 2020.
- Example: Subhash enterprises obtained voluntary registration on 31-8-2018. He had purchased inputs for furtherance of business invoice dated 14-8-2017. The input tax on the same was ` 30,000. Although Section 16(4) allows to claim ITC by 20th October 2018 (assuming annual return for the financial year 2017-18 is not yet filed), but if it is read together with section 18(2), the ITC cannot be claimed beyond 14-8-2018 i.e. one year from the date of invoice.

Section 18 - Availability of ITC in Special Circumstances

Section 18(1)(c)
Rule 40(2) of CGST
Rules

Composition Scheme: Where any registered taxable person ceases to pay tax for composition scheme under section 10 of the CGST Act, he shall be entitled to take Credit of input tax on the day immediately preceding the date from which he becomes liable to pay tax as a normal taxpayer. He shall be eligible to take Credit of tax on Capital goods also. However, Credit on capital goods shall be reduced by 5% for every quarter or part thereof, from the date of issue of invoice for the capital goods. Example: Mr. C, a Composition dealer, purchased capital goods on 01 April 2019 for Rs 1,00,000 and paid 18000/ as GST. On 02 April 2020, he ceases to pay tax under the composition scheme and become a normal taxpayer. Credit on Capital goods shall be reduced @ 5% for four quarters (April 2019 to Mar 2020), and Credit available on capital goods will be $18000 - (18000 * 5\% * 4) = 14400$

Section 18(1)(d)

Exempt Supply becomes Taxable:

Where an exempt supply by a registered taxable person becomes a taxable supply, such person shall be entitled to take Credit of input tax relatable to such exempt Supply on the day immediately preceding the date from which such Supply becomes taxable.

He shall also be eligible to take Credit on capital goods exclusively used for such exempt Supply.

Credit on capital goods shall be reduced by 5% for every quarter or part thereof, from the date of issue of invoice for the capital goods- proviso to section 18(1)(d) of CGST Act.

he Credit of ITC on capital goods can be availed only when a taxable person under composition scheme shifts to a normal scheme under sec 18(1)(c), and when exempt Supply of goods becomes a taxable supply u/s 18(1)(d). It cannot be availed when a taxable person applies for fresh registration.

Section 18 - Availability of ITC in Special Circumstances

Section 18(3) Rule
41(1) Rule 41(2)
Rule 41(3) Rule
41(4)

Where there is a change in the constitution of a registered person on account of the sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business. Procedure: A registered person shall furnish the details in form GST ITC-02 electronically on the Common Portal along with a request to transfer the unutilized input tax credit lying in his electronic credit ledger to the transferee. 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 – proviso to rule 41(1) of CGST Rules. Value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon – Explanation to rule 41(1) of CGST Rules inserted, w.e.f. 29-3-2019. The transferor shall also submit a copy of a certificate issued by a practicing chartered account or cost accountant certifying that the sale, merger, demerger, amalgamation, lease or transfer of business has been done with a specific provision for transfer of liabilities. The transferee shall, on the Common Portal, accept the details so furnished by the transferor and, upon such acceptance, the unutilized Credit specified in form GST ITC-02 shall be credited to his electronic credit ledger. The Inputs and Capital goods so transferred shall be duly accounted for by the transferee in his books of account.

Section 18 - Availability of ITC in Special Circumstances

Section 18(6) Rule 40(2)

ITC on Sale of Capital goods after use In case of sale of capital goods 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 reduced by @ 5% per quarter or the tax on the transaction value of such capital goods determined under section 15 of CGST Act, whichever is higher. Example: Mr. CG purchased a machine on 1-7-2018 for Rs. 10,00,000 on which GST was paid @ 18%. On 2-10-2019, he sold the machinery for Rs 7,50,000. (a) Asset is utilized for 6 quarters (July 2018- Sep 2019) (b) GST Paid = $10,00,000 @ 18\% = 1,80,000$ (c) ITC on Capital Goods utilized = $1,80,000 @ 5\% * 6 = 54,000/-$ (d) Amount to be paid towards ITC taken = $1,80,000 - 54,000 = 1,26,000$ Or the tax on the transaction value of such capital goods = $7,50,000 @ 18\% = 1,35,000/=$ whichever is higher . Thus Rs 1,35,000 shall be added as output tax liability in form GSTR-1. . If such amount exceeds the tax determined on the transaction value of the capital goods, the amount shall be added as output tax liability in form GSTR-1 – proviso to rule 44(6) of CGST Rules. However, in case of 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 of CGST Act – proviso to section 18(6) of CGST Act

Taking input tax credit in respect of inputs and capital goods sent for job work- Section 19



Section 19 Taking ITC in respect of inputs sent for job work

Section 19(1)

The principal can take credit on input tax on inputs sent to job worker for job work only if he fulfils the conditions prescribed in Rule 45.

Section 19(2)

Notwithstanding anything contained in Sec 16(2)(b)

Condition for availment of credit –Actual receipt of goods does not require to be fulfilled

The principal can avail credit of the 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.

Where the inputs sent for job-work are not received back by the “principal” after completion of job-work or otherwise

within 1 YEAR

of being sent out

- In case of non-receipt of the inputs within the time prescribed, the principal shall issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year has expired.
- In case of direct supply, the period of 1 year shall be reckoned from the date the job worker receives such inputs .

Section 19 Taking ITC in respect of Capital Goods sent for job work

Section 19(1)

The principal can take credit of input tax on Capital Goods sent to job worker for job work only if he fulfils the conditions prescribed in Rule 45.

Section 19(2)

Notwithstanding anything contained in Sec 16(2)(b)

Condition for availment of credit –Actual receipt of goods does not require to be fulfilled

The principal can avail credit of the 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.

Where the inputs sent for job-work are not received back by the “principal” after completion of job-work or otherwise

within 3 YEAR

of being sent out

- In case of non-receipt of the inputs within the time prescribed, the principal shall issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of 3 year has expired.
- In case of direct supply, the period of 3 year shall be reckoned from the date the job worker receives such inputs .

A decorative graphic on the left side of the slide features several envelopes of different colors (yellow, white, green, pink, blue) arranged in a staggered, overlapping pattern against a light blue background. The envelopes are set against a dark orange background at the bottom.

THANK YOU

For Queries / question
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6 years of GST: India's unprecedented indirect tax reform that dared to revolutionise the economic landscape

By Gourab Das, ET Online • Last Updated: Jul 01, 2023, 11:42 AM IST

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Synopsis

India's introduction of the Goods and Services Tax (GST) marked a significant milestone in the country's taxation history. The tax base has more than doubled since its implementation in 2017, with revenues experiencing substantial growth. However, there is still room for more businesses to enroll in GST. There is potential for further growth and harmonization in the future.



Representative image

July 1, 2017: India woke up to an unprecedented transformation in its tax landscape as the [Goods and Services Tax](#) (GST) took center stage, promising to be the answer to demands for a streamlined indirect taxation system for 1.4 billion citizens. With its motto, "One nation, One market, One

Unifying force. Goods and Services Tax – A game changer

Updated - June 29, 2023 at 08:55 PM.

Improved compliance and tax buoyancy on GST's sixth anniversary points to the regime's resounding success

BY SHASHANK PRIYA

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The giant leap in taxation history: One umbrella for all

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Major decisions

Table 2

Legal provision	Decision	High Court
ITC is not allowed on goods/services used for construction of immovable property	ITC can be availed if the goods or services are used for construction of immovable property, when the same are used for business purposes	Appeal against this decision of Orissa High Court is pending before Supreme Court
ITC cannot be allowed to recipient if GST is not paid by the supplier	"Buyer cannot be punished for fault of supplier." ITC available, if recipient paid full amount of tax to supplier	Delhi, Punjab & Haryana
ITC cannot be allowed to recipient, if registration of supplier is cancelled ab initio	ITC cannot be denied to recipient, if registration was valid at the time of transaction	Calcutta, Madras, Karnataka
ITC should be reversed in case of loss of goods	Reversal not required for loss of inputs during manufacturing process	Madras