

GST

Input Tax Credit

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Definitions

Capital goods.....CCR, 1994

~~(A) the following goods, namely:-~~

- ~~(i) all goods falling within Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the Schedule to this Act;~~
- ~~(ii) pollution control equipment;~~
- ~~(iii) components, spares and accessories of the goods specified at (i) and (ii);~~
- ~~(iv) moulds and dies, jigs and fixtures;~~
- ~~(v) refractories and refractory materials;~~
- ~~(vi) tubes and pipes and fittings thereof;~~
- ~~(vii) storage tank; and~~
- ~~(viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers~~

~~used-~~

USED-

- ~~GST~~

- ~~— (1) at the **place of business** for supply of goods; or~~
- ~~— (2) outside the place of business for generation of electricity for captive use at the place of business; or~~
- ~~— (3) for supply of services;~~

- ~~CENVAT Credit Rules, 2004~~

- ~~— (1) **in the factory** of the manufacturer of the final products, but does not include any equipment or appliance used in an office; or~~
- ~~— (1A) outside the factory of the manufacturer of the Final products for generation of electricity for captive use within the factory; or~~
- ~~— (2) for providing output service;~~

.....Capital Goods

~~(B) motor vehicle designed for **transportation of goods** including their chassis
—— registered in the name of the supplier of service, when used for~~

~~—— (i) supplying the service of **renting** of such motor vehicle; or~~

~~—— (ii) transportation of **inputs and capital goods** used for **supply of service**; or~~

~~(iii) supply of **courier agency service**;~~

~~(C) motor vehicle designed to **carry passengers** including their chassis, registered in
—— the name of the supplier of service, when used for supplying the service of~~

~~—— (i) transportation of passengers; or~~

~~—— (ii) **renting** of such motor vehicle; or~~

~~(iii) imparting **motor driving skills**;~~

~~(D) Components, spares and accessories of motor vehicles which are capital goods
—— for the taxable person.~~

Capita Goods covered in Clause 20(A)(i) of section 2 of GST Law

- ~~Chapter 82 : tools hand tools Knives etc~~
 - ~~Chapter 84 : machinery~~
 - ~~Chapter 85 : Electrical Machinery~~
 - ~~Chapter 90 : Measuring, Checking and testing machine~~
 - ~~Sub heading 6804 : Grinding wheel and the like and parts thereof~~
 - ~~Sub heading 6805 : Abrasive powder or grain on base of textile material, of paper, of paper board, or other material~~
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Motor Vehicle-Capital Goods 2(20)A(VIII)

<u>Tariff Heading</u>	<u>Type of vehicle</u>
8702	Motor vehicle for the transport of ten or more person, including the driver
8703	Motor cars and other Motor vehicle principally designed for the transport of persons (other than those specified in heading 8702) including station wagon and racing cars.
8704	Motor vehicle for Transportation of Goods
8711	Motorcycle (including moped) and cycle fitted with an auxiliary motor, with or without side cars.

➤ Crain, tractor, moving lifts are Capital Goods

➤ Truck and other goods transportation vehicle are not a Capital Goods for Manufacturer.

S 2(52) Goods

“**goods**” means every kind of **movable property....**

....other than money and securities but **includes actionable claim**, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply

Security- neither it's a good or service

Goods includes Capital Goods

S 2(102) Services

“services” means anything other than goods,.....

.....money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged

Building-?

S 2(19) **capital goods**.....

“capital goods” means goods, the value of which is capitalised in the books

of accounts of the person claiming the credit and which are used or intended to be used in the course or furtherance of business

S 2(59) Input & S 2(60) Input service

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

S 2(62) Input Tax

- Input tax in relation to a ~~taxable person~~ registered person, means
 - The CGST/SGST/UTGST/IGST
 - charged on
 - **ANY SUPPLY OF GOODS OR SERVICES OR BOTH MADE TO HIM**
 - and includes:-
 - IGST charged on Import of Goods
 - tax payable u/s 9(3) and 9(4) of CGST Act/SGST Act (Reverse Charge)
 - tax payable u/s 5(3) and 5(4) of IGST Act AND u/s 7(3) and 7(4) of UTGST Act (Reverse charge)
 - Does not include tax paid under composition levy u/s 10
- **Sec. 63 “Input tax credit”** means credit of ‘input tax’

S 17(5) Blocked Input Tax Credit

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
 - B. transportation of passengers,
 - C. imparting training on driving, flying, navigating such vehicles or conveyances
- (ii) for transportation of goods

Sec. 2(34) “**conveyance**” includes a vessel, an aircraft and a vehicle;

2 (67) Definition of Motor Vehicle...

"motor vehicle" has the meaning assigned to it in sec. 2 (28) of the Motor Vehicles Act, 1988;

S 2(28) of MV Act, 1988

"motor vehicle" or "vehicle" means any **mechanically** propelled vehicle adapted for **use upon roads** whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer ;

but **does not include** a vehicle running upon fixed rails or a vehicle of a special type adapted for **use only in a factory** or in any other enclosed premises or a vehicle having **less than four wheels fitted with engine capacity of not exceeding 25 cc ;**

TWO Wheelers-

Tractor-trailer. - A Division Bench of the Punjab and Haryana High Court in United India Insurance Company Ltd. v. Pritpal Singh (1996-2) 113 Punj. L.R. 49 held that even though trailer may be drawn by a motor vehicle if by itself is a motor vehicle and both the **Tractor & Trailer taken together would constitute a transport vehicle**

ITC....Blocked Credit

b) Goods and services provided in relation to:

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery AND Rent a Cab, life insurance, health insurance.....except where an inward supply of goods or services of a particular category is used by a registered taxable person for making an outward taxable supply **of the same category** of goods or services **or as an element of a taxable composite or mixed supply**

(ii) membership of a club, health and fitness centre,

(iii) Rent a Cab, life insurance, health insurance.....except 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; and

(iv) travel benefits extended to employees on vacation such as leave or home travel concession

ITC....Blocked Credit

(c) works contract services when supplied for construction of 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 received by a taxable person for construction of an immovable property (other than plant and machinery), **on his own account** including **when used in course** or furtherance of business;

Explanation 1.- For the purpose of this clause, the word “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of **capitalization**, to the said immovable property.

Explanation 2.- ‘Plant and Machinery’ means apparatus, equipment, machinery ~~pipelines, telecommunication tower~~ fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation and structural supports but excludes land, building or any other civil structures, pipelines, telecommunication tower outside factory premises.

ITC....Negative List

- e. Goods and services on which tax has been paid under the composition levy under section 10.
- goods or services or both received by a non-resident taxable person except on goods imported by him;
- e. Goods and services used for personal consumption
- f. goods **lost, stolen, destroyed, written off or disposed** of by way of **gift** or **free samples**; and **(ITC Revresal ?)**
- g. any tax paid in terms of sections 74, 129 or 130.

S. 74- Tax not paid- fraud, willful-misstatement, suppression of facts

S. 129-Detention, seizure and release of goods & conveyances in transit

S. 130-Confiscation of goods and/or conveyances and levy of penalty

Input Tax Credit to Registered Person 16(1)

- Every registered taxable person shall subject to such conditions and restrictions as may be prescribed and within the time and manner specified in section 49 be entitled to take credit of input tax charged on Goods & Services, and;
- used or intended to be used in the course or furtherance of his business
- Such amount shall be credited to the electronic credit ledger of such person.

Continued..

16(2) Conditions for claiming Credit...

- No taxable person shall be entitled to the credit of any input tax unless following **four conditions** are satisfied:
 1. he is in possession of a **tax invoice**, debit note, ~~supplementary invoice~~—or such other taxpaying document as prescribed, ~~issued by registered supplier~~
 2. he has received the goods or services (**Last Lot**) (**In Transit Sale**)
 3. the tax is charged in respect of such supply has been actually paid to the credit of the appropriate government, either in cash or utilization of **input tax credit admissible** in respect of the said supply and.....
 4.he has furnished the return under section 39 (20th Return)

.....Condition for ITC

— Provided....

- Added to output tax liability with Interest- If not paid within 180 days (other than RC)
- Re-Credit- At the time of FULL
- 16(3) Where the registered taxable person has claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax Act 1961, the input tax credit shall not be allowed on the said tax component.
- **Issue: Exempted to Taxable Production with Capital Goods**

S 16 (4) Restrictions for claiming Credit

- Time Limit for claiming Credit

A taxable person shall not be entitled to take input tax credit in respect of any supply after the **earlier of following two events**

1. filing of return under section 39 for the month of September following the end of financial year **(20th October)** to which such **invoice pertains**; or
2. filing of the relevant annual return (31st December)

Conclusion: Sep of following year or Annual return, whichever is earlier

APPORTIONMENT OF CREDIT

Apportionment of credit in certain cases...

Personal and Business use & Exempted and Taxable Supply

17(1) Where the goods and services are used by the registered taxable 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 attributable to the purposes of his business.

17(2) where the goods and services are **used** by the registered taxable person partly for **effecting taxable supplies** and partly **for effecting non-taxable** supplies, including exempt supplies but excluding zero-rated supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies.
Explanation:

Supplies covered under Reverse Charge – Consider as Exempt Supply 17(3)

Apportionment of credit in certain cases

S. 17(3) Banks/ NBFC/FI

- Two Options:
 - 1) Take credit related to taxable Supply or
 - 2) 50% ITC of Inputs/Services/Capital Goods

Option once adopt shall not changed end of FY.

Restriction of 50% shall not apply in house supply.

Availability of credit in special circumstances

Newly Registered Person 18(1)(a)	Voluntary Registration 18(1)(b)	Dealer ceases to be a composition dealer 18(1)(c)	Registered Dealer – Exempted Supply to Taxable Supply 18(1)(d)
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<p>A person who has applied for registration within 30 days from the date on which he becomes liable to registration, and has ultimately been granted such registration, shall also be entitled to take ITC in respect of inputs which are –</p> <ul style="list-style-type: none"> ○ held in stock, and ○ contained in semi-finished or finished goods held in stock <p>... on the day immediately preceding the date of registration</p> <p>... on the day immediately preceding the date from which he becomes liable to pay tax</p>	<p>A person who has applied for voluntary registration (u/s 25 (3)) shall be entitled to take ITC in respect of inputs which are -</p> <ul style="list-style-type: none"> ○ held in stock, and ○ contained in semi-finished or finished goods held in stock <p>... on the day immediately preceding the date of registration</p>	<p>Where any registered taxable person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs which are-</p> <ul style="list-style-type: none"> ○ held in stock, and ○ inputs contained in semi-finished or finished goods held in stock ○ Capital Goods <p>.....on the day immediately preceding the date from which he becomes liable to pay tax under section 9</p>	<p>Where an exempt supply of goods or services by a registered taxable person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs which are-</p> <ul style="list-style-type: none"> ○ held in stock, and ○ inputs contained in semi-finished or finished goods held in stock ○ Capital Goods <p>Exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable</p>
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Other Conditions

18(2) In above 4 cases, a taxable person shall not be entitled to take input tax credit in respect of any supply of goods and / or services to him after the **expiry of 1 year** from the date of issue of **tax invoice** relating to such supply.

18(3) change in the constitution- Transfer of Credit is Allowed
Transfer/Sale/Merger/Amalgamation etc with specific provision
of Transfer of Liabilities

S. 18(4)...Taxable to Exempt or Composite Scheme

- Registered taxable person
- switches over to Composite Dealer u/s 10 or,
- Goods/services become wholly exempt
 - he shall pay an amount, by way of **debit in the electronic credit or 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 such switch over or, as the case may be, the date of such exemption:
- The balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

S 18(6) ITC reversal-Supply of Capital Goods

- In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered taxable person shall
- pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery
- (reduced by the percentage points as may be specified in this behalf) or
- the tax on the transaction value of such capital goods or plant and machinery under sub-section (1) of 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 under sec 15.

Job Work

Manner of taking Input Tax Credit in respect of Job-work (Section 19)

- The principal could claim input tax credit on inputs or capital goods sent to job worker or directly delivered by vendor to job worker.
- The said inputs after processing shall have to be returned within **one year** from **date of send out**. **Capital goods** shall have to returned within **3 years** from the date of Send out.
- **If not received in one/three years then its deemed as Supply on Send out date. Tax will be payable with Interest**

If moulds and dies, jigs and fixtures, or tools sent out to a job-worker for job-work and received back in one/three years- No tax will be payable

INPUT SERVICE DISTRIBUTOR

Input Service Distributor(S 21)

- The Input Service Distributor may distribute, the credit of CGST/SGST/UTGST/IGST
- The Input Service Distributor may distribute the credit subject to the following conditions, namely:
 - a) Issue of document by ISD
 - b) One to one credit –only to particular Plant/Branch/Warehouse
 - c) One to many -Pro-rata basis of multiple Plant/Branch/WH
 - d) Common Credit- *pro-rata basis of each state turnover*

Relevant Period- Previous year turnover of all states
Last Quarter turnover

- S (22) When the credit distributed by ISD is in excess of what is available for distribution by him, it can be recovered with interest

Recovery of credit distributed in excess (S 21)

- When the credit distributed by ISD is in excess of what is available for distribution by him, it can be recovered with interest

Recovery of credit distributed in excess (S 21)

- When the credit distributed by ISD is in excess of what is available for distribution by him, it can be recovered with interest

UTILIZATION OF CREDIT

Order of Preference for using ITC relating to different taxes i.e. IGST/ SGST/ CGST

- The taxable person may have ITC on account of various taxes such as IGST/ CGST/ SGST – following is the table that summaries the order of preference for using the credit available on account of different taxes

Type of credit	First preference	Second preference	Third preference	Comments
IGST	IGST	CGST	SGST	
CGST	CGST	IGST	-	Credit pertaining to CGST cannot be used for payment of SGST
SGST/UTGST	SGST/UTGST	IGST	-	Credit pertaining to SGST cannot be used for payment of CGST

ITC Rules

Document for ITC: GSTR-2

- Invoice (proper invoice)
- Debit Note
- BOE (in case of Import)
- Invoice issued under Reverse Charge
- ISD Document
- No ITC-if demand has been raised on account of any fraud, willful misstatement or suppression of facts

ITC Reversal-Not payment within 180 days

- Inward Supply-Not make payment with GST within 180days of Invoice
- Inform in GSTR-2
- Amount added to Output Tax Liability
- Interest payment- from taking ITC date to 180 days lapse.

ISD Credit Document

- ISD return-Form GSTR-6
- Same month credit- ISD in same month
- IGST-IGST
- CGST/SGST-CGST/SGST (Same State)
- CGST/SGST-IGST (Inter State)
- Debit Note/Credit Note-Same Treatment

ISD Invoice (Rule 7 of Invoice Rules)

- a) name, address and GSTIN of the Input Service Distributor;
- b) a consecutive serial number containing alphabets or numerals or special characters hyphen or dash and slash symbolised as , “-”, “/”, respectively, and any combination thereof, unique for a financial year;
- c) date of its issue;
- d) name, address and GSTIN of the recipient to whom the credit is distributed;
- e) amount of the credit distributed; and
- f) signature or digital signature of the Input Service Distributor or his authorized representative:

Credit to Special Cases

- Declaration within 30 days from the date of Registration/otherwise in Form GST ITC-01 of ITC claimed on opening stock and capital goods
- CA/ CWA certificate if ITC >2Lac

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

- Inputs for Taxable Supply-100% ITC
- Inputs for Exempted/private Supply-NIL ITC
- Common Inputs-Proportionate
- Business + Private Use=5% reversal of Credit

Job Work Challan

- (i) date and number of the delivery challan,
- (ii) name, address and GSTIN of the consigner, if registered,
- (iii) name, address and GSTIN or UIN of the consignee, if registered,
- (iv) HSN code and description of goods,
- (v) quantity (provisional, where the exact quantity being supplied is not known),
- (vi) taxable value,
- (vii) tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee,
- (viii) place of supply, in case of inter-State movement, and
- (ix) signature.

Three Copies of Challan

Declare GSTR 1 at the time of dispatch and received back.

Challan will consider Invoice if Goods not received back 1/3 years

THANK YOU

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