



INPUT TAX CREDIT

CMA BIBHUDATTA SARANGI
DGM (F&A), MEGPTCL

One of the much talked about feature of Goods and Services tax Act (GST) is seamless input tax credit. Section 16 to Section 21 of the GST Act 2017 passed on 12th April 2017 comprehensively discuss the Provisions relating to the input tax credit. Previously, no cross credit was available for the Sales tax paid to the State government for discharge of union taxes and central taxes/duties paid to Union of India while discharging state indirect taxes which has resulted into cascading effect of taxes.

With the introduction of the GST, cascading effect of tax in product price has been removed. Under GST regime, the Center will give input tax credit for central GST/IGST and the State will

give input tax credit for state GST/IGST. Furthermore, cross utilization of credit between Central GST and State GST will not be allowed. Nevertheless, the supplier of goods or Services or both shall be able to claim ITC within respective heads and so long as ITC does not get wasted or will have temporary Cash Flow.

Input Tax Credit has been introduced as a mechanism to avoid cascading effect of taxes i.e., 'tax on tax'. The procedures & restrictions laid down here are important to ensure seamless flow of credit in the whole scheme of taxation without any misuse. Main Provision are input tax credit are enumerated below.

Section 16	Section 17	Section 18
Eligibility & Conditions for taking ITC	Apportionment of credit & blocked Credits	Availability of Credit in special circumstances
Section 19	Section 20	Section 21
Taking input tax credit in respect of inputs and capital goods sent for job work	Manner of distribution of credit by Input Service Distributor	Manner of recovery of credit distributed in excess

Inter State Transactions

The Center would levy and collect the IGST on all interstate supply of goods and services. There will be seamless flow of input tax credit from one state to another. Proceeds of IGST will be used to transfer fund to the state where goods or services or both get consumed ultimately IGST credit can be utilized for payment of IGST, CGST, and SGST in sequence by dealers receiving such supply against the outward liabilities on supplies made by them.

Stock Transfer

After introduction of GST, the definition of Supply has been widened and as per Section 7(1)(C) of the CGST Act a Supply specified in Schedule I made or agreed to be made without a consideration will be considered as Supply and movement of goods or services from one state to another shall be considered as supply even though transfer is to its own branch or to its own agent would be chargeable under IGST. Under this circumstances, the branch/consignment agent can avail the credit of IGST paid on its transfer and shall be entitled to adjust the same against outward tax liability which will ultimately lead to reduction in cost of the product.

Import /Export of goods

Under the GST, the import of goods/Services would be deemed as interstate supply of goods and thus shall be subjected to the levy of IGST. Any Person making import of goods or services or both

shall be eligible to offset IGST paid on imported goods /Services against his output liability. Similarly no tax is being charged on export of goods in Post GST era. The supplier can avail the CGST/SGST and IGST credit paid on inward supplies of goods or services or both subject to the Conditions prescribed under Chapter V of the CGST Act. The Supplier may go for refund of Said ITC if he unable to utilize the tax credit.

Eligibility and Conditions for taking ITC Section 16

Registered person (RP) shall be eligible to claim tax credit subject to conditions or restrictions Section 16(1) & Section 16 (2).

Section 16 (1) Input tax credit shall be available for registered person for the central tax, state tax, or IGST charged on input services, inputs, Capital goods used or intends to be used in this course of furtherance of business. Input Tax credit shall be available to a registered person for the CGST/ SGST/ IGST/ UTGST charged on input services; Input or Capital goods used or intended to be used in the while of furtherance of business.

Section 16 (2) enumerates the Conditions for availing eligible input tax credit by a registered person.

- (i) He is in Possession of a tax invoice or debit Note Issued by a supplier registered under this act.
- (ii) A bill of Entry or any other similar document prescribed under the Customs act. 1962 or sales made there under assessment of integrated tax on Imports.

- (iii) An ISD Invoice or ISD Credit or any documents issued by input Service distributor or in accordance while the provisions of sub rule (1) of Rule 9 of invoice Rules.

In terms of the Rule 36(2) input tax credit shall be availed by a registered person only if all applicable particulars as prescribes in CGST Rules 2017 are considered in the said documents and the relevant information as contained in the said documents is furnished in Form GSTR-02 by such person

Payment of the value of goods or services or both and tax there on has to be made within 180 days

Further, every registered taxable person has to further prove that he has received such goods or services for which he is claiming credit. If the goods against invoice are received in lots or installments the ITC can be availed after receipt of last lot of installment. As per section 16(2) of the CGST act, where a recipient fails to pay to the supplier of goods or services or both the amount towards the value of Supply along with taxes and duties payable there on within a period of 180 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 the output tax liability along with interest there on.

Re-entitlement to avail credit of input tax credit

In terms of the third provision of the Section 16(2) of the CGST Act the recipient shall be entitled to avail the credit input tax on payment made by him.

Taxes charged in respect of such supply needs to be paid to the government by the supplier vide Section 16(2)(c).

One of the pre requisite conditions for availing Cenvat credit is that tax charged in respect of such supply has been actually paid to the government by the supplier of the goods and services or both. Due to the condition, payment of the taxes by supplier of goods or service has been linked with availing of tax credit by the recipient of supply or services or both. Consequently, any delay or failure to payment of taxes by the supplier will adversely affect the availing of tax credit by the recipient

Furnishing of return by a trader under Section 16(2)(d)

The return exhibiting inward, outward supply of goods or services or both input tax credit availed, tax payable, tax paid, and other prescribed particulars must be filed electronically in accordance with the provision of the section 39 by the registered person claiming such tax credit. Similarly, return shall have also to be filed by the supplier of goods or services or both because only on the basis of details shown in outward supply the registered person can claim ITC.

Tax credit is not allowed if depreciation claimed on the components of tax –Section 16(3)

Where the registered person has claimed depreciation on the tax components of the cost of capital goods and plant and machinery under the provision of the Indian income tax Act 1961, the input tax credit on the said tax components shall not be allowed.

Time limit for taking ITC

As per Section 16(4) of the GST Act, ITC can't be claimed beyond the month of September of the following Financial Year to which the invoice pertains or date of the filing of annual return whichever is earlier. The main reason of this provision is that no change of return is permitted after September of next financial year. If annual return is filed before September, then no change can be made after filing of annual return.

Proportional Input tax credit – Section 17(1), Section 17(2), Section 17(3) of the Act

Under section 17(1), where the goods or service or both are issued by the registered person partly for the purpose of any business and partly for other purpose i.e. (non-business Purpose) the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of the business.

Under Section 17(2) of the act, where the goods or services or both are used by the registered person partly for effecting taxable supplies including Zero rated supply under the act and partly for effecting exempt supply under the said act, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supply including Zero rated supply. The registered dealer is not allowed to avail input tax credit as is attributable to the said exempted supplies. Presently the Power Companies and transmission companies are not allowed to take Cenvat credit as they are engaged in supply of product which are exempt from tax.

Further, Section 17(3) Provides that the value of exempt supply shall consist of the following:-

- (a) Such supplies as may be prescribed as exempted supplies
- (b) Supplies on which the recipient is liable to pay tax on reverse charge mechanism
- (c) Transactions in Securities
- (d) Sale of Land
- (e) Sale of Completed building

As per Section 17(4) of the CGST Act, a banking company or a financial institution including a NBFC engaged in supplying of Services by way of accepting deposit, extending loans and advances, shall have a option to claim tax credit proportionately in accordance with the provision of Section 17(2) of avail of every month equal to 50% of the eligible input tax credit on inputs, capital goods, and input services in that month and rest shall lapse.

Negative List on which the input tax credit is not permitted

Section 17(5) of the GST Act provides for the negative list on which no ITC is admissible.

- (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 centre;**
 - (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. The word "construction" includes re construction, renovation, additions or alternations or repairs to the extent of Capitalisation to the said immovable property.
- (e) Goods and/or Services on which the tax has been paid under Composition Scheme
- (f) Goods or Services or both received by a nonresident taxable person except on goods imported by him
- (g) Goods or Services used for personal consumption
- (h) Goods Lost, Stolen, damaged, written off or disposed of by way of gift of free samples
- (i) Any tax paid towards the confiscation, demand etc.

Availing of input tax credit in Special circumstances

Under the following Circumstances, Input tax credit shall be available to supplies of goods or services or both on the stocks and or capital goods subject to conditions mentioned in each case

- a) A Person who has applied for registration under this act within thirty days from the date on which he becomes liable for registration and has been granted such registration shall be entitled to take credit of input tax credit in respect of inputs held on Stock, 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 Section 25(3) i.e. a person takes voluntary registration though not liable to take registrations under the provision of CGST Act, shall be entitled to take credit of input tax in respect of input 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 ceased to pay tax under Section 10 he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in Semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under section 9.
- d) Where an exempt supply of goods or services or both by registered person becomes a taxable supply such person shall be entitled to take credit of input tax in respect of input held in stock and inputs contained in semi-finished or finished goods held in stock relating 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 shall be taxable.
- e) As per Section 18(2) of the act a registered person shall not be entitled to take input tax credit under Section 18(1) of the act 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.
- f) Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease etc, with the specific provision for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remain unutilized in his electronics credit ledger to such new transferred business in such manner as may be prescribed.
- g) 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 his 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 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 option.

- h) 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 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.

Section 19 the act enumerates the Provision in respect of the inputs and Capital goods sent for Job work

The principal Shall be allowed ITC on input 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. The Inputs, Semi-Finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal including in such cases where the goods are being sent directly to the job worker.

The principal shall be allowed entitled to take credit of input tax on capital goods even if the capital goods are directly sent to the job worker for job work without first bring to his principal's place of business.

As per section 19(3), where the inputs for job worker 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 within one year of being sent out, it shall be deemed that such inputs has been supplied by the principal to the job worker on the day when the said input were sent out. However, 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.

Similarly 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 sent out.

Input Service Distributor (ISD) –Section 20

The input Service distributor shall distribute the credit of taxes by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed. 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)

The input tax credit that is required to be **distributed to one of the recipients 'R1'**, whether **registered or not**, from 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:-

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

Where,

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

"t" 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**;

Recovery of Excess Credit Distributed with interest from recipient with interest from recipients –Section 21

Where the ISD distributes the credit in excess distribution of credit to one or more recipient of credits the excess credit so distributed shall be recovered from such recipients along with interest.

CONCLUSION

Input Service Distribution are rarely as simple as depicted above in the article. The article only attempts at discussing basic concepts; and practical application would require a careful study of the Provision, Circulars for statutory compliances purpose.