

BLOCKED CREDIT – GST

(Detailed discussion with Illustration)

CMA Amit Dey
Tax Consultant

Credit in respect of input tax incurred on certain acquisitions is specifically prohibited. Such GST is added to cost of inward supplies and this is known as blocked credit

Blocked credit is in conflict with the fundamental characteristics of GST. But denial of credit can be justified on following grounds:

- 1) To avoid the administrative burden of controlling the actual use of such goods/services, which may be easily used for dual purposes (business/private) due to their nature,
- 2) It is way of reducing the risk of fraud, and
- 3) Such supplies are supposed to contain an element of consumption in the real life sense of the term, e.g. entertainment in restaurant.

Section 17(5) Notwithstanding anything contained in sub section (1) of section 16 and sub section (1) of section 18 **input tax credit shall not be available** in respect of the following namely

- a) **Motor vehicles and other conveyances** except when they are used
 - i) For making the following taxable supplies namely
 - A) Further supply of such vehicles are conveyance, or
 - B) Transportation of passengers, or
 - C) Imparting training and driving flying, navigating such vehicles or conveyances,
 - ii) **For transportations of goods**

Motor vehicle	Sec 2(76)	Motor vehicles shall have meaning as has been assigned to it under motor vehicle act 1988
Conveyance	Sec 2 (34)	Conveyance includes a vessel an aircraft and a vehicle

Illustration:

Supplier	Outward supply	Inward supply	Admissibility of ITC
Dealer of car	Sale of car	Purchase of car	yes
Radio taxi operator	Passenger transportation Service	Purchase of car	yes
Airline	Passenger transportation Service	Purchase of aircraft	yes
Motor driving school	Training on Driving	Purchase of car	yes
Aviation training institute	Navigation training	Purchase of aircraft	yes
Call centre	Business support Service	Purchase of car	No
Coaching institute	Chemical coaching Service	Purchase of car	No
Dealer of truck	Sale of truck	Purchase of truck	yes
Driving school	Training on driving	Purchase of truck	yes
GTA	Goods transportation Service	Purchase of truck	yes
Courier agency	Goods transportation Service	Purchase of truck	yes
Cement Manufacturer	Supply of cement	Purchase of truck	yes
Builder/contractor	Construction Service	Purchase of truck	yes

- b) **The following supply of goods or services or both**
 - i) **Food and beverages, outdoor catering, beauty treatment, help 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 (i.e. his outward supply is of same category)
 Or
 (as an element of a taxable composite or mixed supply (i.e. making bundle with his outward supply of different category))

Illustration:

Supplier	Outward Supply	Inward Supply	Admissibility of ITC
Dealer of beverages	Sale of beverages	Purchase of beverages	Yes
Restaurant	Restaurant Service	Purchase of beverages supply as part of restaurant Service	Yes
Airlines	Passenger transportation Service	Outdoor catering services supply as part of air travel price	Yes
Hospital	Health care Service	Outdoor catering services supply as part of healthcare service to patients	Yes
Coaching Institute	Coaching Service	Purchase of beverages for consumption by employees or visitors in office	No
		Outdoor catering Service for giving farewell to students	
Hospital	Health care Service	Health care Service by doctor	Yes
Actress	Acting Service Brand Ambassador Service	Beauty treatment services	No
		Plastic Surgery Service	

(ii) Membership of a club, health and fitness Centres:

Illustration:

Supplier	Outward Supply	Inward Supply	Admissibility of ITC
A Ltd.	Supplier of Mobile	Club membership for its directors	No
Mr. Jain (Gym Trainer)	Gym Training / Coaching	Health & Fitness Centre Service	No

(iii) Rent A Cab, life insurance and health and 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

Illustration:

Supplier	Outward Supply	Inward supply	Admissibility of ITC
Fab Cab	Rent – A – Cab Service	Rent – A – Cab Service (Sub-Contracting)	Yes
DJ Hotel	Accommodation Service	Rent – A – Cab Service (for pickup of visitor from airport)	Yes

EduDelight	Coaching Service	Rent – A – Cab Service (for intra city travel of its outstation faculties)	No
Jhinuk Garments	Supplier of garments	Insurance of trading stock	Yes
		Insurance of factory building	Yes
		Insurance of motor vehicle	No
GIC	General insurance Service	ICICI Prudential (Re-Insurance of health insurance policies)	Yes
Jain Crackers	Suppliers of Crackers	Life insurance of Workers (Mandatory under Law)	No

(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;

Explanation :- for the purpose of clauses (c) and (d)

..... the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property

Illustration:

Supplier	Outward supply	Inward supply	Admissibility of ITC
Builder contractor	Construction Service (Construction of big project for reliance)	Construction Service (Works contract) (Sub-contracting)	Yes – ITC is admissible when work contract service is input service for further supply of works contract Service
Debjani Academy	Coaching Service	Construction Service (Works contract) (Construction of an additional floor of its GST registered officer)	No- ITC is blocked for works contract service supplied for construction of immovable property
Priyanka Foundation	Coaching Service	Works contract (repairs of toilets costing 20,000)	Yes-minor repairs are not be treated as construction of immovable property and hence, its ITC is admissible
Lytton Hotel	Accommodation Service	Renovation (30 years old structure now renovated at cost of 3,00,000)	No-heavy renovation (capitalised in books) is to be treated as construction of IP, and hence its ITC is blocked

(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

Illustration:

Supplier	Outward supply	Inward supply	Admissible of ITC
Builder contractor	Construction Service (Works Contract) (Construction of big project for reliance)	Purchase of building material architect service procurement of labour from labour contractor	Yes
Builder	Construction Service	Purchase of building	No-as it is case of

contractor	(Works contract) (Constructing its new head office)	material Architect service Procurement of labour from labour contractor	goods/services used for construction of an immovable property on his own account (self-use)
Debasmita Tutorial	Coaching Service	Purchase of building material architect service construction Service (pure labour contract)	No-as it is case of goods/services used for construction of an immovable property on his own account (self-use)

(e) Goods or service or both on which tax has been paid under section 10:

Tax paid under sec 10 = GST under composition scheme

Supplier working under composition scheme is not entitled to collect any GST from recipient. Thus, recipient is not entitled to any ITC

(f) Goods or services or both received by a non-resident taxable person except on goods imported by him

NRTP = Person who occasionally undertakes supply but no fixed place of business or residence in India. He is not allowed any ITC except that of goods imported by him and supplied here.

(g) Goods or service or both used for personal consumption:

A runs a proprietary firm registered under GST law. Stationary is purchased in bulk by the firm ostensibly for use in the business, however 60% of the stationary is actually used by the family of A for personal use. No ITC is available with respect to the stationary used for personal consumption.

(h) Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples: and

ITC is not allowed in such cases as the destruction or writing off of goods or giving them as gift/sample takes them out of the supply chain and it is event which is functionally equivalent to consumption

Illustration:

Supplier	Outward supply	Inward supply	Admissibility to ITC
EduDelight Academy	Coaching Service	Purchase of bed sheets (for gifting to franchises/business partners on Diwali)	No- ITC is not admissible of goods disposed of by way of gifts
Jhunuk Ltd	Garment Manufacturer	Distribution as free sample of garments manufactured by it	No- ITC is not admissible of goods disposed of by way of free sample
NM Ltd of Bhubaneswar	Supplier of toys/goods	Lost of stock in flood	No- ITC is not admissible in respect of goods lost (even if it is natural calamity)
RB Ltd of West Bengal	Supplier of bed sheets/goods	Loss of stock due to fire Loss due to theft	No- ITC is not admissible in respect of goods lost/stolen
Rij electronics	Supplier of electronic items	1000 pieces of USB 2.0 pen drives (of value 500 each) written of this year	No- ITC is not admissible in respect of goods written of in the books of account

(i) Any tax paid in accordance with the provisions of sections 74, 129 and 130

Section 74	It deals with recovery of tax not paid or short paid by reason fraud wilful misstatement or suppression of facts	Tax paid is not eligible as ITC
Section 129	It deals with detention seizure and release of goods in transit which had been removed in contravention of legal provisions	Tax paid is not eligible as ITC
Section 130	It deals with confiscation of goods in certain circumstances	Tax paid is not eligible as ITC

Illustration:

M/s DAD ltd, supplied taxable goods from the factory after manufacture in the month of October 2018 for sale to a distributor for Rs. 8,00,000 M/s DAD ltd as suppressed this transaction, however he deposited the GST @ 12% and those goods on 10-01-2009 against show cause notice and demand order passed under section 74 (when there is fraud) of the CGST Act 2017 by the control tax officer and passed the order accordingly.

Whether distributor namely recipient of those goods is eligible to take input tax credit?

Solution:

As per section 17(5) of the CGST Act 2017, no credit on payment of Tax due to fraud, wilful-misstatement or suppression of Fact etc. shall be allowed.

In the given case no Input Tax Credit was available to Registered Person if the supplier has paid Tax in pursuance of order where any demand has been confirmed on account of any fraud, wilful-misstatement or suppression of Fact and so on under section 74 of the CGST Act 2017.

Hence, ITC is not allowed to recipient of these goods (i.e. Distributer in the given case).