

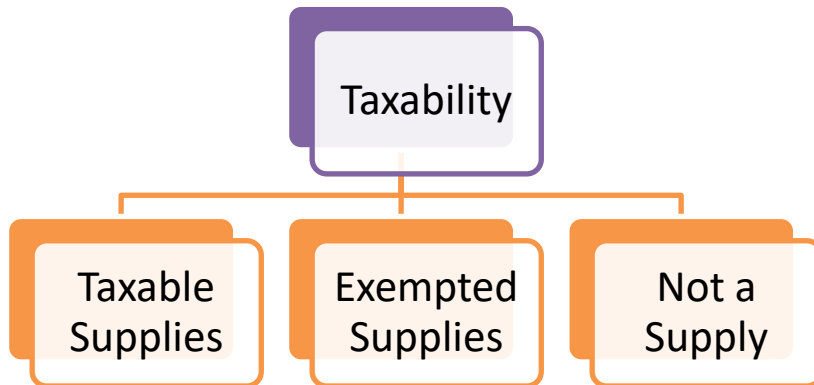
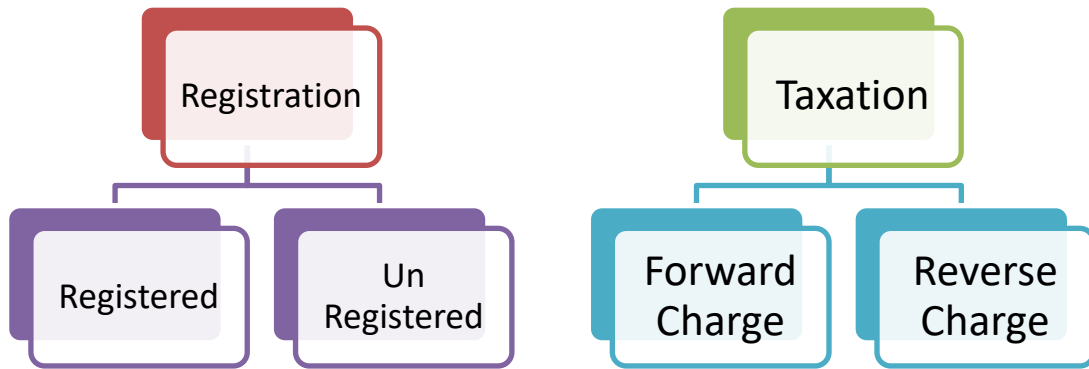
Input Tax Credit

– Law, Procedures & Complexities

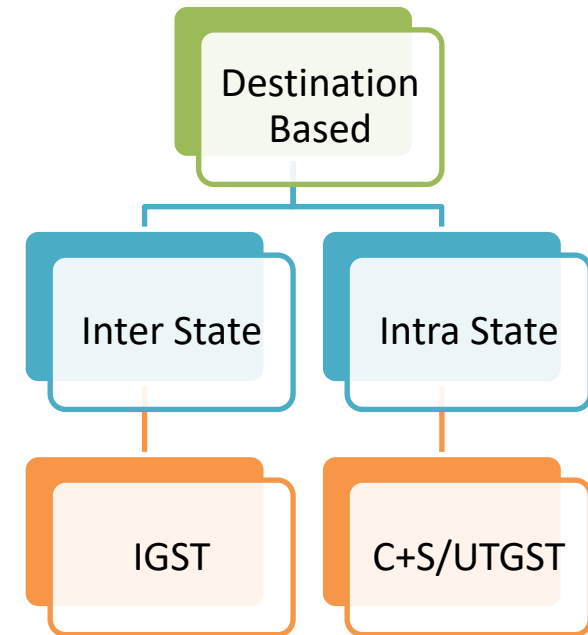


Rohit Kumar Singh
ACA, ACMA, FCS, LLB, DISA (ICAI)

Taxation Fundamentals – GST Landscape



Entities



Geography

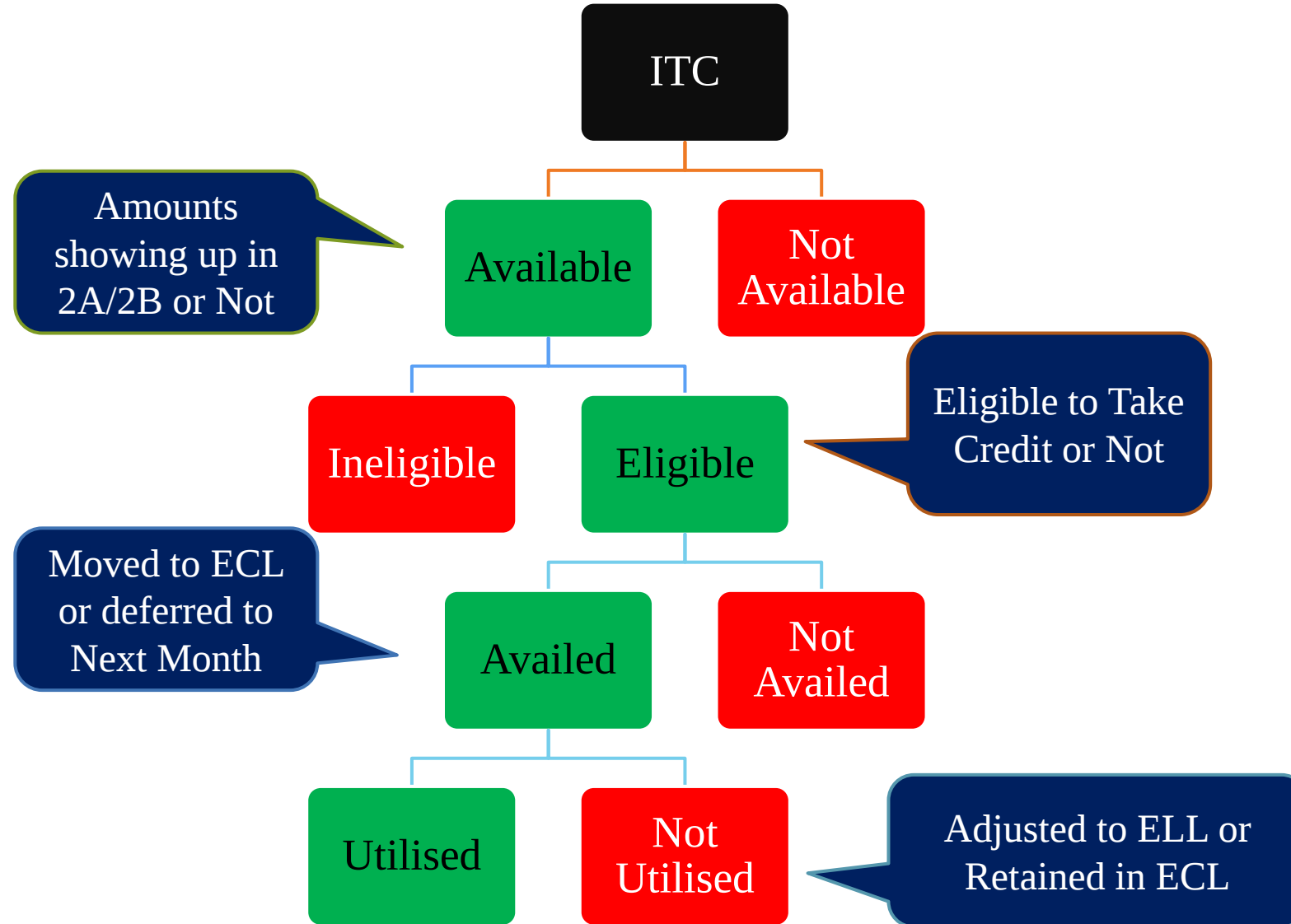
Input Tax Credit - Introduction



Concept of ITC

- “Input tax” means IGST (including that on import of goods), CGST, SGST and UTGST;
- Charged on any supply of goods or services and;
- Includes the tax payable under sub-section (3) and (4) of section 9,
- Includes the tax payable under sub-section (3) and (4) of section 5 of IGST Act,
- Includes the tax payable under sub-section (3) and (4) of section 9 of SGST Act,
- Includes the tax payable under sub-section (3) and (4) of section 7 of UTGST Act, excludes the tax paid under section 10 (composition levy)

Flow of Credit – System Track



Principles on Input Tax Credit

- System for a seamless flow of credit
- Extends to inter-State supplies
- Credit utilization would be as follows [Sec 49(5)]:

Credit of:	Allowed for Payment of		
	IGST	CGST	SGST
IGST	Y	Y	Y
CGST	Y	Y	N
SGST	Y	N	Y

Y – Yes

N - No

Manner of Utilisation of ITC

Clarification in respect of utilization of ITC under GST - Circular No 98/17/2019 – GST dated 23rd April, 2019

- Section 49 was amended and Section 49A and Section 49B were inserted vide CGST Tax (Amendment) Act, 2018 with effect from 1st February 2019.
- Based on the representations received from the trade and industry regarding challenges being faced by taxpayers due to bringing into force of section 49A of the CGST Act, 2017, that this is resulting in accumulation of input tax

ITC Balance	Utilized for Set off against liability of				Remarks
IGST	IGST	CGST	SGST	UTGST	After utilization towards payment of IGST only, balance can be used for set off of liability for CGST or SGST/UTGST (any manner)
CGST	IGST	CGST	NA	NA	Cannot be used against SGST/UTGST
SGST	IGST	NA	SGST	NA	Cannot be used against CGST/UTGST
UTGST	IGST	NA	NA	UTGST	Cannot be used against CGST/SGST

Note – Utilization of CGST/SGST/UTGST shall be allowed only when ITC for IGST has been first utilized in full.

Manner of Utilisation of ITC

- Rule 88A was inserted in the CGST Rules, 2017 vide notification No. 16/2019- Central Tax, dated 29th March, 2019.
- Rule 88A in the CGST Rules allows utilization of input tax credit of Integrated tax towards the payment of Central tax and State tax, or as the case may be, Union territory tax, in ***any order*** subject to the condition that the entire input tax credit on account of ***Integrated tax is completely exhausted first*** before the input tax credit on account of Central tax or State / Union territory tax can be utilized credit for one kind of tax (say State tax) in electronic credit ledger and discharge of liability for the other kind of tax (say Central tax) through electronic cash ledger in certain scenarios

Manner of Utilisation of ITC

Query –

Amount of ITC available and Output Tax Liability under different tax heads. Find out the ITC utilization -

Head	Output Liability	Input Tax Credit
Integrated Tax	1000	1300
Central tax	300	200
State/ UT Tax	300	200
Total	1600	1700

Option 1 **Solution -**

ITC on account of	Discharge of Output liability on account of			Balance of ITC	Remarks
	Integrated Tax	Central Tax	State/ UT Tax		
Integrated Tax	1000	200	100	0	
ITC on account of IGST has been exhausted completely					
Central Tax	0	100	-	100	Cannot be used against SGST/UTGST
State/ UT Tax	0	-	200	0	Cannot be used against CGST
Total	1000	300	300	100	

Option 2

ITC on account of	Discharge of Output liability on account of			Balance of ITC	Remarks
	Integrated Tax	Central Tax	State/ UT Tax		
Integrated Tax	1000	100	200	0	
ITC on account of IGST has been exhausted completely					
Central Tax	0	200	-	0	Cannot be used against SGST/UTGST
State/ UT Tax	0	-	100	100	Cannot be used against CGST
Total	1000	300	300	100	

Conditions for Availment of ITC by a Registered Taxable Person – Sec 16

Basis - tax
invoice / debit
note issued by a
registered
supplier, or other
prescribed
taxpaying
document

Goods and/or
services have
been received*

Tax actually paid
by the supplier to
the credit of the
appropriate
Government,
either in cash or
by utilization of
ITC

He has
furnished the
monthly return

ITC is
appearing in
GSTR 2B

Availment of ITC by a RTP – Sec 16

Note:

- Credit only upon receipt of the last lot/ instalment in case of goods received in lots / instalments.
- Goods deemed to be received by a taxable person when the supplier delivers the goods to the recipient/ any other person, on the direction provided by the taxable person to the supplier.
- Exception in case of goods being directly sent to job worker
- If the recipient of services fails to pay (value + tax) within 180 days from date of invoice, (ITC availed + interest @ 18%) shall be added to his output tax liability. ITC available when amount discharged later

Chart for compliance of Rule 36(4) – GSTR 2A + 20%/10%/5%

FY	2019-20				2020-21 & 2021-22		
Months	1 st April 19 to 8 th October 19	9 th October 19 to 31 st Dec 19	1 st January 20 to 31 st Jan 20	Feb 20 and Mar 20	Apr 20 to Aug 20	Sep 20 to Dec 20	Jan 21 – Dec 21
Applicability of Rule 36(4)	Normal – Match 2A [Rule 36(4)Not applicable]	Lower of ITC as per Books or GSTR 2A +20%	Lower of ITC as per Books or GSTR 2A +10%	Lower of ITC as per Books or GSTR 2A +10% on consolidated basis (Feb 20 to Aug 20) to be complied till filing of return for Sep 20		Lower of ITC as per Books or GSTR 2A +10%	Lower of ITC as per Books or GSTR 2A +5%

Amendment to Sec 16 of CGST Act, 2017

FY	21-22
Period	Jan 22 Onwards
Amended Sec 16	GST ITC Credit available when reflected in GSTR 2B

GSTR 2B - ITC availment restriction – wef 1st Jan 2022

Important Update in availment of GST ITC with effect from 1st January, 2022 –

CBIC has brought in important change by inserting a new clause in Section 16 of CGST Act, 2017 for availment of GST ITC. The amendment shall be effective from 1st January, 2022.

In the Budget of 2021-22, changes in Finance Bill, 2021 were proposed to make changes in CGST Act, 2017. One important change is to impose a new condition on availment of GST ITC. [**Notification No 39/2021-Central Tax**](#) dated **21st December 2021** has been issued by CBIC to give effect to the proposed amendments.

GSTR 2B - ITC availment restriction – wef 1st Jan 2022

GST ITC Credit available when reflected in GSTR 2A/2B

Section 16(2) - Eligibility and conditions for taking input tax credit – Section 109 of the Finance Act, 2021

“(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37.”

A new clause ‘(aa)’, after clause (a), in Section 16(2) of the CGST Act, that provides an additional condition to claim ITC based on GSTR-2A and newly introduced GSTR-2B, i.e., ITC on invoice or debit note can be availed only when details of such invoice/debit note have been furnished by the supplier in his outward supplies (GSTR-1) and such details have been communicated to the recipient of such invoice or debit note

GSTR 2B - ITC availment restriction – wef 1st Jan 2022

Hence, with effect from 1st January, 2022 the conditions for availment of Input tax credit as per CGST Act, 2017 is as follows -

1. The recipient is in possession of tax invoice or debit note issued by a supplier;
- 2. *The details of the above-mentioned invoice or debit note have been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient in the manner specified under Section 37 of the CGST Act;***
3. The recipient has received the goods or services or both;
4. The tax charged in respect of such supply has been actually paid to the Government, and
5. The recipient has furnished the return under Section 39 of the CGST Act.

Earlier Rule 36(4) of the CGST Rules, 2017 was implemented to cap 5% limit on ITC availment as per GSTR 2A/2B. With the aforesaid proposed amendment, there is no relevance to Rule 36(4) with effect from 1st January,2022.

GSTR 2B - ITC availment restriction – wef 1st Jan 2022

How to gear up with the amended provision –

- a. Communicate the suppliers on amended provisions and to ensure supplier furnishes **GSTR 1 within due date**
- b. Reconcile the details of supplies made with Invoices uploaded in GST Returns **every fortnight**
- c. **Amend Purchase/Service Order conditions** to include a clause to ensure no loss of ITC and imposition of interest/penalty due to supplier non-compliance. In the event of any such recovery due to non-reporting of transactions, right o recovery can be enforced.
- d. In the event of non-reporting of any invoices, **postpone the ITC to the next/subsequent period** and avail the ITC only on populating such details in GSTR 2B

Amended Sec 16 – Computation of claim of ITC

Analysis of excess ITC claimed -	(based on data for Mar 2022)			
Particulars	CGST	SGST	IGST	Total ITC
ITC as per GSTR 2B – Generated on Portal	2,39,906.75	2,39,906.75	15,862.12	4,95,675.62
ITC claimable as per Sec 16	2,39,906.75	2,39,906.75	15,862.12	4,95,675.62
ITC as per GSTR 3B	2,96,400.72	2,96,400.72	15,433.38	6,93,945.87
Excess claimed	56,493.97	56,493.97	-428.74	1,98,270.25

Legal Provision: Amended Sec 16 vide Notification 39/2021-Central Tax dated 21st December 2021

Implication: May endanger claim of eligible ITC on time and an interest shall also be payable if the claim is in excess as instructed in circular.

Suggestion: Contact the suppliers and request them to file within due date of filing returns as per GST Law.

Rule 21- Cancellation or suspension of Registration

A. Cancellation or suspension of Registration –

I. Additional clauses for cancellation of GST Registration (Rule 21) –

Three (3) additional clause has been inserted for reasons for cancellation of Registration.

1. Availment of ITC in violation of Sec 16 of CGST Act, 2017 or Rules thereunder;
2. Furnishes the details in **FORM GSTR-1** for one or more tax periods which is in excess of the outward supplies declared by him in his valid return in **Form GSTR 3B** for the said tax periods;
3. Violates the provision of rule 86B – Restriction on use of ITC in Credit Ledger in excess of 99% (details in subsequent para)

Hence, mismatch of outward supplies reported in returns as well as excess availment of ITC over and above prescribed limit may lead to cancellation of registration.

Rule 21- Cancellation or suspension of Registration

A. Cancellation or suspension of Registration –

i. Suspension of GST Registration without providing opportunity of being heard -

Omission of the words – “after affording the said person a reasonable opportunity of being heard”

Now the proper officer may suspend the registration without providing an opportunity of being heard to the taxpayer on grounds mentioned in Section 29 of CGST Act, 2017 or CGST Rules, 2017

Grounds for cancellation under Section 29 of CGST Act, 2017

- a. Business has been discontinued
- b. transferred fully on death of proprietor
- c. Amalgamated, demerged or disposed of
- d. Change in constitution of business
- e. Person no longer liable to be registered
- f. Contravention of provisions of the Act or the Rules
- g. Non furnishing of returns
- h. Obtained voluntary registration and not commenced business within 6 months
- i. Registration obtained by fraud, wilful misstatement or suppression of facts

Rule 21- Cancellation or suspension of Registration

A. Cancellation or suspension of Registration –

Grounds for cancellation under Rule 21 of CGST Rules, 2017

- a. Does not conduct any business from declared place of business
- b. issues invoice or bill without supply of goods or services of both in violation of the provisions of this Act, or the rules made thereunder
- c. violates the provisions of section 171 of the Act (Anti profiteering provisions)
- d. Violates the provision of rule 10A Contravention of provisions of the (furnishing of details of bank account on GST Portal)
- e. Availment of ITC in violation of Sec 16 of CGST Act, 2017 or Rules thereunder;
- f. Furnishes the details in **FORM GSTR-1** for one or more tax periods which is in excess of the outward supplies declared by him in his valid return in **Form GSTR 3B** for the said tax periods;
- g. Violates the provision of **rule 86B – Restriction on use of ITC in Credit Ledger in excess of 99%**

Rule 21- Cancellation or suspension of Registration

I. Suspension of GST Registration on Comparison of returns or Significant differences or anomalies indicating contravention of provisions (Sub Rule 2A in Rule 21A of CGST Rules, 2017) -

- a. On comparison of Outward supplies reported by Taxpayer in Form GSTR 1 and GSTR 3B; or
- b. Details populated in GSTR 2A and ITC availed in GSTR 3B; or
- c. such other analysis, as may be carried out

which show significant differences or anomalies indicating contravention of the GST provisions, leading to cancellation of registration of the said person, his registration shall be suspended

The person shall be intimated in FORM GST REG-31, or by sending a communication to his e-mail address, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled

II. No Refund during period of Suspension of GST Registration (Sub Rule 3A in Rule 21A of CGST Rules, 2017)

A registered person, whose registration has been suspended shall not be granted any refund during the period of suspension of his registration.

III. Revocation of suspension (Proviso to Rule 4 in Rule 21A of CGST Rules, 2017)

Suspension of registration may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, **if he deems fit.**

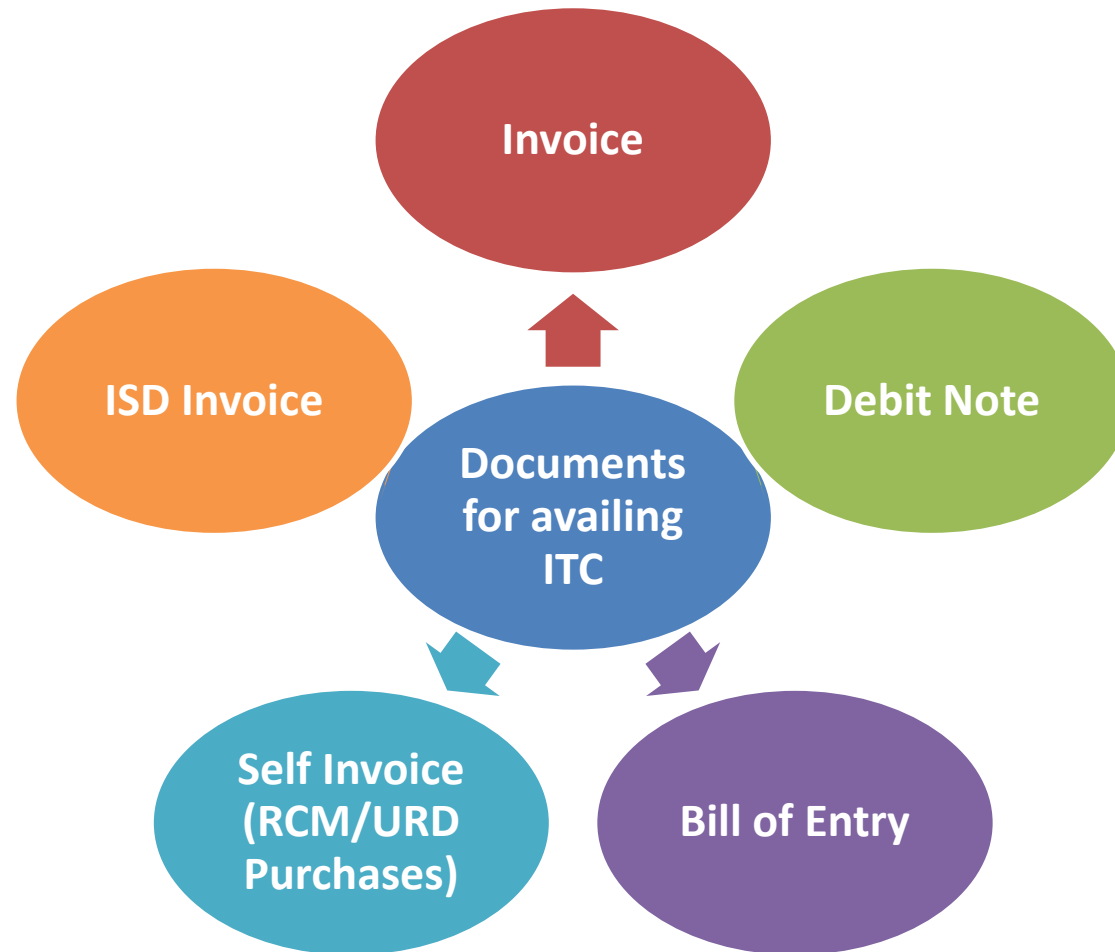
Rule 86B - Extent of Utilization of Electronic Credit Ledger

Restriction has been placed on usage of amounts available in electronic credit ledger(ECL) to discharge liability towards output tax in excess of **ninety-nine per cent. (99%)** of such tax liability, where the value of taxable supply (other than exempt supply and zero-rated supply), in a month **exceeds fifty lakh rupees (Rs 50 Lakhs)**

Aforesaid restriction of usage shall not apply in below cases -

1. Value of Taxable supply (other than exempt supply and zero-rated supply), in a month **does not exceed** fifty lakh rupees (Rs 50 Lakhs)
2. Payment of more than One Lakh rupees as Income tax in in each of the last two financial years by the Registered person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees.
3. Receipt of Refund amount of more than one lakh rupees in the preceding FY on account of unutilised input tax credit for ZERO rated supplies without payment of tax or under Inverted Duty Structure.
4. **Discharge liability through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current FY**
5. Registered person is -
 - a. Government Department; or
 - b. a Public Sector Undertaking; or
 - c. a local authority; or
 - d. a statutory body

Input Tax Credit – Documents for availing credit



- ITC to be available only if all the particulars prescribed are contained in the invoice and the details are furnished in Form GSTR-1 by supplier
- No ITC if tax paid in pursuance of any order where demand has been raised on account of fraud, willful misstatement or suppression of facts

ITC in case of Capital Goods

Depreciation claimed on Tax component of the cost of capital goods under IT Act

ITC not Available

Example:

Cost of asset	=	Rs. 100
Tax-10%(say)	=	<u>Rs. 10</u>
Total Cost		<u>Rs. 110</u>

If Depreciation charged on
Rs.100

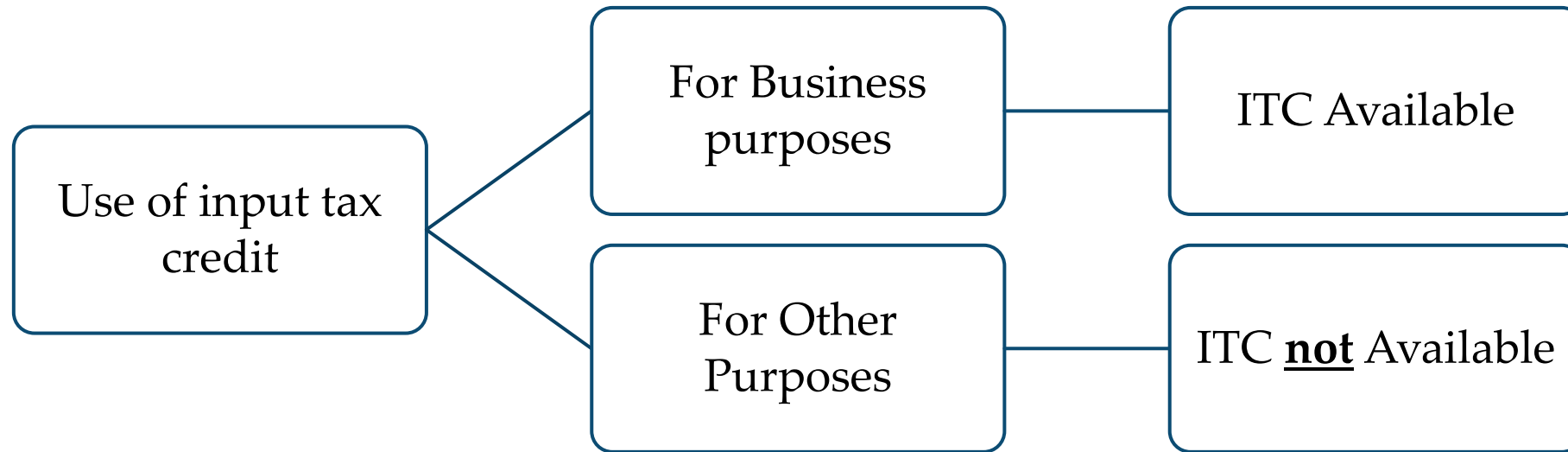
ITC Available

If Depreciation charged on
Rs.110

ITC not Available

“capital goods” means the goods, the value of which is capitalized 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 the business

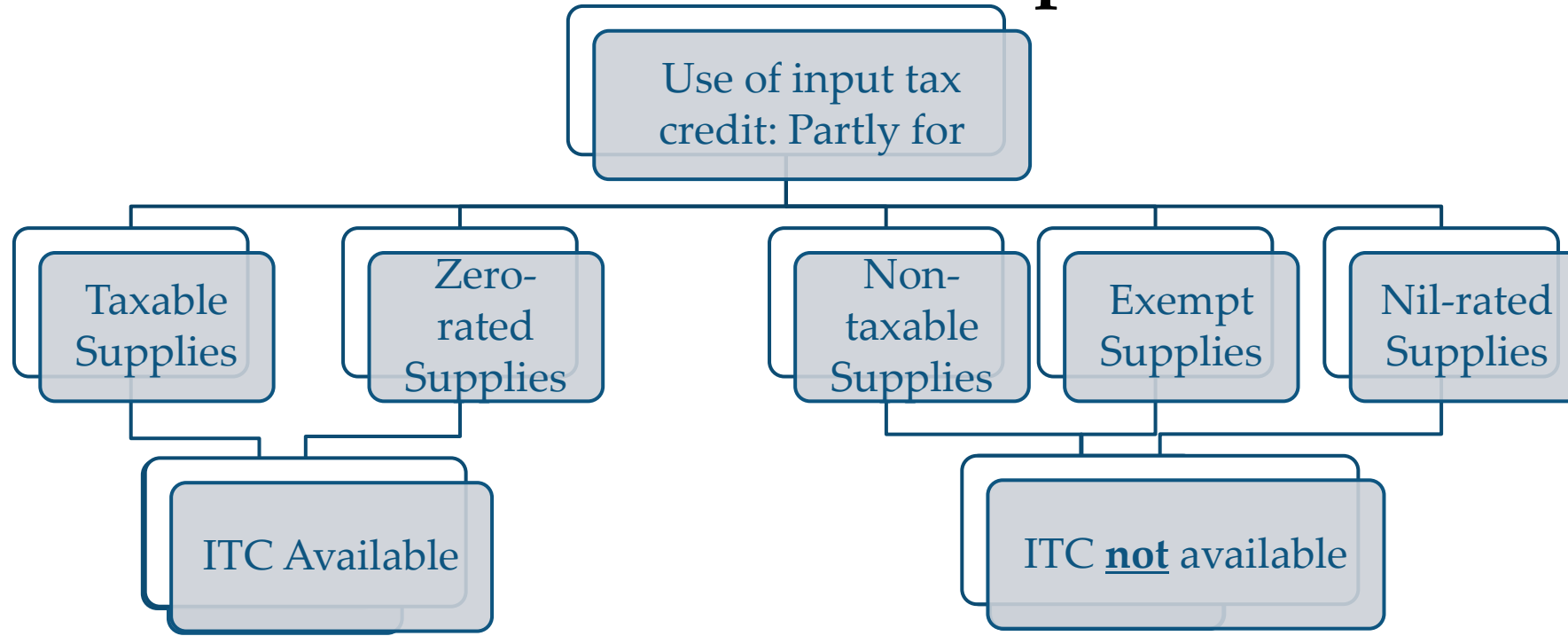
ITC on the Basis of use of Inputs – Sec 17



“input” means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business

“input service” means any service used or intended to be used by a supplier in the course or furtherance of business

ITC on the Basis of use of Inputs – Sec 17



Note: Attribution of ITC to be made as per the manner prescribed in the ITC Rules

Alternative to apportionment between taxable and exempt supplies in case of banking companies and financial institutions:

- Yearly option to avail a standard rate of 50% of eligible ITC on inputs, capital goods and input services on a monthly basis
- 50% shall not be applied on tax paid on supplies made by one registered person to another registered person having same PAN

I have received an email message as well as a SMS stating - “Please visit your Credit Ledger to see the amount of credit blocked for utilization by the jurisdictional tax officer.” What does this message indicate?

Your Jurisdictional Tax Officer has blocked some ITC amount available in your Electronic Credit Ledger.

Navigate to Services > Ledgers > Electronic Credit Ledger.

You will notice the amount that has been blocked in your Electronic Credit Ledger by your Jurisdictional tax officer

I am unable to utilize the available balance in my Electronic Credit Ledger? Why?

The amount blocked by Jurisdictional tax officer would be reduced in your Electronic Credit Ledger, hence would not be available for utilization. Balance amount of ITC, if any, after deducting the amount blocked by the officer, can be utilized as per credit utilization rules.

I can see some amount/ entire amount available in my Electronic Credit Ledger as blocked. Who has blocked it and Why?

To avoid misuse of the ITC credit availed, your Jurisdictional Tax Officer has blocked the ITC available in your Electronic Credit Ledger.

Your Jurisdictional Officer at his discretion may block only CGST, SGST, IGST & Cess balance partly or fully.

After scrutiny of the GST TRAN-1 and GST TRAN-2 or any other return or statement through which credit has been claimed, the Jurisdictional Officer may unblock the ITC.

What should I do in case my ITC has been blocked?

Your Jurisdictional Officer may ask for certain clarifications based on the returns/statements you have filed and have claimed ITC.

Please provide necessary information as may be asked by the Jurisdictional Officer.

After scrutiny of the GST TRAN-1 and GST TRAN- 2 or any other return/ statement, the Jurisdictional Officer may unblock the ITC.

How will I know if my ITC has been unblocked?

You will receive an email message as well as an SMS - “Please visit your Credit ledger to see the amount of credit unblocked by the jurisdictional officer.”.

Navigate to Services > Ledgers > Electronic Credit Ledger. You will notice the ITC has been unblocked.

[Dashboard](#) > [Services](#) > [Ledger](#) English

Electronic Credit Ledger

Financial Year**Month****ITC Balance As On Date : 03-10-2020**

2020-2021

October

0.00

1. Electronic Credit Ledger
2. Provisional Credit Balance : 0.00
3. Blocked Credit Balance : 0.00

Blocked Credit Balance

Date	Amount of blocked credit balance (₹)				
	Integrated Tax	Central Tax	State Tax	CESS	Total
	0.00	0.00	0.00	0.00	0.00

BACK

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Blocked Credit – ITC Restriction – Sec 17(5)

Goods or Services partly used for business purpose
(Restriction of ITC on non business use)

Zero Rated and Exempt Supplies

Zero Rated and Exempt Supplies (ITC on Taxable and Zero rated allowed as credit)

Rent a cab, life and health insurance

Motor Vehicles and other conveyance

Food & Beverages, Outdoor catering, beauty treatment, health services, cosmetic and plastic surgery

Membership of club, health and fitness centre

Travel benefits to employees on vacation such as LTA

Works Contract Services (Except P&M)

Construction on Own Account

Tax Paid under Composition Scheme

Goods, Services or both received from non-resident taxable person

Goods, Services or both used for personal purpose

Goods lost, stolen, damaged, written off

Goods disposed off by way of gifts or free samples

Restrictions on ITC – Sec 17(5) - Blocked credits

a) Motor Vehicles

ITC for Motor Vehicles will **NOT** be available

Except when they are used for

- Transport of Persons having seating capacity more than 13 persons (incl. Driver)
- Transportation of goods, or
- Making foll. **Outward taxable services**:
 - i. Further supply of such vehicles / conveyances, or
 - ii. Transportation of passengers, or
 - iii. Training for driving / flying / navigating such vehicles / conveyances

Note: ITC for general insurance, servicing, repairs and maintenance is available in respect ***Motor vehicles on which ITC is allowed***

ITC on purchase of Cash Carry Vans for transport of Money for Banks-

CMS Info Systems Limited

Purchase of motor vehicles i.e. cash carry vans - cash management network pan India –
Whether ITC is available for purchase of such vehicles?

Applicant's Contention:

- ✓ The vans were use for carrying of goods and hence ITC is eligible as per GST Laws.
- ✓ Same is not covered under blocked credit u/s 17(5)

Ruling of Authority for Advance Ruling –

- Money is not covered in the definition of goods under the CGST Act.
- It can not be said that it is “***not goods***” for general purpose and “***goods***” for the applicant

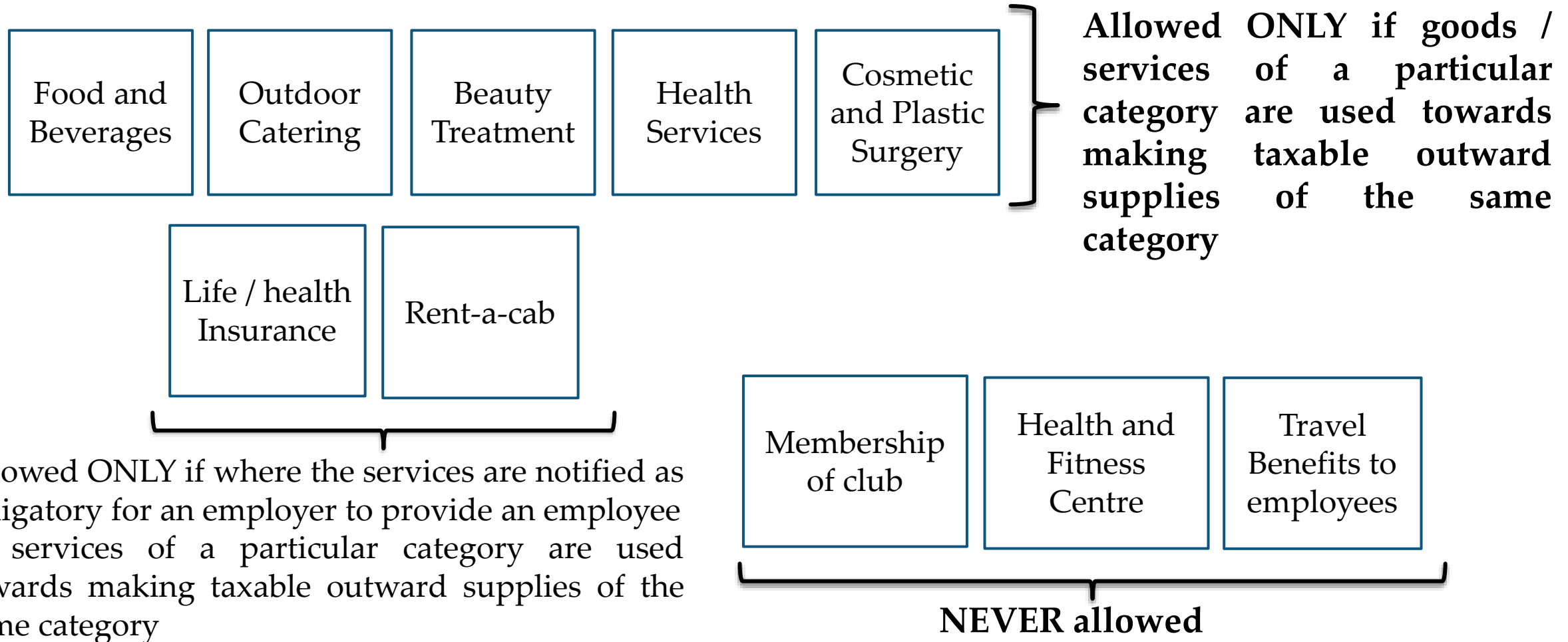
Current Position -

The Bombay High Court ***allowed ITC on purchase of Motor vehicles*** for carry of cash for banks and financial institutions and reversed the decision of Appellate Authority for Advance Ruling Mumbai in aforesaid case.

The same was appealed vide **Writ Petition No. 5801 of 2019** and order was issued on 09/07/2019

Restrictions on ITC – Sec 17(5) - Blocked credits

b) Supply of goods and services being:



Restrictions on ITC – Sec 17(5) - Blocked credits

c) Construction of Immovable Property (other than plant and machinery)

Works contract services, except where it is an input service for further supply of works contract service

Goods or services received by a taxable person for construction of an immovable property on his own account *even when used in course or furtherance of business;*

ITC not Available

Construction includes re-construction, renovation, additions or alterations or repairs to the extent of capitalisation

*Plant and machinery means means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes— (i) land, building or **any other civil structures**; (ii) telecommunication towers; and (iii) pipelines laid outside the factory premises.*

ITC on construction of property which is to be let out?

Odisha High Court Judgment in Safari Retreats Pvt Ltd – WP(C) No.20463 of 2018

Odisha High Court Ruling –

Hon'ble High Court of Orissa observed:

- ❖ Clause (c) and (d) of section 17(5) of CGST Act provides that input tax credit is ***not available*** when the immovable property is constructed '***on his own account***'.
- ❖ And that this condition cannot be applied in cases where construction of immovable property is ***intended for letting out***.
- ❖ It was further held that the shopping mall was ***neither intended for sale nor on his own account*** but was '***intended for letting out***'.
- ❖ For these reasons, it was held that ***set off ITC on the goods/services used in the construction of mall*** is admissible against the ***GST payable on the renting of immovable property service***.

Andhra Pradesh - AAR → Maruti Ispat & Energy Pvt Ltd – Ord No AAR/AP/ 14(GST)/2018 dt 9/10/18

Applicant contention of law: As per section 17(5)(C) & sec 17(5)(d) of CGST Act, 2017, there is no restriction to claim input, with respect to items related to plant & machinery.

Further, they stated that structural support and civil structure are covered as per the explanation to the said provisions. They submitted that the digging process is done with regard to creation of foundation for specific installation of plant & machinery.

They further highlighted that the word 'support' used in the explanation not only means support from base, but it also means support from all the ways i.e. creating sheds is to protect the plant & machinery. Further, they submitted the list of goods and services, which are to be used for their plant and machinery as input.

Andhra Pradesh - AAR → Maruti Ispat & Energy Pvt Ltd – Ord No AAR/AP/ 14(GST)/2018 dt 9/10/18

The **Hon’ble AAR of Andhra Pradesh** vide **ORDER NO. AAR/AP/14(GST)/2018** dated **October 09, 2018** stated **that** the argument of the applicant to treat ***civil structures as structural support for plant and machinery is not tenable.***

The civil structures under consideration is squarely falls other civil structures which is excluded as per the explanation to the proviso of Section 17(5) of CGST Act, 2017.

However, the application, on which clarification is sought for does not fall under the ambit of explanation to the proviso to the Section 17(5) of CGST/APGST Act, 2017.

Hence, the applicant is not entitled to claim the input tax credit on the goods and services.

Restrictions on ITC – Sec 17(5) - Blocked credits

8. Goods Lost, Stolen, Destroyed, written off or given off as gift or free samples:

• Not Allowed:

1. Goods lost/stolen – Impact of Insurance claims received
2. Year end write offs for shortages of stock/inventories – Post Board Approval
3. Goods distributed as Diwali/ year end gifts – ITC Eligible?
4. Treatment of free samples – Pharma Industry/FMCG or other practice of sending samples for approval by clients

Clarification issued by CBIC vide ***Circular No 92/11/ 2019-GST dated 7th March 2019*** for ***treatment of sales promotion schemes*** –

Free samples or gifts - Where the activity of distribution of gifts or free samples falls within the scope of “supply” as per ***Schedule I*** of the Act, the supplier would be eligible to avail of the ITC.

BOGO Schemes for FMCG or Pharma Industry - Such supplies may not be treated as an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply.

ITC on Gifts to dealers/partner schemes/ incentive schemes?

**Karnataka Advance Ruling in Surfa Coats (India) Pvt Ltd –
GST – ARA – KAR-ADRG 28/2019**

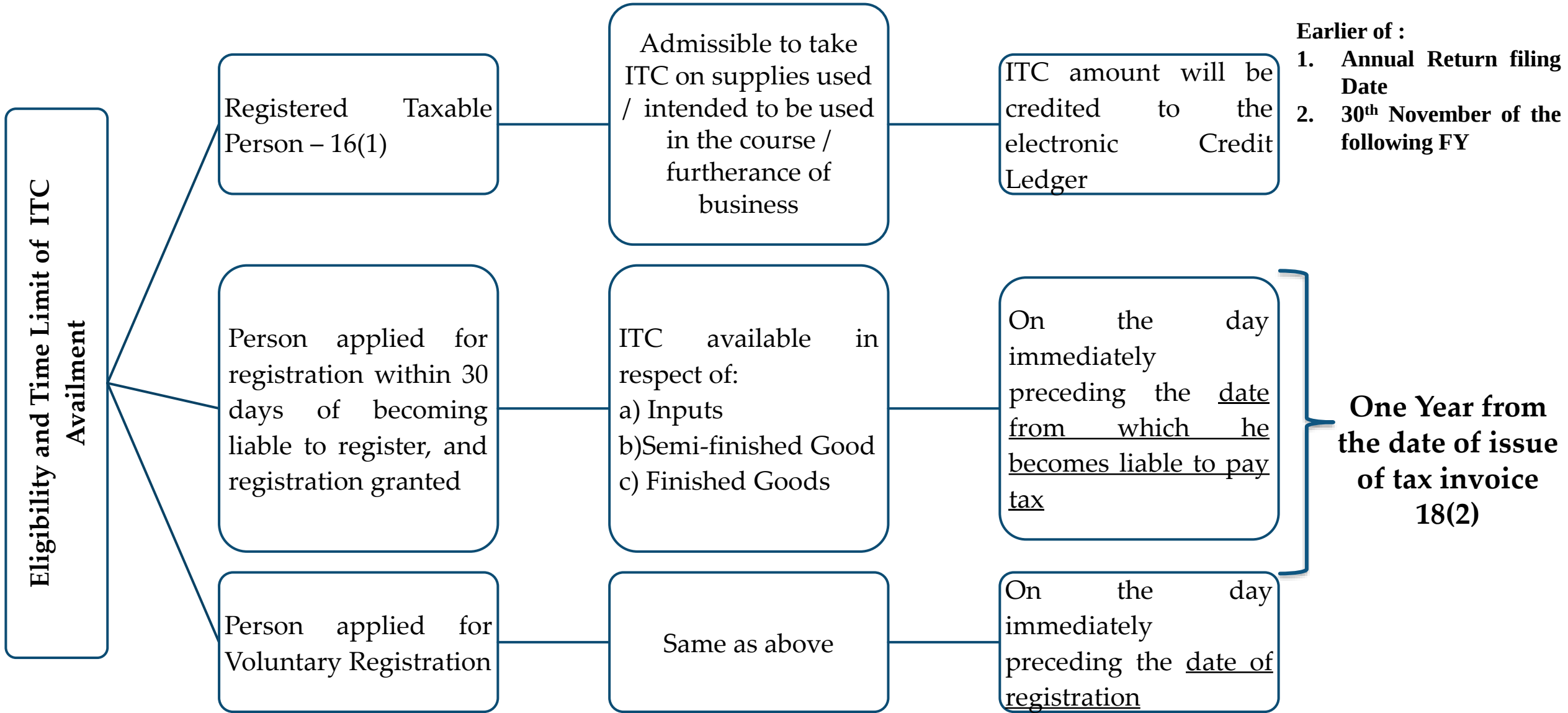
Karnataka Authority of Advance Ruling –

- ❖ Applicant frames incentive schemes to motivate dealers to lift their products. Some schemes read as ***Painters Schemes, Dealers Incentive Schemes, Gold Schemes, Foreign and Local Trip Schemes***, etc.
- ❖ The incentives are given ***subject to fulfillment of terms laid down in each such scheme***.
- ❖ **Observation –**
 - ***Section-17(5)(h)*** of CGST Act 2017 does not allow credit on any goods disposed by way of gift or free samples, ***whether or not in the course or furtherance of business***
 - As per Circular No.92/11/2019-GST dated 07.03.2019, issued by CBIC, wherein, at Para (A)(ii), ***“Input tax credit shall not be available to the supplier to the extent they are used in relation to the gifts or free samples distributed without any consideration”***

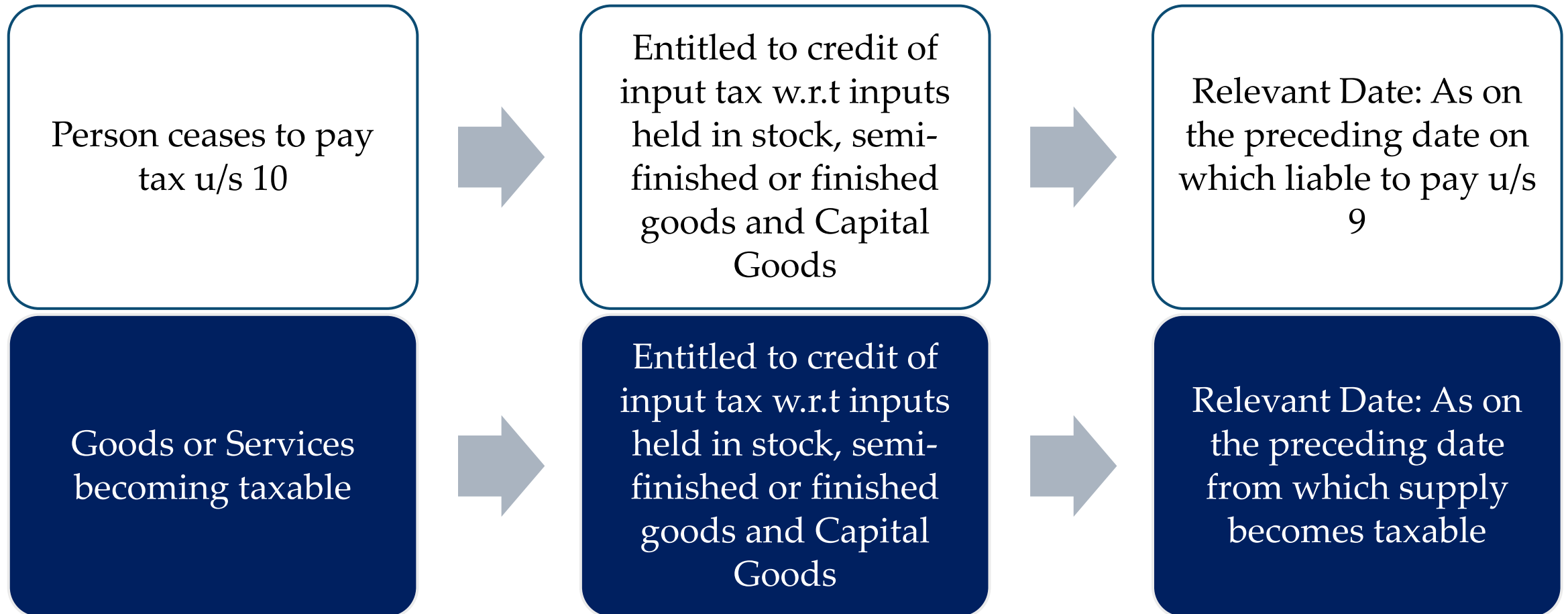
Restrictions on ITC – Sec 17(5) - Blocked credits

- Taxes on supply of goods or services paid u/s 10
- Goods or services or both received *by a non-resident taxable person* except on goods imported by him, shall not be allowed
- Goods or services or both used for personal consumption; and
- Any tax paid in accordance with the provisions of sections 74, 129 and 130.

Eligibility and Time Limit for Availing ITC



Switching from Composition / Exempt Supply to Normal Tax / Taxable Supply – Sec 18(1)

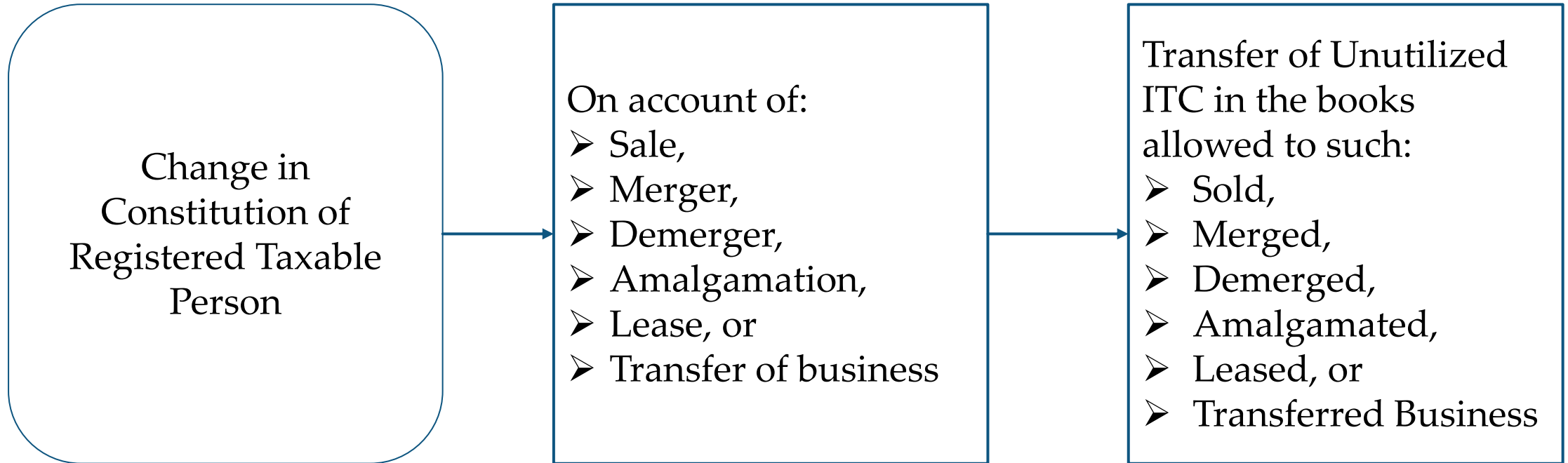


Credit on Capital Goods to be available after reducing 5% per quarter of a year or part from the date of invoice or such other document on which capital goods were received by taxable person

Conditions for claiming credit under – Sec 18(1)

- Purchase invoice should not be earlier than 1 year from the relevant date
- Declaration in Form GST ITC-01 to be filed within 30 days from the date of him becoming eligible
- Details of Inputs held in stock / semi finished or finished goods and capital goods to be furnished in Form GST ITC-01 within 30 days from the relevant date
- Declaration in Form GST ITC-01 to be certified by a practicing Chartered Accountant or Cost Accountant if the value of credit claimed exceeds Rs. 2,00,000

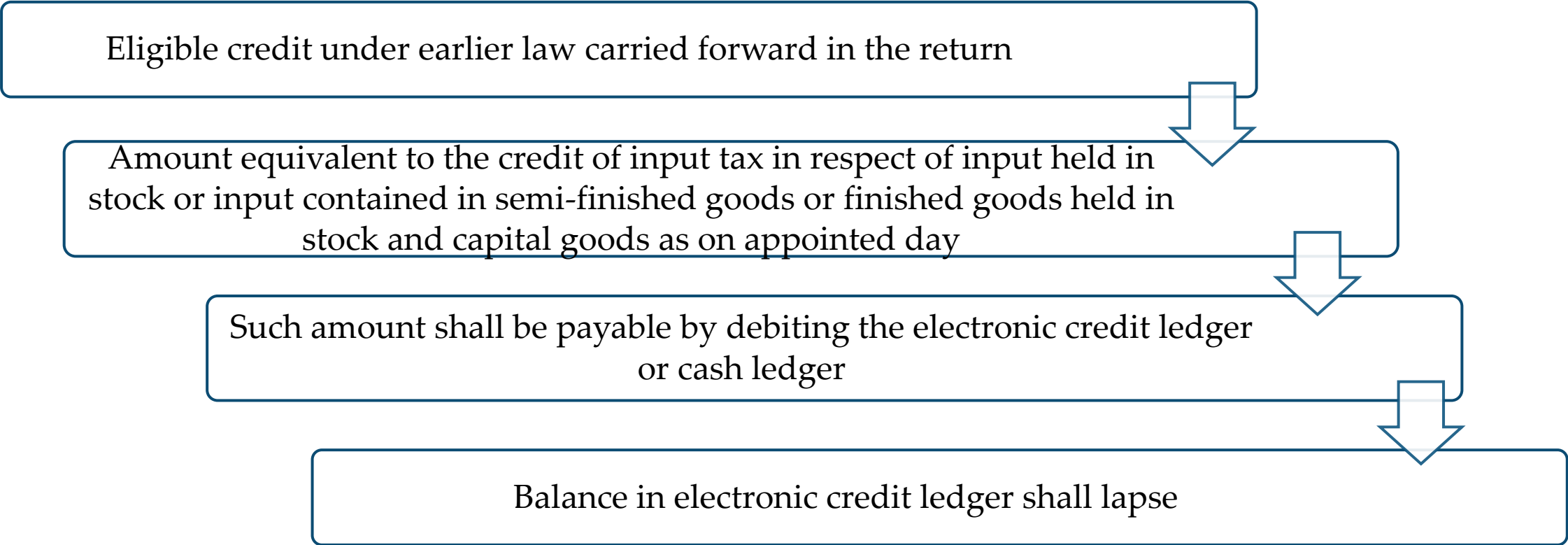
ITC – Change in Constitution of Taxable Person Sec 18(3)



- ITC shall be apportioned in the ratio of value of assets of the new units in case of demerger scheme
- Transferor to submit certificate from a practicing Chartered Accountant certifying whether the sale / merger / de-merger / amalgamation / lease / transfer has been done with specific provision for transfer of liabilities
- Transferee to furnish details of credit available in Form GST ITC-02

Switching from regular to over composition- Pay and Exit – Sec 18(4)

Eligible credit under earlier law carried forward in the return



```
graph TD; A[Eligible credit under earlier law carried forward in the return] --> B[Amount equivalent to the credit of input tax in respect of input held in stock or input contained in semi-finished goods or finished goods held in stock and capital goods as on appointed day]; B --> C[Such amount shall be payable by debiting the electronic credit ledger or cash ledger]; C --> D[Balance in electronic credit ledger shall lapse];
```

Amount equivalent to the credit of input tax in respect of input held in stock or input contained in semi-finished goods or finished goods held in stock and capital goods as on appointed day

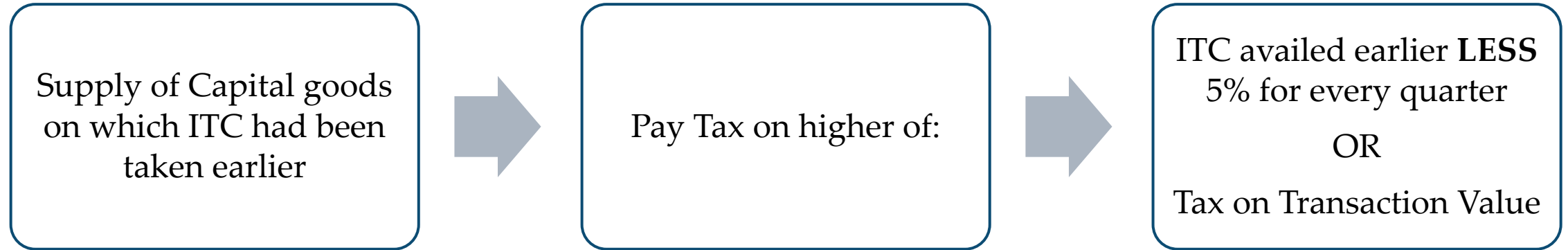
Such amount shall be payable by debiting the electronic credit ledger or cash ledger

Balance in electronic credit ledger shall lapse

Declaration for input tax reversed to be submitted in Form GST ITC-3

Supply of Capital goods on which ITC already taken

– Sec 18(6)



Note: Any credit wrongly taken shall be subjected to the recovery provisions

Purchase Date of Laptop	Jan 01, 2018
Purchase Price	50,000
Taxes Paid	9,000
Sale Date	July 05, 2020
Sale Value of Laptop	10,000

Particulars	Amount
Sale Value of Laptop	10,000
IGST @ 18%	1,800

Particulars	Amount
Input Tax Credit Available	9,000
Less: 5% per quarter (For 11 quarters)	4950
Higher of Tax – Rs 1800 or ITC availed less 5% per Quarter i.e. Rs 4,950	4050

ITC Rules – Credit in Special Circumstances

- Credit of Capital Goods as provided to a person switching from composition to regular scheme and a person whose exempt supply becomes taxable supply (Section 18 (1)(c) and (d), shall be claimed after reducing such tax by 5% per quarter from the date of issue of invoice;
- A declaration within 30 days shall be furnished in all the scenarios as specified in Section 18 (1) for details relating to inputs, semi-finished, finished and capital goods as the case may be;
- CA/CMA certificate is necessary in case claim for input tax exceeds 2 lakhs;
- Matching of claims shall be done with GSTR-1 or GSTR-4 of the corresponding supplier.

Input Credits – Reversal of ITC – Common Credit- Rule 42 & 43

Input Tax Credit (T)

T1

Used Exclusively
for Other than
Business

No ITC

T2

Used for sale of
Exempted
Products

No ITC

T3

Restricted Credits
(Sec 17(5) + Rate
Restriction

No ITC

T4

Exclusively used
for Taxable & 'O'
Rated

100% ITC

C2

Common Supplies {
 $T - (T1 + T2 + T3 + T4)$ }

See Next Slide

ITC Rules (Rule 36-45) – Manner of Reversal

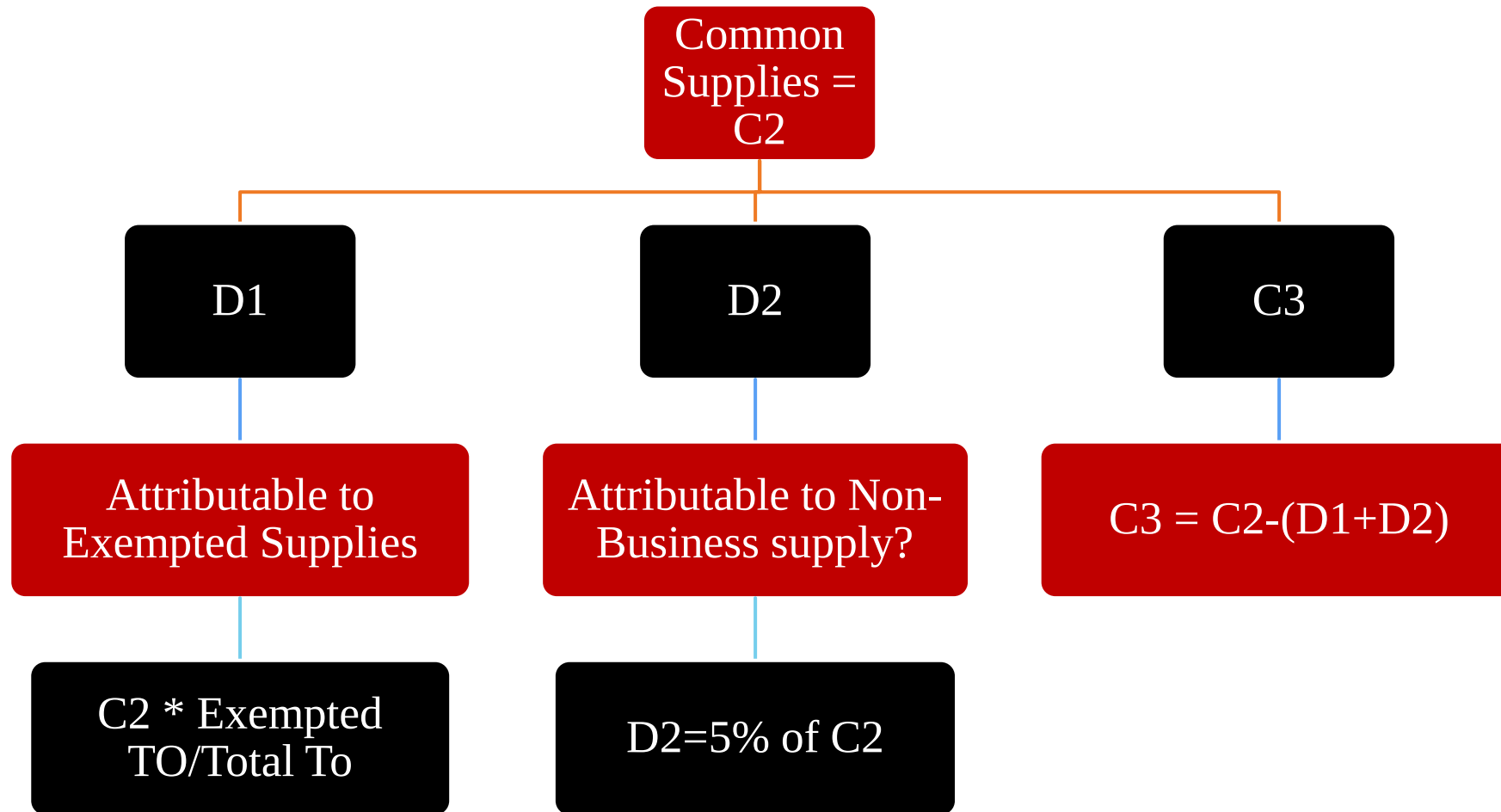
I. Reversal of credit where inputs or input services are used partly for business purposes or partly for effecting exempt supplies –

- Total input tax in a tax period to be denoted as 'T'
- Amount of input tax used exclusively for the purposes other than business 'T1'
- Amount of input tax used exclusively for effecting exempt supplies 'T2'
- Amount of blocked credit as per Section 17 (5) 'T3'
- Amount of input tax to be credited to electronic credit ledger ' $C1 = T - (T1 + T2 + T3)$ '
- Amount of input tax used exclusively for effecting taxable and zero rated supplies 'T4'
- T1, T2, T3, T4 to be determined at invoice level in GSTR-2
- Common Credit " $C2 = C1 - T4$ "
- Credit attributable towards exempt supplies " $D1 = C2 * (E/F)$ "

where

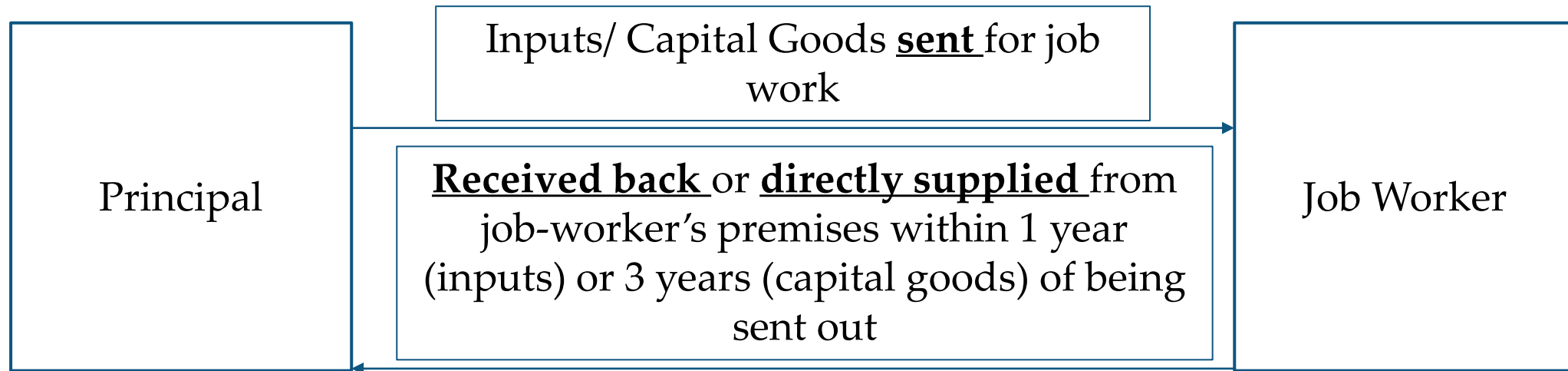
- 'E' is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and
- 'F' is the total turnover of the registered person during the tax period:
- Credit attributable towards non business purpose " $D2 = C2 * 5\%$ "

ITC Reversal – Rule 42



The amount equal to 'D1' and 'D2' shall be added to the output tax liability

ITC in respect of goods sent for job work – Sec 19

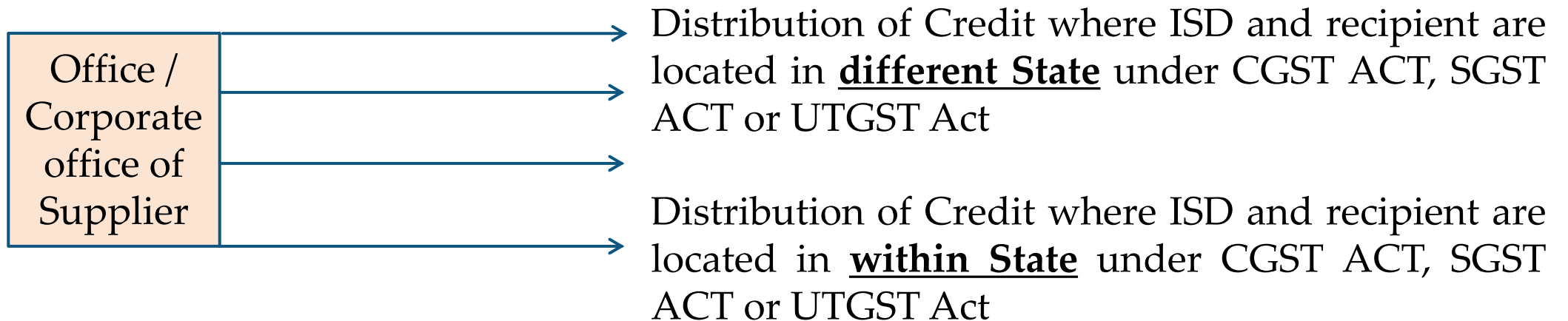


ITC available if the conditions and restrictions under job work are satisfied

If not received / directly supplied in time: Principal to pay ITC availed + **Interest.**
He can reclaim this ITC on receiving back such inputs/ capital goods.

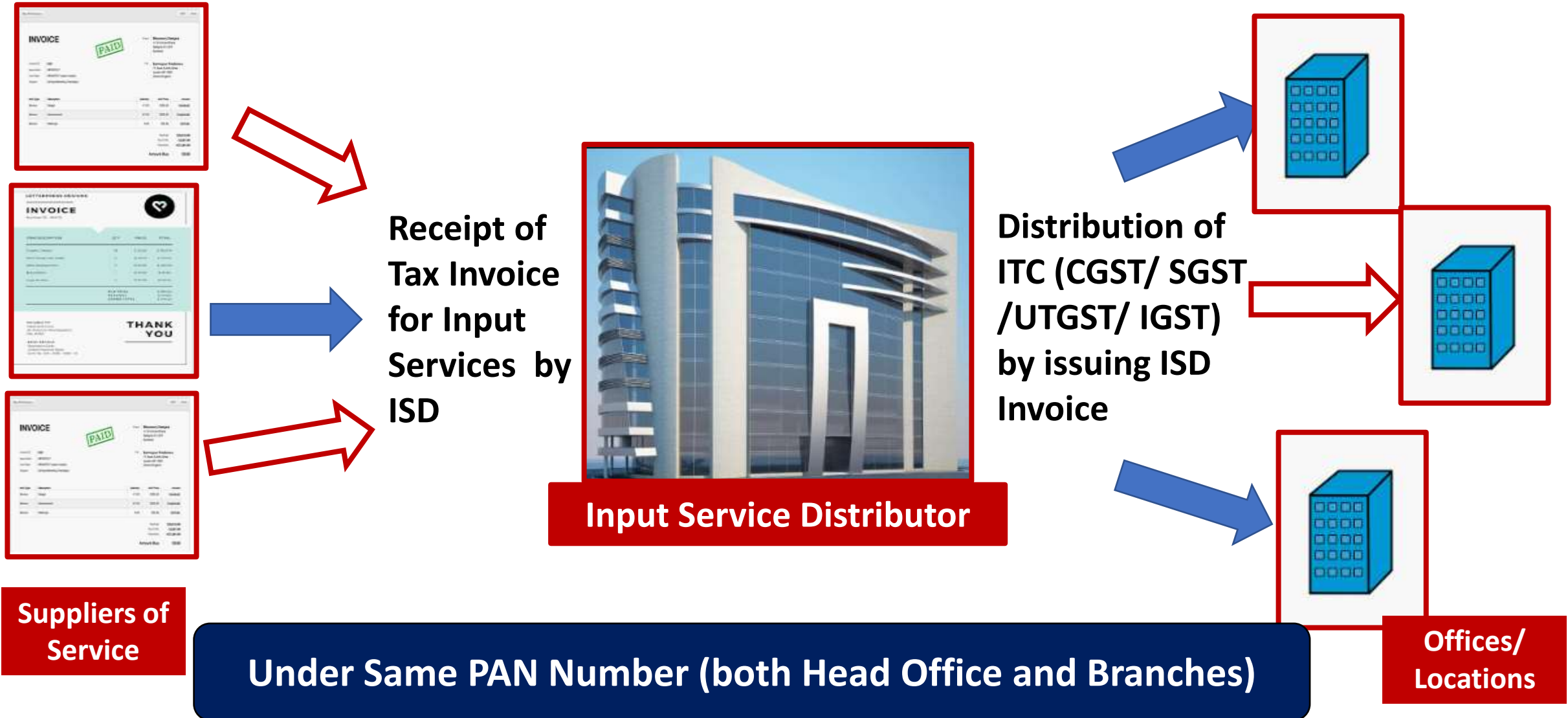
Input Service Distributor – Sec 20

- ITC is distributed to supplier of goods and / or services of same entity having the same PAN
- Deemed as ISD is a supplier of Service for distributing credit
- Common Services used at for



ISD

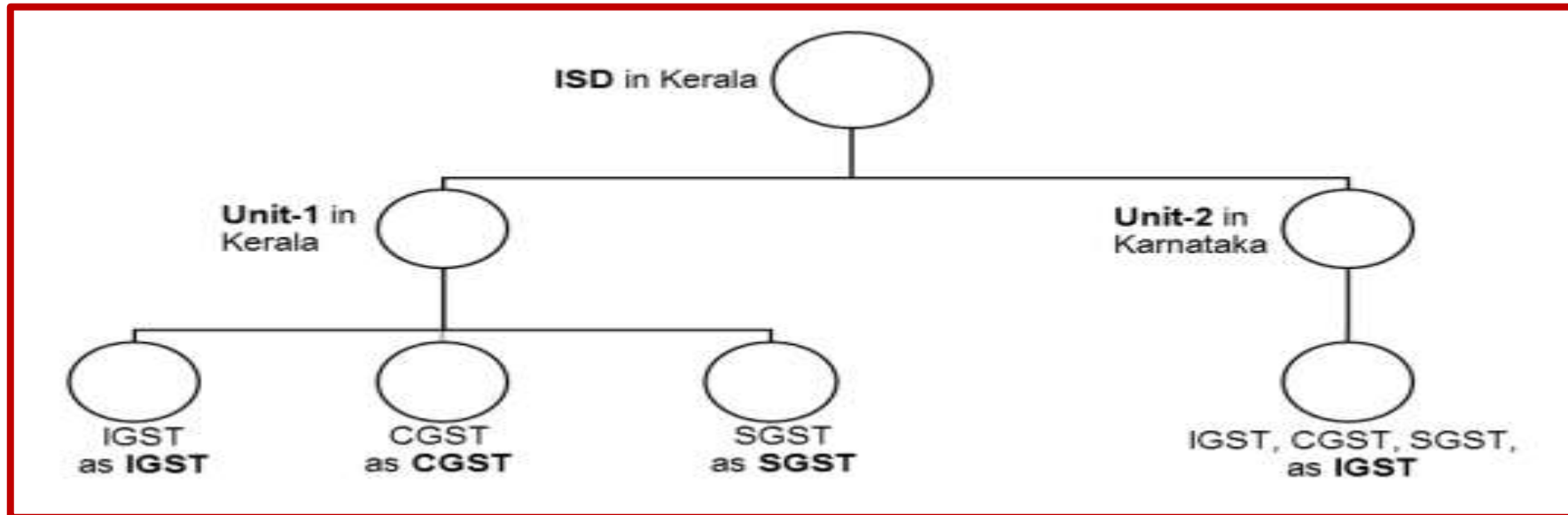
Return by Input Service Distributor



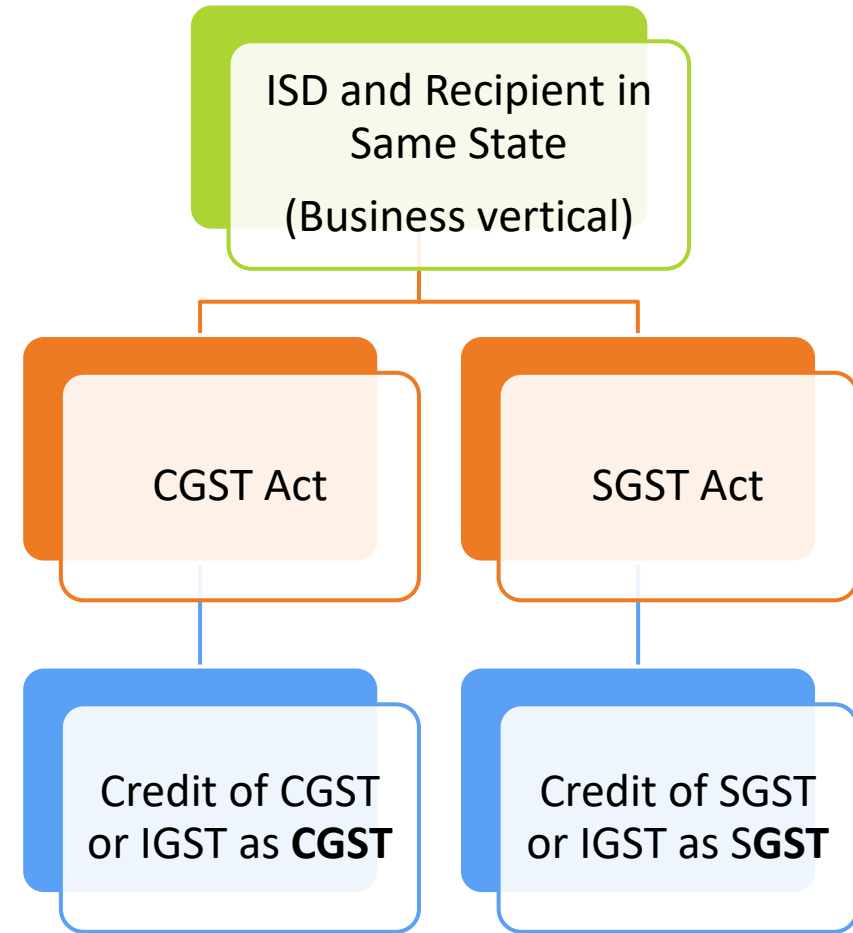
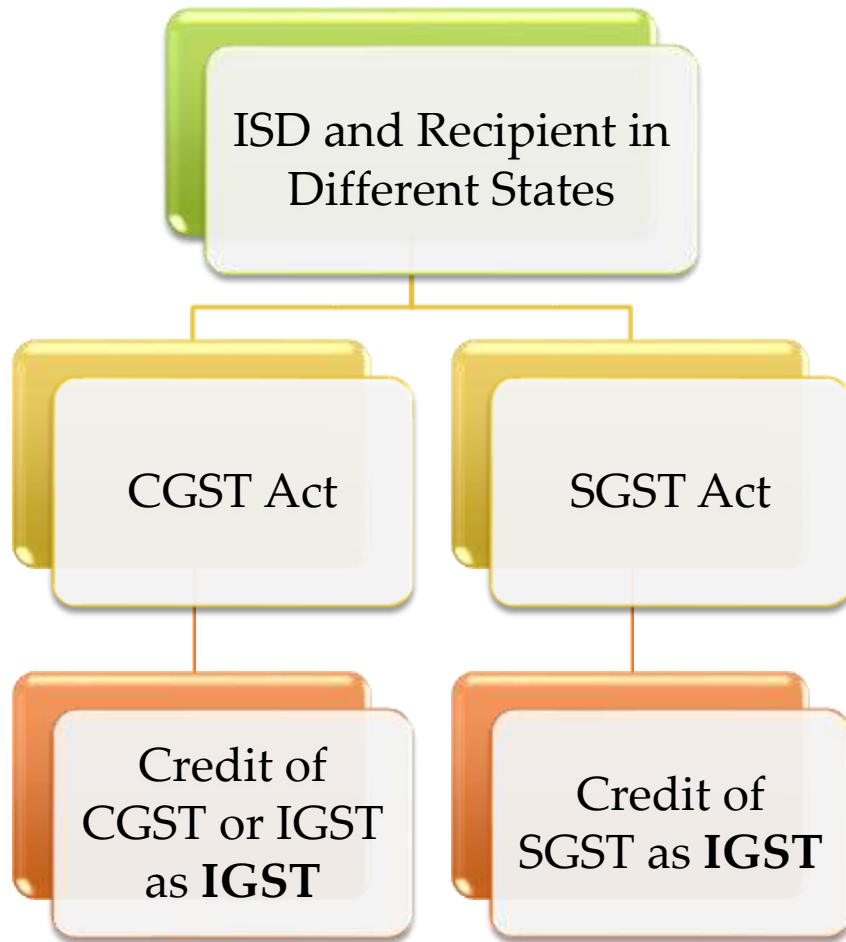
- **What is Input Service Distributor (ISD)?**

As per Section 2(61) of CGST Act, 2017, "Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office.

- **Section 20 of CGST Act, 2017** prescribes the Manner of distribution of credit by Input Service Distributor.
- **Rule 39 (CGST Rules)** - Procedure for distribution of input tax credit by Input Service Distributor
- All other ITC-Input Tax credit on inter state and intra state purchases, stock transfer etc.



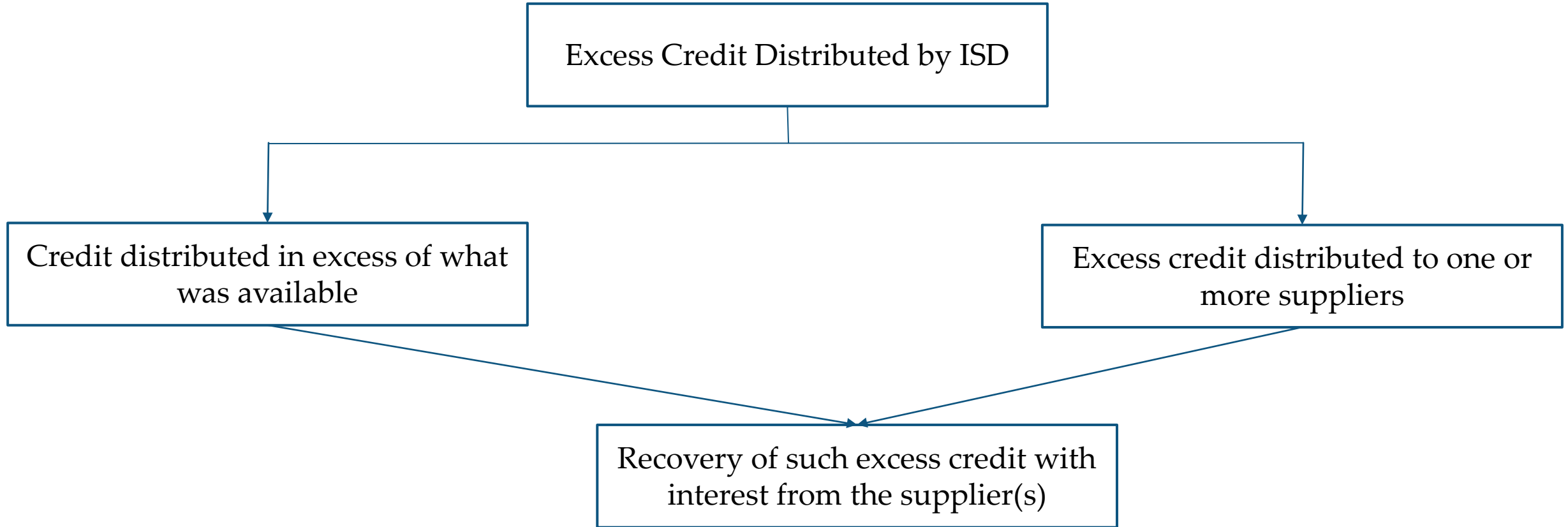
Input Service Distributor



Conditions to distribute credit : ISD

- Credit distributed to recipient through prescribed documents containing prescribed details. Such document should be issued to each of the recipient of credit.
- Credit distributed should not exceed the credit available for distribution
- Tax paid on input services used by a particular location (registered as supplier) has to be distributed only to that location.
- Credit of tax paid on input service used by more than one location who are operational is to be distributed to all of them based on the pro rata basis of turnover of each location in a State to aggregate turnover of all such locations who have used such services

Excess Credit distributed by ISD – Sec 21



ITC Rules – Credit Distribution Procedure in case of ISD

I. Distribution to one or more recipients – Section 20(2)(d)(e)

- Credit to be distributed to recipients whether registered or not, from amongst 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 –

$$C1 = (t1/T)*C$$

where,

“C” is the amount of credit to be distributed,

“t1” 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;

GSTR 2A & 2B

Auto Drafted Details (For View only)



Introduction of ITC Statement - Form GSTR-2B

Details of outward supplies of goods
or services

GSTR1

Status- **Filed**

VIEW GSTR1

DOWNLOAD

Auto Drafted details (For view only)

GSTR2A

VIEW

DOWNLOAD

Auto - drafted ITC Statement

GSTR2B

VIEW

DOWNLOAD

Introduction of ITC Statement - Form GSTR-2B

[Dashboard](#) > [Returns](#) > [GSTR-2B](#)English

GSTR-2B- AUTO-DRAFTED ITC STATEMENT

GSTIN- [REDACTED]

Legal Name - [REDACTED] PRIVATE LIMITED

Trade Name - [REDACTED] PRIVATE LIMITED

Financial Year - 2020-21

Return Period - September

Generation date -

SUMMARY

ALL TABLES

[View Advisory](#)

FORM GSTR-2B shall be available only after last cutoff date i.e 11/10/2020

Introduction of ITC Statement - Form GSTR-2B

GSTR-2B- AUTO-DRAFTED ITC STATEMENT

GSTIN- 36AAACO2722Q1Z7

Financial Year - 2020-21

Legal Name - [REDACTED] PRIVATE LIMITED

Return Period - August

Trade Name - [REDACTED] PRIVATE LIMITED

Generation date - 12/09/2020

SUMMARY

ALL TABLES

View Advisory

ITC available

ITC not available

HELP ?

S.NO.	Heading [Expand All ▼]	GSTR-3B table	Integrated Tax (₹)	Central Tax (₹)	State/UT Tax (₹)	Cess (₹)
Part A	ITC Available - Credit may be claimed in relevant headings in GSTR-3B					
I	All other ITC - Supplies from registered persons ▼	4(A)(5) ⓘ	2,58,017.52	5,02,470.87	5,02,470.87	0.00
II	Inward Supplies from ISD ▼	4(A)(4) ⓘ	0.00	0.00	0.00	0.00
III	Inward Supplies liable for reverse charge ▼	3.1(d) 4(A)(3) ⓘ	0.00	3,778.36	3,778.36	0.00
IV	Import of Goods ▼	4(A)(1) ⓘ	0.00	0.00	0.00	0.00
Part B	ITC Reversal - Credit may be reversed in relevant headings in GSTR-3B					
I	Others ▼	4(B)(2) ⓘ	45,733.20	5,068.16	5,068.16	0.00

BACK TO DASHBOARD

DOWNLOAD GSTR-2B SUMMARY (PDF)

DOWNLOAD GSTR-2B DETAILS (EXCEL)

Introduction of ITC Statement - Form GSTR-2B

SUMMARY

ALL TABLES

View Advisory

ITC available

ITC not available

HELP ?

S.NO.	Heading [Expand All ▼]	GSTR-3B table	Integrated Tax (₹)	Central Tax (₹)	State/UT Tax (₹)	Cess (₹)
Part A						
I	All other ITC - Supplies from registered persons ▼	NA ⓘ	0.00	1,275.00	1,275.00	0.00
II	Inward Supplies from ISD ▼	NA ⓘ	0.00	0.00	0.00	0.00
III	Inward Supplies liable for reverse charge ▼	3.1(d) ⓘ	0.00	0.00	0.00	0.00
Part B						
I	Others ▼	4(B)(2) ⓘ	0.00	0.00	0.00	0.00

BACK TO DASHBOARD

DOWNLOAD GSTR-2B SUMMARY (PDF)

DOWNLOAD GSTR-2B DETAILS (EXCEL)

S.NO.	GSTIN of supplier ^	Trade/legal name ^	Invoice number ^	Invoice type ^	Invoice Date ^	Invoice Value (₹) ^	Place of supply ^
1	37AAJCS6803R1ZK	SHELTON HOSPITALITY PRIVATE LTD	108401 ▼	Regular	04/02/2020	23,799.97	Andhra Prad

State/UT Tax (₹) ^	Cess (₹) ^	GSTR-1/5 Period ^	GSTR-1/5 Filing Date ^	ITC Availability ^	Reason ^
1,275.00	0.00	Feb'20	12/08/2020	No	POS and supplier state are same but recipient state is different

Introduction of ITC Statement - Form GSTR-2B

Select table to view details ▾		Taxable inward supplies received from registered person - B2B							HELP ⓘ
Supplier wise Details		Document Details							
		Records Per Page:		10 ▾	Search...		Q		
S.NO.	GSTIN of supplier ^	Trade/legal name ^	Number of records ^	Taxable Value (₹) ^	Integrated Tax (₹) ^	Central Tax (₹) ^	State/UT Tax (₹) ^	Cess (	
1	06ADFFS1846J1ZW	SUPER FAST CARGO SERVICES	1	1,60,330.00	28,859.40	0.00	0.00		
2	07AAFCD9279G1Z9	DHI TATTVA SOLUTIONS PRIVATE LIMITED	1	1,88,000.00	33,840.00	0.00	0.00		
3	23AAACO2722Q1ZE	ORIENT BLACKSWAN PVT.LTD	4	12,425.00	2,226.00	0.00	0.00		
4	24AACCI3501P1ZN	INFIBEAM AVENUES LIMITED	1	738.33	132.90	0.00	0.00		
5	24AACCI3501P1ZN	INFIBEAM AVENUES LIMITED	1	1,686.01	303.48	0.00	0.00		
6	24AACCI3501P1ZN	INFIBEAM AVENUES LIMITED	1	1,950.13	351.02	0.00	0.00		

ITC and Liability Comparison (GSTR 1 Vs. GSTR 3B)



Credit and Liability Statement

The screenshot displays the GST portal interface. At the top, the header reads "GOODS and SERVICES Tax" with the Indian government emblem on the left and the user name "Rohit Kumar Singh" on the right. Below the header is a navigation bar with several menu items: "Dashboard", "Services", "GST Law", "Downloads", "Search Taxpayer", "Help and Taxpayer Facilities", and "e-Invoice". The "Services" menu is expanded, showing a sub-menu with "Registration", "Ledgers", "Returns", "Payments", "User Services", "Refunds", and "e-Way Bill System". The "Returns" option is further expanded, displaying a list of links: "Returns Dashboard", "Track Return Status", "ITC Forms", "TDS and TCS credit received", "Opt-in for Quarterly Return", "View Filed Returns", "Transition Forms", "Annual Return", and "Tax liabilities and ITC comparison". The "Tax liabilities and ITC comparison" link is highlighted with a red box. At the bottom of the page, there are three prominent buttons: "RETURN DASHBOARD >", "CREATE CHALLAN >", and "VIEW NOTICE(S) AND ORDER(S) >". To the right of these buttons is a "Quick Links" section.

GOODS and SERVICES Tax

Rohit Kumar Singh

Dashboard Services GST Law Downloads Search Taxpayer Help and Taxpayer Facilities e-Invoice

Registration Ledgers Returns Payments User Services Refunds e-Way Bill System

Returns Dashboard View Filed Returns

Track Return Status Transition Forms

ITC Forms Annual Return

TDS and TCS credit received Tax liabilities and ITC comparison

Opt-in for Quarterly Return

RETURN DASHBOARD > CREATE CHALLAN > VIEW NOTICE(S) AND ORDER(S) >

Quick Links

Credit and Liability Statement

Tax liability and ITC statement (Summary) ?

Tax Period	Tax liability as per GSTR-1 and as per GSTR-3B [As per report no. 1 & 3]		ITC claimed in GSTR-3B and accrued as per GSTR-2A/2B [As per report no. 4 & 5]	
	As per GSTR-1	As per GSTR-3B	As per GSTR-3B	As per GSTR-2A/2B
Apr-20	0.00	0.00	2,790.00	189.00
May-20	0.00	810.00	189.00	0.00
Jun-20	0.00	720.00	0.00	0.00
Jul-20	0.00	0.00	0.00	2,832.84
Aug-20	0.00	0.00	0.00	0.00
Sep-20	30,035.52	30,036.00	0.00	540.00
Oct-20	0.00	11,221.00	0.00	0.00
Nov-20	0.00	2,288.00	0.00	0.00
Dec-20	17,401.32	3,892.00	0.00	0.00
Jan-21				
Feb-21				
Mar-21				
Total	47,436.84	48,967.00	2,979.00	3,561.84

[DOWNLOAD \(CSV\)](#)

Queries Please



Thank you

