

***INPUT TAX CREDIT, RELEVANT
DEFINITIONS INPUT SERVICE
DISTRIBUTOR AND TRANSITIONAL
PROVISION.***

By

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Definitions

“input” means any goods other than capital goods, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;

“Input Service Distributor” (ISD) means an office of the supplier of goods / services which receives tax invoices issued u/s 23 towards receipt of input services and issues tax invoice or such other document as prescribed for the purposes of distributing the credit of CGST /SGST and / or IGST paid on the said services to a supplier of taxable goods / services having same PAN as that of the office referred to above;

Explanation.- For the purposes of distributing the credit of CGST /SGST and / or IGST, ISD shall be deemed to be a supplier of services.

Definitions

“input service” means any service, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;

“electronic cash ledger/credit ledger” means the cash ledger/ credit ledger in electronic form maintained at the common portal for each RTP in the manner as may be prescribed in this behalf;

“exempt supply” means supply of any goods and/or services which are not taxable under GST & includes such supply of goods and/or services which are specified in Schedule . . . of the Act or which may be exempt from tax under section 10;

“zero-rated supply” means a supply of any goods / services on which no tax is payable but credit of the input tax related to that supply is admissible;

Explanation.- Exports shall be treated as zero-rated supply.

Definitions

"input tax" in relation to a taxable person, means the IGST /CGST/SGST charged on any supply of goods /services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable u/s 7(3)

ITC is available to manufacturer, service provider or trader of IGST/CGST/SGST paid on goods services, and tax charged on RCM.

No credit is allowed on products not covered under GST, like Electricity Duty, Stamp Duty, Entertainment tax by Local Bodies, Property Tax, Toll Tax etc.

CREDIT IN	IGST	CGST	SGST
IGST	1	2	2
CGST	2	1	Not Allowed
SGST	3	Not allowed	1

DUAL GST WITHIN STATE: Working Example

Details	R.M. Supplier - S	Manufacturer -M	Retailer -R
Basic Price	10000	15000	20000
10% CGST	1000	1500	2000
10%SGST	1000	1500	2000
Total Price	12000	18000	24000

S will pay Rs. CGST 1000 + SGST 1000

M & R will get I.T.C. of taxes paid by S and M will pay : CGST 500 + SGST 500.

If R sells the goods to consumer C as he is ultimate user will not get any I.T.C.

Apportionment of IGST

Details	M of Mumbai	G of Goa	K retailer of Goa
Basic Price	10000	15000	20000
IGST 20%	2000	0	0
CGST 10%	0	1500	2000
SGST 10%	0	1500	2000
Total Price	12000	18000	24000

- M will pay IGST 2000/-
- G will adjust total IGST 2000 towards CGST 1500/- (pay 0 CGST) & 500 towards SGST while paying taxes (pay SGST 1000). Rs. 500 adjusted by G towards SGST will be trf. by Center to Goa state
- K will pay 500 each of SGST & CGST.

Apportionment of IGST

Details	M of Mumbai	G of Goa	A of Andhra
Basic Price	10000	15000	20000
IGST 20%	2000	3000	0
CGST 10%	0	0	2000
SGST 10%	0	0	2000
Total Price	12000	18000	24000

- M will pay IGST 2000
- G will pay IGST 1000 (3000-2000)
- A will pay CGST 0 adjusting IGST & SGST 1000 by adjusting balance IGST 1000
- Center will transfer Rs. 1000/- adjusted by A while paying SGST to ANDHRA state.

Entitlement To ITC

Every reg. taxable person (RTP) shall be entitled to take credit of input tax admissible to him and the said amt. shall be credited to the electronic cr. Led. of such person.

A person who has applied for reg. within thirty days from the date on which he becomes liable to reg. and has been granted such reg. shall, be entitled to take ITC in respect of inputs held in stock and 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 GST

Entitlement To ITC

A person, who takes voluntary reg. u/s 19 (3) shall, be entitled to take credit of ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of reg.

Where any composition dealer ceases to pay tax u/s 8, he shall, be entitled to take ITC in respect of inputs held in stock and 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 7.

Entitlement To ITC

A taxable person shall be entitled to take ITC in respect of any supply of goods / services to him up to one year from the date of issue of tax invoice relating to such supply, & calculated in accordance with generally accepted accounting principles.

Where the goods and/or services are used by the RTP partly for business purpose and partly for other purposes, OR to make taxable supplies & zero-rated supplies and partly for non-taxable supplies & exempt supplies the amount of ITC shall be restricted to so much of the I/T as is attributable to the purposes of his business OR to the taxable supplies including zero-rated supplies.

The C.G./S.G. will prescribe manner in which credit may be attributed for such reasons.

Entitlement To ITC

Where there is a change in the constitution of a registered taxable person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered taxable person shall be allowed to transfer the input tax credit that remains unutilized in its books of accounts to such sold, merged, demerged, amalgamated, leased or transferred business in the manner prescribed.

Entitlement To ITC : Some Points

- Model GST Law (MGL) does not mention availability of ITC on the basis of documents not issued by supplier but paid by RTP like a) Bill of entry for payment of custom duty including IGST. b) Payment of GST on RCM.
- There is no restriction that ITC cannot be utilised for payment of GST under RCM, TDS, TCS.
- Under cenvat credit rules time limit of 1 yr. from date of invoice to claim ITC is applicable on inputs of goods & services. In GST regime it will be applicable to capital goods also.

I.T.C. Not available

ITC will not be available (a) on motor vehicles except when they are supplied in the usual course of business or are used for providing the following taxable services

i) transportation of passengers, or goods, ii) imparting training on motor driving skills;

(b) Goods/ services used primarily for personal use or consumption of any employee; i) food and beverages, ii) outdoor catering, iii) beauty treatment, iv) health services, cosmetic and plastic surgery, v) membership of Club or health and fitness centre, vi) life or health insurance vii) travel benefits such as leave or home travel concession,

I.T.C. Not available

(c) goods and/or services acquired by the principal in the execution of works contract when such contract results in construction of immovable property, (other than P&M);

(d) goods acquired are used in the construction of immovable property, (other than P&M); by a principal, the property in which is not trf. to any other person,

(e) goods and/or services on which tax has been paid under section 8 (composition);

(f) goods and/or services used for private or personal consumption,

Conditions for getting I.T.C.

No ITC shall be allowed on tax component where RTP has claimed depreciation on the tax component of the cost of capital goods under the prov. of I.T. Act 1961,

No ITC will be available to reg. taxable person (RTP) in respect of any supply of goods / services to him unless

(a) he is in possession of a tax invoice, debit note, supplementary invoice or such other taxpaying document as may be prescribed, issued by a supplier reg. under GST OR IGST Act;

(b) he has received the goods / services;

If goods/services are recd. in lots or inst., the RTP shall be entitled to the credit upon receipt of the last lot or inst.

Conditions for getting I.T.C.

(c) the tax charged in respect of such supply has been actually paid to the credit of the appropriate Govt., either in cash or through utilization of ITC admissible in respect of the said supply

(d) Supplier has furnished the return u/s 27:

It shall be deemed that the RTP has recd. the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such RTP, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise.

Reversal Of ITC

Any normal RTP becomes composition dealer u/s 8 OR is dealing in goods/services which become exempt u/s 10 shall pay an amt, by way of debit in the electronic credit or cash ledger, equivalent to the credit of ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the Dt. of such switch over or, as the case may be, the date of such exemption:

The amt. payable shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

Provided that after payment of such amt., the bal. of ITC, if any, lying in his electronic credit ledger shall lapse.

Reversal Of ITC

Model GST Law(MGL) is silent on reversal of ITC in following cases.

- a) Goods destroyed by unavoidable circumstances like fire.
- b) Goods rendered unfit for consumption or use and value is w/o in the books.
- c) Unlike cenvat Credit Rules no reversal when value of services and tax is not paid in 3 months.

Payment , Non Entitlement of ITC

If the ITC is taken on capital goods the RTP shall pay an amt. equal to the ITC taken on the said capital goods reduced by the percentage points as may be specified in this behalf or the tax on the transaction value of such capital goods u/S 15 (1) whichever is higher.

Where credit has been taken wrongly, the same shall be recovered from the registered taxable person in the manner as may be prescribed in this behalf.

A RTP shall not be entitled to take ITC in respect of any invoice for supply of goods and/or services, after the filing of the return under section 27 for the month of September following the end of f.Y. to which such invoice pertains or filing of the relevant annual return, whichever is earlier.

ITC On Goods & Machinery sent to Job Worker

The “principal” be entitled to take credit of ITC on **inputs** (from his business premises or directly from supplier) sent to a job-worker for job-work if the said inputs, after completion of job-work, are received back by him within **180 days** of their being sent or receipt of the goods.

The “principal” shall, be entitled to take ITC on **capital goods** (from his business premises or directly from supplier) sent to a job-worker for job-work if the said capital goods, after completion of job-work, are received back by him within **2yr.** of their being sent or received by job worker.

ITC On Goods & Mach. Sent to Job Worker

Where the inputs or capital goods, are not received back by the “principal” within the time specified above, he shall pay an amount equivalent to the ITC availed of on the said inputs or capital goods, as the case may be, along with interest

Provided that the said “principal” may reclaim the ITC and int. Paid earlier when the inputs or capital goods, are received back by him at his place of business.

Distribution of cr. by Input Service Distributor

Location of ISD and Recipient of Credit	Credit of CGST	Credit of SGST	Credit of IGST
Branches In different States :	IGST	IGST	IGST
Branches In same State OR Business Vertical	CGST	SGST	CGST SGST

Conditions for distribution of credit;

ISD shall distribute the credit against a prescribed document by issuing to each of the recipient such documents containing prescribed details.

Credit distributed shall not exceed the amount of credit available for distribution.

Credit of tax paid on inputs service attributable to supplier to be distributed to that supplier.

Credit of tax paid on input services attributable to more than one supplier to be distributed only amongst such suppliers to whom the input service is attributable on *pro rata basis of turnover in State of such supplier during relevant period to the aggregate of the turnover of all such*

Conditions for distribution of credit;

*suppliers and which are operational in the **current year during said relevant period.***

Relevant Period:

If the recipients of credit have turnover in their States in the FY preceding the year during which credit is to be distributed, the said FY; or

If some or all recipient of credit do not have turnover in their States in the FY preceding year during which credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed.

Recovery Of Excess Cr. Distributed

If ISD distributes credit more than available for distribution, excess credit so distributed to be recovered from ISD along with interest.

Excess distribution of credit by ISD to any one or more suppliers in contravention of conditions for distribution then excess credit so distributed to be recovered from such suppliers along with interest.

C.G./ S.G. To Provide for rules u/s 132 (2) for

(iv) Granting of ITC of tax paid on the inputs of goods or services used in or in relation to the providing of the output taxable supplies of goods or services, and the manner of utilization of such credit;

(v) The lapsing of ITC lying unutilized, in the circumstances as may be specified in the rules;

(vi) Withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of ITC) on RTP or suspension or revocation of reg. of taxable person, for dealing with evasion of tax or misuse of ITC;

C.G./ S.G. Providing for rules u/s 132 (2) for

(vii) the carrying forward of the unutilized balances of cenvat credit of the duties of excise and the service tax, under the Cenvat Credit Rules 2004, (or of VAT credit under the state VAT credit rules) lying with the taxable persons on the date of their switching over to GST;

Submission of Inward Supplies (IS)

Every RTP other than an ISD, C.D. & T.D. shall verify, the details filed by suppliers on 10th and validate, modify or, delete the details relating to Outward supply(OS) and CN or DN communicated u/s 25(1) to prepare the details of his Inward supply(IS) and CN or DN and may include therein, the details of IS and CN or DN received by him in respect of such supplies that have not been declared by the supplier.

- Every RTP shall furnish, electronically, the details of IS of taxable goods/services, including IS of **services** on which tax is payable under RCM and IS of goods/services taxable under IGST Act, and CN or DN received in respect of such supplies during a tax period on or before the 15th day the month succeeding the tax period in prescribed form.

Submission of Inward Supplies (IS)

Any RTP, who has furnished the details of IS for any tax period and which have remained unmatched u/s 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed and shall pay the tax and interest, if any, (in case there is a short payment of tax on account of such error or omission), in the return to be furnished for such tax period.

No rectification of error or omission in respect of the details furnished IS shall be allowed after filing of the return u/s 27 for the month of September following the end of the financial year to which such details pertain, or filing of the relevant annual return, whichever is earlier.

Matching, Reversal and reclaim of ITC

Details of every IS for tax period be matched; with corresponding details of OS furnished by supplier with additional duty of customs in respect of imported goods; and For duplication of ITC

- IS matched with corresponding OS shall be finally accepted and communicated to recipient.
- Excess ITC claimed on account of short or non declaration of OS will be communicated to both the persons. If not rectified in that month it will be added to Tax Liability for the month succeeding the month in which discrepancy is communicated. OTL can be reduced if the said supply is declared within prescribed period.

Matching, Reversal and reclaim of ITC

Duplication of ITC claim will be communicated to the recipient and will be added to Tax Liability for the month in which it is communicated.

On additional OTL interest is liable to be paid. On reduction of liability interest will be refunded maximum to the extent of paid by supplier.

The Board/Commissioner may, for valid and sufficient reasons, extend the time limit for furnishing such details.

C/N or D/N is to be issued on or before 30th September following the end of FY in which supply is made or date of filing relevant annual return, whichever is earlier.

No CN, can be issued if incidence of tax and int. on such supply has been passed on.

Matching, Reversal and reclaim of ITC

CN/DN shall be declared in the return for the month in which such CN/DN received or in subsequent returns but not later than September following the end of FY in which supply made or date of filing relevant annual return, whichever is earlier and the tax liability to be adjusted accordingly.

In case of GR within 6 months from the date of relevant invoice, tax payable thereon is restricted to ITC availed earlier in respect of such inward supply.

Refunds

Refund claim available only in cases of a) Export b) excess ITC due to inverted tax structure.

Refund claim is to be filed within 2 yr. from relevant date.
No Time limit is applicable to amounts paid under protest.
Refund order to be passed within 90 days from the date of receipt of application.

- 80% refund can be released provisionally and balance 20% after verification.
- For refund application < Rs. 5 Lakhs only declaration & proof for non passing of incidence of tax is required.
- Interest on delayed refund, if granted after 3 months from the date of receipt of application.

Refund of wrongly paid CGST/SGST

Reg. dealer paid CGST/SGST on a transaction considering the same as intra-State supply, but which subsequently held to be an inter-State supply then upon payment of IGST, the refund CGST/SGST is allowed subject to conditions as may be prescribed.

- Same is vice versa applicable to IGST paid on Inter-State supply.

“GST compliance rating” A dealer is given a rating and any fall in the rating below a prescribed level will have impact of blacklisting of a Dealer. (like CIBIL in banking)

- While making a purchase from the dealer his compliance rating can be verified and decision of purchase will be dependent on the rating of selling dealer.

GST Compliance Rating

The ITC on purchase from a blacklisted dealer shall not be available unless the rating of the dealer is improved to normal. ITC from a from normal dealers is not assured by Govt. & depends on tax invoices and payment of tax due.

- If blacklisted dealer files his return and pay due taxes with interest his rating shall be improved to normal and in that case reversed ITC can be reclaimed by the buyer.

Following are the key points for blacklisting of a dealer:

- Continuous default for 3 months in paying reversed ITC.
- Continuous default of 3 mts. or any 3 mts. within 12 mts. in uploading OS details leading to reversal of ITC for others.
- Continuous short reporting of OS beyond 5% (of total T/O) for a period of 6 mts.

GST Compliance Rating

The profiles for all dealers would be posted in public domain so that the dealer community is kept aware of the compliance profile of all reg. dealers with whom they may have to deal with during the course of their business.

A careful buyer can take decision based on the compliance rating of his seller.

Auto-SMS will be sent to all dealers who have pre-reg. these dealer (black listed now) as their supplier.

Blacklisted GSTINs cannot be uploaded in purchase details and result in denial of ITC

Buyers can avail unclaimed ITC when this dealer uploads OS details along with payment of tax and interest.

Transitory provisions

In respect of the period ending on 31st Mar. 2017 RTP shall be entitled to take, in his electronic cr. Led., Cr. of the amt.

a) cenvat credit or Vat c/f in a return on inputs,

b) Unavailed cenvat credit in respect of capital goods (Total amt. available less the amt. cenvat credit already availed), not c/f in a return, furnished under the earlier law by him provided the said amt. was admissible cr. under the earlier law and is also admissible as ITC under GST.

The amt. taken as cr. as above shall be recovered as an arrears of tax under GST from RTP if the said amt. is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

Eligibility of ITC on Inputs in Stock

RTP under GST who :

- a) Was not liable to register under earlier law
- b) Is engaged in manufacturing of exempt goods under earlier law
- c) Has availed benefit of composition scheme under earlier law

is eligible to c/f duties & taxes in respect of:

inputs held in stock of R.M., semi- finished or finished goods held in stock on appointed date PROVIDED

- a) Intended to be used for making taxable supplies
- b) CENVAT credit under earlier law is not availed
- c) Not paying tax under composition scheme in GST .
- d) Such amt. should also be eligible for ITC under GST Law
- e) Invoices pertaining to cr. Not more than 12 months old.

Other Transitional Provisions

Any refund claim filed before appointed day to be paid in cash, if admissible under the provisions respective law.

If the claim of refund is rejected fully or partially the amount of rejected claim would lapse.

- The ITC of any service received prior to appointed day by ISD shall be eligible for distribution even if the invoice is received on or after appointed day.

Every proceeding of appeal, revision, etc. relating to claim for Cenvat credit under earlier law shall be disposed of in accordance with prov. of earlier law and if admissible same is to be refunded in cash subject to Sec.11B of C. excise Act. & not allowed as ITC. If any cr. is to be recoverable shall be recovered as an arrears of tax under GST Law

Other Transitional Provisions

If any tax, interest, fine or penalty becomes recoverable in pursuance of assessment or adjudication proceedings under earlier law instituted before or after appointed day then same is to be recovered as an arrears of tax under GST Law and recovered amount is not admissible as ITC. If the same becomes refundable then same is to be refunded in cash subject to Sec. 11B of Excise and not allowed as ITC. Where any refund furnished under earlier law is revised and if any amount is recoverable then same shall be recovered as an arrears of tax under GST Law and recovered amount not admissible as ITC. If the same becomes refundable then same is to be refunded in cash subject to Sec. 11B of central excise Act.

Some Points To Discuss

- 1) In case of migration of old dealers if registration will be cancelled the effect will be from appointed date. What will happen ITC of tax charged on supplies made by such dealers by charging tax in between period?
- 2) Excise paid on purchases by wholesalers to manufacturers lying in stock. Whether ITC of excise will be allowed in GST?
- 3) What about the cases falling u/r 52 A (goods sold by mega units), 52B (Cigars, mobiles, liquors etc.) 53 car for leasing where s/o is available on sale, billing etc?
- 4) What about refund of octroi paid on goods brought in before re- exported in GST regime?
- 5) What about PSI units and goods sold by them?

Thank You