

Eligibility and conditions for taking input tax credit

16.^[1] Eligibility and conditions for taking input tax credit

(1) ^[2] Every registered person shall, subject to such conditions and restrictions as may be prescribed ^[3] and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed ^[4];

(b) he has received the goods or services or both.

[Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, 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;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person; ^[5]

(c) subject to the provisions of section 41 [or section 43A] ^[6], the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty 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 his output tax liability, along with interest thereon,

in such manner as may be prescribed ^[7]:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3). Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961 (43 of 1961), the input tax credit on the said tax component shall not be allowed.

(4). A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

^[8] [Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under

the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.]

[1] Enforced with effect from 1.7.2017.

[2] Refer Cir. No. 48/2018- GST, dt. 14.6.2018; Cir. No. 73/2018- GST, dt. 5.11.2018; Cir. No. 92/2019- GST, dt. 7.3.2019; Cir. No. 98/2019- GST, dt. 23.4.2019; Cir. No. 105/2019- GST, dt. 28.6.2019.

[3] Refer rule 36 of the CGST Rules, 2017.

[4] Refer rule 36 of the CGST Rules, 2017.

[5] Substituted vide CGST Amendment Act, 2018 with effect from 01.02.2019 vide CGST Not. No. 02/2019 dt. 29.01.2019 Prior to its substitution, the phrase read as under:

“Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way transfer of documents of title to goods or otherwise;”

[6] Inserted vide CGST Amendment Act, 2018 with effect from a date to be notified by Central Government (Substituted for section 41 of the CGST Act.

[7] Refer rule 37 of the CGST Rules, 2017.

[8] Inserted by the Central goods & services tax (second removal of difficulties) order 2018, w.e.f. 31.12.2018.