

## Eligibility and conditions for taking input tax credit

### 16.<sup>[1]</sup> Eligibility and conditions for taking input tax credit

(1) <sup>[2]</sup> Every registered person shall, subject to such conditions and restrictions as may be prescribed <sup>[3]</sup> 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 <sup>[4]</sup>;

(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;]<sup>[5]</sup>

(c) subject to the provisions of section 41 [or section 43A]<sup>[6]</sup>, 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 <sup>[7]</sup>:

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.

<sup>[8]</sup> [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.

## Apportionment of credit and blocked credits

### 17.[1] Apportionment of credit and blocked credits.

(1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed<sup>[2]</sup>, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

[Explanation.—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the

value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule]<sup>(9)</sup>

(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

*Provided that* the option once exercised shall not be withdrawn during the remaining part of the financial year:

*Provided further that* the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(5) [Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:—

(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—

- (A) further supply of such motor vehicles; or
- (B) transportation of passengers; or
- (C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used—

(i) for making the following taxable supplies, namely:—

- (A) further supply of such vessels or aircraft; or
- (B) transportation of passengers; or
- (C) imparting training on navigating such vessels; or
- (D) imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

*Provided that* the input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged—

- (I) in the manufacture of such motor vehicles, vessels or aircraft; or
- (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(b) the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

*Provided that* the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both 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; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

*Provided that* the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.]<sup>(10)</sup>

- (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.

Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

- (e) goods or services or both on which tax has been paid under section 10;
- (f) goods or services or both received by a non-resident taxable person except on goods imported by him;
- (g) goods or services or both used for personal consumption;
- (h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- (i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

(6) The Government may prescribe<sup>[5]</sup> the manner in which the credit referred to in subsections (1) and (2) may be attributed.

Explanation.—For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” 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.

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[1] Enforced with effect from 1.7.2017.

[2] Refer rule 42 & 43 of the CGST Rules, 2017

[3] Inserted vide CGST Amendment Act, 2018 with effect from 01.02.2019 vide CGST Not. No. 02/2019 dt. 29.01.2019.

[4] 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 paragraph read as under:

- a. *motor vehicles and other conveyances except when they are used—*
- ii. *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;*
- iii. *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 aistered 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*

[5]

— Refer rule 42 & 43 of the CGST Rules, 2017.

## Availability of credit in special circumstances

### 18. <sup>[1]</sup> Availability of credit in special circumstances <sup>[2]</sup>—

(1) Subject to such conditions and restrictions as may be prescribed <sup>[3]</sup>—

a. a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax 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 the provisions of this Act;

b. a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax 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 grant of registration;

c. where any registered person ceases 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 and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:

*Provided that* the credit on capital goods shall be reduced by such percentage points as may be prescribed;

d. where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable 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 becomes taxable:

*Provided that* the credit on capital goods shall be reduced by such percentage points as may be prescribed.

(2) A registered person shall not be entitled to take input tax credit under sub-section (1) 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.

(3) Where there is a change in the constitution of a registered person on account of sale, merger, demerger,

amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed<sup>[4]</sup>.

(4) 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 the 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 points as may be prescribed<sup>[5]</sup>, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

*Provided that* after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

(5) The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed<sup>[6]</sup>.

(6) 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 points as may be prescribed<sup>[7]</sup> or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:

*Provided that* where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

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[1] Enforced with effect from 1.7.2017.

[2] Refer Not. No. 44/2017-CT, dt. 13.10.2017; Not No. 63/2017-CT, dt. 15.11.2017; Not. No. 53/2017-CT, dt. 28.10.2017; Not. No. 67/2017-CT, dt. 21.12.2017; Not. No. 42/2018-CT, dt. 4.9.2018 & Not. No. 52/2017-CT, dt. 28.10.2017.

[3] Refer rule 40 of the CGST Rules, 2017.

[4] Refer rule 41 of the CGST Rules, 2017; Cir. No. 56/2018- GST, dt. 24.8.2018. & Cir. No. 96/2019- GST, dt. 28.3.2019.

[5] Refer rule 44 of the CGST Rules, 2017.

[6] Refer rule 40 & 44 of the CGST Rules, 2017.

[7] Refer rule 44 of the CGST Rules, 2017.

**work****19.**<sup>[1]</sup>**Taking input tax credit in respect of inputs and capital goods sent for job-work.**

(1) The principal shall, 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.

(2) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without being first brought to his place of business.

(3) Where the inputs sent for job work 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 in accordance with clause (a) or clause (b) of sub-section (1) of section 143 within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out:

*Provided that* where 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.

(4) The principal shall, subject to such conditions and restrictions as may be prescribed<sup>[2]</sup>, be allowed input tax credit on capital goods sent to a job worker for job work.

(5) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job-work without being first brought to his place of business.

(6) Where 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 were sent out:

*Provided that* where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

(7) Nothing contained in sub-section (3) or sub-section (6) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

Explanation.—For the purpose of this section, “principal” means the person referred to in section 143.

<sup>[1]</sup>

Enforced with effect from 1.7.2017.

<sup>[2]</sup>

Refer rule 45 of the CGST Rules, 2017.

**Manner of distribution of credit by Input Service Distributor****20.**<sup>[1]</sup>**Manner of distribution of credit by Input Service Distributor<sup>[2]</sup>**

(1) The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated



tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed<sup>[3]</sup>.

(2) The Input Service Distributor may distribute the credit subject to the following conditions, namely:—

a. the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed<sup>[4]</sup>;

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

c. the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

d. the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

e. the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Explanation.—For the purposes of this section,—

a. the “relevant period” shall be—

i. if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or

ii. if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the 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;

b. the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

c. the term ‘turnover’, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under [entries 84 and 92A]<sup>[5]</sup> of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule<sup>[6]</sup>.

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[1] Enforced with effect from 1.7.2017.

[2] Refer Cir. No. 71/2018- GST, dt. 26.10.2018.

[3] Refer rule 39 of the CGST Rules, 2017.

[4] Refer rule 54 of the CGST Rules, 2017.

[5] Substituted for the phrase “entry 84” vide CGST Amendment Act, 2018 with effect from 01.02.2019 vide CGST Not. No. 02/2019 dt. 29.01.2019.

[6] For text of 7<sup>th</sup> Schedule to the constitution of India, see Appendix



## **Manner of recovery of credit distributed in excess.**

21. **[1] Manner of recovery of credit distributed in excess**

[2]

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

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[1] Enforced with effect from 1.7.2017.

[2] Refer Cir. No. 71/2018- GST, dt. 26/10/2018.