Input Tax Credit

business. (other than Capital Goods) | furtherance of business.

in the course / furtherance of by supplier, in the course / account of the person claiming the input tax Supply) in the course or furtherance of business

Sec 2(59) Input: Means any goods | Sec 2(60) Input Service: Means | Sec 2(19) Capital Goods: Means goods, the | Sec 2(62) "Input Tax":- 1) CGST/SGST/UTGST/IGST charged on used/intended to be used by supplier, any service used/intended to be used value of which is capitalised in the book of any supply of goods or services or both made to him (Inward

credit and which are used or intended to be used 2) the IGST charged on import of goods3) the tax payable under the RCM

but does not include the tax paid under the composition levy

Sec 2(82) "Output Tax": "Output tax" in relation to a taxable person, means the tax chargeable under this Act on

- ⇒ taxable supply ⇒ of goods or services or both
- nade by him or by his agent

but excludes tax payable by him on reverse charge basis.

Sec 16: Eligibility & Conditions for ITC

1) Eligibility criteria-

- → Person = Registered,
- ⇒ Supply = Used/Intended to be used in course / furtherence of his business

2) Conditions for availment of ITC:- (Overriding sec 16)

- a) He is in possession of a Tax Invoice/debit note
- aa) the details of the invoice or debit note has been furnished by the supplier in GSTR -1 and such details have been updated in GSTR - 2B of recipient.
- b) He has received the Goods/Services/Both

(For Bill to Ship to- it shall be deemed to be received

- **⊃** Goods- When goods are delivered by supplier
- ⇒ Services When services are provided
- The details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted
- Tax charged on such supply= has been actually paid to Govt. by the supplier
- He has furnished return u/s 39

Proviso 1:- ITC if Goods are received in Lots:- 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

Proviso 2:- Payment for the invoice to be made within 180 days (Rule 37)

- 1. Default: Failure by Recipient to pay (Wholly or partly) to the supplier the within 180 days from Invoice date.
- 2. Consequence: Amount equal to the ITC availed proportionate to amount not paid to supplier shall be paid by him along with interest payable u/s 50.
- 3. Details to be furnished: Details of defaulted supply, value not paid, ITC availed to be mentioned in FORM GSTR-3B for the month immediately after the expiry of 180 days from Invoice date.
- 4. Regain of Credit: Regain when payment is made to supplier (below time limit N.A. for regaining of ITC)
- 5. Non Applicability: This provision not applicable
- a) Tax payable under RCM b) Deemed supplies without consideration [Sch.I]
- c) Value of supplies on account as per sec 15(2)(b)

3) When depreciation is claimed on tax component-

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,

the input tax credit on the said tax component shall not be allowed.

4) Time limit of availing ITC-

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 30th day of November following the end of financial year to which such invoice or debit note pertains or
- furnishing of the relevant annual return.

whichever is earlier.

Rule 36- Documents Requirement :-

- ITC availed on the basis of following docs.-Invoice by supplier/ Invoice by recipient (RCM)/ Debit note/ Bill of entry/ Revised Invoice/ Docs. by ISD.
- 2) Mandatary Requirement in Invoice Details of tax, descriptions of goods or service, value of supply, GSTIN & place of supply.
- 3) No ITC- if tax has been paid & demand is confirmed because of fraud etc.
- (4) No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under section 37(1) unless,-
 - (a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-I or using the IFF; and
 - (b) the details of input tax credit in respect of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B.

SEC 38 : FURNISHING DETAILS OF INWARD SUPPLIES & INPUT TAX CREDIT

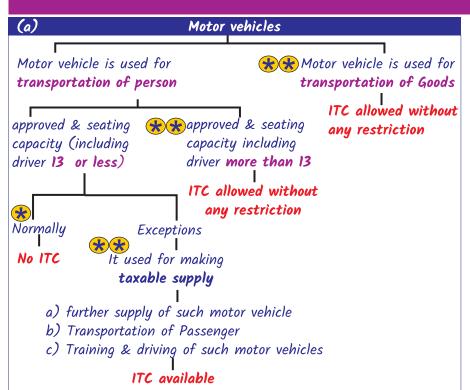
- ⇒ ITC not available under section 38 as per GSTR 2B if the supplier
 - > Is having new registration (upto the prescribed time period)
 - > has defaulted in tax payment and default has continued for the prescribed time period
 - > has tax paid in GSTR-3B lower than output tax shown in GSTR-1 by the prescribed limit
- > has taken more ITC in GSTR -2B than in GSTR 2B than in GSTR 3B by the prescribed limit
- > has paid higher proportion of taxes from his credit than what is allowed as per law
- > other notified persons

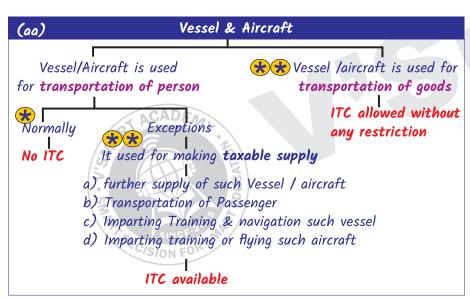
Sec 41:- Claim of ITC and Provisional acceptance thereof

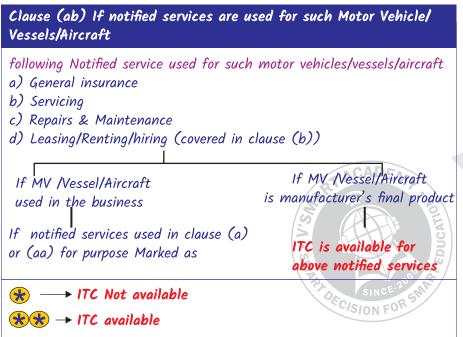
The taxpayer shall self-assess and claim ITC in GSTR 3B. It further provides that in case the taxpayer has claimed ITC of GST which is not paid/deposited by the corresponding supplier, than the taxpayer / recipient shall reverse the ITC along with interest. The recipient shall be eligible to re-claim the ITC reversed, on payment of GST by the supplier.

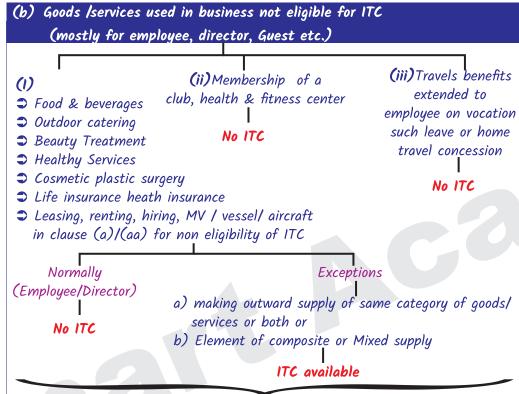
Rule 37A: Reversal of ITC in the case of non-payment of tax by the supplier and reavailment thereof:-

- ⇒ If the registered person has availed ITC & supplier furnished his GSTR I & if supplier has not furnished outward supplies in GSTR 3B till the 30th Sep, then the registered person shall reverse ITC in form GSTR 3B on or before 30th Nov following the end of FY.
- ⇒ If ITC is not reversed by Registered person, then amount shall be payable with interest u/s 50
- ⇒ If supplier furnishes GSTR 3B subsequently, registered person may re avail the amount of ITC.







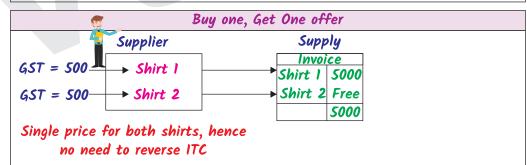


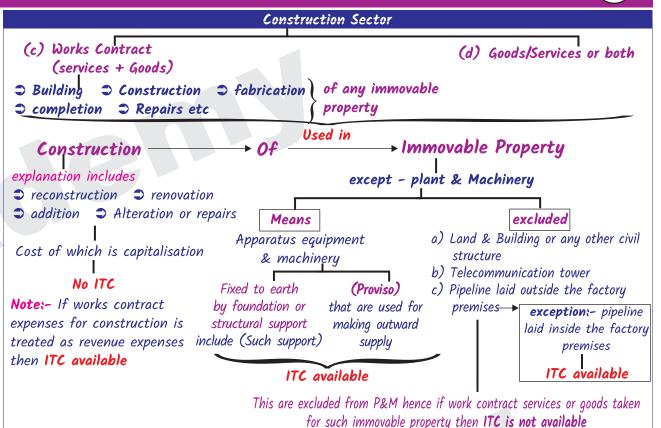
Proviso

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.

- 1) Circular no. 172/04/2022: Proviso after Sec 17(5)(b)(iii) ie 1TC of goods or services shall be available, which are obligatory for an employer to provide to its employees is applicable to the whole of Sec 17(5) (b).
- 2) Circular No. 206/18/2023: Input services in same line of business include transport of passengers or renting of motor vehicle with operator & not leasing of motor vehicles without operator which attracts GST for sale of motor vehicle







Exceptions

- except where it is an input service for further supply of works contract service (Who provides output works contract service has purchase any sub-contract's services then he is eligible for ITC credit on such work contract)
- ⇒ Making outward supply of the same category

ITC available

Other Points			r Points
		Non eligibility of ITC	Explanation
	e)	Goods or services or both on which tax has been paid under sec 10	अगर composition supplier के composition tax, invoice में लगाकर दे रहा हे, जो नहीं देना चाहिये था. So, recipient को उस Tax का credit नहीं मिलेगा
	f)	Goods or services or both received by NRTP	No ITC (Remark :- ITC available on imported goods by NRTP)
	fa)	Goods &/or services received by taxable person, which are used/intended to be used for activities relating to his obligations under CSR referred to in section 135 of Companies Act, 2013	No ITC
	<i>g)</i>	Goods or services or both used for personal consumption	No ITC
Goods Lost, destroyed, stolen, written off Transit Loss Store Loss Processed Loss (Sec 17(5)(h)) If ITC taken Reverse the ITC or add in Dougle taken it		Driver taken	ten off may be Gift Free Sample silly or partly If ITC taken If ITC Not taken
		Reverse the ITC or add in Don't take it output tax liability Sec 17(5)(h)	Supply -Sche I-Para I don't take it Value - Rule 30 u/s17(5)(h) ITC - available
	I)		statement or suppression of fact tention, seizure goods in transit removed leg of provision

Sec 130-Confiscation of goods

Sec 18: Availment or Reversal of Credit

Sec 18(1) Availment of Credit (a) (b) Person applied or registration within voluntary registration Within Registration Registered person switching from composition levy to normal tax payment supplies becoming a taxable supply supplies becoming a taxable supplies becoming a taxa

Person entitled for ITC on

- Input as such held in stock
- Inputs contained in semi-finished goods
- Inputs contained in finished goods held in stcok

liable for registration

No benefit on Capital goods

If person liable for registration

On the date immediately preceding the date from which he becomes liable to pay tax

Voluntary Registration

on the date immediately preceding the date of registration

Important Comment:

If person failed to apply for reg. within 30 days then he is not eligible to take such ITC.

Person entitled for ITC on

- Input as such held in stock
- Inputs contained in semi finished goods
- Inputs contained in finished goods held in stock
- Capital goods

[ITC = Input tax - 5% per qtr. or part there of from the date of invoice.]

Composition to normal: on the date immediately preceding the date from which person become liable to pay tax under normal scheme

Exempt to taxable: on the date immediately preceding the date from which such supply become taxable.

Imp provisions of rule 40:

- a) Declaration in form GST ITC of within 30 days (empower the commissioner to extend the time period for submission of such declaration)
- b) If the aggregate claim amt is more than ₹ 2,00,000 it should be duly certified by practicing CA or CMA

Sec 18 (3) Transfer of ITC

In case of

Sale, Amalgamation,
 Lease, Transfer of business

In case of Demerger

The Registered person shall transfer his unutilized ITC in Ecr ledger of transferee

Registered person apportion his ITC in ratio of Value of asset transferred to demerged unit

'Value of assets" means the value of the entire assets of the business, whether or not upper tax credit has been availed thereon

Conditions

- 1) There is a specific provision for transfer of liabilities
- 2) Conditions of Rule 41
 - (a) declaration of details in the form GST ITC 02 for transfer of credit.
 - (b) Certification of transfer of liabilities from CA/CMA
 - (c) Acceptance of transferred credit by transferee on common portal
 - (d) inputs & capital goods so transferred are duly accounted by transferee in his books of A/c

As per Sec 18(2) person is not entitled to take ITC if supply of input or capital goods is after expiry of I year from the date of issue of tax invoice.

Reversal of Credit

Sec 18(4) Reversal of credit in Special Cases

Registered person switching from normal scheme of payment of tax to composition Scheme

Taxable supply becomes exempt Supply

Cancellation of Registration

1) Amt to be reversed is equivalent to ITC on

- Input as such held in stock
- Inputs contained in semi finished goods
- Inputs contained in finished goods held in stock
- Capital goods [reversal on prorata basis pertaining to remaining useful life in a month (taking useful life as 5 yrs.

After reversal balance if any in Ecr. ledger shall lapse

Illustration: Capital goods have been in use for 4 years, 6 month and 15 days.

The useful remaining life in months= 5 months ignoring a part of the month

Input tax credit taken on such capital goods= C

Input tax credit attributable to remaining useful life= C multiplied by 5/60

Rule 44: Procedure & conditions

- Reversal of inputs shall be determined with corresponding invoices. If invoice is not available then reversal is based on prevailing market price of inputs.
- 2) Reversal of ITC shall be calculated separately for CGST, SGST & IGST.
- 3) Reversal amt. will be added in output tax liability & details to be furnished in GST ITC 03

Sec 18 (6): Reversal of credit on supply of Capital Goods/ Plant & Machinery on which ITC has been taken

- I) If capital goods or plant & machinery on which ITC has been taken are supplied [Removed as such by way of sale transfer barter etc.] then registered person shall pay higher of the following
 - a) Payment = ITC 5% per quarter or part thereof OR
 - b) GST on transaction value
- In case of refractory bricks, moulds & dies, jigs & fixtures, supplied as
 a scrap then person may pay tax on transaction value instead of above
 2 options.