

# **ALL ABOUT BLOCK INPUT TAX**

## **CREDIT IN GST**

### **INTRODUCTION**

In this article will study about Meaning of Input Tax Credit, Conditions for Eligible Input Tax Credit, What is Block Input Tax Credit, Items which are not allowed to take credit, and finally Author's View

### **What is ITC?**

Input Tax Credit Mechanism is available to you when you are registered as a Taxpayer under GST Act whether you are Manufacturer, Supplier, Agent, E-Commerce Operator etc. You are eligible to claim ITC on your Purchases.

# CONDITIONS FOR ELIGIBLE INPUT

## TAX CREDIT UNDER SECTION 16

1).....

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;

[(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 i.e GSTR 1;]

(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;]

(c) subject to the provisions of section 41, **the tax charged in respect of such supply has been actually paid to the Government**, either in cash or through utilization of input tax credit admissible in respect of the said supply; and

(d) he **(Recipient) has furnished the return under section 39 I.e GSTR 3B:**

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

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:

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.

## **MEANING OF BLOCK CREDIT**

Blocked Credit under GST means the supply of goods and services on which the availment of credit has been restricted by the relevant provisions of law.

## **ITEMS ON WHICH CREDIT NOT ALLOWED IN GST**

(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, 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;]

(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 subsection (2), or avail of, every month, an amount equal to fifty percent 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 percent shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number (PAN).

(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (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.]

(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 reconstruction, renovation, additions or alterations or repairs, to the extent of capitalization, 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.

Section 74:- Determination of tax not paid or short paid or erroneously refunded or input tax credit

wrongly availed or utilized by reason of fraud or any willful- misstatement or suppression of facts

Section 129:- Detention, seizure and release of goods and conveyances in transit

Section 130:- Confiscation (Seizure) of goods or conveyances and levy of penalty

(6) The Government may prescribe the manner in which the credit referred to in sub-sections (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
- (iv) Pipelines laid outside the factory premises.

## **AUTHOR VIEW**

According to me the Input Tax Credit (ITC) can only be availed, if you are fulfilling all the conditions of Section 16 (2) but it's sad to say that many taxpayers are also taking credit for goods which are falling under Block Credit for example they are taking credit of car, lift etc and also states there Advocates, CA, Practitioners to take the credit and they'll handle themselves at the time scrutiny as Audit has been removed in the Budget, this is hampering the practice of a genuine tax professional which ultimately lead to rise of corruption. Recently a judgment of Gujarat High Court in the case of M/S Wago Private Limited which stated that ITC for Air Conditioner, Cooling System, Ventilation System is not allowed, as it is under Section 17(5)(c) of CGST Act.

## **FACT OF THE CASE**

Air Conditioning being a machine, all the parts are being fitted in building which lose their identity as machines or parts of machines become a system. It is also stated that AC being a system cannot be transported from one place to another, the shifting is done only by dismantling the plant. Therefore, it cannot be considered as a movable property.

## **DISCLAIMER**

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