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# Introduction

The GST regime promises seamless credit on goods and services across the entire supply chain with some exceptions like supplies charged to tax under composition scheme and supply of exempted goods and/or services. ITC is considered to be the lifeline of the GST regime. In fact, it is the provisions of ITC which essentially make GST a value added tax i.e. collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.

Chapter V of the CGST Act [Sec 16 to Sec 21] and

Chapter V of the CGST Rules – Input Tax Credit prescribes the provisions relating to ITC

Further Sec 49 and Rule 88A prescribe identical provisions relating to manner of utilization of ITC.

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

**Sec 2(62)** “**INPUT TAX**” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and **includes**—

(a) the integrated goods and services tax charged on **import of goods**;

(b) the tax payable under the provisions of sub-sections **(3) and (4) of section 9**;

(c) the tax payable under the provisions of sub-sections **(3) and (4) of section 5** of the Integrated Goods and Services Tax Act;

(d) the tax payable under the provisions of sub-sections **(3) and (4) of section 9** of the respective State Goods and Services Tax Act; or

(e) the tax payable under the provisions of sub-sections **(3) and (4) of section 7** of the Union Territory Goods and Services Tax Act,

**but does not include** the tax paid under the composition levy;

**Sec 2(63)** “**INPUT TAX CREDIT**” means the credit of input tax;

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

Sec 2(19) “**CAPITAL GOODS**” means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;

Sec 2(59) “**INPUT**” means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

Sec 2(60) “**INPUT SERVICE**” means any service used or intended to be used by a supplier in the course or furtherance of business;

Sec 2(94) “**REGISTERED PERSON**” means a person who is registered under section 25 but does not include a person having a Unique Identity Number;

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

Sec 37 – Furnishing details of outward supplies (GSTR-1)

Sec 38 – Furnishing details of inward supplies. (GSTR—2)

Sec 39 – Furnishing of returns (GSTR-3B)

Sec 40 – First Return

Sec 41 – Claim of input tax credit and provisional acceptance thereof.

Sec 42 – Matching, reversal and reclaim of input tax credit.

Sec 43A – Procedure for furnishing return and availing input tax credit.

Sec 49 – Payment of tax, interest, penalty and other amounts.

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

**Sec 16(1)** Every registered person shall, subject to such conditions and restrictions as may be prescribed 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.

S. No	Outward Supplies	Availability of ITC
1.	Business Purpose (Sec 16(1)+17(1))	Available
2.	Non-Business Purpose (Sec 16(1)+17(1))	Not Available
3.	Exempt Supplies (Sec 17(2))	Not Available
4.	Zero – Rated Supplies (Sec 17(2))	Available
5.	Export or Supply to SEZ units or Developer of Exempt Supplies (Sec 16(2) of IGST Act, 2017)	<b>Available</b>

**Note:** It is important to observe the words ‘to him’ and ‘of his business’. These words refer to the registered taxable person in question and not the legal entity as a whole. So, ITC paid in a State MUST NOT be in relation to the business of a taxable person in another State even if belonging to the same taxable person.

For example, ABC Ltd in Gwalior takes Term Loan from ICICI Bank for its plant located in Rajasthan and processing fee is charged by the bank in MP for such loan. ICICI Bank charges CGST & SGST because ABC had provided Gwalior address and GSTIN to the bank. Since, the loan will be utilized in Rajasthan for making taxable supplies. Therefore, ABC Ltd can not claim input tax credit of such amount in MP and it may transfer input tax credit to Rajasthan through ISD (INPUT Service Distributor) mechanism for utilization at Rajasthan.

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

**Sec 16(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; **[Inserted vide The Finance Act, 2021, w.e.f. 1-1-2022]**

**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; **[Bill to Ship to Model]**

**(ii)** where the **services** are provided by the supplier to any person on the direction of and on account of such registered person.

**(ba)** the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted; **[Inserted vide The Finance Act, 2022, w.e.f. 1-10-2022]**



# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

- c) subject to the provisions of section 41 [~~or section 43A~~], 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 **[Words in brackets omitted vide The Finance Act, 2022, w.e.f. 1-10-2022]**
  
- c) **he** has furnished the return under section 39:

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

**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 **180 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]~~ [paid by him along with interest payable under section 50], in such manner as may be **prescribed**: **[the proviso has been amended to allow for reversal of ITC on non-payment to supplier, in place of payment by adding to his output tax liability, through FA, 2023, w.e.f. 1-10-2023]**

**Provided also that** the recipient shall be entitled to avail of the credit of input tax on payment made by him [to the supplier] of the amount towards the value of supply of goods or services or both along with tax payable thereon. **[the proviso has been amended to allow for entitlement of ITC only on payment to supplier and non-other, through FA, 2023, w.e.f. 1-10-2023. It is a harsh amendment]**

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

**2<sup>nd</sup> Proviso to Sec 16(2) read with Rule 37 (R-37 has been amended by NN 19/2022-CT, dated 28-9-2022, w.e.f. 1-10-2022 and further amended vide NN 26/2022-CT, w.e.f. 1-10-2022) -**

**Exceptions to 2<sup>nd</sup> Proviso to Sec 16(2) –**

1. Supplies on which tax is payable under reverse charge.
2. Deemed supplies without consideration.
3. Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply.

**Amendment through NN 26/2022-CT has been issued to clarify that amount to be reversed should be proportionate to the amount not paid to the supplier (Amount = Taxable Value + GST)**

**Example of 2<sup>nd</sup> and 3<sup>rd</sup> Proviso –**

Due to a quality dispute, PZR Ltd. Withheld payment on a machine supplied by a vendor till it could be rectified. Over 180 days went by in this dispute. The credit taken by PZR shall be payable by PZR Ltd. Along with interest u/s 50, while furnishing the return in **FORM GSTR-3B** in the period immediately following the period of 180 days from the date of issue of the invoice.

Only after the vendor rectified the machine and PZR released the payment, could PZR take the credit again and in taking the credit of this invoice time limit u/s 16(4) shall not be applicable.

Invoice Date	Payment not made till	ITC to be reversed in	Interest to be paid for
1-2-2022	31-7-2022	GSTR-3B of July,2022	21-8-2022 till date of reversal. (assuming return for feb'22 and July'22 filed on last due date)

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

## **New Rule 37A inserted vide NN 26/2022-CT w.e.f. 26-12-2022**

### **Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof.-**

Where input tax credit has been availed by a registered person in the return in **FORM GSTR-3B** for a tax period in respect of such invoice or debit note, the details of which have been furnished by the supplier in the statement of outward supplies in **FORM GSTR-1** or using the invoice furnishing facility, but the return in **FORM GSTR-3B** for the tax period corresponding to the said statement of outward supplies has not been furnished by such supplier till the **30th day of September** following the end of financial year in which the input tax credit in respect of such invoice or debit note has been availed, the said amount of input tax credit shall be **reversed** by the said registered person, while furnishing a return in **FORM GSTR-3B on or before the 30th day of November following the end of such financial year:**

**Provided that** where the said amount of input tax credit is not reversed by the registered person in a return in FORM GSTR-3B on or before the 30th day of November following the end of such financial year during which such input tax credit has been availed, such amount shall be payable by the said person along with interest thereon under section 50.

**Provided further that** where the said supplier subsequently furnishes the return in FORM GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in FORM GSTR-3B for a tax period thereafter.

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

## **Notes on Rule 37A –**

1. The Rule 37A has travelled beyond Sec 41, which is the parent section of the rule. Sec 41 talks about invoice-wise/supply-wise checking whether tax has been paid on the supply whereas Rule 37A talks about Return in Form GSTR-3B being used as a mechanism to check whether tax has been paid on a particular supply.  
There is a legal proposition based on the maxim "*Expressio unius est exclusio alterius*", meaning thereby that if a statute provides for a thing to be done in a particular way, then it has to be done in that manner and in no other manner and following any other course is not permissible.
2. It may be noted that rule provides that ITC can be re-availed once the supplier subsequently furnishes GSTR-3B for the said tax period, however, the provision does not provide for re-availment or refund of the interest component paid by the recipient.
3. it seems that extended time limit would be available to make good the default made by supplier in those cases where ITC has been availed by the recipient in the next FY by 30th November succeeding the FY to which such invoice pertains. Take an example wherein the recipient availed ITC of January 2022 invoice in Form GSTR-3B of January 2022. Assuming that the supplier furnished Form GSTR-1 in January 2022 but did not file Form GSTR-3B for January 2022 by September 2022. In such a case, ITC will have to be reversed by recipient by 30th November 2022. Take another example where the recipient has missed to avail ITC in the month of January 2022 and availed the same in the month of September 2022, then the ITC reversal would be required by 30th November 2023 if Form GSTR-3B for the said month is not filed by the supplier by 30th September 2023 for the reason that the relevant FY in such cases would be 2022-23 in which ITC is availed by the recipient.

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

**Sec 16(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, the **input tax credit on the said tax component shall not be allowed.**

**Sec 16(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 **[30<sup>th</sup> day of November]** 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. [Omitted vide The Finance Act, 2020, w.e.f. 1-1-2021, Words in brackets substituted vide The Finance Act, 2022, w.e.f. 1-10-2022, it earlier read as “due date of furnishing of the return under section 39 for the month of September”]**

**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.”.

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

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**

## **Example –**

ABC Ltd delivered a machinery to XYZ in January 20xx under Invoice no. 49 dated 28<sup>th</sup> Jan, 20xx for Rs. 4,15,000 plus GST, and undertook trial runs and calibration of the machine as per the requirements of XYZ.

The amount chargeable for the post-delivery activities was covered in a debit note raised in April, 20xx for Rs. 50,000 plus GST. XYZ did not file its return under section 39 till Oct, 20xx.

Though the debit note was received in the next financial year, it relates to an invoice received in the financial year ending Mar 20xx. Therefore, the time limit for taking ITC available on Rs. 50,000 as well as on Rs. 4,15,000 is 20<sup>th</sup> Oct, 20xx.

**This position has been reversed by Finance Bill, 2020, w.e.f. 1-1-2021. W.e.f. 1-1-2021, words “invoice relating to such” has been deleted to provide that the time limit to avail input tax credit in relation to debit notes is from the date of such debit note and NOT the date of invoice to which the debit note pertains.**

# Eligibility and Conditions for taking Input Tax Credit (Sec 16)

## **Circular No. 160/16/2021-GST dated 20th Sept, 2021 has clarified the amendment of Sec 16(4)**

**Issue** - Whether any availment of input tax credit, on or after 01.01.2021, in respect of debit notes issued either prior to or after 01.01.2021, will be governed by the provisions of the amended section 16(4), or the amended provision will be applicable only in respect of the debit notes issued after 01.01.2021?

### **Clarification –**

The availment of ITC on debit notes in respect of amended provision shall be applicable from 01.01.2021. Accordingly, for availment of ITC on or after 01.01.2021, in respect of debit notes issued either prior to or after 01.01.2021, the eligibility for availment of ITC will be governed by the amended provision of section 16(4), whereas any ITC availed prior to 01.01.2021, in respect of debit notes, shall be governed under the provisions of section 16(4), as it existed before the said amendment on 01.01.2021.

**Illustration 1.** A debit note dated 07.07.2021 is issued in respect of the original invoice dated 16.03.2021. As the invoice pertains to F.Y. 2020- 21, the relevant financial year for availment of ITC in respect of the said invoice in terms of section 16(4) of the CGST shall be 2020-21. However, as the debit note has been issued in FY 2021-22, the relevant financial year for availment of ITC in respect of the said debit note shall be 2021-22 in terms of amended provision of section 16(4) of the CGST Act.

**Illustration 2.** A debit note has been issued on 10.11.2020 in respect an invoice dated 15.07.2019. As per amended provision of section 16(4), the relevant financial year for availment of input tax credit on the said debit note, on or after 01.01.2021, will be FY 2020-21 and accordingly, the registered person can avail ITC on the same till due date of furnishing of FORM GSTR-3B for the month of September, 2021 or furnishing of the annual return for FY 2020-21, whichever is earlier.



# Claim of ITC and Provisional Acceptance thereof (Sec 41)

## Sec 41 : Claim of input tax credit and provisional acceptance thereof

**Sec 41(1)** Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited [~~on a provisional basis~~] to his electronic credit ledger.

**Sec 41(2)** The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

**Provided that** where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

~~[Sec 41(2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.]~~

**[Substituted vide The Finance Act, 2022, w.e.f. 1-10-2022. (Made effective through NN 18/2022-CT dated 28th Sept, 2022.)]**

### **Notes –**

1. The concept of provisional ITC is removed and ITC availed in monthly returns would be considered as Final.
2. ITC may have to be reversed along with interest (if ITC is utilised), if tax is not paid by the supplier to the Govt.
3. ITC can be re-availed once the supplier pays the tax.

# Input Tax Credit (Sec 16 read with Rule 36 of CGST Rule,2017)

**Rule 36(1)** The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-

- (a) **an invoice** issued by the supplier of goods or services or both in accordance with the provisions of **section 31**;
- (b) **an invoice** issued in accordance with the provisions of **clause (f) of sub-section (3) of section 31**, subject to the payment of tax;
- (c) **a debit note** issued by a supplier in accordance with the provisions of **section 34**;
- (d) **a bill of entry** or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
- (e) **an Input Service Distributor invoice or Input Service Distributor credit note** or any document issued by an Input Service Distributor in accordance with the provisions of **sub-rule (1) of rule 54**.

**Rule 36(2)** Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document [~~and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person:~~] **[R-36 amended vide NN 19/2022-CT, w.e.f. 1-10-2022]**

**Provided that** if the said document does not contain all the specified particulars but contains the

- details of the amount of tax charged,
- description of goods or services,
- total value of supply of goods or services or both,
- GSTIN of the supplier and recipient and
- place of supply in case of inter-State supply, input tax credit may be availed by such registered person.

# Input Tax Credit (Sec 16 read with Rule 36 of CGST Rule,2017)

**Rule 36(3)** No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.

**Rule 36(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 sub-section (1) of section 37 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-1** or using the invoice furnishing facility; 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** under sub-rule (7) of rule 60. [Rule 36(4) inserted by NN 49/2019-CT, w.e.f. 9-10-2019 and 20% substituted by 10% by NN 75/2019-CT, w.e.f. 1-1-2020 and 10% substituted by 5% by NN 94/2020-CT, w.e.f. 1-1-2021, substituted by new rule by NN 40/2021-CT, w.e.f. 1-1-2022][Italics portion of R-36(4) has been inserted vide NN 19/2022-CT, w.e.f. 1-10-2022]

## Note –

1. Sub-rule (4) of rule 36, has been substituted, w.e.f. 1-1-2022, stating that only credit communicated to a registered person in **FORM GSTR-2B** can be claimed by him. The provision to claim 5% more than the eligible credit has been done away with.

## **Clarification issued vide Circular No. 183/15/2022-GST dated 27-12-2022**

Circular has been issued for FY 2017-18 and FY 2018-19 as restrictions under R-36(4) were made effective from 9-10-2019. Circular clarifies the steps to be taken by proper officer in case of mismatch between credit as per GSTR-2A and GSTR-3B and states that –

**Para 4 of Circular** - The proper officer shall first seek the details from the registered person regarding all the invoices on which ITC has been availed by the registered person in his FORM GSTR 3B but which are not reflecting in his FORM GSTR 2A. He shall then ascertain fulfillment of the following conditions of Section 16 of CGST Act in respect of the input tax credit availed on such invoices by the said registered person:

- i) that he is in possession of a tax invoice or debit note issued by the supplier or such other tax paying documents;
- ii) that he has received the goods or services or both;
- iii) that he has made payment for the amount towards the value of supply, along with tax payable thereon, to the supplier.

Besides, the proper officer shall also check whether any reversal of input tax credit is required to be made in accordance with section 17 or section 18 of CGST Act and also whether the said input tax credit has been availed within the time period specified under sub-section (4) of section 16 of CGST Act.

# Input Tax Credit (Sec 16 read with Rule 36 of CGST Rule,2017)

**Para 4.1 of Circular** - In order to verify the condition of clause (c) of sub-section (2) of Section 16 of CGST Act that tax on the said supply has been paid by the supplier, the following action may be taken by the proper officer:

**Para 4.1.1 of Circular** - In case, where **difference** between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said **financial year exceeds Rs 5 lakh**, the proper officer shall ask the registered person to produce **a certificate for the concerned supplier from the Chartered Accountant (CA) or the Cost Accountant (CMA)**, certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR 3B. Certificate issued by CA or CMA shall contain UDIN. UDIN of the certificate issued by CAs can be verified from ICAI website <https://udin.icaai.org/search-udin> and that issued by CMAs can be verified from ICMAI website <https://eicmai.in/udin/VerifyUDIN.aspx> .

**Para 4.1.2 of Circular** - In cases, where **difference** between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said **financial year is upto Rs 5 lakh**, the proper officer shall ask the claimant to produce **a certificate from the concerned supplier** to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B.

# Input Tax Credit (Sec 16 read with Rule 36 of CGST Rule,2017)

**Circular also states the scenario in which this circular may be of use –**

Scenario	Clarification
Where the supplier has failed to file FORM GSTR-1 for a tax period but has filed the return in FORM GSTR-3B for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-2A of the recipients.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.
Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but has failed to report a particular supply in FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the recipient.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.
Where supplies were made to a registered person and invoice is issued as per Rule 46 of CGST Rules containing GSTIN of the recipient, but supplier has wrongly reported the said supply as B2C supply, instead of B2B supply, in his FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the said registered person.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.

# Input Tax Credit (Sec 16 read with Rule 36 of CGST Rule,2017)

**Circular also states the scenario in which this circular may be of use –**

Scenario	Clarification
<p>Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but he has declared the supply with wrong GSTIN of the recipient in FORM GSTR-1.</p>	<p>In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.</p> <p>In addition, the proper officer of the actual recipient shall intimate the concerned jurisdictional tax authority of the registered person, whose GSTIN has been mentioned wrongly, that ITC on those transactions is required to be disallowed, if claimed by such recipients in their FORM GSTR-3B. However, allowance of ITC to the actual recipient shall not depend on the completion of the action by the tax authority of such registered person, whose GSTIN has been mentioned wrongly, and such action will be pursued as an independent action.</p>

# Input Tax Credit (Sec 16 read with Rule 36 of CGST Rule,2017)

## **Circular No. 193/05/2023-GST dated 17-7-2023 - Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021.**

4. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby clarifies as follows:
  - i. Since rule 36(4) came into effect from 09.10.2019 only, the **guidelines provided by Circular No. 183/15/2022-GST** dated 27th December, 2022 shall be applicable, **in toto, for the period from 01.04.2019 to 08.10.2019.**
  - ii. In respect of period from 09.10.2019 to 31.12.2019, rule 36(4) of CGST Rules permitted availment of Input tax credit by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in FORM GSTR-1 or using IFF to the extent not exceeding 20 per cent. of the eligible credit available in respect of invoices or debit notes, the details of which have been furnished by the suppliers under sub-section (1) of section 37 in FORM GSTR-1 or using IFF. Accordingly, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable for verification of the condition of clause (c) of sub-section (2) of Section 16 of CGST Act for the said period, subject to the condition that availment of Input tax credit by the registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in FORM GSTR-1 or using IFF shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in FORM GSTR-1 or using IFF.



# Input Tax Credit (Sec 16 read with Rule 36 of CGST Rule,2017)

This is clarified through an illustration below:

*Illustration:* Consider a case where the total amount of

- ITC available as per FORM GSTR-2A of the registered person was Rs. 3,00,000, whereas,
  - The amount of ITC availed in FORM GSTR-3B by the said RP during the corresponding tax period was Rs. 5,00,000.
  - However, as per rule 36(4) of CGST Rules as applicable during the said period, the said registered person was not allowed to avail ITC in excess of an amount of  $\text{Rs } 3,00,000 * 1.2 = \text{Rs. } 3,60,000$ .
  - In the above case, the ITC of Rs 1,40,000 which has been availed in excess of Rs. 3,60,000 shall not be admissible as per rule 36(4) of CGST Rules as applicable during the said period even if the requisite certificate as prescribed in Circular No. 183/15/2022-GST dated 27.12.2022 is submitted by the registered person.
  - Therefore, ITC availed in FORM GSTR-3B in excess of that available in FORM GSTR-2A up to an amount of Rs 60,000 only (i.e.  $3,60,000 - 3,00,000$ ) can be allowed subject to production of the requisite certificates as per Circular No. 183/15/2022-GST dated 27.12.2022.
- iii. Similarly, for the period from 01.01.2020 to 31.12.2020, when rule 36(4) of CGST Rules allowed additional credit to the tune of 10% in excess of the that reported by the suppliers in their FORM GSTR-1 or IFF, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, for verification of the condition of clause (c) of sub-section (2) of Section 16 of CGST Act for the said period, subject to the condition that availment of Input tax credit by the registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in FORM GSTR-1 or using the IFF shall not exceed 10 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in FORM GSTR-1 or using the IFF.

# Input Tax Credit (Sec 16 read with Rule 36 of CGST Rule,2017)

- iv. Further, for the period from 01.01.2021 to 31.12.2021, when rule 36(4) of CGST Rules allowed additional credit to the tune of 5% in excess of that reported by the suppliers in their FORM GSTR-1 or IFF, the guidelines provided by Circular No. 183/15/2022-GST dated 27thDecember, 2022 shall be applicable, for verification of the condition of clause (c) of sub-section (2) of Section 16 of CGST Act for the said period, subject to the condition that avilment of Input tax credit by the registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in FORM GSTR-1 or using the IFF shall not exceed 5 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in FORM GSTR-1 or using the IFF.
5. It is further clarified that consequent to insertion of clause (aa) to sub-section (2) of section 16 of the CGST Act and amendment of rule 36(4) of CGST Rules w.e.f. 01.01.2022, no ITC shall be allowed for the period 01.01.2022 onwards in respect of a supply unless the same is reported by his suppliers in their FORM GSTR-1 or using IFF and is communicated to the said registered person in FORM GSTR-2B.
6. Further, it may be noted that proviso to rule 36(4) of CGST Rules was inserted vide N.No. 30/2020-CT dated 03.04.2020 to provide that the condition of rule 36(4) shall be applicable cumulatively for the period February to August, 2020 and ITC shall be adjusted on cumulative basis for the said months in the return for the tax period of September 2020. Similarly, second proviso to rule 36(4) of CGST Rules was substituted vide N.No. 27/2021-CT dated 01.06.2021 to provide that the condition of rule 36(4) shall be applicable cumulatively for the period April to June, 2021 and ITC shall be adjusted on cumulative basis for the said months in the return for the tax period of June 2021. The same may be taken into consideration while determining the amount of ITC eligibility for the said tax periods.

# Apportionment of credit and blocked credits (Sec 17)

**Sec 17(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.

**Example** – A registered person is in the business of manufacturing shoes. He gave 50 pairs of shoes to his friends free of cost. ITC on inputs and input services attributable to such 50 pair of shoes being used for non-business purpose will not be available.

**Sec 17(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.

# Apportionment of credit and blocked credits (Sec 17)

**Sec 17(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

(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and

(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.” **[Second clause inserted in explanation through FA, 2023 w.e.f. 1-10-2023]**

# Apportionment of credit and blocked credits (Sec 17)

**Sec 17(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 50% 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 50% shall not apply to the tax paid on supplies made by one registered person to another registered person having the same **Permanent Account Number**.

## **Note –**

1. 50% of eligible input tax credit means that credit of tax paid on input and input services that are for non-business purpose and items mentioned u/s section 17(5) (blocked credits) **cannot** be availed.

# Apportionment of credit and blocked credits (Sec 17)

**Sec 17(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;

# Apportionment of credit and blocked credits (Sec 17)

(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;

# Apportionment of credit and blocked credits (Sec 17)

Blocked Vehicle	Normal Vehicle
<p><b><u>Blocked Vehicle</u></b></p> <ol style="list-style-type: none"> <li>1. Transportation of persons <b>AND</b></li> <li>2. Not more than 13 persons</li> </ol>	<p><b><u>Normal Vehicle (Not Blocked)</u></b></p> <ol style="list-style-type: none"> <li>1. Transportation of goods <b>OR</b></li> <li>2. More than 13 persons</li> </ol>
<p><b><u>Specified Purpose</u></b></p> <p>Used for making the following taxable supplies –</p> <ol style="list-style-type: none"> <li>1. Further supply of such motor vehicles or</li> <li>2. Transportation of passengers or</li> <li>3. Imparting training on driving such motor vehicles</li> </ol>	<p><b><u>Other than Specified Purpose</u></b></p>

Nature of Purchase	Availability of ITC
Normal Vehicle	ITC Allowed on new car/insurance/servicing/R&M/Rent
Normal Vehicle + Specified / Non-Specified Purpose	ITC Allowed on new car/insurance/servicing/R&M/Rent
Blocked Vehicle	ITC not allowed on new car/insurance/Servicing/R&M/Rent
Blocked Vehicle + Specified Purpose	ITC Allowed on new car/insurance/Servicing/R&M/Rent



# Apportionment of credit and blocked credits (Sec 17)

(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.**

# Apportionment of credit and blocked credits (Sec 17)

## Note –

1. ITC in respect of such goods or services or both shall be available, where it is obligatory for an employer under any law for the time being in force is applicable to sub-clause (i), (ii) and (iii).
2. However, AAR, Gujarat held that sec 17(5)(b)(i) sub-clause ending with a colon and followed by a proviso which ends with a semi colon is to be read as independent sub-clause, independent of sec 17(5)(b)(iii) and its proviso [of sub-clause (iii)]. Thereby, the proviso to sec 17(5)(b)(iii) is not connected to the sub-clause of sec 17(5)(b)(i) and cannot be read into it. Hence, input tax credit on GST paid on canteen facility is blocked credit under sec 17(5)(b)(i) of CGST Act and inadmissible to applicant- AAR, Gujarat in Re: Tata Motors Ltd. [Ruling no. GUJ/GAAR/R/39/2021 dated 30.07.2021]
3. **The government has over-ruled the Gujarat AAR ruling by issuing a circular No. 172/04/2022-GST dated 6-7-2022** which states that “The said amendment in sub-section (5) of section 17 of the CGST Act was made based on the recommendations of GST Council in its 28th meeting. The intent of the said amendment in sub-section (5) of section 17, as recommended by the GST Council in its 28th meeting, was made known to the trade and industry through the Press Note on Recommendations made during the 28th meeting of the GST Council, dated 21.07.2018. It had been clarified “that scope of input tax credit is being widened, and it would now be made available in respect of Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force.” Accordingly, it is clarified that the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the whole of clause (b) of sub-section (5) of section 17 of the CGST Act.”

# Apportionment of credit and blocked credits (Sec 17)

## Note –

4. It was also clarified **by issuing a circular No. 172/04/2022-GST dated 6-7-2022 that** “It is clarified that “leasing” referred in sub-clause (i) of clause (b) of sub-section (5) of section 17 refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items. Accordingly, availment of ITC is not barred under sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act in case of leasing, other than leasing of motor vehicles, vessels and aircrafts.”

# Apportionment of credit and blocked credits (Sec 17)

(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;

**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.

# Apportionment of credit and blocked credits (Sec 17)

## **Note –**

ITC on **works contract** services construction of an immovable property is blocked **EXCEPT WHEN**

1. It is an input service for further supply of works contract service (sub-contracting) – ITC on work contract services can be availed only by that taxpayer who is in the same line of business, i.e. only a works contractor can avail ITC on works contract services received by him.
2. Immovable property is plant and machinery – Plant and machinery affixed permanently to the earth constitutes an immovable property. However, ITC on works contract services used for construction of such plant and machinery is allowed as an exception. In this case, ITC is allowed to all recipients irrespective of their line of business.
3. When the value of works contract service is not capitalised. In this case, ITC is allowed to all recipients irrespective of their line of business.

ITC on **goods and / or services** used in construction of immovable property is available **only in the following three situations** –

1. For construction of plant and machinery
2. When the value of goods and/or services is not capitalised
3. When the construction is not on own account

# Apportionment of credit and blocked credits (Sec 17)

(e) goods or services or both on which tax has been paid under section 10;

A supplier registered under composition scheme cannot collect tax from its customers. Thus, such supplier issues bill of supply and not a tax invoice. A composition supplier pays a lumpsum tax at a specified rate on its quarterly turnover. Since a composition supplier cannot collect any tax on its supplies, from the recipient of its supplies, it is obvious that no ITC can be availed in respect of such supplies by the recipient.

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

Only tax paid by NR on Imported goods is allowed as ITC,. Even ITC on import of services is not allowed.

(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013; **[Clause (fa) inserted in explanation through FA, 2023 w.e.f. 1-10-2023]**

(g) goods or services or both used for personal consumption;

One of the foremost conditions laid down in section 16 for availing ITC on goods and/or services is that such goods and/or services should be used in the course or furtherance of business. Further, where goods and/or services are used partly for the purpose of any business and partly for other purpose, section 17(1) restricts the credit to so much of the ITC as is attributable to business purposes.

# Apportionment of credit and blocked credits (Sec 17)

(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.

Sec 74 deals with Determination of Demand in Fraud Cases

Sec 129 deals with Detention, search and seizure of goods during movement

Sec 130 deals with confiscation of goods.

# ITC on Moulds and Dies provided by the original equipment manufacturer (OEM) to component manufacturer on FOC basis – Circular 47/21/2018 dt 8-6-2018

Issue	Clarification
<p>Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?</p>	<p>1.1 Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. <b>Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.</b></p> <p>1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the CGST Act, 2017.</p> <p>1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. <b>In such cases, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.</b></p>



## Free Samples and Gifts

It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration.

As per [sub-clause \(a\) of sub-section \(1\) of section 7](#) of the said Act, the expression “supply” includes all forms of supply of goods or services or both made or agreed to be made for a consideration by a person in the course or furtherance of business.

Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as ‘supply’ under GST (except in case of activities mentioned in [Schedule I](#) of the said Act). Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, **do not qualify as ‘supply’ under GST, except where the activity falls within the ambit of Schedule I of the said Act.**

Further, [clause \(h\) of sub-section \(5\) of section 17](#) of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.

Thus, it is clarified that **input tax credit shall not be available** to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.

However, where the activity of distribution of gifts or free samples falls within the scope of ‘supply’ on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

## **Buy one get one free offer:**

For example, “buy one soap and get one soap free” or “Get one tooth brush free along with the purchase of tooth paste”.

As per **sub-clause (a) of sub-section (1) of section 7** of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST (except in case of activities mentioned in **Schedule I** of the said Act).

It may appear at first glance that in case of offers like “Buy One, Get One Free”, one item is being “supplied free of cost” without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

**Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.**

**It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.**

## Discounts including 'Buy more, save more' offers

Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume).

**For example-** Get 10 % discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.

Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10,000 pieces in a year, get additional discount of 2% if you purchase 15,000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “volume discounts”. Such discounts are passed on by the supplier through credit notes.

It is clarified that discounts offered by the suppliers to customers shall be excluded to determine the value of supply provided they satisfy the parameters laid down in **sub-section (3) of section 15** of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

## Secondary Discounts

These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10,000 packets of biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.

The provisions of [sub-section \(1\) of section 34](#) of the said Act provides as under:

“Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”

Representations have been received from the trade and industry that whether credit notes(s) under [sub-section \(1\) of section 34](#) of the said Act can be issued in such cases even if the conditions laid down in [clause \(b\) of sub-section \(3\) of section 15](#) of the said Act are not satisfied. It is hereby clarified that **financial / commercial credit note(s)** can be issued by the supplier even if the conditions mentioned in [clause \(b\) of sub-section \(3\) of section 15](#) of the said Act are not satisfied.

There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

The common trade practice in the pharmaceutical sector is that the drugs or medicines (hereinafter referred to as “goods”) are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. It is significant to mention here that such goods have a defined life term which is normally referred to as the date of expiry. Such goods which have crossed their date of expiry are colloquially referred to as time expired goods and are returned back to the manufacturer, on account of expiry, through the supply chain.

**(A) Return of time expired goods to be treated as fresh supply:**

- a) In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, “return supply”). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail Input Tax Credit (hereinafter referred to as “ITC”) of the tax levied on the said return supply subject to the fulfilment of the conditions specified in [Section 16](#) of the CGST Act.
- b) In case the person returning the time expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply.
- c) In case the person returning the time expired goods is an unregistered person, he may return the said goods by issuing any commercial document without charging any tax on the same.

d) Where the time expired goods which have been returned by the retailer/wholesaler are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of the provisions of [clause \(h\) of sub-section \(5\) of section 17](#) of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

**Illustration:** Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs. 15/-. So, when the time expired goods are destroyed by the manufacturer he would be required to reverse ITC of Rs. 15/- and not of Rs. 10/-.

Issue	Clarification
<p>There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services. <b>Whether GST would be payable on such replacement of parts</b> or supply of repair services, without any consideration from the customer, as part of warranty?</p>	<p>The value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and / or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods.</p> <p>As such, where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, <b>no further GST is chargeable</b> on such replacement of parts and/ or repair service during warranty period. However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.</p> <div data-bbox="868 792 2305 871" style="text-align: center;"> <pre> graph LR     M[Manufacturer] --&gt; C[Customer]             </pre> </div>
<p>Whether in such cases, the <b>manufacturer is required to reverse the input tax credit in respect of such replacement</b> of parts or supply of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?</p>	<p>In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/ or repair services to be incurred during the warranty period. Therefore, these supplies cannot be considered as exempt supply and accordingly, the manufacturer, who provides replacement of parts and/ or repair services to the customer during the warranty period, is <b>not required to reverse the input tax credit in respect of the said replacement parts</b> or on the repair services provided.</p>

Issue	Clarification
<p>Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?</p>	<p>There may be instances where a distributor of a company provides replacement of parts and/ or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor in respect of the said replacement and/ or repair services from the customer.</p> <p>In such cases, as no consideration is being charged by the distributor from the customer, <b>no GST would be payable by the distributor on the said activity</b> of providing replacement of parts and/ or repair services to the customer. However, if any additional consideration is charged by the distributor from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.</p>





Issue	Clarification
<p>The above scenario where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer and whether the distributor would be required to reverse the input tax credit in respect of such replacement of parts?</p>	<p>(a) There may be cases where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer. In such a case, GST would be payable by the distributor on the said supply by him to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act. In such case, no reversal of input tax credit by the distributor is required in respect of the same.</p> <p>(b) There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty. In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, without separately charging any consideration at the time of such replacement, no GST is payable on such replacement of parts by the manufacturer. Further, no reversal of ITC is required to be made by the manufacturer in respect of the parts so replaced by the distributor under warranty.</p> <p>(c) There may be cases where the distributor replaces the part(s) to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced subject to provisions of sub-section (2) of section 34 of the CGST Act. Accordingly, the tax liability may be adjusted by the manufacturer, subject to the condition that the said distributor has reversed the ITC availed against the parts so replaced.</p>



Issue	Clarification
<p>Where the distributor provides <b>repair service</b>, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?</p>	<p>(a) In such scenario, there is a supply of service by the distributor and the manufacturer is the recipient of such supply of repair services in accordance with the provisions of sub-clause (a) of clause (93) to section 2 of the CGST Act, 2017.</p> <p>Hence, <b>GST would be payable on such provision of service</b> by the distributor to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act.</p>
<p>Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?</p>	<p>(a) If a customer enters in to an agreement of extended warranty with the manufacturer at the time of original supply, then the <b>consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.</b></p> <p>(b) However, in case where a consumer enters into an agreement of extended warranty at any time <b>after the original supply</b>, then the same is a separate contract and <b>GST would be payable by the service provider, whether manufacturer or the distributor or any third party, depending on the nature of the contract</b> (i.e. whether the extended warranty is only for goods or for services or for composite supply involving goods and services)</p>

# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

**Rule 42(1)** The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

- (a) the total input tax involved on inputs and input services in a tax period, be denoted as 'T';
- (b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as 'T1'; **(Linked to Sec 17(1))**
- (c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T2'; **(Linked to Sec 17(2))**
- (d) the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under sub-section (5) of section 17, be denoted as 'T3'; **(Linked to Sec 17(5))**
- (e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as-

$$C1 = T - (T1 + T2 + T3)$$

# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

$$C1 = T - (T1 + T2 + T3)$$

**T = Total Credit during a tax period**

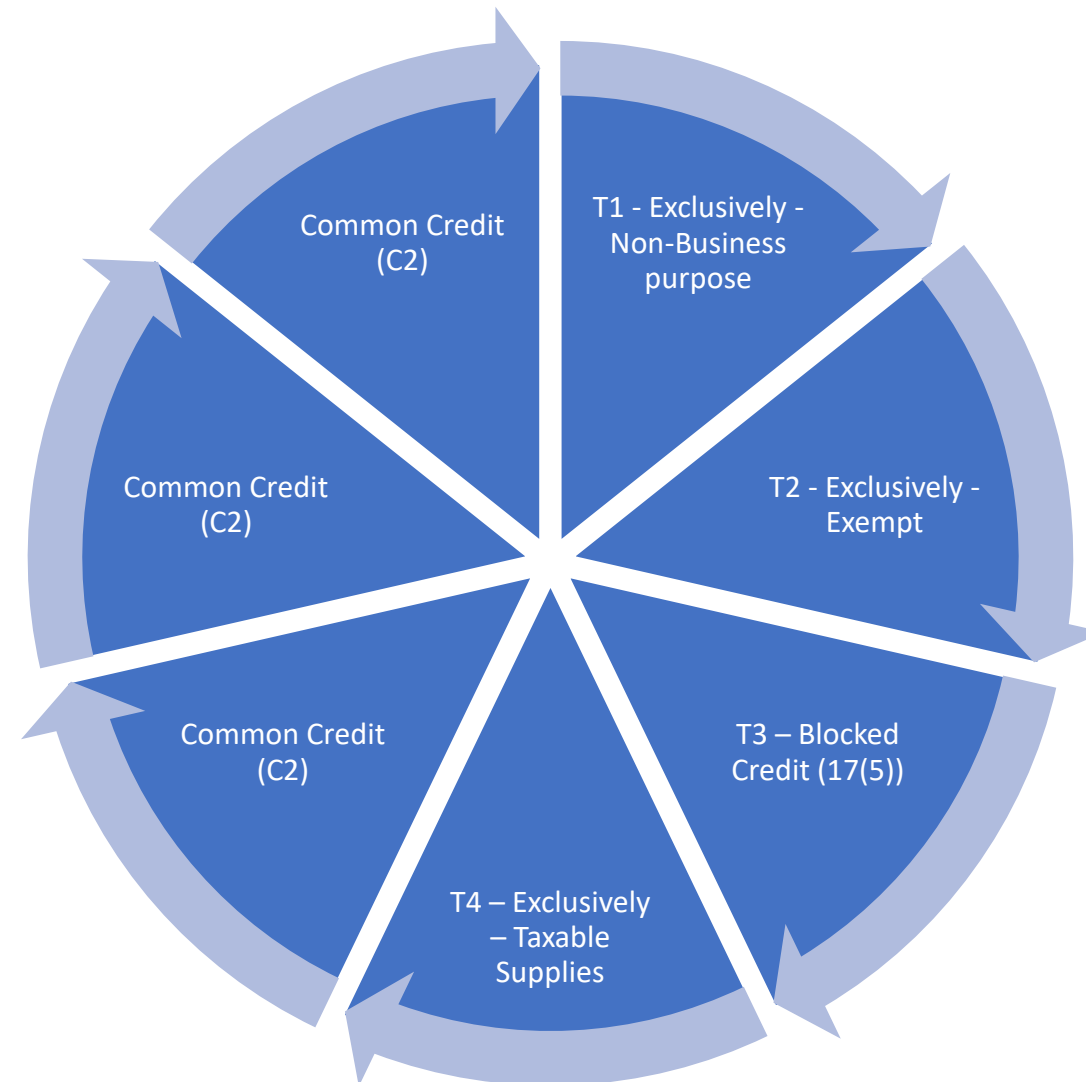
**T1 = ITC on input/input Service used exclusively for making Non-Business Supplies**

**T2 = ITC on input/input service used exclusively for making exempt supplies**

**T3 = ITC on input/input service which is blocked under Sec 17(5)**

$$C2 = C1 - T4$$

**T4 = ITC on Input/Input Service used exclusively for making Taxable Supplies**



# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

(f) the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as 'T4';

**Explanation:** For the purpose of this clause, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, value of T4 shall be zero during the construction phase because inputs and input services will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.

(g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person [~~at the invoice level in FORM GSTR-2 and~~] at summary level in FORM GSTR-3B; **[R-42 amended vide NN 19/2022-CT, w.e.f. 1-10-2022]**

(h) input tax credit left after attribution of input tax credit under clause (f) shall be called common credit, be denoted as 'C2' and calculated as-

$$C2 = C1 - T4;$$

(i) the amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as-

$$D1 = (E \div F) \times C2$$

where,

'E' is the aggregate value of exempt supplies during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period:

# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', and shall be equal to five per cent. of C2; and

$$D2 = 5\% * C2$$

(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as 'C3', where,-

$$C3 = C2 - (D1+D2);$$

(l) the amount 'C3', 'D1' and 'D2' shall be **computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax** and declared in FORM GSTR-3B or through FORM GST DRC-03;

(m) the amount equal to aggregate of '**D1**' and '**D2**' shall be **reversed by the registered person** in FORM GSTR-3B or through FORM GST DRC-03:

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated at the invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'.

# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

Provided further that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

**Explanation:** For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any **duty or tax levied** under entry 84 and entry 92A of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

**Entry 84 (List I) – Central Excise Duty; Entry 92A (List I) – CST ; Entry 51 (List II) – State Excise Duty ; Entry 54 (List II) – VAT**

Central Excise Duty – Petroleum Crude, Diesel, Petrol, Aviation Turbine Fuel, Natural Gas and **Tobacco**

CST – Petroleum Crude, Diesel, Petrol, Aviation Turbine Fuel, Natural Gas and **Tobacco**

State Excise Duty – Alcoholic Liquor for Human Consumption, **Narcotics, Opium, Indian Hemp**

VAT – Petroleum Crude, Diesel, Petrol, Aviation Turbine Fuel, Natural Gas and Alcoholic Liquor for Human Consumption

Thus, supply of 1(Alcoholic Liquor for Human Consumption) and 5 (Petroleum Crude, Diesel, Petrol, Aviation Turbine Fuel, Natural Gas) being non-taxable under GST, will be exempt supplies u/s 2(47) and taxes/duties leviable thereon will be excluded from the value thereof for the purpose of apportionment of credit.

# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

**Rule 42(2)** Except in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the Act, the input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates, in the manner specified in the said sub-rule and-

- (a) where the aggregate of the amounts calculated finally in respect of 'D1' and 'D2' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2', such excess shall be reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03 in the month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or
- (b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2' exceeds the aggregate of the amounts calculated finally in respect of 'D1' and 'D2', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.



# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

‘E’ is the aggregate value of exempt supplies during the tax period, and  
‘F’ is the total turnover in the State of the registered person during the tax period:

Nature of Supplies	Include / Exclude (E)	Include / Exclude (F)
Taxable Supplies	No	Yes
Zero – Rated Supplies i.e. Export of Goods and Supplies to SEZ Units and Developers	No	Yes
Supplies exempt under Notification (Exempt Supplies - Sec 2(47))	Yes	Yes
Nil Rated Supplies (Exempt Supplies - Sec 2(47))	Yes	Yes
Non-Taxable Supplies (1+5) (Exempt Supplies - Sec 2(47))	Yes	Yes
Transactions in Securities (Exempt Supplies - Sec 17(3))	Yes	Yes
Supplies on which recipient is liable to pay on reverse charge (Exempt Supplies - Sec 17(3))	Yes	Yes
Sale of Land and Subject to Clause b of Para 5 of Schedule II, Sale of Building i.e. Building sold when entire consideration is received either after issuance of completion certificate or its first occupation, whichever is earlier (Exempt Supplies - Sec 17(3))	Yes	Yes

# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

'E' is the aggregate value of exempt supplies during the tax period, and  
'F' is the total turnover in the State of the registered person during the tax period:

Nature of Supplies	Include / Exclude (E)	Include / Exclude (F)
Schedule III supplies other than Sale of Land and Sale of Building	No	No
Under Construction Building – Taxable Supplies	No	Yes
Interest on Loans, advances or deposits ( <b>Explanation 1 to Rule 43</b> )	No	No
Duty Credit Scrips ( <b>Explanation 1 to Rule 43</b> )	No	No

# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

**Explanation 1 to Rule 43:** -For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall **exclude**: -

~~(a) the value of supply of services specified in the N.No. 42/2017-Integrated Tax (Rate), dated the 27th October, 2017;~~

**[Omitted by NN 03/2019-CT, w.e.f. 1-2-2019]**

(b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of 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; and

~~[(c) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.]~~ **[Omitted by NN 38/2023-CT, w.e.f. 4-8-2023]**

(d) the value of supply of Duty Credit Scrips specified in the notification of the Government of India, Ministry of Finance, Department of Revenue No. 35/2017-Central Tax (Rate), dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1284(E), dated the 13th October, 2017. **[Inserted vide NN 14/2022-CT dated 5-7-2022, w.e.f. 5-7-2022]**

# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

## **Example on how to arrive at the amount of common credit C2**

Making an assumption that Hawaii slippers are exempted, take a case of EZ Footwears, manufacturer of 2 varieties of Hawaii slippers and 5 varieties of other sandals and shoes. Dyes are used in the manufacture of all footwear. However, bright pink is used only for one of the Hawaii varieties, and black is used only for the sandals and shoes. Blue and yellow are used for all the varieties. Brown is used for non-business purposes.

Inward supplies during the month –

Input tax on brown dye: ₹ 10,000 (This is T<sub>1</sub>)

Input tax on bright pink dye: ₹ 90,000 (This is T<sub>2</sub>)

Input tax on black dye: ₹ 40,000 (This is T<sub>4</sub>)

Input tax on blue dye: ₹ 100,000

Input tax on yellow dye: ₹ 15,000

Total input tax: ₹2,55,000 (This is T)

$$C_1 = T - (T_1 + T_2 + T_3)$$

$$C_1 = ₹2,55,000 - (₹10,000 - ₹90,000 - 0) = ₹ 1,55,000$$

$$C_2 = C_1 - T_4$$

$$C_2 = ₹ 1,55,000 - ₹40,000 = ₹ 1,15,000$$

# Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42 of CGST Rules, 2017)

## **Example on how to apportion common credit into credit attributable to exempt supplies**

EZ Footwear, which manufactures two varieties of exempt Hawaii slippers and five varieties of taxable sandals and shoes, has the following turnover in October and has ₹ 1,15,000 common credit that has to be apportioned:

Turnover of Hawaii 1 plus Hawaii 2: ₹ 3 crores (This is 'E')

Turnover of all varieties of taxable shoes and sandals: ₹ 2 crores

Total turnover of all footwear during the month: ₹ 5 crores (This is 'F')

No input/input services are used for non-business purposes.

$$D_1 = C_2 * (E/F)$$

$$D_1 = 1,15,000 * (3,00,00,000/5,00,00,000) = ₹ 69,000 \text{ is the input tax that pertains to exempt supply (D1)}$$

$$D_2 = C_2 * 5\%$$

$$D_2 = 1,15,000 * 5\% = ₹ 5,750$$

# Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases (Rule 43 of CGST Rules, 2017)

**Rule 43(1)** Subject to the provisions of sub-section (3) of section 16, the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

- (a) the amount of input tax in respect of capital goods used or intended to be used **exclusively for non-business purposes** or used or intended to be used **exclusively for effecting exempt** supplies shall be indicated in [~~FORM GSTR-2 and~~ FORM GSTR-3B and **shall NOT be credited to his electronic credit ledger; [R-43 amended vide NN 19/2022-CT, w.e.f. 1-10-2022]**
- (b) the amount of input tax in respect of capital goods used or intended to be used **exclusively for effecting supplies other than exempted supplies but including zero-rated supplies** shall be indicated in [~~FORM GSTR-2 and~~ FORM GSTR-3B and **SHALL BE credited to the electronic credit ledger; [R-42 amended vide NN 19/2022-CT, w.e.f. 1-10-2022]**

**Explanation:** For the purpose of this clause, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the said Act, the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies, shall be zero during the construction phase because capital goods will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.

# Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases (Rule 43 of CGST Rules, 2017)

Rule 43(1)(c) Before 1-4-2020	Rule 43(1)(c) After 1-4-2020
<p>(c) the amount of input tax in respect of capital goods NOT covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as 5 years from the date of the invoice for such goods:</p> <p>Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be arrived at by reducing the input tax at the rate of 5% points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;</p> <p><b>Explanation.</b>- An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause.</p>	<p>(c) the amount of input tax in respect of capital goods NOT covered under clauses (a) and (b), denoted as 'A' being the amount of tax as reflected on the invoice, shall credit directly to the electronic credit ledger and the validity of the useful life of such goods shall extend upto 5 years from the date of the invoice for such goods:</p> <p>Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, input tax in respect of such capital goods denoted as 'A' shall be credited to the electronic credit ledger subject to the condition that the ineligible credit attributable to the period during which such capital goods were covered by clause (a), denoted as '<b>Tie</b>', shall be calculated at the rate of 5% points for every quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed:</p> <p>Provided further that the amount '<b>Tie</b>' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B.</p> <p><b>Explanation.</b>- An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause.</p>

# Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases (Rule 43 of CGST Rules, 2017)

## Rule 43(1)(d) before 1-4-2020

(d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as '**Tc**', shall be the common credit in respect of capital goods for a tax period:

Provided that where any capital goods earlier covered **under clause (b) is subsequently covered under clause (c)**, the value of 'A' arrived at by reducing the input tax at the rate of 5% points for every quarter or part thereof shall be added to the aggregate value '**Tc**';

(e) the amount of input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as '**Tm**' and calculated as-

$$\mathbf{Tm = Tc \div 60}$$

## Rule 43(1)(d) after 1-4-2020

(d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as '**Tc**', shall be the common credit in respect of such capital goods:

Provided that where any capital goods earlier covered **under clause (b) are subsequently covered under clause (c)**, the input tax credit claimed in respect of such capital good(s) shall be added to arrive at the aggregate value '**Tc**'

(e) the amount of input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as '**Tm**' and calculated as-

$$\mathbf{Tm = Tc \div 60}$$

**Explanation.-** For the removal of doubt, it is clarified that useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.”;



# Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases (Rule 43 of CGST Rules, 2017)

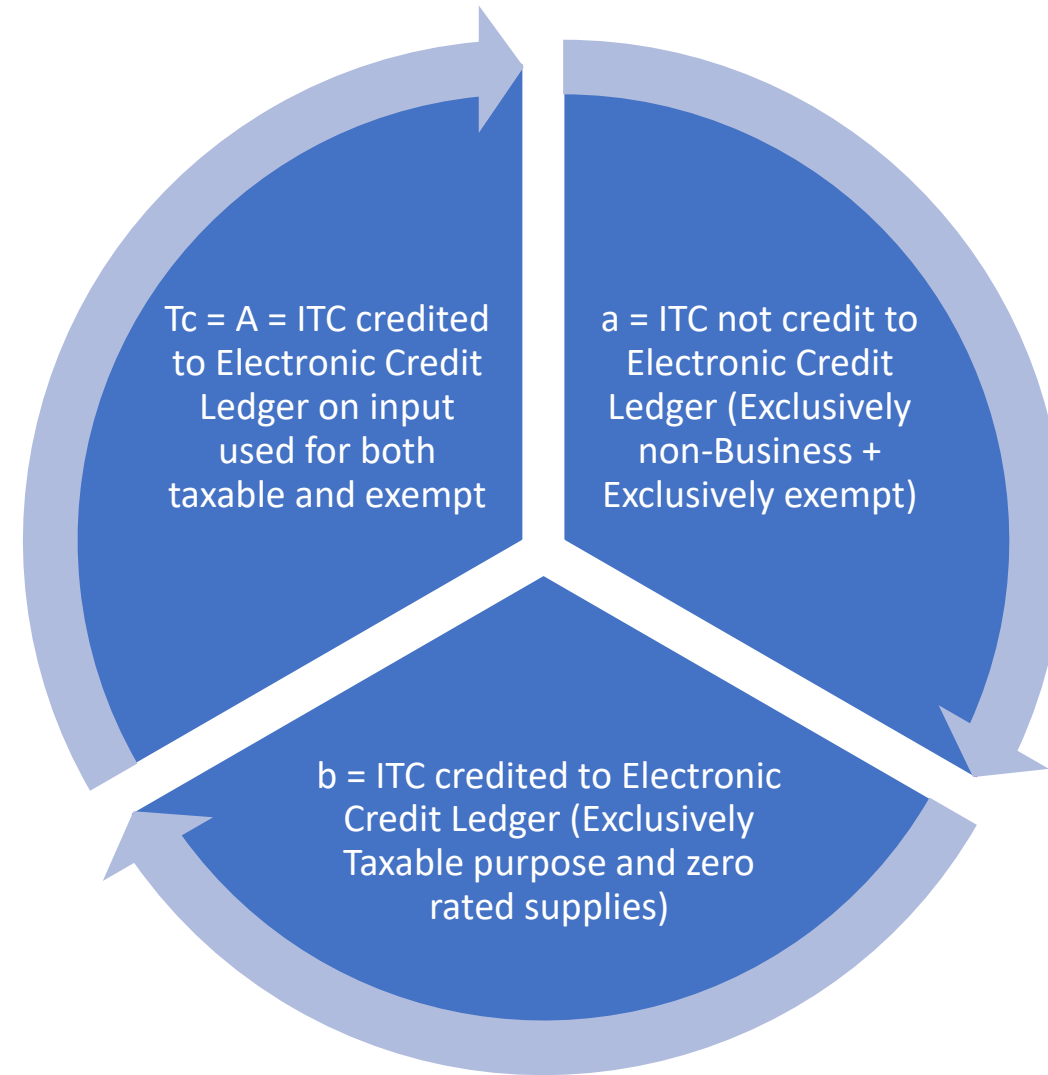
**T<sub>c</sub> = ITC on common Capital Goods (used for taxable and exempt supply)**

**T<sub>m</sub> = input tax credit attributable to a tax period on common capital goods during their useful life**

$$T_m = T_c \div 60$$

~~$Tr = \sum T_m$~~

$$T_e = (E \div F) \times Tr$$



# Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases (Rule 43 of CGST Rules, 2017)

~~(f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'Tr' and shall be the aggregate of 'Tm' for all such capital goods;~~

(g) the amount of common credit attributable towards exempted supplies, be denoted as 'Te', and calculated as-

$$\mathbf{Te = (E \div F) \times Tr}$$

where,

'E' is the aggregate value of exempt supplies, made, during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period:

Provided further that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

# Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases (Rule 43 of CGST Rules, 2017)

**Explanation.-** For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 and entry 92A of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(h) the amount  $T_e$  along with the applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.

(i) The amount  $T_e$  shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B**.

**Explanation 1 to R-43:** -For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude: -

(a) ~~the value of supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees;~~ **[Omitted vide NN 3/2019-CT, w.e.f. 1-2-2019]**

(b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of 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; and

# Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases (Rule 43 of CGST Rules, 2017)

(c) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

(d) the value of supply of Duty Credit Scrips [Eg. RoDTEP, RoSCTL, MEIS, SEIS Duty Credit Scrips][**clause (d) inserted vide NN 14/2022-CT, dt 5-7-2022**]

**Explanation 3 to R-43:** For the purpose of rule 42 and this rule, the value of activities or transactions mentioned in subparagraph (a) of paragraph 8 of Schedule III of the Act which is required to be included in the value of exempt supplies under clause (b) of the Explanation to sub-section (3) of section 17 of the Act shall be the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers. [**clause inserted vide NN 38/2023-CT, dt 4-8-2023, w.e.f. 1-10-2023**]

**Explanation to R-45.- For the purposes of this Chapter,-**

(1) the expressions “capital goods” shall include “plant and machinery” as defined in the Explanation to section 17;

(2) for determining the value of an exempt supply as referred to in sub-section (3) of section 17-

(a) the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and

(b) the value of security shall be taken as 1% of the sale value of such security.

# Illustrations on ITC

S.No.	Situation	ITC Allowed/Blocked
1.	ITC on cars purchased by a manufacturing company for official use of its employees	Blocked
2.	ITC on cars purchased by car dealer for sale to customers	Allowed
3.	ITC on cars purchased by a company engaged in renting out cars for transportation of passengers	Allowed
4.	ITC on cars purchased by a car driving school	Allowed
5.	ITC on buses (seating capacity for 24 persons) purchased by a company for transportation of its employees from their residence to office and back	Allowed
6.	ITC on trucks purchased by a company for transportation of its finished goods	Allowed
7.	ITC on aircraft purchased by a manufacturing company for official use of its CEO	Blocked
8.	ITC on aircraft purchased by an Aviation School providing training on flying aircrafts	Allowed
9.	ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes	Blocked
10.	ITC on maintenance and repair services availed by a company for a truck used for transporting its finished goods	Allowed
11.	ITC on general insurance services taken on cars manufactured by a car manufacturing company	Allowed
12.	A manufacturing company purchases food items for being served to its customers, free of cost	Blocked

# Illustrations on ITC

S.No.	Situation	ITC Allowed/Blocked
13.	AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana. The firm has given the contract for supply of snacks, to be served in the marriage, to CD and Sons, a local caterer of Ludhiana. ITC on such outdoor catering services availed by AB & Co.	Allowed
14.	ITC on outdoor catering services availed by a garment exporter for a marketing event organised for its prospective customers	Blocked
15.	Outdoor catering service is availed by a company to run a free canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory.	Allowed
16.	The Managing Director of a company has taken membership of a club, the fees for which is paid by the company	Blocked
17.	A company avails services of a travel agency for organizing a free vacation for its top performing employees.	Blocked
18.	ITC on works contracts services availed by a software company for construction of its office	Blocked
19.	CD & Co., a works contractor of Noida, has been awarded a contract for construction of a commercial complex in Lucknow. The firm avails services of EF & Co., a local works contractor of Lucknow, for the construction of complex. ITC on such works contract services availed by CD & Co.	Allowed
20.	ITC on works contract services availed by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently	Allowed

# Illustrations on ITC

S.No.	Situation	ITC Allowed/Blocked
21.	ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory	Blocked
22.	A consulting firm has availed services of a works contractor for repair of its office building. The company has booked such expenditure in its profit and loss account.	Allowed
23.	A telecommunication company has availed services of a works contractor for repair of its office building. The company has capitalized such expenditure.	Blocked
24.	A company buys cement, tiles etc. and avails the services of an architect for construction of its office building.	Blocked
25.	MN & Constructions procures cement, paints, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients. ITC on such goods and services received by MN & Co.	Allowed
26.	A company buys cement, tiles etc. and avails the services of an architect for renovation of its office building. The company has booked such expenditure in its profit and loss account.	Allowed
27.	ITC on goods and/or services used by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently	Allowed

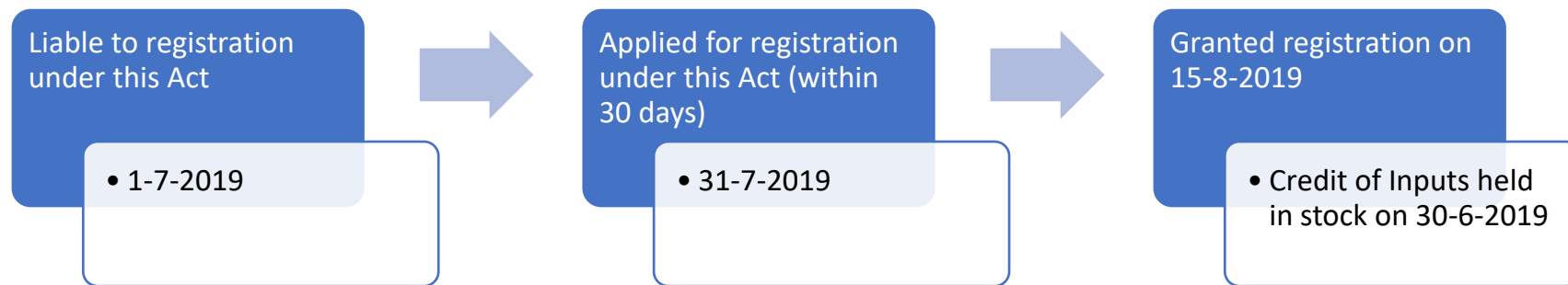
# Availability of credit in special circumstances (Sec 18)

18. (1) **Subject to such conditions and restrictions as may be prescribed—**

a) a person who has applied for registration under this Act within 30 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;

## Note –

1. Restrictions laid down in [Sec 18\(2\)](#) – ITC to be availed within 1 year from the date of issue of the tax invoice by the supplier.
2. Credit of capital goods is not available in this clause.



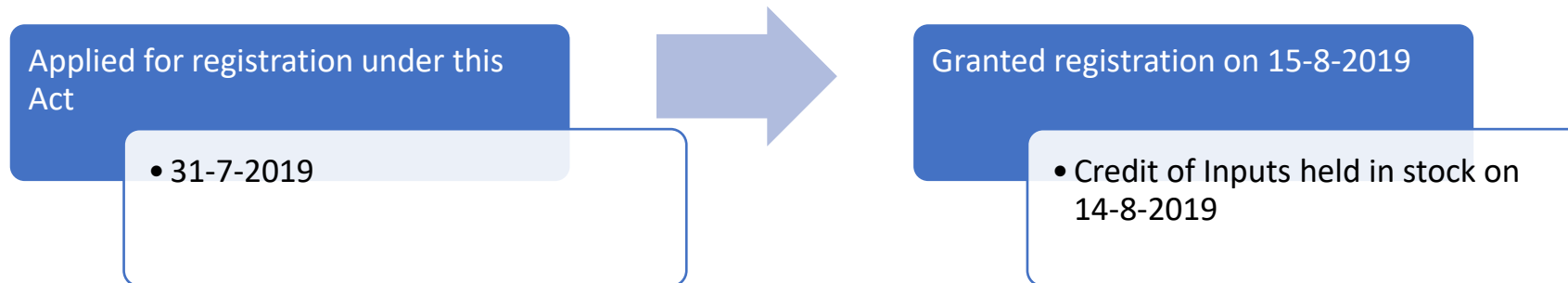


# Availability of credit in special circumstances (Sec 18)

- 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;

## Note –

1. Sec 25(3) deals with voluntary registration.
2. Restrictions laid down in Sec 18(2) – ITC to be availed within 1 year from the date of issue of the tax invoice by the supplier.
3. Credit of capital goods will not be available under this clause.



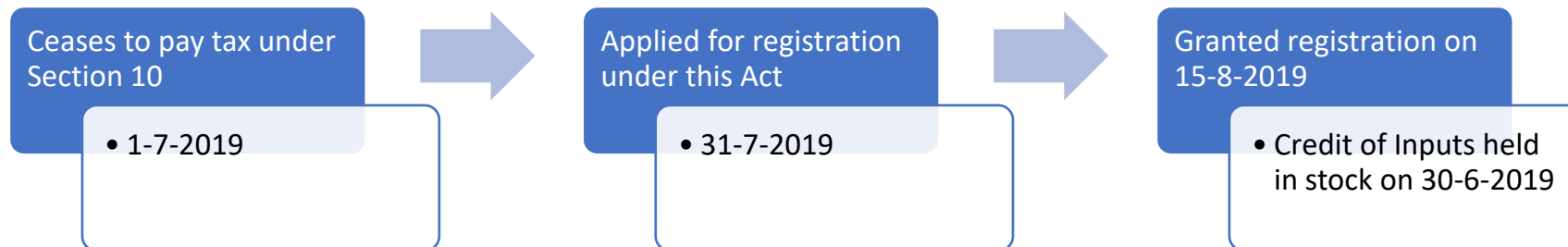
# Availability of credit in special circumstances (Sec 18)

- 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**

Note –

1. Credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person
2. Restrictions laid down in [Sec 18\(2\)](#) – ITC to be availed within 1 year from the date of issue of the tax invoice by the supplier.



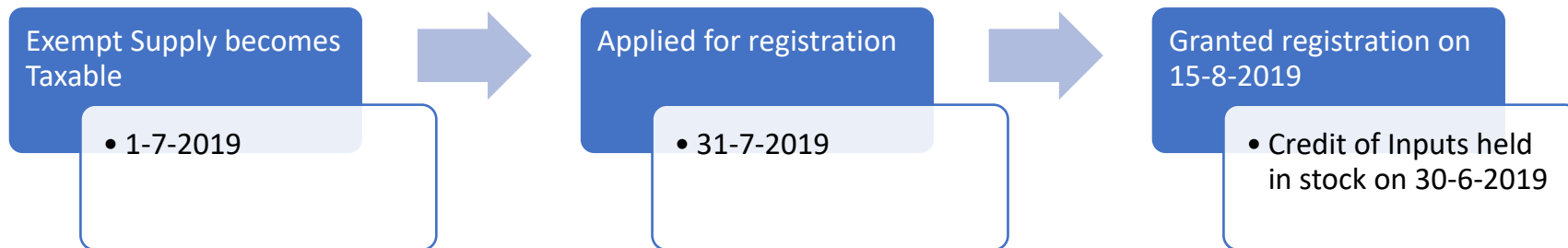
# Availability of credit in special circumstances (Sec 18)

- 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 relating 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**.

## Note –

1. Credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person
2. Restrictions laid down in [Sec 18\(2\)](#) – ITC to be availed within 1 year from the date of issue of the tax invoice by the supplier.



# Availability of credit in special circumstances (Sec 18)

**Sec 18(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**.

## **Rule 41. Transfer of credit on sale, merger, amalgamation, lease or transfer of a business.-**

(1) A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC-02**, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:

Provided that in the **case of demerger**, the input tax credit shall be **apportioned in the ratio of the value of assets** of the new units as specified in the demerger scheme.

**Explanation:-** For the purpose of this sub-rule, it is hereby clarified that the “**value of assets**” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.

(2) The transferor **shall** also submit a copy of a **certificate issued by a practicing chartered accountant or cost accountant** certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.

(3) The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the unutilized credit specified in **FORM GST ITC-02** shall be credited to his electronic credit ledger.

(4) The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

**Note - Circular No. 96/15/2019 GST dated 28-3-2019** has clarified that transfer or change in the ownership of business includes transfer or change in the ownership due to Death of the Sole Proprietor

# Availability of credit in special circumstances (Sec 18)

## **Rule 41A. Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory.** –

(1) A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of **rule 11** and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of 30 days from obtaining such separate registrations, the details in **FORM GST ITC-02A** electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:

Provided that the input tax credit shall be transferred to the **newly registered entities** in the **ratio of the value of assets held** by them at the time of registration.

**Explanation.**- For the purposes of this sub-rule, it is hereby clarified that the 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.

(2) The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilised input tax credit specified in **FORM GST ITC-02A** shall be credited to his electronic credit ledger.

**Rule 11 - Separate registration for multiple places of business within a State or a Union territory.**- (1) Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business under sub-section (2) of section 25 shall be granted separate registration in respect of each such place of business

# Availability of credit in special circumstances (Sec 18)

**Circular No. 133/03/2020-GST dt 23-3-2020**

Issue	Clarification
<p>(i) In case of demerger, proviso to rule 41 (1) of the CGST Rules provides that the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. However, it is not clear as to whether the value of assets of the new units is to be considered at State level or at all-India level.</p>	<p>Proviso to sub-rule (1) of rule 41 of the CGST Rules provides for apportionment of the input tax credit in the ratio of the value of assets of the new units as specified in the demerger scheme. Further, the explanation to sub-rule (1) of rule 41 of the CGST Rules states that “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon. Under the provisions of the CGST Act, a person/ company (having same PAN) is required to obtain separate registration in different States and each such registration is considered a distinct person for the purpose of the Act. Accordingly, for the purpose of apportionment of ITC pursuant to a demerger under subrule (1) of rule 41 of the CGST Rules, <b>the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level.</b></p> <p><b>Illustration</b> A company XYZ is registered in two States of M.P. and U.P. Its total value of assets is worth Rs. 100 crore, while its assets in State of M.P. and U.P are Rs 60 crore and Rs 40 crore respectively. It demerges a part of its business to company ABC. As a part of such demerger, assets of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P, while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC). The unutilized ITC of XYZ in State of M.P. shall be transferred to ABC on the basis of ratio of value of assets in State of M.P., i.e. <math>30/60 = 0.5</math> and not on the basis of all-India ratio of value of assets, i.e. <math>40/100=0.4</math>. Similarly, unutilized ITC of XYZ in State of U.P. will be transferred to ABC in ratio of value of assets in State of U.P.,i.e. <math>10/40 = 0.25</math>.</p>

# Availability of credit in special circumstances (Sec 18)

**Circular No. 133/03/2020-GST dt 23-3-2020**

Issue	Clarification
<p>(ii) Is the transferor required to file FORM GST ITC – 02 in all States where it is registered?</p>	<p>No. The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.</p>
<p>The proviso to rule 41 (1) of the CGST Rules explicitly mentions 'demerger'. Other forms of business reorganization where part of business is hived off or business is transferred as a going concern etc. have not been covered in the said rule.</p> <p>Wherever business reorganization results in partial transfer of business assets along with liabilities, whether the proviso to rule 41(1) of the CGST Rules, 2017 shall be applicable to calculate the amount of transferable ITC.</p>	<p><b>Yes, the formula for apportionment of ITC</b>, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, <b>shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities.</b></p>

# Availability of credit in special circumstances (Sec 18)

Circular No. 133/03/2020-GST dt 23-3-2020

Issue	Clarification
<p>(i) Whether the <b>ratio of value of assets</b>, as prescribed under proviso to rule 41 (1) of the CGST Rules, <b>shall be applied in respect of each of the heads of input tax credit viz. CGST/ SGST/ IGST/ Cess?</b></p>	<p><b>No</b>, the ratio of value of assets, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applied to the total amount of unutilized input tax credit (ITC) of the transferor i.e. sum of CGST, SGST/UTGST and IGST credit. The said formula need not be applied separately in respect of each heads of ITC (CGST/SGST/IGST). Further, the said formula shall also be applicable for apportionment of Cess between the transferor and transferee. Illustration A: The ITC balances of transferor X in the State of Maharashtra under CGST, SGST and IGST heads are 5 lakh, 5 lakh and 10 lakh respectively. Pursuant to a scheme of demerger, X transfers 60% of its assets to transferee B. Accordingly, the amount of ITC to be transferred from A to B shall be 60% of 20 lakh (total sum of CGST, SGST and IGST credit) i.e. 12 lakh.</p>
<p>(ii) <b>How to determine the amount of ITC that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of FORM GST ITC-02 by the transferor?</b></p>	<p>The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under sub-rule (1) of rule 41 of the CGST Rules [refer 3 (c) (i) above]. However, the transferor shall be at liberty to determine the amount to be transferred under each tax head (IGST, CGST, SGST/UTGST) within this total amount, subject to the ITC balance available with the transferor under the concerned tax head. This is shown in the illustration below:</p>



# Availability of credit in special circumstances (Sec 18)

**Circular No. 133/03/2020-GST dt 23-3-2020**

Issue	Clarification					
<p><b>(ii) How to determine the amount of ITC that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of FORM GST ITC-02 by the transferor?</b></p>	(1) State	(2) Asset Ratio of Transferee	(3) Tax Heads	(4) ITC Balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02	(5) Total Amount of ITC transferred to the Transferee under FORM GST ITC-02	(6) ITC Balance of Transferor (post-apportionment) after filing of FORM GST ITC-02) (Col (4) – (5))
	Delhi	70%	CGST	10,00,000	10,00,000	-
			SGST	10,00,000	10,00,000	-
			IGST	30,00,000	15,00,000	15,00,000
			<b>Total</b>	<b>50,00,000</b>	<b>35,00,000</b>	<b>15,00,000</b>
	Haryana	40%	CGST	25,00,000	3,00,000	22,00,000
			SGST	25,00,000	5,00,000	20,00,000
			IGST	20,00,000	20,00,000	0
			<b>Total</b>	<b>70,00,000</b>	<b>28,00,000</b>	<b>42,00,000</b>

# Availability of credit in special circumstances (Sec 18)

**Circular No. 133/03/2020-GST dt 23-3-2020**

Issue	Clarification
<p>In order to calculate the amount of transferable ITC, the apportionment formula under proviso to rule 41(1) of the CGST Rules has to be applied to the unutilized ITC balance of the transferor. However, it is not clear as to which date shall be relevant to calculate the amount of unutilized ITC balance of transferor.</p>	<p>According to sub-section (3) of section 18 of the CGST Act, “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 <b><u>input tax credit which remains unutilized in his electronic credit ledger</u></b> to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.” Further, sub-rule (1) of rule 41 of the CGST Rules prescribes that the registered person shall file the details in <b>FORM GST ITC-02</b> for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee.</p> <p>A conjoint reading of sub-section (3) of section 18 of the CGST Act along with sub-rule (1) of rule 41 of the CGST Rules would imply that <b>the apportionment formula shall be applied on the ITC balance of the transferor as available in electronic credit ledger on the date of filing of FORM GST ITC – 02 by the transferor.</b></p>
<p>Which date shall be relevant to calculate the ratio of value of assets, as prescribed in the proviso to rule 41 (1) of the CGST Rules, 2017?</p>	<p>According to section 232 (6) of the Companies Act, 2013, “The scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date”. The said legal provision appears to indicate that the “appointed date of demerger” is the date from which the scheme for demerger comes into force and it is specified in the respective scheme of demerger.</p> <p>Therefore, for the purpose of apportionment of ITC under rule sub-rule (1) of rule 41 of the CGST Rules, <b>the ratio of the value of assets should be taken as on the “appointed date of demerger”.</b></p>

## **OPTION TO PAY UNDER SEC 10 OR TAXABLE SUPPLY BECOMES EXEMPT**

**Sec 18(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**, 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.

# Availability of credit in special circumstances (Sec 18)

**Rule 44 Manner of reversal of credit under special circumstances.-(1)** The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of **sub-section (4) of section 18** or **sub-section (5) of section 29**, be determined in the following manner, namely,-

- ✓ for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;
- ✓ for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.

## ***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*

# Availability of credit in special circumstances (Sec 18)

**Rule 44(2)** The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

**Rule 44(3)** Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of the goods on the effective date of the occurrence of any of the events specified in **sub-section (4) of section 18** or, as the case may be, **sub-section (5) of section 29**.

**Rule 44(4)** The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in **FORM GST ITC-03**, where such amount relates to any event specified in **sub-section (4) of section 18** and in **FORM GSTR-10**, where such amount relates to the cancellation of registration.

**Rule 44(5)** The details furnished in accordance with sub-rule (3) shall be duly certified by a **practicing chartered accountant or cost accountant**.

**Sec 29(5)** Every registered person whose registration is cancelled 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 or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable 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 or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

# Availability of credit in special circumstances (Sec 18)

**Sec 18(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**.

**Sec 18(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** (5% points for every quarter or part thereof from the date of the issue of the invoice for such goods – Rule 40(2))

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.

**Rule 44(6)** The amount of input tax credit for the purposes of sub-section (6) of section 18 relating to capital goods shall be determined in the same manner as specified in clause (b) of sub-rule (1) and the amount shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax:

Provided that where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in FORM GSTR-1.

# Input Service Distributor

## Note -

1. ISD is an office of a business which receives tax invoices for **input services** and distributes available ITC to other branch offices of the same business. Both Head office and Branch should have same PAN.
2. Companies have head office which would be procuring certain services for common utilisation of all units across the country. The bills for such expenses would be raised on the Head Office but the Head Office itself would not be providing any output supply so as to utilise the credit which gets accumulated on account of such input services.
3. ISD is to be used for distribution of input services only and not input goods.
4. An ISD is compulsorily required to obtain a separate registration as an ISD even though it may be separately registered.  
[\(Sec 24 \(viii\)\)](#)
5. A company can have multiple ISDs. Like marketing division, security division etc may apply for separate ISD registration.

[Sec 2\(61\)](#) “**INPUT SERVICE DISTRIBUTOR**” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;

# Input Service Distributor

**Sec 20(1)** The ISD shall distribute the credit of

- CGST as CGST or IGST and
- IGST as IGST or CGST,

by way of issue of a document containing the amount of ITC being distributed in such manner as may be **prescribed**.

**Sec 20(2)** The ISD 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**;
- 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.



# Input Service Distributor

**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 entry 84 and 92A of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

## Sec 21 Manner of recovery of credit distributed in excess

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.

# Input Service Distributor

## **Rule 39. Procedure for distribution of input tax credit by Input Service Distributor.-**

(1) An ISD shall distribute input tax credit in the manner and subject to the following conditions, namely,-

- a) the input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR-6** in accordance with the provisions of Chapter VIII of these rules;
- b) the ISD shall, in accordance with the provisions of clause (d), separately distribute the amount of ineligible input tax credit (ineligible under the provisions of **sub-section (5) of section 17** or otherwise) and the amount of eligible input tax credit;
- c) the input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);
- d) the input tax credit that is required to be distributed in accordance with the provisions of **clause (d) and (e) of sub-section (2) of section 20** to one of the recipients 'R1', whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, 'C1', to be calculated by applying the following formula -

$$C1 = (t1 \div T) \times C$$

where,

**"C" is the amount of credit to be distributed,**

**"t1" is the turnover, as referred to in section 20, of person R1 during the relevant period, and**

**"T" is the aggregate of the turnover, during the relevant period, of all recipients to whom the input service is attributable in accordance with the provisions of section 20;**

# Input Service Distributor

- e) the ITC on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;
- f) the ITC on account of central tax and State tax or Union territory tax shall-
  - (i) in respect of a recipient located in the same State or Union territory in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax or Union territory tax respectively;
  - (ii) in respect of a recipient located in a State or Union territory other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax or Union territory tax that qualifies for distribution to such recipient in accordance with clause (d);
- g) the Input Service Distributor shall issue an Input Service Distributor **invoice**, as prescribed in **sub-rule (1) of rule 54**, clearly indicating in such invoice that it is issued only for distribution of input tax credit;
- h) the Input Service Distributor shall issue an Input Service Distributor **credit note**, as prescribed in **sub-rule (1) of rule 54**, for reduction of credit in case the input tax credit already distributed gets reduced for any reason;
- i) any additional amount of input tax credit on account of issuance of a **debit note** to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (f) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) and such credit shall be distributed in the month in which the debit note is included in the return in **FORM GSTR-6**;

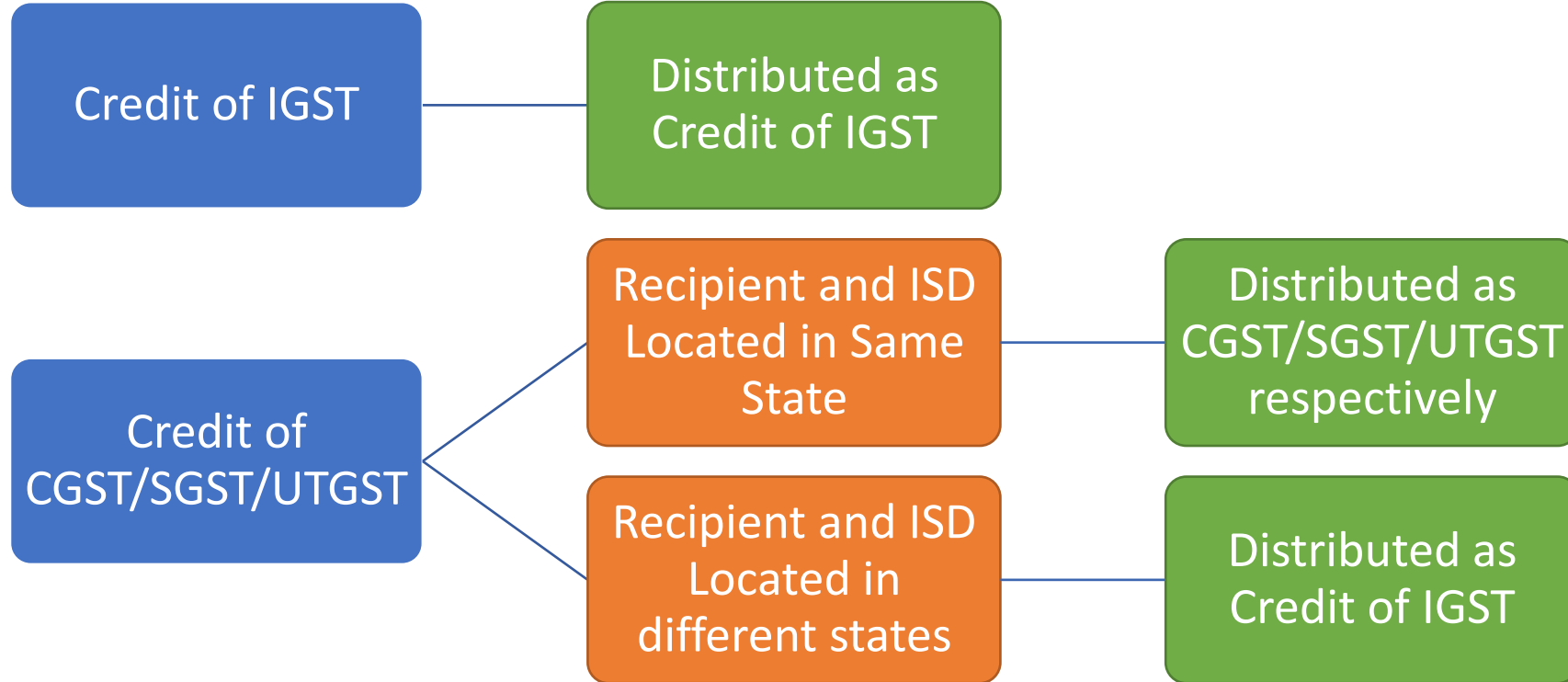
# Input Service Distributor

- j) any input tax credit required to be reduced on account of issuance of a **credit note** to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which the input tax credit contained in the original invoice was distributed in terms of clause (d), and the amount so apportioned shall be-
- (i) reduced from the amount to be distributed in the month in which the credit note is included in the return in **FORM GSTR-6**; or
  - (ii) added to the output tax liability of the recipient where the amount so apportioned is in the negative by virtue of the amount of credit under distribution being less than the amount to be adjusted.

**Rule 39(2)** If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process specified in clause (j) of sub-rule (1) shall apply, mutatis mutandis, for reduction of credit.

**Rule 39(3)** Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the Input Service Distributor credit note specified in clause (h) of sub-rule (1), issue an Input Service Distributor invoice to the recipient entitled to such credit and include the Input Service Distributor credit note and the Input Service Distributor invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

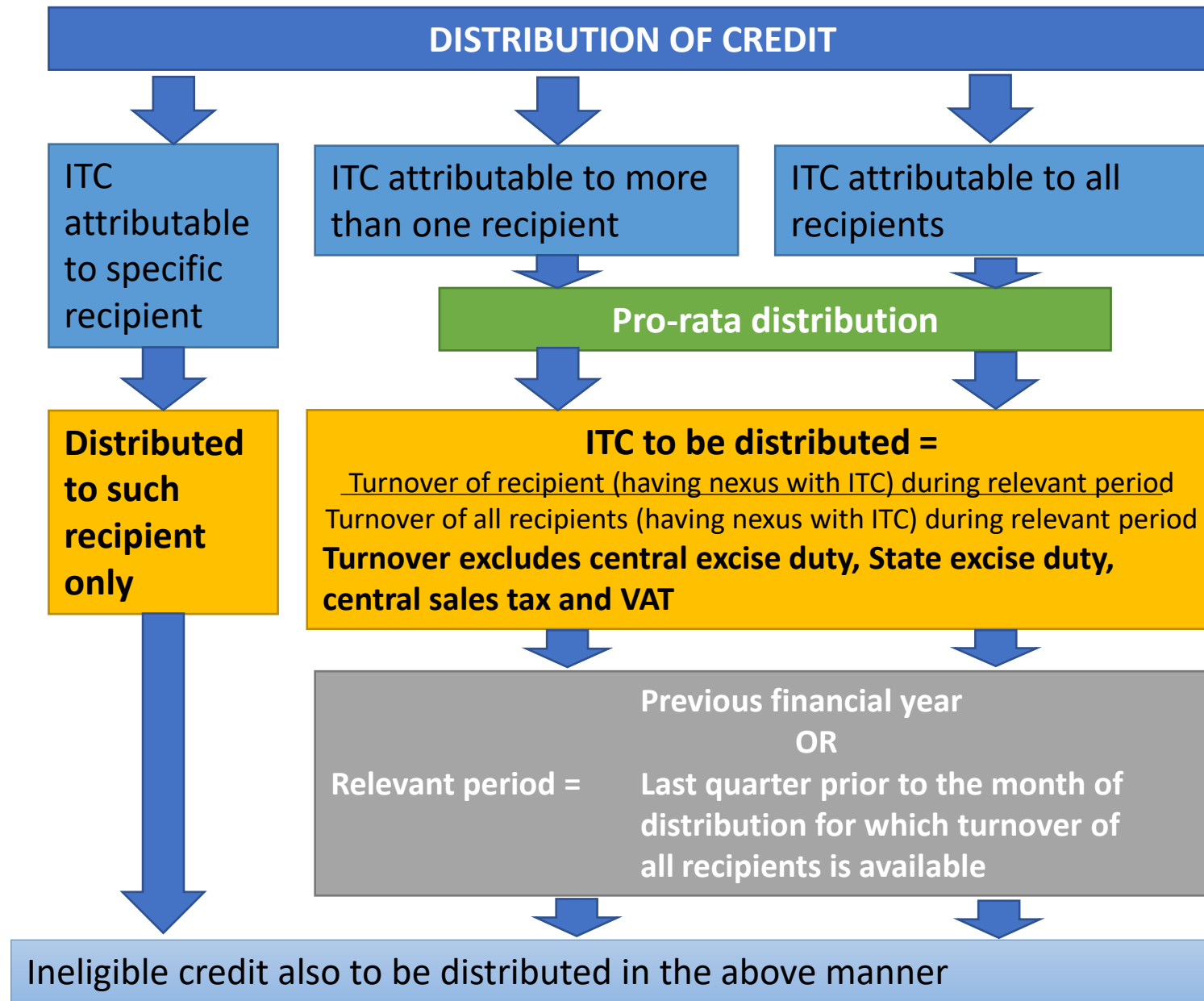
# Input Service Distributor



## Note –

Sec 20 provides that credit of IGST to be distributed as “IGST” or “CGST”. However, rule 39 of CGST Rules provides that “input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient.” The above diagram is based on the position as stated in Rule 39

# Input Service Distributor



# Input Service Distributor Illustration

## **Example 1 –**

ABC Ltd., a confectionary manufacturer, has paid bills of an advertising company amounting to Rs. 24 lakhs for advertising campaigns for two varieties of cakes, which are manufactured at separate locations in Pune and Bangalore. The company had a total turnover of Rs. 112 crores in the previous financial year. The turnover of the Pune unit was Rs. 5 crores, and the turnover of the Bangalore unit was Rs. 10 crores. The aggregate turnover here is taken as Rs. 15 crores, as advertising was for cakes, which are manufactured at these two units only.

The ITC is to be distributed between Pune and Bangalore units in the ratio 1:2. Therefore, Pune unit will be given ITC of Rs. 8 lakhs, and Bangalore unit will be given ITC of Rs. 16 lakhs from advertising bills.

## **Example 2 –**

The Corporate office of ABC Ltd. is at Bangalore, with its business locations of selling and servicing of goods at Bangalore, Chennai, Mumbai and Kolkata. Software license and maintenance is used at all the locations, but invoice for these services (indicating CGST and SGST) are received at Corporate Office. Since the software is used at all the four locations, the ITC of entire services cannot be claimed at Bangalore. The same has to be distributed to all the four locations. For that reason, the Bangalore Corporate office has to act as ISD to distribute the credit.

If the corporate office of ABC Ltd., an ISD situated in Bangalore, receives invoices indicating ₹4 lakh of CGST, ₹4 of SGST and ₹7 Lakh of IGST, it can distribute the ITC of CGST, SGST as well as IGST of ₹ 15 lakh amongst its locations at Bangalore, Chennai, Mumbai and Kolkata through an ISD invoice containing the amount of credit distributed.

# Input Service Distributor Illustration

## **Illustration 1**

XYZ Ltd., having its head office at Mumbai, is registered as ISD. It has three units in different cities situated in different States namely Mumbai, Jabalpur and Delhi which are operational in the current year.

M/s XYZ Ltd furnishes the following information for the month of July 20xx:

- (i) CGST paid on services used only for Mumbai Unit : ₹ 300,000/-
- (ii) IGST, CGST and SGST paid on services used for all units : ₹ 12,00,000/-

Total turnover of the units for the previous financial year are as follows :-

Unit	Turnover (₹)
Total Turnover of three units	₹ 10,00,00,000
Turnover of Mumbai unit	₹ 5,00,00,000
Turnover of Jabalpur unit	₹ 3,00,00,000

Determine the credit to be distributed by XYZ Ltd. To each of its three units.



# Input Service Distributor Illustration

Particulars	Credit distributed to all units (₹)			
	Total credit available	Mumbai	Jabalpur	Delhi
CGST paid on services used only for Mumbai Unit	300,000	300,000	0	0
IGST, CGST & SGST paid on services used for all units Distribution on pro rata basis to all the units which are operational in the current year	12,00,000	600,000	360,000	240,000
<b>Total</b>	<b>15,00,000</b>	<b>9,00,000</b>	<b>3,60,000</b>	<b>2,40,000</b>

**Note 1** – Credit distributed pro rata on the basis of the turnover of all the units is as under: -

- a) Unit Mumbai :  $(₹ 500,00,000 / ₹ 10,00,00,000) * ₹ 12,00,000 = ₹ 6,00,000$
- b) Unit Jabalpur :  $(₹ 300,00,000 / ₹ 10,00,00,000) * ₹ 12,00,000 = ₹ 3,60,000$
- c) Unit Delhi :  $(₹ 200,00,000 / ₹ 10,00,00,000) * ₹ 12,00,000 = ₹ 240,000$

# How ITC is Utilised?

**Sec 49(5)** The amount of input tax credit available in the electronic credit ledger of the registered person on account of—

- a) IGST shall first be utilised towards payment of IGST and the amount remaining, if any, may be utilised towards the payment of CGST and SGST, or as the case may be, Union territory tax, in that order;
- b) the CGST shall first be utilised towards payment of CGST and the amount remaining, if any, may be utilised towards the payment of IGST;
- c) the SGST shall first be utilised towards payment of SGST and the amount remaining, if any, may be utilised towards payment of IGST;

Provided that the input tax credit on account of SGST shall be utilised towards payment of IGST only where the balance of the input tax credit on account of CGST is not available for payment of IGST

- d) the UTGST shall first be utilised towards payment of UTGST and the amount remaining, if any, may be utilised towards payment of IGST;

Provided that the input tax credit on account of UTGST shall be utilised towards payment of IGST only where the balance of the input tax credit on account of CGST is not available for payment of IGST

- e) the CGST **shall not** be utilised towards payment of SGST or UTGST; and
- f) the SGST or UTGST **shall not** be utilised towards payment of CGST.

# How ITC is Utilised?

## Sec 49A Utilisation of input tax credit subject to certain conditions

**Notwithstanding** anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.

**(Inserted vide CGST (Amendment) Act, 2018, w.e.f. 1-2-2019)**

## Sec 49B Order of utilisation of input tax credit

**Notwithstanding** anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.]

**(Inserted vide CGST (Amendment) Act, 2018, w.e.f. 1-2-2019)**

## Rule 88A. Order of utilization of input tax credit

Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order:

Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.

**(Inserted vide Notification No. 16/2019 dated 29th March, 2019 w.e.f. 1-4-2019)**

# How ITC is Utilised?

## Impact of Sec 49A

### Rules of Set Off till The Month of January 2019

Payment for	First set off from	Then set off from
IGST	IGST	CGST and SGST
CGST	CGST	IGST
SGST	SGST	IGST

### Rules of Set Off till The Month of February 2019

Payment for	First set off from	Then set off from
IGST	IGST	CGST and SGST
CGST	IGST	CGST
SGST	IGST	SGST

## When there is no liability of IGST but there is ITC of IGST

ITC	ITC Amount	Liability	1 <sup>st</sup> Adjust ment	2 <sup>nd</sup> Adjust ment	Balance to pay in Cash	Balance ITC	ITC	ITC Amount	Liability	1 <sup>st</sup> Adjust ment	2 <sup>nd</sup> Adjust ment	Balance to pay in Cash	Balance ITC
IGST	100						IGST	100					
CGST	100	150	₹ 150-100 (CGST)	₹ 50-50 (IGST)	NIL	NIL	CGST	100	150	₹ 150-100 (IGST)	₹ 50-50 (CGST)	NIL	₹50
SGST	100	150	₹ 150-100 (SGST)	₹ 50-50 (IGST)	NIL	NIL	SGST	100	150	₹ 150-100 (SGST)	NIL	₹ 50	NIL

# How ITC is Utilised?

ITC of	Output IGST	Output CGST	Output SGST/UTGST
IGST	(I)	(II) – In any order and in any proportion	
<b>(III) ITC of IGST to be completely exhausted mandatorily</b>			
CGST	(V)	(IV)	Not permitted
SGST/UTGST	(VII) Only after ITC of CGST has been utilised fully	Not permitted	(VI)

## Note –

(I) IGST credit should first be utilised towards payment of IGST.

(II) Remaining IGST credit, if any, can be utilised towards payment of CGST and SGST/UTGST in any order and in any proportion, i.e. remaining ITC of IGST can be utilised –

1. First towards payment of CGST and then towards payment of SGST or
2. First towards payment of SGST and then towards payment of CGST or
3. Towards payment of CGST and SGST simultaneously in any proportion e.g. 50:50, 30:70, 40:60 and so on.

(III) Entire ITC of IGST should be fully utilised before utilizing the ITC of CGST or SGST/UTGST.

(IV) And (V) ITC of CGST should be utilised for payment of CGST and IGST in that order. ITC of CGST cannot be utilised for payment of SGST/UTGST

(VI) And (VII) ITC of SGST/UTGST should be utilised for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilised for payment of IGST only after ITC of CGST has been fully utilised.

# How ITC is Utilised?

**Example** – Amount of ITC available and output tax liability under different tax heads

Head	Output tax liability	ITC
IGST	1000	1300
CGST	300	200
SGST/UTGST	<u>300</u>	<u>200</u>
<b>Total</b>	<b>1600</b>	<b>1700</b>

## Option 1

ITC of	Discharge of output IGST Liability	Discharge of output CGST Liability	Discharge of output SGST	Balance of ITC
IGST	1000	200	100	0
ITC of IGST has been completely exhausted				
CGST	0	100	-	100
SGST/UTGST	0	-	200	0
<b>Total</b>	<b>1000</b>	<b>300</b>	<b>300</b>	<b>100</b>

# How ITC is Utilised?

## Option 2

ITC of	Discharge of output IGST Liability	Discharge of output CGST Liability	Discharge of output SGST/UTGST liability	Balance of ITC
IGST	1000	100	200	0
ITC of IGST has been completely exhausted				
CGST	0	200	-	0
SGST/UTGST	0	-	100	100
Total	1000	300	300	100

There can be other options also for utilisation of ITC of IGST against CGST and SGST liabilities. In this example, two options for utilizing ITC of IGST against CGST and SGST liabilities are shown.

# How ITC is Utilised?

## Illustration 1

ABC Co. Ltd., registered under GST, is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S. No.	Items	GST Paid (₹)
(i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw Material	2,00,000
(iv)	Confectionery items. These items were supplied free of cost to the customers in a customer meet organized by the company.	25,000

**Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items. Assume all the conditions necessary for availing the ITC have been fulfilled.**



# How ITC is Utilised?

## Answer

### Computation of ITC available with ABC CO. Ltd. For the month of July

S. No.	Items	ITC (₹)
(i)	Electrical transformers (Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1))	5,20,000
(ii)	Trucks used for the transport of raw material (ITC on motor vehicles used for transportation of goods is not blocked under section 17(5)(a))	1,00,000
(iii)	Raw Material (Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1))	2,00,000
(iv)	Confectionery items for consumption of customers at customers meet (ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i))	Nil
	<b>Total ITC</b>	<b>8,20,000</b>

# How ITC is Utilised?

## Illustration 2

XYZ Ltd., registered under GST, is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. For the month of Oct, 20xx from the following particulars –

S. No.	Inward Supplies	GST (₹)	Remarks
(i)	Inputs 'A'	100,000	One invoice on which GST payable was ₹ 10,000, is missing
(ii)	Inputs 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in Oct, 20xx.
(iii)	Capital goods	120,000	XYZ Ltd. Has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
(iv)	Input services	225,000	One invoice dated 20.01.20xx on which GST payable was ₹ 50,000 has been received in Oct, 20xx

### Note –

- (i) All the conditions necessary for availing the ITC have been fulfilled.
- (ii) The annual return for the financial year ending 31<sup>st</sup> March, 20xx was filed on 15<sup>th</sup> September, 20xx.

# How ITC is Utilised?

## Answer

### Computation of ITC available with XYZ Ltd. For the month of October, 20xx

S. No.	Inward Supplies	ITC (₹)
(i)	Inputs 'A' (ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a))	90,000
(ii)	Inputs 'B' (When inputs are received in instalments, ITC can be availed only on receipt of last instalment-First Proviso to Section 16(2))	Nil
(iii)	Capital goods (Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3))	Nil
(iv)	Input services (As per Section 16(4), ITC on invoice cannot be availed after the due date of furnishing of the return for the month of September following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since, the annual return for the FY ending 31 <sup>st</sup> March, 20xx has been filed on 15 <sup>th</sup> September, 20xx (prior to due date of filing the return for September, 20xx i.e. 20 <sup>th</sup> Oct, 20xx), ITC on the invoice pertaining to FY ending 31 <sup>st</sup> March, 20xx cannot be availed after 15 <sup>th</sup> September, 20xx.	1,75,000
	<b>Total</b>	<b>2,65,000</b>

# How ITC is Utilised?

## Illustration 3

Mr. X, a supplier of goods, pays GST under regular scheme. He has made the following outward taxable supplies in a tax period:

Particulars	(₹)
Intra-State supply of goods	8,00,000
Inter-State supply of goods	3,00,000

**He has also furnished the following information in respect of purchases made by him in that tax period:**

Intra-State purchases of goods	2,00,000
Inter-State purchases of goods	50,000

**Mr. X has following ITCs with him at the beginning of the tax period:**

CGST	57,000
SGST	Nil
IGST	70,000

- Note** – (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively  
(ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.  
(iii) All the conditions necessary for availing the ITC have been fulfilled.

Compute the min. GST payable in cash, by Mr. X during the tax period. Make suitable assumptions as required.

# How ITC is Utilised?

## Answer

### Computation of min. GST payable in cash by Mr. X on outward supplies

S. No.	Particulars	(₹)	GST (₹)
(i)	Intra-State supply of goods		
	CGST @ 9% on ₹ 8,00,000	72,000	
	SGST @ 9% on ₹ 8,00,000	72,000	1,44,000
(ii)	Inter-State supply of goods		
	IGST @ 18% on ₹ 3,00,000		54,000
	<b>Total GST payable</b>		<b>1,98,000</b>

# How ITC is Utilised?

## Answer

### Computation of total ITC

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	57,000	Nil	70,000
Add: ITC on Intra-State purchases of goods valuing ₹ 2,00,000	18,000	18,000	Nil
Add: ITC on Inter-State purchases of goods valuing ₹ 50,000	Nil	Nil	9,000
<b>Total ITC</b>	<b>75,000</b>	<b>18,000</b>	<b>79,000</b>

### Computation of minimum GST payable in Cash

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
GST payable	72,000	72,000	54,000
Less : ITC	Nil – IGST	(25,000) – IGST	(54,000) – IGST
	(72,000) – CGST	(18,000) – SGST	
Minimum GST payable in cash	Nil	29,000	Nil

**Note :** Since sufficient balance of ITC of CGST is available for paying CGST liability and cross utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cash outflow.