

GST

Input Tax Credit

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Definitions

S 2(19) **capital goods**.....

“capital goods” means goods, the value of which is capitalised in the books of accounts of the person claiming the credit and which are used or intended to be used in the course or furtherance of business

2(32) Conveyance...definition

“conveyance” includes a vessel, an aircraft and a vehicle;

S 2(19) capital goods.....

~~(A) the following goods, namely:-~~

- ~~(i) all goods falling within Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the Schedule to this Act;~~
- ~~(ii) pollution control equipment;~~
- ~~(iii) components, spares and accessories of the goods specified at (i) and (ii);~~
- ~~(iv) moulds and dies, jigs and fixtures;~~
- ~~(v) refractories and refractory materials;~~
- ~~(vi) tubes and pipes and fittings thereof;~~
- ~~(vii) storage tank; and~~
- ~~(viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers~~

~~used-~~

USED-

- ~~GST~~

- ~~— (1) at the **place of business** for supply of goods; or~~
- ~~— (2) outside the place of business for generation of electricity for captive use at the place of business; or~~
- ~~— (3) for supply of services;~~

- ~~CENVAT Credit Rules, 2004~~

- ~~— (1) **in the factory** of the manufacturer of the final products, but does not include any equipment or appliance used in an office; or~~
- ~~— (1A) outside the factory of the manufacturer of the Final products for generation of electricity for captive use within the factory; or~~
- ~~— (2) for providing output service;~~

.....Capital Goods

~~(B) motor vehicle designed for **transportation of goods** including their chassis
—— registered in the name of the supplier of service, when used for~~

~~—— (i) supplying the service of **renting** of such motor vehicle; or~~

~~—— (ii) transportation of **inputs and capital goods** used for **supply of service**; or~~

~~(iii) supply of **courier agency service**;~~

~~(C) motor vehicle designed to **carry passengers** including their chassis, registered in
—— the name of the supplier of service, when used for supplying the service of~~

~~—— (i) transportation of passengers; or~~

~~—— (ii) **renting** of such motor vehicle; or~~

~~(iii) imparting **motor driving skills**;~~

~~(D) Components, spares and accessories of motor vehicles which are capital goods
—— for the taxable person.~~

Capita Goods covered in Clause 20(A)(i) of section 2 of GST Law

- ~~Chapter 82 : tools hand tools Knives etc~~
- ~~Chapter 84 : machinery~~
- ~~Chapter 85 : Electrical Machinery~~
- ~~Chapter 90 : Measuring, Checking and testing machine~~
- ~~Sub heading 6804 : Grinding wheel and the like and parts thereof~~
- ~~Sub heading 6805 : Abrasive powder or grain on base of textile material, of paper, of paper board, or other material~~

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Motor Vehicle-Capital Goods 2(20)A(VIII)

<u>Tariff Heading</u>	<u>Type of vehicle</u>
8702	Motor vehicle for the transport of ten or more person, including the driver
8703	Motor cars and other Motor vehicle principally designed for the transport of persons (other than those specified in heading 8702) including station wagon and racing cars.
8704	Motor vehicle for Transportation of Goods
8711	Motorcycle (including moped) and cycle fitted with an auxiliary motor, with or without side cars.

➤ Crain, tractor, moving lifts are Capital Goods

➤ Truck and other goods transportation vehicle are not a Capital Goods for Manufacturer.

Accessory of Capital Goods

- ~~If a goods are capital goods then accessory of the same is also capital goods.~~
- ~~**Accessory means “ an object or device not essential in itself but adding to beauty, convenience or effectiveness of something else.”**~~
 - ~~— In Mehra Brother VS. Joint Commercial Officer-1991 car seat cover was considered as accessories of automobile.~~
 - ~~— Balkrishna Industries VS CCE it was held that tube is part of Tier and flap is accessory.~~
 - ~~— Banco Product VS. CCE [2009] it was held that **plastic crates for material handing** within the factory are eligible as accessory of capital goods and eligible for capital goods.~~

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S 2(49) Goods

“**goods**” means every kind of **movable property** other than money and securities but **includes actionable claim**, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply

Security- neither it's a good or service

S 2(48) Goods

- ~~“goods” means every kind of movable property other than actionable claim and money but~~
 - ~~— includes securities, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply;~~
- ~~Explanation.— For the purpose of this clause, the term ‘movable property’ shall not include any intangible property.~~

~~DMRN Remark-~~

- ~~**Goods includes Capital Goods**~~
- ~~**Money is not Goods & Service**~~
- ~~2(68) “money” means Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;~~

S 2(92) Services

- “**services**” means anything other than goods;

Explanation 1.- Services include transactions in money but does not include money and securities

Explanation 2.- Services does not include transaction in money other than an activity relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

S 2(55) Input Tax

- Input tax in relation to a taxable person, means
 - The (IGST and CGST)/(IGST and SGST) *(include IGST paid on Import of Goods)*
 - charged on
 - **ANY SUPPLY OF GOODS AND/OR SERVICES TO HIM**
 - ~~which are used, or are intended to be used, in the course or **furtherance** of his business and~~
 - includes the tax payable under sub-section (3) of section 8 (tax paid on reverse charge basis)
- **“Input tax credit”** means credit of ‘input tax’ as defined in section 2(55) [2(56)]

S 2(52) Input & S 2(53) Input service

- **Input means any goods other than capital goods,**
~~subject to exceptions as may be provided under this Act or the rules made thereunder,~~ used or intended to be used by a supplier for making an outward supply in the course or furtherance of business
- **Input Service means any service,**
~~subject to exceptions as may be provided under this Act or the rules made thereunder,~~ used or intended to be used by a supplier for making an outward supply in the course or furtherance of business

GST- S 17(4) Negative List- Input Tax Credit

A. Motor Vehicle

- Input tax credit will not be available in respect of the following:

A. MOTOR VEHICLES *and Other Conveyances*

However credit in respect of motor vehicles would be available in the following cases:

- further supply of such vehicles or conveyances (Trading of Cars/Vessel..)
- Motor vehicles used for providing the following taxable services:
 - transportation of passengers,
 - imparting training on driving, flying, navigating such vehicles or conveyances
- MV used in Transportation of Goods

“conveyance” includes a vessel, an aircraft and a vehicle;

2 (67) Definition of Motor Vehicle...

"motor vehicle" has the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

S 2(28) of MV Act, 1988

"motor vehicle" or "vehicle" means any **mechanically** propelled vehicle adapted for **use upon roads** whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer ;

but **does not include** a vehicle running upon fixed rails or a vehicle of a special type adapted for **use only in a factory** or in any other enclosed premises or a vehicle having **less than four wheels fitted with engine capacity of not exceeding 25 cc ;**

Tractor-trailer. - A Division Bench of the Punjab and Haryana High Court in *United India Insurance Company Ltd. v. Pritpal Singh* (1996-2) 113 Punj. L.R. 49 held that even though trailer may be drawn by a motor vehicle if by itself is a motor vehicle and both the **Tractor & Trailer taken together would constitute a transport vehicle**

ITC....Negative List (~~employee benefit~~)

B. Goods and services provided in relation to:

1. food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery
except where such inward supply of goods or services of a particular category is used by a registered taxable person for making an outward taxable supply **of the same category** of goods or services
2. membership of a club, health and fitness centre,
3. **Rent a Cab**, life insurance, health insurance
except where the Government notifies the services which are obligatory for an employer to **provide to its employees under any law** for the time being in force; and
4. travel benefits extended to employees on vacation such as leave or home travel concession

... ~~when such goods and services are used primarily for personal use or consumption of any employee~~

ITC....Negative List

Works Contract

(c) works contract services when supplied for construction of 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 received by a taxable person for construction of an immovable property **on his own account**, other than plant and machinery, even **when used in course** or furtherance of business;

Explanation 1.- For the purpose of this clause, the word “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

Explanation 2.- ‘Plant and Machinery’ means apparatus, equipment, machinery, pipelines, telecommunication tower fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation and structural supports but excludes land, building or any other civil structures.

ITC....Negative List

Others

- e. Goods and services on which tax has been paid under the composition levy under section 9.
- f. Goods and services used for personal consumption
- g. goods **lost, stolen, destroyed, written off or disposed** of by way of **gift** or **free samples**; and **(ITC Revresal ?)**
- h. any tax paid in terms of sections 67, 89 or 90.

S. 67- Tax not paid- fraud, willful-misstatement, suppression of facts

S. 89-Detention, seizure and release of goods & conveyances in transit

S. 90-Confiscation of goods and/or conveyances and levy of penalty

Input Tax Credit to Registered Person 16(1)

- Every registered taxable person shall subject to such conditions and restrictions as may be prescribed and within the time and manner specified in section 44 be entitled to take credit of input tax charged on Goods & Services, and;
- used or intended to be used in the course or furtherance of his business
- Such amount shall be credited to the electronic credit ledger of such person.

Provided.....

Continued..

Provided....

- PROVIDED that credit of input tax in respect of pipelines and telecommunication tower fixed to earth by foundation or structural support including foundation and structural support thereto shall not exceed—
 - a. one-third of the total input tax in the financial year in which the said goods are received
 - b. two-third of the total input tax, including the credit availed in the first financial year, in the financial year immediately succeeding the year referred to in clause (a) in which the said goods are received, and
 - c. the balance of the amount of credit in any subsequent financial year.

16(2) Conditions for claiming Credit...

- No taxable person shall be entitled to the credit of any input tax unless following **four conditions** are satisfied:
 1. he is in possession of a **tax invoice**, debit note, supplementary invoice or such other taxpaying document as prescribed, issued by registered supplier
 2. he has received the goods or services (**Last Lot**) (**In Transit Sale**)
 3. the tax is charged in respect of such supply has been actually paid to the credit of the appropriate government, either in cash or utilization of **input tax credit admissible** in respect of the said supply and.....
 4.he has furnished the return under section 34 (20th Return)

- **Non Payment to Service Provider:**

*Credit will be reversed **with Interest** if not paid with tax to **Service Provider***

Re-Credit ?

.....Condition for ITC

- *it shall be **deemed that the taxable person has received the goods** where the goods are delivered by the supplier to a recipient or any other person on the direction of such taxable 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.*
- *A return furnished under sub-section (1) by a registered taxable person without payment of full tax due as per such return shall not be treated as a valid return for allowing input tax credit in respect of supplies made by such person.*
- It has further been stated that where the goods against an invoice are received **in lots or installments**, the registered taxable person shall be entitled to the credit upon receipt of the last lot or installment.
- 16(3) Where the registered taxable person has claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax Act 1961, the input tax credit shall not be allowed on the said tax component.

S 16 (4) Restrictions for claiming Credit

- Time Limit for claiming Credit

A taxable person shall not be entitled to take input tax credit in respect of any supply after the **earlier of following two events**

1. filing of return under section 34 for the month of September following the end of financial year **(20th October)** to which such **invoice pertains**; or
2. filing of the relevant annual return (31st December)

APPORTIONMENT OF CREDIT

Apportionment of credit in certain cases...

- 17(1) Where the goods and services are used by the registered taxable 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 attributable to the purposes of his business.
- 17(2) where the goods and services are **used** by the registered taxable person partly for **effecting taxable supplies** and partly **for effecting non-taxable** supplies, including exempt supplies but excluding zero-rated supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies. Explanation:

Supplies covered under Reverse Charge – Consider as Exempt Supply

Apportionment of credit in certain cases

S. 17(3) Banks/ NBFC/FI

- Two Options:
 - 1) Take credit related to taxable Supply or
 - 2) 50% ITC of Inputs/Services/Capital GoodsOption once adopt cannot changed upto end of FY.

Availability of credit in special circumstances

Newly Registered Person 18(1)	Voluntary Registration 18(2)	Dealer ceases to be composition dealer 18(3)	a Registered Dealer – Exempted Supply to Taxable Supply
<p>A person who has applied for registration within 30 days from the date on which he becomes liable to registration, and has ultimately been granted such registration, shall also be entitled to take ITC in respect of inputs which are –</p> <ul style="list-style-type: none"> ○ held in stock, and ○ contained in semi-finished or finished goods held in stock <p>... on the day immediately preceding the date from which he becomes liable to pay tax</p>	<p>A person who has applied for voluntary registration (u/s 23 (3)) shall be entitled to take ITC in respect of inputs which are -</p> <ul style="list-style-type: none"> ○ held in stock, and ○ contained in semi-finished or finished goods held in stock <p>... on the day immediately preceding the date of registration</p>	<p>Where any registered taxable person ceases to pay tax under section 8, he shall be entitled to take credit of input tax in respect of inputs which are-</p> <ul style="list-style-type: none"> ○ held in stock, and ○ inputs contained in semi-finished or finished goods held in stock ○ Capital Goods <p>.....on the day immediately preceding the date from which he becomes liable to pay tax under section 7</p>	<p>Where an exempt supply of goods or services by a registered taxable person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs which are-</p> <ul style="list-style-type: none"> ○ held in stock, and ○ inputs contained in semi-finished or finished goods held in stock ○ Capital Goods Exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable

Other Conditions

18(5) In above 4 cases, a taxable person shall not be entitled to take input tax credit in respect of any supply of goods and / or services to him after the **expiry of 1 year** from the date of issue of **tax invoice** relating to such supply.

18(6) change in the constitution- Transfer of Credit is Allowed
Transfer/Sale/Merger/Amalgamation etc with specific provision
of Transfer of Liabilities

S. 18(7)...Taxable to Exempt or Composite Scheme

- Registered taxable person
- switches over to Composite Dealer u/s 9 or,
- Goods/services become exempt absolutely under section 11
 - he shall pay an amount, by way of **debit in the electronic credit or 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 such switch over or, as the case may be, the date of such exemption:
- The balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

S 18(10) ITC reversal-Sale of Capital Goods

- In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered taxable person shall
- pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery
- (reduced by the percentage points as may be specified in this behalf) or
- the tax on the transaction value of such capital goods or plant and machinery under sub-section (1) of 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 under sub-section (1) of section 15.

Job Work

Manner of taking Input Tax Credit in respect of Job-work (Section 20)

- The principal could claim input tax credit on inputs or capital goods sent to job worker or directly delivered by vendor to job worker.
- The said inputs after processing shall have to be returned within **one year** from **date of send out**. **Capital goods** shall have to returned within **3 years** from the date of Send out.
- **If not received in one/three years then its deemed as Supply on Send out date. Tax will be payable with Interest**

If moulds and dies, jigs and fixtures, or tools sent out to a job-worker for job-work and received back in one/three years- No tax will be payable

INPUT SERVICE DISTRIBUTOR

Input Service Distributor(S 21)

- The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of CGST as IGST and IGST as IGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States; Where distribution is to a business vertical within that state, CGST or IGST can be distributed as CGST.
- The Input Service Distributor may distribute the credit subject to the following conditions, namely:
 - a) the credit can be distributed against a prescribed document issued to each of the recipients of the credit so distributed, and such invoice or other document shall contain 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 supplier shall be distributed only to that supplier;
 - d) the credit of tax paid on **input services** attributable to more than one supplier shall be distributed only amongst such supplier(s) to whom the input service is attributable and such distribution shall be *pro rata on the basis of the turnover in a State of such* supplier, during the relevant period, to the aggregate of the turnover of all such suppliers to whom such input service is attributable and which are operational in the current year, during the said relevant period.

Recovery of credit distributed in excess (S 22)

- When the credit distributed by ISD is in excess of what is available for distribution by him, it can be recovered with interest and in the manner specified in section 51.
- When the credit distributed by ISD in excess to one or more suppliers, it can be recovered from such suppliers with interest in manner as specified in section 51.

UTILIZATION OF CREDIT

Order of Preference for using ITC relating to different taxes i.e. IGST/ SGST/ CGST

- The taxable person may have ITC on account of various taxes such as IGST/ CGST/ SGST – following is the table that summaries the order of preference for using the credit available on account of different taxes

Type of credit	First preference	Second preference	Third preference	Comments
IGST	IGST	CGST	SGST	
CGST	CGST	IGST	-	Credit pertaining to CGST cannot be used for payment of SGST
SGST	SGST	IGST	-	Credit pertaining to SGST cannot be used for payment of CGST

THANK YOU

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