

MODEL GST LAW

CHAPTER– V

Input Tax Credit

Presented by:

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16. Manner of taking input tax credit

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 35, be entitled to take credit of input tax admissible to him and the said amount shall be credited to the electronic credit ledger of such person.

Sec-2(96) “**taxable person**” shall have the meaning as assigned in section 9 of this Act

• Sec- 9 Taxable person

Taxable Person means a person who carries on any business at any place in India /State of ____ and who is registered or required to be registered under Schedule III of this Act:

Provided that an agriculturist shall not be considered as a taxable person.

Provided further that a person who is required to be registered under paragraph 1 of Schedule III of this Act shall not be considered as taxable person until his aggregate turnover in a financial year exceeds Rs ten lakh]

Provided further that a person who is required to be registered under paragraph 1 of Schedule III of this Act shall not be considered as taxable person until his aggregate turnover in a financial year exceeds Rs five lakh]

This threshold of 5 lacs will apply only if a taxable person conducts his business in any of the NE States including Sikkim.]

ne Central Government, a State Government or any local authority shall be regarded as a taxable person in respect of activities or transactions in which they are engaged as public authorities other than the activities or transactions as specified in Schedule IV to this Act.

ne following persons shall not be considered as taxable persons for the purposes of this Act –

- any person who provides services as an employee to his employer in the course of, or in relation to his employment, or by any other legal arrangement creating the relationship of employer and employee as regards working conditions, remunerations and employer's liability;**
- any person engaged in the business of exclusively supplying goods and services that are not liable to tax under this Act;**
- any person, liable to pay tax under sub-section (3) of section 7, receiving services of value not exceeding _____ rupees in a year for personal use other than for use in the course or furtherance of his business.**

16(2) A person who has applied for registration under the Act **within th**
days

from the date on which he becomes liable to registration and **has b**
granted such registration shall,

subject to such conditions and restrictions as may be prescribed,

be entitled to take credit of input tax in respect of **inputs** held in stock a
inputs contained in semi-finished or finished goods held in stock

on the day immediately preceding the date from which he becomes liable
pay tax under the provisions of this Act.

Sec- 2(54) “input” means any goods other than capital goods, subject
exceptions as may be provided under this Act or the rules made thereunc
used or intended to be used by a supplier for making an outward supply
the course or furtherance of business;

6(2A:) A person, who takes registration under sub-section (3) Section 19,(Voluntary Registration) shall,
subject to such conditions and restrictions as may be prescribed,
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 registration.

**Sec 19 (3): A person, though not liable to be registered under
Schedule III, may get himself registered voluntarily, and the
provisions of this Act, as are applicable to a registered taxable
person, shall apply to such person.**

3) Where any **registered taxable person** ceases to pay tax under **section 8**, he shall, subject to such conditions and restrictions as may be prescribed, 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 section 7.

Sec 8 Composition Levy

1) Notwithstanding anything to the contrary contained in the Act but subject to subsection (3) of section 7, on the recommendation of the Council, the proper officer of the Central or a State Government may, subject to such conditions and restrictions as may be prescribed, permit a registered taxable person, whose aggregate turnover in a financial year does not exceed [fifty lakh of rupees], to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not less than one percent of the turnover during the year:

➤ **Provided that no such permission shall be granted to a taxable person who effects any inter-State supplies of goods and/or services.**

➤ **Provided further that no such permission shall be granted to a taxable person unless all the registered taxable persons, having the same PAN as held by the said taxable person, also opt to pay tax under the provisions of this sub-section**

Sec- 8(2) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

Sec- 8 (3) If the proper officer has reasons to believe that a taxable person was not eligible to pay tax under sub-section (1), such person shall, in addition to any tax that may be payable by him under other provisions of this Act, be liable to a penalty equivalent to the amount of tax payable as aforesaid:

Provided that no penalty shall be imposed without giving notice to show cause and without affording a reasonable opportunity of being heard to the person proceeded against.

16(3A) A taxable person shall **not be entitled** to take input tax credit under sub-section (2), (2A) or sub-section (3) in respect of any supply of goods and / or services to him after the expiry of **one year** from the date of issue of tax invoice relating to such supply.

(4) The amount of credit under sub-section (2), (2A) or sub-section (3) shall be calculated in accordance with **generally accepted accounting principles** in such manner as may be prescribed.

5) Where the goods and/or 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 is attributable to the purposes of his business.**

6) Where the goods and / or 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.**

7) The Central or a State Government may, by notification issued on this behalf, **prescribe the manner** in which the credit referred to in **sub-sections (5) and (6)** above may be attributed.

3) Where there is a change in the constitution of a registered taxable person

on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities,

the said registered taxable person shall be allowed

to transfer the input tax credit that remains unutilized in its books of accounts

to such sold, merged, demerged, amalgamated, leased or transferred business in the manner prescribed.

Non Creditable

6(9) Notwithstanding anything contained in sub-section (1), (2), (2A) or (3) input tax credit shall not be available in respect of the following:

(a) motor vehicles, **except** when they are supplied in the usual course of business or are used for providing the following taxable services—

- (i) transportation of passengers, or
- (ii) transportation of goods, or
- (iii) imparting training on motor driving skills;

16(9(b)) goods and / or services provided in relation to food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as leave or home travel concession, when such goods and/or services are used primarily for personal use or consumption of any employee;

16(9(c)) goods and/or services acquired by the **principal** in the execution of works contract when such contract results in construction of immovable property, other than plant and machinery;

16(9(d)) goods acquired by a principal,
the property in which is not transferred (whether as goods or
some other form)

to any other person, which are used in the construction of
immovable property, other than plant and machinery;

16(e) goods and/or services on which tax has been paid under
section 8 (Composition); and

16(f) goods and/or services used for private or personal
consumption, to the extent they are so consumed.

6(10) 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.

6(11) Notwithstanding anything contained in this section, but subject to the provisions of **section 28(See next slide)**, no registered taxable person shall be entitled to the credit of an input tax on respect of any supply of goods and/or services to him unless:

16(11(a)) he is in possession of a **tax invoice, debit note or supplementary invoice or such other taxpaying document** as may be prescribed, issued by a supplier registered under this Act or the GST Act;

(b) he has received the goods and/or services;

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

(d) he has furnished the return under **section 27**(see coming slide):
provided that where the goods against **an invoice** are received in **lots or instalments**, the registered taxable person shall be entitled to the credit upon **receipt of the last lot or instalment**.

- **Explanation.**—For the purpose of clause (b), 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

**Sec- 28 Claim of input tax credit and provisional acceptance
hereof:**

**Every taxable person shall, subject to such conditions and
restrictions**

as may be prescribed in this behalf,

be entitled to take credit of input tax, as self-assessed,

**in his return and such amount shall be credited, on a provisional
basis,**

**to his electronic credit ledger to be maintained in the manner as
may be prescribed:**

**Provided that a taxable person who has not furnished a valid
return under section 27 of the Act shall not be allowed to utilize
such credit till he discharges his self-assessed tax liability.**

Sec: 27 Returns

1) Every registered taxable person shall, for every calendar month or part thereof, furnish, in such form and in such manner as may be prescribed, a return, electronically, of inward and outward supplies of goods and/or services, input tax credit availed, tax payable, tax paid and other particulars as may be prescribed within twenty days after the end of such month:

Provided that a registered taxable person paying tax under the provisions of section 8 of this Act shall furnish a return for **each quarter** or part thereof electronically, in such form and in such manner as may be prescribed, within fourteen days after the end of such quarter:

Provided further that a registered taxable person shall not be allowed to furnish return for a tax period **if valid return for any previous tax period has not been furnished by him.**

Sec- 27 (2) Every registered taxable person, who is required to furnish a return under subsection (1), shall pay to the credit of the appropriate Government the tax due as per such return not later than the last date on which he is required to furnish such return.

3) 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.

4) Every registered taxable person shall furnish a return for every tax period under sub-section (1), whether or not any supplies of goods and/or services have been effected during such tax period (nil return also to be filed)

Sec- 27 (5) Every registered taxable person required to deduct tax at source shall furnish a return, electronically, in such form and in such manner as may be prescribed, for the month in which such deductions have been made along with the payment of tax so deducted, within ten days after the end of such month.

6) Every Input Service Distributor shall, for every calendar month or part thereof, furnish a return, electronically, in such form and in such manner as may be prescribed, within thirteen days after the end of such month.

Sec- 27(7) Subject to the provisions of sections 25 and 26, if any taxable person after furnishing a return under sub-section (1) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be filed for the month or quarter, as the case may be, during which such omission or incorrect particulars are noticed, subject to payment of interest, where applicable and as specified in the Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for filing of return for the month of September or second quarter, as the case may be, following the end of the financial year, or the actual date of filing of relevant annual return, whichever is earlier.

16((12)) Where any registered taxable person who has availed of input tax credit

switches over as a taxable person for paying tax under section 17, or, where the goods and / or services supplied by him become exempt absolutely under **section 10**, (next slide)

he shall pay an amount, by way of debit in the electronic credit 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 on the day immediately preceding the date of such switch over 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.

Sec: 10 Power to grant exemption from tax

1) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by notification, exempt generally or either absolutely or subject to such conditions as may be specified in the notification, goods and/or services of any specific description from the whole or any part of the tax leviable thereon.

Explanation.- Where an exemption under sub-section (1) in respect of any goods and/or services from the whole of the tax leviable thereon has been granted absolutely, the taxable person providing such goods and/or services shall not pay the tax on such goods and/or services.

Sec- 10(2) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by special order in each case, exempt from payment of tax any goods and/or services on which tax is leviable.

Sec- 10(3) The Central or a State Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and even if such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Sec-10(4) Every notification issued under sub-section (1) or sub-section (3) and every order issued under sub-section (2) shall

unless otherwise provided, come into force on the date of its issue by the Central or a State Government for publication in the Official Gazette; and shall be made available on the official website of the department of the Central or a State Government.

16((13)) The amount payable under sub-section (12) shall be calculated in accordance with **generally accepted accounting principles** in such manner as may be prescribed.

16((14)) In case of supply of capital goods 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

reduced by the percentage points as may be specified in this behalf or the amount on the transaction value of such capital goods under sub-section (1) of **section 15**, (next slide) **whichever is higher.**

Sec 15 Value of taxable supply

.) The value of a supply of goods and/or services shall be the transaction value, that is the price actually paid or payable for the said supply of goods and/or services where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

5(15) A taxable person shall not be entitled to take input tax credit in respect of any invoice

for supply of goods and/or services, after the filing of the return under section 7 for the month of September following the end of financial year to which such invoice pertains

or filing of the relevant annual return, **whichever is earlier.**

5((16)) Where credit has been taken **wrongly**, the same shall be **recovered** from the registered taxable person in the manner as may be prescribed in the rules. **half.**

16A. Taking input tax credit in respect of inputs sent for job work

(1) The “principal” referred to in ***section 43 A (next slide)*** shall, subject to such conditions and restrictions as may be prescribed be entitled to take credit of input tax on inputs sent to a job-worker for job-work

if the said inputs, after completion of job-work, are received back by him within **one hundred and eighty days of their being sent out:**

Provided that the “principal” shall be entitled to take credit of input tax on inputs even

if the inputs are directly sent to a job worker for job-work without their being first brought to his place of business, (contd.)

and in such a case, the period of one hundred and eighty days shall be counted from the date of receipt of the inputs by the job worker.

Sec : 43A JOB WORK

43A. Special procedure for removal of goods for certain purposes

43A (1) The Commissioner may, by special order and subject to conditions which may be specified by him, permit a registered taxable person (hereinafter referred to in this section as the “principal”) to send taxable goods, without payment of tax, to a job worker for job-work and from there subsequently to another job worker and likewise, and may, after completion of job-work, allow to-

(a) bring back such goods to any of his place of business, without payment of tax, for supply therefrom on payment of tax within India, or with or without payment of tax for export, as the case may be, or

43 (1)(b) supply such goods from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the goods shall not be permitted to be supplied from the place of business of a job worker in terms of clause (b) unless the “principal” declares the place of business of the job worker as his additional place of business except in a case-

- where the job worker is registered under section 19; or**
- where the “principal” is engaged in the supply of such goods as may be notified in this behalf.**

17. Manner of distribution of credit by Input Service Distributor

(1) 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. **(CGST ACT)**

(1) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of SGST 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. **(SGST Act)**

2) The Input Service Distributor may distribute, in such manner as may be prescribed,

the credit of CGST and IGST as CGST, 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, being a business vertical, are located in the same State. **(CGST Act)**

2) The Input Service Distributor may distribute, in such manner as may be prescribed,

the credit of SGST and IGST as SGST, 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, being a business vertical, are located in the same State. **(SGST Act)**

the Input Service Distributor may distribute the credit subject to the following conditions, namely:

- 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;
- the amount of the credit distributed **shall not exceed** the amount of credit **available for distribution**;
- the credit of tax paid on input services attributable to a supplier shall be **distributed only to that supplier**;
- 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 the State of such supplier, **during the relevant period**contd.

to the aggregate of the turnover of all such suppliers to whom such input services are attributable and which are operational in the current year, during the said relevant period.

18. Manner of recovery of credit distributed in excess

Where the credit distributed by the Input Service Distributor is in **excess** of the credit **available** for distribution by him,

the excess credit so distributed shall be recovered from such distributor along with **interest**,

and the provisions of section 51 shall apply *mutatis mutandis* for effecting such recovery.

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 17

resulting in excess distribution of credit to one or more suppliers,

the excess credit so distributed shall be **recovered** from such supplier along **with interest**, and the provisions of section 51 shall apply *mutatis mutandis* for effecting such recovery.

Explanation. –For the purposes of **section 17** and this section, the **relevant period** shall be-

- if the recipients of the credit have turnover in their States,
- in the financial year preceding the year during which credit is to be distributed,
- the said financial year; or
- if some or all recipients of the credit do not have any turnover in their States 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.

PAYMENT OF TAX

35. Payment of tax, interest, penalty and other amounts

(1) Every deposit made towards tax, interest, penalty, fee or any other amount by a taxable person by internet banking or by using credit/debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by any other mode, subject to such conditions and restrictions as may be prescribed in this behalf shall be credited to the electronic cash ledger of such person to be maintained in the manner as may be prescribed.

Explanation.- The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit.

35(2) The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed.

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

5(4) The amount available in the electronic credit ledger may be used in making any payment towards tax payable under the provisions of the Act and the rules made thereunder in such manner and subject to such conditions as may be prescribed within such time as may be prescribed.

5(a) The amount of input tax credit on account of IGST available in the electronic credit ledger shall first be utilized towards payment of IGST and the amount remaining, if any, may be utilized towards the payment of CGST and SGST, in that order.

- (b) The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST and SGST, in that order.
- (c) The input tax credit on account of CGST shall not be utilized towards payment of SGST.

- **Note: This provision is to be incorporated in CGST Act.**

- (b) The amount of input tax credit on account of SGST available in the electronic credit ledger shall first be utilized towards payment of SGST and the amount remaining, if any, may be utilized towards the payment of IGST.
- (C) The input tax credit on account of SGST shall not be utilized towards payment of CGST.
- **Note: This provision is to be incorporated in SGST Act.**

5(6) The balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount payable under the Act or the rules made thereunder may be refunded in accordance with the provisions of section 3 and the amount collected as CGST/SGST shall stand reduced to that extent.

7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed.

35(8) Every taxable person shall discharge his tax and other dues under the Act or the rules made thereunder in the following order:

- (a) self-assessed tax, and other dues related to returns of previous periods;
- (b) self-assessed tax, and other dues related to return of current period;
- (c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 51.

35(9) Every person who has paid the tax on goods and/or services under the Act shall, unless the contrary is proved by him, be deemed to have passed the full incidence of such tax to the recipient of such goods and/or services.

Explanation.— For the purposes of this section, the expression “tax due” means the tax payable under this Act and does not include interest, fee and penalty.

Thank You All

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