

GST Awareness Campaign

**A Presentation By –
GST Helpline Team**

POINTS FOR DISCUSSION

1. INPUT TAX CREDIT (ITC);
2. TRANSITIONAL PROVISIONS; AND
3. QUESTION ANSWER SESSION

ITC Section 16

1. Every registered person shall 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, if-
 - (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;
 - (b) he has received the goods or services or both.

ITC Section 16 Contd. . . .

- (c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and
- (d) he has furnished the return under section 39;
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:

ITC Section 16 Contd. . . .

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed;

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

ITC Section 16 Contd. . . .

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.
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 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 or furnishing of the relevant annual return, whichever is earlier.

ITC- RULE 36

Documentary requirements and conditions for claiming input tax credit-

The input tax credit shall be availed by a registered person 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; (RCM)
- (c) a debit note issued by a supplier in accordance with the provisions of section 34;

ITC- RULE 36 Contd

- (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made there under 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. (Banking company)

ITC- RULE 36 Contd

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.

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, will ful misstatement or suppression of facts.**

ITC Section 17 Contd. . . .

Apportionment of Credit and blocked credit

- (1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.
- (2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, 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.

ITC Section 17 Contd. . . .

- (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.
- (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 fifty per cent of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

ITC Section 17 Contd. . . .

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year;

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(5) Input tax credit shall not be available in respect of the following, namely:-

ITC Section 17 Contd. . . .

- (a) motor vehicles and other conveyances except when they are used–
 - (i) for making the following taxable supplies, namely–
 - (A) further supply of such vehicles or conveyances; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving, flying, navigating such vehicles or conveyances;
 - (ii) for transportation of goods;

ITC Section 17 Contd. . . .

- (b) the following supply of goods or services or both-
 - (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category 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;
 - (iii) rent-a-cab, life insurance and health insurance except where-

ITC Section 17 Contd. . . .

- (A) 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; or
- (B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and

ITC Section 17 Contd. . . .

- (iv) travel benefits extended to employees on vacation such as leave or home travel concession;
- (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;

ITC Section 17 Contd. . . .

- (e) goods or services or both on which tax has been paid under section 10;
- (f) goods or services or both received by a non-resident taxable person except on goods imported by him;
- (g) goods or services or both used for personal consumption;
- (h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- (i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

Claim of credit by a banking company or a financial institution- Rule 38

A banking company or a financial institution, including a non-banking financial company, engaged in the supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of that section, shall follow the following procedure, namely-

- (a) the said company or institution shall not avail the credit of,-
 - (i) the tax paid on inputs and input services that are used for non-business purposes; and
 - (ii) the credit attributable to the supplies specified in sub-section (5) of section 17, (Supplies on which credit not admissible under Law)

Claim of credit by a banking company or a financial institution- Rule 38

- (b) the said company or institution shall avail the credit of tax paid on inputs and input services referred to in the second proviso to sub-section (4) of section 17 and not covered under clause (a); (same PAN)
- (c) fifty per cent. of the remaining amount of input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in FORM GSTR₂;
- (d) the amount referred to in clauses (b) and (c) shall be credited to the electronic credit ledger of the said company or the institution.

AVAILABILITY OF CREDIT IN SPECIAL CIRCUMSTANCES

Section 18 of CGST/ SGST Act

- (a) a person who has applied for registration under this Act within thirty 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;

AVAILABILITY OF CREDIT IN SPECIAL CIRCUMSTANCES

Section 18 of CGST/ SGST Act

- (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**;

AVAILABILITY OF CREDIT IN SPECIAL CIRCUMSTANCES

Section 18 of CGST/ SGST Act

(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;

AVAI AVAILABILITY OF CREDIT IN SPECIAL CIRCUMSTANCES

Section 18 of CGST/ SGST Act

(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 relatable 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.

AVAILABILITY OF CREDIT IN SPECIAL CIRCUMSTANCES

Section 18 of CGST/ SGST Act

- (2) A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.
- (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.

AVAILABILITY OF CREDIT IN SPECIAL CIRCUMSTANCES

Section 18 of CGST/ SGST Act

(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, 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

Section 18 of CGST/ SGST Act

(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 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.

MANNER OF TAKING CREDIT IN SPECIAL CIRCUMSTANCES

Rule- 40

(a) the input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five percentage points **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.

(b) the registered person shall within a period of thirty days from the date of his becoming eligible to avail the input tax credit under sub-section (1) of section 18 shall make a declaration, electronically, on the common portal in **FORM GST ITC- 01** to the effect that he is eligible to avail the input tax credit as aforesaid;

MANNER OF TAKING CREDIT IN SPECIAL CIRCUMSTANCES

Rule- 40

(c) the declaration under clause (b) shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods.

(d) the details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds two lakh rupees;

MANNER OF TAKING CREDIT IN SPECIAL CIRCUMSTANCES

Rule- 40

- (2) The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of sub-section (6) of section 18, shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.

ITC ON INPUTS AND CAPITAL GOODS SENT FOR JOB WORK

Section- 19

- (1) The principal shall be allowed input tax credit on inputs sent to a job worker for job work.
- (2) 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 being first brought to his place of business.

ITC ON INPUTS AND CAPITAL GOODS SENT FOR JOB WORK

Section 19

(3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (a) or clause (b) of sub-section (1) of section 143 within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out:

Provided that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

ITC ON INPUTS AND CAPITAL GOODS SENT FOR JOB WORK

Section- 19

- (4) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.
- (5) The principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.

ITC ON INPUTS AND CAPITAL GOODS SENT FOR JOB WORK

Section- 19

- (6) Where the capital goods sent for job work are not received back by the principal within a period of three years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out:

Provided that where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

- (7) Nothing contained in sub-section (3) or sub-section (6) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

Conditions and restrictions in respect of inputs and capital goods sent to the job worker- Rule 45

- (1) The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker.
- (2) The challan issued by the principal to the job worker shall contain the details specified in rule 55.
- (3) The details of challans in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during a quarter shall be included in FORM GST ITC-04 furnished for that period on or before the twenty-fifth day of the month **succeeding the said quarter.**

.Conditions and restrictions in respect of inputs and capital goods sent to the job worker- Rule 45

- (4) Where the inputs or capital goods are not returned to the principal within the stipulated time, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in FORM GSTR-1 and the principal shall be liable to pay the tax along with applicable interest.

THE END

THANK YOU FOR YOUR PATIENCE



**A Presentation By –
GST Helpline Team**