

GST STUDY AND REFRESHER COURSE

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VENUE : RVG EDUCATIONAL FOUNDATION.

Topic : Input Tax Credit.

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CHARTERED ACCOUNTANT

Current Difficulties in claiming the transitional credit.

- a. Payment of service tax under reverse charge mechanism by challan upto 6th July 2017.**
- b. Payment of service tax under reverse charge mechanism by challan after 6th July 2017.**
- c. Delayed receipt or booking of old service tax invoices. – Disclosure in GST Trans-1.**
- d. Adjustment of advances on which only service tax is paid and no receipt or document was raised to customer for such advances.**

A. 1) Definition:

i) Section 2(62) defines 'input tax' as follows:

(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;

CLAUSE (B) TO (E) PERTAIN TO CREDIT OF GST PAID ON REVERSE CHARGE SUPPLIES.

ALLOWABILITY OF CREDIT OF CGST, SGST OF OTHER STATES OR WHERE PLACE OF SUPPLY IS OF DIFFERENT STATE ???

ii) Section 2(63) defines 'input tax credit' as follows:

(63) "input tax credit" means credit of input tax;

iii) Section 2(60) defines 'Input Service' as follows:

(60) "input service" means any service used or **intended to be used by a supplier in the course or furtherance of business;**

iv) Section 2(19) defines 'Capital Goods' as follows:

(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;**

v) Section 2(59) defines 'input' as follows:

(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;**

Analysis of the definition of Inputs, Input services and capital goods.

- i. ITC covers all goods and services.
- ii. Input Tax credit is admissible for goods and services used.
- iii. ITC also includes goods or services intended to be used.

Impact on – R & D expenses, Expenses on new project, Expenses incurred on production of films,

- iv. No concept of Capital services – **Impact of capitalization of pre-opening cost, pre-operational consultancy, Installation of plant and machinery.**
- v. **ITC eligible only when goods or services are procured in in the course or furtherance of business;**

A.2) Analysis of in course of furtherance of business

- ❖ The following factors will be guideline factor for interpreting in the course or furtherance of business:
 - The words 'wholly and exclusively' refers to motive, objective and purposes of the expenditure and gives jurisdiction to the taxing authorities to examine these matters. – B.K. Khanna & Co (P) Ltd v. CIT (2001) 247 ITR 705, 709 (Del)
 - The expression 'wholly and exclusive' in section 37(1) does not mean 'necessarily'. Ordinarily, it is for the assessee to decide whether any expenditure should be incurred in the course of its or his business. Such expenditure may be incurred voluntarily and without any necessity, and if it is incurred for promoting the business and to earn profits, the assessee can claim deduction therefor under section 37(1) even though there was no compelling necessity to incur such expenditure. – Bralco Metal Industries Pvt. Ltd. V. CIT, (1994) 206 ITR 477, 482 (Bom).

- The Hon. Supreme Court in the case of Eastern Investments Ltd v. CIT (1951) 20 ITR 1, 4 (SC) laid down following principles –
- a) though the question must be decided on the facts of each case the final conclusion is one of law.
 - b) It is not necessary to show that the expenditure was a profitable one or that in fact any profit was earned
 - c) It is enough to show that the money was expended 'not necessity and with a view to a direct and immediate benefit to the trade, but voluntarily and on the ground of commercial end in order indirectly to facilitate the carrying on of the business
 - d) Beyond that no hard and fast rule can be laid down to explain what is meant by the word 'solely' occurring in the pre-1939 law.
- That expenditure made under a transaction which is so closely related to the business that it could be viewed as an integral part of the conduct of the business, may be regarded as revenue expenditure laid out wholly and exclusively for the purpose of business. Bombay Steam Navigation Co. (1953) Pr. Ltd v. CIT (1965) 56 ITR 52, 61 (SC)

- The true test of an expenditure laid out wholly and exclusively for the purposes of trade or business is that it is incurred by the assessee as incidental to his trade for the purpose of keeping the trade going and of making it pay and not in any other capacity than that of a trade. CIT v. Delhi Safe Deposit Co Ltd (1982) 133 ITR.
- The manner to apply the test is to ask the question. Has the expense been incurred with the sole object of furthering the trade or business interest of the assessee unalloyed or unmixed with any other consideration? If the expense is found to bear an element other than the trade or business interest of the assessee the expenditure is not an allowable one. To arrive at the conclusion that the expenditure was dictated solely by business consideration one has to consider the nature of the business being adversely affected or its interest being promoted by the refusal or the incurring of the expenditure, as the case may be. When the assessee places all the facts and circumstances before the revenue authorities, the latter must examine the same and must make up their minds as to whether the expenditure was necessitated or justified by commercial expediency [Andrew Yule & Co Ltd v. CIT (1963) 49 ITR 57, 65 (Cal)]

- An expenditure to which one cannot apply an empirical or subjective standard is to be judged from the point of view of a businessman and it is relevant to consider how the businessman himself treats a particular item of expenditure, whether as revenue expenditure or as a capital expenditure [Ford & Macdonald Ltd v. CIT, (1964) 54 ITR 133, 143 (All.)]
- The test is not what a prudent man would do in similar circumstances. Though an assessee may be an imprudent businessman, yet if he incurs an expenditure voluntarily for the purposes of his own business, it would be allowable as a proper deduction. [J K Commercial Corporation Ltd v. CIT , (1969) 72 ITR 296 (All)]

A. 3) i) Credit not available for following :

Input tax credit shall not be **available in respect of** the following **namely**:

(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.

Whether credit allowed?

a. Motor Vehicle used for further renting of such motor vehicle.

b. Repair and maintenance, purchase of spare parts, tyre, General Insurance, etc.

c. Motor Vehicle taken on Lease.

d. Motor Vehicle purchase by courier companies.

A. 3) i) Credit not available for following :

Input tax credit shall not be available in respect of the following namely:

(b) supply of goods and services, namely,

(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 taxable person for making an outward taxable supply of the same category of goods or services or both or as an element of taxable composite or mixed supply.

Issues

- a. Food and Beverage consumed in restaurant / Hotel cafeteria of a company.
- b. Food and Beverage consumed in cafeteria of a company.
- c. Complimentary food items supplies along with serving of liquor.
- d. Complimentary Food and Beverages served by a hotel to its auditors, consultants, Guest.
- e. Make-up services availed by an TV production house for its actors.
- f. Health Check-up services of employees for pre-employment.
- g. Food / Beverages, make-up facility by a event manager who is organising film awards.

(ii) membership of a club, health and fitness centre,
?? Membership of Chamber of tax consultant or Young CEO club

(iii) rent-a-cab, life insurance, health insurance except where

(A) The Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time 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 and services or both or as part of a taxable composite or mixed supply; and

- Meaning of the term –Rent a cab.??
- Credit card companies taking out free complimentary life insurance on availing the credit card ???

Credit not allowed on :

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

(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;**

Meaning of Works contract.

(119) “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

No restriction on availing credit in respect of Movable Items.

Credit Admissible even if plant and machinery is immovable - HVAC Plants, Chillers, etc.

(d) goods or services or both received by a taxable person for construction of an immovable property **on his own account**, **other than plant and machinery**, even when such goods and service or both are used in course or furtherance of business;

- Scope of term “ on his own account”.
- Credit admissibility to builders, contractors, etc.
- Construction of Head office of Builder.
- Scope of term Construction and difference between completion and finishing.

Expansion in scope of Construction for disallowance.

Explanation 1.- For the purpose of this clauses (c) and (d), the word “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

Credit allowed for following Plant and Machinery even if it results in Immovable property.

Explanation 2.- ‘Plant and Machinery’ means apparatus, equipment, machinery fixed to earth by foundation or structural support that are used for making outward supply of goods and service or both

and includes such foundation and structural supports

but excludes land, building or any other civil structures, telecommunication towers and pipelines laid outside the factory premises.

Impact

- Structural support items like Ms Angle, Pipes, etc allowed.
- Items used in Building not allowed.
- Telecommunication tower.

Items on which credit note allowed.

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

(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**;

Issues:

A. Goods partly used for personal consumption and for business purposes.

Items on which credit note allowed.

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

Issues:

- a. Goods lost as process loss.
- b. Diwali Gifts to clients.
- c. Physician Samples.
- d. Provision made in books of account towards old Stock.

Items Not Allowed for credit.

(i) any tax paid in accordance with the provisions of section 74,129 or 130.

Section 74 - Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.

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

Section 130 – **Confiscation of goods or conveyances and
levy of penalty**

A.4) Input Tax Credit

A. 4) i) Manner of Taking Credit:

(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.

Issues:

- a. Credit is only admissible to registered persons.
- b. Impact of non-registration or delay in registration of additional place of business.

A. 4) ii) Conditions for availing the credit

- (a) Registered person should be 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;
- Rule 36(1) of Input tax credit provide that credit is available on following documents,
 - (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 Invoice)**
 - (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.

A. 4) ii) Conditions for availing the credit

(b) Registered person 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 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;

Impact:

- a. In case of bill-to & Ship to model, the registered person to whom invoice is raised is deemed to receive the goods.
- b. Availment of credit on advance payment before receiving services.
- c. Annual Maintenance contract services or Insurance services – whether credit to be availed fully or pro-rata.

- 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:

A. 4) ii) Conditions for availing the credit

(c) 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

- Credit will be admissible only after payment of tax to the Government.
- Credit not admissible if invoice remains mis-matched as per procedure.

(c) Registered person has furnished the return under section 39:

Reversal of ITC on account of non-payment of Consideration to Supplier.

- If recipient fails to pay to the supplier of goods or services or both, 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.**
- Amount to be reversed is required to be added to the output liability but in GSTR-2. (Table 11)
- **Period of 180 days to count from the date of invoice.**
- Reversal of credit required proportionate to the amount of value not paid.
- Deemed supplies are to be treated as paid and thus Time limit for reversal of credit not to apply to such GST credit.
- Details of invoices which are unpaid need to be furnished in GSTR-2 on expiry of 180 days. (format yet to be modified.)
- **Liability of interest from the date of availment till the date of adding to liability. (ruel 37 (3).**
- **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.
- No time-limit under law for availing the re-credit of such input tax reversed earlier.

Credit not admissible is tax paid on account of mala-fide reasons.

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.

A. 4) iii) Time Limit

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.

A. 4) iv) Depreciation

(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 shall not be allowed on the said tax component.

A.5) Reversal of Credit when ITC used for taxable and exempt services.

- (1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.
- (2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.
- (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

❖ Exempt Value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and the value of security shall be taken as one per cent. of the sale value of such security.

The rule 42 and 43 respectively prescribes the manner in which amount of credit on input/input service and capital goods respectively required to be computed for reversal.

A. For input

- (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';
- (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';
- (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';
- (e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as

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

- (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';
- (g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in **FORM GSTR-2**;
- (h) input tax credit left after attribution of input tax credit under clause (g) 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:

Provided 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 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

- (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
- (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' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax;
- (m) the amount equal to aggregate of 'D1' and 'D2' shall be added to the output tax liability of the registered person:

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'.

(2) 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 added to the output tax liability of the registered person 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.

B. For Capital Goods

- (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 shall not be credited to his electronic credit ledger;
- (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 shall be credited to the electronic credit ledger;
- (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 five years from the date of the invoice for such goods:

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 five percentage points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

Explanation.- 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.

(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 five percentage 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 **$Tm = Tc \div 60$**

(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 **$Te = (E \div F) \times Tr$**

where,

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

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

Provided 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 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.

(2) The amount T_e shall be computed separately for central tax, State tax, Union territory tax and integrated tax.

Special provisions for Banking and Financial Sectors.

(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:

The first proviso provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

The second proviso 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

What is the bank provides credit card services also.

❖ Rules applicable to Banking and Financial company.

❖ As per rules Rule 38 of following manner for availing credit for banking companies opting for 50% option.

- (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, in FORM GSTR-2;
- (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);
- (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 GSTR-2;
- (d) the amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, be credited to the electronic credit ledger of the said company or the institution.

A.6) Credit in Special Circumstance

A.6) i) Person applying for registration in Thirty Days:

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;

No capital goods credit held on date of liability.

A.6) ii) Voluntary Registration:

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;

No capital goods credit held on date of registration.

A.6) iii) Person opted for composition switches to normal

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;

A.6) iv) Exempt supply become taxable

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.

Manner of availing the credit of capital goods in special circumstances

The manner of availing credit on capital goods for A.6)(iii) and A.6) (iv) are given in rule 40 as follows:

- (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 in manner prescribed.

Tax invoice shall not be for period prior to one year and computed in manner prescribed.

The availability of credit in respect of person applying for registration within thirty days, voluntary registration, person opted for composition switches to normal and exempt supply become taxable will be entitled to take the credit in respect of any supply, only if the tax invoice is for the period before expiry of one year from the date of tax invoice.

Thus assuming that effective date of registration is 18.04.2018. The invoice should not be for a period prior to 19.04.2017.

A.6) v) Transfer of Credit

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.

❖ The Manner of availing credit is as follows as per rule 41

(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.

- (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 un-utilized 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.

A.6) vi) Person switching to composition Scheme or goods becoming exempt

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

- ❖ Rule 44 prescribe following method of computing reversal of credit
 - (a) 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;
 - (b) 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

- (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.
- (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.
- (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.

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

A.6) vii) Removal of Capital Goods

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 5% for every quarter or part thereof from the date of invoice 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

A.7) Reversal of credit of additional custom duty in respect of Gold dore bar

- The credit of Central tax in the electronic credit ledger taken in terms of the provisions of section 140 relating to the CENVAT Credit carried forward which had accrued on account of payment of the additional duty of customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), paid at the time of importation of gold dore bar, on the stock of gold dore bar held on the 1st day of July, 2017 or contained in gold or gold jewellery held in stock on the 1st day of July, 2017 made out of such imported gold dore bar, shall be restricted to one-sixth of such credit and five-sixth of such credit shall be debited from the electronic credit ledger at the time of supply of such gold dore bar or the gold or the gold jewellery made there from and where such supply has already been made, such debit shall be within one week from the date of commencement of these Rules

B. Input Service Distributor

B.1) "Input Service Distributor" is defined in section 2(61) as follows:

(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;

- **Manner of distribution of credit by ISD (Section 20)**

If location of distributor and recipient is in **Different state,** then distribute

- CGST and IGST as IGST
- SGST as IGST

If location of distributor and recipient is in **Same state,** then distribute

- CGST and IGST as CGST
- SGST and IGST as SGST

B. 2) Manner of Distribution

- (1) The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.
- (2) The Input Service Distributor 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.

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 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

❖ Rule 39 prescribes following manner of distribution

- (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 Input Service Distributor 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;

- (e) the input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;
- (f) the input tax credit 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;

(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.

(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.

(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.

B. 3) Manner of Recovery

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.

GST Returns

Sr. No.	Return	Applicable for	Due date
1	GSTR-1	Details of outward supplies	
2	GSTR-1A	Details of outward supplies as added, corrected or deleted by the recipient	
3	GSTR-2	Details of inward supplies	
4	GSTR-2A	Details of inward supplies made available to the recipient	
5	GSTR-3	Monthly Return	
6	GSTR-4	Quarterly Return for compounding taxable person	
7	GSTR-4A	Details of Inward Supplies for compounding taxable person	

Sr. No.	Return	Applicable for	To be filed by
9	GSTR-5	Return for Non-Resident foreign taxable person	
10	GSTR-6	ISD Return	
11	GSTR-7	TDS Return	
12	GSTR-8	Details of supplies effected through e-commerce operator and the amount of TCS collected	
13	GSTR-9	Annual Return	
14	GSTR-9A	Annual Return for Compounding taxable persons	
15	GSTR-10	Final Return	
16	GSTR-11	Details of inward supplies to be furnished by a person having UIN	

MATCHING OF GST CREDIT

Invoice-wise details for transaction between GST Registered persons to be uploaded in GST Portal.

Vendor will upload his sales in the GSTR-1 and the company will upload the same invoice as a purchase in its return.

Provision to deny the credit if the vendor does not pay the tax to the Government. - Matching of duty paid character of purchases by the company will be done with the sales of the vendor

Input Credit will be extended only when the details of invoices uploaded between buyer and seller are matched.

Only details in VALID RETURNS will be taken for matching – VALID RETURNS means those returns wherein the vendor has paid the tax in full.

System will match GSTN number, invoice number, invoice date, taxable value and tax amount.

To the extent the credit availed is less than the tax paid, the credit will be treated as matched.

Unmatched credit will be treated as liability and required to be paid with interest.

MATCHING OF GST CREDIT

Similar Matching to done for credit notes and debit notes

Liability of GST by way of issue of GST will not be reduced unless and until the credit note is matched with the recipient returns.

Imports to be matched with the bill of entry – GST registration number mandatory at the time of imports.

Compliance rating of GST assessee and blacklisting of vendor.

THANK YOU

BALANCED VIEW

PRESENTED BY

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