Input Tax

- Section 2(62) of CGST Act defines “input tax” as follows –
- “Input tax” in relation to a registered person, means the Central tax (CGST), State tax(SGST), Integrated tax (IGST) or Union territory tax (UTGST) charged on any supply of goods or services or both made to him includes—
- The integrated goods and services tax charged on import of goods
- The tax payable under the provisions of sub-sections (3) & (4) of section 9 (reverse charge of CGST)
- The tax payable under the provision of sub-section (3) and (4) of section 5 of the Integrated Goods and Services Tax Act (reverse charge of SGST) or
- The tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act (reverse charge of UTGST),

But does not include the tax paid under the composition levy.

Input Tax Credit eligible only when it is credited to electronic credit ledger of taxable person.

DEFINITIONS OF INPUTS

- Section 2(59) – "**Input** means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business."

- Section 2(60) – "**Input Service** means any service used or intended to be used by a supplier in the course or furtherance of business."

- Section 2(83) – "**Outward Supply** in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business."

ITC IS A CORE PROVISION OF GST

- Burden of proof on taxable person availing input tax credit –

  Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person – section 155 of CGST Act.

CONDITIONS FOR AVAILING ITC

1. He is in the possession of a tax invoice or debit note issued by a supplier registered under GST Act or such other taxpaying document as may be prescribed.
2. He has received the goods or services or both
3. Subject to section 41 of CSGT Act, 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 ITC admissible in respect of the said supply (section 41 of CSGT Act allows taking ITC in electronic credit ledger on self assessment basis), and
4. He has furnished the return under section 39 (every taxable person is required to file electronic return every month as per section 39 of CGST Act)

Input tax credit only after supplier makes payment of GST- The receiver can take provisional credit on basis of return filed by supplier. However, he will be eligible to take final ITC only after the supplier of such goods and services has paid the tax.

Taking ITC in respect of inputs sent for job work – 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.

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 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.

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.

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.

DOCUMENTARY REQUIREMENTS AND CONDITIONS FOR CLAIMIMG ITC

The input tax credit shall be availed by a registered person on the basis of any of the following documents:- Rule 36 of CGST and SGST Rules, 2017:

1. An invoice issued by the supplier of goods and services or both in accordance with the provision of section 31 (Invoice of supplier of goods or service or both)
2. An invoice issued in accordance with the provisions of section 31(3)(f), subject to payment of tax (tax paid on reverse charge basis)
3. A debit note issued by a supplier in accordance with the provisions of section 34.
4. A bill of entry or similar document prescribed under Customs Act or Rules for assessment of IGST.
5. An invoice or credit note issued by an input Service Distributor in accordance with rule 54(1) of CGST Rules, 2017.

Input Tax Credit only if invoice complete in all respects- ITC shall be availed by a registered person only is all the applicable particulars as prescribed in Invoice Rules are contained in the said document, and the relevant information, as contained in the said document.

Self-invoicing under section 31(3)(f) of CGST act 2017

As per **Sec 31(3) (f),** a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 **(Reverse Charge Mechanism)** shall issue an invoice in respect of goods or services or both received by him from the supplier who is **not registered** on the date of receipt of goods or services or both.

Thus, as per section 31(3)(f) read with section 9(3) and 9(4), only in the following cases you have to raise an invoice under reverse charge mechanism:

For all taxable goods or service procured from an unregistered person, and

For notified supplies which are subjected to RCM, self invoice is required only if procured from an unregistered person.

The recipient need to issue a self-invoice at the end of the month. One invoice for one unregistered dealer for the entire month will be sufficient. No need to issue self-invoice for each transaction.

SR.No	List of Input Tax Credit is not allowable as per Section 17(5) of CGST Act is as under
1	Motor vehicles and conveyances except the below cases such motor vehicle used for :- ▪ Further supplied i.e. sold ▪ Transport of passengers ▪ For imparting training on driving, flying, navigating such vehicle or conveyances ▪ Transportation of goods
2	Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where such inward supply of goods or services of a particular category is used by a registered taxable person for making an outward taxable supply of the same category of goods or services
3	Membership in a club, health, fitness centre.
4	Rent-a-cab, health insurance and life insurance except the following: ▪ Government makes it obligatory for employers to provide it to its employees ▪ Goods and/or services are taken to deliver the same category of services or as a part of a composite supply, credit will be available

SR.No	List of Input Tax Credit is not allowable as per Section 17(5) of CGST Act is as under
5	Works contract service for construction of an immovable property (except plant & machinery or for providing further supply of works contract service) and except where it is an input service for further supply of works contract service;
6	Goods or services received by a taxable person for construction of an immovable property on his own account, other than plant and machinery, even when used in course or furtherance of business
7	Goods and/or services used for personal use
8	Goods or Services or both on which tax has been paid under section 10 (i.e. under Composition levy scheme)

ITC cannot be taken after one year from date of invoice or latest by 30th September of the following year

A taxable person shall not be entitled to take ITC 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- section 18(2) of CGST Act.

Further, a taxable person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or service or both, after the filing of the return under section 39 of CGST Act for the month of September following the end of financial year to which such invoice or invoice relating to debit note pertains or filing of the relevant annual return, whichever is earlier- section 16(4) of CSGT Act.

NO ITC IF GST WAS PAID BY SUPPLIER ON ADVNACE PAID TO HIM

Normally, ITC is taken on basis of “**Electronic Credit Ledger**”. However, if advance payment was made before receipt of goods and services, ITC cannot be taken as goods and services are not received.

At the time of payment of GST on advance, the supplier of goods and services cannot issue tax invoice. He has to issue only “**receipt voucher**”.

REVERSAL OF ITC IF PAYMENT NOT MADE TO SUPPLIER WITHIN 180 DAYS

- Where a recipient fails to pay the supplier of goods or services or both (other than the supplies on which tax is payable on reverse charge basis), the amount towards the value of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon @24% p.a. from the date of availing ITC till the date of reversal on expiry of 180 days. (second proviso 16(2) of CGST Act. r.w.rule 37)

- If partial payment is made, the reversal will be proportionate to the amount not paid to the supplier.

- If the recipient later makes payment to supplier, he can take credit of input tax in tax period in which he makes payment (third proviso to Section 16(2) of CGST Act).

- The recipient can take input tax credit only if tax has been actually paid by supplier.

REVERSAL OF ITC IF PAYMENT NOT MADE TO SUPPLIER WITHIN 180 DAYS

- It seems that the intention is to avoid bogus transfers of input tax credit e.g. if a person has excess input tax credit, he can pass on this credit to others.

- Often in case of large works contract, some retention money is kept which is released after warranty period.

- Further, some deductions from invoice for various reasons is common. In such case, this provision will create nuisance to taxable persons.

- Post-sale discounts after negotiations are common is business

- All such transactions will get affected.

EXAMPLE

Amount Not Paid Due To Retention

If the equipment costs Rs.100/-,Rs.90 has been paid, Rs.10 is kept as Retention money.

If payment(Rs.10/-) is not made within 180 days on account retention period not expired than there are two options :-

Recipient will claim ITC on Rs.100/- based on purchase invoice and reverse ITC on Rs.10/- in the very first month.

The ITC on Rs.10/- will later be claimed after receiving of bill or payment of balance amount.

SECTION 140(9) – CENVAT CREDIT

- Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

- Which means that if there is any creditor which was outstanding as on 31st March 2017 on which Cenvat was availed under Service Tax Law, the said Creditor has to be paid on or before 30th September, 2017 failing which Cenvat Credit in relation to the said Creditor will lapse.

Rule 42 of CGST Rules

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

(a) the total input tax involved on inputs and input services in a tax period, be denoted as **'T'**;

(b) the amount of input tax, out of **'T'**, attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as **'T1';**

(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) 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

$$C2 = C1 - T4;$$

(h) 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;

(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

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'**.

EXAMPLE

Details for the month of May 2018 as follows:

- Total Input Tax Credit available in the tax period – 1,00,000 **(T)**
- Value of taxable supplies in her shop – 5,00,000
- Value of vegetables sold (Agricultural activity) – 2,00,000
- Input Tax for inputs (transporting charges) for taxable items – 10,000 **(T4)**
- Input Tax for inputs exclusively for agricultural activity (purchasing seeds, soil, labour charges) – 20,000 **(T2)**
- Input Tax for inputs exclusively for personal purpose (eating out) – 5,000 **(T1)**
- Input Tax for inputs and services on which availing credit is not eligible (travelling by Ola to wholesalers)- 10,000 **(T3)**

So, Ms. Anita’s total input tax will have 4 parts:

Total Input Tax [T]

- For Purely Personal Supplies T_1
- For Purely Exempted Supplies T_2
- Non-Eligible ITC T_3
- Normal Taxable Sales (Incl. zero rated goods) T_4

Step 1: Finding out total eligible ITC

Available credit C1 = Total ITC – [ITC for personal supplies + ITC for exempted supplies + Non-eligible ITC]

= T- (T1 +T2 +T3)

= 1,00,000 - (5000+20,000+10,000)

= 65,000

This step calculates the available credit, i.e., the total eligible credit.

This is derived by removing ITC on all personal inputs, all exempted inputs, non-eligible ITC.

This amount will be credited to electronic ledger. You have to reverse the common ITC for personal supplies, exempt supplies & non-eligible supplies.

Step 2: Finding out ITC pertaining to personal supplies & exempt supplies

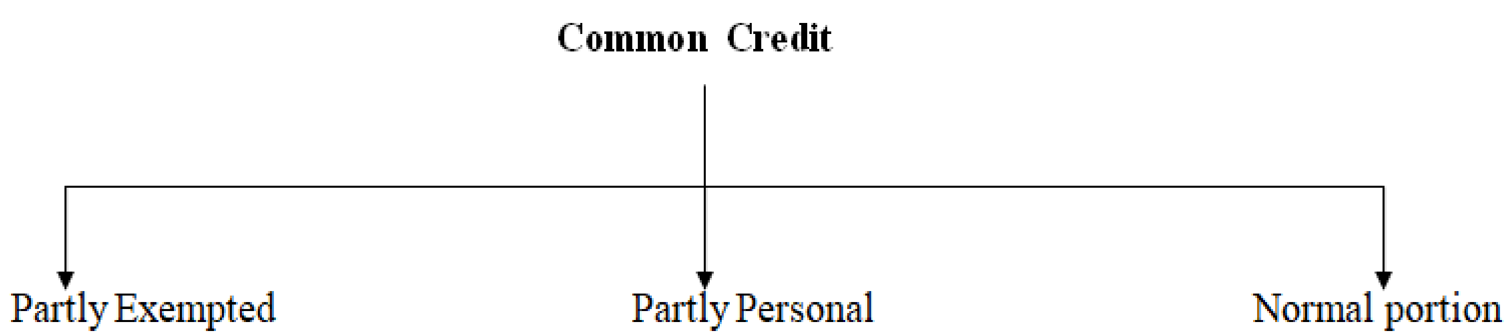
Common Credit C2 = Input Tax credited to Electronic Credit Ledger (C1) – Input Tax for taxable supplies (T4)

= 65,000 – 10,000

= 55,000

This shows the common credit which has to be shared between taxable supplies, personal supplies and exempt supplies. In our example, it could be the rent paid for the building. The GST component of the residence portion will be reversed.

This Common credit will be divided into 3 parts:



Step 2.1

Partly Exempted

The portion of ITC pertaining to exempted supplies is calculated by the following formula

$$D1 = \frac{Exempted\ Turnover}{Total\ Turnover} X\ Common\ Credit$$

So by our example,

The formula calculates the amount by the proportionate method. The amount of Rs. 22,000 is deemed to be the amount of ITC pertaining to exempted supplies (vegetables) and must be reversed.

$$D1 = \frac{2,00,000}{5,00,000} X\ 55,000$$

$$=22,000$$

Step 2.2

Partly Personal

There are many common expenses such as rent, electricity, water bill which are used for both business & personal purposes. This formula will help to segregate the amount of credit that pertains to personal purposes.

D2 = 5% of Common Credit

So by our example,

D2 = 5% of 55,000

= 2,750

The formula calculates the amount by assuming 5% of inputs are used for personal purposes. The amount of Rs. 2,750 is deemed to be the amount of ITC pertaining to personal supplies and must be reversed in GSTR-2.

Step 2.3

Normal portion

Finally, we calculate the portion of common credit that pertains to the taxable supplies (such as rent portion for the shop).

C3 = Common Credit – [ITC portion for exempted supplies (D1) + ITC portion for personal supplies (D2)]

= 55,000 – (22,000+2,750)

= 30,250

This is the common credit attributable to normal supplies.

<u>Step 3: Finally, calculating total ITC you can claim</u>

Total eligible ITC for the month = ITC for normal supplies + Common credit for normal supplies

= 10,000 + 30,250

= 40,250

PROVISIONS WITH REGARD TO ITC ON FIXED ASSETS.

- When Fixed Assets are purchased, one has to decide as to which of the following boxes it should be placed :-

- A $\boxed{\text{For Taxable \& Zero Rated Supplies}}$

- B $\boxed{\text{For Non Business Purpose or for exempt supplies}}$

- C $\boxed{\text{For common purpose}}$

A. ITC related to Box A is FULLY eligible IN THE MONTH OF PIURCHASE.

B. ITC related to Box B is NOT ELIGIBLEE

C. ITC related to Box C has to be computed as under:

It is assumed that useful life of all assets is 5 years from the date of Invoice of purchase of CG falling under Box C.

I. The aggregate amount of ITC relating to CG falling under box C is termed as **Tc** herein after referred to as **“Common Credit”.**

The amount of ITC attributable to a tax period on Common Credit is calculated as under:

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

The term Tm stands for Common Credit attributable to a tax period for an individual Capital Asset.

II. The aggregate of Common Credits attributable to all Common Capital Goods is termed as **Tr**.

Once we compute Tr, we need to find out how much is ITC In-Eligible during a tax period. The same is termed as **Te** which is computed as under:

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

Where E stands for value of Exempt supplies during the tax period.

& F stands for Total Turnover during the tax period.

Notes:

I. The value of Exempt Turnover and Total Turnover does not include taxes.

II. There is no concept of Completed Month which means that the period of 5 Years has to be completed based on exact number of days.

III. Unlike ITC on Goods and Services at present there is no provision to rework In-Eligible ITC on Capital Goods based on annual figures.