

Input Tax Credit

CA CS CMA – Inter / Executive

CA Amit Mahajan

Eligibility & Conditions for ITC

Eligibility

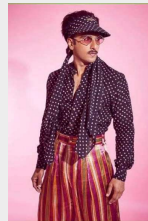
1. Registration is mandatory for availing ITC
2. Goods / services purchased / availed should be used for business purpose

Conditions

1. Input tax credit can be taken on the basis of any of the following documents:
 - (i) Invoice issued under section 31
 - (ii) Debit note issued under section 34
 - (iii) Bill of entry
 - (iv) Invoice prepared in respect of reverse charge basis u/s 9(3) and 9(4)
 - (v) Document issued by ISD u/r 7(1) for distribution of credit referred
2. The registered person taking the ITC must have **received** the goods and / or services

'Bill to Ship to' Model

Under this model, the goods are delivered to a 3rd party - 'C' on the direction of the customer (registered person) – 'B' who purchases the goods from the vendor (supplier) – 'A'



3. Tax leviable on supply actually **paid to Government** - Supplier should have actually paid the tax charged on the goods and/or services, for which ITC is being taken (Either by cash or availing ITC)
4. **Return filing** - a taxpayer should file GSTR-3B to avail ITC on eligible inward supplies



Goods received in **LOTS** (In Instalments)



ITC only in the receipt of **last instalment**

Payment for the invoice to be made within 180 days

1. Can recipient avail the ITC without making a payment to the supplier? – **YES**
2. **ONLY** to the extent of 180 days i.e. the Recipient should make a payment within **180 days FROM THE DATE OF INVOICE**
3. What if he fails to pay? – Whatever ITC availed by the recipient would be **reversed** and ADDED to outward tax liability + Interest
4. Rate of Interest – **18% p.a.**
5. From? – the **date of availing the credit** (i.e. date of filing of GSTR-3B in which the ITC is availed)
6. To – The date on which the **recipient actually makes the payment** of wrongly availed credit (as outward tax liability)

Exceptions

1. **RCM** supplies
2. Deemed supply **without consideration**



Story to be discussed in the lecture

If depreciation is claimed on the GST component – Sec 16(3)

If the person taking the ITC on capital goods has claimed depreciation on the GST component - ITC on the said tax component shall not be allowed

Example – Capital Goods purchased for Rs 10L + 1.8L of GST = 11.80L

Situation 1 – Under Income Tax – 11.80L is considered as Capital Assets and claimed depreciation on entire 11.80L – NO ITC – as depreciation is claimed on the GST component of 1.80L

Situation 2 - Under Income Tax – 10L is considered as Capital Assets and claimed depreciation only on 10L – ITC ALLOWED – as depreciation is NOT claimed on the GST component of 1.80L

ONLY 1 Benefit – Either in Income in the form of depreciation Or ITC under GST

Time limit for availing ITC – Sec 16(4)

Due date of filing the return for the month of Sept of succeeding FY

Actual Date of filing of Annual Return

Earlier

The time limit u/s 16(4) does not apply to claim for re-availing of credit that had been reversed earlier

If any debit note has been issued in connection with any invoice, date of debit shall be taken into consideration for the purpose of determining the time limit and not the date of invoice to which it relates, eg. Invoice is issued on 12/02/2020 and debit note is issued on 28/05/2020 in this case ITC can be taken maximum upto 20/10/2021 or the date of filing annual return whichever is earlier.

Restriction of ITC

1. **Inward Goods / Services for business purpose / ZRS = ITC allowed**
2. **Not for business = ITC is blocked**

Restrictions on use of amount available in electronic credit ledger [Rule 86B]

New rule 86B has been inserted in the CGST Rules to restrict the amount available in electronic credit ledger which a RP can use to discharge his output tax liability to **99%** of such tax liability in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a **month exceeds Rs 50 lakh**.

This rule overrides all other rules. In simple words – **a RP will have to pay at least 1% of the outward tax liability even though he has sufficient balance in the ECL**

Example - The total value of inter-State supply of Mahajan & Sons for the month of January 2022 is of Rs 100 lakh. Said supply is taxable @ 18% IGST. Thus, total output tax liability of Mahajan & Sons is Rs 18 lakh. Amount available in electronic credit ledger is Rs 20 lakh (IGST).

In terms of restriction imposed by rule 86B, Mahajan & Sons can discharge 99% of its output tax liability, i.e. Rs 17,82,000 (99% of Rs 18,00,000) from the amount available in electronic credit ledger. However, it has to mandatorily discharge the balance 1% of the output tax liability i.e. ₹ 18,000 (1% of Rs 18,00,000) through electronic cash ledger only

Exceptions

1. Where the said person/proprietor/karta/managing director/any of its two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid **more than Rs 1 lakh** as income tax in each of the last 2 FYs
2. Where the registered person has received a **refund** of more than **Rs 1 lakh** in the preceding FY on account of unutilised ITC in case of
 1. ZRS made without payment of tax or
 2. Inverted duty structure.
3. Where the RP has discharged his liability towards output tax through the electronic cash ledger for an amount which is in **excess of 1%** of the total output tax liability, applied cumulatively, up to the said month in the current FY

4. Where the registered person is:-

1. Government Department
2. Public Sector Undertaking
3. Local Authority
4. Statutory Body

However, the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit

Section 17: Apportionment of Credit and Blocked credit

1. Where the goods or services or both are used by the RP **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 RP 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 shall be computed as per **rule 42 and 43**. Exempt supplies shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and building.

If Goods/Services have been supplied by a person and GST is to be paid by the recipient under reverse charge, it will be considered to be exempt supply for the supplier and tax credit is not allowed

- 4. A banking company or a financial institution** including a NBFC, 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 **50%** of the **eligible input tax credit** on inputs, capital goods and input services in that month and the rest shall lapse.

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

Provided further that the restriction of 50% shall not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN

5. Blocked Credit – Section 17(5)

1. Motor vehicles

A	ITC Blocked	Motor vehicles used for transportation of PERSONS with seating capacity ≤ 13 persons (including driver)
B	ITC Allowed	When such motor vehicles are used for making following taxable supplies:  MARUTI SUZUKI Way of Life! 1. Further supply of such motor vehicles (Sale); 2. Transportation of passengers (Taxi Business); 3. Imparting training on driving motor vehicles (Driving School)

Important points

1. ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including driver) used for any purpose is allowed
2. ITC on any other motor vehicle used for any purpose is allowed. (Ex: motor vehicle used for transportation of goods, dumpers, tippers etc).

2. Vessels and Aircrafts

A	ITC Blocked	Other than specified below
B	ITC Allowed	Vessels & Aircraft when used for making following taxable supplies: 1. Further supply of such vessels or aircraft (Sale); 2. Transportation of passengers; 3. Imparting training on navigating/flying such vessels/aircraft; 4. Transportation of goods

Examples

1. ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked.
2. ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed.

3. Insurance, Servicing, Repair and Maintenance

A	ITC Blocked	General insurance, servicing, repair & maintenance relating to: 1. Motor vehicles for transportation of persons with seating capacity $\leq$ 13 persons (including driver); 2. Vessels & Aircraft
B	ITC Allowed	1. Such services relating to motor vehicles for transportation of persons with seating capacity $\leq$ 13 persons (including driver) when used for purposes mentioned in (b) of Motor Vehicle above. 2. Such services relating to vessels or aircraft when used for purposes mentioned in (b) of Vessel & Aircraft above. 3. Such services when received by a taxable person engaged: (i) In manufacture of such motor vehicles, vessels or aircraft; or (ii) In supply of general insurance services i.r.o such motor vehicles, vessels or aircraft insured by him.

Important points

ITC is not allowed on services of general insurance, servicing, repair & maintenance relating to motor vehicles, vessels or aircraft, ITC on which is not allowed.

ITC is allowed on services of general insurance, servicing, repair & maintenance relating to motor vehicles, vessels or aircraft, ITC on which is allowed.

4. Membership of Club, Health & Fitness Centre

A	ITC Blocked	Membership of Club, Health & Fitness Centre
B	ITC Allowed	Such services are provided by employer to employees under statutory obligation

5. Travel Benefits

A	ITC Blocked	Travel benefits extended to employees on vacation [Ex: Leave/home travel concession]
B	ITC Allowed	When such services are provided by employer to employees under statutory obligation

6. Others

A	ITC Blocked	a. Food b. Beverages c. Outdoor catering d. Cosmetic surgery (Plastic surgery) e. Health services f. Life insurance and health insurance g. Leasing, renting or hiring of motor vehicles/vessels/aircraft on which ITC is blocked
B	ITC Allowed	1. Such goods and/or services when used by a registered person for making an outward taxable supply of the same category of goods and/or services (sub-contracting) or as an element of a taxable composite or mixed supply. 2. When such goods and/or services are provided by an employer to its employees under a statutory obligation



Works Contract
Works Contract services for construction of immovable property (other than P&M) Except where it is input service for further supply of works contract service. ITC is allowed in the following cases: - It is an input service for further supply of works contract service (sub-contracting). [i.e only a works contractor can avail ITC on works contract services received by him] - Immovable property is Plant & Machinery. Thus ITC on works contract services used for construction of such plant and machinery is allowed. - When the value of works contract service is not capitalized. In this case, ITC is allowed to all recipients irrespective of their line of business. PLACE FOR POST-IT (Master Diagram to be given in the lecture) Note: If re-construction, renovation, additions or alterations or repairs are not capitalized, it would not tantamount to construction under GST law.
Self construction
ITC is not available. G/&S received by a taxable person for construction of immovable property (other than P&M) on his own account including when such G/S are used in course of business. Note: ITC is available when the construction is not on own account; or is of P&M
Other Points
Composition Scheme: G/S on which tax has been paid u/s 10 G/&S received by NRTP Except on goods imported by him. Note: ITC on goods imported by NRTP is allowed but ITC on services imported by him is blocked.
Personal Purpose: G/&S used for personal consumption
Goods lost, stolen, destroyed, written off; disposed of by way of gift/free samples Any tax paid in accordance with the provisions of Sections 74, 129 & 130. - Sec 74: SCN issued in case of fraud, to recover the GST. - Sec 129: Tax is paid, when goods are under detention for further investigation. - Sec 130: Tax paid, when the goods or conveyance are being confiscated. Note: Sec 73: SCN issued in cases other than fraud to recover GST. Thus ITC available

Sec	Persons eligible to take credit	Goods entitled to ITC		Conditions
		Inputs held in stock or CG	As on	
18(1)(a)	Person who has applied for registration within 30 days from date on which he becomes liable to registration & has been granted such registration	Inputs held in stock & Inputs contained in semi finished /FG held in stock	Day immediately preceding date of grant of registration	ITC to be Availd within 1 year from the date of issue of invoice by supplier
18(1)(b)	Person who obtains Voluntary Registration	Inputs held in stock & Inputs contained in semi finished /FG held in stock	Day immediately preceding date of grant of registration	[Sec 18(2)]
Examples - Mr. Amit becomes liable to pay tax on 1st August and has obtained registration on 15th August. Mr. Amit is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 31st July. Mr. Amit cannot take ITC on capital goods. - Mr. Mahajan applies for voluntary registration on 5th June & obtains registration on 22th June. Mr. Mahajan is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 21st June. Mr. Mahajan cannot take ITC on capital goods				

Sec	Persons eligible to take credit	Goods entitled to ITC		Conditions
18(1)(c)	RP who ceases to pay tax u/s 10 [Composition tax] & switches to regular scheme	Inputs held in stock & Inputs contained in semi- finished/FG held in stock & Capital Goods	Day immediately preceding date from which he becomes liable to pay tax under regular scheme	ITC to be availed within 1 year from the date of issue of invoice by 18(2)]. ITC on CG will be reduced by 5% per quarter of a year or part from date of invoice
18(1)(d)	RP whose exempt supplies become Taxable supplies	Inputs held in stock & Inputs contained in semi -finished / FG held in stock relatable to such exempt supply & capital goods exclusively used for such exempt supply	Day immediately preceding the date from which such supply becomes Taxable	
18(3)	Change in constitution of RP due to sale, merger, demerger, amalgamation, lease, transfer of business or death of sole proprietor with specific provision for transfer of liabilities, such RP shall be allowed to transfer unutilised ITC in his ECL to such sold, merged, demerged, amalgamated, leased or transferred business, successor.			
	Example Mr. AmitMahajan a registered taxable person, was paying tax under composition scheme upto 30th July. However, w.e.f. 31st July, Mr. AmitMahajan becomes liable to pay tax under regular scheme. Mr. AmitMahajan will be eligible for ITC on inputs held in stock and inputs contained in semi-finished/FG held in stock and on capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter from the date of the invoice			

Sec	Persons eligible to take credit	Goods entitled to ITC		Conditions
18(4)	If any RP who has availed ITC opts to pay tax u/s 10 or where G/&S supplied by him become wholly exempt, 1. he shall pay an amount (by way of debit in ECL) or electronic cash ledger, 2. equivalent to ITC i.r.o inputs held in stock & inputs contained in semi-finished/FG held in stock and on capital goods as reduced by such percentage points as may be prescribed, 3. on the day immediately preceding date of exercising of such option or date of such exemption Provided that after payment of such amount, balance ITC lying in his ECL shall lapse.			
	Example 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. ITC taken on such capital goods = C. ITC attributable to remaining useful life = $C \times 5/60$			
18(6)	Supply of Capital Goods/P&M on which ITC has been taken RP shall pay an amount: (i) ITC taken on such capital goods/P&M as reduced by 5% per quarter of a year or part (ii) Tax on the transaction value of such capital goods or P&M determined u/s 15. (Higher) Note: If refractory bricks, moulds & dies, jigs & fixtures as scrap are supplied, taxable person may pay tax on transaction value of such goods determined u/s 15.			

Order of Reversal

1. ITC of **IGST** shall first be utilised towards payment of IGST & amount remaining (if any) may be utilised towards the payment of CGST & SGST in that order.
2. ITC of **CGST** shall first be utilised towards payment of CGST & amount remaining (if any) may be utilised towards the payment of IGST;
3. ITC of **SGST / UTGST** shall first be utilised towards payment of SGST / UTGST & amount remaining (if any) may be utilised towards payment of IGST;
Note: ITC of SGST shall be utilised towards payment of IGST only where the balance of ITC of CGST is not available for payment of IGST;
4. CGST **shall not** be utilised towards payment of SGST or UTGST &
5. SGST or UTGST **shall not** be utilised towards payment of CGST.

 Memory trick to be discussed in the lecture

ITC w.r.t. sales promotion schemes

1. Free Samples & Gifts:

- ITC shall not be available to the supplier on the inputs, IS & capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.
- However, where the activity of distribution of gifts or free samples falls within the scope of "supply" on account of the provisions contained in Schedule I, ITC shall be available

2. Buy one get one free offer:

ITC shall be available to the supplier for the inputs, input services & capital goods used in relation to supply of goods or services or both as part of such offers

3. Discounts including 'Buy more, save more' offers:

ITC shall be available to the supplier for such inputs, input services & capital goods used in relation to the supply of G/&S on such discounts

4. Secondary discounts [Such discounts shall not be excluded VoS]

These are the discounts which are not known at the time of supply. ITC shall be available to supplier.

For CS & CMA students

Rule 42 and Rule 43 – To be discussed in the lecture separately