



OVERVIEW OF INPUT TAX CREDIT UNDER GST REGIME

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Input Tax Credit & Rules



**INPUT TAX
CREDIT (ITC)**

Meaning of ITC

“Input tax” means the central tax, State tax, integrated tax or Union territory tax charged on any inward supply of goods or services or both and includes—

- *IGST charged on import of goods*
- *the tax payable **under reverse charge** under the provisions of sub-sections (3) and (4) of section 9 of CGST Act,2017*
- *the tax payable **under reverse charge** under the provisions of sub-sections (3) and (4) of section 5 of IGST Act,2017*
- *the tax payable **under reverse charge** under the provisions of sub-sections (3) and (4) of section 9 of the respective SGST Acts*
- *the tax payable **under reverse charge** under the provisions of sub-sections (3) and (4) of section 7 of the UTGST Act*
- *but does not include the tax paid under the composition levy*

Manner of utilization of credit [Sec 49(5)]:

Credit of:	Allowed for Payment of:		
	IGST	CGST	SGST
IGST	(1)	(2)	(3)
CGST	(2)	(1)	-
SGST	(2)	-	(1)

Conditions for claiming ITC

Must be in possession of a tax invoice or debit note or any other prescribed document

Has received the goods or services or both

Has furnished the return under section 39

Tax charged in respect of such supply has been actually paid to the Government (either in cash or through utilization of ITC)

Conditions for claiming ITC

In case of goods received in lots or installments, ITC can be availed only on receipt of last lot/installments.

If the recipient of services fails to pay (value + tax) within 180 days from date of invoice, (ITC availed + interest @ 18%) shall be added to his output tax liability. **

ITC has to be availed till the due date of furnishing of the return under section 39 for the month of September following the end of financial year or furnishing of the relevant annual return, whichever is earlier.

**Although ITC can be availed when payment of value of supply along with tax is made.

Conditions for claiming ITC

For the purposes of claiming ITC, the registered person should not claim depreciation on tax component.

For illustration: If the cost of asset is Rs. 100 and GST @ 12% is levied, then total cost becomes Rs. 112.

If Depreciation charged on
Rs.100

ITC Available ✓

If Depreciation charged
on Rs.112

ITC not Available ✗

Ineligible ITC as per Sec 17

If goods or services are used partly for business & partly for effecting non business supplies

ITC shall be restricted to so much amount as is **attributable to** business purposes

If goods or services are used partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies*

ITC shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies

* : exempt supplies shall include supplies which are covered under reverse charge mechanism.

Ineligible ITC as per Sec 17

A banking company
or a financial
institution including
a non-banking
financial company

Shall have the option to avail of, every
month, 50% of the eligible input tax
credit on inputs, capital goods and input
services in that month and the rest shall
lapse.

Conditions:

1. Option once exercised shall not be withdrawn during the remaining part of the financial year.
2. 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.

Blocked ITC as per Sec 17(5)

1. *Motor vehicles and other conveyances*

ITC can be availed if Motor vehicles and other conveyances are used:

- (i) FOR making the following taxable supplies :—
 - (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 **for either self or for some other recipient.**

Blocked ITC as per Sec 17(5)

Ques.:

Whether input tax paid on Motor vehicle and other conveyances which is used for courier agency, outdoor catering, pandal and shamiana and tour operator is eligible?

Ans.: Yes

Blocked ITC as per Sec 17(5)

2. Following supply of goods or services or both—

[a].

- *food and beverages*
- *outdoor catering,*
- *beauty treatment,*
- *health services,*
- cosmetic and plastic surgery

ITC is allowed where an inward supply of goods or services or both of a particular category is **used by a registered person for making an outward taxable supply of the same category of goods or services** or both or as an element of a taxable **composite or mixed** supply.

Blocked ITC as per Sec 17(5)

Ques:

During peak festive season, M/s ABC Caterers availed the services of M/s XYZ Caterers with a view to cater to the huge demand from clients. M/s XYZ Caterers raised an invoice on M/s ABC Caterers for Rs. 1000 plus GST. Can ABC Caterers avail ITC?

Ans: Yes.

M/s ABC Caterers will be able to claim ITC of the GST paid to M/s XYZ Caterers since the inward supply of catering services is being used by M/s ABC Caterers for making an outward supply of same category of services.

Blocked ITC as per Sec 17(5)

Ques:

PQC Ltd is engaged in supply of transport of passengers by air services. The company avails outdoor catering services of M/s ABC Caterers in order to provide food and beverages to the passengers. M/s ABC Caterers raises an invoice on PQC Ltd charging GST. Can PQC Ltd. avail ITC?

Ans.: Yes.

PQC Ltd will be entitled to avail the ITC of the GST paid to M/s ABC Caterers since outdoor catering services forms part of taxable composite supply made to passengers.

Blocked ITC as per Sec 17(5)

[b]. *membership of a club, health and fitness centre
&
travel benefits extended to employees on
vacation*

Not allowed at all

Blocked ITC as per Sec 17(5)

[c.] *rent-a-cab, life insurance and health insurance*

ITC allowed if where the services are **notified as obligatory** for an employer to provide to its employees **under any law**

OR

services of a particular category **are used towards making taxable outward supplies** of the same category

Blocked ITC as per Sec 17(5)

Ques.:

Whether benefit of input tax credit would be available if the company procures health insurance services for benefit of its employees if procurement of such services is mandatory under Factories Act?

Ans.: Yes.

Blocked ITC as per Sec 17(5)

3. *Works contract services when supplied for construction of an immovable property (other than plant and machinery)*

ITC can be availed where it is an input service for further supply of works contract service.

4. Goods or services or both **utilised for construction of an immovable property** (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Blocked ITC as per Sec 17(5)

Ques :

Whether taxes paid on change of interiors of service apartment is eligible for input tax credit?

Ans.:

Input tax credit is not available on 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.

The word “construction” includes reconstruction, renovation, additions or alterations or repairs **to the extent of capitalization to the said immovable property.**

If the cost of interiors is capitalized towards the cost of immovable property then it forms part of the cost of immovable property (Service apartment) and accordingly taxes paid on change of interiors of service apartment will not be eligible as input tax credit.

Blocked ITC as per Sec 17(5)

5. Goods or services or both on which tax has been paid under composition scheme.
6. Goods or services or both received by a non-resident taxable person **except on goods imported by him.**
7. Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.

[For ex.: GST paid on purchase of diaries to be distributed on new year as free gifts can not be availed as input tax credit].

Availability of credit in special circumstances

Person who applied for registration within 30 days of becoming liable to register

ITC available in respect of:
a) Inputs
b) Semi-finished Goods
c) Finished Goods

Held in stock on the day immediately preceding the date from which **he becomes liable to pay tax**

**

Person who applied for voluntary registration

ITC available in respect of:
a) Inputs
b) Semi-finished Goods
c) Finished Goods

On the day immediately preceding the **date of registration**

**

Availability of credit in special circumstances

Registered taxable person ceases to pay composition tax

ITC available in respect of:
a) Inputs/ Capital Goods
b) Semi-finished Goods
c) Finished Goods

On the day immediately preceding the date from which he becomes liable to pay tax u/s 9

**

Where exempt supply become taxable supply

ITC available in respect of:
a) Inputs/ Capital Goods
b) Semi-finished Goods
c) Finished Goods

On the day immediately preceding the date on which supply becomes taxable

**

**** ITC can be availed till One Year from the date of issue of tax invoice**

Availability of credit in special circumstances

As per Rule 40 of CGST Rules,2017:

- **Declaration** in Form GST ITC-01 to be filed within 30 days from the date of him becoming eligible
- **Details** of Inputs held in stock / semi finished or finished goods and capital goods to be furnished in Form GST ITC-01 within 30 days from the relevant date
- Declaration in Form GST ITC-01 to be **certified by a practicing Chartered Accountant** or Cost Accountant if the value of credit claimed exceeds Rs. 2,00,000

Availability of credit in special circumstances

If change in the constitution of a registered person on account of:
sale,
merger,
demerger,
amalgamation,
lease or
transfer of the business

the said registered person shall be **allowed to transfer the ITC** which remains unutilized in his electronic credit ledger

To

such sold,
merged,
demerged,
amalgamated,
leased or
transferred business

Availability of credit in special circumstances

- ITC shall be **apportioned** in the ratio of value of assets of the new units in case of demerger scheme
- Transferor to submit certificate from a practicing Chartered Accountant certifying whether the sale / merger / de-merger / amalgamation / lease / transfer has been done with specific provision for transfer of liabilities
- Transferee to furnish details of credit available in Form GST ITC-02

Reversal of ITC when switching over from normal to composition scheme

Where any person has availed of ITC opts to pay tax under section 10
OR
where the goods or services or both supplied by him become wholly exempt

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 5% per quarter

on the day immediately preceding the date of exercising of such option or, the date of such exemption

Provided that after payment of such amount, **the balance** of input tax credit lying in his electronic credit ledger **shall lapse**.

****A DECLARATION HAS TO BE FILED IN FORM ITC-03.**

In case of supply of capital goods or plant and machinery, on which input tax credit has been taken

ITC taken on the said capital goods or plant and machinery as reduced by 5 percentage points for one quarter and any part thereof

OR

the tax on the transaction value of such capital goods or plant and machinery as determined under section 15

Whichever is higher is to be paid

** 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.

Reversal of credit where inputs or input services are used partly for business purposes or partly for effecting exempt supplies

- Total input tax in a tax period to be denoted as 'T'
- Amount of input tax used **exclusively** for the purposes other than business 'T1'
- Amount of input tax used **exclusively** for effecting exempt supplies 'T2'
- Amount of **blocked credit** as per Section 17 (5) 'T3'
- Amount of input tax to be credited to electronic credit ledger 'C1 = T - (T1+T2+T3)'
- Amount of input tax used exclusively for effecting taxable and zero rated supplies 'T4'
- T1, T2, T3, T4 to be determined at invoice level in GSTR-2
- Common Credit "C2 = C1-T4"
- Credit attributable towards exempt supplies "D1 = C2*(E/F)"

where

- 'E' is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and
- 'F' is the total turnover of the registered person during the tax period

Reversal of credit where inputs or input services are used partly for business purposes or partly for effecting exempt supplies

- Credit attributable towards non business purpose “ $D2 = C2 * 5\%$ ”
- Remaining credit available for business purpose and for taxable and zero rated supplies “ $C3 = C2 - (D1 + D2)$ ”;
- C3 to be computed separately for CGST, SGST, UTGST and IGST;
- D1 and D2 shall be added to output tax liability provided invoice wise segregation has been made;
- Credit calculated on provisional basis shall be computed finally before due date of filing returns for the month of September following the end of the FY to which credit relates;
- In case amount calculated exceeds the provisional calculation the differential amount shall be added to the output tax liability and interest from the month of April of next FY till the date of payment to be paid;
- In case amount finally calculated is short of the provisional calculation, the differential amount shall be taken as credit in the month of September.

Reversal of credit where capital goods are used partly for business purposes or partly for effecting exempt supplies

- Reversal of ITC is required in case when full ITC is claimed earlier & now is attributable to both exempt & taxable supplies.
- The registered person shall reverse the proportionate ITC as computed according to Rule 43 of CGST Rules.
- The reversal ,along with interest, is required to be made by increasing the outward liability in GSTR-2 on monthly basis.

Input Service Distributor

ITC available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR- 6**

- ITC is distributed to supplier of goods and / or services of same entity having the same PAN.

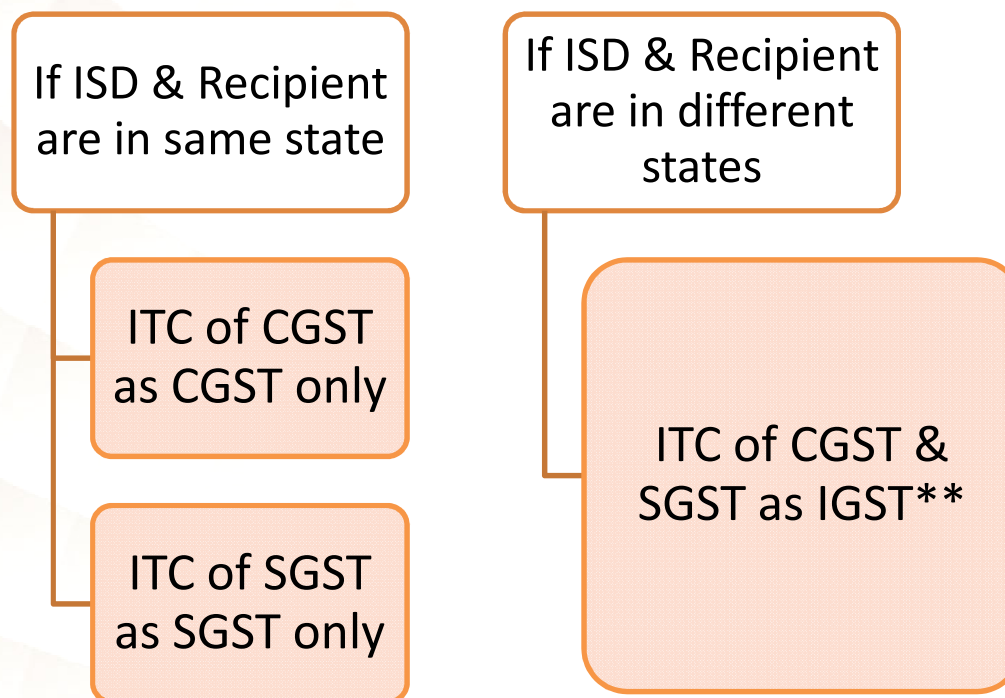
Manner of distribution of ITC by ISD

1. Distribution of IGST :

As per Rule 39(e) of CGST Rules, ITC of IGST shall be distributed **as IGST only** to every recipient.

Manner of distribution of ITC by ISD

2. Distribution of CGST & SGST/UTGST:



** In this case , the amount of CGST & SGST are required to be summed up and to be transferred to IGST.

Procedure of distribution of ITC by ISD

- Credit distributed to recipient through **prescribed documents** containing prescribed details. Such document should be issued to each of the recipient of credit.
- Credit distributed should not exceed the credit available for distribution
- Tax paid on input services used by a particular location (registered as supplier) has to be distributed only to that location.
- Credit of tax paid on input service used by more than one location who are **operational** is to be distributed to all of them based on the pro rata basis of turnover of each location in a State to aggregate turnover of all such locations who have used such services.

Procedure of distribution of ITC by ISD

- Credit to be distributed to **recipients 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 –

$$C1 = (t1/T)*C$$

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 of all recipients during the relevant period;

Manner of recovery of credit distributed in excess

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, & the provisions of section 73 or section 74 shall apply for determination of amount to be recovered.

Job Work Provisions



Job Work Procedure(Sec 143)

The term Job work is defined u/s 2(68) of the CGST Act as “Any treatment or process undertaken by a person on goods belonging to another registered person”.

A registered person [Principal] may send inputs or capital goods under intimation, without payment of tax to a job worker for job work.

He may supply inputs or capital goods from job worker's place.

Job Work Procedure(Sec 143)

For supplying the goods from job worker's place, he has to declare the said place as his additional place of business, if job worker is not registered u/s 25.

If the job worker is registered, then the waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on tax payment.

If job worker is unregistered, then principal has to pay tax on supply of waste and scrap.

ITC Provisions for Job Work

As per section 19 & Rule 45:

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.

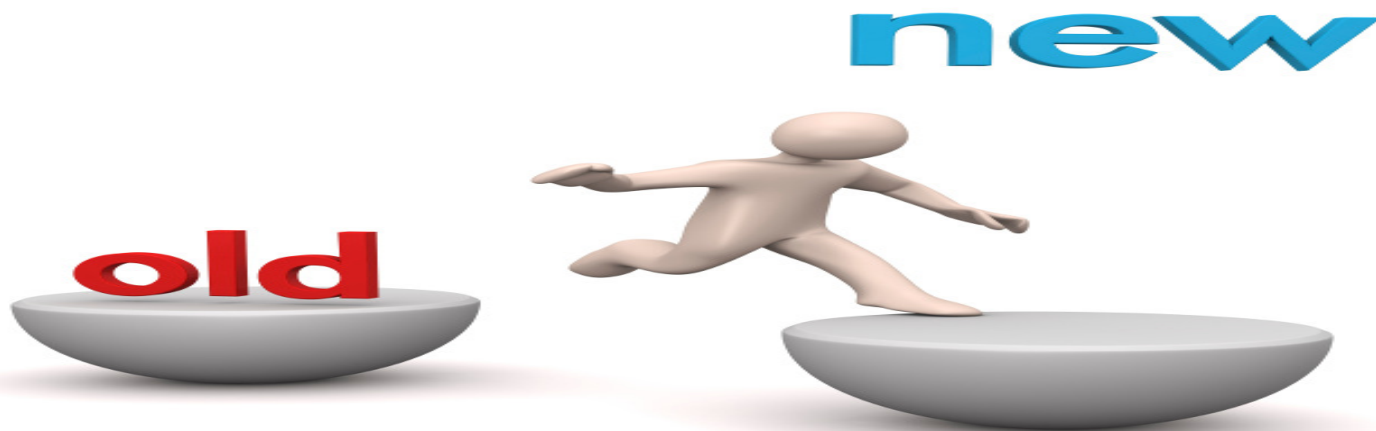
Principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.

ITC Provisions for Job Work

If inputs are not **Received back** or **directly supplied** from job-worker's premises within 1 year (3 years in case of capital goods) of being sent out, then the principal is liable to pay the ITC availed along with interest.

The above clause shall not apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

Transitional Provisions on ITC



Sec140(1)

- A registered person other than composition dealer
- Is entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return
- the said amount of credit must be admissible as input tax credit under GST
- He must have furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date
- ITC shall not allowed if it relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.
- Excess credit taken will be recovered as arrears of tax under GST law


Sec 140(2)

- A registered person, other than a person opting to pay tax under section 10, shall be entitled to take credit, in his electronic credit ledger,
- of the **unavailed CENVAT credit** in respect of **capital goods**, not carried forward in a return for the period ending with the day immediately preceding the appointed day
- shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.
- Unavailed Credit = (Total eligible credit – credit availed) under the earlier law

Sec 140(4)

- A registered person who was engaged in the manufacture/ provision of exempted and taxable goods/ services under Central Excise/ Service tax
- will be entitled to take the following amounts of CENVAT credit in his electronic credit ledger
- Amount carried forward in the return furnished under earlier law;
• Amount of eligible duties contained in inputs held in stock and inputs contained in semi-finished goods/ finished goods held in stock on the appointed day relating to exempted goods/ services.
- ***Form GST TRANS -02 shall specify separately the details of stock held on the appointed day upto 6 tax periods indicating the details of supplies effected during each tax period***
• The person must be registered under GST regime also.

Sec 140(5)

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- A registered person shall be entitled to take, in his electronic credit ledger
 - credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day
 - but the duty or tax in respect of which has been paid by the supplier under the existing law,
 - the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of **thirty days** from the appointed day

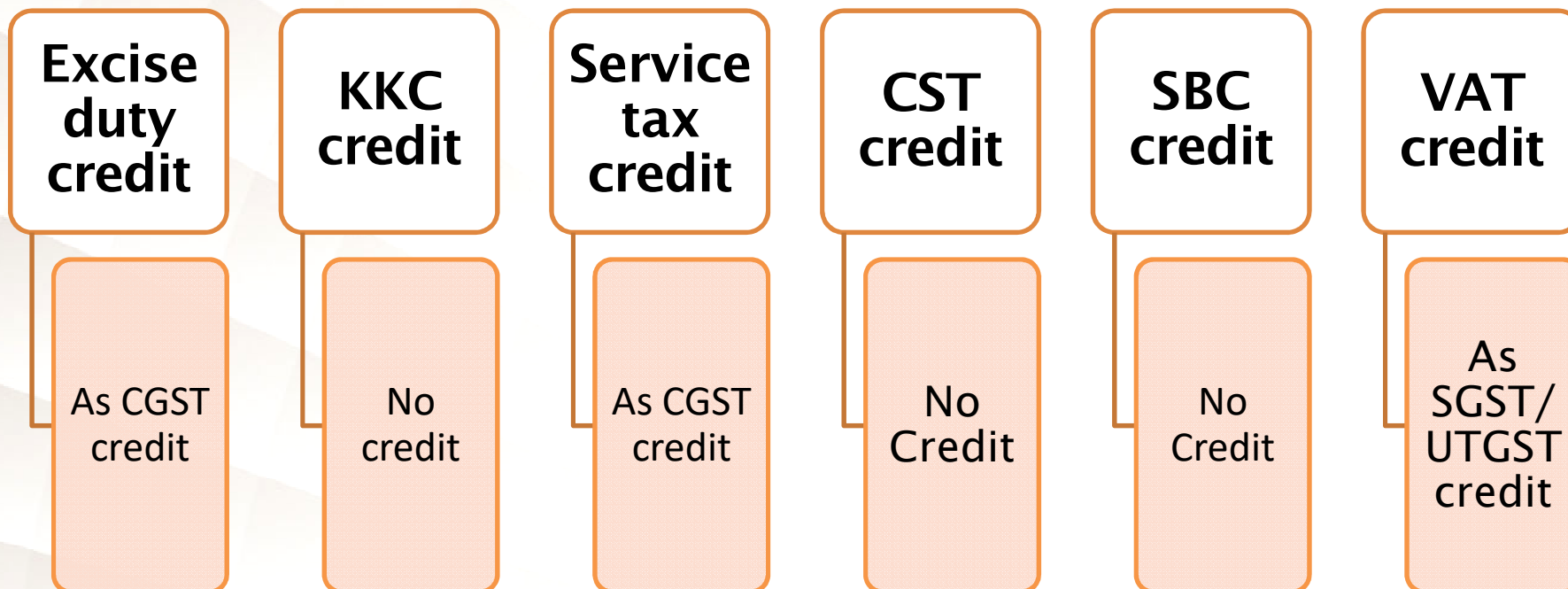
Sec 140(8)

- Where a registered person having centralised registration under the existing law in such manner as may be prescribed
- has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger
- credit of the amount of CENVAT credit carried forward in a return furnished under the existing law by him
- in respect of the period ending with the day immediately preceding the appointed day
- Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day
- *Only those credits which are admissible under GST laws will be allowed*

Sec 140(9)

- 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
- Condition: 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

Carry Forward of Transitional credits



ISSUES REGARDING ITC IN GST LAW

1. DEADLINE TO CLAIM INPUT TAX CREDIT:

In respect to any invoice, deadline to claim input tax credit should be linked with the relevant tax period rather than actual filing of the return. The provision relating to actual filing of the return makes the whole system dependent upon the whims and acts of a particular person.

2. MATCHING CONCEPT:

Another shortcoming of linking the deadline of claim of Input Tax Credit pertaining to a financial year with the filing of return would be that if a particular return is substantially delayed by the person receiving the inward supply due to any reason then entire supply chain would have to suffer and would be dependent upon the whims and actions of such person.

ISSUES REGARDING ITC IN GST LAW

3. NON AVAILABILITY OF ITC ON TELECOM TOWERS:

In “M/S. Bharti Airtel Ltd. vs The Commissioner Of Central ... on 26 August, 2014”, Bombay High Court upheld the decision of Tribunal that these towers are immovable in nature and also are not covered under the definition of capital goods.

➤ But Bharti Airtel Ltd., being aggrieved by the order of the Bombay High Court, filed an appeal before the Supreme Court which has been admitted by order dated 21 September 2015.

➤ Since the appeal is admitted by Supreme Court, it again became a matter of litigation. This will settle once the Apex Court delivers the ruling.

ISSUES REGARDING ITC IN GST LAW

4. AVIATION FUEL:

Jet Fuel is outside the scope of Structured GST Regime, therefore credit of Tax paid on ATF is not allowed which further increases the input cost, thereby increase in Ticket Prices.

5. MOTOR VEHICLES (FOR BUILDERS):

The credit is blocked as per 17(5) because these vehicles are not used for following purposes:

- (i) FOR making the following taxable supplies :—
 - (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 **for either self or for some other recipient.**

Thank you



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