

GST Guidance Note -6

Input Tax Credit

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6.01 Meaning of input tax credit (ITC)

Input tax credit (ITC) means credit of Central Tax, State Tax, Union Territory Tax, Integrated Tax and Compensation Cess paid on supply of goods or services by a supplier that can be used by a recipient for payment of its output tax liability. Integrated Tax paid on import of goods or services and tax paid by the recipient on reverse charge basis is also available as input tax credit. For example steel scrap supplier 'A' charges Rs. 18000 as Integrated Tax from recipient 'B'. Subsequently recipient 'B' utilizes scrap in making steel ingots and supplies the same at Rs. 120000, on which Integrated Tax of Rs. 21600 is payable. 'B' can discharge the tax liability of Rs. 21600, by using available ITC of Rs. 18000 and payment of balance of Rs. 3600 in cash.

6.02 Utilization of tax credits of various taxes

The order for utilization of tax credit has been provided under section 49(5) of the CGST Act. Integrated Tax credits can be used for payment of Integrated, Central and State Taxes, or as the case may be, Union Territory tax in the said order. Central Tax credits can be used for payment of Central Tax and Integrated Tax in this order. Similarly State Taxes credits or Union Territory Taxes credits can be used for payment of State Taxes or Union Territory Taxes and Integrated Tax in this order.

However Central Tax cannot be used for payment of State Taxes/UT tax and vice-versa. It can be better understood by following chart:

Type of credit ———>	IT	CT	ST/UTT
To be used first for payment of	IT	CT	ST/UTT
Remaining amount can be used for payment of	CT	IT	IT
Remaining amount can be used for payment of	ST/UT T	Cannot be used for payment of ST/UTT	Cannot be used for payment of CT

Input tax credit cannot be used for payment of interest, penalty or fees. Further, the credits of compensation cess can be used only for payment of compensation cess.¹

6.03 Key principles for eligibility of tax credits

Followings are key principles for eligibility of tax credits:-

Supplier should...	Recipient should...	Goods & Services should...
be registered under GST	be registered under GST	be for use or intended for use in course or furtherance of business
not be under composite levy	not be under composite levy	not be in the negative list

¹ See proviso to section 11 of the GST (Compensation to States) Act, 2017

have deposited the tax to the credit of the govt.	have paid tax to the Government if on reverse charge	
file valid tax return	have made payment to supplier within 180 days from the date of invoice	
	have actually received the goods or services	

6.04 Scope of ‘use in the course or furtherance of ‘business’

Tax paid on inputs, input services or capital goods that are used in the course or furtherance of its business by the recipient is available as credit. This phrase intends to widen scope of eligibility of credit. Restrictions in erstwhile regime such as ‘use in factory’, ‘in or in relation to the manufacture’, for use in ‘manufacturing or processing of goods’, ‘for sale’ etc. are no more relevant. Word ‘furtherance’ intends to allow credit of tax even for new or future lines of businesses.

6.05 Meaning of word ‘business’ under GST law

GST law has defined ‘business’ in very wide terms to include any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit. (for detailed discussion refer to Guidance note-2 on ‘Chargeability’)

6.06 Meaning of negative list of input credits

These are inputs or input services, tax paid on which is not available as credit even though they have been used in the course or furtherance of business. These restrictions have been placed under section 17(5) of the CGST Act.

6.07 Input credits falling in the negative list

Input tax credits are not allowed under GST in respect of following-

NEGATIVE LIST	
GOODS	SERVICES
1) Meant for personal consumption	1) Meant for personal consumption
2) Motor Vehicles**	2) Outdoor catering*
3) Goods lost, stolen, destroyed, written off	3) Beauty Treatment*
4) Goods disposed off by way of gift or free samples	4) Health Services*
5) Goods received for construction of immovable property on own account (other than plant and machinery)	5) Cosmetic and plastic surgery*
	6) Membership of club, health & fitness center
	7) Travel benefits to employees
	8) Rent a cab, life insurance, Health insurance****
	9) Works contracts for construction of immovable property other than Plant and Machinery.***
	10) Services received for construction of immovable property on own account.

*These credits are allowed if the service is used for providing same category of service e.g. services of a beautician taken by a beauty parlor or as an element of a taxable composite or mixed supply.

**Allowed in following cases -i. Further supply of such vehicle or conveyance (e.g. credit of tax paid on cars by the manufacturer will be available to a car dealer);

ii. Taxable supply of transportation of passengers

iii. Taxable supply of imparting training on driving, flying, navigating such

vehicles or conveyances; (e.g. tax paid by dealer on sale of cars will be available as credit to a car driving school).

***Allowed if used for providing work contracts service e.g. tax paid by sub-contractor for construction of a factory administration building is available as credit to the main contractor for payment of its liability, however the tax paid by the main contractor will not be available to the factory owner / manufacturer.

****Can be allowed by way of notification if mandatory on part of employer to provide these facilities. If these services are used as an input for supply of same category of service or as an element of a taxable composite or mixed supply, tax credit will be available.

Note – Telecommunication towers and pipelines outside the factory premises have been specifically excluded from the definition of plant and machinery.

6.08 Meaning of plant and machinery

Credit of tax paid on goods and services used for construction of immovable property including work contract service has been allowed only if such immovable property is in the nature of plant and machinery. The expression 'plant and machinery' has been defined through explanation in Chapter V of the CGST Act to mean apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes –

- i. Land, building or any other civil structures;
- ii. Telecommunication towers; and
- iii. Pipelines laid outside the factory premises.

6.09 Exclusion of credits relating to towers, pipeline and land / building / civil structures

From the definition of plant and machinery telecommunication towers and pipelines laid outside the factory premises cannot be treated as plant and machinery.

Similarly land, building and other civil structure (excluding foundation and structural support) cannot be treated as plant and machinery. Therefore, any inputs or capital goods used for construction of telecommunication towers, pipeline laid outside the factory, buildings and other civil structures (excluding foundation and structural support) will not be available on input tax credit.

6.10 Credit on diaries and calendars distributed at New Year for business promotion

Goods disposed of by way of gifts are in the negative list. Credit of tax paid on purchase of diaries, calendars or other goods which are disposed of as free gifts would not be available.

6.11 Will tax credits be available if

IF...	THEN...
Cement is used for construction of administration building	No. Building is not plant and machinery
Cement is used for foundation of pillars supporting a boiler	Yes as such structural support for plant and machinery is included in definition of plant and machinery.
Works contract services is provided by sub-contractor to a contractor	Yes. Works contracts service is excluded except when used for providing work contract service.
Health insurance for factory workers if it is statutorily mandated to take such insurance	No. Apart from being statutorily mandated, credit is not allowed unless permitted by Government by notification.
Goods are used for running a guest house in a factory	Yes as guest house is used for furtherance of business. (dispute cannot be ruled out) However credit in respect of provision of food and beverages & catering services will not be available
Car used by a factory for personal use	No. Car or any conveyance is in negative list, except when it is intended for use in further supply or for making taxable supply of transportation of passenger service.

Steel and other structural are used for setting up a telecommunication tower	No. Telecommunication towers have been specifically excluded from definition of plant and machinery.
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6.12 Time for availing input tax credit

Subject to fulfilment of other conditions explained in para 6.03 above, credit can be availed when the recipient has received (i) tax invoice or debit note or other prescribed tax paying document and (ii) underlying goods and/or services. If the goods under an invoice are received in lots, credit can be availed only after receipt of the last lot. For better understanding let us have following examples:

‘A’ Limited received services of repair of machinery in plant on April 16, 2016 and released payment on the basis of pro-forma invoice on same day. Tax invoice was issued by the supplier on April 30, 2016. Credit can be availed on or after April 30, 2016.

‘B’ Limited released payment for services of repair of machinery in plant on April 16, 2016 on the basis of pro-forma invoice. Engineers of the service provider visited plant on between May 01 to May 05, 2016 and carried repair. They brought the tax invoice dated April 30, 2016 issued by the supplier. Credit can be availed on or after May 05, 2016.

‘C’ limited placed order for supply of 1000 bags of cement. Supplier was asked to dispatch 200 bags every alternate day. Supplier issued Tax invoice for 1000 bags on May 01, 2016 and dispatched first lot of 200 bags. Payment was released on May 02, 2016. Last lot of 200 bags was received on May 09, 2016. Credit can be availed on or after May 09, 2016. If separate invoice is issued for each of the lots then credit can be taken on receipt of each lot.

6.13 Inputs, input services and capital goods defined separately for availment of credits

Inputs, input services and capital goods have been defined separately. While inputs and input services have been defined to mean goods and services used or intended to be used in the course or furtherance of business, capital goods have been defined to mean goods whose value is capitalized in the books of accounts

of the person claiming the credit and which are used or intended to be used in the course of furtherance of business.

6.14 Credits for capital goods are available in full upfront

Credits for capital goods are available in full. There is no provision stipulating availment of capital goods credit in instalment or tranches. Further, if the tax payer claims depreciation of the tax component in the value of capital goods under the provisions of Income Tax Act, then credit is not allowed on such tax component of capital goods.

6.15 Difference in treatment of capital goods credit from credit of inputs and input services?

There is no major difference as credit in case of capital goods is also available upfront. There would only be difference in treatment of capital goods when supplied after use or in manner of reversal of credits when inputs / capital goods are used for taxable and non-taxable supplies or partly for the purposes of business and partly for other purposes.

6.16 Inputs or input services used partly for making taxable supplies and partly for non-taxable supplies or partly for non-business purpose

When common taxable inputs and/or services are used for making both taxable and non-taxable/ exempt supplies or inputs and/or services are diverted to non-business/personal use then the quantum of credit on such inputs/input services is restricted to the credit attributable to taxable supplies or to the extent such inputs/input services are used in course or furtherance of business. In other words the total credit will be subject to pro-rata reversals i.e. reversal in proportion to value of non-taxable/exempt supplies or value of inputs/input services diverted for non-business use or personal use.

Rule 42 of the CGST Rules, 2017 prescribes principles/formula for computation of ineligible credit or for pro rata reversals. The scheme prescribed through rules is summarized below:-

An input tax credit claimant, engaged in supply of taxable as well as exempt supplies (including non-taxable supply) should segregate total input tax as under:-

T ₁	Credit attributable to inputs and input services intended to be used exclusively for purposes other than business	
T ₂	Credit attributable to inputs and input services intended to be used exclusively for effecting exempted supply (including non-taxable supply)	
T ₃	Inputs and input services on which credit is not available under section 17(5), i.e. negative list	
T ₄	Credit attributable to inputs and input services used exclusively for effecting taxable supply including zero-rated	Amounts gets credited to electronic credit ledger
C ₂	Credit attributable to inputs and input services which do not fall in any of above category (common use credit)	

Out of C₂ portion ineligible due to (i) use for the purpose of effecting exempt supply (D₁) and (ii) use for purposes other than business (D₂) will be calculated by following formula.

$$D_1 = C_2 \times (E / F)$$

Where E is the aggregate value of exempt supplies. (For meaning of 'exempt supplies' please see point no. 6.17)

$$D_2 = 5\% \text{ of } C_2$$

As common credit, i.e. C₂ was credited to electronic credit ledger, D₁ and D₂ will be added to output tax liability.

If for the credits which are common for taxable and exempt supplies and/or used for non-business purposes, the taxpayer has identified T₁ and T₂ at invoice level, the amount will not form part of common credit (C₂). Credit for eligible portion will be available in full.

Above computation for reversal of input tax credit will be made by tax payer for every tax period and again at the end of financial year.

If D₁ and D₂ computed earlier is less than D₁ and D₂ calculated at the end of financial year, the shortfall will be added to the output tax liability of the current year. The taxpayer will be liable to interest from April 1st of the year succeeding the relevant financial year till the month in which ineligible credit has been added. The taxpayer will have to offer shortfall as part of output tax liability in the return for any tax period succeeding the relevant financial year but not later than the month of September.

If D_1 and D_2 computed earlier is more than D_1 and D_2 calculated at the end of financial year, the taxpayer will be allowed to claim credit of such excess in the return for any tax period succeeding the relevant financial year but not later than the month of September. However, the taxpayer will not be eligible for interest on excess output tax liability admitted earlier.

6.17 Meaning of exempt supplies for pro rata reversals.

As per the definition of 'exempt supplies' under GST law, exempt supplies include supplies which attracts NIL rate of tax; supplies which may be exempt and includes non-taxable supplies as well. The ambit of the term 'exempt supplies' has been expanded for purpose of determining pro rata distribution of input tax credits to include the following

- i. Transaction in securities (which is neither treated as goods nor services)
- ii. Sale of land
- iii. Sale of building provided the entire consideration has been received after issuance of completion certificate where required by the competent authority or before its first occupation whichever is earlier.

Explanation in Chapter V of the CGST Rules, 2017 provides that 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 percent of the value of such security.

6.18 Exclusion of non GST taxes for pro rata reversals

As per definition of 'aggregate turnover' under GST law it includes the total value of supply of goods or services or both minus the GST taxes paid by the registered person on such value. Therefore, while calculating the credits attributable to non-taxable turnover for the purpose of pro rata reversals the value of non-GST taxes like Excise duty, VAT etc are not getting excluded leading to disproportionately high reversals.

Explanation in rule 42 of the CGST Rules provides that for the purpose of computation of quantum of pro rata reversals, the aggregate value of exempt supplies and total turnover shall exclude Central and State Excise Duty and Sales VAT. However, the Central Sales Tax is not excluded.¹ This appears to be an inadvertent mistake, but is the position in law.

¹ Central Sales Tax (CST) is levied under entry 92A of List I of Seventh Schedule to the Constitution

6.19 Illustration to explain computation of pro-rata reversal

Let us take example of a large format retail store selling cosmetics, refrigerators, milk, fruits & vegetables, soaps, shampoos, alcohol for human consumption etc. Assuming cosmetics and refrigerator are liable to GST; Milk, fruits and vegetables are exempt from GST. Alcohol for human consumption is a non-GST product.

Cosmetics are delivered in bright print plastic boxes. Refrigerators are repacked in wooden caskets. Milk is delivered in non-returnable glass bottles. Fruits & vegetables, soaps, shampoo, alcohol are delivered in a polythene bags which are common for all the goods.

The retail store has cleaning staff, internet connectivity, security, a diesel generating set for back up electricity supply, arrangement with a bank for daily pickup of cash etc. These services are common for all goods and services supplied from the store.

So far as tax credit of goods sold is concerned, there is no ambiguity and respective credits can be availed. For example, full credit of tax paid on refrigerator would be available to the retail store as the refrigerators are being sold further on payment of GST. Credit relating to bright print plastic boxes for cosmetics, wooden caskets for refrigerator would also be admissible in full as these items are identifiable as used in taxable supplies. Let us assume credit identifiable with taxable supplies works out to Rs. 'a'.

Non-returnable glass bottles for milk are identifiable with exempt supplies and hence tax credit cannot be claimed. Let us assume credit identifiable with exempt supplies works out to Rs. 'b'.

Tax credit relating to polythene bags which are used for delivery of fruits & vegetables, alcohol, soaps and shampoos are credits in respect of inputs that are used for making exempt, non-GST as well as taxable supplies. Let us say common credits on inputs work out to Rs. 'c1'. Similarly input services are common for exempt, non-GST and taxable supplies. Let us say common credits on input services works out to Rs. 'c2'.

Let us further assume that store achieved a turnover of Rs 50 lakh (F) during the calendar month. This consisted of supply of taxable goods and service worth Rs. 30 lakh and supply of non-taxable and exempt goods/services worth Rs. 20 lakh (E).

Total credit available (T) = a+b+ c1+c2.

Credit identifiable with taxable supplies (X) = a

Credit identifiable with non-taxable/exempt supplies (Y) = b

Common credit (C) = c1+c2

Ineligible credit (D) = (E/F) x C
= (20/50) x C

Credits available for utilization = T – ['b' + D]

Common credit was disallowed in the proportion of non-eligible turnover vis-à-vis total turnover.

Exact mechanism for pro-rate reversal is provided by draft input tax credit rules.

6.20 Credit on capital goods are also subject to pro rata reversal

If capital goods are used for making both taxable and exempt/non-taxable supplies, the credits in respect of such capital goods will also be restricted to the extent it is attributable to non-taxable supplies/non business activity. Exact mechanism for working out the credits so attributable is provided in rule 43 of the CGST Rules. The scheme prescribed through rules is summarized below:-

An input tax credit claimant, engaged in supply of taxable as well as exempt supplies (including non-taxable supply) should segregate total input tax in respect of capital goods as under:-

	Credit attributable to capital goods intended to be used exclusively for purposes other than business	Rule 43 does not talk about credits attributable to capital goods barred by section 17(5). However since provisions in Act will supersede rules, credit attributable to ineligible capital goods should also be identified at this stage
	Credit attributable to capital goods intended to be used exclusively for effecting exempted supply (including non-taxable supply)	
	Credit attributable to capital goods which is barred by section 17(5), i.e. negative list	
	Credit attributable to capital goods intended to be used exclusively for effecting taxable supply including zero-rated	Amounts gets credited to electronic credit ledger
T _c	Credit attributable to capital goods which do not fall in any of above category (common use credit)	

For capital goods comprised in T_c, the taxpayer will maintain record of each capital asset separately. Useful life of each capital asset will be considered as 5 years. For each tax period i.e. calendar month, the taxpayer will calculate common credit attributable to such capital asset (T_m) based on age profile of asset. Sum of all T_m

will be denoted as T_r .

Ineligible portion (T_e) will be calculated every tax period by following formula.

$$T_e = T_r \times (E / F)$$

Where E is the aggregate value of exempt supplies, i.e. all supplies other than taxable supplies and zero rated supplies and F is total turnover during the tax period.

As common credit, i.e. T_c was credited to electronic credit ledger, T_e will be added to output tax liability.

The taxpayer will also be liable to interest on T_e for the period starting from the month in which entire credit was claimed till the month in which ineligible credit is added to output tax liability.

6.21 Treatment of credit already availed where capital goods used for making taxable supplies are subsequently used for making exempt supplies as well

Credit proportionate to the residual life of the capital goods will be subject to reversals based on turnover of exempt supplies. Proviso below rule 43(d) provides that original input tax credit eligible for availment will get reduced by five percentage points for every quarter or part thereof and balance will be subject to reversal computation. . Exact mechanism for working out the reversal is provided in the CGST Rules.

6.22 Input tax credit in respect of services procured centrally

The provisions of input service distributor has been provided to allow business to go for centralized procurement of services and distribute the tax credits where such services have been used.

Input service distributor is a special concept to enable the entrepreneur to distribute the tax credit of common services to different registrations of the same entity (same PAN). An entrepreneur avails several services which cannot be identified to a particular registration. Services of statutory auditors are best example of such common services. An enterprise may be operating in all 29 States and 7 Union Territories with its registered and corporate office, say in Hyderabad. Statutory audit is done for corporate entity. Auditors will carry major part of their procedures in Hyderabad, discuss with management in Hyderabad, and sign the accounts and reports in Hyderabad etc. Though most of the activities are performed in Hyderabad, it cannot be said that auditors were providing services only to the enterprise's establishment in the State of

Telangana. In fact auditors were working for establishments of the enterprise located in all 29 States and 07 Union Territories and credit of tax charged by the auditors needs to be distributed to all States and UTs.

6.23 Manner of distribution of credit by an ISD

An ISD is allowed to distribute the credit as follows-

Credit of	ISD and the recipient of credit...	Credit to be distributed as...
Integrated tax	are in different States/ Union Territory	Integrated tax
Central Tax		Integrated Tax (sum of Central Tax & State/UT Tax)
State Tax/Union Territory Tax		
Integrated tax	are in same State/ Union Territory (different business vertical or otherwise)	Integrated Tax
Central Tax		Central Tax
State Tax/Union Territory Tax		State Tax/ Union Territory Tax
Compensation Cess	Whether same State or different State	Compensation Cess@

@ Input tax credit rules have not dealt with distribution of cess.

6.24 Conditions for distribution of credit by an ISD

- ISD has to be registered separately.
- The input service invoice should be in favour of ISD indicating ISD's GSTIN.
- The credit availed on the basis of each invoice is to be distributed to other registrations following prescribed rule
- Input Service Distributor will issue an ISD invoice in favour of the registrations to which credit belong. The amount to be distributed has to be calculated separately for credit of four different taxes
- All credits have to be distributed in the same month of availment.
- Amount in-eligible and the amount eligible will be distributed separately.

6.25 Rule for credit distribution by an ISD

- If input credit is identifiable to any one particular registration it will be distributed to only that registration.
- If the input tax credit is attributable to more than one registration of a person then the credit will be distributed amongst such registrations to which the credit is attributable. The credit in such case will be distributed pro rata to the turnover (excluding Central & State Excise duties and VAT, if any) of a registration during the relevant period to the aggregate of turnover (excluding Central & State Excise duties and VAT, if any) of all registrations to whom such credit is attributable.
- If the input tax credit is attributable to all registrations of a person then the credit will be distributed amongst such registrations to which the credit is attributable. The credit in such case will be distributed pro rata to the turnover of a registration during the relevant period to the aggregate of turnover of all registrations of the person.

6.26 Exclusion of non GST taxes from value of ISD

For distribution of credits to a registered person engaged in supply of taxable as well as non-taxable goods and services or both, the aggregate value of turnover of such person shall be reduced by amount of any duty or tax levied under following Entries of VII Schedule of the Constitution.

- Entry 84 of List I (taxes on manufacture like Excise Duty on petroleum etc.)
- Entry 51 of List II (duties of Excise on alcoholic liquor for human consumption etc.)
- Entry 54 of List II (taxes on sale and purchase of goods)

Otherwise as per the definition of 'aggregate turnover' only GST taxes were excluded from the value which was leading to disproportionate distribution of credit to units manufacturing excluding products since the turnover of such units included the value of non GST taxes.

6.27 Meaning of relevant period

Relevant period is normally the financial year preceding the year during which credit is to be distributed. If all the registrations do not have turnover in preceding financial year, then it is the last quarter for which details of such

turnover are available previous to the month during which credit is to be distributed.

6.28 Examples of distribution of credits by an ISD

Rule 29 of the CGST Rules, 2017 prescribe following formula for arriving at credit distributed to each recipient:-

$$C_1 = (t_1/T) \times C$$

Where.

'C' is the amount of credit to be distributed,

't₁' is the turnover for the registration to which credit is distributed

'T' is the aggregate of the turnover at PAN level

Let us take example of an enterprise with establishments in 10 states engages the services of a statutory auditor to provide audit services in respect of its entire operations. Annual audit fees were say Rs. 10 lakh and input tax thereon works out say Rs 1.80 lakh. Let us further assume that the enterprise achieved a turnover of Rs.

1000 crore in preceding financial year with following spread in ten States. Credit Distribution will look as under:

State	Turnover (Rs. In cr.)	Distributed credit (Turnover of State/ Total Turnover) x Total common credit (Rs.)
1	50	9000
2	100	18000
3	125	22500
4	80	14400

State	Turnover	Distributed credit (Turnover of State/ Total Turnover) x Total common credit
5	90	16200
6	130	23400
7	175	31500
8	150	27000
9	75	13500
10	25	4500
Total	1000	180000

Here C = 180000 and T = 1000.

6.29 Distribution of credits for goods procured centrally

Concept of input service distributor is applicable only for services. It is not required for goods that are procured centrally and distributed for use in various registrations as credit would automatically get distributed when goods are stock transferred to other registrations for actual use on payment of GST.

6.30 Period for availing tax credits

As per section 16(4) of CGST Act, credit should be availed on or before furnishing of the return for the month of September following the end of the financial year to which invoice relates or furnishing of the relevant annual return whichever is earlier. Return for a month is to be filed on or before the twentieth day of the succeeding month. Thus return for the month of September is to be filed by 20th October.

Input Service Distributor is required to file return within thirteen days of the succeeding month. Thus for an Input Service Distributor, return for the month of September is to be filed by 13th October. Annual return is to be filed by thirty first day of December following the end of relevant financial year. This can be further understood with following example of a Non-ISD taxpayer:

Where Annual return for Financial Year 2017-18 is filed on August 16, 2018

Invoice Date	Last date up to which tax credit should be availed
April 01, 2017	August 16, 2018
March 31, 2018	August 16, 2018

Where Annual return for Financial Year 2017-18 is filed on December 31, 2018

Invoice Date	Last date up to which tax credit should be availed
April 01, 2017	October 20, 2018
March 31, 2018	October 20, 2018

6.31 Penalties of wrongly availing tax credits

Tax credit wrongly availed will be added to the output tax liability of the month in which discrepancy in tax credit claim is communicated to claimant recipient. Recipient will also be liable to interest for the period from the date of availing credit till the date of corresponding addition.

If the credit has been availed without actual receipt of goods and/or services either fully or partly, the claimant will be liable to further consequence of a penalty of rupees ten thousand or an amount equivalent to the input tax credit so availed, whichever is higher.

6.32 Penalty applicable to availment or actual utilization?

Interest and penalty both are applicable on availment. Actual utilization thereof is not material.

6.33 Key differences between ITC provisions under the scheme of Central Excise, Service Tax and VAT laws and those proposed under GST

Pre-GST Law	Post GST
Eligibility based on use in factory; provision of output service in central taxes	Eligibility based on use in course or furtherance of business
Capital goods defined with reference to headings, description etc.	Broad based definition to include all goods capitalized in account and used in course or furtherance of business.

Pre-GST Law	Post GST
Availment of capital goods credit in instalments	No such condition
Wider negative list	Trimmer negative list
Restriction / retention of credits in case of stock transfers or even CST Sales	Free flow of credits. No such restrictions / retentions
No credit of CST spend on inter-State sale	Credit of IGST paid on interstate supplies
Full credit on capital goods if used for taxable and non-taxable activities	Pro-rata reversals even in case of capital goods
No concept of online and meticulous matching of invoices	Credits based on matching of invoices.

6.34 Possible reasons for mismatch in invoice details reported by the supplier and those reported by the recipient

Following reasons might lead to mismatch in details furnished by two parties.

- Clerical error at either party end
- Mismatch in transaction value as per understanding of recipient while placing order for supply
- Mismatch in classification (where rates of tax are different in two classifications entries) as per understanding of recipient while placing order for supply
- Receipt of lesser quantity than reported dispatched by supplier (this may be due to human error at the end of recipient or some natural/man made losses occurring in transit)

6.35 Manner of dealing with any mismatch of invoices uploaded by supplier and those recorded by the recipient

Supplier and recipient should come to a common understanding. For transaction value mismatch, supplier can agree to issue a credit/debit note. Recipient will accept previously uploaded invoice and also the credit/debit note. For classification dispute, both the parties will have to reach an agreement. Here, if the classification claimed by the recipient was of lower rate of tax, mismatch would have already been accepted by the GSTN. Loss of input tax credit in the hands of recipient remains a commercial dispute only. For loss of goods in transit, supplier is not entitled to reduce tax liability. To save tax credit, recipient will have to accept the invoice details uploaded by supplier. Mismatch remains a commercial dispute only.

6.36 Consequences of invoices remaining mismatched

Tax credit pertaining to invoices remaining mismatched will be added to the output tax liability of recipient. The recipient will be liable to pay interest on such disallowed credit from the date of availing of credit till the date of addition.

6.37 Necessity of quickly rectifying the invoices shown as mismatched

Provisionally allowed tax credit will be disallowed and will remain disallowed till the time it is not rectified. If mismatch is not settled by the time of filing of annual return credit will be lost forever.

6.38 Importance of paying for receipt of goods and services in time

Under GST it is very important that supply of goods and services on which input tax credit is taken are paid for in time. As per CGST Act if recipient of goods or services fails to pay to the supplier the amount towards value of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice, an amount equal to the input tax credit availed on such supply shall be added to output tax liability of recipient along with interest. The Input tax credit rules provide that such addition will be proportionate to the amount not so paid. The recipient shall be entitled to avail the credit again once he makes payment to the supplier and the time limit of credit availment (as mentioned in para 1 of 6.3) will not be applicable. (See rule 37 (4) of CGST rules). However the interest paid will not be refunded.

6.39 Payment condition in credit availment in cases of reverse charge

The condition for payment to the supplier within 180 days for availment of credit does not apply to supplies on which tax is payable under reverse charge.
