



Input Tax Credit under GST Law

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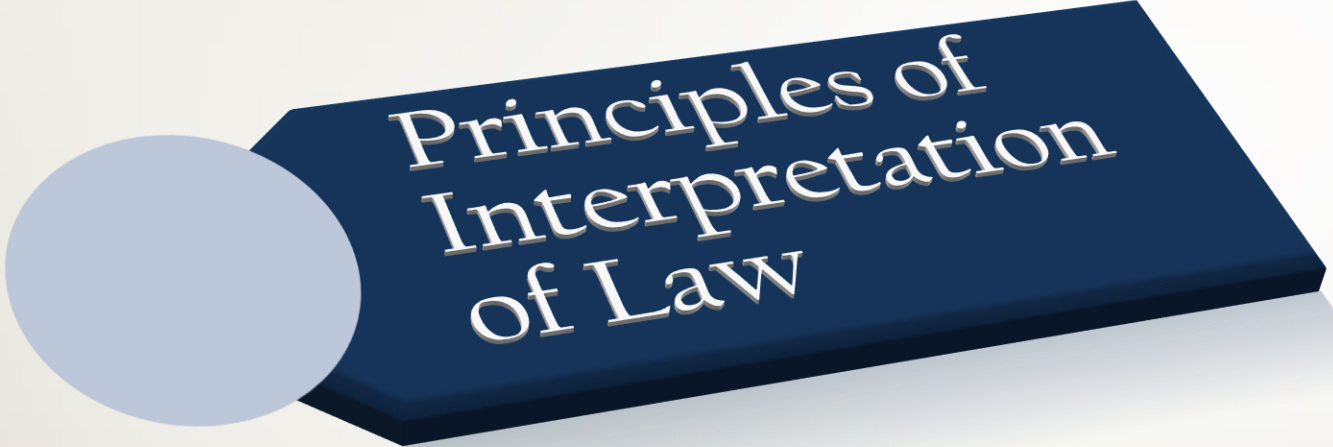
GST Course for Student

WIRC of ICAI

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Agenda

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- Principles of Interpretation of Law
 - Definitions
 - Eligibility & Conditions
 - Apportionment & Blocked Credits
 - Input Service Distributor & Transfer of ITC
 - ITC Rules & Documentation
 - ITC Transitional Arrangements



Principles of
Interpretation
of Law

Imp Principles of Interpretation of Law

- Analysing a definition

A definition could either be of 3 categories

- Exhaustive definition

- Such definition generally employs the word “mean” which shall imply that any interpretation of such term should be within the 4 corners of such definition

- Illustrative Definition

- Such definition employs the words “includes” which only implies that the term is not exhaustively defined and therefore resort shall be made to its general meaning

- Exhaustive & Expanding/Contracting

- Such definition employs the words “means and includes” or “means but does not include” respectively. It means that the definition is exhaustive and expanding or exhaustive and reducing

Imp Principles of Interpretation of Law

- **Generalia specilibus non derogant**
 - If on a particular issue, if there exists a general provision and a special provision then the special provision shall override the general provision
- **Doctrine of Eiusdem Generis**
 - denoting a rule for interpreting statutes and other writings by assuming that a general term describing a list of specific terms denotes other things that are like the specific elements. Inference is to be given to the immediately preceding terms.
- **Non obstantate Clause**
 - Such clauses use the word “**notwithstanding**” and overrides the provisions listed in the text / references immediately following it. Such conditions are independent of the general conditions

Imp Principles of Interpretation of Law

- **May Vs. Shall**
 - Normally, the word “may” means discretion and is not mandatory
 - Courts do not interpret the word “may” as “shall” unless such interpretation is necessary and required to void absurdity, inconvenient consequence or is mandated by the intent of the legislature which is collected from other parts of the statute.
 - While examining the third aspect, the courts examine the purpose, object, design and scope of the statute
 - the words “may” and “shall” are distinct in meaning. While one confers a discretionary power, the latter one pelts out mandatory directions. These words are not synonymous but may be used interchangeably if the context requires such interpretation



Definitions

Definitions

2(63)

- “input tax credit” means the credit of input tax;

2(62)

- “input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
- (a) the integrated goods and services tax charged on import of goods;
- (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- (c) the tax payable under the provisions of sub-section (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
- (d) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or
- (e) 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,
- but does not include the tax paid under the composition levy;

Definitions

2(19)

“capital goods” means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business

2(47)

“exempt supply” means supply of any goods or services or both which attracts NIL rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply

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;

2(60)

“input service” means any service used or intended to be used by a supplier in the course or furtherance of business;

2 (61)

“Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;



Eligibility &
Conditions

Sec 16(1) Eligibility to avail ITC



Every registered person shall,

subject to such conditions and restrictions

as may be prescribed and in the manner specified in section 49,

be entitled to take credit of input tax charged on any supply of goods or services or both to him

which are used or intended to be used in the course or furtherance of his business

and the said amount shall be credited to the electronic credit ledger of such person.

Sec 16 (2) Conditions to avail ITC

Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(b) he has received the goods or services or both.

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39:

Sec 16 (2) Conditions to avail ITC

- Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:
- PROVIDED FURTHER that where a recipient fails to pay to the supplier of services, the amount towards the value of supply of services 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, in the manner as may be prescribed.
- Explanation.—For the purpose of clause (b), it shall be deemed that the taxable person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such taxable person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise.

Sec 16 - Conditions to avail ITC

- (3) Where the registered taxable person *has claimed depreciation on the tax component* of the cost of capital goods under the provisions of the Income Tax Act, 1961(43 of 1961), *the input tax credit shall not be allowed on the said tax component.*
- (4) A taxable person shall *not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services after furnishing of the return under section 39 for the month of September* following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.



Apportionment &
Blocked Credits

Sec 17 - Apportionment / Blocked Credits

- (1) Where the goods and/or services are used by the registered taxable person partly for the purpose of any business and partly for other purposes, *the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.*
- (2) Where the goods and / or services are used by the registered taxable person partly for effecting taxable supplies including zero-rated supplies under this Act or under the IGST Act, 2016 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.*
 - Explanation.- For the purposes of this sub-section, exempt supplies shall include supplies on which recipient is liable to pay tax on reverse charge basis under subsection (3) of section 8.
- (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and *shall include supplies on which the recipient is liable to pay tax on reverse charge basis*, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Sec 17 - Apportionment / Blocked Credits

- (4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, *every month, an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month.*
 - Provided 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

Sec 17 - Apportionment / Blocked Credits

- (5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following:
 - (a) motor vehicles and other conveyances except when they are used
 - (i) for making the following taxable supplies, namely
 - (A) further supply of such vehicles or conveyances ; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving, flying, navigating such vehicles or conveyances;
 - (ii) for transportation of goods.

Sec 17 - Apportionment / Blocked Credits

- (b) supply of goods and services, namely,
 - (i) 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;
 - (ii) membership of a club, health and fitness centre,
 - (iii) rent-a-cab, life insurance, health insurance except;
 - (A) where the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force;
 - (B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply
 - (iv) travel benefits extended to employees on vacation such as leave or home travel concession.

Sec 17 - Apportionment / Blocked Credits

- (c) works contract services when supplied for construction of immovable property, other than plant and machinery, except where it is an input service for further supply of works contract service;
- (d) 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;
- Explanation 1.- For the purpose of this clause, the word “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.
- Explanation 2.- ‘Plant and Machinery’ means apparatus, equipment, machinery, pipelines, telecommunication tower fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation and structural supports but excludes land, building or any other civil structures.

Sec 17 - Apportionment / Blocked Credits

- (e) goods and/or services on which tax has been paid under section 10 i.e Composition Scheme;
- (f) goods and/or services used for personal consumption;
- (g) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- (h) any tax paid in terms of sections 74, 129 & 130
- (6) The Central or a State Government may, by notification issued in this behalf, prescribe the manner in which the credit referred to in sub-sections (1) and (2) above may be attributed.

Sec 18 - Availability of Credits in Special Circumstances

(1) Subject to such conditions and restrictions as may be prescribed—

- (a) a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;
- (b) a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;

Sec 18 - Availability of Credits in Special Circumstances

- (c) where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:
 - Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;
- (d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:
 - Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

Sec 18 - Availability of Credits in Special Circumstances

- (2) A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.
- (3) Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

Sec 18 - Availability of Credits in Special Circumstances

- (4) Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:
 - Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Sec 18 - Availability of Credits in Special Circumstances

- (5) The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.
- (6) In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:
 - Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.



ISD & Transfer
of Credit

Sec 19. Taking input tax credit in respect of inputs and capital goods sent for job work

- (1) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job-worker for job-work.
- (2) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, 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.

Sec 19. Taking input tax credit in respect of inputs and capital goods sent for job work

- (3) 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 in accordance with clause (a) or clause (b) of sub-section (1) of section 143 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.
- (4) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.

Sec 19. Taking input tax credit in respect of inputs and capital goods sent for job work

- (5) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, 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.
- (6) 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.
- (7) Nothing contained in sub-section (3) or sub-section (6) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.
 - Explanation.—For the purpose of this section, “principal” means the person referred to in section 143.

Sec 20 - Manner of distribution of credit by Input Service Distributor

- (1) The Input Service Distributor shall distribute, in such manner as may be prescribed, the credit of CGST as CGST or IGST and IGST as IGST or CGST by way of issue of a prescribed document containing,
- (2) The Input Service Distributor may distribute the credit subject to the following conditions, namely:
 - (a) the credit can be distributed against a prescribed document issued to each of the recipients of the credit so distributed, and such document shall contain details as may be prescribed;
 - (b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;
 - (c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

Sec 20 - Manner of distribution of credit by Input Service Distributor

- (3) The Input Service Distributor may distribute the credit subject to the following conditions, namely:
 - (d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed only amongst such recipient(s) to whom the input service is attributable and such distribution *shall be pro rata* on the basis of the turnover in a State of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;
 - (e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Sec 20 - Manner of distribution of credit by Input Service Distributor

- Explanation 1. – For the purposes of this section, the “relevant period” shall be
 - (a) if the recipients of the credit have turnover in their States in the financial year preceding the year during which credit is to be distributed, the said financial year; or
 - (b) if some or all recipients of the credit do not have any turnover in their States in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed.
- Explanation 2. - For the purposes of this section, ‘recipient of credit’ means the supplier of goods and / or services having the same PAN as that of Input Service Distributor.
- Explanation 3. – For the purposes of this section, ‘turnover’ means aggregate value of turnover, as defined under sub-section (6) of section 2.

Sec 21 - 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 recipient(s) along with interest, and the provisions of section 73 or 74, as the case may be, shall apply mutatis mutandis for effecting such recovery.

Returns – Input Tax Credit Claim sec 41



Input Tax Credit Claim shall be matched with outward supplies filed in GSTR-1 by corresponding tax payer

The reversal can be at invoice level by marking ineligible in GSTR – 2 or computation of proportionate amount in Table 14 of GSTR 2

Matching, Reversal, Reclaim of ITC sec 42

Matching

Match in GSTR2A as filed by corresponding supplier

Claim only those which are matched, as prescribed

Reversal

GSTN shall intimate both supplier and recipient about unmatched supplies / duplication of invoices

Details unmatched, communicated but not rectified / duplicate claim shall be added back in Output Tax Liability

Reclaim

Reduce the Output tax liability if supplier rectifies in his VALID returns within the time period 34(9)

sub sec (9) of sec 42 & 43 – Restricts interest to be refunded to recipient to the extent of amount of interest paid by counter party on reclaim / reduction of liability

ITC - Highlights

- 10(4) Taxable person opting for Composition Levy shall not collect any GST nor entitled for any ITC
- 15(3)(b)(ii) Discount not included in value of supply if given after supply has been effected and input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.
- True & Correct Account of Input Tax Credit Availed is to be maintained at Principal Place of Business
- Interest as prescribed max upto @ 24% under CGST, i.e equivalent % in SG/UT GST for undue or excess claim of ITC; or undue or excess reduction of output liability

ITC - Highlights

- In case the Input Tax Credit is wrongly availed or utilised, in case of fraud, wilful misstatement or suppression of facts → Recovery u/s 74 from 5 years from due date of filing annual return, other cases u/s 73 upto 3 years from filing of annual return
- Penalty and Imprisonment for fraudulent practices in availment, utilisation and claiming refund of Input Tax Credit
- Penalty HIGHER of Rs. 10,000/- or Tax Evaded
 - takes or utilizes input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;
 - takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;



ITC Rules & Documentation

ITC Draft Rules

Rule No.	Particulars
1	Documentary requirements and conditions for claiming input tax credit
2	Reversal of input tax credit in case of non-payment of consideration
3	Claim of credit by a banking company or a financial institution
4	Procedure for distribution of input tax credit by Input Service Distributor
5	Manner of claiming credit in special circumstances like inputs lying in stock, semi finished or finished goods or capital goods
6	Transfer of credit on sale, merger, amalgamation, lease or transfer of a business
7	Manner of determination of input tax credit in certain cases attracting sec 17 such as only a part use for business, partly used for other purposes, zero rated supplies or effecting exempt supplies and reversal thereof
8	Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases
9	Manner of reversal of credit under special circumstances like inputs lying in stock, semi finished or finished goods or capital goods
10	Conditions and restriction in respect of inputs and capital goods sent to the job worker

Rule (1) - ITC Documentary Requirements

- (1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely:-
 - (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
 - (b) a debit note issued by a supplier in accordance with the provisions of section 34;
 - (c) a bill of entry;
 - (d) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31;
 - (e) ISD Invoice or ISD Credit Note or any document issued by an Input Service Distributor, as prescribed in sub-rule (1) of rule 7, *i.e* clearly indicating in such invoice that it is issued only for distribution of input tax credit
- (2) Input tax credit shall be availed by a registered person only if all the applicable particulars as prescribed in Chapter ---- (*Invoice Rules*) are contained in the said document, and the relevant information, as contained in the said document, is furnished in **FORM GSTR-2** by such person.
- (3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts

2. Reversal of input tax credit in case of non-payment of consideration

- (1) A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof the value of such supply along with the tax payable thereon within the time limit specified in the second proviso to sub-section (2) of section 16, shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in FORM GSTR-2 for the month immediately following the period of one hundred and eighty days from the date of issue of invoice.
 - Provided that the value of supplies made without consideration as specified in Schedule I shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16. (2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished.
- (3) The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid.
- (4) The time limit specified in sub-section (4) of section 16 shall not apply to a claim for availing of any credit, in accordance with the provisions of the Act or these rules, that had been reversed earlier⁴²

Rule 4. Procedure for distribution of input tax credit by ISD

- The input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR-6** separately distribute the amount in-eligible as input tax credit under the provisions of sub-section (5) of section 17 and the amount eligible as input tax credit
- the input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of sub-section (2) of section 20 to one of the recipients 'RI', whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, "CI", to be calculated by applying the following formula:-

$$CI = (t1 \div T) \times C$$

Rule 4. Procedure for distribution of input tax credit by ISD

- 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 separately distribute the amount in-eligible as input tax credit under the provisions of sub-section (5) of section 17 and the amount eligible as input tax credit
- The Input Service Distributor shall issue an ISD invoice, as prescribed in sub-rule (1) of rule invoice-7, clearly indicating in such invoice that it is issued only for distribution of input tax credit.
- The Input Service Distributor shall issue an ISD credit note, as prescribed in sub-rule (1) of rule Invoice-7, for reduction of credit in case the input tax credit already distributed gets reduced for any reason.

Rule 4. Procedure for distribution of input tax credit by ISD

- The Input Service Distributor shall issue an ISD invoice, as prescribed in sub-rule (1) of rule invoice-7, clearly indicating in such invoice that it is issued only for distribution of input tax credit.
- Any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (f) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) above and such credit shall be distributed in the month in which the debit note is included in the return in **FORM GSTR-6**.

Rule 4. Procedure for distribution of input tax credit by ISD

Distribution of Credit	Within State or UT	Outside State or UT
IGST	IGST	IGST
CGST	CGST	IGST
SGST	SGST	IGST
UTGST	UTGST	IGST

the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax or Union territory tax that qualifies for distribution to such recipient

Rule 7. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

- The input tax credit in respect of inputs or input services, apportioned / blocked credits, 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
 - (a) 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 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 'CI' and calculated as

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

Rule 7. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

- (f) the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as 'T4';
- (g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in FORM GSTR-2;
- (h) input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C2' and calculated as:

$$C2 = C1 - T4;$$

- (i) the amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as:

$$D1 = (E \div F) \times C2$$

- where,
 - 'E' is the aggregate value of exempt supplies during the tax period, and
 - 'F' is the total turnover in the State of the registered person during the tax period:

Rule 7. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

- (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

Rule 7. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

- Provided that where the amount of input tax relating to inputs or input services used partly for purposes other than business and partly for effecting exempt supplies has been identified and segregated at invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'.
- (2) The input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates, in the manner prescribed in the said sub-rule and

Rule 7. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

- a) where the aggregate of the amounts calculated finally in respect of 'D1' and 'D2' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2', such excess shall be added to the output tax liability of the registered person in the month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from first day of April of the succeeding financial year till the date of payment; or
- (b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2' exceeds the aggregate of the amounts calculated finally in respect of 'D1' and 'D2', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates

Rule 8. Manner of determination of input tax credit in respect of capital goods and reversal thereof

- The input tax credit in respect of capital goods, apportioned / blocked credits, 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
 - (a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in FORM GSTR-2 and shall not be credited to his electronic credit ledger;
 - (b) the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero-rated supplies shall be indicated in FORM GSTR-2 and shall be credited to the electronic credit ledger

Rule 8. Manner of determination of input tax credit in respect of capital goods and reversal thereof

- (c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years from the date of invoice for such goods:
- Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;
- *Explanation: An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18 if it is subsequently covered under this clause.*
- (d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as 'Tc', shall be the common credit in respect of capital goods for a tax period:
- Provided that where any capital goods earlier covered under clause (b) is subsequently covered under clause (c), the value of 'A' arrived at by reducing the input tax at the rate of 5 % points for every quarter or part thereof shall be added to the aggregate value 'Tc'

Rule 8. Manner of determination of input tax credit in respect of capital goods and reversal thereof

- (e) the amount of input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as 'T_m' and calculated as:-

$$T_m = T_c \div 60$$

- (f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'T_r' and shall be the aggregate of 'T_m' for all such capital goods.
- (g) the amount of common credit attributable towards exempted supplies, be denoted as 'T_e', and calculated as:

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

- where, 'E' is the aggregate value of exempt supplies, made, during the tax period, and 'F' is the total turnover of the registered person during the tax period:
- Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated

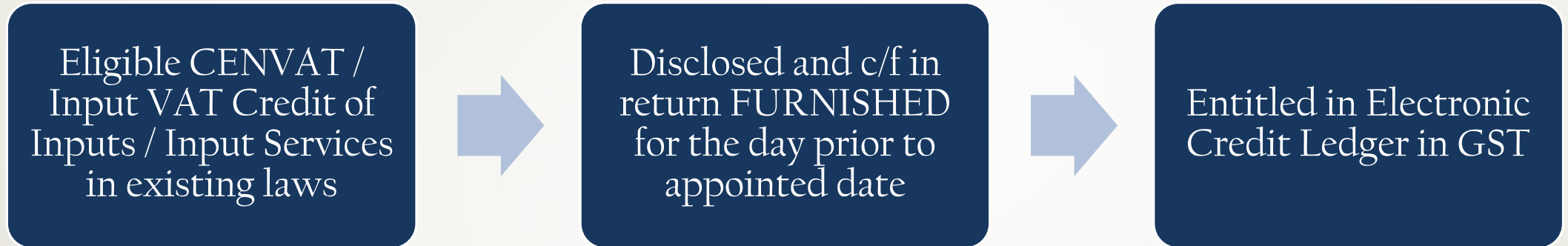
Rule 8. Manner of determination of input tax credit in respect of capital goods and reversal thereof

- (h) the amount T_e along with applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.
- (2) The amount T_e shall be computed separately for central tax, State tax, Union territory tax and integrated tax



ITC
Transitional
Arrangements

Sec 140(1) Amount of CENVAT credit carried forward in a return to be allowed as input tax credit

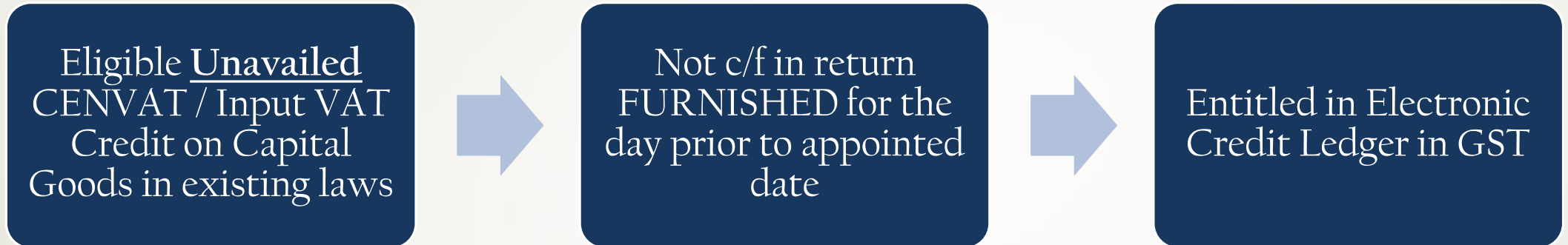


Provided that the registered person **shall not be allowed** to take credit in the following circumstances, namely:—

- (i) where the said amount of credit **is not admissible as input tax credit under this Act**; or
- (ii) where he has **not furnished** all the **returns** required **under the existing law for the period of six months immediately preceding the appointed date**; or
- (iii) where the said amount of **credit relates to goods manufactured and cleared under such exemption** notifications as are notified by the Government.

Note: Application for carry forward of credit shall be made in GST TRAN-01 within 60 days of appointed date electronically

Sec 140(2) Unavailed cenvat credit on capital goods, not carried forward in a return, to be allowed in certain situations



Provided that the registered person *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

Explanation.--For the purposes of this sub-section, the expression “unavailed CENVAT credit” means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law

Sec 140(3) Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations



Sec 140(3) Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations

shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions satisfied by said Taxable Person

(i) such inputs /or goods are used or intended to be USED for making taxable supplies under this Act	(ii) Eligible for input tax credit on such inputs under this Act & <u>Earlier State Laws</u>	(iii) Is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of such inputs, if not then subject to prescribed conditions	(iv) such invoices and /or other prescribed documents were issued not prior to 12 months of the appointed day	(v) the supplier of services is not eligible for any abatement under the Act:	Proviso (indirectly to (iii)) - Passes on the benefit of such credit by way of reduced prices to the recipient
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Rule 3 of Draft GST Transitional Provisions

Rules r.w. sec 140(3)

- The goods should not be exempted or NIL rated goods in Excise Laws
- Documents for procurement is available with the registered taxable person.
[Note: Credit allowed only @ 40% if Registered Taxable Person not in possession of duty paying documents]
- This transition scheme for Credit is available for 6 tax periods from appointed date
- Person availing the benefit must submit the stock statement indicating supplies of such goods effected in each of the 6 tax periods in Form GST TRAN ___
- Further Credit shall be available only after the relevant tax is paid and allowed in electronic credit ledger in GST PMT – 2 on common portal
- Such goods should be stored separately and easily identifiable

Sec 140 (4) Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations

A registered taxable person

Engaged in the manufacture of non-exempted as well as exempted goods under the Central Excise Act, 1944

Provider of non-exempted as well as exempted services under Service Tax Laws

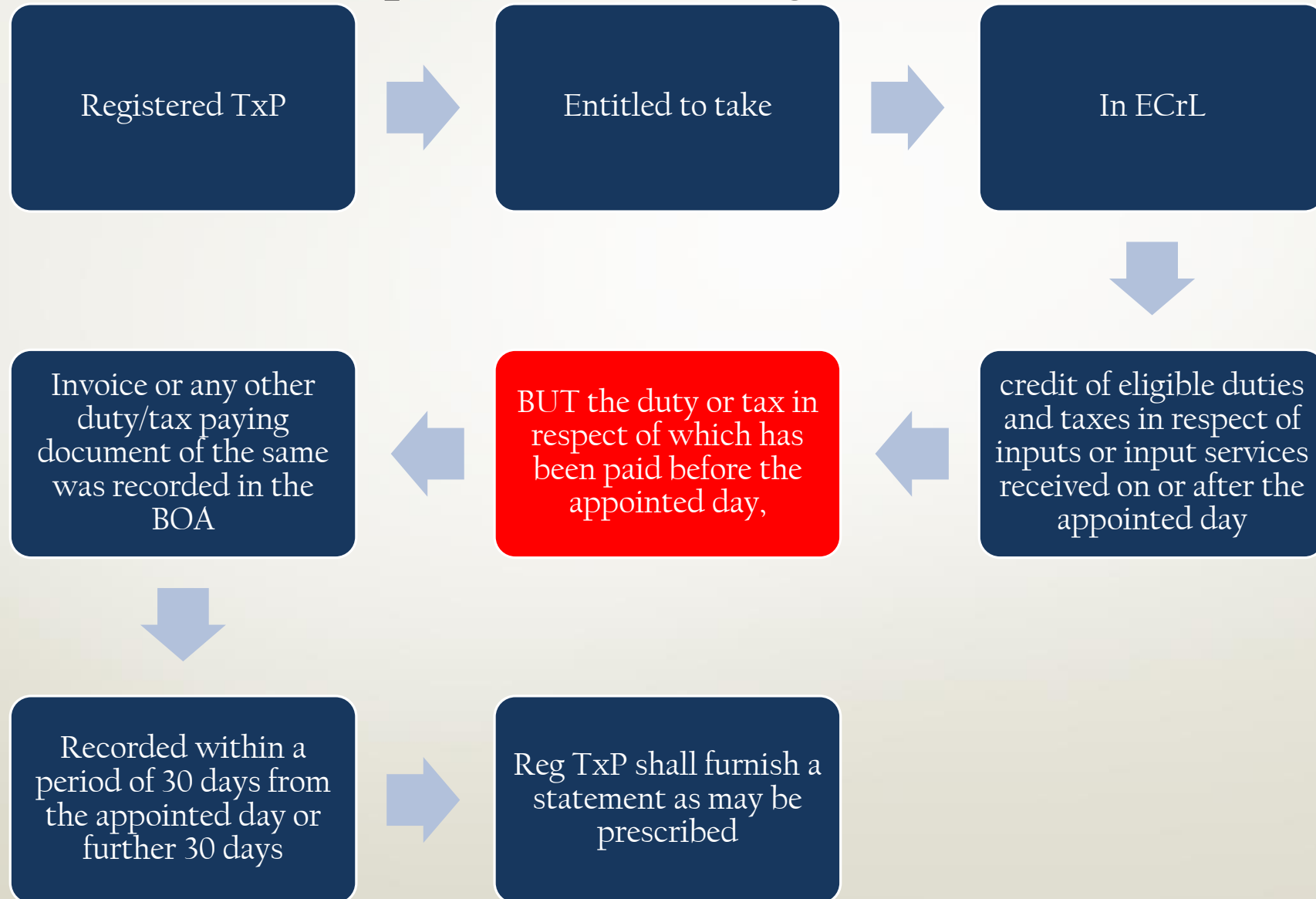


shall be entitled to take, in his electronic credit ledger

the amount of Cenvat credit carried forward in a return furnished under the earlier law by him in terms of section 167

the amount of Cenvat credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to exempted goods or services, in terms of section 169.

Sec 140(5) Credit of eligible duties and taxes in respect of inputs or input services during transit



Sec 140(6) Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme

A registered taxable person in GST

Paying tax at a fixed rate under the earlier law

Paying a fixed amount in lieu of the tax payable (Composition Scheme) under the earlier law

Sec 140(6) Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme

shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions satisfied by said TxP

such inputs /or goods are used or intended to be USED for making taxable supplies under this Act	Not registered as Composition Dealer in GST	Eligible for input tax credit, on such inputs under this Act & <u>Earlier State Laws</u>	Is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of such inputs	such invoices and /or other prescribed documents were issued not prior to 12 months of the appointed day
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ITC Transitional Provisions

- (7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.
- (8) Where a registered person having centralised registration under the existing law 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 in such manner as may be prescribed:
 - 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, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier
 - Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:
 - Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.

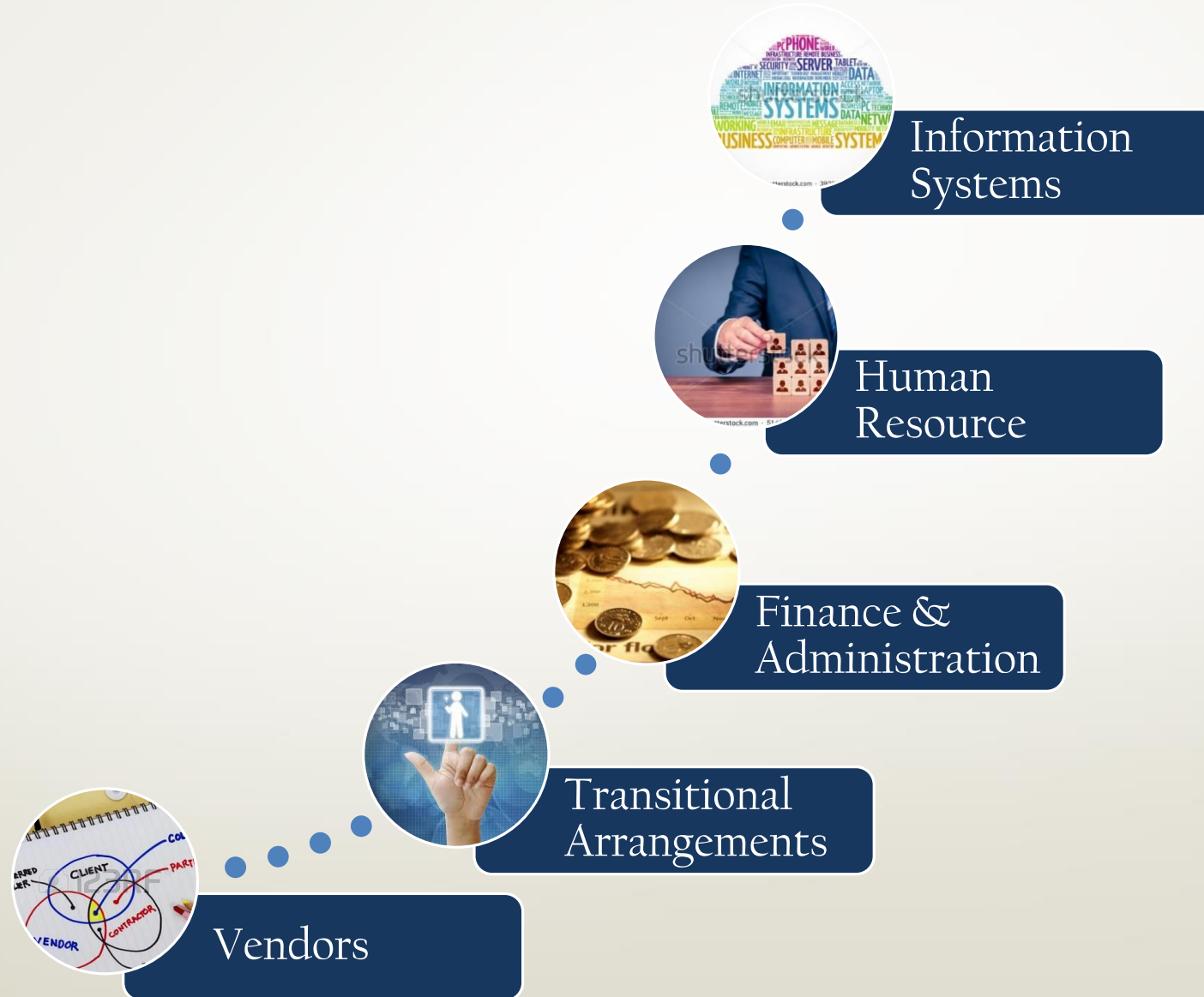
ITC Transitional Provisions

- (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, 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**.
- (10) Eligible duties are listed in sub sec 10



GST Preparations w.r.t.
ITC

Getting ready for GST



Preparations for GST w.r.t. ITC

- ❖ Collect GSTIN
- ❖ Whether Migrated
- ❖ Sincerity & Honesty to pay taxes to be verified
- ❖ Collection of proper duty paying documents

Vendors



- ❖ Filing of all the returns in existing laws is must
- ❖ Benefit passing to customers
- ❖ Collection of duty paying documents.
- ❖ Payment of RCM Liability prior to appointed day
- ❖ Preparation for Filing of Form GST TRAN 01 within 60 days
- ❖ Adherence to other time lines

Transitional Arrangements



Preparations for GST w.r.t. ITC



Finance & Administration

Change in Working Capital Requirements

Credit Blockage due to separate registrations in multiple states / verticals

Requirement of ISD Registration

Credit unavailability due to default by Vendors

Passing of the benefit of ITC in GST to Customers – Anti Profiteering Measures

Claim of Credit in special cases in GST ITC 01 within 60 days

Preparations for GST w.r.t. ITC



Human Resource & Accounts

- ❖ Increased Compliances
- ❖ Continuous Internal Trainings
- ❖ Higher requirement for human resource for handling GST Compliances



Information Systems

- ❖ Robust System requirements
- ❖ Modifications w.r.t to Current Systems
- ❖ Invoicing, Accounting and Filing of Returns must be synchronised

संगच्छेद्वं !!...

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