

Input Tax Credit under GST



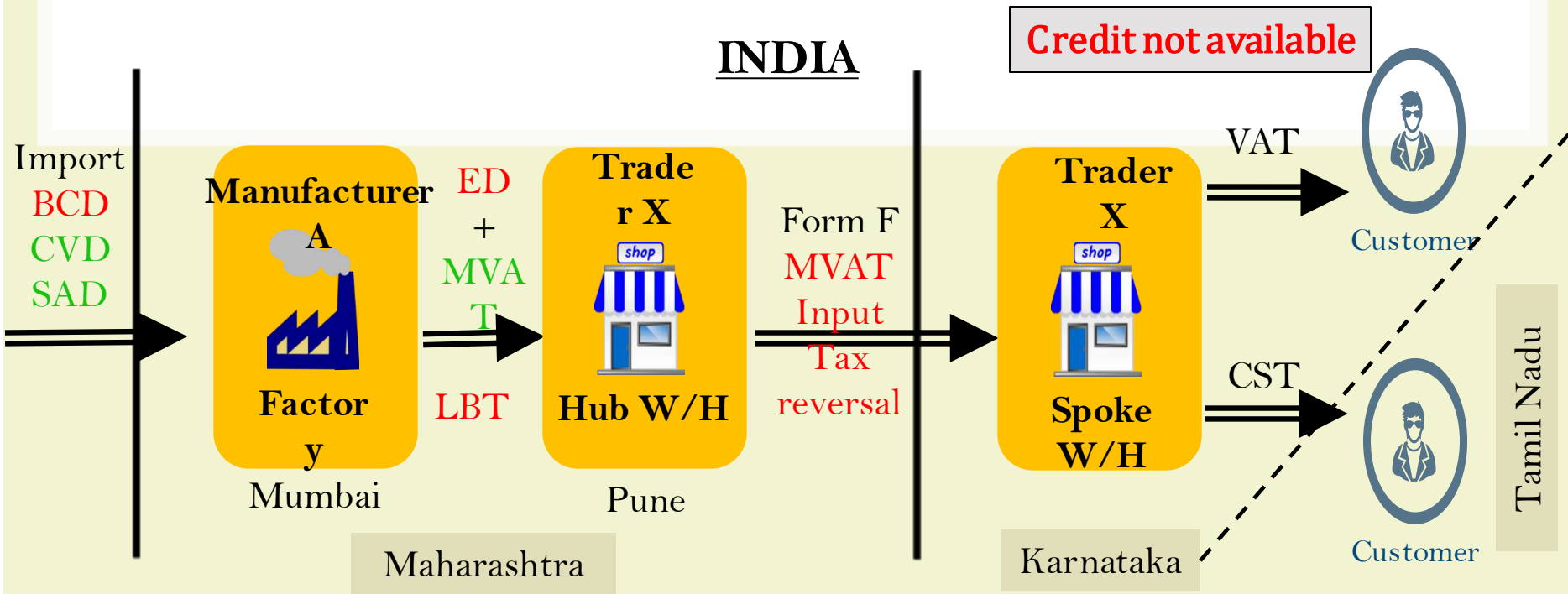
Speaker
CA Chetan Bumb

Session Chairman
CA Naresh Seth

INPUT TAX CREDIT (ITC) UNDER GST

BEGINNERS COURSE ON GST @ WIRC OF ICAI (17/06/2021)

PRE-GST SCENARIO



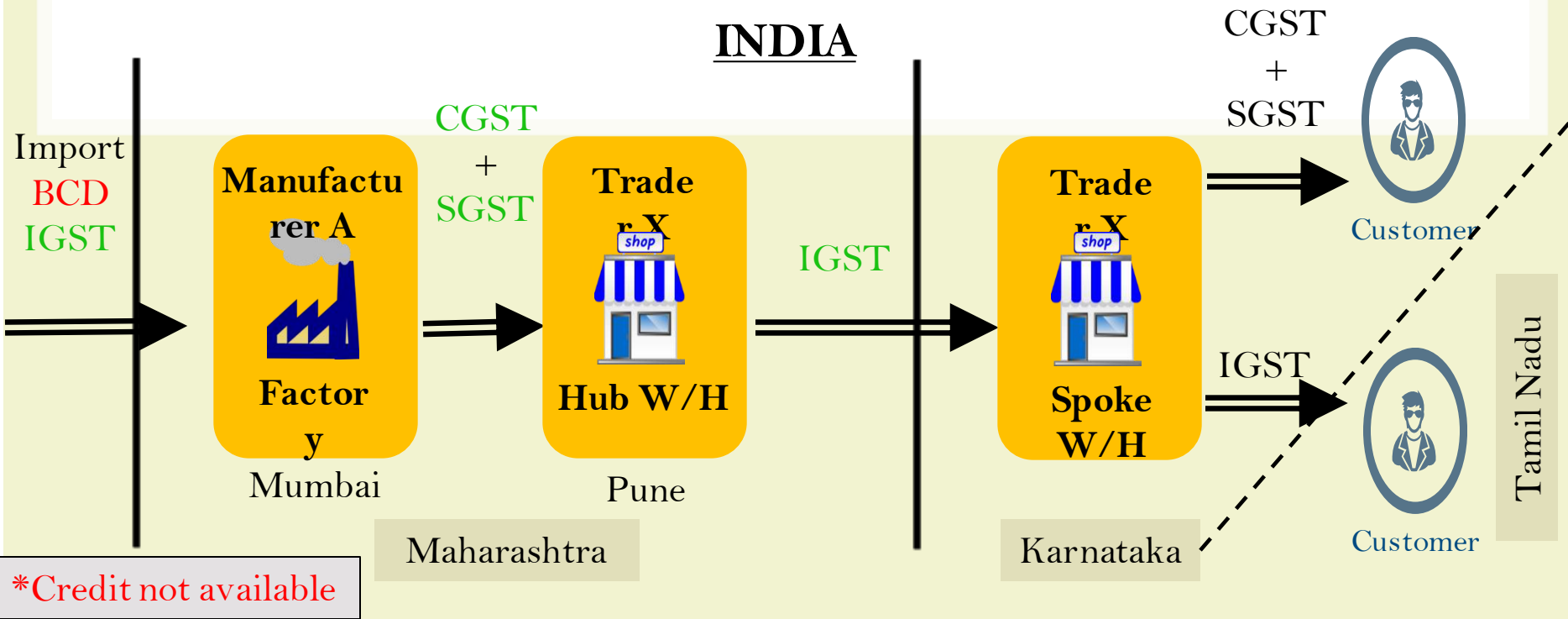
Tax Collection

- ❖ Central Government – BCD, ED
- ❖ Maharashtra State Government – MVAT
- ❖ Pune Municipal Corporation – LBT
- ❖ Karnataka State Government – KVAT, CST
- ❖ Tamil Nadu State Government – **NIL**

Issues

- ❖ Origin based tax
- ❖ Loss of credit
- ❖ Tax cascading

GST SCENARIO



Tax Collection

- ❖ Central Government – BCD, CGST
- ❖ Maharashtra State Government – **NIL**
- ❖ Pune Municipal Corporation – **NIL**
- ❖ Karnataka State Government – SGST
- ❖ Tamil Nadu State Government – SGST component of IGST

Issues Radical Changes

- ❖ **Origin based tax** Destination based tax
- ❖ **Loss of credit** Seamless credit
- ❖ **Tax cascading** Reduced cascading (BCD)
- ❖ **Taxable Person**

OUTPUT TAX V/S INPUT TAX

GST Output Tax & Input Tax

Output Tax

GST charged to your customers for goods and services you sell

Input Tax

GST paid on your business purchases (e.g. local purchases or imported goods)

Basic GST Process



You pay to IRAS



You receive from IRAS

NET GST

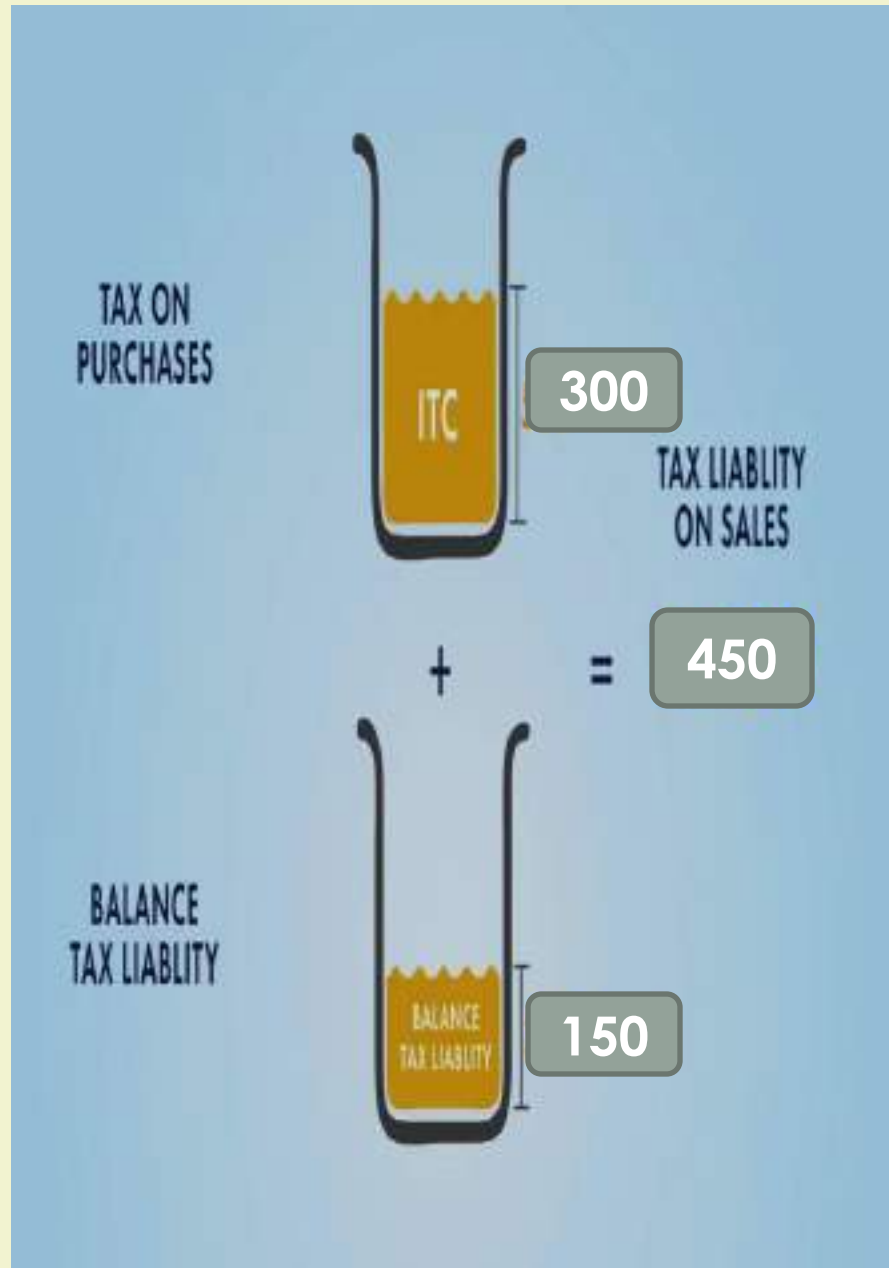


- ❑ Output tax is the total amount of tax **charged at current rate of tax** on taxable Supply made during the month i.e. total sales excluding exempt and zero-rated supplies
- ❑ Input tax **is the** amount paid by the registered person **on business** purchases and imports

ITC Mechanism

❑ **Input credit means** at the time of paying tax on output, **you can reduce the tax you have already paid on inputs.**

Say, you are a manufacturer tax payable on output (FINAL PRODUCT) is Rs 450 tax paid on input (PURCHASES) is Rs 300 You can claim INPUT CREDIT of Rs 300 and you only need to deposit Rs 150 in taxes.



Basic objective of ITC mechanism

- ✓ In order to avoid cascading effect, the taxes paid on input are considered as pre paid taxes and not a part of cost of purchase.
- ✓ Since tax does not become a part of cost of purchase, the tax amount doesn't increase the cost further
- ✓ Tax instead will be recorded separately and will be treated as a asset in Balance Sheet.
- ✓ Ultimately, the consumer prices have the impact. Thus every non involvement of tax in cost will be a potential reduction in consumer price.
- ✓ The tax will flow parallel to the value of goods till the time it reaches ultimate consumer.
- ✓ The broad concept of any tax credit system is to charge and collect tax only to the extent of value addition.



Legal framework of ITC

ACT
CGST ACT, 2017

Chapter V

Relevant Sections

1. Sec 16

2. Sec 17

3. Sec 18

4. Sec 19

5. Sec 20

6. Sec 21

7. Sec 49A

8. Sec 49B

Relevant Rules

Rule 36

Rule 37

Rule 38

Rule 39

Rule 40

Rule 41

Rule 42

Rule 43

Rule 44

Relevant forms

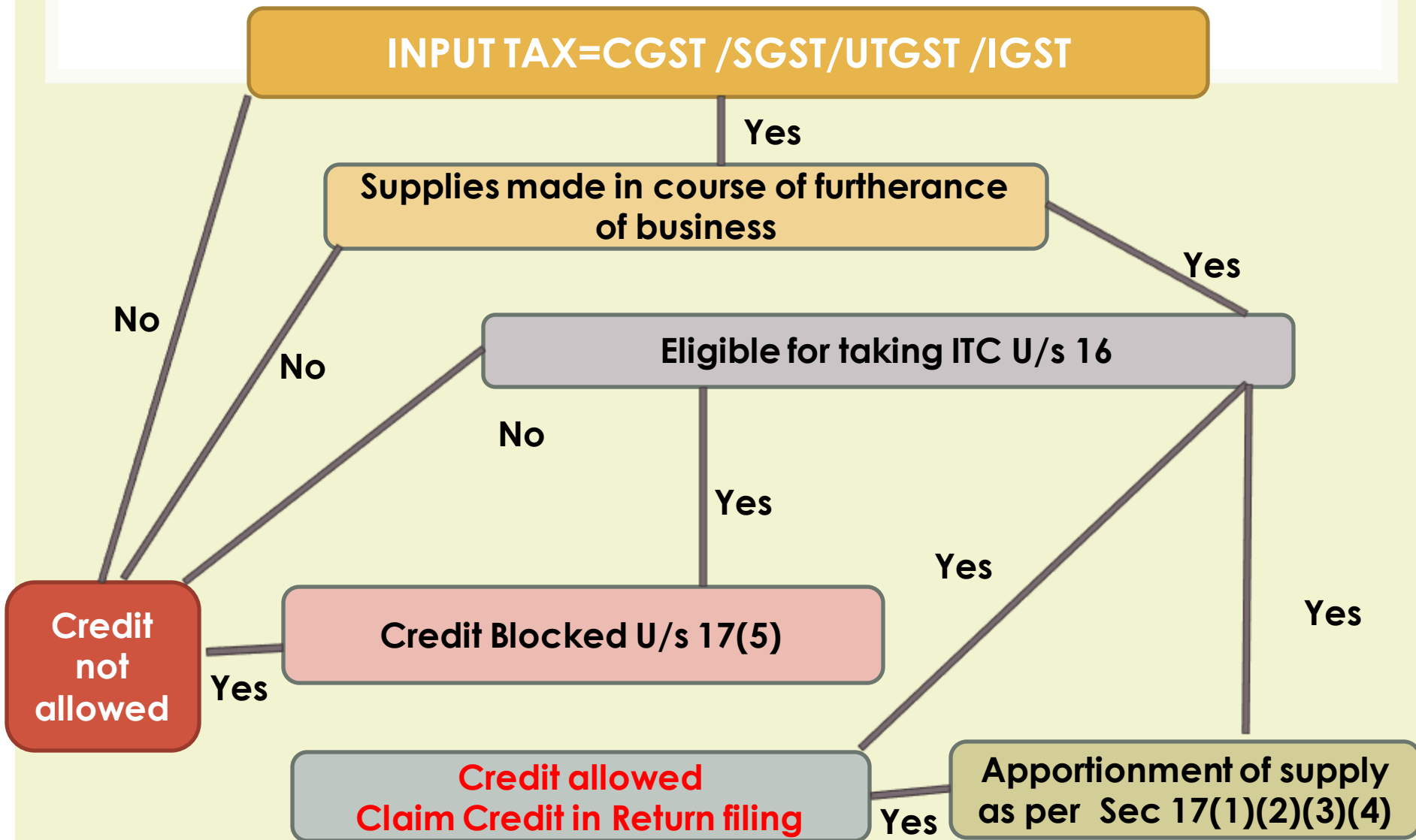
Form ITC-01

Form ITC-02

Form ITC-03

Form ITC-04

FLOW CHART ITC AVAILMENT



IMPORTANT DEFINITIONS

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(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](#);

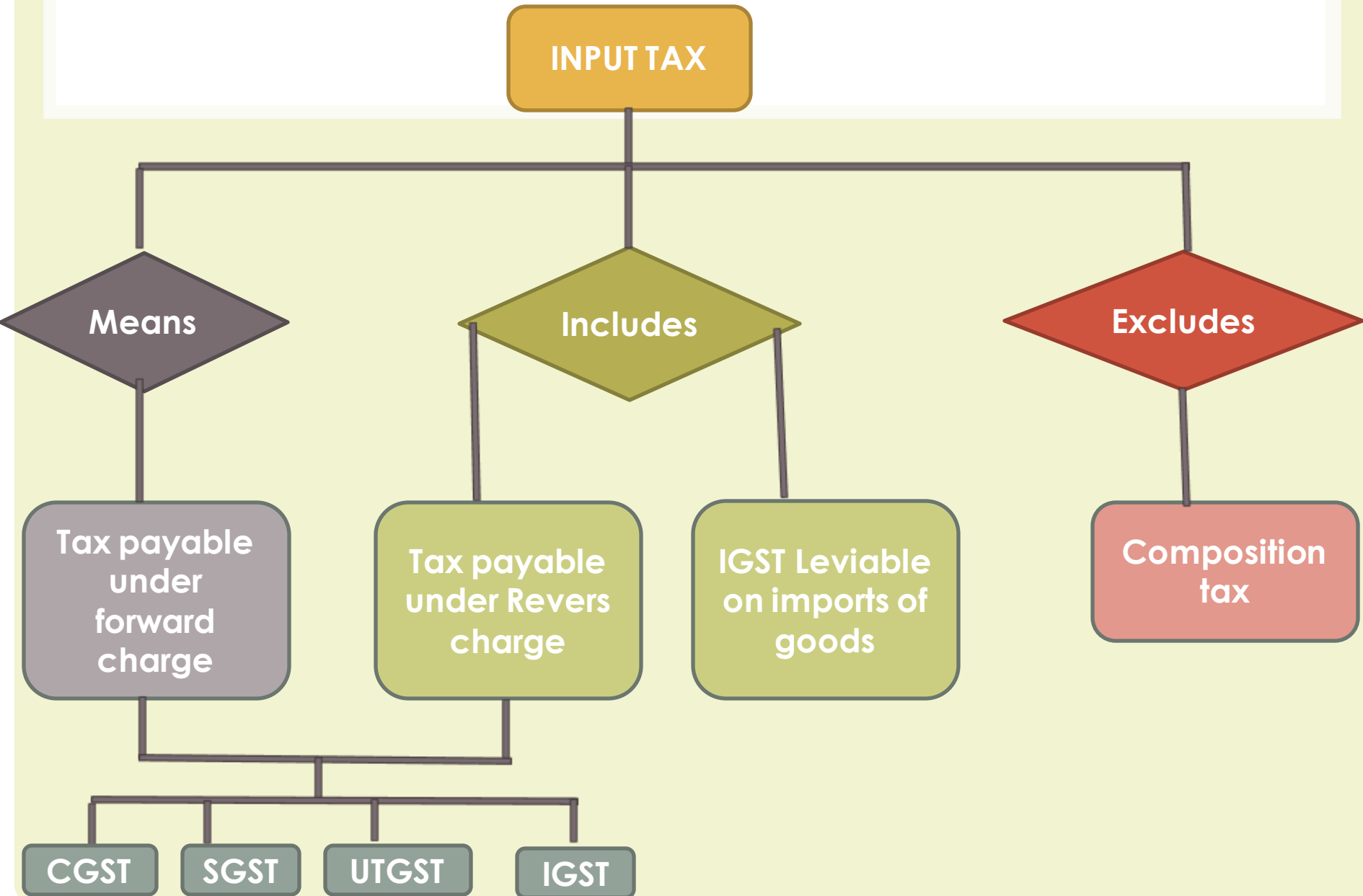
(c) the tax payable under the provisions of sub-sections (3) and (4) of [section 5](#) of the Integrated Goods and Services Tax Act;

(d) the tax payable under the provisions of sub-sections (3) and (4) of [section 9](#) of the respective State Goods and Services Tax Act; or

(e) the tax payable under the provisions of sub-sections (3) and (4) of [section 7](#) of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy;

ELEMENTS OF INPUT TAX



IMPORTANT DEFINITIONS

2(63) “input tax credit” means the credit of input tax;

2 (19) “capital goods” means goods, **the value of which is capitalized 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 (117) “valid return” means a return furnished under sub-section (1) of section 39 on which **self-assessed tax has been paid in full**;

Pre-requisites for availing of ITC

Provides for

Eligibility → Conditions → Time Period

For taking Input tax credit

Further Provides that

Registered person is 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 OF FURTHERANCE OF BUSINESS

Sec16: Eligibility and conditions for taking ITC Under CGST 2017

Sec 16(1)

Eligibility For Taking ITC

Sec 16(2) With
Rule 36

Conditions for Availment of ITC

Sec 16(3)

ITC On Capital goods & plant
& Machinery

Sec 16(4)

Time Limit for availing ITC

Eligibility for taking ITC U/S 16(1)

- Every registered person [vs. Taxable Person, Distinct Person]**
- Subject to such conditions and restrictions as may be prescribed**
- 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 business** and
- The **said amount shall be credited to the electronic credit ledger** of such person



Conditions for availment of ITC U/S 16(2)

Receive goods/services
-credit on advances not available

1

Pay tax charged on which credit is taken-credit not available if supplier has not paid tax to government

2

File the valid Returns
-No Credit in case of invalid returns

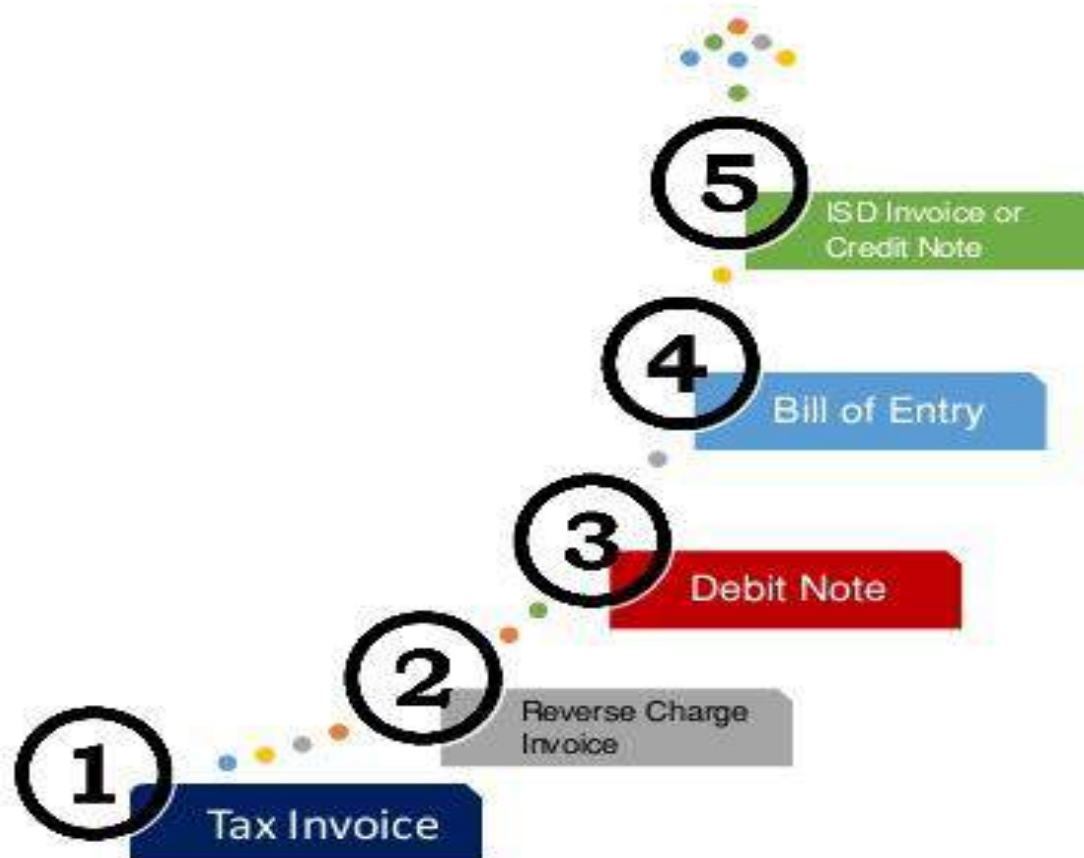
3

Possess invoice/ Credit note/other tax paying document (Rule 36(1))

4

Rule 36: Tax paid Document required for claiming ITC

##Rule 36(1) of CGST Rules, 2017



##Rule 36(2) of CGST Rules, 2017

Input tax credit shall be availed by a registered person only if all the applicable particulars as prescribed in Invoice Rules are contained in the said document, and the relevant information as contained in the said document, is furnished in form GST Returns by such person.

##Rule 36(3) of CGST Rules, 2017

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 or wilful misstatement or Suppression of fact

Burning Issue....

##Rule 36(4) of CGST Rules, 2017

Input tax credit to be availed by registered person in respect of invoices or debit notes details which have not been furnished by supplier in GSTR-1 SHALL NOT EXCEED (20%/ 10%/ 5%)Of eligible credit available in respect of invoices or debit note

##Finance Act 2021 Inserted Section 16(2)(aa)

the **details of the invoice or debit note** referred to in clause (a) has been furnished by the supplier in the **statement of outward supplies and such details have been communicated to the recipient** of such invoice or debit note in the manner specified under section 37

However not yet made effective by notification...(and that too it will be prospective)

Condition

??????

Precedent
or
Subsequent

Conditions for availment of ITC U/S 16(2)(b)

Receipt of Goods and /or Services

Bill To – Ship to

#GST



For such cases by virtue of explanation to sec 16(2), it is deemed that the Registered person has received the goods

So ITC will be available to the registered person, on whose order goods are delivered to third person

For e.g.
Job work

Conditions for availment of ITC U/S 16(2)

Inputs or capital goods received in installments – The first proviso to section 16(2) of CGST Act –

ITC-GOODS IN LOTS/INSTALMENTS

Where goods against a single invoice is received, in lots or instalments



- The taxable person can take credit upon receipt of last lot or instalment

If credit not availed for any invoice till filing of return for month of September for following the end of financial year or annual return, whichever is earlier

- Credit shall lapse.

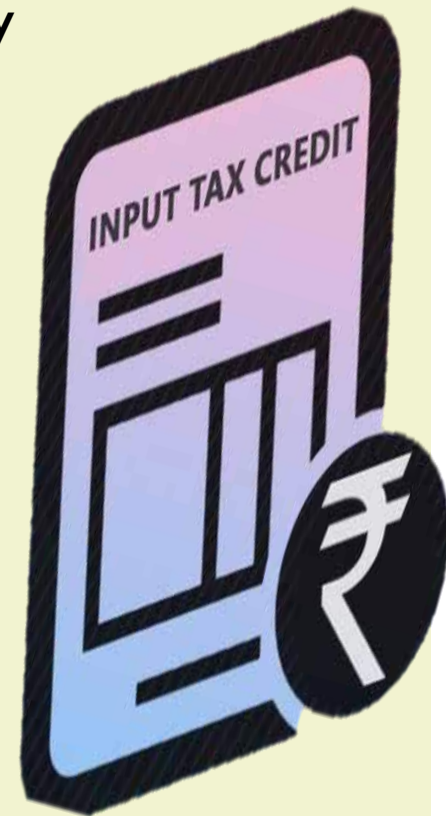
BLAST

Conditions for availment of ITC U/S 16(2)(c)

Tax actually paid to the Government: As per sec 16, (2)(c) of the CGST Act

- ❑ Input Tax credit in respect of supply is available to the recipient only if tax charged on such supply has been actually deposited with the Government by the supplier
- ❑ This is subject to section 41 and section 43A of the CGST Act, which provides that the **registered person can take ITC on a self-assessment basis, which will be credited on a provisional basis to his electronic credit ledger.**
- ❑ Further, Rule 86A has been introduced vide notification No 75/2019 w.e.f. 26.12.2019.

It empowers the revenue authorities to restrict the credit available to the recipient. Credit will be blocked where the government has a reason to believe that credit of input tax has been availed on the basis of documents against which **no tax has been paid into the Government treasury.**



Rule 37 of CGST ACT,2017

Rule 37: Reversal of credit in the case of non-payment of consideration section proviso to Sec 16(2)

ITC availed on any Inward supply but fail to pay supplier within 180 days {Sec 16 (2)}

Amount of value not paid ITC Credit Availed proportionate to such amount to be added to output tax liability

In the month of following the period of 180days from date of issue of invoice

Provision not applicable for Sch I Supplies made without consideration. Deemed to have been paid

Pay Interest @ Notified U/s 50(1) from period starting from date of availment till amount added to input tax liability

Time limit U/s 16(4) Shall not Apply to claim for re-availing any Credit whichever reversed Earlier under this provision

ITC ON CAPITAL GOODS & PLANT & MACHINERY 16(3)

Depreciation **Claimed on tax component of the cost of capital goods** under Income tax Act 1961

ITC



**Total Cost
=cost of Asset+GST**

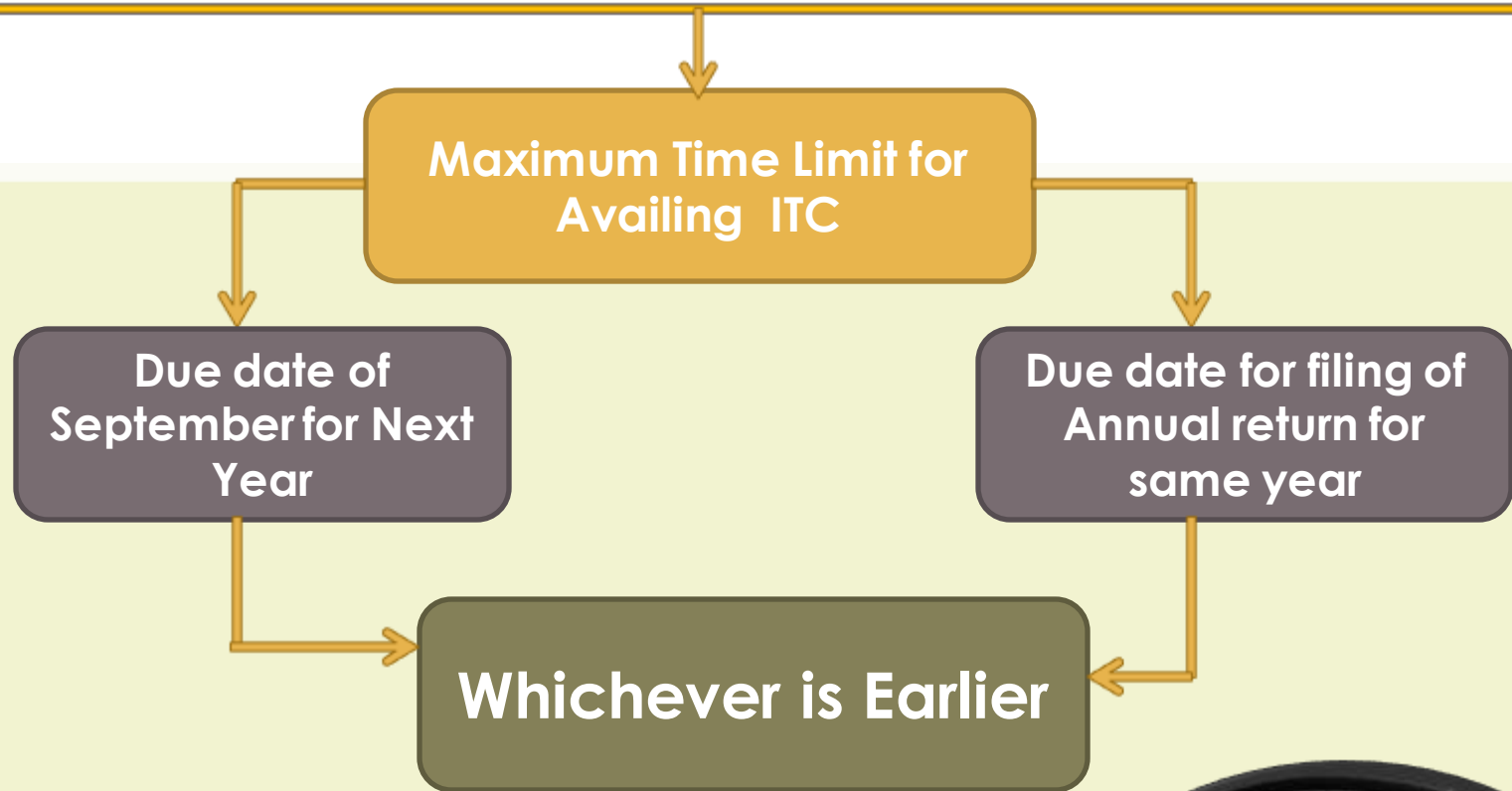
**If Depreciation
charged on cost
(excluding GST)**

ITC AVAILABLE

**If Depreciation
charged on Total Cost
(Including GST)**

ITC NOT AVAILABLE

TIME LIMIT FOR AVAILING ITC U/S 16(4)



Exception:

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



Framework of SEC 17

Provides For

Apportionment of input tax credit

Blocked input Tax credit

Extent of apportionment of credit where supplies made partly for business & partly for non- business purposes

Apportionment of credit for Supplies partly Taxable and partly exempt

Provides Special mechanism of credit for banking Company and NBFCs

Provides input tax credit treatment in case of input service distributor

Sec17: Apportionment of Credit & Blocked Credit under CGST 2017

Sec 17(1)

Supply for business & non-business Purposes

Sec 17(2)

Supply for taxable & Exempt Supplies

Sec 17(3)

Exempt Supplies Needs to be reversed

Sec 17(4)

Special provisions in respect of Banks, FI, and NBFC

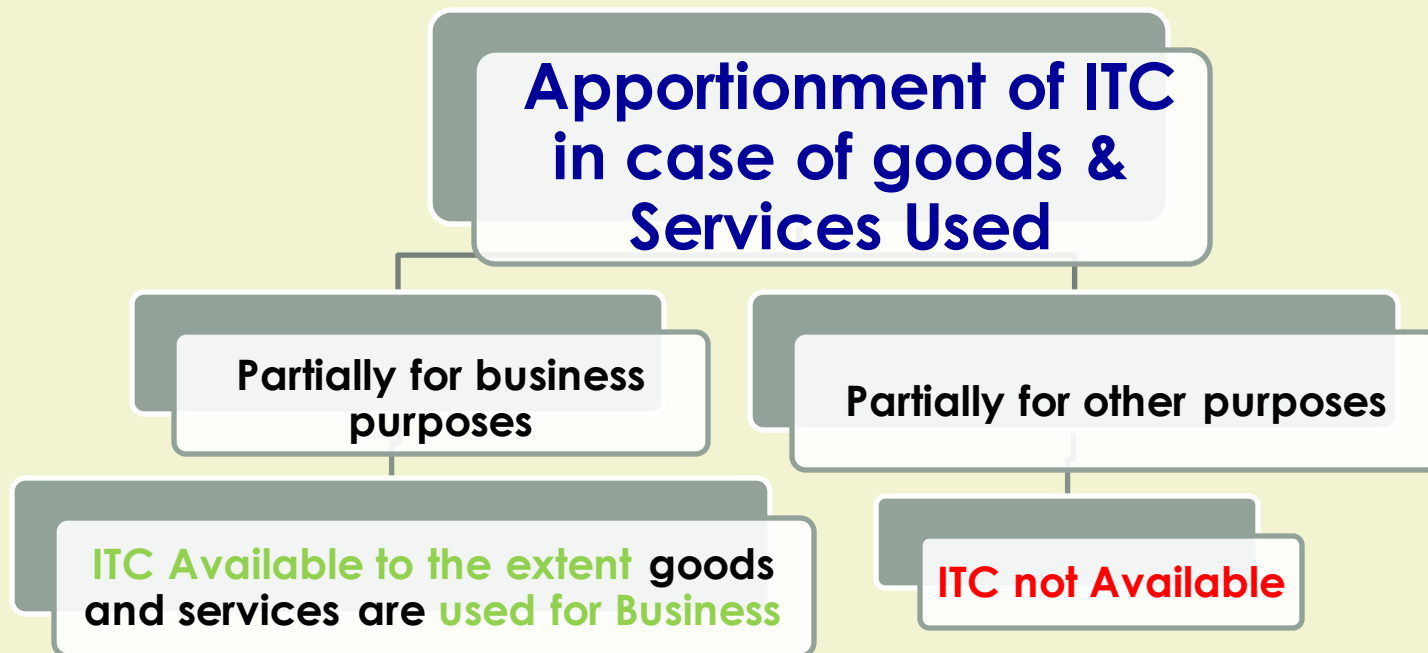
Sec 17(5)

Blocked Credits

Supply for business & non-business Purposes U/S 17(1)

In case of Business and non-Business Purposes

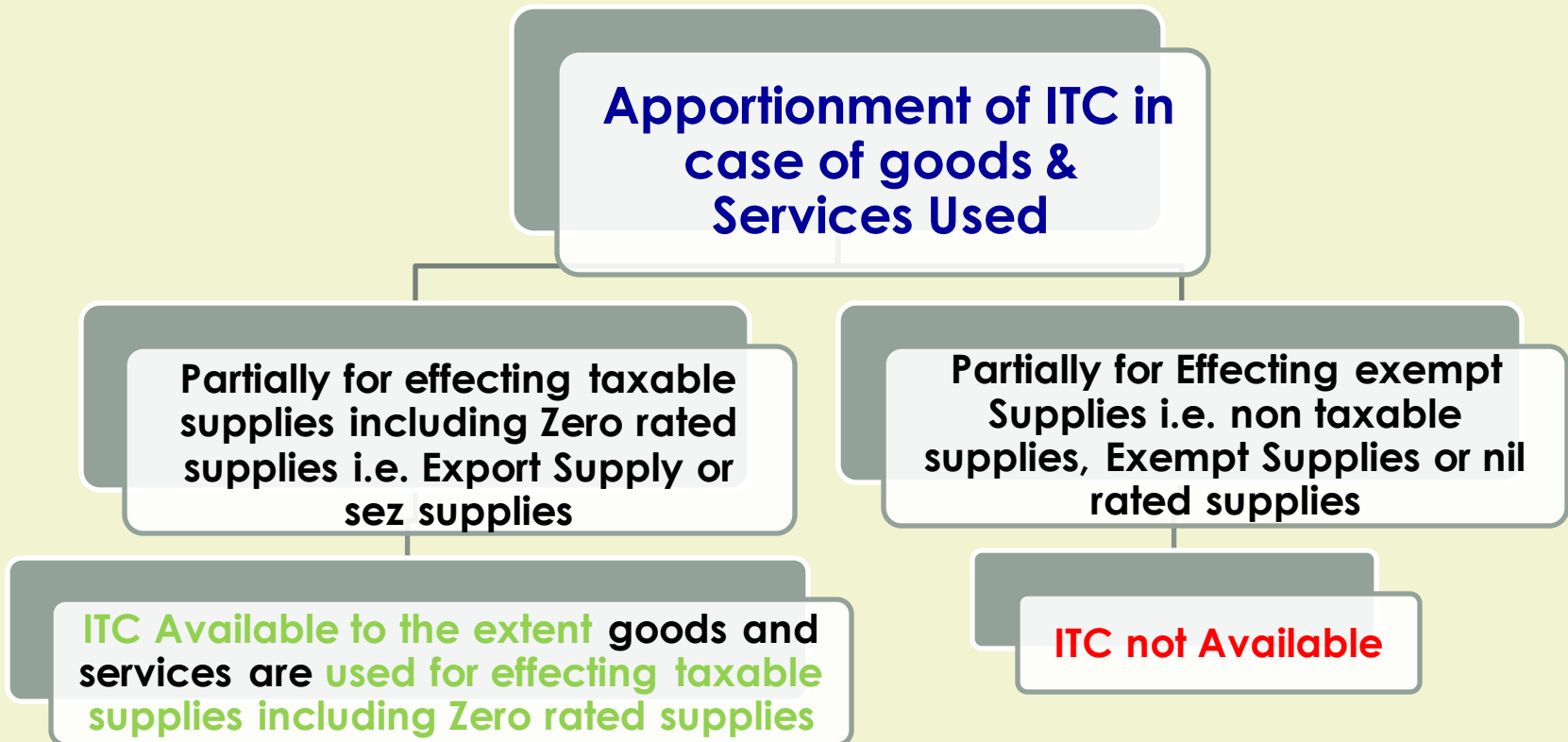
Where the goods and/ or services are used by the registered taxable person partly for his business and partly for other purposes, the amount of input tax credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.



Supplies partly for Taxable and Partly for Exempt U/S 17(2)

2. Where Goods and Services are used Partly for effecting Taxable Supply including Zero Rates Supply and Partly for Exempted Supplies.

Rule 42 and 43 as per section 17(6) shall be followed for calculation of ineligible input tax credit.



IMPORTANT DEFINITIONS: In respect of Sec 17(3)/17(5)

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(78) “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

Exempt Supplies Needs to be reversed u/s 17(3)

Reversal of input tax credit is required where input and input service is used for making exempt supplies.

- ✓ **supplies on which the recipient is liable to pay tax on reverse charge Basis**
- ✓ **transactions in securities**
- ✓ **sale of land**
- ✓ **subject to clause (b) of paragraph 5 of Schedule II, sale of building**



##The value of exempt supplies shall not include the value of activities or transactions specified in Schedule III (activities neither treated as supply of goods nor service) except those specified in paragraph 5 (sale of land and building) of the said Schedule

Special provisions in respect of Banks, FI, and NBFC U/S 17(4)

As per section 17(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 17(2) read with Rule 42 & 43 or
- ✓ avail every month an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse as per Rule 38.

The option once exercised shall not be withdrawn during the remaining part of the financial year

Restriction of 50% shall not apply where the credit of tax paid where supplies made by register persons having same PAN



Rule 38 of CGST ACT,2017

Rule 38: Claim Of credit by Banking Company or Financial Institution

Company of Institution
Choose to avail 50% Of the
Eligible input tax credit on
inputs, Capital Goods &
input Service Distributor



Company of Institution
Shall not avail the
credit of

1. Tax paid for non-business purpose
2. Credit attributable to supplies specified in 17(5) blocked Credit

Restriction of 50%
shall not apply where
the credit of tax paid
where supplies made
by register persons
having same PAN

50% Of remaining
amount of the input
tax credit admissible
to the institution &
shall be furnished in
form GSTR-2

BLOCKED CREDIT U/S 17(5)

As per section 17(5), Notwithstanding anything contained in section 16(1) and section 18 (1), Input tax credit shall not be availed in respect of the following :

Section References	Situations where ITC cannot be claimed
17(5)(a)	Motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including driver) including leasing and renting
17(5)(aa)	Vessel & Aircraft including leasing and renting
17(5)(ab)	Services of general insurance, servicing, repair and maintenance of aforesaid motor vehicles, vessels and aircrafts.

ITC of such motor vehicle used for transportation of persons **can be availed** if they are **used for** making the following taxable supplies, namely :-

- ✓ Further supply of such vehicles or
- ✓ Transportation of passengers or
- ✓ Imparting training in driving.

ITC of the said services can be availed

- ✓ used for **such purpose** as specified.
- ✓ are **received by taxable person**
- ✓ Who is **engaged in manufacture** or general insurance such motor vehicle,

BLOCKED CREDIT U/S 17(5)

Section References	Situations where ITC cannot be claimed
17(5)(b)	<p data-bbox="355 415 1020 725">Supply of food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, life insurance and health insurance.</p> <ul data-bbox="355 848 1070 1210" style="list-style-type: none"><li data-bbox="355 848 1070 943"><input type="checkbox"/> membership of a club, health and fitness centre<li data-bbox="355 1008 1070 1210"><input type="checkbox"/> travel benefits extended to employees on vacation such as leave or home travel concession

ITC of the said service **would be available**

- ✓ 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

Note: ITC would be admissible where it is **obligatory for an employer** to provide such supplies to its employees under any law for the time being in force.

BLOCKED CREDIT U/S 17(5)

Section References	Situations where ITC cannot be claimed
17(5)(c)	Works contract service when supplied for construction of an immovable property (other than plant and machinery)

ITC **can be availed** where such works contract is an input service for further supply of works contract service

Let us understand the above provision with the help of examples.

Example 1 : Works contract service used by main contractor who further supplies work contract service.

In this case, ITC can be availed.

Example 2 : Works contract service used for construction of building by manufacturer or service provider[other than the provider of Works Contract Service.]

ITC on the same cannot be availed by the same.

BLOCKED CREDIT U/S 17(5)

Section References	Situations where ITC cannot be claimed
17(5)(d)	Goods and Services when supplied for construction of an immovable property (other than plant and machinery)

Note:

√ **Construction includes** re-construction, renovation, additions, alterations or repairs, to the extent of capitalization, to the said immovable property.

√ **Plant and machinery means** 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 :-

- √ land, building or any other civil structures
- √ telecommunication towers and
- √ pipelines laid outside the factory premises

Supplies **received by a taxable person for construction** of an immovable property (other than plant or machinery)

on his own account or,

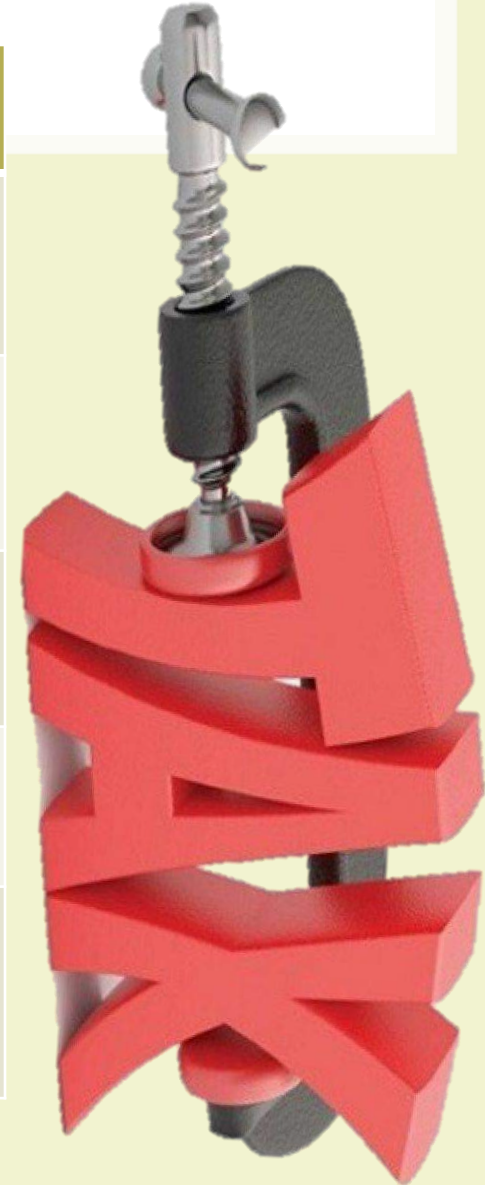
when **such goods or services or both are used in the course or furtherance of business**

IMPLICATION

Safari Retreats Private Limited Vs. Chief Commissioner of Central Goods & Service tax (Orissa High Court)

BLOCKED CREDIT U/S 17(5)

Section References	Situations where ITC cannot be claimed
17(5)(e)	Goods or services or both on which tax has been paid under section 10 i.e. Composition Scheme
17(5)(f)	Goods or services or both received by a non-resident taxable person except on goods imported by him
17(5)(g)	Goods or services or both used for personal consumption
17(5)(h)	Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples
17(5)(i)	Any tax paid in accordance with the provisions of sections 74, section 129 and section 130





Concessional Rate having impact on Input tax credit

S.No.25 [No. 11/2017-Central Tax (Rate)] Dated: June 28, 2017

This master notification which has been amended time to time from July,17 to 15, June, 2021, has notified certain services where supplier can opt for concessional rate of taxes.

Meaning there by such supplier has an option to pay at concessional rate by Forgoing the input tax credit of the inputs/input services/ capital goods available to them from there input credit.

Sr. No.	Services	Concessional rates	Input tax credit Availability
1.	Construction services	Effective (1% or 5%)	
2.	food and beverage services	5%	
3	Passenger transport services	5%	
4	Goods transport services Transport of goods by - rail/Vessels/GTA or transportation of petroleum, crude oil etc.	5%	
5	Rental services of transport vehicles	5%	
6.	Supporting services in transport -Services of goods transport agency (GTA) in relation to transportation of goods	5%	

Sr. No.	Services	Concessional rates	Input tax credit Availability
7.	Financial and related services -Services provided by a foreman of a chit fund in relation to chit.	12%	
8.	Support services -Supply of tour operators services. -Services by way of house-keeping, such as plumbing, carpentering, through electronic commerce	5%	

Sec18: Availability of Credit under Special Circumstances

Sec 18(1)

Availability of credit under special Circumstances with rule 40

Sec 18(2)

Conditions & Restrictions for claiming Credit:

Sec 18(3)

ITC in case of merger, Amalgamation and sale of business

Sec 18(4)

Reversal of Input Tax Credit

Sec 18(6)

ITC on Sale of Capital goods after use

Sec19: Taking ITC In case of Goods sent to job Work

Sec 19

ITC in case of Goods sent to Job Work with rule 45



TAKING ITC IN CASE OF GOODS SENT TO JOB WORKER Sec 19

a principal can take ITC on inputs as well as Capital goods sent to the Job worker provided

Such inputs are received back within 1 year of being sent out or date of receipt by the job worker in case they are directly sent to the job worker's place of business

Such capital goods are received back within 3 year of being sent out or date of receipt by the job worker in case they are directly sent to the job worker's place of business

Rule-45: condition for taking ITC in case of job work

√ As per Rule 45, a declaration in Form GST ITC-04 needs to be submitted.

√ If such inputs and capital goods are not received back within 1 year or 3 years respectively, the same shall be **deemed to have been supplied by the principal** on the date when it was sent to the job worker.

√ The **condition** of receiving back the goods within 1/3 years shall **not apply to moulds, dies, jigs, fixtures and tools**.

UTILIZATION OF INPUT TAX CREDIT U/S 49

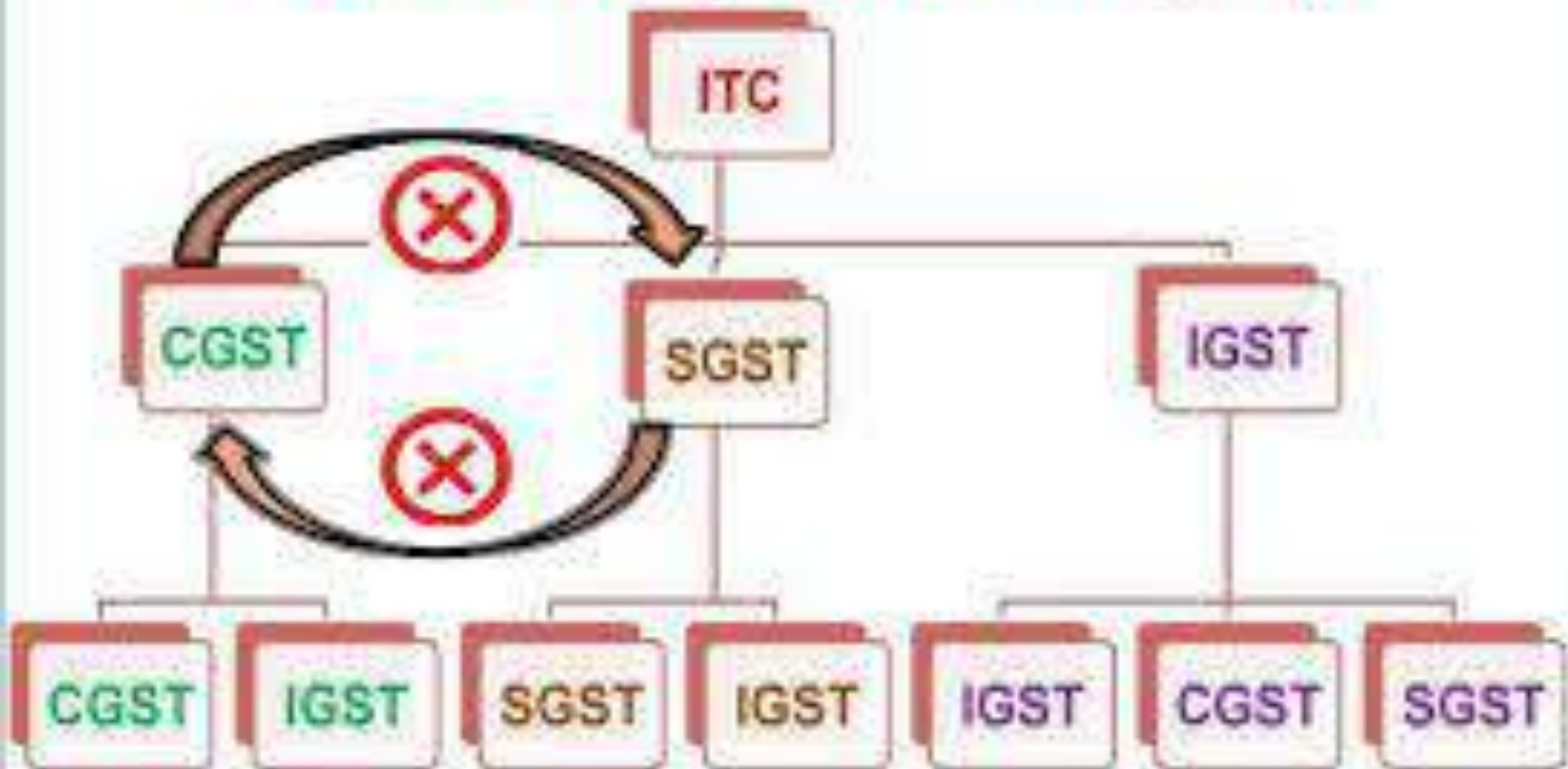
As per section 49B of CGST Act

Government may, on the recommendations of the Council, prescribe the order and manner of utilization of the input tax credit on account of IGST,CGST,SGST or UTGST as the case may be, towards payment of any such tax.[inserted vide CGST (Amendment) Act, 2018 inserted w.e.f. 1-2-2019]

**Order of utilization of input tax credit as per rule 88A –Normally, section prevails over the rules. However, in this case, rule 88A of CGST Rules, will override provisions of section 49(5)(a) in view of section 49B of CGST Act. Hence, order of utilization of Input Tax Credit w.e.f. 1-4-2019 will be as explained below.*

UTILIZATION OF INPUT TAX CREDIT U/S 49

Utilization of Input Tax Credit (ITC)



UTILIZATION OF INPUT TAX CREDIT U/S 49A

Payment of IGST – The ITC of IGST should first be utilised fully for payment of IGST through electronic credit ledger. If the credit is insufficient, balance IGST can be paid through ITC of CGST and SGST/UTGST

Utilisation of excess ITC of IGST (if any)– If after payment of entire IGST through electronic credit ledger, there is balance of IGST in electronic credit ledger, if any may be used either for payment of CGST or SGST/UTGST in any order[rule 88A of CGST Rules [overrides sec 49(5)(a) of CGST Act].]

The taxable person can **partially utilise IGST credit for CGST and partially for SGST/UTGST as per his choice** (after first utilising fully for payment of IGST) [CBI&C **circular No. 98/17/2019-GST dt. 23-4-2019.**]

Thank You



FROM TEAM

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