

Webinar On Input Tax Credit in GST

Organised by WICASA of WIRC for CA Students

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Basics of GST

Basics of GST

- GST – Comprehensive Indirect Tax
- Destination based consumption tax
- Fundamental Principal – Multi-stage Levy of Tax with Credit
- Purpose inter-alia includes removal of cascading effect of taxes
- Statement of Objects and Reasons – emphasised on seamless transfer of ITC from one stage to another in the chain of value addition

Concept of Input Tax Credit

Concept of Input Tax Credit

- Input Tax Credit means Credit of Input Taxes paid by a Taxable Person
- Taxes paid on the inward procurements is allowed to be adjusted/set-off against taxes payable on outward supply

Concept of Input Tax Credit

Stage	SP	GST	Total
RM	100	6	106
Mfg	116	7	123
Wholesaler	135	8	143
Retailers	157	9.50	166.50

Without ITC



Concept of Input Tax Credit

Stage	SP	GST	Total
RM	100	6	106
Mfg	110	6.5	116.50
Wholesaler	121	7.25	128.25
Retailers	133	8	141

With ITC



Conditions for Claiming ITC

Eligibility for Claiming ITC

What are the parameters for Eligibility of ITC?

- **Parameter 1:** Registered Person
- **Parameter 2:** Credit of Input Tax
- **Parameter 3:** Charged on any supply of Goods or Services or both to him
- **Parameter 4:** Used or Intended to be used in the course or furtherance of his business
- **Parameter 5:** Subject to prescribed conditions and restrictions (Section 16 to 18) and in the manner specified (Section 49 r.w. Section 41)

Conditions for Claiming ITC

What are the conditions for claiming ITC?

- **Condition 1:** Possession of a Tax invoice or Debit note or prescribed documents ([Rule 36](#));
- **Condition 2:** Invoice or Debit note has been furnished by Supplier in GSTR 1 and such details have been communicated to the recipient as per Sec. 37 (w.e.f 1-1-2022);
- **Condition 3:** Receipt of goods or services or both;
- **Condition 4:** Tax payment to Government (in cash or through utilisation of admissible ITC) **subject to the provisions of Section 41 or section 43A**
- **Condition 5:** Furnishing the return u/s. 39
- **Condition 6:** *Details of ITC communicated are not restricted under [Section 38](#)*

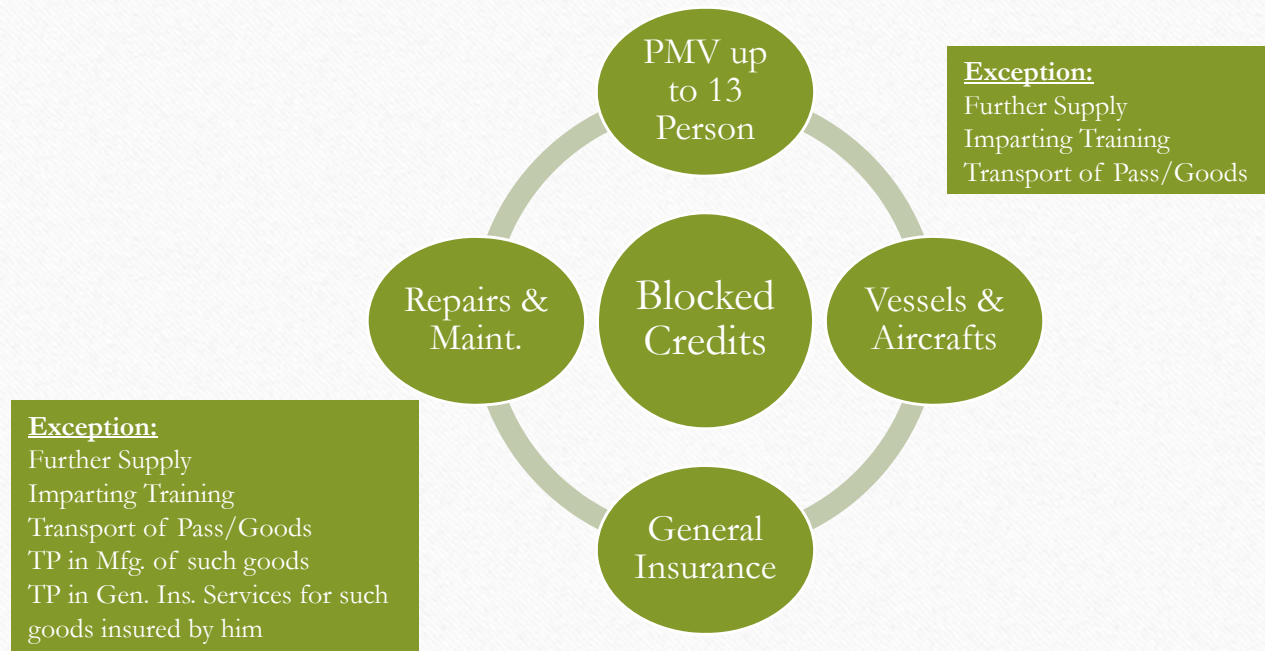
Conditions for Claiming ITC

Other Conditions:

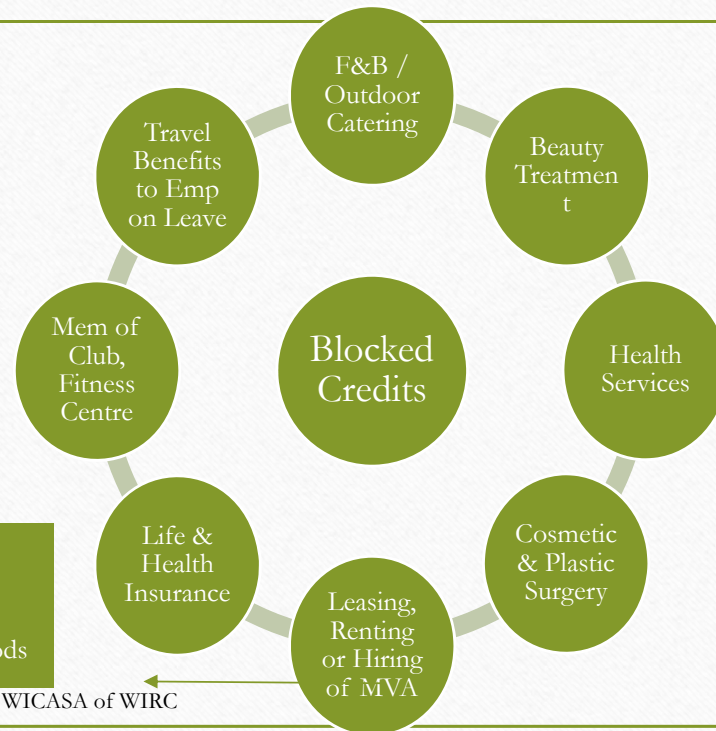
- Goods received in lots or instalments – Claim Credit on receipt of the last lot or instalment;
- If depreciation claimed on the tax component of the cost of capital goods and P&M under the IT Act, 1961 - the ITC on the said tax component shall not be allowed.
- Credit on Invoice or Debit Note of a year to be claimed by September/November of the next year
- ITC claimed on Invoice or Debit Note to be reversed if – Value and Tax not paid to supplier within 180 days of Date of Invoice;
- ITC to be reclaimed after payment of value and tax to the supplier.

Blocked Credits

Blocked Credits – Section 17(5)



Blocked Credits – Section 17(5)



Exception: Where it is obligatory for an employer to provide the same to its employees under any law for the time being in force

Exception:
Further Supply
Imparting Training
Transport of Pass/Goods

Blocked Credits – Section 17(5)

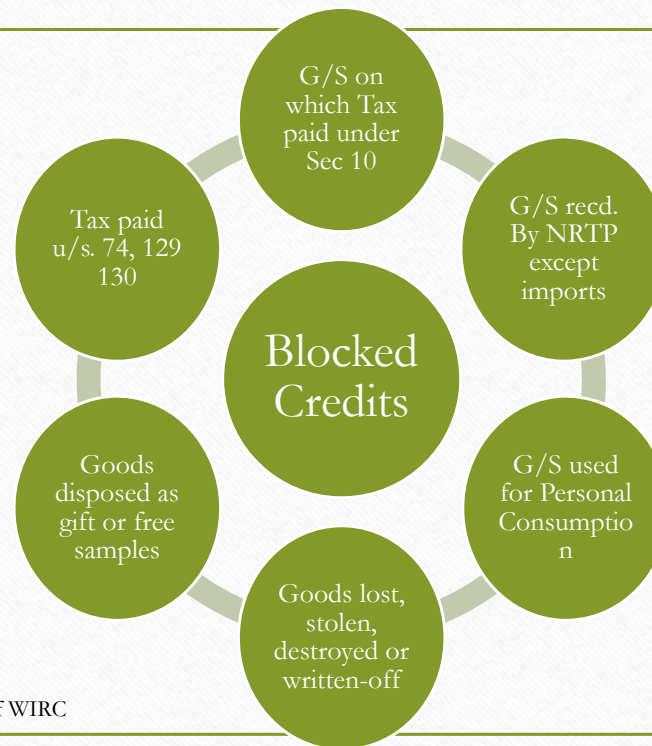
Works Contract Services (WCS) when supplied for construction of an immovable property (other than P&M) except if is an input service for further supply of WCS.

Goods or Services or both for construction of an immovable property (other than P&M) on his own account including when used in the course or furtherance of business.

“Construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;

“P&M” means apparatus, equipment, and machinery fixed to earth by foundation or structural support 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.

Blocked Credits – Section 17(5)



Train your Brain

Q&A for Revision

Train Your Brain (1/6)

- Mr. Shopwala is a small retailer (not having GST registration) and wants to renovate his shop. The GST on the renovation expenses including furniture would be INR 3.6 lakhs. Mr. Shopwala wants to know, how he can claim back the GST?
- Ms. Right Advisor is a business consultant and registered in GST. She was interested to know the opportunities available in investments in commercial properties to be leased/rented after purchase. She registered for a conference on Real Estate Investment Opportunities. Can she claim the GST levied on conference charges?

Train Your Brain (2/6)

- M/s. Jhol Jhaal Ltd. is planning to wind-up business. They have hired consultant for sale of assets. Whether they can claim ITC on the said service?
- Religious Trust has received donations in the form of gold jewelry. They have appointed a valuer for valuation of the goods. They also gave various advt. for the sale of the jewelry. Whether they can claim ITC on the above services?
- Jethalal Gada has purchased 100 TVs from a vendor on which he has paid GST in the month of Jul-20. These TVs were supposed to be launched in Dec 2020 for Sale to Customers. However, till the month of Mar-21 he has not made any Sale. Can he claim the GST or is he required to reverse the GST?

Train Your Brain (3/6)

- M/s. Luxury Cars is in the business of buying and renting antique cars for display during shows, movies, events, etc. On purchase of one such car, they have paid road tax, green tax as per Local laws and GST. They want to know – how much ITC will be allowed to them?
- Mr. A has purchased goods to sell in his business and claims to have paid GST of Rs. 50,000. However, he does not have the invoice to prove the same. Can he avail the credit?
- Promotion Ltd. has paid INR 10 crores for advertisement slots during IPL 2020. They have paid Rs. 1.8 crores as GST and availed the credit of the same. Later, IPL got cancelled due to coronavirus pandemic. Should they reverse the credit?

Train Your Brain (4/6)

- M/s. Production Ltd. has taken Annual Insurance and AMC of its heavy machinery. As per the suppliers practice, amount is paid at the start of the year but service is received for the entire year. Can they claim ITC at the start of the year or end of the year?
- Mr. C has purchased goods in Jul-20 and paid GST on the same to Supplier. He did not take the credit in the said month. Can he avail the credit of the same in Aug-21? Would your answer differ if he wants to avail the credit in Oct-21?
- M/s. Trader Limited imports dry fruits in India and sells it to customers in India. During F.Y. 2020-21, he has imported dates from Oman and missed to claim ITC in GST returns. The same was identified in March 2022. Can he claim the credit?

Train Your Brain (5/6)

- Mr. Hero is a actor and registered supplier. He has taken membership of a gym where he does his work-out as per the film's requirement. He also took some cosmetic services from a Clinic. He regularly visits a Salon for various beauty treatments before promotional events (where he charges for the appearance). Can he claim the GST on these services?
- Due to COVID-19 pandemic, Ministry of Home Affairs has issued SOP to all business to avail health insurance for all their employees. Accordingly, DEF Ltd. has procured insurance for all its employees and paid GST on the same. Can it avail ITC?
- M/s. Chemical Mfg. Co. purchased forklift trucks for movement of chemical drums within the factory. Can they claim the credit?

Train Your Brain (6/6)

- XYZ Ltd. is planning to expand their existing factory in the vacant areas of their plot. They have given contract to a Works Contractor for construction of the new factory building. Further, the compound wall would be demolished and reconstructed. The internal roads in the factory would also be repaired.

They would be installing heavy machineries in the factory. Works Contractor has also been asked to construct foundations of the P&M wherever required. They had taken services of an architect for making the factory plan and a Consulting Engineer for capex related to P&M.

Please guide them regarding the eligibility of ITC under GST.

Apportionment of ITC

Apportionment of ITC

Scenarios (G/S used for....)	Effect on ITC
Business purpose only	100% ITC allowed
Non-business purpose only	100% ITC disallowed
Business + Non-business purpose	ITC allowed only to the extent of business purpose only
Taxable business only	100% ITC allowed
Exempt business only	100% ITC disallowed
Taxable + Exempt business	ITC allowed only to the extent of taxable business only

Rules prescribed for above mentioned apportionment of ITC

Apportionment of ITC (Rule 42)

- Rule 42 applies to ITC on inputs and input services only
- Rule 42 applies if ITC is for business as well as non-business purposes;
- Rule 42 applies ITC is for taxable (taxable and zero-rated) as well as Exempt (Notified, Outward Supply under RCM, Sale of Land, Sale of Building Post Completion);
- It is mandatory to follow apportionment method as per Rule 42.

Apportionment of ITC (Rule 42)

Steps	Particulars	Denote	Formula

Apportionment of ITC (Rule 42)

Steps	Particulars	Denote	Formula

Apportionment of ITC (Rule 42)

Steps	Particulars	Denote	Formula

E/F for Rule 42 excludes –Interest/Discount Income for Other than Bank/FI/NBFC & Goods
Transportation Services by a vessel from the customs station of clearance in India to a place O/S India

Apportionment of ITC (Rule 43)

- Rule 43 applies to ITC on capital goods only
- Rule 43 applies if ITC is for business as well as non-business purposes;
- Rule 43 applies ITC is for taxable (taxable and zero-rated) as well as Exempt (Notified, Outward Supply under RCM, Sale of Land, Sale of Building Post Completion);
- It is mandatory to follow apportionment method as per Rule 43.

Apportionment of ITC (Rule 43)

Steps	Particulars	Denote	Formula

Apportionment of ITC (Rule 43)

Steps	Particulars	Denote	Formula

* Exclusion of Rule 42 apply

ITC in Special Circumstances

ITC if liable for Registration

- Person Liable to take registration
 - has applied for registration within 30 days from the date he becomes liable; 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.
- Invoice should not be more than 1 year old.

ITC if Suo-Moto Registration

- Person is not liable to take registration but takes suo-moto 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 of registration
- Invoice should not be more than 1 year old.

ITC – Composition to Regular Tax

- Composition Taxpayer u/s. 10
- Ceases to pay tax under Composition Scheme
- 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
 - Capital goods (reduced by 5%/Quarter).
- on the day immediately preceding the date from which he becomes Regular Tax payer
- Invoice should not be more than 1 year old.



ITC – Exempt to Taxable Supplies

- Supply of goods or services or both exempted under GST;
- Becomes taxable under GST;
- **Person** shall be entitled to take credit of input tax
 - in respect of inputs held in stock relatable to exempt supply;
 - inputs contained in semi-finished or finished goods held in stock relatable to exempt supply;
 - Capital goods exclusively used for exempt supply (reduced by 5% /Quarter).
- on the day immediately preceding the day supply becomes taxable.
- Invoice should not be more than 1 year old.



ITC – Change in Constitution

- Change in constitution of registered person;
- Due to sale, merger, demerger, amalgamation, lease or transfer of business with specific provision for transfer of liabilities;
- **Registered Person** allowed to transfer unutilized ITC in El. Cr. Ledger;
- To the resulting business (transferee);
- inputs and capital goods to be accounted by the resulting business (transferee);
- Demerger – In the ratio of value of assets.

ITC – Sale of Capital Goods

- Supply of Capital Goods or P&M by Registered Person;
- ITC claimed on Capital Goods or P&M by Registered Person;
- Registered person to pay tax as follows (higher of the below):
 - Tax on transaction value of supply;
 - ITC claimed reduced by 5%/per quarter.
- If refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, tax to be paid on transaction value only

Questions



Legal Provisions

Key Definitions

- Registered Person means a person who is registered under section 25 but does not include a person having a Unique Identity Number.



Key Definitions

- "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 Section 9(3) or 9(4);
 - c. the tax payable under the provisions of Section 5(3) or 5(4) of the IGST Act;
 - d. the tax payable under the provisions of Section 9(3) or 9(4) of the “**respective**” SGST Act; or
 - e. the tax payable under the provisions of Section 7(3) or 7(4) of the UTGST Act,but does not include the tax paid under the composition levy;



Key Definitions

- "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
- "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

[Explanation.—For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;]



Key Definitions

- "business" includes—
 - a. any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
 - b. any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
 - c. any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
 - d. supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
 - e. provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
 - f. admission, for a consideration, of persons to any premises;
 - g. services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
 - h. activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and]
 - i. any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;



Rule 36 – Documents for ITC

- 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) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;
 - c) a debit note issued by a supplier in accordance with the provisions of section 34;
 - d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
 - e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54.



Section 38

- The details of outward supplies furnished by the RP in GSTR 1 and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies.
- The auto-generated statement shall consist of—
 - a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and
 - b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,--
 - i. by any registered person within such period of taking registration as may be prescribed; or
 - ii. by any registered person, who has defaulted in payment of tax and where such default has continued for prescribed period; or



Section 38

- iii. by any registered person, the output tax payable by whom in GSTR 1 during such prescribed period, exceeds the output tax paid by him by prescribed limit; or
- iv. by any registered person who, during prescribed period, has availed ITC that exceeds the credit that can be availed by him, by prescribed limit; or
- v. by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or
- vi. by such other class of persons as may be prescribed.

