

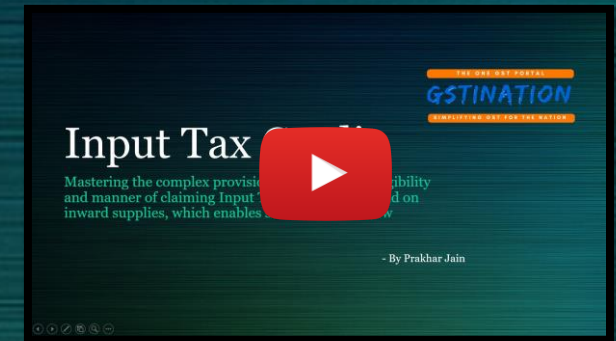
THE ONE GST PORTAL

GSTINATION

SIMPLIFYING GST FOR THE NATION

Input Tax Credit

Mastering the complex provisions regarding the eligibility and manner of claiming Input Tax credit of GST paid on inward supplies, which enables seamless credit flow



- By Prakhar Jain

Enabling Section for taking Input Tax credit

Section 16(1) - Every registered person shall, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used for business.

Basic Conditions:

- A. Documentary Evidence should be as per law – Detail in next slide***
- B. Actual Receipt of Supply***
- C. Tax Paid & Return Filed***

(A) Documentary Evidence should be as per law



1. An invoice (u/s 31) [Normal]; or an invoice u/s 31(3)(f) [RCM] (subject to the payment of tax);
2. A debit note (u/s 34);
3. A bill of entry or any similar document for the assessment of IGST on imports;
4. An ISD invoice/ credit note rule 54(1).

All particulars as specified in the provisions of Chapter VI should be there in the above documents.

(B) Actual Receipt of Supply

- Normally = Physically received the goods/ services/ both.
- Deemed received where 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) Tax Paid & Return Filed

- Tax charged in respect of such supply has been actually paid to the Government by the supplier, and
- The recipient has shown the details in GSTR-2 and GSTR-3.

Special Case: Goods against one invoice received in multiple lots/ instalments

- In such a case, the registered person can take credit upon receipt of the last lot or instalment:

Payment of Invoice within specified time

- For all supplies other than reverse charge supplies, the invoice amount (including GST) must be paid by the recipient to the supplier within 180 days from the date of issue of invoice.

If it is not so paid, then input credit will be reversed.

- The recipient must furnish -

the details of such supply the amount not paid the proportionate tax amount

in FORM GSTR-2 for the month immediately following the period of 180 days from the date of the issue of the invoice.

Procedure after Non payment within Specified time

- The input credit that was availed shall be added to his (recipient's) output tax liability, along with interest (from the date of availing credit on such supplies till the date when the amount added to the output tax liability) (basically).
- After reversal, once payment is made by him of the invoice amount to the supplier, then can claim input credit again in the return of month when paid.
- Exception - Value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purpose of this provision.

Cannot claim depreciation on Input Credit Component

- Logically, If you are taking input credit of 'tax component' on purchase of capital goods, then it is not your cost.
- So you cannot claim depreciation on it under Income Tax.
- Now in GST, If depreciation is claimed, then the input tax credit on the said tax component shall not be allowed.

Time Limit for taking input tax credit

Must take input credit on or before, the earlier of following two dates –

- Due date of furnishing GSTR-3 for September of next FY, as compared with the FY to which the invoice pertains or
- Actual date of furnishing of the relevant annual return,

Exception – This time limit shall not apply to a claim for re- availing of any credit, earlier reversed due to non-payment of consideration.

No Input Credit of Tax in demand relating to Fraud

- If any tax has been paid against an order of confirmed demand on account of any fraud/ willful misstatement/ suppression of facts, then input credit cannot be taken of such amount.

Blocked Credits

Notwithstanding anything contained in section 16(1) and section 18(1), input tax credit shall not be available in respect of some goods/ services.



Blocked Credits

(A) Motor vehicles & Other conveyances, except when :

(A) Used for further supply of that vehicle/ conveyance

(B) Used for supplying Transportation of Passengers Services

(C) Used for giving training of driving such vehicle/ conveyance

(D) For transportation of goods

(B) Some Specific supplies

i. Food & Beverages/ Outdoor Catering/ Beauty treatment/ Health Services/ Cosmetic & plastic Surgery

(Except when same type of input is used for same type of taxable outward supply, or even as a part of a taxable mixed/ composite supply)

ii. Club Membership/ Health & Fitness Center Membership

iii. Rent-a-cab, Life/ Health Insurance except where –

a) Govt. notifies that obligatory for employer to provide to employee

b) Such input service is used for same type of taxable outward service, or even as a part of a taxable mixed/ composite supply

iv. Travel benefits to employees on vacation, like leave/ home travel concession



Blocked Credits

(E) Composition Supplies received

(F) Supplies recd by Non-Resident, except goods imported by him

Construction Related:

(C) Works Contract Service for construction of Immovable property (except where used for further supply of works contract service only)

(D) Goods/ Services/ Both for construction of immovable property (Except P&M) on own account, incl. when for business purpose

- Construction' includes re-construction/ renovation/ additions/ alterations/ repairs – which are capitalised to the said immovable property
- “Plant & Machinery” (P&M) means apparatus, equipment, and machinery fixed to earth by foundation or structural support → used for making an outward supply of goods/ services/ both, & includes such foundation/ structural support, but excludes-
 - i. Land/ Build./ civil structure
 - ii. Telecommunication Towers
 - iii. Pipelines outside Factory

(G) Supplies used for personal consumption

(H) Goods lost/ stolen/ destroyed/ written off/ gifted/ given as free samples

(I) Any Tax paid in accordance with the provisions of sections 74, 129 & 130

Input Service Distributor (ISD)



As per Sec 2(61), “Input Service Distributor” means an office of the supplier which receives tax invoices towards the receipt of input services and issues a prescribed document to a supplier of taxable supplies having the same PAN, for distributing the credit of CGST, SGST/ UTGST & IGST paid on the said services.

(In Short – It’s a centralised office which takes input services for the organisation as a whole, and then distributes the ITC among its relevant branches)

How Input is distributed?

- Through “ISD Invoice”
- The ISD shall issue an “Input Service Distributor invoice”, as per rule 54(1), indicating in such invoice-
 - That it is issued only for distribution of ITC
 - Mentioning the amount of ITC being distributed



Classification of GST

ISD may get input in the form of CGST, SGST/ UTGST & IGST.

1. As per rules **IGST** shall be distributed as IGST only (but as per act, it may be distributed as CGST also; practically difference doesn't matter);
2. Now, for **CGST and SGST/ UGST**, compare location of ISD and location of Recipient branch –
 - If recipient located in same State/ UT: Distribute credit **as it is** (CGST = CGST, SGST/ UTGST = SGST/ UTGST);
 - If recipient located in different State/ UT: Distribute **as credit of IGST** (IGST = CGST + SGST/ UTGST)

Conditions for distribution of ITC by ISD

- If ITC attributable to a single recipient, then distribute only to that recipient
- If ITC attributable to more than one (but not all) recipient, distribute *pro rata* on the basis of the turnover.
- If ITC attributable to all recipients, credit shall be distributed *pro rata* amongst all on the basis of –
 - the turnover in a State/ UT of a recipient during the relevant period,
 - the aggregate turnover of all recipients which are operational in the current year, during the relevant period
- ITC available in a month shall be distributed in the same month.
- Cannot distribute more than available.
- Furnish the details of such distribution in Form GSTR-6 monthly.

Separation: Distribute eligible and ineligible ITC, and CGST, SGST/ UTGST & IGST, separately

Methodology of Pro Rata Distribution

Let one of the recipients be 'R1', whether registered or not.

Compare with all the recipients to whom ITC attributable (including exempt suppliers and unregistered persons)

$$\bullet C_1 = \left(\frac{t_1}{T} \right) \times C$$

- “C” = total amount of credit to be distributed.
- “C₁” = ITC to be distributed to ‘R1’.
- “t₁” = turnover in a State/ UT of R1 during the relevant period
- “T” = aggregate of the turnover, during the relevant period, of all recipients to whom the ITC attributable/ which are operational

Some Definitions

Manner of recovery of Credit distributed in excess. (Sec 21)

“Relevant Period”

- If all recipients to whom ITC attributable have some turnover in preceding FY – Preceding FY
- If some/ all recipients do not have any turnover in their States/ UTs in the preceding FY – 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;

“Turnover”

- in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

- Where the ISD distributes ITC in contravention of section 20, resulting in excess distribution of ITC to one or more recipients,
- The excess credit shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

Additional ITC due to debit note

- If any supplier issues a debit note to the ISD, then there will be additional amount of ITC, which shall be distributed similarly as the original credit, in the month in which the debit note is included in the return in **FORM GSTR-6**.

When earlier ITC distributed to wrong recipient, now correction

- ISD would have issued an ISD credit note to the recipient to whom it was wrongly distributed. Now, on the basis of that ISD credit note, ISD shall issue a new ISD invoice to the correct recipient and include the ISD credit note and the ISD invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

ISD Credit Note

Where ITC already distributed gets reduced for any reason (may be supplier issued credit note to ISD, or ITC given to wrong recipient by mistake, or any other reason), the ISD shall issue an ISD credit note as per Rule 54(1) for reduction of credit. The reduction shall be apportioned to each recipient in the same ratio in which the ITC contained in the original invoice was distributed, and the amount so apportioned shall be either –

- i. Reduced from the amount of ITC to be distributed in the month, or
- ii. Added to the output tax liability of the recipient, where above may go negative

I. New Registration

When? - Person applied for registration < 30 days of becoming liable to register, and has got registration.

Entitlement? - ITC of inputs, semi-finished, finished goods

Of Stock as on Date? - Immediately preceding day of becoming liable to take registration;

II. Voluntary Registration

When? - Person who takes voluntary registration u/s 25(3), and has got registration.

Entitlement? - ITC of inputs, semi-finished, finished goods

Of Stock as on Date? - Immediately preceding day of date of grant of registration;

III. Composition to Regular

When? - Registered person ceases to pay tax under section 10 (i.e. moves from composition to normal)

Entitlement? - ITC of inputs, semi-finished, finished goods and on capital goods

Of Stock as on Date? - Immediately preceding day of date from which comes under normal scheme;

IV. Exempt to Taxable

When? – An exempt supply becomes a taxable supply

Entitlement? - ITC of inputs, semi-finished, finished goods relating to such exempt supply and on capital goods exclusively used for such exempt supply

Of Stock as on Date? - Immediately preceding day of date from which such supply becomes taxable;

Input Tax Credit Eligibility on Specific Events [Sec 18(1) & Rule 40]

Conditions-

1. Make a declaration in FORM GST ITC- 01 to the effect that he is eligible to avail the ITC, and clearly specify the details of the stock as on the relevant date, as applicable (details furnished must be certified by Chartered Accountant/ Cost Accountant, if total amount of ITC claimed exceeds Rs. 2 lakhs)
2. Credit on capital goods shall be reduced by 5% per quarter or part thereof from date of invoice.
3. In case of cases 3 & 4, the details furnished shall be verified with GSTR-1/ GSTR-4 of your supplier.

Amount = Sum of following two -

I. ITC attributable to - **inputs, semi-finished or finished goods** held in stock on the day immediately preceding the date of exercising of such option/ the date of such exemption,
Calculation: Proportionately on the basis of corresponding invoices on which ITC had been availed

II. ITC involved in the remaining useful life of – **capital goods**,
Calculation: Pro-rata basis (in months), taking the useful life as 5 years.
[Note: In case of cancellation of registration, Amount = higher of - above/ tax on transaction value]

After payment of such amount, the balance of ITC (if any) in his ITC ledger shall lapse.

Calculation as above shall be determined separately for input tax credit of IGST & CGST.

Example for pro rata calculation in capital goods

*Capital goods have been in use for 4 years, 6 month and 15 days.
The useful remaining life in months= 5 months ignoring part of the month.
Assume, Input tax credit taken on such capital goods= C*

→ Input tax credit attributable to remaining useful life= C multiplied by $\frac{5}{60}$

ITC Payment/ Reversal on Specific Events [Sec 18(4), Sec 29(5) & Rule 44]

Where any registered person who has availed of input tax credit -

1. Goes from Normal to Composition Scheme, (Normal → Compo)
2. Where his supply becomes wholly exempt, (Taxable → Exempt)
3. His registration gets cancelled due to any reason (Cancellation)

The amount determined as per the calculation on LHS shall form part of the output tax liability of the registered person, and shall be paid by debiting the ITC ledger/ Cash ledger.

Furnishing of the details

The details of the amount to be paid shall be furnished -

- For Events (1) & (2), in **FORM GST ITC- 03**,
- For Event (3), in **FORM GSTR-10**.

The details furnished shall be duly certified by a practicing chartered accountant/ cost accountant.

If Tax Invoice not available

Then the registered person shall estimate the amount based on the prevailing market price of the goods on the effective date of the occurrence of any of the events specified.

Supply of Capital Goods on which input tax credit had been taken

Two methods have been prescribed for the same event in the rules:-

Rule 40(2) - In such a case, the registered person shall pay an amount equal to the higher of following -

- i. ITC taken (-) 5% per quarter or part thereof from the date of the issue of the invoice.
- ii. Tax applicable on the transaction value determined under section 15 (Sale Value)

Proviso: Where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value (ignoring (i) above).

Rule 44(6) Determine as per Rule 44, in the same manner as specified in case of occurrence of the 3 specific events, separately for ITC of IGST and CGST.

If it is more than the tax on transaction value of capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in **FORM GSTR-1**.

Change in Constitution

- Furnish the details in **FORM GST ITC-02** with a request for transfer of unutilized input tax credit.
- Transferee shall accept the details so furnished in common portal, and, upon such acceptance, the unutilized credit shall be credited to transferee's ITC ledger.

- Where sale, merger, demerger, amalgamation, lease or transfer of the business or change in the ownership of business for any reason.
- With the specific provisions for transfer of liabilities. (Need to submit a copy of a certificate issued by a practicing chartered accountant/ cost accountant certifying this fact)
- Registered person shall be allowed to transfer the ITC which remains unutilised to new entity.

Procedure

- The inputs/ capital goods so transferred shall be duly accounted for by the transferee in his books.
- In the case of demerger, ITC shall be apportioned in the ratio of the value of assets of the new units.

Condition

Special Method for Banking Co./ Financial Institutions/ NBFCs

Where such people are engaged in supplying services by way of - “accepting deposits, extending loans or advances”

- They shall have a special option for input tax credit.

[Point to remember – such services are exempt vide Notfn 12/2017 –CT(R)]

Normally - They will have to apportion the credit between exempt and taxable supplies as per Sec 17(2).

Special option - Avail, every month, an amount equal to 50% of the eligible ITC and the rest shall lapse

Provided that the option once exercised shall not be withdrawn during the remaining part of the FY

Procedure for such option (Rule 38)

(A) Don't take any ITC of →	(i) GST on inputs and input services that are used for <u>non-business</u> purposes	(ii) <u>Blocked</u> credits as per Sec 17(5)
(B) Take Full ITC of →	Tax paid on supplies between 2 RTPs having same PAN (inter-branch)	
(C) Take 50% ITC of →	remaining amount of input tax	

Furnish as above in GSTR-2, for taking ITC of the amounts (B) + (C).

Condition:

The **inputs** sent within 1 year, and **capital goods**, within 3 years of being sent out, either be –

- Received back by the principal [as per Sec 143(1)(a)], or
- Supplied from the place of business of the job worker [as per Sec 143(1)(b)]

Note: Where inputs/ cap goods sent directly to job worker, 1 year counted from date of receipt of them by job worker.

In case of violation of above:

- It shall be deemed that such inputs/ cap goods had been supplied by the principal to the job worker on the day when the said inputs/ cap goods were sent out. (Back Date)
- The supply shall be declared in **FORM GSTR-1** & principal shall be liable to pay tax along with applicable interest.

Exception: This shall **not apply to** moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work

Job Worker [Section 19 & Rule 45]

- The principal is allowed ITC on inputs/ capital goods sent to a job worker for job work.
- Notwithstanding Sec 16(2)(b), the principal is entitled to take credit of ITC even if the inputs/ capital goods are directly sent to a job worker without being first brought to his place of business.

[Sec 16(2)(b) mandates 'receipt' of goods/ services for being eligible to take ITC, so here, it has been overridden]

Compliances for availing such facility-

1. The inputs, semi-finished goods or capital goods shall be **sent** to the job worker under the cover of a challan issued by the principal, which shall contain the details specified in rule 55 (Even when such goods are sent directly to a job-worker).
2. The details of challans in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during a quarter shall be included in **FORM GST ITC-04** furnished for that period on or before the 25th day of the month succeeding the said quarter.

Explanations:

For the purposes of this Chapter of Input Tax Credit,-

1. The expressions “capital goods” shall include “plant and machinery” as defined in the Explanation to section 17;
2. For determining the value of an exempt supply -
 - the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and
 - the value of security shall be taken as one per cent. of the sale value of such security.

Apportionment of Credit [Sec 17(1) & (2)]

Where inputs are used partly for -	(i)	Business purposes	and	Non-Business purposes
	ITC shall be restricted to extent <u>used for business purpose</u>			
	(ii)	Effecting taxable supplies (including zero-rated supplies)	and	Effecting exempt supplies
	ITC shall be restricted to extent used <u>for effecting taxable</u> supplies (including zero-rated supplies)			

Note: “Exempt supply” here 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.

How to attribute ITC between business/ non-business, or taxable/ exempt usage, is what we have to discuss.

**Method of Attribution -
Different for [Input goods + input services] & [capital goods]**

Method of Attribution for inputs & input services (Rule 42)

Step 1 – Initial Cleaning

‘T’ = Total ITC

From this

Remove these

Explicitly Dirty ITCs-

- ‘T₁’ = ITC attributable to ‘used for other than business’
- ‘T₂’ = ITC attributable to ‘exclusively used for effecting exempt supplies’
- ‘T₃’ = Blocked ITC as per Sec 17(5)

‘C₁’ = Cleaned ITC*

We get this

(C₁ shall be credited to ITC ledger)

$$*C_1 = T - (T_1 + T_2 + T_3)$$

Step 2 – Separation

Separate the Common Credit

Common Credit

$$\bullet \text{ ‘C}_2\text{’} = C_1 - T_4$$

(Observe that C₂ does not contain both type of explicit elements)

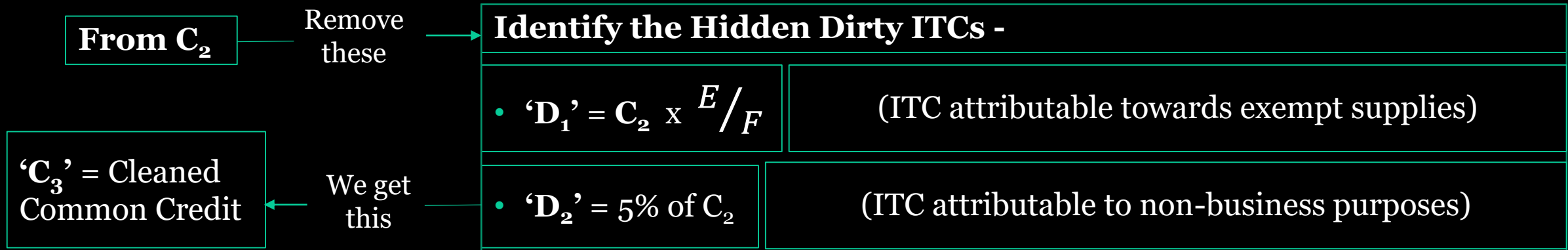
Remove Explicitly Clean ITC (to separate mixed portion)

- ‘T₄’ = ITC attributable to ‘exclusively used for effecting taxable supplies (including zero-rated)’

‘T₁’, ‘T₂’, ‘T₃’ and ‘T₄’ shall be determined & declared by registered person at the Invoice level in Form GSTR-2.

Method of Attribution for inputs & input services (Rule 42)

Step 3 – Identification



where, 'E' = the aggregate value of exempt supplies during the tax period, and

'F' = the total turnover in the State of the registered person during the tax period:

Special Case: If do not have any turnover during the said tax period/ 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 the details of such turnover are available.

Note: 'E' = aggregate value of exempt supplies and 'F' = the total turnover, shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

Step 4 – Addition

*The amount equal to [$'D_1' + 'D_2'$] shall be added to the output tax liability of the registered person.
(Because earlier, whole C_1 was credited to ITC ledger, which included mixed dirty portions)*

Where the [D_1 (+) D_2] for whole FY calculated finally, exceeds the aggregate of the [D_1 (+) D_2] calculated and reversed in each month, this means you need to reverse more ITC -

- So such excess shall be added to the output tax liability of the registered person in any month, not later than the month of September following the end of the FY to which such credit relates.
- Also will liable to pay interest on the said excess amount at the specified rate for the period starting from the 1st April of the next FY till the date of payment

Where the aggregate of the [D_1 (+) D_2] calculated and reversed in each month exceeds the [D_1 (+) D_2] for whole FY calculated finally, this means you have reversed excess ITC -

- Such excess amount shall be claimed as ITC by the registered person in his return for a month not later than the month of September following the end of the FY to which such credit relates.

All the 4 steps discussed will be done for each Month (Tax Period)

Annual Exercise yet again

The ITC as per above procedure shall be calculated finally for the whole financial year, before the due date for furnishing of GSTR-3 of September following the end of the FY to which such credit relates.

Method of Attribution for capital goods (Rule 43)

Step 1 – Separate Explicits, Get Common

- ITC on capital goods used/ intended to be used exclusively for non-business purposes/ for effecting exempt supplies shall be indicated in **FORM GSTR-2** and shall not be credited to the electronic credit ledger.
- ITC on capital goods used/ intended to be used exclusively for effecting taxable supplies (including zero-rated supplies) shall be indicated in **FORM GSTR-2** and shall be credited to the electronic credit ledger.

ITC on capital goods not covered in above 2 = Mixed ITC = 'A'
'A' shall be credited to the ITC ledger and the useful life of such goods shall be taken as 5 years from the date of the invoice.

[Note: If any capital goods earlier covered under dirty credit, is subsequently covered here (mixed ITC). Then 'A' shall be arrived at by reducing the ITC at the rate of 5% per quarter or part thereof]

Common Credit

→ 'T_c' = Aggregate of the amounts of 'A' credited to the ITC ledger in a tax period (month) = Common Credit

Step 2 – Get Monthly

$$T_m = T_c \div 60$$

[Note: If any capital goods earlier covered under clean credit, is subsequently covered here (common credit). Then 'A' shall be arrived at by reducing the ITC at the rate of 5% per quarter or part thereof, and added to T_c]

Proportionate Common Credit = T_m

Now →

- 'T_r' = ITC at the beginning of a month, on all common capital goods whose useful life remains during the tax period = aggregate of 'T_m' for all such capital goods

Method of Attribution for capital goods (Rule 43)

Step 3 – Dirty Portion

ITC attributable to exempt supplies = T_e

$$\bullet \text{ 'T}_e\text{' = T}_r \times \frac{E}{F}$$

where, 'E' = Aggregate value of exempt supplies made during the month, and
'F' = Total turnover of the registered person during the month.

Special Case: If do not have any turnover during the said tax period/ 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 the details of such turnover are available.

Note: 'E' = aggregate value of exempt supplies and 'F' = the total turnover, shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

T_e (+) applicable interest = added to the output tax liability of the person making such claim of credit, during every tax period of the useful life of the concerned capital goods

What We learned in a glimpse -



End of Presentation!

- Enabling Section for taking Input Tax credit
- Payment of Invoice within specified time
- Cannot claim depreciation on Input Credit Component
- Time Limit for taking input tax credit
- Blocked Credits
- Input Service Distributor (ISD)
- Input Tax Credit Eligibility on Specific Events [Sec 18(1) & Rule 40]
- ITC Payment/ Reversal on Specific Events [Sec 18(4), Sec 29(5) & Rule 44]
- Supply of Capital Goods on which input tax credit had been taken
- Change in Constitution
- Apportionment of Credit [Sec 17(1) & (2)]
- Method of Attribution for inputs & input services (Rule 42)
- Method of Attribution for capital goods (Rule 43)
- Special Method for Banking Co./ Financial Institutions/ NBFCs
- Job Worker [Section 19 & Rule 45]

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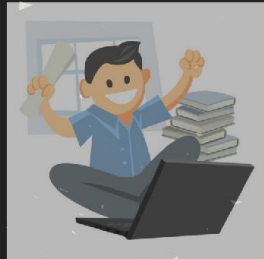
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