

Input Tax Credit norms under GST

Under Excise and Service Tax law, CENVAT credit was required to be reversed under Rule 6 of the CENVAT Credit Rules. Similar but more elaborate and extensive provisions are prescribed in GST.

Input tax credit (ITC) is a right given to an assessee which he can utilize as per the provisions of the law and allied rules. Input Tax Credit is a function whereby impact of cascading of taxes is avoided and the concept of 'End User pays' is implemented. GST law has also followed this concept and cross availment and utilization of credits between goods and services is allowed. There are 3 stages in ITC, Availment and Utilisation. We will be sending an elaborate alert on the concept of reversal of common credits, hence the same is not covered in this alert.

I. Availment of Credits

One will be eligible to claim credit if following conditions are met:

- Goods or services are used or intended to be used in the course of business
- They are in possession of an invoice
- They have physically received the goods or services
- Payment of invoice (basic + tax) is done within 180 days of the date of the invoice. If part payment is done, part credit will be available on proportionate basis.
- Tax charged on the invoice has been paid to the government
- Return has been furnished by the claimant as well as the supplier
- ITC of Capital Goods shall be allowed only if depreciation is not claimed on such tax portion
- ITC will be available for maximum 1 year from the date of the Invoice
- ITC in respect of any invoice for supply of G&S will not be available after 20th October of next year or date of filing of Annual Return, whichever is earlier
- **ITC of compensation cess will be available only against Output Liability of Comp. Cess.**

Please note, credit as submitted in return will be available as claimed and will be **provisionally** credited to the Electronic Credit ledger.

Concept of Invoice level Matching

Once the returns are filed, GSTN portal will conduct a matching of the same with the details uploaded by the vendors and if there is a mismatch and credit is found short then what is claimed, same will be added to the Output liability and interest will also become payable. Process of Invoice level matching will be done as under:

1. Claim of ITC in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply shall be finally accepted and such acceptance shall be communicated to the recipient.
2. Following fields will be matched compulsorily
 - a. GSTIN of the supplier
 - b. GSTIN of the recipient
 - c. invoice / debit note / credit note number
 - d. invoice / debit note / credit note date; and
 - e. Tax Amount

Claim of ITC shall be considered as matched where the amount of ITC claimed is equal to or less than the output tax paid on such tax invoice by the corresponding supplier.

3. Where the ITC claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to supplier and recipient both
4. Duplication of claims of ITC shall be communicated to the recipient
5. Amount in respect of which any discrepancy is communicated and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in the next month return.

6. The amount claimed as ITC that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.
7. Recipient shall be eligible to reduce, from his output tax liability, the amount so added above if the supplier declares the details of the invoice or debit note in his valid return till
 - a. 20th October of the next financial year; or
 - b. The actual date of filing of annual return; whichever is earlier
8. Recipient in whose output tax liability any amount has been added as above shall be liable to pay interest at 18% on the amount so added from the date of availing of credit till the corresponding additions are made by suppliers
9. Where any reduction in output tax liability is accepted, interest paid as per point 7 above shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger.
10. Amount reduced from the output tax liability in contravention of the provisions shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest @ 24% on the amount so added

II. Specific Credits which shall be available/Not available

Following credits will not be available under section 17(5) of CGST Act:

- Credit of Motor vehicle (MV) shall be available to following person: -
 - Who further supply such MVs
 - Who render services of transportation of passengers
 - Who provide training on driving, flying, navigating MVs
 - Who use these MVs for transportation of goods
- Food and beverages (restaurant), outdoor catering, beauty treatment, health services, cosmetic and plastic surgery
- Membership of Club, health and fitness centre

- Rent-a-cab, life and health insurance except where these are notified to be obligatory for an employer to provide to its employees
- Travel benefits extended to employees on vacation such as LTA
- G&S received from a person paying tax under composition scheme
- G&S used for personal/private consumption
- Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples
- Any tax paid by supplier due to departmental search or raid involving suppression of facts
- Works contract services when used for construction of an immovable property and where the expense is capitalised in the books. However, credit of WCS will be available in below mentioned scenarios:
 - If the construction done is booked as revenue expenditure.
 - If the construction done is in relation to a structure prepared for plant and machinery
 - If Works contract service is used for further supply of Works contract service
- Goods or services used for construction of an immovable property. But if the construction is being done for installation of Plant or Machinery, then credit shall be available.

Please Note credit of following expenses which was not available earlier will now be available

- Repairing or Insurance of a car
- Construction related expenses will be available if the same is booked as a revenue expenditure. In other words, any construction expense which gets capitalized, credit thereof will not be available, rest will be available

III. Utilisation of Credit

Credit utilization sequence shall be as under:

CGST credit

- First use against CGST liability
- Then use against IGST Liability

SGST credit

- First use against SGST liability
- Then use against IGST Liability

IGST credit

- First use against IGST liability
- Then use against CGST Liability
- Then use against SGST Liability

- Cross utilization of Credit of CGST and SGST shall not be allowed

SGST includes UTGST

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