

# **Institute of Chartered Accountants of India - WIRC**

## **Seminar on Goods & Service Tax (GST) Law**

CA Bharat Shemlani  
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# CONTENTS

- ❑ ITC on inputs, input services and capital goods
- ❑ ITC in respect of Job work
- ❑ Input Service Distribution (ISD)
- ❑ Refund
- ❑ Concept of blacklisting
- ❑ Transitional provisions - Related

# Input Tax Credit (ITC), Input Service Distributor (ISD) and Refund



# Present Cenvat/Set off Eligibility

<b>Nature of Tax</b>	<b>Levy on</b>	<b>Credit available to</b>
Excise Duty	Goods	Manufacturer/ Service Provider
Additional / Special Custom duties	Goods	Manufacturer
Service Tax	Services	Service Provider/ Manufacturer
VAT/Entry Tax	Goods	Manufacturer/ Traders
CST/Entertainment/ Luxury/LBT/Octroi	Goods/Entertain ment/Luxury	Not Available to any person

# GST ITC Eligibility – Seamless Credit

Nature of Tax	Goods/Service	Credit available to
<ul style="list-style-type: none"> <li>•CGST</li> <li>•SGST</li> <li>•IGST</li> </ul>	Goods	<ul style="list-style-type: none"> <li>•Manufacturer</li> <li>•Service Provider</li> <li>•Traders</li> </ul>
	Services	
<ul style="list-style-type: none"> <li>•Dealers of exempt/non taxable supplies and composition dealers not entitled to claim ITC</li> </ul>		
<ul style="list-style-type: none"> <li>• No credit is allowed on products not covered under GST, Electricity Duty, Stamp Duty, Entertainment tax by Local Bodies, Property Tax, Toll Tax etc.</li> </ul>		

# ITC Source

(iv) provide, subject to such conditions as may be prescribed, for the grant of input tax credit of tax paid on the input supplies of goods or services used in or in relation to the providing of the output taxable supplies of goods or services, and the manner of utilization of such credit;

(v) provide for the lapsing of input tax credit lying unutilized, in the circumstances as may be specified in the rules;

(vi) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of input tax credit) on taxable person or suspension or revocation of registration of taxable person, for dealing with evasion of tax or misuse of input tax credit;

(vii) provide, subject to such conditions as may be prescribed, for the carrying forward of the unutilized balances of cenvat credit of the duties of excise and the service tax, under the Cenvat Credit Rules 2004, (or of VAT credit under the state VAT credit rules) lying with the taxable persons on the date of their switching over to GST;

# ITC - Major Definitions



Definiti ons	Meaning
Capital Goods	<ul style="list-style-type: none"><li>➤ Chapters 82, 84, 85, 90 etc and other specified goods excl. passenger/goods motor vehicles but incl. dumpers/tippers used;<ul style="list-style-type: none"><li>• at the <b>place of business</b> for supply of goods; or</li><li>• for supply of services; or</li><li>• outside the place of business for generation of electricity for captive use at the place of business</li></ul></li><li>➤ Goods and Passenger Motor Vehicles and its components used for providing renting of motor vehicle, transportation of goods/passengers, <b>courier agency service</b> and imparting motor driving skills</li></ul>

# ITC - Major Definitions



Definitions	Meaning
Input	Any goods other than capital goods subject to exceptions used or intended to be used for making outward supply <b>in the course or furtherance of business</b>
Input Service	Any service subject to exceptions used or intended to be used for making outward supply <b>in the course or furtherance of business</b>
Input Tax Credit-ITC	IGST/CGST/SGST charged on any supply which are used or intended to be <b>used for business</b> and tax payable under RCM.



# ITC

## Capital Goods:



- Credit not admissible on such tax component of the cost of capital goods, for which depreciation has been claimed under the IT Act, 1961
- In case of supply of capital goods on which input tax credit has been taken, payment is required to be made;
  - ✓ for an amount equal to ITC reduced by percentage as may be specified, or;
  - ✓ tax on the transaction value of such capital goods, whichever is higher

# ITC

## ITC Exclusions

Motor Vehicle	Goods / Service	Immovable Property – IP
<p>Except when used for providing ;</p> <ul style="list-style-type: none"><li>•Transportation of goods /passengers</li><li>•Training on motor driving skills</li></ul>	<ul style="list-style-type: none"><li>•Personal use or consumption of Employee – Food, beauty treatment, health, club membership, insurance etc.</li><li>•Taxed under Composition Levy</li><li>•Private or Personal Use</li></ul>	<ul style="list-style-type: none"><li>•Goods/Services acquired in execution of WC resulting in IP other than Plant &amp; Machinery</li><li>•Goods acquired in which property is not transferred used in construction of IP other than Plant &amp; Machinery</li></ul>

# ITC

## ITC IN RESPECT OF STOCK

Entitlement	Person Eligible	Point in Time
ITC in respect of Input held in stock and Inputs contained in	Person who has applied for registration within 30 days from the date he becomes liable and has been granted certificate of registration	On the day immediately preceding the date from which he becomes liable to pay tax
Semi Finished or Finished Goods	Person who has taken Voluntary Registration u/s. 19(3)	On the day Immediately preceding the date of registration

# ITC

## ITC IN RESPECT OF STOCK

Entitlement	Person Eligible	Point in Time
ITC in respect of Input held in stock and Inputs contained in Semi Finished or Finished	Registered Taxable person ceases to pay tax u/s. 8 i.e. Composition Levy	On the day immediately preceding the date from which he becomes liable to pay tax u/s. 8

**Goods** No credit after expiry of one year from the date of issue of Invoice.

- The amount of credit to be computed as per generally accepted accounting principles.

# ITC

## Switch over provisions

### Registered Taxable person availing benefits of ITC

Switches over as a taxable person paying tax u/s. 8 i.e. Composition levy

Goods / Services supplied by him become exempt absolutely u/s. 10

• Pay an amount equal to the ITC in respect of Inputs held in stock and inputs contained in semi finished or finished goods held in stock immediately preceding the date of such switch over or date of exemption.

• Balance of ITC, if any, lying in electronic credit ledger shall be lapsed.

• The amount of credit to be computed as per generally accepted accounting principles



## Reversal of ITC

### ITC on Goods / Services

- Partly used for Business
- Partly used for other purpose



- Partly used for taxable Supply and
- Partly used for non-taxable supply

• ITC attributable to business purposes will be eligible

ITC attributable to taxable supply will be eligible

- Manner of credit attribution will be notified.
- *Taxable supply shall include zero rated supply but excludes exempted supply*

# ITC

## • **Conditions to claim ITC;**

- Possession of documentary evidence such as tax invoice, debit note etc. issued by supplier
  - Received the goods/services
  - Tax charged in respect of supply has been **actually paid to the credit of appropriate Government**
  - Furnished valid return u/s 27
- If goods are received in lots/installments then entitlement is deferred upon receipt of last lot/installment
  - Credit taken wrongly will be recovered in the prescribed manner.



# ITC

## Time limit to claim ITC:

Credit in respect of any invoice pertaining to a financial year cannot be taken after;

- Filing of return for the month of September following the end of financial year to which such invoice pertains, or;
- Filing of the relevant annual return, whichever is earlier





# ITC

## ITC in respect of Inputs sent for Job Work

Entitlement	Conditions	Period of Return
Inputs	Sent by Principal or directly sent without bringing first to Place of Business, returned after completion of Job work	180 days
Capital Goods		2 years

- If not returned within prescribed period then equivalent ITC claimed to be paid/reversed along with interest
- ITC and interest can be reclaimed if Inputs/CG received back subsequently

# ITC

<b>Utilization of ITC against Tax Liability</b>			
<b>To be adjusted in the same order</b>	<b>Credit of CGST</b>	<b>Credit of SGST</b>	<b>Credit of IGST</b>
1	CGST Liability	SGST Liability	IGST Liability
2	IGST Liability	IGST Liability	CGST Liability
3	<b>X</b>	<b>X</b>	SGST Liability
<ul style="list-style-type: none"><li>• Can not be utilized for payment of Interest, Fine, Penalty etc.</li></ul>			

# Input Service Distributor - ISD

## • Definition;

- An office of the supplier of goods/services which receives tax invoices towards receipt of input service and issue tax invoice or other prescribed document for the purpose of distributing of credit of CGST/SGST/IGST paid on said services to supplier of taxable goods/services having same PAN.

# ISD

<b>Distribution of Credit</b>			
<b>Location of ISD and Recipient of Credit</b>	<b>Credit of CGST</b>	<b>Credit of SGST</b>	<b>Credit of IGST</b>
In different States	IGST	IGST	IGST
In same State – Business Vertical	CGST	SGST	CGST SGST

# ISD

## • **Conditions for distribution of credit;**

- Against a prescribed document issued to each of the recipient and such documents contains details as prescribed
- Credit distributed shall not exceed the amount of credit available for distribution
- Credit of tax paid on inputs service attributable to supplier to be distributed to that supplier
- Credit of tax paid on input services attributable to more than one supplier to be distributed only amongst such suppliers to whom the input service is attributable *pro rata* on the basis of turnover in State of such supplier during **relevant period** to the aggregate of the turnover of all such suppliers and which are operational in the current year.

# ISD

## • **Conditions for distribution of credit;**

### ➤ **Relevant Period**

- If the recipients of credit have turnover in their States in the FY preceding year during which credit is to be distributed, the said FY; or
- If some or all recipient of credit do not have turnover in their States in the FY preceding year during which 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.

# ISD

## • **Recovery of excess credit distributed;**

- Excess distribution of credit by ISD than available for distribution, excess credit so distributed to be recovered from ISD along with interest.
  
- Excess distribution of credit by ISD to any one or more suppliers in contravention of conditions for distribution then excess credit so distributed to be recovered from such suppliers along with interest.



## ITC- Section 132(2) for making Rules

- (iv) provide, subject to such conditions as may be prescribed, for the grant of input tax credit of tax paid on the input supplies of goods or services used in or in relation to the providing of the output taxable supplies of goods or services, and the manner of utilization of such credit;
  
- (v) provide for the lapsing of input tax credit lying unutilized, in the circumstances as may be specified in the rules;



# ITC- Section 132(2) for making Rules

(vi) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of input tax credit) on taxable person or suspension or revocation of registration of taxable person, for dealing with evasion of tax or misuse of input tax credit;

(vii) provide, subject to such conditions as may be prescribed, for the carrying forward of the unutilized balances of cenvat credit of the duties of excise and the service tax, under the Cenvat Credit Rules 2004, (or of VAT credit under the state VAT credit rules) lying with the taxable persons on the date of their switching over to GST;

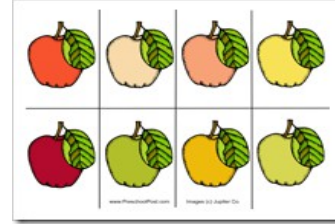
## Submission of Inward Supplies (IS)

- Every RTP other than an ISD, Composition dealer and Tax deductor shall verify, validate, modify or, delete the details relating to OS and CN or DN communicated u/s 25(I) to prepare the details of his IS and CN or DN and may include therein, the details of IS and CN or DN received by him in respect of such supplies that have not been declared by the supplier u/s 25(I).
- Every RTP shall furnish, electronically, the details of IS of taxable goods/services, including IS of services on which tax is payable under RCM and IS of goods/services taxable under IGST Act, and CN or DN received in respect of such supplies during a tax period on or before the 15th day the month succeeding the tax period in prescribed form.

# Submission of Inward Supplies (IS)

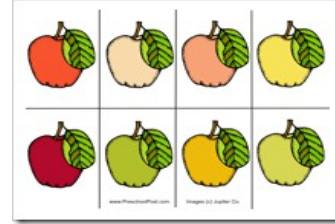
- The Board/Commissioner may, for valid and sufficient reasons, extend the time limit for furnishing such details.
- Any RTP, who has furnished the details of IS for any tax period and which have remained unmatched u/s 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:
  - No rectification of error or omission in respect of the details furnished IS shall be allowed after filing of the return u/s 27 for the month of September following the end of the financial year to which such details pertain, or filing of the relevant annual return, whichever is earlier.

# Matching, Reversal and reclaim of ITC



- Details of every inward supply for tax period be matched;
  - ✓ With corresponding details of outward supply furnished by supplier
  - ✓ With additional duty of customs in respect of imported goods; and
  - ✓ For duplication of ITC
- Inward supply matched with corresponding outward supply shall be finally accepted and communicated to recipient.
- Excess ITC claimed on account of short or non declaration of outward supply will be communicated to both the persons. If not rectified in the month of communication will be added to OTL for the month succeeding the month in which discrepancy is communicated. OTL can be reduced if the said supply is declared within prescribed period.

# Matching, Reversal and reclaim of ITC



- Duplication of ITC claim communicated to the recipient and will be added to OTL for the month in which it is communicated.
- On additional OTL interest is liable to be paid. On reduction of liability interest will be refunded maximum to the extent of paid by supplier.

# C/N, D/N & GR

- Credit Note or Debit Note is to be issued on or before 30<sup>th</sup> September following the end of FY in which supply made or date of filing relevant annual return, whichever is earlier.
- No CN, if incidence of tax and interest on such supply has been passed on.
- CN/DN to be declared in the return for the month in which such CN/DN received or in subsequent returns but not later than September following the end of FY in which supply made or date of filing relevant annual return, whichever is earlier and the tax liability to be adjusted accordingly.
- In case of GR within 6 months from the date of relevant invoice, tax payable thereon is restricted to ITC availed earlier in respect of such inward supply.



# Refund

- Refund claim is required to be filed within 2 years from relevant date. No Time limit is applicable to amounts paid under protest.
- Refund order to be passed within 90 days from the date of receipt of application.
- 80% refund can be released provisionally and balance 20% after verification.
- For refund application < Rs. 5 Lakhs only declaration & proof for non passing of incidence of tax is required.

# Refund

- Refund claim available only in cases of ;
  - Export
  - Accumulated credit due to inverted duty structure
- Interest on delayed refund, if granted after 3 months from the date of receipt of application.



# Refund of wrongly paid CGST/SGST

- Registered dealer paid CGST/SGST on a transaction considering the same as intra-State supply, but which subsequently held to be an inter-State supply then upon payment of IGST, the refund CGST/SGST is allowed subject to conditions as may be prescribed.
- Same is vice versa applicable to IGST paid on Inter-State supply.



# GST Compliance Rating



- “GST compliance rating” where a dealer is given a rating and any fall in the rating below a prescribed level will have impact of blacklisting of a Dealer.
- While making a purchase from the dealer his compliance rating can be verified and decision of purchase will be dependent on the rating of selling dealer.
- GST compliance rating will work like CIBIL in the banking industry where borrower with good CIBIL scores is eligible for loan.
- The ITC on purchase from a blacklisted dealer shall not be available unless the rating of the dealer is improved to normal and on the other hand ITC from a non blacklisted is not assured by Govt. and it mainly depends on tax invoices and payment of due taxes.
- In case the above dealer file his return and pay due taxes with interest his rating shall be improved to normal and in that case reversed ITC can be reclaimed by the buyer.

# GST Compliance Rating

## Trigger points for blacklisting:

Depending on various factors following are the key points for blacklisting of a dealer:

- Continuous default for 3 months in paying ITC that has been reversed.
- Continuous default of 3 months or any 3 month-period over duration of 12 months in uploading outward supply details leading to reversal of ITC for others.
- Continuous short reporting of outward supply beyond a prescribed limit of 5% (of total turnover ) for a period of 6 months.
  
- The profiles for all dealers would be posted in public domain so that the dealer community is kept aware of the compliance profile of all registered dealers with whom they may have to deal with during the course of their business.



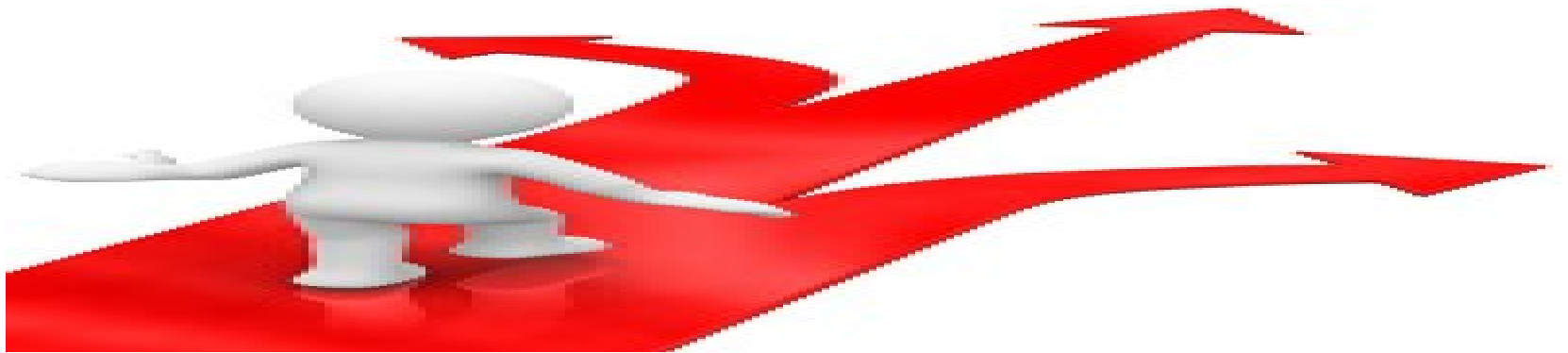
# GST Compliance Rating

## **Advantages of blacklisting a dealer:**

- It will act as panacea for regulating ITC for buyer. A proactive buyer can take decision based on the compliance rating of his seller
- Auto-SMS will be sent to all dealers who have pre-registered this dealer (black listed now) as their supplier.
- Blacklisted GSTINs cannot be uploaded in purchase details and result in denial of ITC
- Once blacklisting is lifted, buyers can avail unclaimed ITC subject to this dealer uploading outward supplies details along with payment of tax and interest.



# Transitory provisions



# Carry forward of Credit/ITC

Type of Credit	Conditions
<b>Amount of CENVAT Credit / ITC allowed to registered taxable person under GST</b>	<ul style="list-style-type: none"> <li>• Amount of eligible credit carried forward as per earlier law in return filed for the period ending immediately prior to appointed day                             <ul style="list-style-type: none"> <li>• Such amounts should also be eligible for ITC under GST Law</li> </ul> </li> </ul>
<b>Amount of un-availed* CENVAT credit of Capital goods allowed to registered taxable person under GST</b>	<ul style="list-style-type: none"> <li>• Un-availed CENVAT credit not carried forward in return filed for the period ending immediately prior to appointed day under earlier law                             <ul style="list-style-type: none"> <li>• Such amounts should also be eligible for ITC under GST Law</li> </ul> </li> </ul>
<b>Un-availed amount of CENVAT credit in respect of Capital goods =</b> Aggregate amount of CENVAT Credit (-) Credit already availed in respect of capital goods in earlier return	

# Eligibility of ITC on Inputs in Stock

Category of Persons	Eligible Duties & Taxes	Conditions
<p>Registered taxable person under GST who :</p> <ul style="list-style-type: none"> <li>• Was not liable to register under earlier law</li> <li>• Is engaged in manufacturing of exempt goods under earlier law</li> <li>• Has availed benefit of composition scheme under</li> </ul>	<p>Taxes in respect of:</p> <ul style="list-style-type: none"> <li>• inputs held in stock on appointed date</li> <li>• inputs contained in semi- finished or finished goods held in stock on appointed date</li> </ul>	<ul style="list-style-type: none"> <li>• Intended to be used for making taxable supplies</li> <li>• Not availed CENVAT credit under earlier law due to specified situations</li> <li>• Not paying tax under composition scheme in GST regime</li> </ul> <p>Such amounts should also be eligible for ITC under GST Law</p> <ul style="list-style-type: none"> <li>• Invoices pertaining to credit are not issued earlier than 12 months immediately preceding appointed</li> </ul>

# Eligible duties/taxes to be c/f

- Excise Duty
- Service Tax
- Special Additional Duty (SAD)
- Additional Excise Duty on Textile and Textile Articles
- Additional Excise Duty on Goods of Special Importance
- National Calamity Contingent Duty
- Counter veiling Duty (CVD)
  
- *Whether Krishi Kalyan Cess (KKC) to be carried forward in GST regime*



# Taxable person switching over to Composition

- Taxable person switching over to composition in GST regime has to pay/reverse credit of ITC in respect of inputs held in stock and inputs contained in finished goods in stock on the day immediately preceding the date of such switch over.
- Balance ITC if any shall be lapsed.

# Pending Refund Claims

- Any refund claim filed before appointed day to be paid in cash, if admissible under the provisions respective law.
- If the claim of refund is rejected fully or partially the amount of rejected claim would lapse.
- Credit Distribution of Service tax by ISD
- The ITC of any service received prior to appointed day by ISD shall be eligible for distribution even if the invoice is received on or appointed day.

# Other Transitional Provisions

## • Claim of Cenvat credit under earlier law

- Every proceeding of appeal, revision, review or reference relating to claim for Cenvat credit under earlier law shall be disposed of in accordance with provisions of earlier law and if admissible same is to be refunded in cash subject to Sec. 11B. and not allowed as ITC. If any credit is to be recoverable then same is to be recovered as an arrears of tax under GST Law and recovered credit not admissible as ITC.

# Other Transitional Provisions

## • Treatment of amount recovered or refunded in pursuance of assessment or adjudication

- If any tax, interest, fine or penalty becomes recoverable in pursuance of assessment or adjudication proceedings under earlier law instituted before or after appointed day then same is to be recovered as an arrears of tax under GST Law and recovered amount not admissible as ITC. If the same becomes refundable then same is to be refunded in cash subject to Sec. 11B and not allowed as ITC.

## • Treatment of amount recovered or refunded in pursuance of revision of returns

- Where any refund furnished under earlier law is revised and if any amount is recoverable then same shall be recovered as an arrears of as an arrears of tax under GST Law and recovered amount not admissible as ITC. If the same becomes refundable then same is to be refunded in cash subject to Sec. 11B.



**GROW & SHARE TOGETHER**

*Thanks!*

**Who Speaks Sows**



**Who Listens Reaps**