

Workshop on GST Input Tax Credit and related provisions including Transitional Provisions

Presenter –CA Mandar Telang

**organized by
SIRC of ICAI**

Legal Framework

- ❖ Definitions
- ❖ Utilisation of ITC for payment.
- ❖ Eligibility & Conditions
- ❖ Timing of ITC Availament
- ❖ Reduction in Input Tax Credit
- ❖ Negative List
- ❖ ITC sent to Job Work.
- ❖ Transitional Provisions – GST-GST

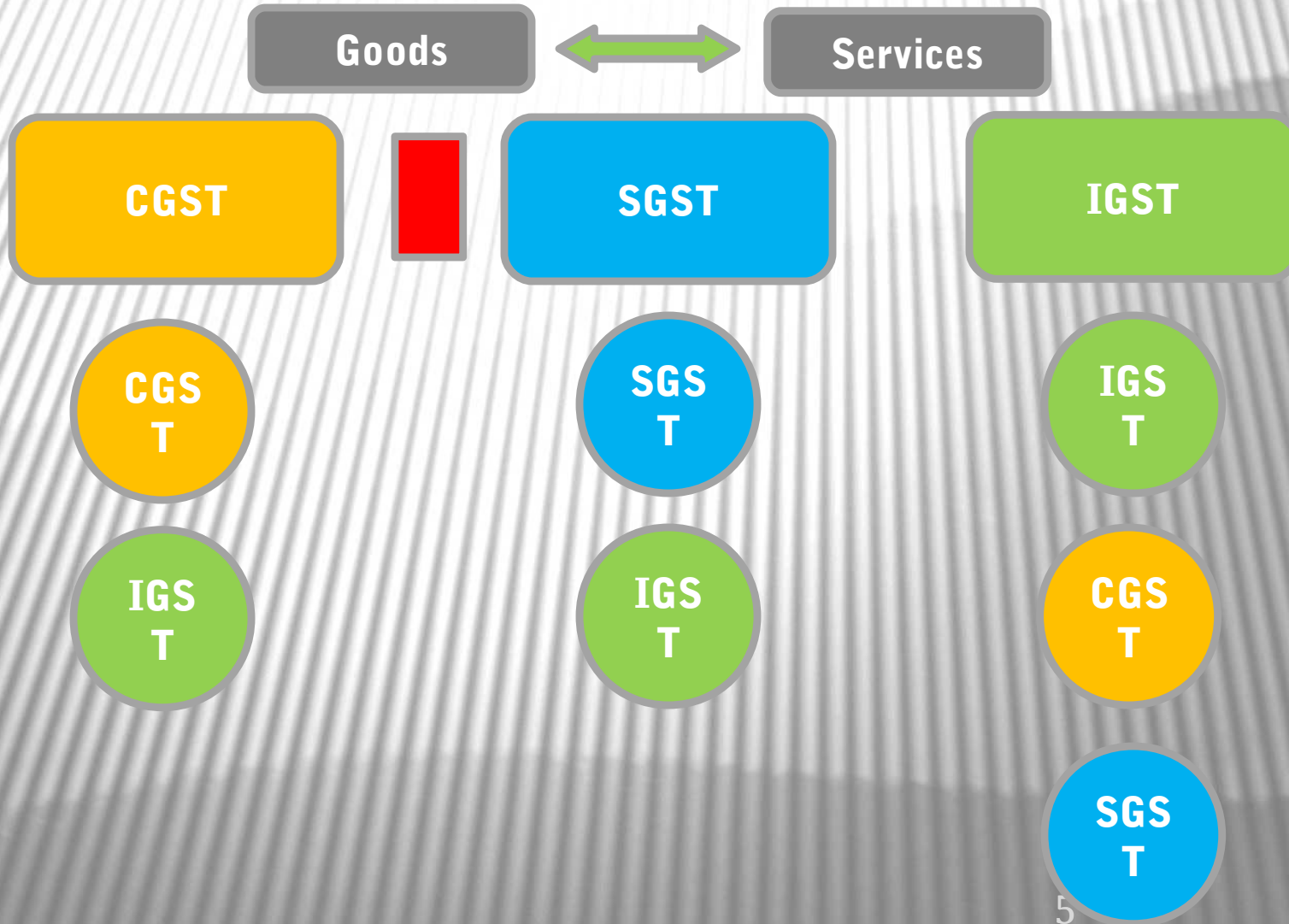
Definitions

- ❖ **Section 2 (52) – “Input”** means **any goods** other than capital goods used or intended to be used by a supplier **in the course or furtherance of business.**
- ❖ **Section 2(19) – “Capital goods”** means goods, the value of which is capitalised in the books of accounts of the person claiming the credit and which are used or intended to be used **in the course or furtherance of business;**
- ❖ **Section 2(53) – “Input Service”** means **any service** used or intended to be used by supplier **in the course or furtherance of business**
- ❖ **Section 2(55) -“Input tax”** in relation to a taxable person, means the IGST, including that on import of goods, CGST and SGST charged on **any supply of goods or services** to him and includes the tax payable under sub-section (3) of section 8, but does not include the tax paid under section 9.

Definitions

- ❖ **Input Tax** comprises of following
 - IGST charged on any supply of goods /services
 - IGST charged on import of goods.
 - CGST charged on any supply of goods/services
 - SGST charged on any supply of goods/services.
 - Tax payable u/s 8(3) – RCM cases
 - Excludes Tax Payable u/s 9 – Composition Levy
- ❖ **Input/ capital goods/ input services** - in the course or furtherance of business
- ❖ **Input**– Any goods (the value of which is not capitalized in the books)
- ❖ **Capital goods** – Any goods (the value of which is capitalized in the books)

Section -44 Utilisation of ITC Payment



Eligibility & Conditions

❖ **Every registered
taxable person
shall be eligible to**

Timing of Input Tax Credit Availment

- ❖ **Goods against which invoice are received in lots or instalment**, ITC shall be available upon receipt of Last lot or instalment.
- ❖ **Pipelines, Telecommunication Tower fixed to earth by foundation or structural support and such foundation and structural support**
 - one-third of the total input tax in the financial year in which the said goods are received.
 - two-third of the total input tax, including the credit availed in the first financial year, in the financial year immediately succeeding the year referred to in clause (a) in which the said goods are received
 - the balance of the amount of credit in any subsequent financial year
- ❖ **Maximum Time Limit for availment with reference to an invoice – Earlier of**
 - Date of furnishing of the return under section 34 for the month of September following the end of financial year to which such invoice or debit note or

Reduction in ITC

- ❖ **ITC in respect of services-** where a recipient fails to pay to the supplier of services, the amount towards the value of supply of services along with tax payable thereon **within a period of three months from the date of issue of invoice by the supplier**, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in the manner as may be prescribed.
- ❖ **Reduction in respect of capital goods** - Where the registered taxable person has claimed **depreciation on the tax component** of the cost of capital goods under the provisions of the Income Tax Act, 1961(43 of 1961), the input tax credit shall not be allowed on the said tax component.
- ❖ Where the goods and/or services are used by the registered taxable person **partly for the purpose of any business and partly for other purposes**, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business. – **Section 17(1)**

Reduction in ITC – Section 17(2)

- ❖ **Taxable + Zero Rated + Exempt** - Where the goods and / or services are used by the registered taxable person partly for effecting **(taxable supplies including zero-rated supplies)** under this Act or under the IGST Act, 2016 and **partly for effecting exempt supplies** under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.
- ❖ **Taxable Supply** – Supply of goods and /or services which is chargeable to tax under this Act.
- ❖ **Exempt Supply – It means following**
 - Supply of goods/ services which are not taxable under this Act.
 - Supply of goods/ services which attract NIL rate of Tax
 - Supply of goods/service which may be exempt from tax u/s 11.

Explanation- For the purposes of section 17(2), exempt supplies shall include supplies on which recipient is liable to pay tax on reverse charge basis under

Reduction in ITC

- ❖ **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 sub-section (2), or avail of, every month, an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month.

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

- ❖ **Section 17(5)** - The Central or a State Government may, by notification issued in this behalf, prescribe the manner in which the credit referred to in sub-sections (1) and (2) above may be attributed.

Negative List – ITC Section 17(4)

- ❖ **Motor vehicles and other conveyances** except when they are used
 - for making the following taxable supplies, namely
 - (A) further supply of such vehicles or conveyances ; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving, flying, navigating such vehicles or conveyances;
 - for transportation of goods.
- ❖ Goods/ services on which tax has been paid under **composition scheme**
- ❖ Goods/ services used for **personal consumption**
- ❖ **Goods lost, stolen, destroyed, written off, disposed of by way of gift or free samples.**
- ❖ Any Tax paid in terms of **section 67, 89 and 90**

Negative List – ITC Section 17(4)

❖ **Supply of goods and services, namely,**

- Food and beverages,
- outdoor catering,
- beauty treatment, health services, cosmetic and plastic surgery

(except where such inward supply of aforesaid goods or services of a particular category is used by a registered taxable person for making an outward taxable supply of the same category of goods or services)

- Membership of a club, health and fitness centre,
- Rent-a-cab, life insurance, health insurance (except where the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force); and
- Travel benefits extended to employees on vacation such as leave or home travel concession.

Negative List – ITC Section 17(4)

- ❖ **Works contract services** when supplied for construction of immovable property, **other than plant and machinery**, except where it is an input service for further supply of works contract service;
- ❖ Goods or services received by a taxable person for **construction of an immovable property** on his own account, **other than plant and machinery**, even when used in 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.**
- ❖ Plant and Machinery’ means
 - apparatus, equipment, machinery,
 - pipelines, telecommunication tower fixed to earth by foundation or structural support that are used for making outward supply
 - and includes such foundation and structural supports
 - **but excludes land, building or any other civil structure.**¹³

Transitional Provisions – GST to GST

- ❖ **Registration within prescribed period:** A person who has applied for registration under the Act **within thirty days from the date** on which he becomes liable to 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

NO ITC after the expiry of One Year from the date of Issue of Tax Invoice relating to such supply

on the day immediately preceding the date from which ***he becomes liable to pay tax under the provisions of this Act.***

- ❖ **Voluntary registration:** A person, who takes voluntary registration shall be entitled to take credit of input tax in respect of
 - inputs held in stock and
 - inputs contained in semi-finished or

Transitional Provisions – GST to GST

- ❖ **Composition to Normal Levy:** Where any registered taxable person ceases to pay tax under section 9, he shall be entitled to take credit of input tax in respect of

NO ITC after the expiry of One Year from the date of Issue of Tax Invoice relating to such supply

- inputs held in stock,
- inputs contained in semi-finished or
- finished goods held in stock and
- **on capital goods** (subject to reduction by percentage points)

on the day immediately preceding the date from which he becomes liable to pay tax under section 8:

- ❖ **Exempt to Taxable:** Where an exempt supply of goods or services by a registered taxable person becomes a taxable supply, such person shall, be entitled to take credit of

Transitional Provisions – GST to GST

- ❖ **Taxable to Exempt / Normal to Composition** - Where any registered taxable person who has availed of input tax credit switches over as a taxable person for paying tax under section 9 or, where the goods and / or services supplied by him **become exempt absolutely under section 11**, he shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of
 - input tax in respect of inputs held in stock and
 - inputs contained in semi-finished or
 - finished goods held in stock and
 - on capital goods (as prescribed)

1. **What if there is change in Tax Rate from say 5% to NIL ?**
2. **Conditional Exemptions ?**

Transitional Provisions – GST to GST

- ❖ **Transfer of ITC in case of change in Constitution** - Where there is a change in the constitution of a registered taxable person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered taxable person shall be allowed to transfer the input tax credit that remains unutilized in its books of accounts to such sold, merged, demerged, amalgamated, leased or transferred business in the manner prescribed.
- ❖ In case of **supply of capital goods or plant and machinery, on which input tax credit has been taken**, the registered taxable person shall pay
 - an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by the percentage points as may be specified in this behalf or
 - the tax on the transaction value of such capital goods or plant and machinery under sub-section (1) of section 15, **whichever is higher**.
- ❖ For the purpose of computation of special circumstances prescribed under section 18, there shall be rules prescribing manner of calculation

Section 20 –ITC in respect of Inputs/ capital goods sent for job work

- ❖ The “principal” referred to in section 55 shall, subject to such conditions and restrictions as may be prescribed, be allowed **input tax credit on**
 - Inputs/ Capital goods sent to a job-worker for job-work or
 - the inputs /capital goods are directly sent to a job worker for job-work without their being first brought to his place of business.
- ❖ **Limitation:**
 - Where the **inputs** sent for job-work are not received back by the “principal” after **completion of job-work or otherwise** or
 - **Inputs** are not supplied from the place of business of the job worker in accordance with clause (b) of sub-section (1) of section 55 (i.e. on payment of tax within India or with or without payment of tax for export) **within a period of one year of their being sent out,**
 - Where the **capital goods** sent for job-work are not received back by the “principal” within **3 years from their being sent out.**

Section 21 - Manner of distribution of credit by Input Service Distributor

- ❖ An Input service distributor may distribute credit by way of issue of prescribed document, containing the amount of input tax credit being distributed as follows:

Act	Sec.	Location of Distributor & Recipient of Credit	Manner of Distribution of Credit
CGST	21(1)	Different State	CGST as CGST or IGST & IGST as IGST or CGST
SGST	21(1)	Different State	SGST as SGST or IGST
CGST	21(2)	Same State	CGST & IGST as CGST
SGST	21(2)	Same State	SGST & IGST as SGST

Section 21(3) - Conditions for Distribution of Credit by Input Service Distributor

- ❖ The credit can be distributed against a prescribed document issued to each of the recipients of the credit so distributed, and such document shall contain details as may be prescribed;
- ❖ The amount of the credit distributed shall not exceed the amount of credit available for distribution;
- ❖ The credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;
- ❖ The credit of tax paid on input services attributable to more than one recipient of credit shall be distributed only amongst such recipient(s) to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

Transitional Provision – Earlier Laws to GST

❖ CENVAT C/f in Return

- Section 167 – General Case
- Section 191 – Centralised Registration
- Section – 190 ISD.

❖ CENVAT not c/f in Return

- Section 168 – unavailed CENVAT Credit – Capital Goods
- Section 169 / 170 – Only in respect of inputs held in stock

THANK YOU.
