

INPUT TAX CREDIT UNDER MODEL GST LAW

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Definitions – Input Tax

“**Input tax**” has been defined in section 2 (55) of CGST/SGST Act as :

"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.

- It implies that input tax consist of IGST & CGST in CGST Act and IGST & SGST in SGS Act.
- Credit of tax paid on reverse charge basis can also be taken by the taxable person.

Definitions – Input Tax

“**Input tax**” has been defined in section 2 (15) of IGST Act, as :

"input tax" in relation to a taxable person, means the Integrated Goods and Services Tax, including that on import of goods, Central Goods and Services Tax or State Goods and Services Tax, as the case may be, charged on any supply of goods and/or services to him and includes the tax payable under sub-section (2) of section 5, but does not include the tax paid under section 9 of the CGST/SGST Act;

- In the IGST Act, input tax consists of all three taxes, IGST, CGST and SGST.
- Credit of all three can be used for discharging IGST liability.

Definitions – Input, Input Service & Capital Goods

“**Input**” has been defined in section 2 (52) of MGL, as :

“input” means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

“**Input Service**” has been defined in section 2 (55) of MGL, as :

“input service” means any service used or intended to be used by a supplier in the course or furtherance of business.

“**Capital Goods**” has been defined in section 2 (19) of MGL, as :

“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 16 (1) – Enabling Provisions for taking Credit

Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed and within the time and manner specified in section 44, be entitled to take credit of input tax charged on any supply of goods or services to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person:

Section 44 (2) : *The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger, in accordance with section 36, to be maintained in the manner as may be prescribed.*

Section 44 (4) : *The amount available in the electronic credit ledger may be used for making any payment towards output tax payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.*

Section 16 (1) – Related Provisions for taking Credit

Section 36 : *Claim of input tax credit and provisional acceptance thereof*

(1) Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self-assessed in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed.

(2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax liability as per the return referred to in sub-section (1).

Section 44 (8) : *Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order:*

- (a) self-assessed tax, and other dues related to returns of previous tax periods;
- (b) self-assessed tax, and other dues related to return of current tax period;
- (c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 66 or 67

Section 44 – Payment of Tax (Manner)

Section 44 (5) : (a) *The amount of input tax credit on account of IGST available in the electronic credit ledger shall first be utilized towards payment of IGST and the amount remaining, if any, may be utilized towards the payment of CGST and SGST, in that order.*

(b) *The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST.*

(c) *The input tax credit on account of CGST shall not be utilized towards payment of SGST.*

Section 44 (5) – Order of using Credit

Input Credit



Output Liability



- **Input tax Credits ('ITC')**
- First utilize CGST
- Next utilize IGST

Section 44 (5) – Order of using Credit

Input Credit

SGST

Output Liability

CGST

SGST

IGST



- **Input tax Credits ('ITC')**
- First utilise SGST
- Next utilise IGST

Section 44 (5) – Order of using Credit

Input Tax Credit

Input Credit



Output Liability



- **Input tax Credits ('ITC')**
- IGST can be utilized against IGST or CGST or SGST in this order only
- IGST is the best credit type



Section 44 – Payment of Tax & Refund

Section 44 (6) : *The balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount payable under the Act or the rules made thereunder may be refunded accordance with the provisions of section 48 and the amount collected as CGST/SGST shall stand reduced to that extent.*

Section 48(1): *Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application in that regard to the proper officer of IGST/CGST/SGST before the expiry of two years from the relevant date in such form and in such manner as may be prescribed:*

PROVIDED that a registered taxable person, claiming refund of any balance in the electronic cash ledger as per sub-section (6) of section 44, may claim such refund in the return furnished under section 34 in such manner as may be prescribed.

Section 48 – Refund of Unutilized Credit

(3) Subject to the provisions of sub-section (10), a taxable person may claim refund of any unutilized input tax credit at the end of any tax period:

PROVIDED that no refund of unutilized input tax credit shall be allowed in cases other than exports including zero rated supplies or in cases where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies, other than nil rated or fully exempt supplies:

PROVIDED FURTHER that no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

PROVIDED ALSO that no refund of input tax credit shall be allowed if the supplier of goods or services claims refund of output tax paid under the IGST Act, 2016.

Section 17 (4) – Blocked Credit

Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1), (2) (3) and (4) of section 18, input tax credit shall not be available in respect of the following:

*(a) **motor vehicles and other conveyances** (a vessel, an aircraft, and a vehicle), except **when they are used***

(i) 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;

(ii) transportation of goods, or

(b) Supply of goods and services namely,

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, except where such inward supply of 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;

Section 17 (4) – Blocked Credit

(ii) membership of a club, health and fitness centre,

(iii) 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

(iv) travel benefits extended to employees on vacation such as leave or home travel concession.

(c) 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;

(d) 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;

Explanation 1 – For the purpose of this clause, the word “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

Section 17 (4) – Blocked Credit

Explanation 2 – ‘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 structures.

(e) goods and/or services on which tax has been paid under section 9;

(f) goods and/or services used for personal consumption;

(g) goods lost, stolen destroyed, written off or disposed of by way of gift or free samples; and

(h) any tax paid in terms of sections 67, 89 or 90.

Section 67 : Tax not paid or short paid or credit wrongly availed/utilized by reason of fraud or any wilful misstatement or suppression of facts

Section 89 : Detention, seizure and release of goods and conveyances in transit

Section 90: Confiscation of goods and/or conveyances and levy of penalty

Section 16 (1) – Conditions of taking credit

PROVISO

PROVIDED that credit of input tax in respect of pipelines and telecommunication tower fixed to earth by foundation or structural support including foundation and structural support thereto shall not exceed –

- (a) one- third of the total input tax in the financial year in which the said goods are received,*
- (b) two-third of the total input tax, including the credit availed in the first financial year, in the financial year referred to in clause (a) in which the said goods are received, and*
- (c) The balance of the amount of credit in any subsequent financial year.*

Section 16 (2) – Conditions for taking Credit

Notwithstanding anything contained in this section, but subject to the provisions of section 36, no registered taxable person shall be entitled to the credit of any input tax in respect of any supply of goods and/or services to him unless,-

- (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act or the IGST Act, or such other taxpaying document as may be prescribed;*
- (b) he has received the goods and/or services;*
- (c) the tax charged in respect of such supply has been actually paid to the appropriate Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and*
- (d) he has furnished the return under section 34:*

Section 16 (2) – Conditions for taking Credit

PROVIDED that where the goods against an invoice are received in lots or instalments, the registered taxable person shall be entitled to the credit upon receipt of the last lot or instalment.

Explanation.-For the purpose of clause (b), it shall be deemed that the taxable person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such taxable 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.

PROVIDED FURTHER that where a recipient fails to pay to the supplier of services, the amount towards the value of supply of services alongwith 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.

Section 16 – Other Conditions for taking Credit

(3) 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, the input tax credit shall not be allowed on the said tax component.

(4) A taxable person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services after furnishing of the return under section 34 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, which is earlier

Section 17 – Apportionment of Credit

(1) *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.*

(2) *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 Act, 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.*

Explanation – For the purpose of this sub-section, exempt supplies shall include supplies on which recipient is liable to pay tax on reverse charge basis under sub-section (3) of section 8.

3) *A **banking company or a financial institution including NBFC**, 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 fifty per cent of the eligible input tax credit** on inputs, capital goods and input services in that month.*

Explanation – option once exercised shall not be withdrawn during the remaining part of the year.

Registration and Credit – Section 18(1)

Credit in case Registration applied with in given time

- A person who has applied for registration under the Act within thirty days from the date on which he becomes liable to registration
- and has been granted such registration shall,
- subject to such conditions and restrictions as may be prescribed,
- 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 under the provisions of this Act.

Registration and Credit –Section 18(2)

Credit in case of Voluntarily Registration

- A person, who takes registration under sub-section (3) of section 23 (Voluntarily Registration),
- shall, subject to such conditions and restrictions as may be prescribed,
- 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.

Composition to Regular scheme – Section 18(3)

- Where any registered taxable person ceases to pay tax under section 9 (Composition),
- he shall, subject to such conditions and restrictions as may be prescribed,
- 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
- and on capital goods
- on the day immediately preceding the date from which he becomes liable to pay tax under section 8.

PROVIDED that the credit on capital goods shall be reduced by such percentage points as may be prescribed in this behalf.

Exempt to Taxable Supply - Section 18(4)

- Where an exempt supply of goods or services by a registered taxable person becomes a taxable supply,
- such person shall, subject to such conditions and restrictions as may be prescribed,
- 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 relating to such exempt supply and on capital goods
- exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

PROVIDED that the credit on capital goods shall be reduced by such percentage points as may be prescribed in this behalf.

Section 18 – Other Conditions

(5) A taxable person shall not be entitled to take input tax credit under sub-section (1), (2), (3) or (4), as the case may be, in respect of any supply of goods and/or services to him after **the expiry of one year from the date of issue of tax invoice** relating to such supply.

(9) The amount of credit under sub-section (1), (2) and (3) and (4) shall be calculated in such manner as may be prescribed.

(6) 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.

Section 18 – Other Conditions

(7) 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,
- reduced by such percentage points as may be prescribed, on the day immediately preceding the date of such switch over or , as the case may be, the date of such exemption

PROVIDED that the credit on capital goods shall be reduced by such percentage points as may be prescribed in this behalf.

(8) The amount payable under sub-section (7) shall be calculated in such manner as may be prescribed.

Section 18 – Other Conditions

Removal of Capital Goods

(10) **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:

PROVIDED FURTHER that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods under sub-section (1) of section 15.

Recovery Provisions – Section 19

Section 19 provides Recovery of Input Tax Credit and Interest thereon

Where credit has been taken wrongly, the same shall be recovered from the registered taxable person in accordance with the provisions of this Act.

Definitions – Input Service Distributor

“**Input Service Distributor**” has been defined in section 2 (54) of MGL, as :

"Input Service Distributor" means an office of the supplier of goods and/or services which receives tax invoices issued under section 28 towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of CGST (SGST / State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above;

Input Service Distributor – Section 21

- Note that in case of inter-state distribution of input service tax credit by an ISD, credit of respective input service on account of SGST or CGST or IGST will be transferred as IGST in all cases. In case of intra-state distribution of input service tax credit by an ISD, SGST and IGST credit shall be distributed as SGST credit; and CGST and IGST credit shall be distributed as CGST credit.

- Conditions for distributing credit
 - Credit can be distributed against a prescribed document issued to each of the recipient of the credit so distributed, and such document shall contain details as may be prescribed;
 - the amount of 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

Input Service Distributor – Section 21

- Conditions for distributing credit
 - the credit 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
 - the credit attributable to all recipient of credit shall be distributed only amongst such recipients of credit shall be distributed amongst such recipients 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 recipients and which are operational in the current year, during the said relevant period

Recovery of excess distributed credit– Section 2

Manner of recovery of credit distributed in excess

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 21 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipient(s) along with interest, and the provisions of section 66 or 67, as the case may be, shall apply mutatis mutandis for effecting such recovery.

Section 20 - Credit on goods sent to Job Work

(1) 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 sent to a job-worker for job-work.

(2) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the “principal” shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without their being first brought to his place of business.

Section 20 - Credit on goods sent to Job Work

(3) Where the inputs sent for job-work are not received back by the “principal” after completion of job-work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (b) of sub-section (1) of section 55 within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out:

PROVIDED that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

(4) The “principal” shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job-worker for job-work.

Section 20 - Credit on goods sent to Job Work

(5) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the “principal” shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job-work without their being first brought to his place of business.

(6) Where the capital goods sent for job-work are not received back by the “principal” within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out:

PROVIDED that where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

(7) Nothing contained in sub-section (3) or sub-section (6) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job-worker for job-work.

First Return– Section 35

Every registered taxable who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return filed by him after grant of registration.

eturns & Credit - Section 37

Matching, Reversal and reclaim of input tax credit

(1) The details of every inward supply furnished by a registered taxable person (hereinafter referred to in this section as the 'recipient') for a tax period shall, in the manner and within the time prescribed, be matched -

(a) with the corresponding details of outward supply furnished by the corresponding taxable person (hereinafter referred to in this section as the 'supplier') in his valid return for the same tax period or any preceding tax period,

(b) with the additional duty of customs paid under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of goods imported by him, and (c) for duplication of claims of input tax credit.

eturns & Credit - Section 37

Matching, Reversal and reclaim of input tax credit

(2) The claim of input tax credit in respect of invoices and/or debit notes relating to inward supply that match with the details of corresponding outward supply or with the additional duty of customs paid shall, subject to the provisions of section 16 or 17, as the case may be, be finally accepted and such acceptance shall be communicated, in the manner as may be prescribed, to the recipient.

(3) Where the input tax credit 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 both such persons in the manner as may be prescribed.

eturns & Credit - Section 37

Matching, Reversal and reclaim of input tax credit

(4) The duplication of claims of input tax credit shall be communicated to the recipient in the manner as may be prescribed.

(5) The amount in respect of which any discrepancy is communicated under subsection (3) 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 manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(6) The amount claimed as input tax credit 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.

eturns & Credit - Section 37

Matching, Reversal and reclaim of input tax credit

(7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the supplier declares the details of the invoice and/or debit note in his valid return within the time specified in sub-section (9) of section 34.

(8) A recipient in whose output tax liability any amount has been added under subsection (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 45 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.

eturns & Credit - Section 37

Matching, Reversal and reclaim of input tax credit

(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed:

PROVIDED that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

(10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) 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 on the amount so added at the rate specified in sub-section (3) of section 45.

Returns, Credit Note & Input Credit - Section 38

Matching, Reversal and reclaim of reduction in output tax liability

(1) The details of every credit note relating to outward supply furnished by a registered taxable person (hereinafter referred to in this section as the 'supplier') for a tax period shall, in the manner and within the time prescribed, be matched-

(a) with the corresponding reduction in the claim for input tax credit by the corresponding taxable person (hereinafter referred to in this section as the 'recipient') in his valid return for the same tax period or any subsequent tax period, and

(b) for duplication of claims for reduction in output tax liability.

Returns, Credit Note & Input Credit - Section 38

Matching, Reversal and reclaim of reduction in output tax liability

(2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in the manner as may be prescribed, to the supplier.

(3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.

(4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in the manner as may be prescribed.

returns, Credit Note & Input Credit - Section 38

Matching, Reversal and reclaim of reduction in output tax liability

(5) The amount in respect of which any discrepancy is communicated under subsection (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.

Returns, Credit Note & Input Credit - Section 38

Matching, Reversal and reclaim of reduction in output tax liability

(7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 34.

(8) A supplier in whose output tax liability any amount has been added under subsection (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 45 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.

Returns, Credit Note & Input Credit - Section 38

Matching, Reversal and reclaim of reduction in output tax liability

(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed:

PROVIDED that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

(10) The amount reduced from output tax liability in contravention of the provision of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 45 .

TRANSITIONAL PROVISIONS – CENVAT Credit

Section 167: Amount of CENVAT credit carried forward in a return to be allowed as input tax credit

*A registered taxable person, other than a person opting to pay tax under section 9 shall be **entitled to take**, in his electronic credit ledger, the **amount of cenvat credit carried forward in the return** relating to the period ending with the date immediately preceding the appointed day, furnished, by him under the earlier law in such manner as may be prescribed:*

PROVIDED that the registered taxable person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act.

Section 168: Unavailed CENVAT credit on capital goods, not carried forward in a return, to be allowed in certain situations

A registered taxable person, other than a person opting to pay tax under section 9, shall be entitled to take, in his electronic credit ledger, credit of the unavailed cenvat credit in respect of capital goods, not carried forward in a return, furnished under the earlier law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

PROVIDED that the registered taxable person shall not be allowed to take credit unless the said credit was admissible as cenvat credit under the earlier law and is also admissible as input tax credit under this Act:

Explanation 1.- For the purposes of this section, the expression “unavailed cenvat credit” means the amount that remains after subtracting the amount of cenvat credit already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of cenvat credit to which the said person was entitled in respect of the said capital goods under the earlier law.

Explanation 2.- Capital goods means the goods as defined under clause (a) of rule 2 of the CENVAT Credit Rules, 2004.

Section 169: Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations

- (1) *A registered taxable person, who was not liable to be registered under the earlier law, who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012-Service Tax, dated 20.06.2012 or a first stage dealer or second stage dealer or a registered importer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed date, subject to the following conditions:*
- i. such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;*
 - ii. the said taxable person passes on the benefit of such credit by way of reduced price to the recipient;*
 - iii. the said taxable person is eligible for input tax credit on such inputs under this Act;*

Section 169: Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations

- iv. the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of such inputs;*
- v. such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and*
- vi. the supplier of services is not eligible for any abatement under the Act:*

PROVIDED that where a registered taxable person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then such registered taxable person shall, subject to such conditions, limitations and safeguards as may be prescribed, be allowed to take credit at the rate and in the manner prescribed.

(2) The amount of credit under sub-section (1) shall be calculated in such manner as may be prescribed.

Section 170: Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations

(1) A registered taxable person, who was engaged in the manufacture of nonexempted as well as exempted goods under the Central Excise Act, 1944 (1 of 1944) or provision of non-exempted as well as exempted services under Chapter V of Finance Act, 1994 (32 of 1994), shall be entitled to take, in his electronic credit ledger,

(a) the amount of Cenvat credit carried forward in a return furnished under the earlier law by him in terms of section 167; and

(b) the amount of Cenvat credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to exempted goods or services, in terms of section 169.

Section 171: Credit of eligible duties and taxes in respect of inputs or input services during transit

(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid before the appointed day, subject to the condition that the invoice or any other duty/tax paying document of the same was recorded in the books of accounts of such person within a period of thirty days from the appointed day:

PROVIDED that the aforesaid period of thirty days may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding thirty days.

(2) The said registered taxable person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under sub-section (1).

Section 172: Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme

- (1) A registered taxable person, who was either **paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable** under the earlier law (hereinafter referred to in this section as a “composition taxpayer”), shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed date subject to the following conditions:
 - i. such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;
 - ii. the said person is not paying tax under section 9;
 - iii. the said taxable person is eligible for input tax credit on such inputs under this Act;
 - iv. the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of inputs; and
 - v. such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.
- (2) The amount of credit under sub-section (1) shall be calculated in such manner as may be prescribed.

Eligible Duties and Taxes under Section 170,171 & 172

■ CGST

- Excise duty specified in First Schedule to CETA, 1985
- Excise duty specified in Second Schedule to CETA, 1985
- Additional duty of excise leviable under Section 3 of Additional Duties of Excise (Textile and Textile Articles) Act, 1978
- Additional duty of excise leviable under Section 3 of Additional Duties of Excise (Goods of Special Importance) Act, 1957
- NCCD
- Additional duty leviable under Section 3(1) of Customs Tariff Act, 1975 – CVD
- Additional duty leviable under Section 3(5) of Customs Tariff Act, 1975 – SAD
- Service Tax leviable under section 66B of the Finance Act, 1994

■ SGST

- Value Added Tax

Section 190: Credit distribution of service tax by ISD

*Notwithstanding anything to the contrary contained in this Act, the **input tax credit on account of any services received prior to the appointed day** by an Input Service Distributor **shall be eligible for distribution as credit** under this Act even if the invoice(s) relating to such services is received on or after the appointed day.*

Section 191: Provision for transfer of unutilized Cenvat credit by taxable person having centralized registration under the earlier law

Where a taxable person having centralized registration under the earlier law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of cenvat credit carried forward in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

PROVIDED that if the taxable person files his return for the period ending with the day immediately preceding the appointed day within 3 months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:

PROVIDED FURTHER that the taxable person shall not be allowed to take credit unless the said amount admissible as input tax credit under this Act:

PROVIDED ALSO that such credit may be transferred to any of the registered taxable persons having the same PAN for which the centralized registration was obtained under the earlier law.

Section 192: Tax paid on goods lying with agents to be allowed as credit-SGST Law

Where any goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such goods subject to fulfilment of the following conditions:

- i. the agent is a registered taxable person under this Act;
- ii. both the principal and the agent declare the details of stock of goods lying with such agent on the date immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf;
- iii. the invoices for such goods had been issued not earlier than twelve months immediately preceding the appointed day; and
- iv. the principal has either reversed or not availed of the input tax credit in respect of such goods

Section 193: Tax paid on capital goods lying with agents to be allowed as credit-SGST Law

Where any capital goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such capital goods subject to fulfillment of the following conditions:

- i. the agent is a registered taxable person under this Act;
- ii. both the principal and the agent declare the details of the stock of capital goods lying with such agent on the date immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf;
- iii. the invoices for such capital goods had been issued not earlier than twelve months immediately preceding the appointed day; and
- iv. the principal has either not availed of the input tax credit in respect of such capital goods or, having availed of such credit, has reversed the said credit, to the extent availed of by him.

Section 197: Transitional provisions for availing Cenvat credit in certain cases

Where any Cenvat credit availed for the input services provided under the earlier law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed provided that the taxable person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

Section 179: Pending refund claims to be disposed of under earlier law

Every claim for refund filed by any person before or after the appointed day, for refund of any amount of cenvat credit, duty, tax or interest paid before the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944):

PROVIDED that where any claim for refund of Cenvat credit is fully or partially rejected, the amount so rejected shall lapse:

PROVIDED FURTHER that no refund claim shall be allowed of any amount of Cenvat credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

Section 180: Refund claims filed after the appointed day for goods cleared or services provided before the appointed day and exported before or after the appointed day to be disposed of under earlier law

Every claim for refund of any duty or tax paid under earlier law, filed after the appointed day, for the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of earlier law:

PROVIDED that where any claim for refund of Cenvat credit is fully or partially rejected, the amount so rejected shall lapse:

PROVIDED FURTHER that no refund claim shall be allowed of any amount of Cenvat credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

Section 181: Refund claims filed after the appointed day for payments received and tax deposited before the appointed day in respect of services not provided

Every claim for refund of tax deposited under the earlier law in respect of services not provided, filed after the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of subsection (2) of section 11B of the Central Excise Act, 1944 (1 of 1944).

Section 182: Claim of CENVAT credit to be disposed of under the earlier law

(1) Every proceeding of appeal, revision, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day, under the earlier law shall be disposed of in accordance with the provisions of earlier law, and **any amount of credit found to be admissible to the claimant shall be refunded to him in cash**, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of subsection (2) of section 11B of the Central Excise Act, 1944 and shall not be admissible as input tax credit under this Act:

PROVIDED that no refund claim shall be allowed of any amount of Cenvat credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(2) Every proceeding of appeal, revision, review or reference relating to recovery of CENVAT credit initiated whether before, on or after the appointed day, under the earlier law shall be disposed of in accordance with the provisions of earlier law, and if any amount of credit becomes recoverable as a result of appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

Section 183: Finalization of proceedings relating to output duty liability

- (1) Every proceeding of appeal, revision, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall be recovered as an arrear of duty or tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.
- (2) Every proceeding of appeal, revision, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and shall not be admissible as input tax credit under this Act.

Section 184: Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings

- (1) Where in pursuance of an assessment or adjudication proceedings instituted whether before, on or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes recoverable from the taxable person after the appointed day, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.
- (2) Where in pursuance of an assessment or adjudication proceedings instituted whether before, on or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

Section 185: Treatment of the amount recovered or refunded pursuant to revision of returns

- (1) Where any return, furnished under the earlier law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of cenvat credit is found to be inadmissible, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.
- (2) Where any return, furnished under the earlier law, is revised after the appointed day but within the time limit specified for such revision under the earlier law and if, pursuant to such revision, any amount is found to be refundable or cenvat credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

THANKS

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Transfer of Credit – Section 14 (IGST)

(1) On utilization of input tax credit availed under this Act for payment of tax dues under the CGST Act as per sub-section (5) of section 11, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the CGST account in the manner and time as may be prescribed.

(2) On utilization of input tax credit availed under this Act for payment of tax dues under the SGST Act as per sub-section (5) of section 11, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and shall be apportioned to the appropriate State government and the Central Government shall transfer the amount so apportioned to account of the appropriate State Government in the manner and time as may be prescribed.