

# Input Tax Credit under GST



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# What is Input Tax Credit (ITC) ?

“input tax credit” means the credit of input tax;

“input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

- IGST paid on Imports;
- Tax payable under RCM

but does not include the tax paid under the composition levy;

# Conditions for taking ITC

1. Used or intended to be used in the course or furtherance of his business;
2. Possession of a tax invoice or debit note;
3. Received the goods or services or both;
4. Tax charged in respect of such supply has been actually paid to the Government;
5. Has furnished the return under section 39;

*(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;*

# Blocked Credits

1. Motor vehicles
  - a. Purchase of Motor vehicles for transportation of persons, vessels and aircraft;
  - b. General insurance, servicing, repair and maintenance of above;
  - c. Leasing, renting or hiring of motor vehicles, vessels or aircraft
2. Construction service;
3. Tax paid in accordance with the provisions of sections 74, 129 and 130;
4. Others....

# Issues

1. Tax not paid by the supplier;
2. Time limit for claiming ITC – Forward & Reverse;
3. Sequence of claiming ITC [Sec 49, 49A & 49B; Rule 88A];
4. Interest on delayed tax payment or ITC reversed;
5. Payment in Form GST DRC 03 from ITC [Sec 41 & 43A];
6. Maximum ITC allowed to be claimed [Rule 36(4)];
7. Blocking of ITC [Rule 86A];
8. Minimum cash payment [Rule 86B];
9. ITC from Fake / Non-existing firms;

# Interest Provision [Sec 50(1)]

Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

*Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.*

# Rate of Interest 24% ?

Sec 50(3)

A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

# Payment from ITC in DRC 03

## Sec 41 - Claim of input tax credit and provisional acceptance thereof.

- (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.
- (2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.



# Maximum ITC allowed to be claimed [Rule 36(4)]

S.No.	Activity	Prior to 01.01.2021	W.e.f. 01.01.2021
1.	Eligible ITC available in the purchase register	1,00,000	1,00,000
2.	Eligible ITC as per <a href="#">GSTR-2B</a>	80,000	80,000
3.	ITC to be claimed as a provisional credit	20,000	4,000 (80000*5%)
4.	Total ITC to be claimed in <a href="#">GSTR-3B</a>	1,00,000 (80000+20000)	84,000 (80000+4000)
5.	ITC disallowed in <a href="#">GSTR-3B</a> of January , 2021	-	16,000

# Blocking of ITC [Rule 86A]

(1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having **reasons to believe** that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as

- a) the credit of input tax has been availed on the strength of tax invoices or debit notes .....
  - i. issued by a registered person who has been **found non-existent or not to be conducting any business** from any place for which registration has been obtained; or
  - ii. **without receipt of goods or services** or both; or
- b) ..... **the tax charged in respect of which has not been paid to the Government**; or
- c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
- d) .....**not in possession of a tax invoice or debit note or any other document** prescribed under [rule 36](#).

may, for **reasons to be recorded in writing**, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under [section 49](#) or for claim of any refund of any unutilised amount.

(2)The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.

# Min. cash payment [Rule 86B]

Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability, in cases where the **value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:**

Provided that the said restriction shall not apply where –

- (a) Promoter have paid **more than one lakh rupees as income tax** under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years .....; or
- (b) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of subsection (3) of section 54; or
- (c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or
- (d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or
- (e) the registered person is – (i) Government Department; or, (ii) a Public Sector Undertaking; or (iii) a local authority; or (iv) a statutory body:

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit

# Time limit to claim ITC

## Sec 16(4)

A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

## Clause (f) to Sec 31(3)

a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

*Time Limit provided in Law is binding – ALD Automotive (P) Ltd. (SC)*

# Sequence of utilizing ITC

**Sec 49A:** Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.

**Sec 49B:** Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.

# Thank You



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