ATHENA NEWSLETTER

GST 10-point Series

A quick and efficient mode to understand important aspects of the biggest tax reform in India

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01

Manner of taking Input tax credit - conditions and restrictions

Registered taxable person shall be entitled to take credit of input tax only if the following conditions are satisfied:

a. he is in possession of a tax invoice, debit note, supplementary invoice or such other *taxpaying document* as prescribed, issued by registered supplier;
b. he has *received* the goods or services;
c. the tax charged in respect of such supply has been *actually paid* to the credit of the appropriate government; and
d. he has furnished the *return under section 27*

02

Return furnished under section 27 by a registered taxable person without payment of full tax due as per such return shall not be treated as a valid return for allowing input tax credit in respect of supplies made by such person.

03

The third condition as per the list above is a severe provision. When the buyer of goods and services has already paid tax to the supplier, he should be allowed to claim credit of such tax. Also buyer has no resources to track that such tax has been deposited by supplier in government treasury.This provision is defeating the very purpose of GST i.e. to ensure availability of credit of tax paid in a easy and convenient manner to taxpayers.

04

Where the goods against an invoice are received in ***lots or installments***, the registered taxable person shall be entitled to the credit upon receipt of the last lot or installment.

05

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.

06

At first,taxable person is only allowed to take the credit of input tax, as self assessed in the his return, on a provisional basis and such amount shall be credited to the electronic credit ledger

07

The claim of input tax credit shall be finally accepted once

a. the details of inward supplies furnished by the taxable person is matched with
b. the corresponding details of outward supplies furnished by corresponding taxable person.

08

Where after matching it is discovered that the *ITC* claimed by recipient in respect of inward supply is in *excess* of tax declared by the supplier for the same supply or the outward supply is not declared by supplier in his valid return then:

c. The discrepancy shall be communicated to both i.e. the recipient and the supplier
d. If such discrepancy is not rectified by the supplier in his valid return for the month in which discrepancy is communicated then the amount of discrepancy shall be *added to the output tax liability* of the recipient for the month succeeding the month in which discrepancy is communicated
e. The recipient is also required to pay interest on said addition of output liability at the rate specified under Section 36(1)

09

Input tax credit will not be available in respect of the following:

a. Motor vehicle: however credit is allowable on motor vehicle in certain cases such as when used in course of business,etc.
b. specified goods and services when used primarily for personal use or consumption of any employee
c. Goods and services acquired in the execution of works contract
d. goods and services on which tax has been paid under composition scheme
e. goods and service used for private or personal consumption

10

Where the goods and services are used by the registered taxable person partly for effecting taxable supplies and partly for effecting non-taxable supplies, including exempt supplies but excluding zero-rated supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies.

ABOUT THIS PUBLICATION

This publication forms part of 10-point series by Athena Law Associates, to help readers quickly understand key provisions of the Model Goods & Services Tax (GST) law proposed to be implemented in India, starting April 2017.

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