

Input Tax Credit – Conditions & Restrictions

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

i. he is in possession of a tax invoice, debit note issued by a registered supplier, or other prescribed tax paying documents;

ii. he has received the goods or services or both;

it shall be deemed that the registered 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 registered 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;

iii. the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of said supply; and

iv. he has furnished the return under section 39 of CGST/SGST Act

2. Return furnished under section 39 of CGST/SGST Act shall be treated as valid return only when the self-assessed tax as per the return is paid in full. Thus, registered person shall be allowed credit of input tax only when he has paid self-assessed tax as per the return in full.

3. The third condition as per the above list is a severe provision. As per the said condition, registered person is allowed credit in respect of a supply only when the tax charged on such supply is actually paid to the credit of Government.

This condition penalizes the receiver of supply even when there is no fault on his part. When the receiver of supply has paid the tax charged on the supply to the supplier, he should be allowed to claim credit of such tax.

Deposit of tax by the supplier is not under the control of receiver and the receiver has no resources to track that such tax has been deposited by supplier in government treasury.

This provision is defeating the purpose of GST i.e. to ensure availability of credit of tax paid in an easy and convenient manner to businesses.

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

5. In the current Cenvat credit rules, the taxable person can only take 50% of the tax paid on capital goods as credit in the year of purchase and the remaining credit can be taken in the subsequent year. There is no such condition in the GST Regime.

Thus, in the GST regime, recipient is normally allowed to take credit of the whole of the tax paid on goods and/ or services (whether inputs, capital goods or input services) received in one installment.

6. Where the registered person has claimed *depreciation on the tax component* of the cost of capital goods and plant and machinery under the provisions of the Income Tax Act 1961, the input tax credit on the said tax component shall not be allowed.

7. 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 happening of any of the following event:

- i. the due date of furnishing of the return under section 39 for the month of September following the end of FY to which such invoice or invoice relating to such debit note pertains; or
- ii. furnishing of the relevant annual return

This means that input tax credit in respect of invoice or debit note can never be taken 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 invoice relating to such debit note pertains.

8. In the GST regime, registered person is allowed to take the credit on goods or services or both received by him, even before making the payment for the said goods and services to the supplier. However,

- i. where recipient fails to pay the amount towards *value of supply* and *tax* payable thereon (other than the supplies on which tax is payable on reverse charge basis)
- ii. to the supplier of supply
- iii. within a period of **180 days** from the date of issue of invoice by the supplier
- iv. he shall

- i. furnish the details of such supply in FORM GSTR-2 in the month immediately following the period of 180 days from the date of issue of invoice
 - ii. add to his output tax liability an amount equal to the ITC availed by him on the recipient of said supply, along with interest thereon [interest calculated at the rate notified in Section 50(1)].

- 9.** Thus, in view of the above provision, we would suggest registered person that they should take the credit of tax paid on supplies received by them only after making the payment for value of such supplies along with the tax to the supplier. Otherwise if they take credit and fails to make the payment within 180 days from the date of issuance of invoice, they are required to pay an amount equal to the ITC availed on such supplies along with *interest*.

- 10.** Further, where recipient has added the ITC availed earlier to his output tax liability in terms of point 8 above, he shall again be entitled to avail such ITC, when he makes the payment of the value of supply of goods or services or both along with tax payable thereon to the supplier. Further, time limit as specified in Section 16(4) of the CGST Act (as discussed in Point 7 above) shall not apply to the said claim of re-availing of any credit.