

Input Tax Credit – Concept

- 1.** One of the major reasons for introducing GST is making the tax credit mechanism seamless, so that there is no cascading effect of taxes. This would further have an effect of reduction in the prices of goods and services.

- 2.** Every **Registered person**
 - i. be entitled to take credit of **input tax**
 - ii. charged on any supply of goods or services or both to him
 - iii. which are **used** or **intended to be used**
 - iv. in the **course of furtherance of his business**

- 3.** **“Input tax** [defined in Section 2(62) of the CGST/ SGST Act] in relation to a **registered person** means:
 - i. the central tax, State tax, integrated tax or Union territory tax
 - ii. charged on
 - iii. any supply of goods or services or both made to him and
 - iv. includes:
 - a IGST charged on import of goods;
 - b tax payable under reverse charge basis
 - v. but does not include the tax paid under the composition levy;

- 4.** The above provisions imply that the availability of input tax credit is made very wide in the GST law. Credit is available on all goods or services or both that are **used** or **intended to be used** in the **course or furtherance of his business**. Unlike the present Indirect tax regime, there is no condition that the goods and services should be used in the factory of the manufacturer or used for provision of taxable services.

- 5.** The expression “*in the course or furtherance of business*” is of a very wide import and would cover all activities related to the functioning of a business and it is not just restricted to the activity of manufacturing or provision of output service.

Example: In relation to a manufacturer, business cannot be restricted only to the activity of manufacturing the final products; but it would comprise all the integrated activities comprising all business operations of the taxable person. Activities such as bus service provided to employees, expenses incurred in the office of the manufacturer, pest control in the factory, entertainment of employees, training of employees, research and development activities etc. may be covered within the phrase “in the course or furtherance of his business”. Thus, in the GST law, tax credit may be allowed in respect of these supplies whenever received by the registered person.

- 6.** Further, the term “**Business**” is broadly defined in Section 2(17) of the CGST/ SGST Act. In terms of the said definition, supply and acquisition of goods or services in connection with commencement or closure of business would be a business. Thus, *registered person* would be allowed credit in respect of goods or services received during the research and development stages of business.

- 7.** As per current Indirect tax laws, input tax credit is allowed on goods or services only when they qualify as *inputs/ input services/ Capital goods*. However, no such requirement is to be met as per the GST law.

Thus, there is no need to see whether the goods or services received by a registered person qualifies as input, inputs services or capital goods. Although inputs, inputs services and capital goods are defined in the GST law, their relevance is kept minimum.

- 8.** In the GST law, unlike the current Cenvat Credit Rules, 2004, only a *registered person* is allowed to take input tax credit admissible to him. Thus, registration is a pre-requisite for taking input tax credit.

- 9.** Where a business has taken more than 1 registration within a state or more than 1 state then for the purpose of taking credit, each such registration shall be treated as different registered person. This means that, each registered person is allowed to take credit of tax paid in respect of only those goods or services or both that are used or intended to be used in the course or furtherance of the their respective registered business.

- 10.** In our view, where a business is required to incur huge expenditure (such as expenses on research or development) before the actual commencement of business, it should take registration voluntarily. Such registration will allow the business to take the credit of tax paid on goods or services or both received by it during the setting up phase of business. Otherwise, if no voluntary registration is obtained, no credit (except in respect of inputs held in stock, or contained in finished or semi-finished goods) will be allowed in respect of goods or services received during the setting up phase of business.