

Input Tax Credit under GST Law

Before understanding the Input tax credit under GST Law it is essential to understand the changes made in earlier Law i.e. CENVAT under Rule ,2004 to the new law. After giving the due consideration, it is clear from the given table below that except few minor changes, Capital Goods under Rule 2(a) and Section 2[20] are same.

As per Section 2(20) of GST Law	As per 2(a) of CCR 2004
“capital goods” means: - (A) the following goods, namely:- (i) all goods falling within Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the Schedule to this Act; (ii) pollution control equipment; (iii) components, spares and accessories of the goods specified at (i) and (ii); (iv) moulds and dies, jigs and fixtures; (v) refractories and refractory materials; (vi) tubes and pipes and fittings thereof; (vii) storage tank; and (viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers used- (1) at the place of business for supply of goods; or (2) outside the place of business for generation of electricity for captive use at the place of business; or (3) for supply of services,	"capital goods" means:- definition of “capital goods” is amended by notification no. 28/2012 dated 20.6.2012. (A) the following goods, namely:- (i) all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading no. 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the First Schedule to the Excise Tariff Act; (ii) pollution control equipment; (iii) components, spares and accessories of the goods specified at (i) and (ii); (iv) moulds and dies, jigs and fixtures; (v) refractories and refractory materials; (vi) tubes and pipes and fittings thereof; (vii) storage tank; and (viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers have been inserted w.e.f. 1.7.2012 used- (1) in the factory of the manufacturer of the final products, but does not include any equipment or appliance used in an office; or (1A) outside the factory of the manufacturer of the Final products for generation of electricity for captive use within the factory; or (2) for providing output service;

(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the supplier of service, when used for (i) supplying the service of renting of such motor vehicle; or (ii) transportation of inputs and capital goods used for supply of service; or (iii) supply of courier agency service; (C) motor vehicle designed to carry passengers including their chassis, registered in the name of the supplier of service, when used for supplying the service of- (i) transportation of passengers; or (ii) renting of such motor vehicle; or (iii) imparting motor driving skills; (D) Components, spares and accessories of motor vehicles which are capital goods for the taxable person.	(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the service provider, when used for- (i) providing an output service of renting of such motor vehicle; or (ii) transportation of inputs and capital goods used for providing an output service; or (iii) providing an output service of courier agency” (C) motor vehicle designed to carry passengers including their chassis, registered in the name of the provider of service, when used for providing output service of- (i) transportation of passengers; or (ii) renting of such motor vehicle; or (iii) imparting motor driving skills (D) components, spares and accessories of motor vehicles which are capital goods for the assessee
--	--

After the comparison of both the definition of capital goods and under earlier law and new law it is very clear that both the definition at the most are same except few words here and there but it is copy of definition of Rule 2(a) of CCR,2004.

Capital Good covered in Clause (A)(i)

Chapter 82 : tools hand tools Knives etc

Chapter 84 : machinery

Chapter 85 : Electrical Machinery

Chapter 90 : Measuring, Checking and testing machine

Sub heading 6804 : Grinding wheel and the like and parts thereof

Sub heading 6805 : Abrasive powder or grain on base of textile material, of paper, of paper board, or other material

Description of tariff heading discussed in hereinbefore is given as under.

<u>Tariff Heading</u>	<u>Type of vehicle</u>
8702	Motor vehicle for the transport of ten or more person, including the driver of persons (other than those specified in heading 8702) including station wagon and racing cars.
8704	Motor vehicle for transport of goods
8711	Motorcycle (including moped) and cycle fitted with an auxiliary motor, with or without side cars.

Capital goods definition is enlarged to include motor vehicle other than used for transportation of passengers and goods like cranes, forklift, tractor and all other vehicle primarily used for business or commerce for all kind of service providers.

What does not cover under the definition of motors vehicle provided under section 2(28) of the Motor Vehicle Act, 1988.

- Vehicle running on fixed rails like railways, tram, trolleys etc.
- Vehicle of special type which is used in factory like cranes and forklifts.
- Vehicles less than four wheel fitted with an engine capacity of not exceeding 25 cubic centimetres .
- Hand cart, bull cart, animal driven, vehicle, hand rickshaw etc. As they are not mechanically propelled.

Now after elaborating the chapters meaning it has become easier to understand the capital goods under present law and earlier law.

Definition of Input and Input Services under GST Law

Sec. 2(54) "input" means any goods other than capital goods, subject to exceptions as may be provided under this Act or the rules made there under, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;

Sec.2 (55) "input service" means any service, subject to exceptions as may be provided under this Act or the rules made there under, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;

Yes, there are drastic changes in the definition of "input" and "Input Services" under GST law than the earlier law.

Now, we will discuss the Input tax provision under the GST Law

How to take input tax credit – Sec. 16

- All RTP [registered taxable person] shall take credit of input tax admissible and the said shall be credited to his ECL [electronic credit ledger].
- Person applied for registration under the act shall be entitled to credit of input tax on stock held in stock on the proceeding day from the date he becomes liable to pay tax under this act.
- Person who voluntarily get registered shall be entitled to get the input tax credit on the stock held in stock and input contained in semi finished and finished stock proceeding the date of registration.
- Where any person switch over from composition scheme u/s 8 to normal RTP u/s 7 shall be entitled to get the input tax credit on the stock held in stock and input contained in semi finished and finished stock proceeding the date on which he becomes liable to pay tax .
- RTP shall not be entitled to get credit as mentioned above in case tax invoice is older than 1 year from the date of invoice.
- Where the goods or services used partly for business and partly for personal purpose , credit of input tax shall be available only for goods and services used for business purpose.
- Where the goods or services used partly for taxable supplies and partly for non taxable supplies including exempted goods , credit of input tax shall be available only for taxable supplies including zero rated supplies.
- Where there is any change in the constitution of RTP on account of sale, merger, demerger, amalgamation, leased or transfer of business , the unutilised ITC in these cases shall be allowed to transfer to the new unit after the said change of constitution.
- Under the following situation ITC shall not allowed [Sub Section -9]
 - i) Motor vehicle except when they are used for the following purpose
 - > transportation of passenger
 - > transportation of goods
 - > imparting training on motor driving skill
 - ii) Goods and services provided for food and beverage , outdoor catering , beauty treatment, health services, cosmetic and plastic surgery, membership of club , health and fitness centre , life insurance , health insurance, travel benefit extended to employees on vacation, when such goods or services are used primarily for personal use and consumption of employee.
 - iii) Goods and services acquired by principal in execution of work contract for when such contract relates to construction of immovable property other than plant and machinery.
 - iv) Goods and services on which tax has been paid under composition scheme.
 - v) Goods and services used for personal consumption to the extent of consumption.
- Where RTP claimed depreciation on tax component of capital goods , ITC shall not be allowed.
- RTP shall not allowed input tax credit in the absence of the following situation
 - I. possession of tax invoice, debit notes , supplementary invoice or such other document as may be prescribed.
 - II. Received the goods and services
 - III. Tax charged for supplies has been actually deposited with Government in cash or utilisation of admissible input tax credit
 - IV. Has furnished the return as prescribed in the act.
- Where RTP switches to composition scheme u/s 8 , ITC availed by him shall be paid in cash. Debit standing in his ECL a/c to the extent of ITC held in Stock and input contained in semi finished goods and finished goods on the proceeding date of exemption. Balance in ECL a/c will also lapse.
- In case of supply of capital goods on which ITC has been claimed , RTP shall pay amount of tax availed on such goods reduced by the percentage point as prescribed or the tax on transaction value of such capital goods whichever is higher.
- RTP shall not allowed to take ITC after the filing of return u/s 27 for the month of September following the end of Financial year or filing the Annual Return , whichever is earlier.
- Where credit is taken wrongly shall be recovered as prescribed.

Input Tax Credit in case of Input sent for job work [Section- 16A]

- Principal as referred in Sec. 43A , shall take the credit of input sent for job work provided the input after job work has been received back within 180 days from the date of sent out. ITC can be claimed even if the goods directly sent to job worker. 180 days shall be computed from the date of receipt of material by Job worker.
- Principal subject to such condition as prescribed , entitled to take credit of ITC on capital goods sent to job worker. Credit shall be valid if such goods have been received back within two years of being sent out. ITC can be taken even if the capital goods directly received by job worker.
- If the input or capital goods have not been received by principal in the period mentioned above, he shall pay an amount equivalent to the ITC availed along with the interest as prescribed in Sec. 36[1].
- The same ITC can be claimed back after the receiving of goods as and when received.

Manner of distribution of credit by Input Service Distributor [Section -17]

- ISD can distribute the ITC as prescribed , credit of CGST as IGST and IGST as IGST by issuing documents containing the amount of ITC where the ISD and Recipient is located in different states.> *Under CGST Act.*
- ISD can distribute the ITC as prescribed , credit of SGST as IGST by issuing documents containing the amount of ITC where the ISD and Recipient is located in different states.> *Under SGST Act.*
- ISD can distribute the ITC as prescribed , credit of CGST and IGST as CGST by issuing documents containing the amount of ITC where the ISD and Recipient is located in same states.> *Under CGST Act.*
- ISD can distribute the ITC as prescribed , credit of SGST and IGST as SGST by issuing documents containing the amount of ITC where the ISD and Recipient is located in different states.> *Under SGST Act.*
- ISD can distribute the ITC subject to the following :
 - I. only on prescribed document containing the details as prescribed.
 - II. The amount of credit distributed can not exceed the amount of credit
 - III. ITC can be distributed only to that supplier eligible.
 - IV. Can be distributed to attributable supplier. If more than one supplier , it shall be on *pro rata* based on the turnover of the state, of the relevant period. Supplier should be operational in that relevant period.

Manner of recovery of credit Distributed in excess [Section-18]

- Where the credit distributed by ISD is more than he credit available , same shall be recovered from ISD along with the interest as per Sec.51 of the Act.
- Where ISD distribute the credit in contravention of Sec.17 and distribute the same in excess of proportion of Supplier as discussed above , shall be recover from Supplier along with interest.
- Explanation of relevant period as per Section -17
 - I. If the recipient has turnover during the proceeding financial year , when the credit is distributed. In this case proceeding FY shall be treated as relevant period.
 - II. If some of the recipient has no turnover in the proceeding FY, the last quarter where the detail of turnover all recipient is available , previous to the month in which credit is distributed.

About the Author:

Author is practicing chartered accountant in Gurgaon and having specialisation in Service Tax and Haryana VAT. He can be reached at ca.sanjeevkumar@hotmail.com

Sanjeev Kavish and Associates