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Input Tax Credit under Revised GST Law

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There is drastic change in the Capital Goods definition under Revised GST Law from GST Law. Under the GST law definition was very exhaustive though under the Revised GST law It is quite simple. Under GST law , Capital goods was defined under Section- 2(20) and Under CCR,2004 the same was provided under Rule 2(a) and both the definition were almost same except some words here and there. But new definition under section 2(19) of Revised GST law is simple and rational . Now, We can go through all definition related to Input tax Credit under Revised GST Law to understand the input tax credit in detail.

Definition of Capital Goods , Input and Input Services under revised GST Law

Capital Goods -Sec. 2(19)

"Capital good" means goods , the value of which is capitalized in the books of accounts of person claiming the credit which are used or intended to be used in the course or furtherance of business.

Sec. 2(52) "input" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

Sec.2 (53) "input service" means any service used or intended to be used by a supplier in the course or furtherance of business;

Sec. 2(55) "Input Tax" in relation to taxable person , means the IGST , including that on import of goods , CGST and SGST charged on supply of goods and services to him, and include the tax payable under section 8(3) but does not include the tax paid under Section -9

Sec. 2(56) "Input Tax Credit" mean credit of input tax as defined in sub section 55.

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 Revised GST Law

1. How to take input tax credit – Sec. 16

- All RTP [registered taxable person] shall take credit of input tax admissible with in time and manner specified in Sec. 44 [Levy of Tax, Interest and penalty] and the said amount shall be credited to his ECL [electronic credit ledger].
- Input tax credit for pipe line and telephone tower fixed to earth by foundation and structural support shall be available as follows:
  - 1/3 in the first year when goods received
  - 1/3 in the next year
  - The balance in subsequent financial year

- No person can claim credit but subject to provision of sec. 36, except the following in possession:;
  - Invoice or debit note
  - Received the goods or services
  - Tax charged on such supply has been paid to Government
  - Person has filed the return u/s 34
- Where the goods are received in installment or lots, ITC shall be available at the time receiving of final installment or lot.
- Recipient shall make the payment to supplier within three months from the date of invoice otherwise the ITC taken shall be added to the output tax liability with interest.
- Where the RTP has claimed depreciation as per Income Tax Act on cost of capital goods, ITC shall be denied.
- ITC shall not be allowed after filing of the return u/s 34 for the month of September following the end of financial year to which invoice relates or furnishing of the annual return which ever is earlier .

2. Apportionment of credit or blocked credit [Sec. 17]

A] where the goods and services are used partly for business or partly for personal purpose by RTP , the amount of credit shall be limited to ITC pertain to used for business.

B] where the goods or services are used by RTP partly for taxable supplies including zero rating supply and partly for exempted supply , the amount of credit shall be limited to ITC pertain to used for taxable supply.

For this purpose exempted supply shall include supplies on which recipient is liable to pay tax on reverse charge basis u/s 8(3).

C] banking company or financial institution including non banking financial company , engaged in supply service by way of accepting deposit, extending loan and advances shall have the option of either accept the provision as specified in 2[B] above or take 50 of the eligible credit on input , capital goods and input services.

E] Despite the provision of Sec. 16[1] and Section 18 [1][2][3][4] ITC shall not be available on the following;

a] motor vehicle other conveyance except the following
i] for making the following taxable supplies
  - further supply of such vehicle or conveyance
  - transporting of passenger
  - imparting training on driving , flying ,navigating such vehicle or conveyance.

ii] for transportation of goods

b] supply of goods or service, namely
  - Food and beverage, outdoor catering , beauty treatment, health services, cosmetic and plastic surgery, except when such inward supply of goods and services is used for output taxable supply of the same category of goods and services.
  - Membership of club, health and fitness services
  - Rent a cab, life insurance, health insurance
  - Travel benefit extended to employee on vocation such as leave or home travel concession.

C] work contract service when supply for construction of immovable property other than plant and machinery except when such input services used for further supply of work contract service.

D] goods or services used by RTP for construction of immovable property on his own a/c , other than plant and machinery, even when used in course or furtherance of business.

E] goods and services on which tax has been paid u/s 9.

F] goods and services used for personal consumption

G] goods lost, stolen, destroyed, written off, disposed off by way of gift or free samples.

H] any tax paid u/s 67,89 and 90.

3. Availability of credit in special circumstances [Sec.18]

- Person who has applied for registration and granted the same , will be entitle to claim ITC on input, semi finished and finished goods on immediately proceeding the day on which he is liable to pay tax.
- Person who take registration under sec. 23 [3] , will be entitle to claim ITC on input, semi finished and finished goods on immediately proceeding the date of grant of registration.
- Where the RTP ceases to pay tax under sec.9 , will be entitle to claim ITC on input, semi finished and finished goods and capital goods on immediately proceeding the day on which he is liable to pay tax. Provided that credit on capital goods shall be reduced by percentage point as prescribed.
- Where an exempt supply of goods and services by RTP becomes taxable, will be entitle to claim ITC on input, semi finished and finished goods and capital goods on immediately proceeding the day on which he is liable to pay tax. Provided that credit on capital goods shall be reduced by percentage point as prescribed.
- RTP can not claim input tax credit under the above said sub sections after the expiry of one year from the date of invoice.
- Where there is change in the constitution of RTP on account of sale, merger, demerger, amalgamation , lease or transfer of the business, in such cases RTP shall be allowed to transfer the unutilized input to the sale, merger, demerger, amalgamation , lease or transferred business.
- RTP if switches to section- 9 for composite scheme, where his goods or services become exempt under section -11, shall pay an amount by debit to electronic credit ledger or cash ledger, equivalent to input tax on stock and capital goods , reduced by percentage point, immediately proceeding the day of switching over and exemption of goods.
- In case of disposed of capital goods , RTP shall pay an equal amount of input as reduced by percentage point or on transaction value of such capital goods which ever is higher. But in case of refractory , tools , jigs mould and dies and fixture are supplied as scrap, tax shall be paid on transaction value.

4. Recovery of input tax credit and interest thereon [Sec.-19]

If the credit has been taken wrongly , the same shall be recovered along with interest.

5. Taking input tax credit in respect of input sent for job work [Sec.20]

- Principal as referred in Sec. 55 , shall take the credit of input sent for job work provided the input after job work has been received back within one year from the date of sent out. ITC can be claimed even if the goods directly sent to job worker. One year shall be computed from the date of receipt of material by Job worker. If the goods have not been returned within the stipulated period the same shall be treated as supply to job worker from the date of goods sent out.
- 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 three years of being sent out. ITC can be taken even if the capital goods directly received by job worker. If the capital goods have not been returned within the stipulated period the same shall be treated as supply to job worker from the date of capital goods sent out.
- The aforesaid period of one year or three year shall not be applied in case of moulds, dies, jigs and fixture, or tools sent out to job worker for job work.

6. Manner of distribution of credit by Input Service Distributor [Section -21]

- ISD can distribute the ITC as prescribed , credit of CGST as CGST or IGST or IGST as IGST or CGST 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 SGST or 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 recipient eligible.
  IV. Can be distributed to attributable recipient . If more than one recipient , it shall be on *pro rata* based on the turnover of the state, of the relevant period. Recipient should be operational in that relevant period.

7. Manner of recovery of credit Distributed in excess [Sec-22]

Where the ISD distribute any credit without following the provisions of Sec. 21 resulting in excess distribution of credit , the same shall be recovered from such recipient along with interest, and the provision of sec. 66 or 67 [demand and recovery] shall apply mutatis mutandis for such recovery.

FAQ ON INPUT TAX CREDIT

Q. Can GST paid on reverse charge be considered as input tax
A. Yes. The definition of input tax include tax payable under Sec. 8(3) which is reverse charge. The credit can be availed if such goods and services are used or intended to be used in the course or furtherance of business.

Q. Does input tax includes tax on CGST/SGST/IGST paid on input goods ,input services and capital goods
A. Yes . In terms of definition 2[19], 2[52] and 2 [53]. It may be noted that ITC on capital goods is permitted in one installment except pipeline and telephone tower.

Q. Where goods and services receive by taxable person are used for both taxable and non taxable supplies, weather the input tax is available.
A. In this case ITC shall be restricted to taxable supply as per sec. 17[3].

Q. Is the ITC is available in case of change of constitution .
A. Yes , it is available as per Sec. 18[6] in the manner as prescribed.

Q. A dealer paying tax under compounding scheme and crosses the threshold limit, can he get ITC and from which date.
A. As per Sec. 18[3] , he can avail the credit on input and input contained in semi finished goods and finished goods on the date immediately proceeding the date from which he becomes liable to pay tax.

Q. Weather the principal is eligible to take input on input sent to job worker?
A. Yes. As prescribed in sec. 20[1].

Q. What is the recovery mechanism for wrongly availed credit.
A. As per Sec.19 , the same shall be recovered from RTP as per the provision.

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