INPUT TAX CREDIT UNDER GST

As we all know GST is going to be implemented from July 1st 2017 as Finance Ministry declared, the Input Tax has big relevance in GST module. The Person Eligible to take credit, Manner of taking credit, Utilization and condition has been mention in Section 16 which are described below.

Sec 16. Manner of taking input tax credit

Section 16 has 16 Sub-sections, the analysis of given sub-sections are as follows:

1. Sub Section 1 to 3 Describe the **Person** who can take the credit of Input Tax.
2. Sub Section 5 to 7 Describe the **Utilization** of Goods & Service to allow tax credit
3. Sub Section 9 to 11 & 15 Describe the **Conditions and restrictions** for taking credit of inputs.

The Detail Provision of Subsections are as Under :-

General Provision:

Section 16 (1)- **Every registered taxable person** shall, *(subject to such conditions and restrictions as may be prescribed and within the time and manner specified in section 35,)* be entitled to take credit of **input tax admissible** to him and the said amount shall be credited to the electronic credit ledger of such person.

Non Registered Person:

Section 16 (2)- A person who has

-applied for registration under the Act
-within thirty days from the date on which he becomes liable to registration
-and has been granted such registration

shall, *(subject to such conditions and restrictions as may be prescribed)*, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi -finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act. (also Cover Transitional Provision)

View-This Clause has been inserted to cover person whose turnover falls under taxable limit as described.

Voluntary Registration:

Section 16 (2A) -A person, who takes registration under sub-section **(3) of section 19 (Voluntary Registration)**, shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of registration. (also cover Transitional Provision)

Non Composite Dealer:

Section 16 (3)-Where any registered taxable person ceases to pay tax under section 8 (Composite Dealer), he shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under section 7.

Credit for Stock in Hand- Condition:

Section 16 (3A)- A taxable person shall not be entitled to take input tax credit under sub-section

(2) (Non Registered Person),
(2A) (Voluntary Registration) or
(3) (Composite Dealer)

in respect of any supply of goods and / or services to him **after the expiry of one year from the date of issue of tax invoice relating to such supply.**

Explanation -The Taxable Person who wish to take credit on inputs held in stock and contained in SFG & finished Goods can take credit only for the Invoice issued within 1 year with the Appointment Date (Date on Which GST comes into forces) as covered in Transitional provisions, however it will be also applicable where Taxable Person Adopt/ cover GST Credit utilization.

Section 16 (4) -The amount of credit under sub-section (2), (2A) or sub-section (3) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

Utilization of Inputs:

Inputs for Personal Use

Section 16 (5) -Where the goods and/or services are used by the registered taxable person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

Inputs for Exempted Supplies

Section 16 (6) -Where the goods and / or 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.

The Summary of Section 16 (5) & (6) are as follows:-

Sub-Sec 5 & 6	**Business Use**				**Personal Use**
Supplies	**Taxable supplies**	**Non-taxable supplies**	**Exempt supplies**	**Zero-rated supplies**	
Credit Allowed	YES	NO	NO	YES	NO

Section 16 (7) -The Central or a State Government may, by notification issued in this behalf, prescribe the manner in which the credit referred to in sub-sections (5) and (6) above may be attributed.

Transfer of Business:

Section 16 (8)- Where there is a change in the constitution of a registered taxable person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered taxable person shall be allowed to transfer the input tax credit that remains unutilized in its books of accounts to such sold, merged, demerged, amalgamated, leased or transferred business in the manner prescribed.

Restriction on Input tax Credit:

Section 16 (9) -Notwithstanding anything contained in sub-section (1), (2), (2A) or (3) input tax credit shall not be available in respect of the following:

(a) **motor vehicles**, except when they are supplied in the usual course of business or are used for providing the following taxable services—
{in Other Words Credit of Motor Vehicle shall be allowed of Motor Vehicles for following:}
(i) transportation of passengers, or
(ii) transportation of goods, or
(iii) imparting training on motor driving skills;

(b) goods and / or services provided in relation to:

*{the credit shall not be allowed to Supplier of the Following **Services**}*
-food and beverages,
-outdoor catering,
-beauty treatment,
-cosmetic and plastic surgery,
-health services,
-membership of a club,
-health and fitness centre (JYM),
-life insurance,
-health insurance and
-travel benefits extended to employees on vacation such as leave or home travel concession, when such goods and/or services are used primarily for personal use or consumption of any employee;

(c) goods and/or services acquired by the principal in the execution of **works contract** when such contract results in **construction of immovable property**, other than plant and machinery;

(d) goods acquired by a principal, the property in which is not transferred (whether as goods or in some other form) to any other person, which are used in the **construction of immovable property**, other than plant and machinery;

(e) goods and/or services on which tax has been paid under **section 8(Composite Scheme)**; and

(f) goods and/or services used for **private or personal consumption**, to the extent they are so consumed.

Section 16 (11) -Notwithstanding anything contained in this section, but subject to the provisions of section 28, no registered taxable person shall be entitled to the credit of any input tax in respect of any supply of goods and/or services to him unless
(a) he is in **possession of a tax invoice**, debit note, supplementary invoice or such other taxpaying document as may be prescribed, issued by a supplier registered under this Act or the IGST Act;
(b) he has **received the goods** and/or services;
(c) the **tax charged** in respect of such supply has been **actually paid to** the credit of the appropriate **Government,** either in cash or through utilization of input tax credit admissible in respect of the said supply; and
(d) he has **furnished the return** under section 27:
Provided that where the goods against an invoice are received in lots or instalments, the registered taxable person shall be entitled to the credit upon receipt of the last lot or instalment.

Explanation. — For the purpose of clause (b), it shall be deemed that the taxable 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 taxable 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.

No Depreciation on Tax Credit

Section 16 (10)- 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.

Surrender of Tax Credit on Stock in hand

Section 16 (12) -Where any registered taxable person who has availed of input tax credit **switches over as** a taxable person for paying tax under section 8 **(Composition Levy) or**, where the **goods** and / or services supplied by him become **exempt absolutely** under section 10, he shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over or, as the case may be, the date of such exemption:
Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Section 16 (13) -The amount payable under sub-section (12) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

Supply of Capital Goods – Payment of Credit

Section 16 (14) -In case of supply of capital goods on which input tax credit has been taken, the registered taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be specified in this behalf or the tax on the transaction value of such capital goods under sub-section (1) of section 15, whichever is higher.
Payment of TAX = Credit Taken on Capital Goods Less higher of -1. % points of Credit
-2. Tax on Transaction Value

Time Limit for Taking Credit

Section 16 (15) -A taxable person shall not be entitled to take input tax credit in respect of any invoice for supply of goods and/or services, **after the filing of the return under section 27** for the month of September following the end of financial year to which such invoice pertains or filing of the relevant annual return, whichever is earlier.
i.e. Mr. X Received goods along with Invoice on 5th March 2018. Mr. X can take the credit up to Earlier of Following:
1. Date of Filing of Return for the month of Sept 2018 (Last date of Filing is 20th Sept 2018)
2. Date of Filing of Annual Return for Year 2017-18 (Last date of Filing is 31st Dec 2018)

Recovery of Wrong Credit

Section 16 (16) -Where credit has been taken wrongly, the same shall be recovered from the registered taxable person in the manner as may be prescribed in this behalf.

Section 28. Claim of input tax credit and provisional acceptance thereof

Every taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self-assessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed:

Provided that a taxable person who has not furnished a valid return under section 27 of the Act shall not be allowed to utilize such credit till he discharges his self-assessed tax liability.