

**GST**

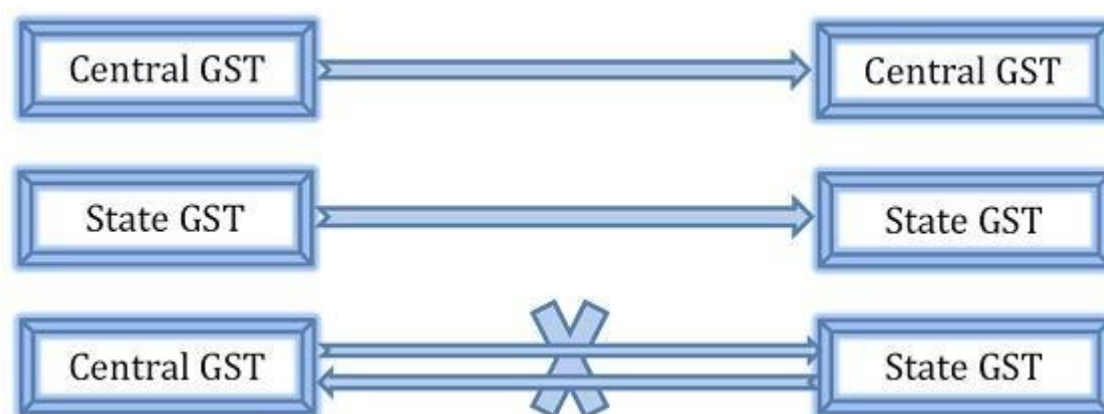
***Input Tax Credit [Chapter V]***

*Edition 5*

- Eligibility and conditions for taking input tax credit [S. 16]
- Apportionment of credit and blocked credits [S. 17]
- Availability of credit in special circumstances [S. 18]
- Recovery of Input Tax Credit and interest thereon [S. 19]
- Taking input tax credit in respect of inputs sent for job work [S. 20]
- Manner of distribution of credit by Input Service Distributor [S. 21]
- Manner of recovery of credit distributed in excess [S. 22]

ITC and its set-off with output tax liability (as per S. 44):

Input Tax Credit	Output-tax liability
CGST	CGST & IGST
SGST	SGST & IGST
IGST	IGST, CGST & SGST
*It may be noted that CGST & SGST cannot be mutually set-off	



## How to avail INPUT CREDIT

To pay IGST	Take Input Credit from IGST, CGST and SGST paid on purchases
To pay CGST	Take Input Credit from IGST and CGST paid on purchases
To pay SGST	Take Input Credit from IGST and SGST paid on purchases

### I. Input Tax Credit – General Entitlement

Section 16(1) says that every registered taxable person shall, subject to such conditions and restrictions as may be prescribed and within the time and manner specified in section 44, be entitled to take credit of input tax charged on any supply of goods and services to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

### II. Eligibility of Input Tax Credit – Telecommunication and Oil & Gas Sector

A proviso to section 16(1) specifically provides that credit of input tax in respect of pipelines and telecommunication tower fixed to earth by foundation or structural support including foundation and structural support thereto shall not exceed -

- a) 1/3 of the total input tax in the financial year in which the said goods are received,
- b) 2/3 of the total input tax, including the credit availed in the first financial year, in the financial year immediately succeeding the year referred to in clause (a) in which the said goods are received, and
- c) The balance of the amount of credit in any subsequent financial year.

### III. Entitlement of Input Tax Credit – subject to cumulative satisfaction of prescribed conditions


Section 16(2) says that in spite of anything contained in section 16, but subject to the provisions of section 36, 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 -

- He is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other taxpaying document(s) as may be prescribed,
- He has received the goods and/or services,
- The tax charged in respect of such supply has been actually paid to the account of the appropriate Government, either in cash or through utilization of input tax credit admissible in respect of the said supply, and
- He has furnished the return under section 34.

### IV. Goods received in lots

The first proviso to section 16(2) says that where the goods against an invoice are received in lots or installments, the registered taxable person shall be entitled to take credit upon receipt of the last lot or installment.


## Conditions for availing Input Tax Credit under GST



You should have a Tax invoice/  
Debit or Credit note issued by  
a registered person



Goods/services should be  
received



You should have filed GSTR-3



Tax has been paid to  
Government by supplier



**V. Failure to pay value of supply of services**

Further, the second proviso to section 16(2) says that where a recipient fails to pay to the supplier of services, the amount towards the value of supply of services along with tax payable thereon within a period of **three months** from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in the manner as may be prescribed.

**VI. Goods received by third person**

An explanation to section 16(2) says that for the purpose of section 16(2)(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.

**VII. No input tax credit if depreciation charged on tax component**

Section 16(3) says that 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.

**VII. Time limit for claim of input tax credit**

Section 16(4) says that a taxable person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services after furnishing of the return under section 34 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.



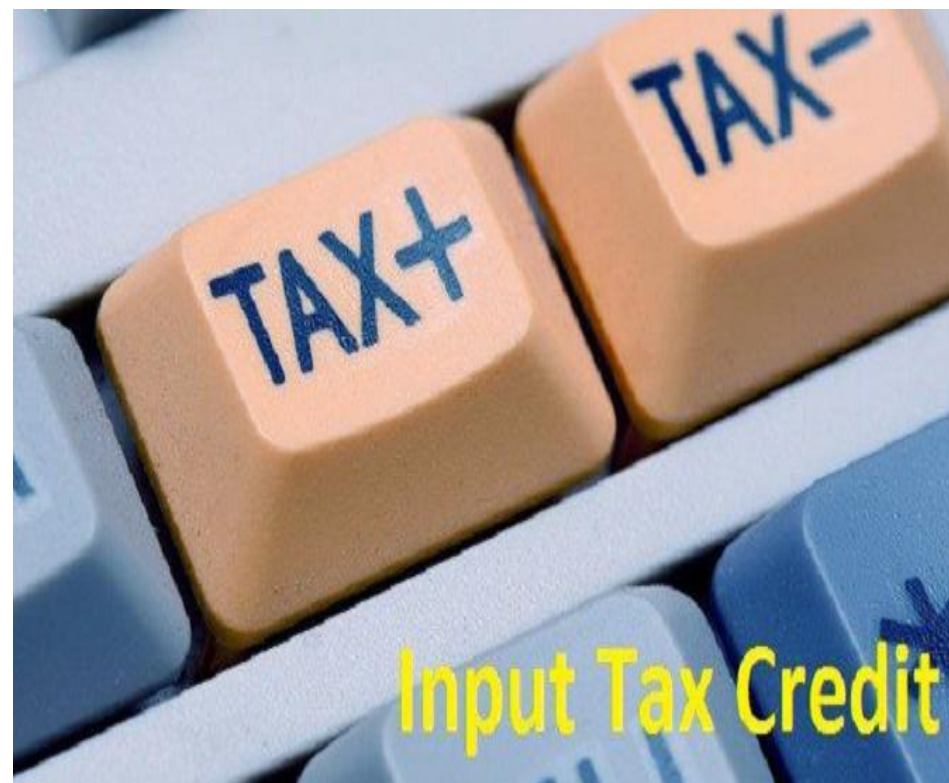
### I. Input Tax Credit restricted to supplies for business purposes

Section 17(1) says that 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.

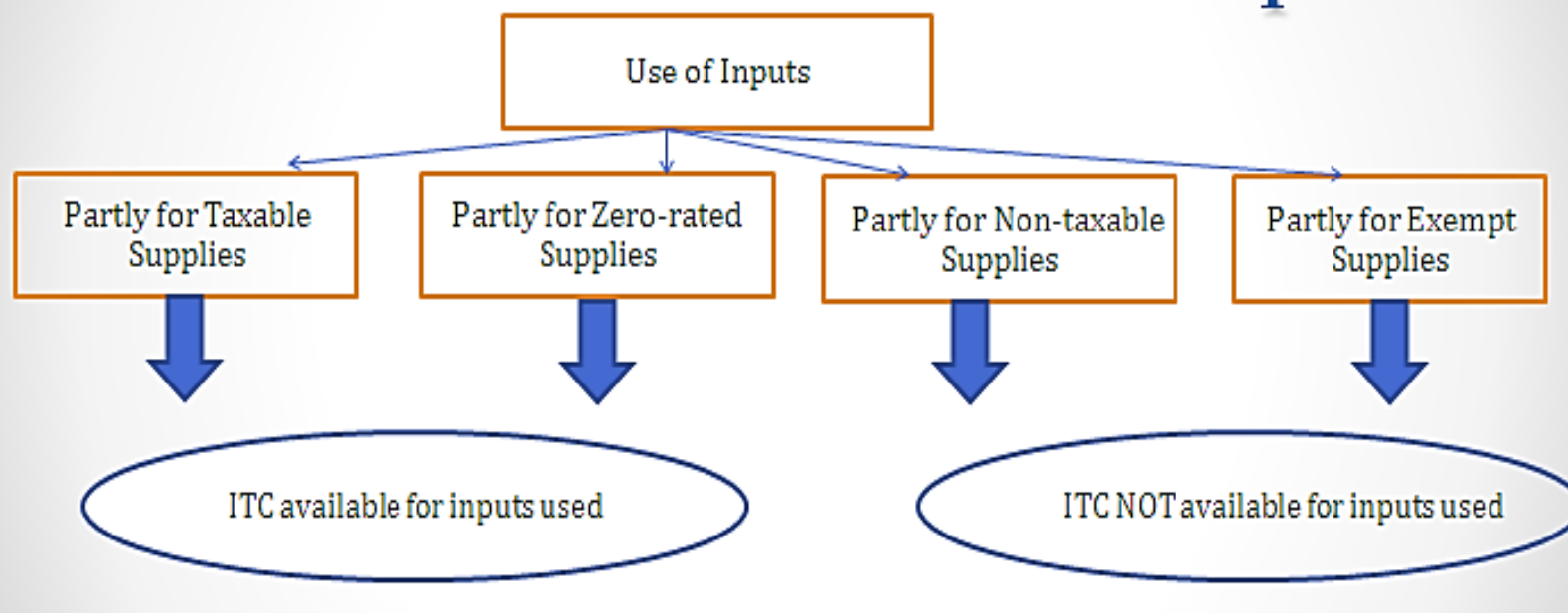
### II. Input Tax Credit restricted to taxable supplies

Section 17(2) says that where the goods and/or services are used by the registered taxable person partly for effecting taxable supplies including zero-rated supplies under this Act or under the IGST Act, 2016 and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

An explanation to section 17(2) says that for the purposes of section 17(2) exempt supplies shall include supplies on which recipient is liable to pay tax on reverse charge basis under section 8(3).



## ITC on the Basis of use of Inputs





### III. Input Tax Credit – Banking Sector

Section 17(3) says that a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of section 17(2), or avail of, every month, an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month.

An explanation to section 17(3) says that the option once exercised shall not be withdrawn during the remaining part of the financial year.

### IV. Non-creditable items for the purposes of Input Tax Credit

Section 17(4) says that in spite of anything contained in section 16(1) and sections 18(1), 18(2), 18(3) and 18(4), input tax credit shall not be available in respect of the following-

1) Motor vehicles and other conveyances, except when they are used-

(i) For making the following taxable supplies, namely-

- (a) Further supply of such vehicles or conveyances, or
- (b) Transportation of passengers, or
- (c) Imparting training on driving, flying, navigating such vehicles or conveyances,

(ii) For transportation of goods.

2) Supply of goods and services, namely-

- (i) Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where such inward supply of goods or services of a particular category is used by a registered taxable person for making an outward supply of the same category of goods or services,
- (ii) Membership of a club, health and fitness centre,
- (iii) (iii) Rent-a-cab, life insurance, health insurance except where the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being force, and
- (iv) Travel benefits extended to employees on vacation such as leave or home travel concession.

3) Works contract services when supplied for construction of immovable property, other than plant and machinery, except where it is an input service for further supply of works contract service,

4) Goods or services received by a taxable person for construction of an immovable property on his own account, other than plant and machinery, even when used in course or furtherance of business,

The first explanation to section 17(4)(d) says that for the purpose of section 17(4)(d) the term 'construction' includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

The second explanation to section 17(4)(d) says that 'Plant and Machinery' means apparatus, equipment, machinery, pipelines, telecommunication tower fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation and structural supports but excludes land, building or any other civil structures.

5) Goods and/or services on which tax has been paid under section 9,

6) Goods and/or services used for personal consumption,

7) Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples, and

8) Any tax paid in terms of section 67, 89 or 90.

### V. Manner of attribution of credit

Section 17(5) says that the Central or State Government may, by notification issued in this behalf, prescribe the manner in which the credit referred to in sections 17(1) and 17(2) may be attributed.

I. Input Tax Credit - New Registrants

Section 18(1)says that a person who has applied for registration under the Act within 30 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.



Issues
(i) The law does not provide seam-less credit of input service/capital goods
(ii) In case a tax payer applies late for reasons beyond his control, legitimate claim of input tax credit may be denied to him

II. Input Tax Credit - Voluntary registration

Section 18(2) says that a person, who takes registration under section 23(3) 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 grant of registration.



Issue
The law does not provide seam-less credit of input service/capital goods

III. Input Tax Credit - Conversion of composition taxpayer into regular taxpayer

Section 18(3)says that where any registered taxable person ceases to pay tax under section 9, 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 and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 8.

A proviso to section 18(3) says that the credit on capital goods shall be reduced by such percentage points as may be prescribed in this behalf.



Issue
The law does not provide seam-less credit of input service



#### **IV. Input Tax Credit - Conversion of exempt supply into taxable supply**

Section 18(4) says that where an exempt supply of goods or services by a registered taxable person becomes a taxable supply, such person 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 relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

A proviso to section 18(4) says that the credit on capital goods shall be reduced by such percentage points as may be prescribed in this behalf.

#### **V. Claim of Input Tax Credit - on invoices upto one year**

Section 18(5) says that a taxable person shall not be entitled to take input tax credit under sections 18(1), 18(2), 18(3) or 18(4), as the case may be, 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.

#### **VI. Transfer of Input Tax Credit in case of change in constitution of business**

Section 18(6) says that 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.



## VII. Regular taxpayer switching to composition taxpayer

Section 18(7) says that where any registered taxable person who has availed of input tax credit switches over as a taxable person for paying tax under section 9 or, where the goods and/or services supplied by him become exempt absolutely under section 11, 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 to finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of such switch over or, as the case may be, the date of such exemption.

A proviso to section 18(7) says that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

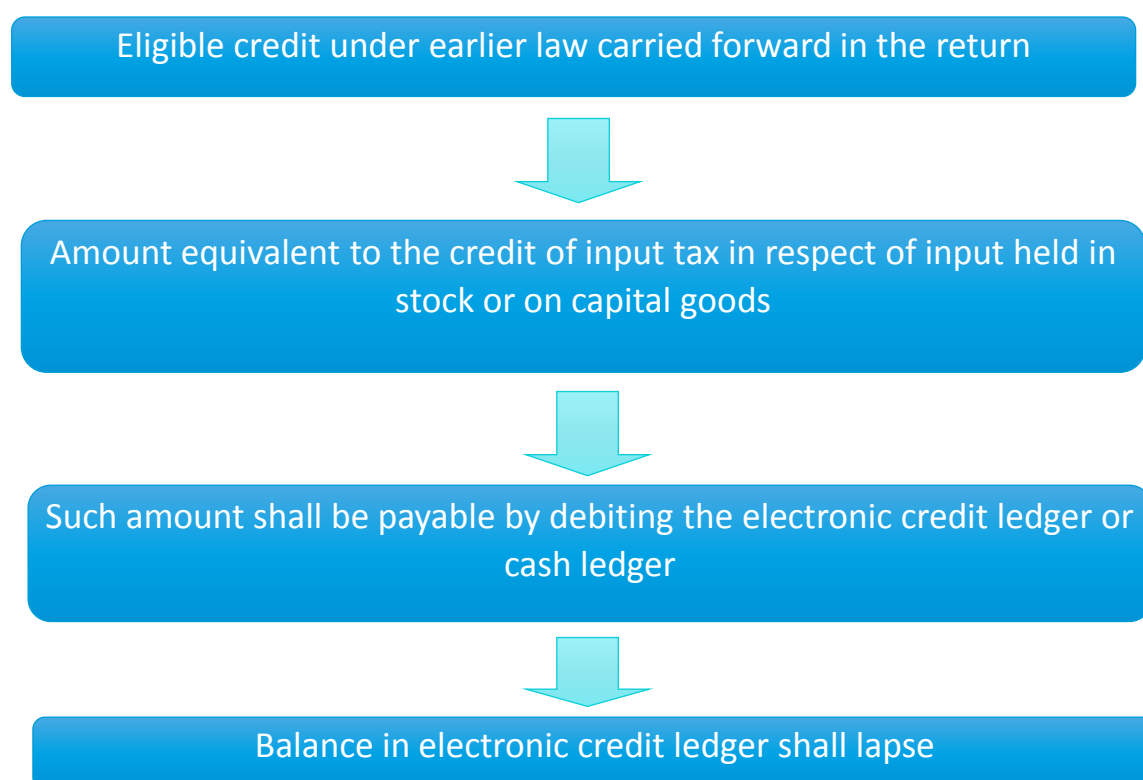


### Issue

The law makers have not given reasons that the balance input tax credit lying in electronic credit ledger shall lapse

## Payment of tax on switchover

### Switching from regular to composition – Pay and Exit



**VIII. Method of calculation**

Section 18(8) says that the amount payable under section 18(7) shall be calculated in such manner as may be prescribed.

**IX. Manner of computation of credit**

Section 18(9) says that the amount of credit under sections 18(1), 18(2), 18(3) and 18(4) shall be calculated in such manner as may be prescribed.

**X. Payment on sale of capital goods**

Section 18(10) says that in case of supply of capital goods or plant and machinery, 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 or plant and machinery reduced by the percentage points as may be specified in this behalf or the tax on the transaction value of such capital goods or plant and machinery under section 15(1), whichever is higher.

**XI. Tax on supply of scrap of capital goods**

A proviso to section 18(10) says that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods under section 15(1).





### Recovery of Input Tax Credit wrongly claimed

Section 19 says that where credit has been taken wrongly, the same shall be recovered from the registered taxable person in accordance with the provisions of this Act.

#### FAQs

**Q1. What is the eligibility of input tax credit on inputs in stock for a person who obtains voluntary registration?**

Ans. The person who obtains voluntary registration is entitled to take the input tax credit of input tax on inputs in stock, inputs in semi-finished goods and finished goods in stock.

**Q2. What are the implications in case where the goods supplied by a registered taxable person become exempt?**

Ans. The registered taxable person has to pay amount equivalent to the credit taken on goods which are held in stock or on capital goods.

**Q3. Whether credit is eligible on food provided to employee in business trip?**

Ans. No, credit shall not be allowed as food provided as such is a non-creditable item.



### **I. Principal entitled for input tax credit in respect of inputs sent for job-work**

Section 20(1) says that the “principal” referred to in section 55 shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job-worker for job-work.

### **II. Goods can be sent directly to the job-worker**

Section 20(2) says that in spite of the provisions contained in section 16(2)(b), the “principal” shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without their being first brought to his place of business.

### **III. Deemed supply of inputs to job-worker after one year**

Section 20(3) says that where the inputs sent for job-work are not received back by the “principal” after completion of job-work or otherwise or are not supplied from the place of business of the job-worker in accordance with section 55(1)(b) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out. Further, the proviso to section 20(3) says that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

### **IV. Principal entitled for Input Tax Credit on capital goods**

Section 20(4) says that the “principal” shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job-worker for job-work.

### **V. Capital goods can be directly sent to the job-worker**

Section 20(5) says that in spite of anything contained in section 16(2)(b), the “principal” shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job-work without their being first brought to his place of business.

### **VI. Deemed supply of capital goods if not received back within three years**

Section 20(6) says that where the capital goods sent for job work are not received back by the “principal” within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out. Further, the proviso to this sub-section provides that where the capital goods are sent directly to a job-worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

### **VII. Provisions not applicable to certain capital goods**

Section 20(7) says that provisions of section 20(3) and 20(6) shall not apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

### ***Manner of distribution of credit by Input Service Distributor [Section 21][CGST Law]***

#### **I. Where distributor and recipient located in different States**

Section 21(1) says that the Input Service Distributor shall distribute, in such manner as may be prescribed, the credit of CGST as CGST or IGST and IGST as IGST or CGST, by way of issue of a prescribed document containing, *inter-alia*, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States.

#### **II. Where distributor and recipient located in same State**

Section 21(2) says that the Input Service Distributor shall distribute, in such manner as may be prescribed, the credit of CGST and IGST as CGST, by way of issue of a prescribed document containing, *inter-alia*, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State.

#### **Credit Distribution by ISD Section 21(1)**

##### **Manner of Distribution of Credit by Input service Distributor (ISD)**

Inter-State Transfer	
Head Office (ISD) can transfer	Branch Office (Tax Payer)
CGST	IGST
IGST	IGST
SGST	IGST

### ***Manner of distribution of credit by Input Service Distributor [Section 21] [SGST Law]***

#### **I. Where distributor and recipient located in different States**

Section 21(1) says that the Input Service Distributor shall distribute, in such manner as may be prescribed, the credit of SGST as SGST or IGST, by way of issue of a prescribed document containing, *inter-alia*, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States.

#### **II. Where distributor and recipient located in same State**

Section 21(2) says that the Input Service Distributor shall distribute, in such manner as may be prescribed, the credit of SGST and IGST as SGST, by way of issue of a prescribed document containing, *inter-alia*, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State.

#### **Credit Distribution by ISD Section 21(2)**

##### **Manner of Distribution of Credit by Input service Distributor (ISD)**

Intra-State Transfer	
Head Office (ISD) can transfer	Branch Office (Tax Payer)
CGST	CGST
IGST	CGST, SGST
SGST	SGST



### III. Conditions for distribution of credit

Section 21(3) says that the Input Service Distributor may distribute the credit subject to the following conditions, namely-

- a) The credit can be distributed against a prescribed document issued to each of the recipients of the credit so distributed, and such document shall contain details as may be prescribed,
- b) The amount of the credit distributed shall not exceed the amount of credit available for distribution,
- c) The credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient,
- d) The credit of tax paid on input services attributable to more than one recipient of credit shall be distributed only amongst such recipient(s) to whom the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover in a State of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period.
- e) The credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be *pro rata* on the basis of the turnover in a State of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

### IV. Meaning of terms 'relevant period', 'recipient of credit' and 'turnover'

The first explanation to section 21 says that for the purposes of Section 21, the 'relevant period' shall be-

- a) If the recipients of the credit have turnover in their States in the financial year preceding the year during which credit is to be distributed, the said financial year; or

b) If some or all recipients of the credit do not have any turnover in their States in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed.

The second explanation to section 21 says that for the purposes of section 21 'recipient of credit' means the supplier of goods and/or services having the same PAN as that of Input Service Distributor.

The third explanation to section 21 says that for the purposes of section 21, 'turnover' means aggregate value of turnover, as defined under section 2(6).

### *Manner of recovery of credit distributed in excess [Section 22]*

#### *I. Excess distribution of credit to be recovered from Input Service Distributor with interest*

Section 22 says that where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 21 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients(s) along with interest, and the provisions of section 66 or 67, as the case may be, shall apply *mutatis mutandis* for effecting such recovery.

## About Us

### Who We Are:

We are a team of distinguished chartered accountant, corporate financial advisors and tax consultants in India. Our firm of chartered accountants represents a coalition of specialized skills that is geared to offer sound financial solutions and advices. The organization is a congregation of professionally qualified and experienced persons who are committed to add value and optimize the benefits accruing to clients.

### Our Focus:

To provide high quality services to our clients and believe in upholding high standards of honesty and integrity in what we do.

### Our Clientele:

We have been providing services to a proud mix of Multinational companies, Indian companies, High Net Worth Individuals amongst others. Our multinational client-set includes companies belonging to Japan, US, Singapore, China, Taiwan, Hong Kong, and many others. We advise & also hand-hold foreign companies set-up operations in India & cater to their compliance requirements right from inception to regular day-to-day operations.



### Our Services:

#### Accounting / Book-keeping

Book-keeping, Preparation and Compilation of financial statements, Accounting reconciliations and Consolidations, Accounting system implementation, Development of Accounting policies and Procedures Manual, Forecasting and Projections, Financial analysis of reports, Cash flow management.

#### Audit / Assurance

Audit, Review of financial statements, Internal control reviews, Reporting requirements, Drafting of Management

#### Regulatory

Advice on Regulatory matters, Assistance in obtaining Clarifications and Approvals from Reserve Bank of India (RBI) and other Statutory Authorities, Company Law Compliance, Compliance with Exchange Control Regulations and Import-Export Code norms.

#### Taxation

Corporate, Individual & International Taxation, Direct & Indirect tax compliance, Return Filing, Tax Advisory, Tax Audit, Dispute Resolution, Transfer Pricing, secretarial records, Filing of necessary forms.

#### Transaction advisory

Business structuring, Valuations, Corporate Finance, Due diligence, Tax planning.

#### Compliances

Income tax, Service tax, VAT/ CST, Excise/ Customs, RBI and ROC compliances in respect of all types of regulatory filing of documents and their follow up.

### New Delhi:

S-13, St. Soldier Tower, G-Block Commercial Complex, Vikas Puri, New Delhi - 110018

Phone : +91 11 28543739  
: +91 11 28544939  
: +91 11 45527239  
Fax : +91 11 43850030

---

### Gurgaon:

1156, Tower B2, 11th Floor, Spaze I Tech Park, Sohna Road, Sector 49, Gurgaon-122001

Phone : +91 124 4371317  
: +91 124 4371318  
Fax : +91 11 43850030

---

### Mumbai:

Unit No.3, 1st Floor, New Laxmi Shopping Centre, A-Wing, H.D.Road, Ghatkopar (W), Mumbai - 400086 (India)

Phone : +91 98202-63544  
: +91 22-25110016

E-mail : [info@neerajbhagat.com](mailto:info@neerajbhagat.com)  
Website : [www.neerajbhagat.com](http://www.neerajbhagat.com)

Neeraj Bhagat is a member of the Institute of Chartered Accountants of India (ICAI) since 1997. He is also an Associate member of Association of International Accountants, United Kingdom. He is founder of Neeraj Bhagat & Co, an Indian Chartered Accountancy firm serving various MNC'S from across the globe. Neeraj Bhagat & Co. has its offices at New Delhi, Gurgaon and Mumbai. They are part of Allinial Global Accounting Association which is one of the World's Top 10 in accounting associations.

Member of  
**Allinial**  
GLOBAL™  
An association of legally independent firms