

Workshop on GST

Vasai Branch of WIRC - ICAI

CA Ashit Shah

Shah & Savla LLP

Chartered Accountants



Matters to be covered

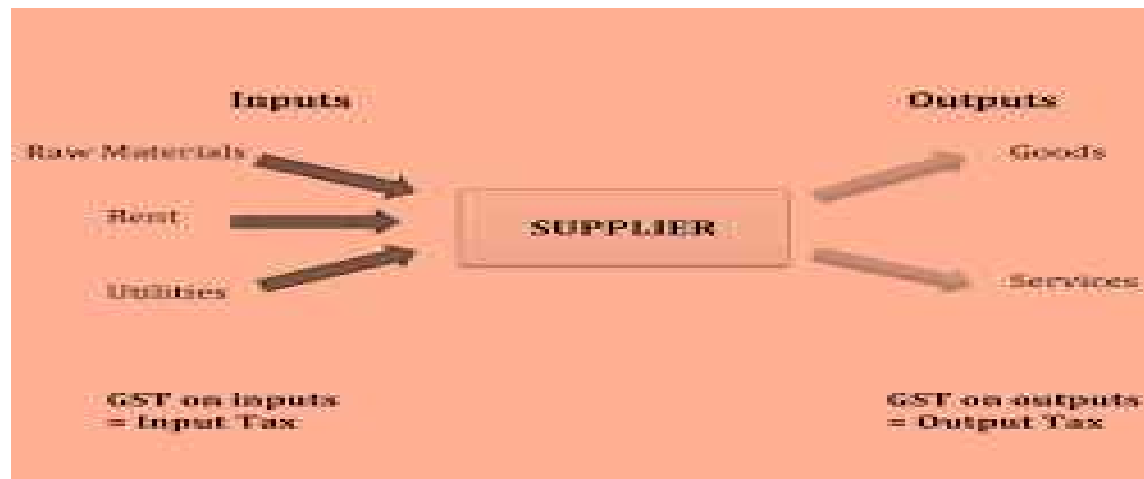
- ❖ What is Input Tax Credits
- ❖ Types of Input Tax Credit
- ❖ Manner of Utilizations
- ❖ Input Tax Credits – Job Workers
- ❖ Input Tax Credits – ISD
- ❖ Transitional Provisions



Tax Credit Mechanism

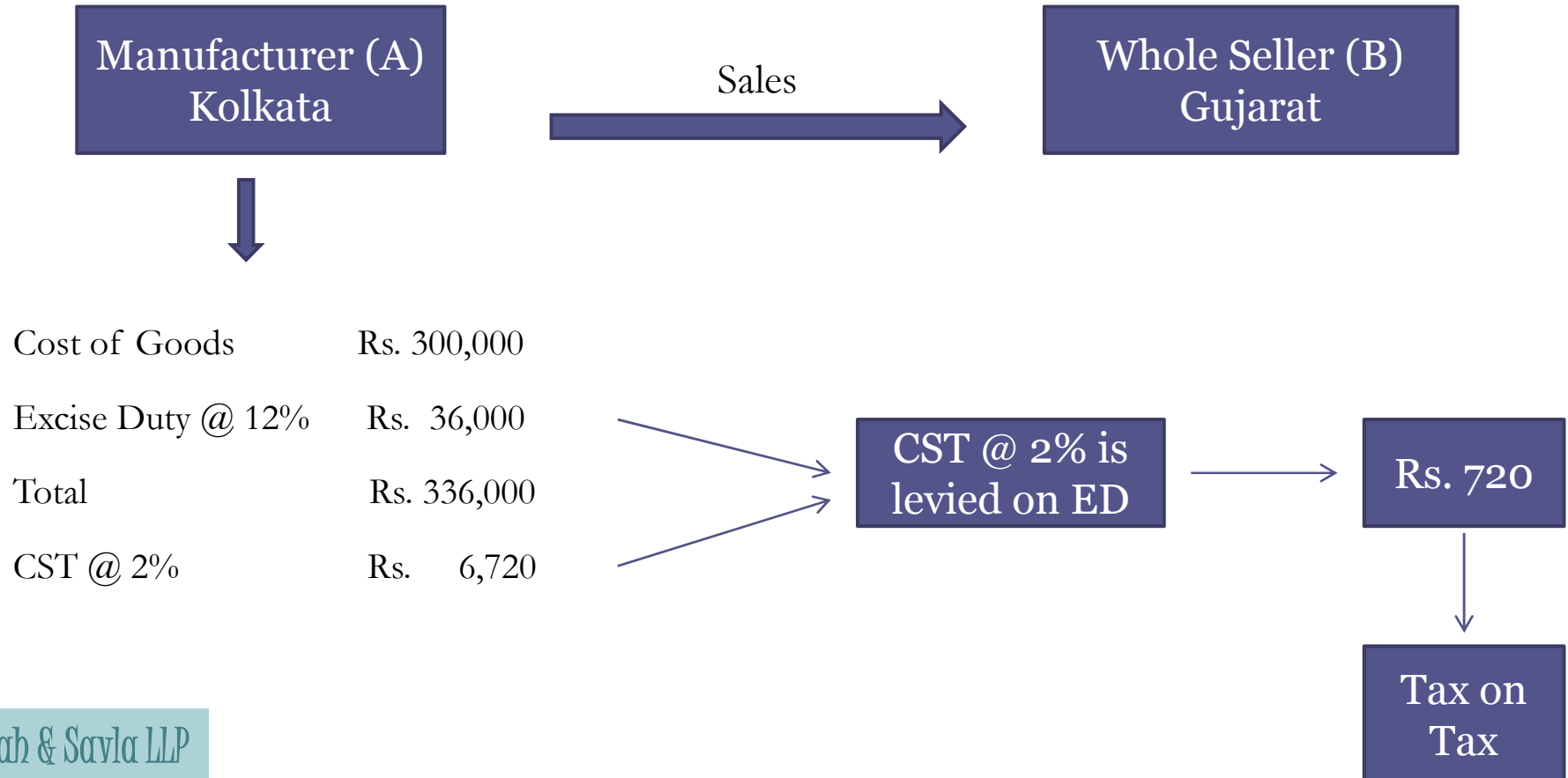
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- ❖ Goods and Services Tax – GST is a **Value added tax**.
- ❖ Tax is required to be paid **at each stage** and **supplier** at each stage is **eligible or permitted to setoff** through a tax credit mechanism .
- ❖ This would **eliminate the burden of all cascading effects**, including the burden of taxes paid under earlier laws (Excise Duty, Service Tax and VAT).



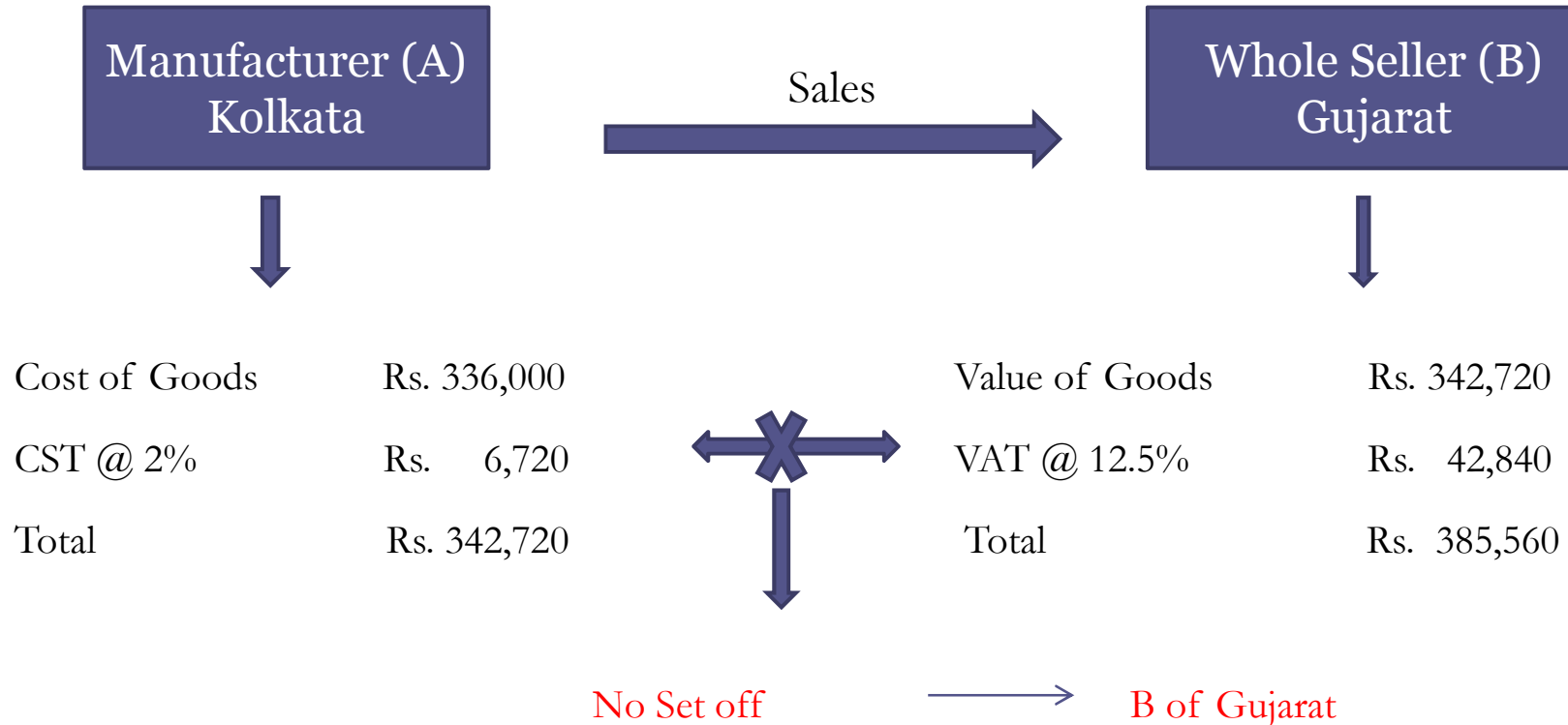
Short coming of Present Tax System

❖ Cascading Effect – Levy of Tax on Taxes



Short coming of Present Tax System

❖ No Tax Credit between CST & VAT




Present Tax Credit Mechanism

Nature of Tax	Levied on	Credit Eligibility	Credit In-eligible
Excise Duty	Good	Manufacturers & Service Providers	Traders of Goods
Additional / Special Custom Duty – CVD & SAD	Goods	Manufacturers & Service Providers	Traders of Goods
Service Tax	Services	Service Providers & Manufacturers	Trader of Goods
VAT	Goods	Manufacturers & Traders	Un-registered
CST	Goods	None	All Taxpayers
Entertainment / Luxury / LBT / Octroi	Goods	None	All taxpayers

Types of Input Tax Credits

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Types	Meaning
Inputs – 2 (59)	means any goods other than capital goods used or intended to be used for making outward supply  in the course or furtherance of business.
Capital Goods – 2(19)	means goods, the value of which is capitalized in the books of accounts of the person claiming the credit and which are used or intended to be used in the course or furtherance of business.
Input Services – 2 (53)	means any service used or intended to be used for making outward supply in the course or furtherance of business. Council has taken power to exclude certain goods from definition.

Types of Input Tax Credits

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Outward supply – 2(83) – in relation to a taxable person, mean supply of goods and / or services, whether by sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made by such person in the course or furtherance of business.



Eligible person for claiming credit

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- ❖ Every **registered taxable person** (RTP) shall be entitled to **take credit of input tax** charged on any supply of goods or services to him which are **used or intended to be used** in the course or furtherance of his business. [Clause 16(1)]

- ❖ Input Tax - 2 (62) in relation to a taxable person means –
 - ✓ **IGST** including that on import of goods;
 - ✓ **CGST, UTGST & SGST** charged on any supply of goods or services;
 - ✓ **Tax payable under RCM;**
 - ✓ **Tax payable when supplies are procured from URD;**
 - ✓ **Excluding tax payable under composition scheme;**

Conditions for availing ITC – 16(2) & ITCR

- (i) Taxable person must have **in his possession** of a tax invoice, debit note, Bill of Entry, invoice issued by supplier when goods and / or services are procured from URP, Documents issued by ISD issued by supplier;
- (ii) Relevant details as contained in above documents have to be furnished in Form GSTR – 2 of such person;
- (iii) Taxable person has **received the goods and / or services**. It is deemed to be received if such goods are received on the direction of other person, whether acting as an agent or otherwise, before or during movement of goods, either by ways of transfer of documents of title or otherwise.

Conditions for availing ITC – 16(2) & ITCR

- (iv) 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 ITC** admissible in respect of such supply;
- (v) Taxable person must have **furnished return u/s. 39**;
- (vi) If the goods against an invoice are received **in lots or installments**, the taxable person shall be entitle to the credit upon **receipt of the last lot or installment**.

Conditions for availing ITC – 16(2) & ITCR

(vii) RTP, **fails to pay to the supplier**, (a) amount mentioned in invoice; and (b) tax payable thereon, **within a period of 180 days (6 months)**, from the date of issue of invoice, an amount equivalent to ITC availed by the recipient shall be **added to the output liability along with interest**.

Interest (not exceeding 18%) to be calculated from the date of availing credit on such supplies till the actual date of payment.

RTP have to **furnish details** of such reversal of credit in FORM GSTR-2 **for the month in which reversal is made**.

Re-credit of ITC, when value of supplies and tax is paid

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Conditions for availing ITC – 16(2) & ITCR

- (viii) RTP has claimed **depreciation on the tax component** of cost of capital goods and P & M, under the provisions of IT Act, 1961, Tax Credit on said tax component shall not be allowed.
- (ix) No tax credit shall be availed by RTP in respect of tax that has been **paid in pursuance of any order**, where any demand has been raised on account of any fraud, willful mis-statement or suppression of facts.

Time limit to avail Tax Credit

- ❖ Input Tax Credit in respect of an invoice pertaining to a financial year **cannot** be taken **after** –
 - (i) **filing of return** for the month of September (20th October) **following the end of the financial year** to which such invoice pertains; or
 - (ii) **filing of the relevant annual return** (31st December) **which ever is earlier.**



Apportionment of Credit – S. 17

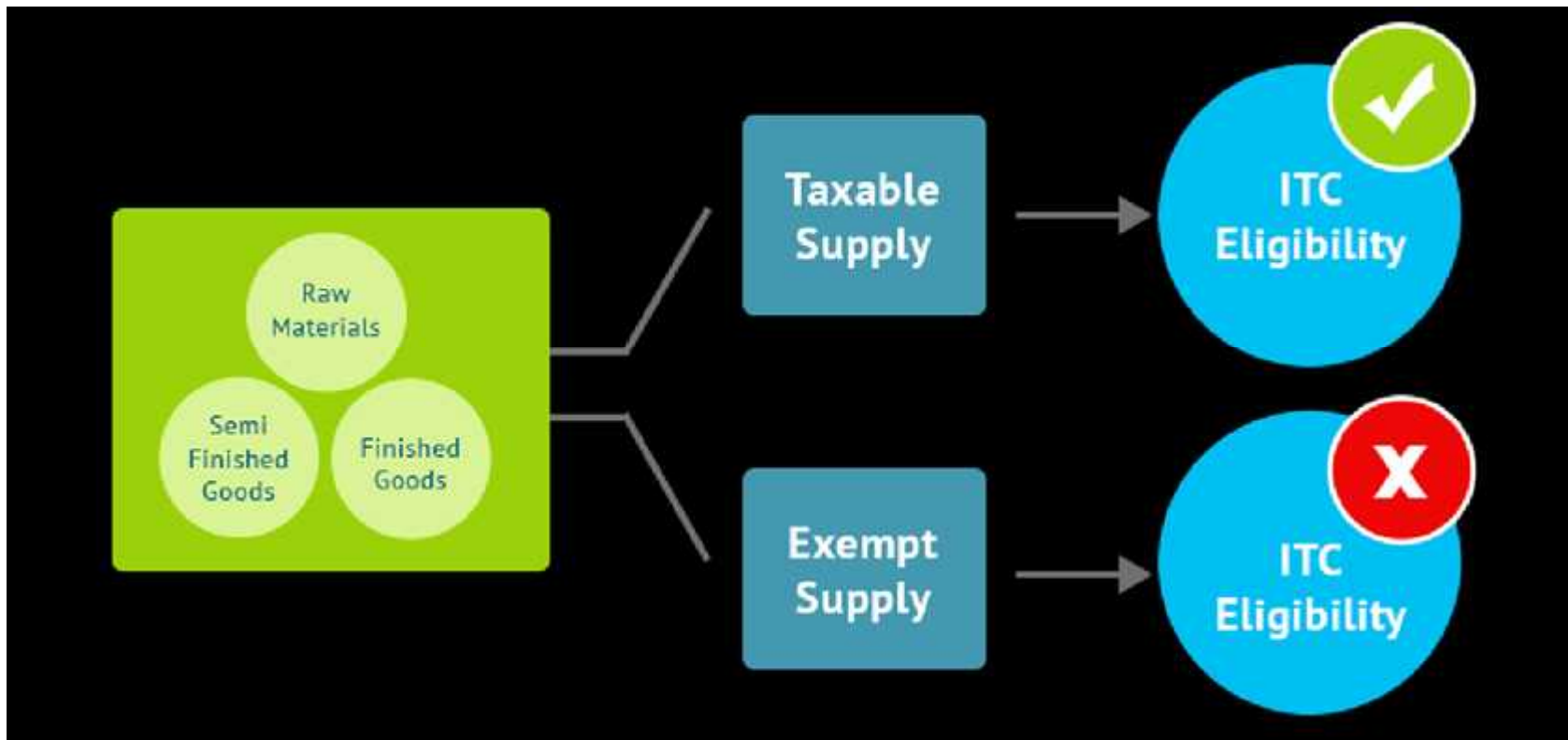
Supply is used **partly for business & other purpose** i.e. non business purpose (amount spent for CSR)

ITC would **not be eligible** to the **extent attributable** to the purpose of **other purpose** i.e. non business purpose.

Supplies used **partly for effecting taxable supplies** (includes zero-rated) and partly **for** exempt supply.



ITC would **not be eligible** to the **extent attributable** to the exempt supply.



Definitions

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- ❖ Value of **exempt supply includes** –
 - (i) supplies on which tax is to be discharged under RCM;
 - (ii) transaction in securities;
 - (iii) sale of land;
 - (iv) sale of building;

- ❖ **“zero rated supply”** means any of the following supplies of goods or services or both , namely -
 - (a) export of goods or services or both; or
 - (b) supply of goods or services or both to a SEZ developer or an SEZ unit. [S. 16 of IGST Act]



Definitions

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- ❖ “taxable supply” means a supply of goods or services or both which is **leviable to tax under this Act. [Clause 2(108)]**
- ❖ “non-taxable supply” means a supply of goods or services or both which is **not leviable to tax under this Act or IGST Act. [Clause 2(78)]**
- ❖ “exempt supply” means supply of any goods or services or both **which attracts NIL rate of tax** or which may be **wholly exempt from tax** under section 11 or 6 of IGST Act and **includes non-taxable supplies. [Clause 2 (47)]**

Tax Credits for Banking Companies – 17(4)

- ❖ **Banking Companies, Financial Institutions and NBFC's** engaged in supplying services by way of accepting deposits, extending loans or advances, shall have the option to either –
 - (i) Tax Credits in normal manner – 17(2); or
 - (ii) **avail 50% of eligible credit** on inputs, CG and IS, in that month and rest (balance) **credit shall lapse.**
- ❖ Options once exercised can not be withdrawn during the remaining part of the financial year;
- ❖ Restriction of 50% not applicable when Tax credits are in respect of supplies from branches.

Blockage of Tax Credit - 17 (5)

Input Tax Credits shall no be available in respect of following -

1. Motor Vehicles and other Conveyances except when used for making following supplies –
 - (a) further supply of such vehicles or conveyance; or
 - (b) transportation of passengers; or
 - (c) imparting training on driving, flying, navigating such vehicles or conveyance;
 - (d) For transportation of goods



Blockage of Tax Credit - 17 (5)

Input Tax Credits shall no be available in respect of following –

2. Supply of goods or services or both –

- i. F & B, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery **except** where such inward supply of goods or services or both of a particular category is used by a RTP **for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;**
- ii. membership of a club, health and fitness centre,


Blockage of Tax Credit - 17 (5)

Input Tax Credits shall no be available in respect of following supply of goods or services or both –

3. rent-a-cab, life insurance, health insurance **except**
 - (i) where the Government notifies the services which are **obligatory for an employer to provide to its employees under any law for the time being in force;**
 - (ii) such inward supply of goods or services or both of a particular category is used by a RTP **for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;**

Blockage of Tax Credit - 17 (5)

Input Tax Credits shall no be available in respect of following supply of goods or services or both –

4. Travel benefits extended to employees on vacation such as leave or home travel concession.
5. **WCS** when supplied for **construction of an immovable property (other than P & M)**  except where it is an input service for further supply of WCS.
6. Goods or Services or both received by a RTP for construction of Immovable Property (Other than P&M) on his own account **including** when such good or services **are used in the course or furtherance of business.**

Plant & Machinery

Plant & Machinery **means**

- (i) apparatus,
- (ii) equipment, and
- (iii) machinery fixed to earth by foundation or structural support that are **used for making outward supply** of goods or services or both and includes such foundation and structural supports **but excludes**
 - (a) Land, Building or any other civil structures;
 - (b) Telecommunication towers; and
 - (c) Pipelines laid outside the factory premises.



Blockage of Tax Credit - 17 (5)

Input Tax Credits shall no be available in respect of following supply of goods or services or both –

7. Tax has been paid under section 10 – Composition Levy;
8. Received by a **non-resident taxable person** except on goods imported by him;

Non resident taxable person means any person who **occasionally** undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, **but who has no fixed place of business or residence in India.**

Blockage of Tax Credit - 17 (5)

Input Tax Credits shall no be available in respect of following supply of goods or services or both –

9. lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
10. Any tax paid in accordance with provisions of –
 - S. 74 - Tax payable on account of fraud, wiful-misstatement or suppression of facts;
 - S. 129–Detention, seizure and release of goods and conveyances in transit;
 - . 130 – Confiscation of goods or conveyances

Tax Credits under special circumstances – S. 18

Person Eligible	Entitlement	Point of Time
Person who has applied for registration within 30 days from the date he becomes liable and has been granted certificate of registration.	ITC in respect of Inputs held in - (i) Stock; or (ii) Semi Finished Goods;	On the day immediately preceding the date from which he becomes liable to pay tax.
Person who has taken Voluntary Registration u/s. 25 (3).	(iii) Finished Goods.	On the day immediately preceding the date of registration.

Tax Credit under special circumstances – S. 18

Person Eligible	Entitlement	Point of Time
Taxable person supplies exempted goods or services or both and becomes taxable supply.	ITC in respect of Inputs held in - (i) Stock; or (ii) Semi Finished Goods; (iii) Finished Goods.	On the day immediately preceding the date from which such supply becomes taxable.
Registered Taxable person ceases to pay tax u/s. 10 i.e. Composition Levy	ITC on CG shall be reduced by such % as provided under Rule 5 of ITC	On the day immediately preceding the date from which he becomes liable to pay tax u/s. 9.

Tax Credits attributes to CG – Rule 5 of ITCR

- ❖ ITC on CG shall be claimed **after reducing tax paid** n CG by **5% points per quarter of a year** or part thereof from
 - (i) the date of invoice; or
 - (ii) other documents on which CG received by RTP
- ❖ RTP shall **within 30 days from the date of becoming eligible to avail ITC** shall make **declaration, electronically**, in Form GST ITC – 01.
- ❖ Declaration shall clearly specify the details relating to the inputs lying in stock or inputs contained in SFG or FG or CG.

Tax Credits attributes to CG – Rule 5 of ITCR

- ❖ Details furnished in declaration have to be **certified by a practicing Chartered Accountant** or Cost Accountant if the **aggregate value of claim** on account of Central Tax, State Tax and Integrated Tax **exceeds Rs. 2 Lakhs**.
- ❖ RTP ceases to pay tax under Composition Levy and pays tax under section 9 or where person supplies exempt goods or services or both and such goods or services becomes taxable, **ITC claimed shall be verified** with the corresponding details furnished by the corresponding supplier in Form GSTR-1 or GSTR – 4 on the common portal.

Tax Credit under special circumstances – S. 18

- ❖ When there is **change in constitution of RTP** on account of –
 - ✓ Sale;
 - ✓ Merger and De-merger;
 - ✓ Amalgamation;
 - ✓ Lease or Transfer of the business

with specific provision of transfer of liabilities.

- ❖ RTP shall be **allowed to transfer ITC** that remains un-utilized in its Electronic Credit Ledger (ECL) **to such sold, merged, amalgamated, leased or transferred business i.e. transferee.**

Tax Credit under special circumstances – S. 18

- ❖ Following procedures to be followed -
- ✓ **Transferor** has to furnish details of sale, merger etc. **in Form GST ITC-02** along with request to transfer credits;
- ✓ In case of **De-merger**, **ITC shall be apportioned** in the ratio of value of assets of the new units as specified in demerger scheme;
- ✓ **Transferor** shall submit copy of certificate from **practicing CA or Cost Accountant** that transfer is with provision **for transfer of liabilities**;
- ✓ **Transferee** has to accept the details so furnished by Transferor and upon such acceptance, un-utilized ITC specified in Form GST ITC-02 shall be credited in his ECL.

Tax Credit under special circumstances – S. 18

- ❖ RTP who has availed ITC,
 - (i) switches over to discharge tax liability under composition scheme; or
 - (ii) Goods and / or services supplied by him become exempt absolutely;
- ❖ Such RTP shall pay an amount by way of debit in ECL equivalent to the credit of input tax in respect of inputs held in stock and input contained in semi-finished or finished goods held in stock, on the date of exercising such option.
- ❖ Balance of ITC in ECL shall lapse.

Tax Credits attributes to CG – Rule 9 of ITCR

- ❖ Capital goods lying in stock (as on appointed date) ITC involved in the remaining residual life in months shall be computed on pro-rata basis, taking residual life as 5 years.

Tax Credits attributes to CG have to be calculated as under -

CG have been in use for 4 years, 6 months and 15 days

Residual remaining life in months = 5 months (ignore part of month)

ITC taken on such CG = C

ITC attributable to remaining useful life = $C \times 5 / 60$

Tax Credits attributes to Inputs Rule 9 of ITCR

- ❖ ITC in relation to **inputs lying stocks** or inputs contained in semi-finished and finished goods shall be determined **proportionately on the basis of corresponding invoice** on which credit had been availed by the RTP on such inputs.
- ❖ Where the **tax invoices** related to the inputs lying in stock are **not available**, RTP shall estimate the amount based on the prevailing market price of the goods.
- ❖ Amount that have to be **reversed shall form part** of the output tax liability of the RTP and the such details have to be **furnished in FORM GST ITC - 03**

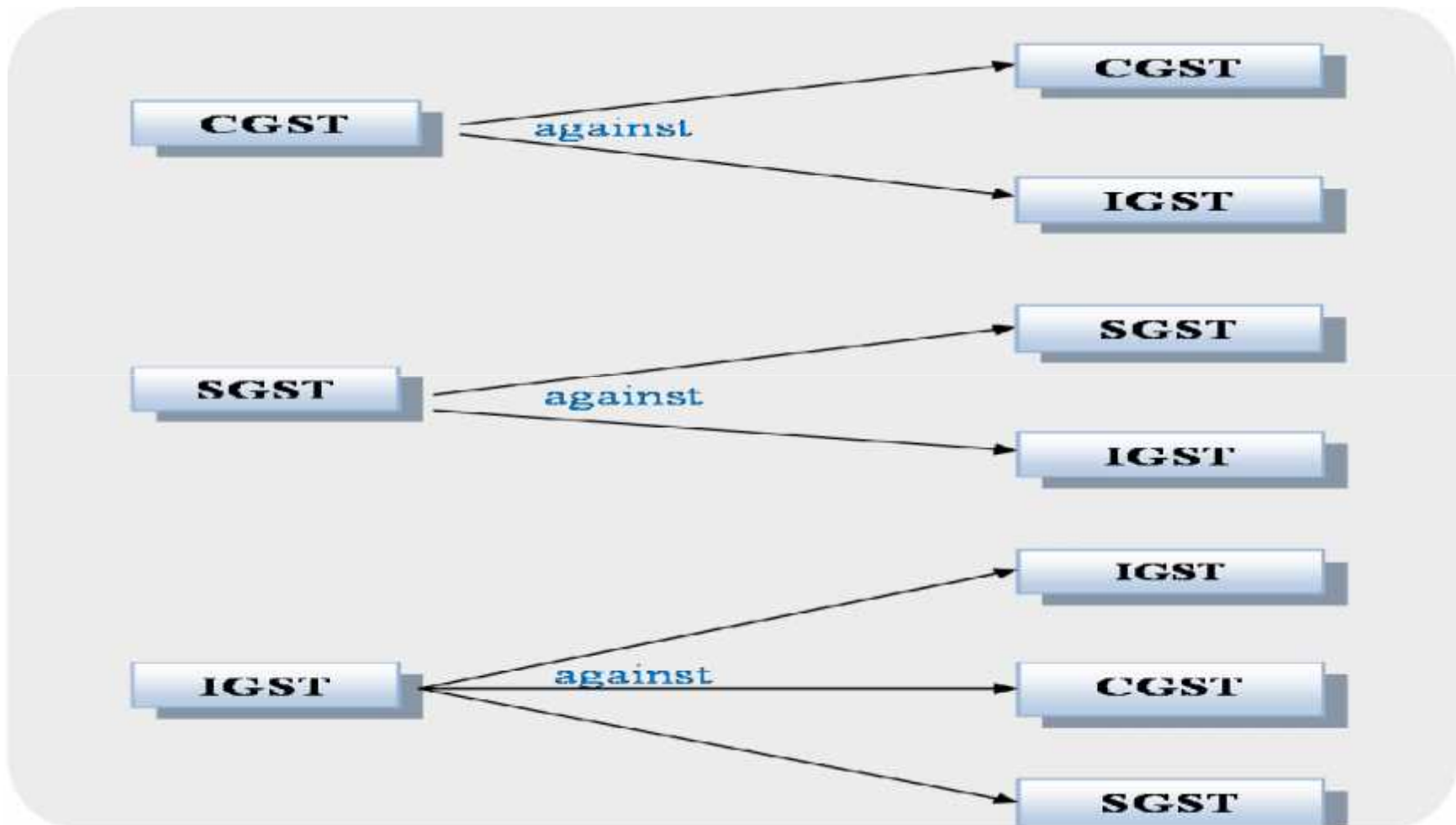
Amounts have to be separately determined for IGST and CGST

Tax Credit under special circumstances – S. 18

- ❖ RTP who has availed ITC and **supply** such CG or P&M, shall
 - (i) pay an amount equal to ITC taken on said supply reduced by such percentage point, as may be prescribed (not yet prescribed); or
 - (ii) tax on the transaction value of such CG or P&M which-ever is higher.

- ❖ Where **refractory bricks, moulds and dies, jigs and fixtures** are **supplied as scrap**, RTP may pay tax on the transaction value of goods as determined under section 15 (Value of Transactions)

Manner of Utilization – S. 49(5)



ITC can not be utilized for payment of Interest, Penalty & fines

Input Tax Credit – Job Worker - S. 19

Principal is eligible to take ITC in respect of Inputs and Capital Goods on such inputs and capital goods sent to Job worker .

Entitlement	Period of Return	Remark
Inputs	Within 1 Year	<ul style="list-style-type: none"> i. ITC on Inputs & CG even if such inputs are sent directly to job worker without their being first brought to his place of business. ii. Period of 1 & 3 year(s) to be counted from the date when the said inputs were sent out/ date or receipt by JW.
Capital Goods	Within 3 years	<ul style="list-style-type: none"> iii. This provision will not applicable to Moulds, Jigs, Dies, tools sent for job work.

On violating condition of return of Inputs and CG, 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:

Input Tax Credit – Job Worker - S. 19

- ❖ Procedures to be followed by Principal & Job Workers when goods are sent –
 - ✓ Principal has to issue challan, which would contain details as specified in Invoice Rules – 8, at the time of sending goods to the job worker including goods sent directly to job worker;
 - ✓ Details of goods dispatched and received from / to Job Worker during a tax period shall be included in Form GSTR-1;
 - ✓ If goods are not returned within stipulated time, challan issued shall be deemed to be an invoice.

Input Tax Credit – ISD – S. 20

"Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST or UTGST paid on the said services to a supplier of taxable goods or services or both having same PAN as that of the office referred to above. [Section 2(61)]

For the purpose of distributing credit, ISD is deemed to be a supplier of service.

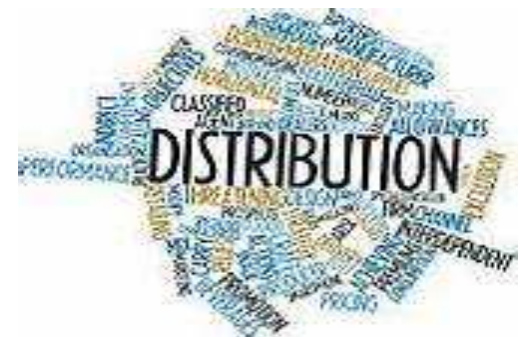
Manner of Utilization of Credit - ISD

ISD shall distribute credits CGST as CGST or IGST and IGST as IGST or CGST by way of issue of document containing amount of tax credits.

Location of ISD and Recipient of Credit	CGST	SGST	IGST
In different States	IGST	IGST	IGST
In same States – Business Verticals	CGST	SGST	CGST IGST

Conditions for Distribution of Credit

- ❖ Prescribed documents have to be issued to **each of the recipients** and such documents contains details as may be prescribed;
- ❖ Credit distributed **shall not exceed** the amount of credit available for distribution;
- ❖ Credit of tax paid on inputs service **attributable to supplier to be distributed to that supplier;**



Conditions for Distribution of Credit

- ❖ Credit of tax paid on input services attributable **to more than one supplier** to be distributed **only amongst such suppliers** to whom the input service is attributable **pro rata** on the basis of **turnover in State** of such supplier during **relevant period** to the aggregate of the turnover of all such suppliers and which are **operational in the current year**.

Relevant Period -

If the recipients of credit have **turnover in their States** in the FY preceding year during which credit is to be distributed, **the said FY**;

Or If some or all recipient of credit **do not have turnover in their States** in the FY preceding year during which 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.

Manner of recovery of credit distributed in excess

- ❖ Excess distribution of credit by ISD, than available for distribution, **excess credit so distributed to be recovered from ISD along with interest.**
- ❖ Excess distribution of credit by ISD to any one or more suppliers **in contravention of conditions** for distribution then **excess credit so distributed to be recovered from such suppliers along with interest.**

Short distributed ?

Matching, Reversal and Re-Reversal of Credits – S. 42

- ❖ Details of **every inward supply** furnished by RTP for tax period be matched;
 - With corresponding details of **outward supply** furnished by supplier in his valid return;
 - With additional duty of customs in respect of imported goods; and
 - For **duplication of ITC**

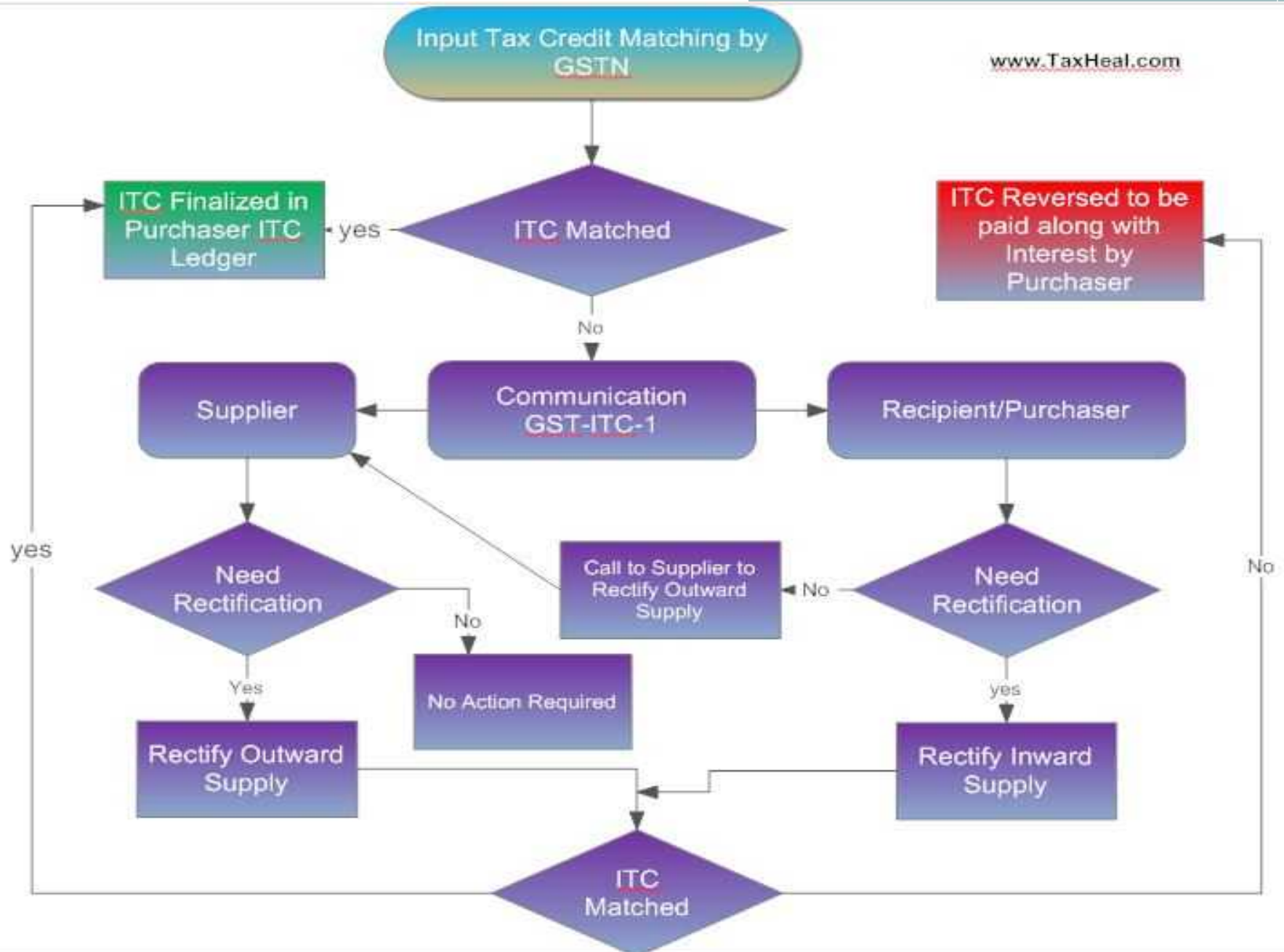
- ❖ Claim of ITC in respect of invoices relating to Inward supply shall be matched with corresponding outward supply shall be **finally accepted and communicated to recipient.**

Matching, Reversal and Re-Reversal of Credits – S. 42

- ❖ **Excess ITC** claimed on account of **short or non declaration of outward supply** will be communicated to both the persons. If not rectified in the **month of communication** will be added to OTL for the month succeeding the month in which discrepancy is communicated. OTL can be reduced if the said supply is declared within prescribed period.
- ❖ **Duplication of ITC claim** communicated to the recipient and will be added to OTL for the month in which it is communicated.

Matching Concepts

- ❖ On additional OTL interest is liable to be paid.
- ❖ On reduction of liability interest will be refunded maximum to the extent of paid by supplier.



Transitory provisions of Tax Credits



- ❖ Un-utilized Cenvat Credits in Returns
- ❖ Un-availed Cenvat Credits
- ❖ Tax Credits in Stocks
- ❖ Tax Credit while goods in Transit



Cenvat
Credit

Un-utilized Tax Credits in Return – 140 (1)

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Credits at	Types of Credits	Conditions
Returns	<ul style="list-style-type: none"> ❖ Service Tax, ❖ Local VAT; ❖ Entry Tax; ❖ Excise Duty; 	<ul style="list-style-type: none"> ❖ RTP should not opt for Composition Levy; ❖ Such amounts should be eligible for ITC under GST Law.; ❖ RTP has to furnish all returns under the existing law for the period of 6 months immediately preceding the appointed date; ❖ Credit should not be relate to goods manufactured and cleared under such exemption notification as are notified by Government. ❖ Application to be submitted in form GST Tran-1 within 60 days of the appointed day.

Un-utilized Tax Credits in Return – 140 (1)

❖ Other conditions –

- ✓ Inputs are received from EOU or an unit located in Electronic Hardware Technology Park, credit shall be allowed to the extent as provided under rule 3(7) of CCR, 2004;
- ✓ Value of claims under section 3 of CST Act – Inter-State Sale;
- ✓ Value of claim under section 5(3) of CST Act – Export & Import
- ✓ Value of claim under section 6 & 6A of CST Act –
- ✓ Value of claim under section 8 (8) of CST Act
- ✓ Serial number and Value of Declarations in Form C and / or F and Certificates in Form E and / or H or Form I submitted by applicant in support of the claims referred above.

Un-utilized Tax Credits – S. 140(2)

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Credits at	Types of Credits	Conditions
Financial Statements	Capital Goods	<ul style="list-style-type: none"> ❖ RTP should not opt for Composition Levy; ❖ Such amounts should also be eligible for ITC under GST Law as well as under earlier law; ❖ Application to be submitted in form GST Tran-1 within 60 days of the appointed day. ❖ Provide particulars of duty/tax availed and utilized under existing law till appointed date as well as un-utilized till appointed date.

Un-availed amount of Cenvat Credit in respect of Capital Goods = Aggregate amount of Cenvat Credit (-) Credit already availed in respect of Capital Goods in earlier return.

Tax Credits in special cases – S. 140 (3)

Eligible Person	Types of Credits	Conditions
<p>(i) RTP who is not liable to registered under existing law; or</p> <p>(ii) RTP who is engaged in manufacturing of exempted goods or provision of exempted services; or</p>	<p>ITC in respect of Inputs held in -</p> <p>(i) Stock; or</p> <p>(ii) Semi - FG ;</p> <p>(iii) Finished Goods.</p> <p>Eligible Duties</p> <ul style="list-style-type: none"> ❖ Excise Duty – ED ❖ CVD & SAD ❖ Service Tax 	<ul style="list-style-type: none"> ✓ Inputs or Goods are used to intended to be used for making taxable supplies; ✓ Eligible for ITC on such inputs under GST Law; ✓ Possession of Invoice, evidencing payment of duty under earlier law; ✓ Invoices pertaining to credit are not issued earlier than 12 months immediately preceding appointed day.

Tax Credits in special cases – S. 140 (3)

Eligible Person	Types of Credits	Conditions
(iii) RTP who is providing WCS and was availing benefit of N. No. 26/2012;	<p>Eligible Duties</p> <ul style="list-style-type: none"> ❖ Excise Duty – ED ❖ CVD & SAD ❖ Service Tax 	<ul style="list-style-type: none"> ✓ Supplier of services is not eligible for any abatement under the Act. ✓ Application to be submitted in form GST Tran-1 within 60 days of the appointed day.
(iv) First /Second Stage Dealer or a registered Importer, or a depot of a manufacturer.		<ul style="list-style-type: none"> ✓ Details of stock held on the appointed day have to be provided separately. ✓ RTP (other than manufacturer or SP) is not in a possession of an invoice or other duty paying documents, such RTP shall avail credit after passing the benefit of such credit by way of reduction in price.

Tax Credits in special cases – S. 140 (3)

- ❖ RTP can avail the credit if he is not in possession of any duty paying document **on following conditions-**
 - i. **40% of credit** would be allowed on Central Tax applicable **on supply of such goods and Central Tax has been paid;**

- ❖ **Such credit shall be availed subject to following conditions-**
 - i. Such goods were **not wholly exempt from ED** or were not NIL rated;
 - ii. Document for procurement of such goods is available with RTP;

Tax Credits in special cases – S. 140 (3)

- ❖ Such credit shall be availed subject to following conditions-
 - iii. RTP availing this scheme have to furnished the details of stock;
 - iv. Submits a statement in Form GST TRAN at the end of six tax periods during which the scheme is in operation indicating therein the details of supplies of such goods effected during the tax period.
 - v. Amount shall be credited to ECL of the applicant in Form GST PMT – 2;
 - vi. Stock of goods on which the credit is availed is so stored that it can be identified by the RTP.

Exempted & Taxable Supplies – S. 140 (4)

- ❖ RTP who manufactures taxable as well as exempted goods under CEA or Service providers who provides taxable as well as exempted services under Chapter - V, they would be eligible to carried forward credit, in her Electronic Credit Ledger (ECL) as under –
 - (i) Cenvat Credit carried forward in a return furnished under earlier law in terms of Section 140; and
 - (ii) Eligible Duties in respect of inputs held in stock, inputs contained in semi-finished or finished stocks on the appointed day, relating to exempt goods or services in terms of Section 140(3).

Tax Credits - Goods are in Transit – 140(5)

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Eligible Person	Types of Credits	Conditions
<p>RTP is eligible to avail ITC in respect of inputs and inputs services received on or after the appointed date but duty or tax is paid before the appointed date.</p>	<ul style="list-style-type: none"> ❖ Excise Duty – ED ❖ CVD & SAD ❖ Service Tax 	<ul style="list-style-type: none"> ✓ Invoice or any other duty/tax paying document of the same was recorded in the books of accounts of such person within a period of thirty days from the appointed day: ✓ Period of 30 days may be extended for a further period of 30 days on sufficient cause being shown to competent authority. ✓ RTP have to furnish a statement in such manner as may be prescribed, in respect of credits availed as above.

Tax Credits - Goods are in Transit – 140(5)

❖ Following details to be furnished -

- (i) Name of the supplier, Serial Number and date of issue of the invoice by the supplier or any documents on the basis of which credit of input tax was admissible under existing law;
- (ii) Description, Quantity and Value of the Goods and Service;
- (iii) Amount of eligible taxes and duties or as the case may be VAT or Entry Tax charged by the supplier;
- (iv) Date on which the receipt of goods or services is entered in the books of accounts of recipient.

Tax Credits in special cases – S. 140 (6)

Eligible Person	Types of Credits	Conditions
RTP discharging tax liability either paying tax at a fixed rate or paying a fixed amount in lieu of tax payable under the earlier law.	<ul style="list-style-type: none"> ❖ Excise Duty – ED ❖ CVD & SAD ❖ Service Tax <div style="background-color: #4a5568; color: white; padding: 5px; margin-top: 10px;"> <p>[Rule 2A(ii) of Service Tax (Determination of Value, Rules, 2006) & Section 42(3) of MVAT Act, 2002]</p> </div>	<ul style="list-style-type: none"> ✓ Used or intended to be used for making taxable supplies; ✓ RTP not discharging tax liability under Composition Scheme under Act; ✓ Eligible for ITC on such inputs under GST; ✓ Possession of Invoice, evidencing payment of duty under earlier law; ✓ Invoices pertaining to credit are not issued earlier than 12 months immediately preceding appointed day. ✓ Inputs are eligible inputs under earlier law.


Tax Credits for certain persons – 140(7)

- ❖ ITC on account of **any services received prior to the appointed day** by an ISD shall be **eligible for distribution as credit** under this Act **even if the invoices relating to such services are received on or after the appointed day.**
- ❖ Registered person under **Centralized Registration** shall be allowed to take, **eligible credit**, in his ECL, **credit of the amount of Cenvat Credit carried forward in a return**, furnished under existing law, immediately preceding appointed day. Moreover, such credit may be **transferred to any of the RTP** having same PAN for which the Centralized Registration was obtained under existing law.

Tax Credits for certain persons – 140(8)

- ❖ If Cenvat Credit availed under existing law have been reversed due to non-payment of the consideration within a period of 3 months, such credit can be reclaimed subject to the condition that registered person has made the payment of the consideration for that supply of services within a period of 3 months from the appointed day.

Import of Service or Inter State Transaction

- ❖ Import of services  or inter-state supply of goods and/or services made after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services or inter-state supply had been initiated before the appointed day. [S. 21 – IGST]

- ❖ Transaction initiated before appointed day mean, if either the
 - (i) invoice relating to such supply has been received; or
 - (ii) payment, either in full or in part, has been received or made before the appointed day

Import of Services – S. 2(11) of IGST

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- ❖ Supply of any service shall be treated as an “import of service” if, (a) the supplier of service is located outside India, (b) the recipient of service is located in India, (c) the place of supply of service is in India, and (d) the supplier of service and the recipient of service are not merely establishments of a distinct person.

Explanation 1.- An establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.

Explanation 2.- A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory.

Import of Service or Inter State Transaction

- ❖ If tax on such import or inter-state supply had been paid in full under the earlier law, no tax shall be payable on such import or inter-state supply under this Act i.e. GST
- ❖ However, if the tax on such import of services had been paid in part under the earlier law, balance amount of tax shall be payable on such import or inter-state supply under this Act i.e. GST.

Refund of Un-utilized Credits



Who is eligible for Refund

- ❖ Tax payer can claim refund of following un-utilized input tax credit on his Electronic Credit Ledger (ECL) at the end of any tax period i.e the period for which the tax return is required to be filed by following persons -
 - (i) Zero rated supply made without payment of tax - Export of goods and services and Supplies to SEZ unit or developer of SEZ unit;
 - (ii) Credit accumulated on account of rate of tax on inputs being higher than the rate of tax on outputs (other than Nil rated or fully exempt);

Who is eligible for refund


- (iii) Refund claim of **un-utilized Input Tax Credit or balance in ECL** may be made **through the return** for the relevant tax period.
- ❖ RTP may claim refund of **un-utilized amount in Electronic Cash Ledger**, in the **return filed or furnished** under section 34 in such manner as may be prescribed.
- ❖ **Tourist** are eligible to **claim refund of IGST** paid on supply of goods taken out of India, that is procured from RTP who satisfied the conditions and complies with the requirement.

S. 15 of IGST Act.

Who is not eligible for refund

- ❖ Tourist means a person not normally resident in India, who enters in India, for a stay of not more than 6 months for legitimate non-immigrant purposes.
- ❖ No refund where the goods exported out of India are subjected to export duty.
- ❖ No refund of ITC shall be allowed if the supplier of goods or services or both avails of drawback in respect of Central Tax or claims refund of IGST paid on such supplies.

Conditions for availing refund

- ❖ Refund claim is required to be filed within 2 years from **relevant date**  before the Proper Officer. **No Time limit is applicable to amounts paid under protest.**
- ❖ Refund order to be passed **within 60 days** from the date of receipt of application.
- ❖ Refund application of **< Rs. 5 Lakhs** requires declaration and proof for non passing of incidence of tax is required. **It is not necessary to furnish any documentary evidences.**

Relevant Date – S. 48

Event	Relevant Date
In case of exports of goods	<p>(i) Exports by Sea or Air – date on which the ship or aircraft in which goods are loaded, leaves India; or</p> <p>(ii) Exports by Land – date on which goods passes the frontier; or</p> <p>(iii) Exports by Posts – date of despatch of goods by the Post Office concerned to a place outside India.</p>
In case of deemed exports of goods (supply to SEZ)	Date on which the return relating to such deemed exports is filed.

Relevant Date – S. 48

Event	Relevant Date
In case of supply of services	(i) Receipt of payment in CFE , where supply of service had been completed prior to the receipt of such payments; or (ii) Issue of Invoice , where payment for the service had been received in advance prior to the date of issue of invoice.
In case of refund arises due to judgement, decree, order or direction of any Appellate Authority, Tribunal or Court.	Date of communication of such judgement, decree, order or direction.

Relevant Date – S. 48

Event	Relevant Date
In case where tax is paid provisionally.	Date of adjustment of tax after the final assessment thereof.
In case of person, other than supplier.	Date of receipt of goods or services by such persons.
In any other case	Date of payment of Tax



Grant of Provisional Refund

- ❖ Provisional refund of 90% of the total amount of claim shall be granted to exporters of goods / services, within a period of 7 days from the date of acknowledgment of refund application (GST RFD 2) after fulfilling following conditions –
 - (i) During any period of 5 years immediately preceding the tax period to which the claim for refund relates, applicant is not prosecuted for any offence under the Act or under an earlier law, where the amount of tax evaded exceeds Rs. 250 Lacs;
 - (ii) GST compliance rating of the applicant is not less than 5 on a scale of 10;
 - (iii) No proceeding of any appeal, review or revision is pending.

Refund of wrongly paid SGST / CGST (S. 53)

- ❖ A taxable person paid CGST / SGST (in SGST Act) on a transaction considered by him to be an **intra-state supply**, but which is **subsequently held to be an inter-state supply**, shall have to **first pay IGST**; and
- ❖ Amount paid as CGST / SGST (in SGST Act) so paid is **allowed to take as refund** subject to provisions of Section 38 and subject to such conditions as may be prescribed.



GST Compliance Rating



- ❖ A new concept of “GST compliance rating” has been formulated wherein every Taxable person shall be assigned a GST compliance rating score based on his record of compliance with the GST Law.
- ❖ Rating is only a measure to facilitate informed choices by the purchasers and not a punishment measure.
- ❖ It is cleared that declaration in the law that blacklisting does not mean that ITC claim of other non-black listed persons is assured by the Government.

Trigger points of Black Listing

- ❖ Continuous default for 3 months in paying ITC that has been reversed.
- ❖ Continuous default of 3 months or any 3 month-period over duration of 12 months in uploading outward supply details leading to reversal of ITC for others.
- ❖ Continuous short reporting of outward supply beyond a prescribed limit of 5% (of total turnover) for a period of 6 month.



Compliance rating score would be updated at intervals and intimated to taxable person.

Advantage of Black Listing

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- ❖ It will act as **panacea for regulating ITC for buyer**. A proactive buyer can take decision based on the compliance rating of his seller as his name appears in public domain;
- ❖ **Auto-SMS** will be sent to **all dealers** who have pre-registered this dealer (black listed now) as their supplier;
- ❖ Blacklisted GSTINs **cannot be uploaded in purchase details** and result in denial of ITC;
- ❖ Once blacklisting **is lifted**, buyers can avail **unclaimed ITC** subject to this dealer uploading outward supplies details along with **payment of tax and interest**.



Thank you for your attention

Any questions?

Happy GST Learning

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**Are you
ready
for
GST?**