

## CHAPTER – V

### INPUT TAX CREDIT

#### Section 16 : Eligibility and conditions for taking input tax credit

- (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both 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.
- (2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—
- (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
  - <sup>1</sup>[(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;]
  - (b) he has received the goods or services or both.
- <sup>2</sup>[**Explanation** – For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—
- (i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered 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;
  - (ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.]
- <sup>3</sup>[(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;]

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1 Clause (aa) inserted by Finance Act, 2021 (No. 13 of 2021). It is made effective from 01-01-2022 by Noti. No. 39/2021–Central Tax, dt. 21-12-2021.

2 Explanation substituted by CGST (Amendment) Act, 2018 (No. 31 of 2018). It is made effective from 01-02-2019 by Noti. No. 2/2019–Central Tax, dt. 29-01-2019. Earlier to substitution it read as under:

"**Explanation**–For the purposes of this clause, it shall be deemed that the registered 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 registered 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;"

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(c) subject to the provisions of <sup>4</sup>[section 41 <sup>5</sup>[\*\*\*\*]], the tax charged in respect of such supply has been actually paid to the 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 39:

**Provided** that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

**Provided further** that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be <sup>6</sup>[paid by him along with interest payable under section 50], in such manner as may be prescribed:

**Provided also** that the recipient shall be entitled to avail of the credit of input tax on payment made by him <sup>7</sup>[to the supplier] of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961 (43 of 1961), the input tax credit on the said tax component shall not be allowed.

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the <sup>8</sup>[thirtieth day of November] following the end of financial year to which

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3 Clause (ba) inserted by Finance Act, 2022 (No. 6 of 2022). It is made effective from 01-10-2022 by Noti. No. 18/2022–Central Tax, dt. 28-09-2022.

4 Substituted for "section 41" by CGST (Amendment) Act, 2018 (No. 31 of 2018) effective from a date yet to be notified.

5 The words "or section 43A" omitted by Finance Act, 2022 (No. 6 of 2022). It is made effective from 01-10-2022 by Noti. No. 18/2022–Central Tax, dt. 28-09-2022.

6 Substituted for "added to his output tax liability, along with interest thereon" by The Finance Act, 2023 w.e.f. 01-10-2023.

7 Inserted by The Finance Act, 2023 w.e.f. 01-10-2023.

8 Substituted for "due date of furnishing of the return under section 39 for the month of September" by Finance Act, 2022 (No. 6 of 2022). It is made effective from 01-10-2022 by Noti. No. 18/2022–Central Tax, dt. 28-09-2022.

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such invoice or <sup>9</sup>[\*\*\*\*] debit note pertains or furnishing of the relevant annual return, whichever is earlier.

<sup>10</sup>[**Provided** that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.]

<sup>11</sup>[(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021.

(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,-

(i) filed up to thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration, whichever is later.]

**Relevant Rule: Rule 36, 37, 37A, 38**

**Relevant Form: Form GSTR-2**

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<sup>9</sup> The words "invoice relating to such" omitted by The Finance Act, 2020 (No. 12 of 2020). It is made effective from 01-01-2021 by Noti. No. 92/2020-Central Tax, dt. 22-12-2020.

<sup>10</sup> Proviso inserted by GST (2<sup>nd</sup> ROD) Order, 2018 [Order No. 02/2018-Central Tax] dt. 31-12-2018.

<sup>11</sup> Sub-section (5) & (6) inserted by Finance (No. 2) Act, 2024 (No. 15 of 2024), dt. 16-08-2024 w.e.f. 01-07-2017. Noti. No. 17/2024-Central Tax, dt. 27-09-2024 appoints 27-09-2024 as the date on which this amendment of the Finance (No. 2) Act, 2024 (No. 15 of 2024) shall come into force. Further as per S. 150 of the Finance (No. 2) Act, 2024 dated 16-08-2024, "No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had section 118 been in force at all material times".