

Rule 43 : Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases

- (1) Subject to the provisions of sub-section (3) of section 16, the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-
- (a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in ¹[****] ²**FORM GSTR-3B** and shall not be credited to his electronic credit ledger;
- (b) the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero-rated supplies shall be indicated in ³[****] ⁴**FORM GSTR-3B** and shall be credited to the electronic credit ledger;

⁵**[Explanation]**—For the purpose of this clause, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the said Act, the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies, shall be zero during the construction phase because capital goods will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first

¹ Omitted "**FORM GSTR-2** ^A[and]" by Noti. No. 19/2022-Central Tax, dt. 28-09-2022 w.e.f. 01-10-2022.

A Inserted by Noti. No. 16/2019–Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

² Inserted by Noti. No. 16/2019–Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

³ Omitted "**FORM GSTR-2** ^A[and]" by Noti. No. 19/2022–Central Tax, dt. 28-09-2022 w.e.f. 01-10-2022.

A Inserted by Noti. No. 16/2019–Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

⁴ Inserted by Noti. No. 16/2019–Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

⁵ Explanation inserted by Noti. No. 16/2019–Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

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occupation of the project, whichever is earlier, and those which are not booked by the said date.]

- ⁶[(c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', being the amount of tax as reflected on the invoice, shall credit directly to the electronic credit ledger and the validity of the useful life of such goods shall extend upto five years from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, input tax in respect of such capital goods denoted as 'A' shall be credited to the electronic credit ledger subject to the condition that the ineligible credit attributable to the period during which such capital goods were covered by clause (a), denoted as 'T_{ie}', shall be calculated at the rate of five percentage points for every quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed:

Provided further that the amount 'T_{ie}' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B**.

Explanation-An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause;]

⁶ Clause (c) alongwith proviso and explanation substituted by Noti. No. 16/2020-Central Tax, dt. 23-03-2020 w.e.f. 01-04-2020. Earlier to substitution it read as under:

- "(c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

Explanation: An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause."

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- ⁷[(d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'T_c', shall be the common credit in respect of such capital goods:

Provided that where any capital goods earlier covered under clause (b) are subsequently covered under clause (c), the input tax credit claimed in respect of such capital goods shall be added to arrive at the aggregate value 'T_c';]

- (e) the amount of input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as 'T_m' and calculated as:-

$$T_m = T_c \div 60$$

⁸[**Explanation**—For the removal of doubt, it is clarified that useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.]

- (f) ⁹[****]

- (g) the amount of common credit attributable towards exempted supplies, be denoted as 'T_e', and calculated as:

$$T_e = (E \div F) \times T_r$$

where,

'E' is the aggregate value of exempt supplies, made, during the

⁷ Clause (d) along with proviso substituted by Noti. No. 16/2020– Central Tax, dt. 23-03-2020 w.e.f. 01-04-2020. Earlier to substitution it read as under:

"(d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as 'T_c', shall be the common credit in respect of capital goods for a tax period:

Provided that where any capital goods earlier covered under clause (b) is subsequently covered under clause (c), the value of 'A' arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value 'T_c';"

⁸ Explanation inserted by Noti. No. 16/2020–Central Tax, dt. 23-03-2020 w.e.f. 01-04-2020.

⁹ Clause (f) omitted by Noti. No. 16/2020–Central Tax, dt. 23-03-2020 w.e.f. 01-04-2020. Earlier to omission it read as under:

"(f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'T_r' and shall be the aggregate of 'T_m' for all such capital goods;"

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tax period, and

‘F’ is the total turnover ¹⁰[in the State] of the registered person during the tax period:

¹¹**[Provided]** that in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the Act, the value of “E/F” for a tax period shall be calculated for each project separately, taking value of E and F as under:

E= aggregate carpet area of the apartments, construction of which is exempt from tax plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier;

F= aggregate carpet area of the apartments in the project;

Explanation 1.—In the tax period in which the issuance of completion certificate or first occupation of the project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

Explanation 2.—Carpet area of apartments, tax on construction of which is paid or payable at the rates specified for items (i), (ia), (ib), (ic) or (id), against serial number 3 of the Table in notification No. 11/2017-Central Tax (Rate) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 *vide* GSR No. 690 (E) dated 28th June, 2017, as amended, shall be taken into account for calculation of value of “E” in view of Explanation (iv) in paragraph 4 of the notification No. 11/2017-Central Tax (Rate) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated the 28th June, 2017 *vide* GSR No. 690 (E) dated 28th June, 2017, as amended.]

¹²**[Provided further]** that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of ‘E/F’ shall be calculated

¹⁰ Inserted by Noti. No. 16/2019–Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

¹¹ Proviso and explanations inserted by Noti. No. 16/2019–Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

¹² Substituted for "Provided" by Noti. No. 16/2019–Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

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by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation—For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 ¹³[and entry 92A] of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(h) the amount T_e along with applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.

¹⁴[(i) The amount T_e shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B.**]

¹⁵[(2) In case of supply of services covered by clause (b) of paragraph 5 of schedule II of the Act, the amount of common credit attributable towards exempted supplies (T_e^{final}) shall be calculated finally for the entire period from the commencement of the project or 1st July, 2017, whichever is later, to the completion or first occupation of the project, whichever is earlier, for each project separately, before the due date for furnishing of the return for the month of September following the end of financial year in which the completion certificate is issued or first occupation takes place of the project, as under:

$$T_e^{final} = [(E_1 + E_2 + E_3) / F] \times T_c^{final},$$

Where,-

E_1 = aggregate carpet area of the apartments, construction of which is

¹³ Inserted by Noti. No. 03/2019-Central Tax, dt. 29-01-2019 w.e.f. 01-02-2019.

¹⁴ Clause (i) inserted by Noti. No. 16/2019-Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

¹⁵ Sub-rule (2), (3) & (4) substituted for existing Sub-rule (2) by Noti. No. 16/2019-Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019. Earlier to substitution it read as under:

"(2) The amount T_e shall be computed separately for central tax, State tax, Union territory tax and integrated tax."

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exempt from tax

E₂= aggregate carpet area of the apartments, supply of which is partly exempt and partly taxable, consequent to change of rates of tax on 1st April, 2019, which shall be calculated as under, -

$$T_e^{\text{final}} = [(E_1 + E_2 + E_3) / F] \times T_c^{\text{final}},$$

Where,-

E₁= aggregate carpet area of the apartments, construction of which is exempt from tax

E₂= aggregate carpet area of the apartments, supply of which is partly exempt and partly taxable, consequent to change of rates of tax on 1st April, 2019, which shall be calculated as under, -

$$E_2 = [\text{Carpet area of such apartments}] \times [V_1 / (V_1 + V_2)],$$

Where,-

V₁ is the total value of supply of such apartments which was exempt from tax; and

V₂ is the total value of supply of such apartments which was taxable

E₃= aggregate carpet area of the apartments, construction of which is not exempt from tax, but have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier:

F= aggregate carpet area of the apartments in the project;

T_c^{final} = aggregate of A^{final} in respect of all capital goods used in the project and A^{final} for each capital goods shall be calculated as under,

$$A^{\text{final}} = A \times (\text{number of months for which capital goods is used for the project} / 60)$$

and,-

- (a) where value of T_e^{final} exceeds the aggregate of amounts of T_e determined for each tax period under sub-rule (1), such excess shall be reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03** in the month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

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- (b) where aggregate of amounts of T_e determined for each tax period under sub-rule (1) exceeds T_e^{final} , such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project.

Explanation-For the purpose of calculation of T_e^{final} , part of the month shall be treated as one complete month.

- (3) The amount T_e^{final} and T_c^{final} shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.
- (4) Where any capital goods are used for more than one project, input tax credit with respect to such capital goods shall be assigned to each project on a reasonable basis and credit reversal pertaining to each project shall be carried out as per sub-rule (2).
- (5) Where any capital goods used for the project have their useful life remaining on the completion of the project, input tax credit attributable to the remaining life shall be availed in the project in which the capital goods is further used]

¹⁶[**Explanation** ¹⁷[1].-For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude:-

- (a) ¹⁸[*****]

16 Explanation substituted by Noti. No. 3/2018-Central Tax, dt. 23-01-2018 w.e.f. 23-01-2018. Earlier to substitution it read as under:

"^A[**Explanation** : For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude the value of supply of services specified in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 42/2017-Integrated Tax (Rate), dated the 27th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1338(E) dated the 27th October, 2017"

A Earlier inserted by Noti No. 55/2017-Central Tax, dt. 15-11-2017 w.e.f. 15-11-2017.

17 Explanation re-numbered as Explanation 1 by Noti. No. 16/2019-Central Tax, dt. 29-03-2019 w.e.f 01-04-2019.

18 Clause (a) omitted by Noti. No. 03/2019-Central Tax, dt. 29-01-2019 w.e.f. 01-02-2019. Earlier to omission it read as under:

"(a) the value of supply of services specified in the notification of the Government of India in the Ministry of Finance, Department of Revenue

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- (b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of 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; and
- (c) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.
- ¹⁹[(d) the value of supply of Duty Credit Scrips specified in the notification of the Government of India, Ministry of Finance, Department of Revenue No. 35/2017-Central Tax (Rate), dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1284(E), dated the 13th October, 2017.]

²⁰[**Explanation 2.**—For the purposes of rule 42 and this rule,—

- (i) the term “apartment” shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);
- (ii) the term “project” shall mean a real estate project or a residential real estate project;
- (iii) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);
- (iv) the term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP;
- (v) the term “promoter” shall have the same meaning as assigned to it in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

No. 42/2017-Integrated Tax (Rate), dated the 27th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1338(E) dated the 27th October, 2017;”

- 19 Clause (d) inserted by Noti. No. 14/2022–Central Tax, dt. 05-07-2022 w.e.f. 05-07-2022.
- 20 Explanation 2 inserted by Noti. No. 16/2019–Central Tax, dt. 29-03-2019 w.e.f. 01-04-2019.

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- (vi) "Residential apartment" shall mean an apartment intended for residential use as declared to the Real Estate Regulatory Authority or to competent authority;
 - (vii) "Commercial apartment" shall mean an apartment other than a residential apartment;
 - (viii) the term "competent authority" as mentioned in definition of "residential apartment", means the local authority or any authority created or established under any law for the time being in force by the Central Government or State Government or Union Territory Government, which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;
 - (ix) the term "Real Estate Regulatory Authority" shall mean the Authority established under sub-section (1) of section 20 of the Real Estate (Regulation and Development) Act, 2016 (No. 16 of 2016) by the Central Government or State Government;
 - (x) the term "carpet area" shall have the same meaning assigned to it in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);
 - (xi) "an apartment booked on or before the date of issuance of completion certificate or first occupation of the project" shall mean an apartment which meets all the following three conditions, namely-
 - (a) part of supply of construction of the apartment service has time of supply on or before the said date; and
 - (b) consideration equal to at least one installment has been credited to the bank account of the registered person on or before the said date; and
 - (c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the said date.
 - (xii) The term "ongoing project" shall have the same meaning as assigned to it in notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published vide GSR No. 690(E) dated the 28th June, 2017, as amended;
 - (xiii) The term "project which commences on or after 1st April, 2019" shall have the same meaning as assigned to it in notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published vide GSR No. 690(E) dated the 28th June, 2017, as amended.]
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