

Calculation of final ITC

- (2) The input tax credit determined under sub-rule (1) **shall be calculated finally for the financial year** before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates, in the manner specified in the said sub-rule and-
- (a) where the aggregate of the amounts calculated finally in respect of 'D₁' and 'D₂' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D₁' and 'D₂', such excess shall be **added to the output tax liability** of the registered person in the month not later than the month of September following the end of the financial year to which such credit relates 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 (18% P.A.) for the period starting from the first day of April of the succeeding financial year till the date of payment; or
- (b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D₁' and 'D₂' exceeds the aggregate of the amounts calculated finally in respect of 'D₁' and 'D₂', **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 to which such credit relates.**

Example on how to arrive at the amount of common credit C₂ (ICAI Material)

Making an assumption that Hawai slippers are exempted, take a case of Eezee Footwear, manufacturer of two varieties of Hawai slippers and five varieties of other sandals and shoes. Dyes are used in the manufacture of all footwear. However, bright pink is used only for one of the Hawai varieties, and black is used only for the sandals and shoes. Blue and yellow are used for all the varieties. Brown is used for non-business purposes.

In inward supplies during the month -

Input tax on brown dye: ₹ 10,000 (This is T₁)

Input tax on bright pink dye: ₹ 90,000. (This is T₂)

Input tax on black dye: ₹ 40,000. (This is T₄)

Input tax on blue dye: ₹ 1,00,000

Input tax on yellow dye: ₹ 15,000

Total input tax: ₹ 2,55,000 (This is T)

Total input tax reduced by (T₁ + T₂ + T₄, i.e., by ₹ 1,40,000) is ₹ 1,15,000.

Amount of common credit (C₂) is ₹ 1,15,000. This has to be apportioned as given below in Step 2.

Example on how to apportion common credit into credit attributable to exempt supplies

Ezee Footwear, which manufactures two varieties of exempt Hawai slippers and five varieties of taxable sandals and shoes, has the following turnover in October and has ₹ 1,15,000 common credit that has to be apportioned:

Turnover of Hawai 1 plus Hawai 2: ₹ 3 crores (This is 'E')

Turnover of all varieties of taxable shoes and sandals: ₹ 2 crore

Total turnover of all footwear during the month: ₹ 5 crores (This is 'F')

No inputs/input services are used for non-business purposes.

$(3,00,00,000 / 5,00,00,000) \times 1,15,000 = ₹ 69,000$ is the input tax that pertains to exempt supply (D₁).

⇒ Compute credit attributable to non-business purposes D₂ as under

$$D_2 = 5\% \text{ of } C_2 \text{ (common credit)}$$

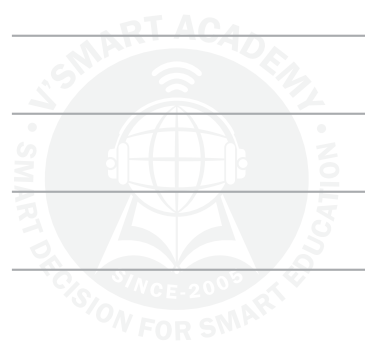
Step 3 – Compute eligible credits

Compute C₃ attributable to business purposes and taxable supplies including zero rated supplies as under:

$$C_3 = C_2 - (D_1 + D_2)$$

Step 4 – Restrict ineligible credits

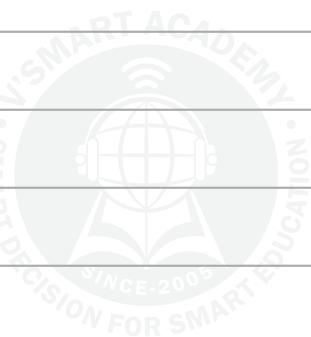
Add D₁ + D₂ to the output tax liability.





Other miscellaneous amendments in Rule 42 [N/N 16/2019CT dt 29/03/2019]

S.N.	Rule	Particulars	Amendment	
1	42(1)(g)	T1, T2, T3, T4 should be declare and determine	Old	On the basis of GSTR-2
			New	On the basis of GSTR-2 & at summary level in GSTR-3B
2	42(1)(l)	C3 is computed	Old	Separately for ITC of CGST, SGST/UTGST & IGST
			New	C3, D1 & D2 should be computed separately for ITC of CGST SGST/UTGST & IGST and declare in GSTR 3B or through prescribe form
3	42(1)(m)	Amount equal to aggregate of D1 and D2	Old	Added to the output tax liability of a registered person
			New	Reversed by the registered person in GSTR 3B or in the prescribed form
4	41(2)(a)	Aggregate amount calculated finally in D1 and D2 (annual basis) exceed aggregate amount in rule 41(1) in respect of D1 & D2	Old	Added to the output tax liability of a registered person not later than September following the end of financial year
			New	Reversed by the registered person in GSTR 3B or in the prescribed form not later than September following the end of financial year



CHART

Illustration 1 : Apportionment of Credit on input and input services : X Ltd. providers taxable as well as exempted services. Turnover of X Ltd. during the month of October, 2018 is as under :

Particular	₹
Value of exempted supply of services	15,00,000
Value of taxable supply of services	32,00,000
Value of Zero rated taxable Supply of services	8,00,000
Supply of services made for personal use	5,00,000
Total	60,00,000

Details of Input tax Credit for the month of October, 2018 are as under :

Particular	CGST(₹)	SGST(₹)	IGST(₹)
Total Input tax credit available	1,08,000	1,08,000	54,000
The above Input tax credit on input services includes the following:			
(i) Credit on input services exclusively used for supplying exempted services	18,000	18,000	7,200
(ii) Credit on input services exclusively used for supplying taxable services (including Zero rated supplies)	54,000	54,000	3,600
(iii) Credit availed on inputs which are not eligible under section 17(5)	18,000	18,000	6,300
(iv) Credit on input services exclusively used for supplying services for personal use	10,800	10,800	5,400

What would be the entitlement of input tax credit of X Ltd. for month of October, 2018 under Rule 42 of the CGST Rules and also calculate the amount to be added to output tax liability of X Ltd.

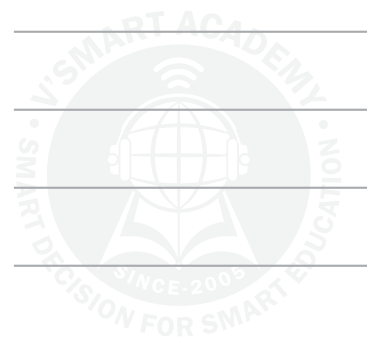




Illustration 2 - Distribution of Input tax credit when value of exempt supply is not known for the tax period:

PQR Ltd., a registered supplier, supplies taxable as well as exempted goods. The information regarding the exempted goods supplied by it during the month of August 2018 is not available. These exempted goods include the goods taxed at nil rate worth ₹ 9,00,000. Besides this, turnover of supply of goods during the month of August, 2018 includes:

Particular	₹
Value of taxable supply of goods	50,00,000
Value of Zero rated taxable Supply of goods	14,00,000
Supply of goods made for personal use	10,00,000
Total	74,00,000

Details of Input tax credit for the month of August, 2018 are as under:

Particular	CGST(₹)	SGST(₹)	IGST(₹)
Total Input tax credit available	1,80,000	1,80,000	2,16,000
The above Input tax credit on input / input services includes the following:			
(i) Credit on input goods exclusively used for supplying exempted goods	45,000	45,000	72,000
(ii) Credit on input services exclusively used for supplying taxable goods (including Zero rated supplies)	63,000	63,000	23,400
(iii) Credit availed on inputs which are ineligible under section 17(5)	42,000	42,000	48,000
(iv) Credit on input goods exclusively used for supplying goods for personal use	22,500	22,500	60,000

During the month of July, 2018, the value of supply of taxable goods was ₹ 65,00,000 and value of supplies of exempted goods was ₹ 10,00,000. What would be the input tax credit entitlement of PQR Ltd. for month of August, 2018 and also determine the amount, if any, to be added to output tax liability of PQR Ltd. during August, 2018





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 section 16 (3), the input tax credit in respect of capital goods, which attract the provisions of sections 17(1) and 17(2),
- ➔ 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 **FORM GSTR-2** 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 (i.e. taxable supply) but including zero-rated supplies
- ➔ shall be indicated in **FORM GSTR-2** and
 - ➔ shall be credited to the electronic credit ledger.
- (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:

Amended by N/N
16/2020 CT dt 23/03/2020

Proviso	Provided that where any capital goods earlier covered under clause (a) is subsequently covered under clause (c), 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 'Tie', 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
Proviso	Provided further that the amount „Tie 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."

Amended by N/N
16/2020 CT dt 23/03/2020

- (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 „Tc, shall be the common credit in respect of such capital goods:

Proviso	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 good(s) shall be added to arrive at the aggregate value Tc
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- (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-

$$T_m = T_c \div 60$$

Explanation

For the removal of doubt, it is clarified that useful life of any capital goods shall be consider as 5 years from the date of invoice and said formula shall be applicable during the useful life of said capital goods

Newly Inserted by N/N
16/2020 CT dt 23/03/2020

- ~~(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;~~

Omitted by N/N
16/2020 CT dt 23/03/2020

- (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 tax period, and

'F' is the total turnover of the registered person during the tax period:

Proviso

Provided 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 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 & 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 the 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.

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

N/n 3/2018 C.T. dated 23-1-2018 (vide N/n 55/2017 dated 15-11-2017 substituted via N/n 3/2018 C.T. dated 23-1-2018)

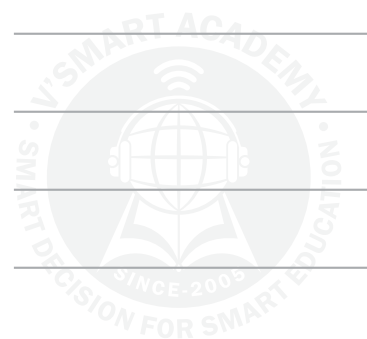
Explanation : For the purposes of rule 42 and *this rule (i.e. rule 43)*, it is hereby clarified that the aggregate value of exempt supplies shall exclude :

- (1) 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
- (2) 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.

Analysis :-

- ➔ Under GST law, the activity relating to use of money is treated as services
- ➔ Thus, interest earned by business entity (by way of activity of lending or deposit) is a services activity
- ➔ However, Govt. has exempted such interest
- ➔ This exemption made such interest income an 'exempt supply' and thus, attracting ITC reversal provisions even for those suppliers who are otherwise dealing in taxable goods/services
- ➔ Hence, explanation has been inserted.

However, this exemption is not applicable to banking company, financial institution (including NBFC) as for them special provisions have been made u/Sec 17(4) as to their ITC availment



Other miscellaneous amendments in Rule 43 [N/N 16/2019CT dt 29/03/2019]

S.N.	Rule	Particulars	Amendment	
1	43(1)(a)	Amount of ITC in respect of Capital goods used or intend to be used exclusively for non business purpose or exempt supplies	Old	In GSTR-2 and not credited to his electronic credit ledger
			New	In GSTR-2 and GSTR 3B and not credited to his electronic credit ledger
2	43(1)(b)	Amount of ITC in respect of Capital goods used or intend to be used exclusively for taxable supply including zero rated supply	Old	In GSTR-2 and credited to his electronic credit ledger
			New	In GSTR-2 and GSTR 3B and credited to his electronic credit ledger
3	43(1)(g)	F stand for	Old	Total turnover
			New	Total turnover in a state Important
4	43	The amount T _e should be computed	Old	Separately for ITC of CGST, SGST/UTGST & IGST
			New	Separately for ITC of CGST, SGST/UTGST & IGST & declared in GSTR 3B

Illustration 1 - Gold Star Manufacturer Ltd. is manufacturer of batteries having place of business in Maharashtra. Both exempted as well as taxable batteries are manufactured by Company. The company pays GST under regular scheme.

Gold Star Manufacturer Ltd. furnishes the following details for the Month of Oct, 2020-

i) Aggregate value of taxable item sold = ₹67,00,000

ii) Aggregate value of exempt item sold = ₹55,00,000

Also manufacturing Co. receives Interest from saving account of bank of hdfc = ₹65,000

The company procured one machinery X worth of ₹45,00,000 for manufacturing of both taxable as well as exempt batteries from supplier located in West Bengal.

GST on inward supply as well as outward supply is leviable @ 18%.

Determine the amount admissible as ITC. Also determine the GST liability.

Illustration 2 - Star Shipping Co. provides the transportation services of goods both in India and Outside India by vessel. The turnover from Indian transportation services amounts to ₹ 43,00,000 and turnover from transportation services by vessel from custom station of clearance in India to place outside India amount to ₹ 30,00,000.

The shipping Co. procures the Input services worth of ₹ 15,00,000 from supplier located in various states which is used for both exempt as well as taxable outward supply. Also receives the Interest on deposit from bank ₹ 30,000 p.m.

GST on inward supply is leviable @ 18% and outward supply is leviable @ 12%.

Determine the ITC and GST liability of shipping Co.

Illustration 3 - Mr. X is supplier of taxable goods. The aggregate turnover for the month of Oct, 2020 amounts to ₹ 9,00,000 taxable @12%. Mr. X also receives the interest of ₹ 9,000 from deposit made in HDFC bank. He also procures the input worth ₹ 5,00,000 @ 18%. Determine the ITC and GST liability.

Illustration 1 : Company ABC LTD is engaged in supply of taxable as well as exempt goods. All purchases are inter-state therefore, IGST has been paid.

Exempt supplies for the month of April 2020 = INR 100 lacs, Taxable supplies for the month of April 2020= INR 200 lacs, Total turnover for the month of April 2020 = INR 300 lacs

Capital Goods	IGST Credit	Month of purchase	Use of the capital Goods
P	50,000	January 2020	Exclusive for exempt supplies
Q	2,00,000	April 2020	Exclusively for taxable supplies
R	1,80,000	August 2017	Exclusively for making exempted supplies up to March 2020 i.e for 32 months. Thereafter, used for taxable as well as exempt supplies.
S	90,000	April 2020	Commonly used for making taxable and exempt supplies
T	2,70,000	January 2018	Exclusively for taxable supplies up to March 2020. Thereafter, used for taxable as well as exempt supplies.

Determine the amount of credit of capital goods need to be reverse for the tax period April 2020

Illustration 2 : Distribution of Input tax credit on Capital goods:

M Ltd., a registered supplier, supplying taxable as well as exempted goods, provides following Turnover details during the month of August, 2019.

Particular	₹
Value of taxable supply of goods	12,00,000
Value of Zero rated taxable Supply of goods	5,50,000
Value of Exempted Supply of goods	5,00,000
Supply of goods made for non business use	50,000
Total	23,00,000

Details of Capital goods used for business as under :

Capital Goods	Value of inward supplies (exclusive of CGST & SGST)	CGST @9% (₹)	SGST @9% (₹)	Date of inward supplies
A	5,60,000	50,400	50,400	12-01-2019
B	2,56,000	23,040	23,040	21-04-2019
C	4,56,000	41,040	41,040	25-08-2019
	Total		1,14,480	1,14,480

- 1) Capital goods A earlier used for exclusively exempt supply but from 1st August 2019 commonly used for making taxable & Exempt supplies.
 - 2) Capital goods B earlier used for exclusively taxable supply but from 1st August 2019 commonly used for making taxable & Exempt supplies.
 - 3) Capital goods C is commonly used for making taxable as well as exempt supply from the date of its purchase.
- Determine the credit on capital goods attributable for tax period of August, 2019.



Sec 17(4) Special option of ITC to banking and financial institutions

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 sub-section (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

and the rest shall lapse

Proviso *Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year*

Proviso *Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number. (i.e. 100% ITC is available)*

Rule 38. Claim of credit by a banking company or a financial institution.-

A banking company or a financial institution, including a non-banking financial company, engaged in the supply of services by way of accepting deposits or extending loans or advances *that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of that section, shall follow the following procedure, namely,-*

- (a) the said company or institution **shall not avail the credit** of,-
 - (i) the tax paid on inputs and input services that are used for non-business purposes and
 - (ii) the credit attributable to the supplies specified in section 17(5) ^[Blocked Credit], in **FORM GSTR-2**.
- (b) the said company or institution **shall avail the credit of tax** paid on inputs and input services referred to in the *second proviso to section 17(4)* ^[Credit of other establishment] and not covered under clause (a) ^[i.e. not used for non business purpose or block credit].
- (c) 50% of the remaining amount of input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in **FORM GSTR-2**.
- (d) the amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, **be credited to the electronic credit ledger** of the said company or the institution.

Analysis :- Whether option provided by sec 17(4) shall be applicable on the bank as whole or registered /branch wise?

In terms of sec 25(4)& (5) of the CGST Act, a person required to obtain more than one registration within a State or more than one State shall be treated as a distinct person for each such registration

Section 17(4) of the CGST Act, 2017 is applicable to each registration and not for the bank as a whole.

Thus, it is possible that one of registered branch is opting for sec 17(4) while other is operating under sec 17(2)

Illustration 1: HDFC Bank provides the following information for the month of November, 2018

Particulars	CGST paid(₹)	SGST paid(₹)
Inputs received (eligible for ITC)	18,000	18,000
Inputs services availed (eligible for ITC)	11,340	11,340
Value of taxable supply of services (GST rate is 18%)=10,00,000		
Value of exempted supply of services (interest on loan & advances = 9,00,000		

Determine the amount of ITC available under 50% credit option Sec 17(4) and 17(2)



Illustration 2: Baroda bank, having a branch in Pune engaged in supply of services by way of accepting deposits and extending loans opted for Section 17(4). Its head office is in Gujarat and branch in Mumbai. ITC (CGST & SGST) available for the month August, 2018.

Particulars	CGST paid(₹)	SGST paid(₹)	IGST paid(₹)
(1) Services availed from Mumbai Branch (deemed distinct person under GST law)	18,000	18,000	-
(2) Motor vehicle lying in stock supplied by head office in Gujrat to Pune Branch for recovery	-	-	20,000
(3) Outdoor catering services received for its employees	9000	9000	-
(4) Auditing Services	5000	5000	-
(5) Food and beverages	2000	2000	-
(6) Other input and input services eligible for ITC	60,000	60,000	-
(7) Capital Goods	40,000	40,000	-

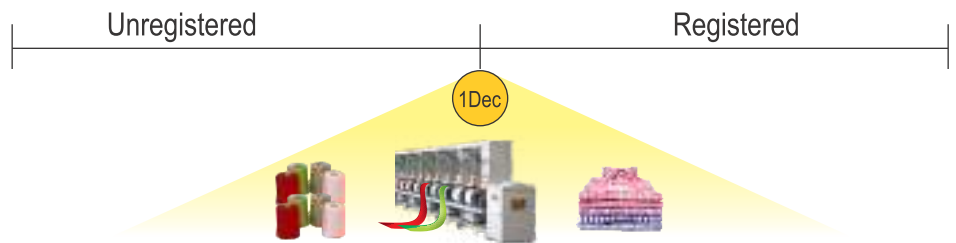
Determine the amount of admissible ITC for Baroda Bank, Pune Branch.



Sec 18 : Availability of credit in special circumstances.

1 Subject to such conditions and restrictions as may be prescribed

- (a) **a person** who has
- ➔ applied for registration under this act within **thirty days** from the date on which he becomes liable to registration **and**
 - ➔ has been granted such registration
- shall 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**



Example : XYZ pvt ltd a manufacturer of apparel, has crossed the threshold limit for registration on 1st October 2018. As on date stock of raw materials worth ₹ 4, 50,000 on this GST @ 18% (₹ 81,000) has been paid. XYZ pvt ltd shall ensure to apply for registration within 30 days from 1st October 2018. If not, he will lose the eligible ITC of ₹ 81,000 on the raw materials in stock as per section 18(1)(a) of CGST act.

- (b) **a person who takes registration under section 25 (3) (Voluntary Registration)**
- shall 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**

Example : Sony pvt ltd a dealer of electronic products who due to their business operations, has voluntarily applied for registration, even though the threshold limit has not been crossed. Sony pvt ltd was granted registration on 10th September 2018 and as on date electronic products worth ₹ 5, 00,000 in stock, on which GST @ 18% (₹ 90,000) has been paid. Thus, Sony pvt ltd shall avail the ITC of ₹ 90,000 on the electronic products in stock as on 9th September 2018.

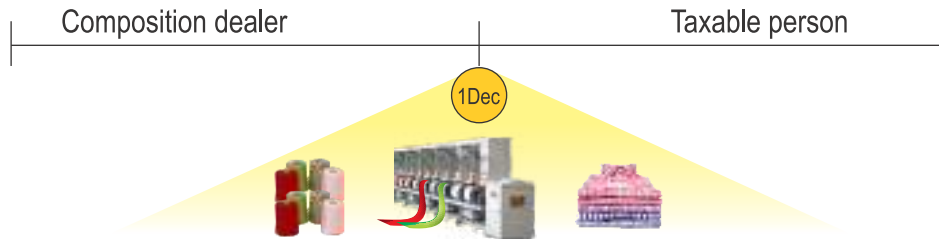




- (c) **where any registered person ceases to pay tax under section 10** ^(Composition Scheme),
he shall be entitled to take credit of input tax in respect of
- inputs held in stock,
 - inputs contained in semi-finished or
 - inputs contained finished goods held in stock and
 - **on capital goods**
- on the day immediately preceding the date from which he becomes liable to pay tax under section 9:**

Proviso

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed



- (d) where an **exempt supply of goods or services or both by a registered person becomes a taxable supply**,

such person shall be entitled to take credit of input tax in respect of

- inputs held in stock and
- inputs contained in semi-finished or
- inputs contained in 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

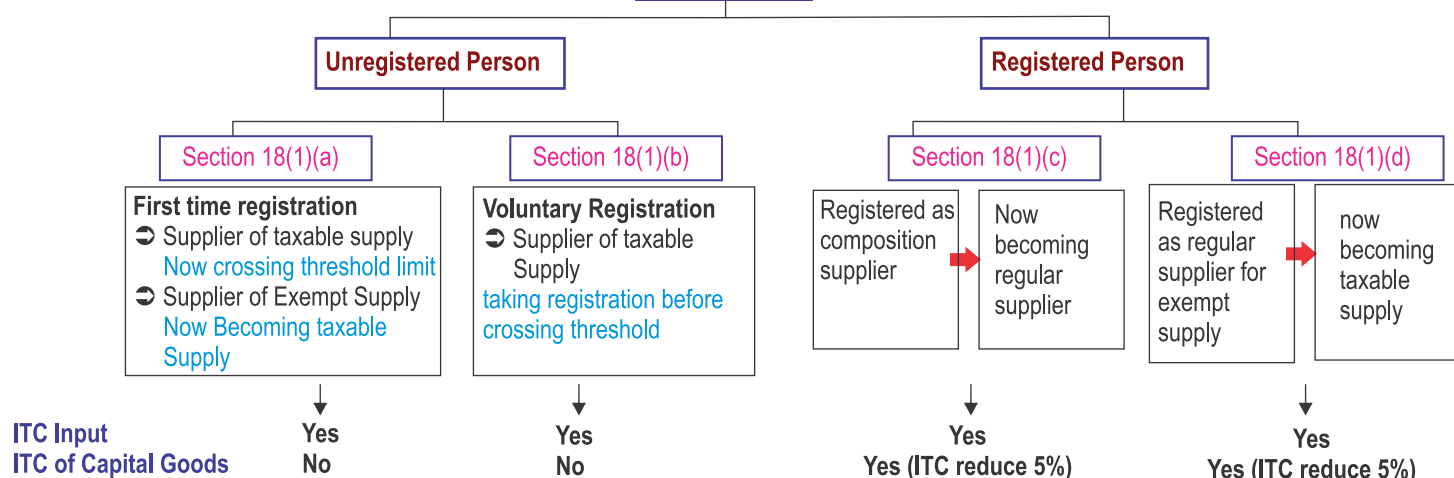
Proviso

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

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A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply

Sec 18



Rule 40. Manner of claiming credit in special circumstances.-

1	The input tax credit claimed in accordance with the provisions of section 18(1) <ul style="list-style-type: none"> ➡ on the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, <li style="text-align: center;">or ➡ the credit claimed on capital goods in accordance with the provisions of clauses(c) <small>(opted for Composition Scheme)</small> and (d) <small>(opted for exemption)</small> of the said sub-section, shall be subject to the following conditions, namely,-								
(a)	the input tax credit on capital goods , in terms of clauses (c) and (d) of section 18(1) , shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person.								
(b)	the registered person shall within a period of thirty days from the date of his becoming eligible to avail the input tax credit under section 18 (1) shall make a declaration , electronically, on the common portal in FORM GST/ITC-01 to the effect that he is eligible to avail the input tax credit as aforesaid; <i>To empower CGST/IGST Commissioner to extend the time period for submission of such declaration. Further, any extension of the time limit notified by the SGST Commissioner or UTGST Commissioner shall be deemed to be notified by the CGST/IGST Commissioner. [Notification No. 22/2017 CT dated 17.08.2017]</i>								
(c)	the declaration under clause (b) shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods– <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center;">(i)</td><td style="padding: 2px 5px;">on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under section 18(1) (a)</td></tr> <tr> <td style="text-align: center;">(ii)</td><td style="padding: 2px 5px;">on the day immediately preceding the date of the grant of registration, in the case of a claim under section 18(1) (b)</td></tr> <tr> <td style="text-align: center;">(iii)</td><td style="padding: 2px 5px;">on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under section 18(1) (c)</td></tr> <tr> <td style="text-align: center;">(iv)</td><td style="padding: 2px 5px;">on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under section 18(1) (d)</td></tr> </table>	(i)	on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under section 18(1) (a)	(ii)	on the day immediately preceding the date of the grant of registration, in the case of a claim under section 18(1) (b)	(iii)	on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under section 18(1) (c)	(iv)	on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under section 18(1) (d)
(i)	on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under section 18(1) (a)								
(ii)	on the day immediately preceding the date of the grant of registration, in the case of a claim under section 18(1) (b)								
(iii)	on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under section 18(1) (c)								
(iv)	on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under section 18(1) (d)								
d)	the details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds two lakh rupees								
(e)	the input tax credit claimed in accordance with the provisions of clauses (c) and (d) of section 18 (1) shall be verified with the corresponding details furnished by the corresponding supplier in FORM GSTR-1 or as the case may be, in FORM GSTR-4 , on the common portal.								
2	The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of section 18(6) , shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.								

Q.: Vinay Steels Limited is a manufacturer of iron & steel. It procures raw materials and inputs such as iron ore, chemicals, gases, etc. and capital goods including plant & machinery, for the manufacture of such iron & steel. In this example, it has been assumed that iron & steel (which is the outward supply of Vinay Steels Ltd) is exempt from payment of taxes until 31-Mar-2020. Iron & steel become taxable with effect from 01-Apr-2020. The method of availment of input tax credits on inputs contained in stock and capital goods as on 31-Mar-2020 is covered by this illustration

Particulars	Amount
Value of inputs in stock on 31-Mar-2020	1,00,000
IGST @18%	18000
All inputs were procured after 01-Jul-2019	
Value of inputs contained in semi-finished goods held in stock on 31-Mar-2020	4,00,000
CGST @ 6%	24000
SGST @ 6%	24000
All inputs contained in semi-finished goods were procured after 01-May- 2019	
Value of inputs contained in finished goods held in stock on 31-Mar-2020	50000
CGST @ 6%	3000
SGST @ 6%	3000
Only inputs worth Rs 40,000 in finished goods were procured after 01/04/2019	
Value of capital goods used exclusively in relation to exempted goods held on 31-Mar-2020 (Date of invoice of capital goods 22 Jan 2020)	20,00,000
IGST @ 18%	3,60,000

Ans.:



Voluntarily Registration

Mr. Sagar applies for voluntary registration on 17th Oct. and obtained registration on 22th Oct. Mr Sagar has stock on the following two dates.

Date	Closing Stock (units)
16th October 2020	24,000
21st October 2020	14,000

On 21st October, Mr. Sagar has also purchased plant and machinery/Capital Goods for ₹2,00,00 plus GST 28%

Mr. Sagar purchased good at uniform rate throughout the year at ₹100 per unit plus GST paid 18% You are required to find the eligible input tax credit to Mr. Sagar

Answer:-

As per the provisions of Sec 18(1)(b) of CGST Act, 2017, stock of inputs in stock as on the day immediately preceding the date of grant of registration shall be eligible for ITC to the person who is getting himself voluntarily registered.

In given case, such stock is 14,000 units (stock in hand on 21st October 2020). Thus admissible amount is as follows:

Value of stock = ₹14,00,000 (i.e. 14,000 units x ₹100 per unit)

Tax paid thereon which is admissible as ITC is ₹ 2,52,000 (14,00,000 * 18%)

ITC on capital goods not allowed as per provisions of Sec 18(1)(b) of CGST Act.

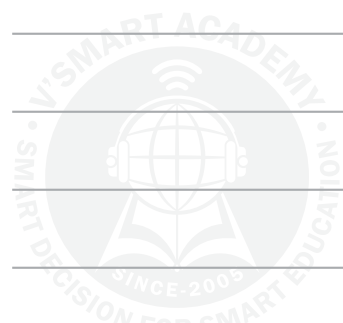
Composition Supplier now becoming liable for registration under regular scheme

PQR Traders paying tax under composition scheme crosses composition limit and becomes liable to pay tax under regular scheme on 01-11-2020. Can it avail Input tax credit and if so calculate the amount of ITC available?

ITC available with PQR trader as on 31-10-2020.

Particulars	CGST (₹)	SGST (₹)
Input lying in stock (invoice dated 20-10-2020)	3,600	3,600
Inputs lying in semi finished goods in stock (Invoice dated 12-10-2019)	2,400	2,400
Capital goods procured on 01-07-2020 (invoice dated 01-07-2020)	7,200	7,200

Answer:-





Sec18(3) : Transfer of credit on sale, merger, amalgamation, etc.

Where there is a change in the constitution of a registered person on account of

- ➔ sale,
- ➔ merger,
- ➔ demerger,
- ➔ amalgamation,
- ➔ lease or transfer of the business

with the specific provisions for transfer of liabilities,

the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

Rule 41. Transfer of credit on sale, merger, amalgamation, lease or transfer of a business.-

(1) Furnishing of details :

A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC-02**, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Explanation:- *For the purpose of this sub-rule, “Value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.* (N/N 16/2019-CT dt 29/03-2019)

(2) Certificate of CA/CMA :

The transferor shall also submit a copy of a certificate issued by a practising chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.

(3) Acceptance of details furnished by transferor :

The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in **FORM GST ITC-02** shall be credited to his electronic credit ledger.

(4) Duly accounting of Goods :

The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

Example : Vijay sales pvt Ltd sold its business to Rahul Trading Co Pvt Ltd. At the time of sale, Vijay Pvt Ltd had unutilized ITC of ₹ 2,50,000. In the sale agreement, it was agreed that all liabilities and assets of Vijay sales pvt Ltd will be transferred to Rahul Trading Private Ltd. In this case, Vijay sales Private Ltd can transfer the unutilized ITC of ₹ 2,50,000 to Rahul trading Co Private Ltd.

Clarification in respect of transfer of input tax credit in case of death of sole proprietor - Circular no. 96/15/2019 dt 28/03/2019

In case of death of sole proprietor if business is transfer to successor or any other person

than it is treated as transfer under sec 18(3) and

successor or other person can take ITC which remain unutilized in the electronic credit ledger (deceased person) on a condition that all liabilities are transfer and also follow the prescribed condition



Example : Synergy Ltd. is engaged in supplying taxable goods to its customers within the state and it is not liable for registration under Section 22 of CGST Act, 2017. From 18-11-2018 onwards, it started inter state supply of taxable goods hence it applied for registration on 25-11-2018 and same has been granted to him.

CGST, SGST and IGST liability for the month of November, 2018 is ₹ 20,500, ₹ 20,500 and ₹ 41,000 respectively and Synergy Ltd. has to make e-payment of tax on the due date 20-12-2018.

Synergy Ltd. has provided the following details of stock of input held on 17-11-2018 and tax paid thereon.

Particulars	CGST (₹)	SGST (₹)
Inputs received on 16-07-2018(Invoice dated 17-07-2018) lying in Stock	5,600	5,600
Inputs received on 20-10-2018 (Invoice dated 20-10-2018) lying in semi finished goods	9,500	9,500
Inputs received on 10-06-2017 (Invoice dated 10-06-2017) contained in finished goods	11,600	11,600

Determine tax payable by Synergy Ltd. in Cash





Clarification in respect of apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules (Circular no.133/03/2019 dt 23/3/2020)

Demerger - Value of Asset to be taken statewise & Form to be filed in those States where both parties register

Under the provisions of the CGST Act, a person/ company (having same PAN) is required to obtain separate registration in different States and each such registration is considered a distinct person for the purpose of the Act.

Apportionment of ITC pursuant to a demerger under rule 41(1) of the CGST Rules, the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level.

The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.

Illustration :- A company XYZ is registered in two States of M.P. and U.P.

Its total value of assets is worth Rs. 100 crore, while its assets in State of M.P. is Rs 60 crore and U.P is Rs 40 crore respectively.

It demerges a part of its business to company ABC. As a part of such demerger, assets of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P., while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC).

The unutilized ITC of XYZ in State of M.P. shall be transferred to ABC on the basis of ratio of value of assets in State of M.P., i.e. $30/60 = 0.5$ and not on the basis of all-India ratio of value of assets, i.e. $40/100=0.4$.

Similarly, unutilized ITC of XYZ in State of U.P. will be transferred to ABC in ratio of value of assets in State of U.P., i.e. $10/40 = 0.25$

Demerger formula may be applied for all form of reorganization of Business

The formula for apportionment of ITC, as prescribed under proviso to rule 41(1) of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities and not just demerger as mentioned in the proviso to rule 41(1).

Formula to be applied to total ITC and not for CGST/SGST/IGST etc, separately,

the ratio of value of assets, as prescribed under proviso to rule 41(1) of the CGST Rules, shall be applied to the total amount of unutilized input tax credit (ITC) of the transferor i.e. sum of CGST, SGST/UTGST and IGST credit. The said formula need not be applied separately in respect of each heads of ITC (CGST/SGST/IGST). Further, the said formula shall also be applicable for apportionment of Cess between the transferor and transferee.

Illustration :- The ITC balances of transferor X in the State of Maharashtra under CGST, SGST and IGST heads are 5 lakh, 5 lakh and 10 lakh respectively. Pursuant to a scheme of demerger, X transfers 60% of its assets to transferee B. Accordingly, the amount of ITC to be transferred from A to B shall be 60% of 20 lakh (total sum of CGST, SGST and IGST credit) i.e. 12 lakh.

Individual breakup may be fixed by assessee

The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under sub-rule (1) of rule 41 of the CGST Rules. However, the transferor shall be at liberty to determine the amount to be transferred under each tax head (IGST, CGST, SGST/UTGST) within this total amount, subject to the ITC balance available with the transferor under the concerned tax head.

The apportionment formula shall be applied on the ITC balance of the transferor as available in electronic credit ledger on the date of filing of FORM GST ITC – 02 by the transferor



Illustration

(1)	(2)	(3)	(4)	(5)	(6)
State	Asset Ratio of Transferee	Tax Heads	ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)	Total amount of ITC transferred to the Transferee under FORM GST ITC02	ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC-02) [Col (4) – Col (5)]
Delhi	70%	CGST	10,00,000	10,00,000	0
		SGST	10,00,000	10,00,000	0
		IGST	30,00,000	15,00,000	15,00,000
		Total	50,00,000	35,00,000	15,00,000
Haryana	40%	CGST	25,00,000	3,00,000	22,00,000
		SGST	25,00,000	5,00,000	20,00,000
		IGST	20,00,000	20,00,000	0
		Total	70,00,000	28,00,000	42,00,000
Relevant Date		The ratio of the value of assets should be taken as on the “appointed date of demerger” as specified in the respective scheme for demerger. Thus, for the purpose of apportionment of ITC under rule 41(1), the ratio of the value of assets taken as on the “appointed date of demerger” should be applied on the ITC balance of the transferor on the date of filing FORM GST ITC – 02.			





Sec18(4) : Reversal of Credit under special circumstances

- 4 Where any registered person who has availed of input tax credit
- ➔ *opts to pay tax under section 10* (Composition Scheme) **or,**
 - ➔ *where the goods or services or both supplied by him become wholly exempt,*
- he shall pay an amount, by way of **debit in the electronic credit ledger or electronic cash ledger**, equivalent to the credit of input tax in respect of
- ➔ **inputs** held in **stock** and
 - ➔ **inputs** contained in **semi-finished** or
 - ➔ **inputs** contained in **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 exercising of such option or, as the case may be, the date of such exemption:*

Proviso

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

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The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.

Rule 44. Manner of reversal of credit under special circumstances.-

(1) Reversal of ITC : The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18 or sub-section (5) of section 29, be determined in the following manner, namely,-

(a) For inputs : for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit **shall be calculated proportionately on the basis of the corresponding invoices** on which credit had been availed by the registered taxable person on such inputs.

(b) For capital goods : *for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.*

Illustration: Capital goods have been in use for 4 years, 6 month and 15 days.

The useful remaining life in months= 5 months ignoring a part of the month

Input tax credit taken on such capital goods= C

Input tax credit attributable to remaining useful life= C multiplied by 5/60

(2) Separate determination for IGST and CGST : The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(3) Tax Invoices of inputs not available : *Where the tax invoices related to the inputs held in stock are not available*, the registered person shall estimate the amount under sub-rule (1) **based on the prevailing market price of the goods** on the effective date of the occurrence of any of the events specified in section 18(4) or, as the case may be, section 29(5).

(4) Furnishing of details of credit : The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in **FORM GST ITC-03**, where such amount relates to any event specified in section 18(4) and in **FORM GSTR-10**, where such amount relates to the cancellation of registration.

