

## **Goods and Service Tax Fundamentals – I**

**(B.Com G & CA Sem-5)**

### **Unit -5 : Time of Supply of Goods & Services**

#### **Topic : Determination of Value of supply**

- **Reasons to know the value of supply**

For levying tax under GST, we need two things:

1. On what amount tax is to be levied?
2. At what rate tax is to be levied?

The amount on which tax shall be levied under GST (that depends which tax shall be levied i.e, on Intra state supply CGST + SGST/UTGST and on Inter state supply IGST) is termed as the value of supply. Unless and Until we know what is the value of supply of goods or services or both we cannot calculate tax. So just we need to calculate the value of supply of goods or services or both and then we find the relevant tax rate from the GST Tariff containing details rate of tax levied on different goods and services.

- **Questions to be answered before deciding value of supply**

1. Find whether the transaction is supply of goods or services is taxable or not.

Suppose If it is taxable . . . .

2. Now find which tax will be levied on taxable supplies of goods or services or both

- depends upon

- Nature of supply

- If Intra state supply = CGST+SGST/UTGST or

- If Inter state supply = IGST

3. Now find when tax shall be levied?

- time of supply

4. Now find value of taxable supply of goods or services

- Transaction value – the value which the recipient pays or shall pay for the supply

**\* transaction value (u/s 15 of CGST act)**

1. Price actually paid or payable for the said supply of goods or service or both, where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply

2. The value of supply shall include –

a. Any taxes, duties, Cesses, fees and charges levied under any law

b. Any amount that the supplier is liable to pay in relation to such supply

c. Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply

d. Interest or late fee or penalty

e. Subsidies directly linked to the price

3. The value of supply shall not include any discount which is given:

a. Before or at the time of the supply

b. After the supply has been effected

4. Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

5. Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the government on the recommendations of the council shall be determined in such manner as may be prescribed

Web links:

1. <https://cleartax.in/s/gst-valuation-rule>

2. <https://taxguru.in/goods-and-service-tax/determination-supply-gst.html>

3. <https://www.cbic.gov.in/resources//htdocs-cbec/gst/Valution%20in%20GST.pdf;jsessionid=D4297B8F6BB3F3A08679E9990377DF3E>

4. <https://tax2win.in/guide/value-of-supply-in-gst>

## **Topic : Conditions for acceptance of Transaction Value**

- **Essentials/conditions for acceptance of transaction value**

1. Transaction value is the basis for valuation and considered for calculating tax. Section 15 (1) makes it clear that the value of supply shall be the transaction value decided between supplier and recipient shall be the value which will be considered for calculating tax.
2. Price actually paid or payable – The amount actually paid or payable shall be determined based on the contract entered into between the supplier and recipient of goods or services. The contract will indicate the amount payable by the recipient for the supply of goods or services.
3. Nexus (connection) between the amount received and supply made – Section 15(1) provides the transaction value shall be the price actually paid or payable for the supply of goods or services. It clearly means that there should be nexus (connection) between the supply of goods or services and the amount received by the supplier of goods or service. In case there is no nexus between the supply of goods or services and the amount received, the amount cannot be considered as the value of taxable supply.
4. Price is the sole consideration. Section 2 (31) of CGST Act, defines consideration as:

Consideration in relation to the supply of goods or services or both includes –

- a) Any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State government;
- b) The monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central government or a State government.

In other words, it includes direct consideration and indirect consideration.

5. Supplier and recipient should not be related – The transaction value shall be considered as the value of supply only when the supplier and recipient are not related. The section 15 of the CGST Act, 2017 defines the “Related Person” –
  - a) Such persons are officers or directors of one another’s business.

- b) Such persons are legally recognized partners in business.
- c) Such persons are employee and employer.
- d) Any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them.
- e) One of them directly or indirectly controls the other.
- f) Both of them are directly or indirectly controlled by a third person.
- g) Together they directly or indirectly control a third person.
- h) Members of the same family. (spouse, children, parents, grandparents, brothers and sisters)

web links:

1. <https://cleartax.in/s/time-place-and-value-of-supply-in-gst>
2. <https://cleartax.in/s/transactions-between-related-parties-treated-as-supply-under-gst-even-if-made-without-consideration>
3. <https://www.cbic.gov.in/resources//htdocs-cbec/gst/Transition%20Provision%20in%20GST.pdf;jsessionid=EE2925C1EA56D75FCCE1843D662FBD9F>
4. <https://cbic-gst.gov.in/sectoral-faq.html>

## **Topic : What is Input Tax under GST**

### **What is Input tax under GST**

“Input tax” in relation to a registered person, means the central tax (CGST), State tax (SGST), Integrated tax (IGST) or Union territory tax (UTGST) charged on any supply of goods or services or both made to him and includes -

Section 2 (62) of CGST Act defines ‘input tax’ as

- a) The integrated goods and services tax charged on import of goods;
- b) The tax payable under the provisions of sub-sections (3) and (4) of section 9 (reverse charge of CGST)
- c) The tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act (reverse charge of IGST)
- d) The tax payable under the provisions of sub-section (3) and sub-section(4) of section 9 of the respective State Goods and Services Tax Act; (reverse charge of SGST) or

e) The tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and services tax Act (reverse charge of UTGST)

But does not include the tax paid under the composition levy. Input tax credit is eligible only when it is credited to electronic credit ledger of taxable person.

**In simple words, Input tax under GST Act includes:**

1. **IGST levied on Inter state supply of goods or services or both**
2. **CGST levied on Intra state supply of goods or services or both**
3. **SGST levied on Intra state supply of goods or services or both**
4. **UTGST levied on Intra UT supply of goods or services or both**
5. **IGST levied on import of goods**
6. **Reverse charge if CGST paid u/s 9(3) and 9(4) of CGST Act**
7. **Reverse charge of IGST paid u/s 5(3) & 5(4) of IGST Act**
8. **Reverse charge of SGST paid u/s 9(3) & 9(4) of CGST Act**
9. **Reverse charge of SGST paid u/s 7(3) & 7(4) of UTGST Act**

**But composition levy is not included in Input tax.**

**Web links:**

1. <https://cleartax.in/s/what-is-input-credit-and-how-to-claim-it>
2. <https://www.charteredclub.com/gst-input-tax-credit/>
3. [https://www.cbic.gov.in/resources//htdocs-cbec/gst/51\\_GST\\_Flyer\\_Chapter19.pdf;jsessionid=E2B8713599BD923E22A9BAD08F294A72](https://www.cbic.gov.in/resources//htdocs-cbec/gst/51_GST_Flyer_Chapter19.pdf;jsessionid=E2B8713599BD923E22A9BAD08F294A72)
4. <https://quickbooks.intuit.com/in/resources/gst-center/input-tax-credit-gst/>

### **Topic : What is Input under GST**

- **What is Input goods?**

According to Section 2 (59) of CGST Act “Input” means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.

- **Essential Ingredients of term “Input Goods”**

- a) It should be goods other than capital goods.

- b) It should be used or intended to be used by the supplier.
- c) It should be used in the course of business or furtherance of business.
- d) It is not necessary to receive inputs in factory or any place of business. Only necessary is that they must be used by the supplier.

- **What is input service?**

According to section 2(60) of CGST Act, Input service means any service which is used or intended to be used by the supplier in the course of business or furtherance of business.

- **Essential ingredients of term “Input Service”**

- a) Input service includes any service.
- b) Input service must be used by the supplier or intended to be used by the supplier.
- c) Input service must be used in the course or furtherance of business.

- **What is Capital Goods?**

According to section 2 (19) of CGST Act, Capital Goods means goods, the value of which is capitalised in the books of account of the person claiming the credit and which are used or intended to be used in the course or furtherance of business.

- **Essential ingredients of “Capital Goods”**

- a) Value of capital goods must be capitalised in the books of account. In other words, the value of such item is shown in the balance sheet as fixed asset.
- b) Capital goods must be used or intended to be used by the supplier.
- c) Capital goods must be used or intended to be used in the course or furtherance of business.

Web links:

1. <https://cleartax.in/s/input-tax-credit-under-gst>
2. <https://www.charteredclub.com/gst-input-tax-credit/>
3. <https://www.yesbank.in/business-banking/yes-gst/knowledge-articles/understanding-input-tax-credit>
4. <https://tallysolutions.com/gst/gst-input-tax-credit/>

## **Topic : Eligibility criteria for availing ITC**

### **Eligibility Criteria for Availing/taking ITC (Sec. 16 (1))**

Section 16 (1) states that every registered person shall 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 of business or for furtherance of business. But such ITC shall be allowed in the manner specified in Section 49 of CGST Act. The said ITC allowed shall be credited to the Electronic Credit Ledger.

**1. Registration under GST:** every registered person shall be entitled to ITC charged on inward supply of goods and/or services. This is subject to the provisions relating to use of ITC under section 49 and the conditions and restrictions in the rules.

Inward supply in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other ;means without consideration (section 2 (67)).

Registered person means a person who is registered under section 25 but does not include a person having a Unique Identity Number. (section 2 (94)).

**2. Inputs/input services/capital goods must be used or intended to be used by the supplier.** Section 16(1) states that the goods (inputs), input services and capital goods on which the supplier wants to avail ITC should either be used or intended to be used by the supplier for business purposes only. Thus, use or intention to use inputs or input services or capital goods is essential for the purpose of availing of credit.

**3. The use of inputs/input services/capital goods must be for business use.** GST is essentially a tax only on commercial transactions. Hence, only these supplies that are in the course or furtherance of business qualify as supply under GST. Resultantly, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of business.

**4. ITC availed only through Electronic Credit Ledger.** Electronic Credit Ledger as prescribed in section 49(2) of CGST/SGST Act shall be maintained in FORM GST PMT-02 for each registered person eligible for ITC under the Act on the Common Portal. Every claim of ITC shall be credited to this ledger. This ledger can be used for debiting prescribed liabilities. It is the responsibility of the Registered person to communicate to the proper officer in FORM GST PMT-04 in case of any discrepancy in his ledger.

\* Utilisation of Electronic Credit Ledger

Section 49(5) prescribes that the amount of ITC in the Electronic credit ledger of the Registered Person shall be utilised in the following manner.

- a) IGST – IGST – CGST – SGST/UTGST
- b) CGST – CGST – IGST
- c) SGST – CGST – IGST
- d) UTGST – UTGST – IGST
- e) CGST cannot be utilised to pay SGST/UTGST
- f) SGST Cannot be utilised to pay CGST

Web links:

1. <https://cleartax.in/s/itc-rules-for-common-credit-under-gst>
2. <https://taxguru.in/goods-and-service-tax/itc-gst-conditions-eligibility-eligible-ineligible-itc.html>
3. <https://tallysolutions.com/gst/eligible-itc-under-gst/>
4. <https://www.yesbank.in/business-banking/yes-gst/knowledge-articles/ineligible-input-tax-credit-under-gst>

**Topic : Conditions for availing Input Tax Credit (ITC)**

**Conditions for taking ITC (section 16 (2))**

The registered person will be entitled to claim ITC on supply of inputs/input services/capital goods only IF ALL THE BELOW GIVEN CONDITIONS ARE FULFILLED.

**1. POSSESSION OF TAX PAYING DOCUMENT (SECTION 16(2)(A) READ WITH RULE 36 OF THE CGST Rules):**

ITC can be availed on the basis of any of the following documents:

- a) Invoice issued by a supplier of goods or services.
- b) Invoice issued by recipient (receiving goods and/or services from unregistered supplier) along with proof of payment of tax (in case of reverse charge),



- c) A debit note issued by supplier.
- d) Bill of entry or similar document prescribed under Customs Act.
- e) Revised invoice.
- f) Document issued by Input Service Distributor.

## **2. Receipt of goods/services/or both(sec. 16(2)(b))**

The registered person shall be eligible for input tax credit only if goods or services or both are already received by him. For example: where a person received an invoice in the month of July but the goods are received by him in August then such person shall be eligible for ITC in the month of August.

## **3. Goods received in instalment:**

The first proviso to section 16(2) provides that where the goods against a single invoice are received in lot or instalments, the registered taxable person shall be entitled to the credit upon receipt of last lot or instalment.

## **4. Deemed receipt of goods:**

The explanation attached to clause (b) of section 16(2) provides that the taxable person is deemed to have been received the goods when the goods are delivered to the recipient or other person on the direction of such taxable person, whether acting as an agent or otherwise either physically or partially by transfer of documents or title of goods. The explanation expands the meaning of receipt of goods to provide that it is not necessary that the goods are physically received by the recipient. The recipient can issue directions to deliver the goods to 3<sup>rd</sup> party also.

## **5. Tax actually paid to the credit of appropriate government:**

Section 16(2)(c) specifically provides that the supplier should have actually paid to the credit of appropriate government the tax amount on the supply made by him. In case the supplier fails to make payment of tax, the credit will be denied to the recipient of goods or service. The credit will be denied even when the recipient has paid the tax to the supplier and supplier has failed to pay the tax to the government.

## **6. Reversal of credit if payment not within 180 days:**

Section 16(2) states that the recipient of supply must pay value of supply with tax payable to the supplier within 180 days from the date of issue of invoice by the supplier(except for cases of Reverse Charge basis where recipient is supposed to

pay tax). In case the recipient fails to pay within 180 days, then the amount of ITC shall be added to his output tax liability along with the interest thereon.

#### **7. Reversed credit can be claimed on payment:**

The third proviso to section 16(2) of the Act provides that amount so reversed can be again taken as a credit when the payment for receipt of goods or services has been made to the supplier of goods or services. In case of part payment has been made, proportionate credit will be allowed.

#### **8. Filing of return (section 16(2)(d)):**

The registered person taking the ITC must have filed his return under section 39. the details of inward supplies are to be filed in GSTR-2 by the 15 of the month succeeding the month in which the supplies were received. With the furnishing of such details, electronic credit ledger gets credited with the relevant ITC.

#### **9. If depreciation claimed on tax component, itc not allowed (section 16(3)):**

If the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under Income tax (IT) Act, 1961, the ITC on the said tax component shall not be allowed under GST. In other words, either depreciation on the tax component can be claimed under Income Tax Act or ITC of such tax paid can be availed under GST laws.

#### **10. Time limit for availing ITC (sec.16(4)):**

It must be noted that section 16(4) of the GST Act provides the time limit within which the credit must be taken by the recipient. If the payment is made subsequent to this limit specified in section 16(4) of the Act, the recipient may not get the credit of the GST paid.

- a) Filing of return under section 39 for the month of September following end of financial year or
- b) Filing of annual return.

Web links:

1. <https://cleartax.in/s/input-tax-credit-under-gst>
2. <https://www.digitaxindia.com/itc-conditions-to-claim-input-tax-credit-under-gst/>
3. <https://www.profitbooks.net/input-tax-credit-under-gst/>
4. <https://taxguru.in/goods-and-service-tax/itc-gst-conditions-eligibility-eligible-ineligible-itc.html>

## **Topic :Appropriation of ITC**

### **Appropriation of Input Tax Credit (Sec. 17)**

In some situations, full ITC on inward supplies (of goods or services or capital goods) cannot be availed. The major reasons, why full input tax credit is not available are:

1. Inward supplies partly used for business purpose, partly for other purposes.
2. Inward supplies are partly used to make taxable supplies and partly to make exempt supplies.

#### **1. Inward supplies partly used for business purpose, partly for other purposes (sec.17(1)).**

Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

For example: Amar purchases goods (input) for rupees six lakhs and pays tax (Input tax) at the rate of 5%, i.e., Rs.30,000 on that input. He used 60% of the goods for selling and remaining for his personal use. He is entitled to claim Rs. 18,000 (i.e., 60% of Rs.30,000) as input tax credit and remaining credit will not be available.

#### **2. Inward supplies are partly used to make taxable supplies and partly to make exempt supplies (sec. 17(2) & 17(3)).**

Where the goods or services or both are used by the registered person partly for taxable supplies (including zero-rated supplies under this act or under the IGST act) and partly for effecting exempt supplies the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies. Further, a list of ineligible input tax credit is also mentioned.

In case, goods or services or both are partly used in taxable supplies and partly in non-taxable supplies, then amount of credit shall be restricted to the taxable supplies. Taxable supplies include zero rated supplies and exempt supplies shall be include non-taxable supplies.

Web links:

1. <https://cleartax.in/s/gst-input-tax-credit>
2. <https://cleartax.in/s/itc-rules-capital-goods-gst>
3. <https://www.profitbooks.net/input-tax-credit-gst-india/>
4. <https://taxguru.in/goods-and-service-tax/input-tax-credit-itc-saga-gst.html>

### **Topic : Availability of ITC in special circumstances (Sec.18)**

#### **Availability of credit in special circumstances (sec.18)**

A person who has applied for registration is 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. Similarly, where any registered person ceases to pay tax under 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 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. Similar provisions are applicable, when an exempted supply of goods or service or both become a taxable supply. The conditions for availing credit are as under;

**1. New regular registration:** A person who has applied for registration within 30 days of becoming liable for registration is entitled to ITC of input tax in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) on the day immediately preceding the date from which he becomes liable to pay tax. (Sec. 18(1) (a), 18(2), 18(5), Rules 40 & 44)

**2. New voluntary registration:** a person who has taken voluntary registration under section 25(3) is entitled to ITC of input tax in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) on the day, immediately preceding the date of grant of registration. (Sec. 18(1) (b), 18(2), 18(5), Rules 40 & 44)

**3. Switching over to normal scheme from composition scheme:** a person switching over to normal scheme from composition scheme under section 10 is entitled to ITC in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax as normal taxpayer. ITC on capital goods shall be subject to such reductions for the earlier usage as prescribed in the rules. (Sec. 18(1) (c), 18(2), 18(5), Rules 40 & 44)

**4. Where as exempt supply become taxable :** Where an exempt supply of goods or services or both become taxable, the person making such supplies shall be entitled to take ITC in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) relating to exempt supplies and on capital goods used exclusively for such exempt supply on the day immediately preceding the date from which such supply becomes taxable. (sec. 18(1)(d), 18(2), 18(5), Rules 40 & 44).

**5. Change of constitution of business:** In case of change of constitution of a registered person on account of sale, merger, demerger etc, the unutilised ITC shall be allowed to be transferred to the transferee. (sec. 18(3) & Rule 41).

**6. Switching over to composition from normal scheme or where a taxable supply become exempt:** A person switching over to composition scheme from normal scheme or where a taxable supply become exempt, the ITC availed in respect of goods held in stock as well as capital goods will have to be determined and paid on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption, after payment of such amount, the balance of ITC, if any, shall be lapse. Reversal shall be calculated proportionately on the basis of the corresponding invoices and taking useful life as 5 years in case of capital goods. (sec. 18(4) & rule 44)

**7. Supply of capital goods or plant and machinery, on which ITC is taken:** In case of supply of capital goods or plant and machinery, on which ITC is taken, amount equivalent to ITC availed minus the reduction as prescribed in rules (5% for every quarter or part thereof) shall have to be paid. In case the tax on transaction value of the supply is more, the same would have to be paid. (sec. 18(6), rule 40(2) & 44 (6)).

Web links:

1. <https://gsthero.com/input-tax-credit-under-gst-with-example-special-cases/>
2. <https://cleartax.in/s/refund-claims-under-gst-for-tax-and-itc>
3. <https://taxguru.in/goods-and-service-tax/manner-availing-input-tax-credit-special-cases-gst.html>
4. [https://www.taxmanagementindia.com/visitor/detail\\_article.asp?ArticleID=8879](https://www.taxmanagementindia.com/visitor/detail_article.asp?ArticleID=8879)

## **Topic : Utilisation of CGST and SGST**

### **Utilisation of Input Tax Credit**

Under CGST Act:

Section (4) the amount available in the electronic credit ledger may be used for making any payment towards output tax under CGST Act or under the IGST Act in such manner and subject to such conditions and within such time as may be prescribed.

Sub-Section (4) and (5) of Section 49 of CGST Act provides for utilisation of credit. The provisions relating to utilisation of credit are also made in section 9 of UTGST Act. These provisions are;

Section (5). The amount of input tax credit available in the electronic credit ledger of the registered person on account of –

- a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;
- b) the central tax, i.e., CGST shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
- c) The State tax, i.e., SGST shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
- d) The Union territory tax, i.e., UTGST shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
- e) The central tax shall not be utilised towards payment of State tax or Union territory tax; and
- f) The State tax or Union territory tax shall not be utilised towards payment of central tax.

### **Under UTGST Act**

- a) Integrated tax shall be first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and state tax, or as the case may be, union territory tax, in that order;

Section 9. The amount of input tax credit available in the electronic credit ledger of the registered person on account of : -

- b) The union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
- c) The Union territory tax shall not be utilised towards payment of Central tax.

Manner of utilisation of credit or cross utilisation

No cross Utilisation of;

- a) CGST cannot be utilised towards payment of SGST or UTGST.
- b) SGST or UTGST cannot be utilised towards payments of CGST.
  - 1. IGST credit – IGST – CGST – SGST – UTGST
  - 2. CGST – CGST – IGST
  - 3. SGST – SGST – IGST
  - 4. UTGST – UTGST – IGST

Web links:

- 1. <https://cleartax.in/s/gst-input-tax-credit-utilisation>
- 2. <https://taxguru.in/goods-and-service-tax/utilisation-itc-sequence-gst-act-analysis.html>
- 3. <https://taxguru.in/goods-and-service-tax/input-tax-credit-itc-utilisation-sequence-simplified-anlysis.html>
- 4. <https://gsthero.com/itc-utilization-as-per-new-method-with-examples/>