



*My Dear Friend*

*I am presenting **Thursday Article on Eligible ITC + Apportioned ITC + Blocked ITC under GST Act in India***

- 1. Any kind of non-compliance is attracting **Financial Penalty + imprisonment (both)**.*
- 2. It's humbly suggested to stop non-compliance against furnishing of legal documents + correct informations (both).*
- 3. I trust that you will be enriched by reading this article*

*● **With best wishes from CA Satish Agarwal, New Delhi** ●*



## ***Eligible ITC + Apportioned ITC + Blocked ITC under GST Act in India***

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## **Eligible ITC + Apportioned ITC + Blocked ITC under GST Act in India**

### **(A) Eligible Input Tax Credit (ITC) under GST Act, 2017 in India**

#### **1. Introduction on Eligible ITC under GST Act, 2017 in India**

(i) **Permitted as Eligible ITC for recipient against GST paid by supplier on inward supply of Goods and Services under GST Act, 2017 like :-**

- (a) **Central Goods and Services Tax (CGST) paid on Central Sales**
- (b) **State Goods and Services Tax (SGST) paid on State sales**
- (c) **Interstate Goods and Services Tax (ITGST) paid on Interstate sales**
- (d) **Union Territory Goods and Services Tax (UTGST) paid on Union Territory sales**
- (e) **Interstate Goods and Services Tax (IGST) paid on Imports of goods and services.**
- (f) **Reverse Charge Method (RCM) paid on certain Goods + Services + Imports (any).**

(ii) **Not Permitted as eligible ITC against tax paid by registered GST dealer under following head of GST Act, 2017 like :-**

- (a) **GST paid by supplier of goods under Composition scheme (Section 10)**
- (b) **Non-GST Taxes paid by supplier + recipient against goods and services**

#### **2. Eligibility Criteria's to be Satisfied for Claiming ITC**

- **Rights of recipient of goods and services registered dealer under GST for claiming ITC under GST Act, 2017 [Section 16(1)]**
- (i) **Where supplier of goods and services has paid against outward supply of Goods and Services**

+



(ii) *Where intention of recipient of goods and services to use the ITC against furtherance of business and profession (only).*

+

(iii) *Where terms and conditions as specified under GST Rule from 36 to 45 to be satisfied by supplier and recipient of goods and services.*

+

(iv) *Where payment of GST by supplier of Goods and Services as made by recipient of goods and services as specified under section 49 of GST Act, 2017*

+

(v) *Where GST paid is already credited to Electronic Credit Ledger (ECL) of recipient of goods and services as maintained by GSTN portal*

### **3. Mandatory Specified Conditions to be Satisfied for Claiming ITC**

- *Duties of recipient of goods and services under GST for claiming ITC under GST Act, 2017 [Section 16(2)]*

(i) *Already possessed the Invoice or Debit Note or Other prescribed tax payment document (any)*

+

(ii) *Already received the goods and services*

+

(iii) *Already paid GST by supplier of goods and services*

+

(iv) *Already filed return by recipient + supplier of goods and services under section 39 of GST Act, 2017*

### **4. Mandatory Supporting Documents for Claiming ITC**

- *Mandatory supporting documents to be hold by recipient of goods and services for claiming ITC under GST Rule 36 (1)*

(i) *Already received original invoice from supplier as specified under section 31*

+

(ii) *Already generated self-invoice where RCM is applicable*

+



(iii) *Already received original debit note where debit note is needed instead original invoice*

+

(iv) *Already received original Bill of Entry (BoE) against import of goods*

+

(v) *Already received original ISD invoice as specified under rule 54(1)*

## **5. Mandatory Particulars to be mentioned in Documents for Claiming ITC**

- *Mandatory Particulars to be mentioned in Documents for Claiming ITC by recipient of goods and services under GST Rule 36 (2)*

(i) *Already mentioned required particulars as specified under Chapter – V like :-*

(a) *Detail of amount of GST as charged by supplier of goods and services*

(b) *GSTN number of supplier of goods and services*

(c) *Total value of goods and services as supplied by supplier*

(d) *GSTN number of recipient of goods and services*

(e) *Description of goods and services as supplied by supplier*

(f) *Place of Supply (PoS) for goods and services against interstate sale*

+

(ii) *Already furnished required informations in Form GSTR-2 as filed by recipient of goods and services*

## **6. Not Permitted ITC for GST paid against GST demand order as issued by Deptt.**

- *Not Permitted the ITC for GST paid against GST demand order as issued under GST Rule 36 (3)*

(i) *Where GST paid against fraud by registered dealer under GST*

(ii) *Where GST paid against wilful misstatement by registered dealer under GST*

(iii) *Where GST paid against suppression of facts by registered dealer under GST*

## **7. Restrictions on Availment of ITC where ITC not uploaded on GSTN Portal**

- *Restrictions on Availment of ITC where ITC not uploaded on GSTN portal by Supplier of Goods and Services under GST Rule 36 (4)*



- (i) (a) **Where invoice or debit note (any) not uploaded on GSTN portal by Supplier of Goods and Services through filling of GSTR-1 + ITC to be claimed against invoice or debit note not uploaded on GSTN portal by supplier is not exceeding the 10% against total eligible ITC of month of recipient of goods and services.**
- (b) **However ITC is not permitted beyond actual liability of recipient against outward Supplies of Goods and Services.**
- (c) **Hence refund against ITC is not permitted in hands of recipient of goods and services.**
- (ii) **Where Goods and Services not received from supplier**
- (iii) (a) **Where actual payment of GST is not made by supplier in 180 day.**
- (b) **Hence ITC is permitted on provisional basis up to 180 day under section 41**
- (c) **Thereafter provisional basis ITC to be reversed by recipient under GST Rule 37 where principal value of Goods and services + amount of GST (both) not paid by recipient in 180 day from date of issue of invoice of Goods and services.**
- (iv) **Restrictions on availment of ITC against inward supply under RCM like**
- (a) **Where self-invoice is not generated by recipient against inward supply under RCM**
- (b) **Where recipient against inward supply has not deposited the GST under RCM through cash ledger (only).**
- **Hence deposit of GST under RCM is not permitted through ITC.**
  - **However ITC is permitted against deposit of GST under RCM where liability of RCM + payment of RCM (both) in same month**
- (v) (a) **Where recipient of Goods and services non filing of GSTR 1 + GSTR 3B (both) on regular basis.**



*(b) Hence ITC is not permitted where filing of GSTR 1 + GSTR 3B (both) not on regular basis.*

## **8. Consequences against Payment not made in 180 day (GST Rule 37)**

- (i) (a) Recipient of goods and services is required to file the GSTR 2 immediately following the expiry of 108 day where 100% payments (principal + GST amount (both)) not made in 180 day from date of issue of invoice of Goods and services by supplier*
- (b) However recipient of goods and services is required to file the GSTR 2 against proportionate amount of payment where proportionate payment is not made in 180 day from date of receipt of Goods and services by supplier*
- (ii) Recipient of goods and services is required to file on GSTN portal the details of unpaid supplies against Goods and services*
- (iii) Recipient of goods and services is required to add in output tax liability in following month after expiry of 180 day*
- (iv) (a) Recipient of goods and services is required to pay the non-eligible GST + penal interest @ 18% per annum (both)*
- (b) Recipient of goods and services is required to pay the penal interest from date of original availment of ITC to date of adding in output tax liability*
- (v) Recipient of goods and services is permitted to rebook the ITC after payment to supplier*





## ***(B) Apportioned (partly) Input Tax Credit (ITC) under GST Act in India***

### ***1. Introduction on Apportioned (partly) Input Tax Credit (ITC) under GST Act***

- ***Generally 3 categories of ITC are specified under GST Act, 2017 in India like: -***
  - (i) ***100% (fully) ITC is permitted where ITC is not blocked + not apportioned (partly) required***
  - (ii) ***Not 100% (partly) ITC is permitted where ITC is not 100% permitted + not blocked (both)***
  - (iii) ***Blocked ITC is required where ITC is not 100% permitted + not partly is permitted***

### ***2. ITC availment against inward supply of Capital Goods and Capital Services***

- ***100% ITC is Permitted or not 100% (partly) permitted or blocked under section 17(1)***
  - (i) ***100% ITC is permitted against inward supply of Capital Goods and Capital Services where Capital Goods and Capital Services (both) utilized for business purpose (only).***
  - (ii) ***Apportioned (partly) ITC is permitted against inward supply of Capital Goods and Services where Capital Goods and Capital Services (both) utilized for business + non business purpose (both)***
  - (iii) ***0% ITC is permitted against inward supply of Capital Goods and Capital Services where Capital Goods and Capital Services (both) utilized for non-business purpose (only)***

### ***3. ITC availment for inward supply of exempted Capital Goods and Services***

- ***0% ITC or 100% ITC is permitted against inward supply of exempted Capital Goods and Services or non-exempted services respectively under section 17(3)***
  - (i) ***List of exempted outward supply of goods and services as specified under section 2(47) like :-***



- (a) **0% rated outward Supply of goods and services**
  - (b) **100% exempted outward supply as specified under section 11**
  - (c) **100% non-taxable outward supply of goods and services**
- (ii) (a) **0% ITC is permitted against inward supply as received by recipient under RCM.**
  - (b) **However 100% ITC is permitted against 100% payment of GST under RCM by recipient of goods and services**
- (iii) (a) **Proportionate ITC is permitted against transactions of securities through recognised stock exchange like BSE or NSE where 99% sale value is exempted under CGST rules.**
  - (b) **However 1% sale value is not exempted under CGST Rules**
  - (c) **Therefore GST to be levied on 1% sale value + ITC to be claimed on 1% sale value accordingly**
- (iv) (a) **0% GST to be paid against sale of land + sale of building (both) accordingly 0% ITC to be claimed**
  - (b) **Hence 0% ITC is permitted against Sale of Land + Sale of Building after issuance of Completion Certificate (CC) or after 1<sup>st</sup> occupation whichever earlier**

#### **4. Exempted outward supplies under Schedule-III of GST ACT 2017**

- (i) **Where service is provided by employee to employer under employment (only)**
- (ii) **Where service is provided by court + tribunal as established under laws of State Govt. + Central Govt. (both)**
- (iii) **Where function as service is performed by Member of Parliament (MP) + Member of State Legislature (MLA) + Member of Panchayat + Member of Municipality + Member of other local authority (any)**
- (iv) **Where duty as service is performed by person as holding any post under Constitution of India.**



- (v) (a) *Where duty as service is performed by Chairperson + Member + Director through body as established by Central Govt. + State Govt. + local authority (any).*
- (b) *However Person should not be deemed as employee before enacting of GST Act 2017.*
- (vi) *Where Service is provided under funeral + burial + crematorium + mortuary + transportation of decease (any).*
- (vii) (a) *Where service is deemed as provided under actionable claim.*
- (b) *However actionable claim under lottery + betting + gambling (any) not exempted.*
- (viii) (a) *Where Supply of good is made from place in non-taxable territory to other place in non-taxable territory without entering in territorial border of India like land + sea + air (any).*
- (b) *These supplies are known as high sea sales.*
- (ix) *Where Supply of warehoused goods is made before clearance for home consumption.*
- (x) *Where Supply of goods is made by consignee to other person through endorsement of document of title of goods after goods already dispatched from port of origin as located outside India before clearance for home consumption in India.*

## **5. Special options for Bank + Financial Institution + NBFC under GST ACT**

- *Under section 17(4)*

(i) *Option - 1*

*Bank + Financial Institution + NBFC (any) permitted to opt the compliances as specified under section 17(2)*

(ii) *Option - 2*



- (a) *Bank + Financial Institution + NBFC (any) permitted to opt to claim of flat ITC of 50% of GST against eligible ITC during same month where Bank + Financial Institution + NBFC (any) engaged in forward supply through accepting deposit + extending loan and advance (both).*
- (b) *Hence balance unclaimed ITC of 50% to be lapsed*
- (iii) *Mandatory terms and conditions to be satisfied by recipient of goods and services*
- (a) *Not permitted to change the option once opted during remaining port of financial year*
- (b) *Not permitted to utilize the lapsed ITC under inter branch supply of goods and services*
- (c) *Not permitted to avail the ITC against receipt of goods and services for non-business purpose. Hence ITC against receipt of goods and services for non-business purpose to be treated as blocked ITC*
- (iv) *Recipient of goods and services is required to file form GSTR-2 for getting a credit in E-credit ledger*



## **(C) Blocked Input Tax Credit (ITC) under GST Act, 2017 in India**

### **1. Introduction on Blocked ITC under GST Act, 2017 in India**

(i) Now 100% ITC is not permitted against outward supplies of goods and service under section 17(5) of GST Act, 2017

(ii) Hence 100% ITC is not permitted against inward supplies of goods and service as eligible + non eligible (both) to be segregated under section 17(5) of GST Act, 2017:-

- 100% ITC – blocked (non-eligible) ITC = Eligible ITC

### **2. List of services under blocked (non-eligible) ITC**

<b>S.No.</b>	<b>Nature of service</b>	<b>SAC</b>
(i)	<b>Motor Vehicle + Vessel + Air craft</b>	<b>998714</b>
(ii)	(a) <b>Insurance for motor vehicle</b> (b) <b>Repair for motor vehicle</b> (c) <b>Maintenance for motor vehicles</b>	<b>997134</b> <b>998714</b> <b>998714</b>
(iii)	(a) <b>Food</b> (b) <b>Beverage</b> (c) <b>Outdoor Catering</b> (d) <b>Beauty Treatment</b> (e) <b>Health Service</b> (f) <b>Cosmetic Service</b> (g) <b>Plastic Surgery</b>	<b>99633</b> <b>99972</b> <b>99931</b> <b>99932</b> <b>99933</b> <b>99934</b> <b>99935</b>
(iv)	(a) <b>Membership of club</b> (b) <b>Health and Fitness Centre</b>	<b>999723</b> <b>999723</b>



(v)	(a) <i>Rent-a-cab</i> (b) <i>Life Insurance</i> (c) <i>Health Insurance</i> (d) <i>Life reinsurance</i> (e) <i>Accident and health reinsurance services</i>	996601 997132 997133 997141 997142
(vi)	<i>Travel benefit for employees on vacation</i>	NA
(vii)	<i>Travel benefit for employees on leave travel concession (LTC)</i>	NA
(viii)	<i>Works contract service for construction of immovable property</i>	9954
(ix)	<i>Goods + service (both) received by resident as registered under GST for construction of immovable property + installation on plant and Machinery (both)</i>	9954
(x)	<i>Goods + service (both) received under Composition scheme of GST (section 10)</i>	NA
(xi)	<i>Goods + service (both) received by non-resident as registered under GST</i>	NA
(xii)	<i>Goods + service (both) used for personal consumption</i>	NA
(xiii)	(a) <i>Lost goods</i> (b) <i>Written off goods</i> (c) <i>Destroyed goods</i> (d) <i>Damaged goods</i> (e) <i>Stolen goods</i>	NA
(xiv)	<i>Goods disposed through gift + free sample (both)</i>	NA
(xv)	<i>GST paid for fraud + misstatement + etc. under section 74 + 129 + 130 (all)</i>	NA



## **(C-1) Non Blocked Input Tax Credit (ITC) under GST Act, 2017 in India**

### **1. Motor Vehicle + Vessel + Air craft (17(5)(a))**

- (i) ITC is permitted against outward supply of motor vehicle + Vessel + Air craft (any) to registered dealer under GST. Hence known as B2B supply.
- (ii) ITC is permitted against transportation of passengers.
- (iii) ITC is permitted against training + driving + navigating of motor vehicle + Vessel + Air craft (any) for transportation of goods.
- (iv) ITC is permitted against transportation of persons where approved capacity of motor vehicle is exceeding 13 persons (including driver) to be used for business purpose (only)
- (v) ITC is permitted against transportation of buses for pick and drop of employees where approved capacity of motor vehicle is exceeding 13 persons (including driver) for business purpose (only).

### **2. Insurance + repair + maintenance of Vehicle (17(5)(a))**

- (i) Where ITC is permitted against purchase of motor vehicle (also)
- (ii) Hence ITC is not permitted for insurance + repair + maintenance of vehicle where ITC is not permitted against purchase of motor vehicle (also).

### **3. Food + Beverage + Outdoor Catering + etc. (17(5)(b))**

- (i) ITC is permitted against outward supply of food + outdoor catering + etc. (any) to registered dealer under GST. Hence known as B2B supply.
- (ii) ITC is permitted where outward supply is provided as legally + obligatory (both) to employees by employer.

### **4. Membership of club + Health and Fitness Centre (17(5)(b))**

- ITC is not permitted. Hence exemption from blocked ITC is not permitted



**5. Rent-a-cab + Life Insurance + Health Insurance (17(5)(b))**

(i) ITC is permitted where outward supply is provided as legally + obligatory (both) to employees by employer.

(ii) However ITC is permitted where outward supply is made to resident as registered under GST. Hence known as B2B supply.

**6. Travel benefit for employees on vacation (section 17(5)(b))**

● ITC is not permitted. Hence exemption from blocked ITC is not permitted

**7. Travel benefit for employees on leave travel concession (LTC) (17(5)(b))**

● ITC is not permitted. Hence exemption from blocked ITC is not permitted

**8. Works contract service for construction of immovable property (17(5)(c))**

● ITC is permitted where outward supply is made to resident as registered under GST. Hence known as B2B supply.

**9. Goods and services received by resident dealer for construction (17(5)(d))**

(i) ITC is not permitted against goods and services received for self (own) consumption purpose.

(ii) However ITC is permitted against outward supply for construction to resident as registered under GST. Hence known as B2B supply.

**10. Goods and services received under Composition scheme (17(5)(e))**

● ITC is not permitted. Hence exemption from blocked ITC is not permitted

**11. Goods and services received by non-resident as registered (17(5)(g))**

● ITC is permitted where goods and services received by non-resident of India for self-consumption from outside India. Hence ITC is permitted where goods and services are imported by non-resident of India





**12. Goods and services used for personal consumption (17(5)(g))**

- **ITC is not permitted. Hence exemption from blocked ITC is not permitted**

**13. Lost + Written off + Destroyed + Damaged + Stolen (any) goods (17(5)(h))**

- **ITC is not permitted. Hence exemption from blocked ITC is not permitted**

**14. Goods used for gift (17(5)(h))**

- **ITC is permitted where gift is provided by employer to employee + value not exceeding INR 50 thousand in financial year**

**15. GST paid against fraud + misstatement under section 74 + 129 + 130 (17(5)(i))**

- **ITC is not permitted where GST is paid against fraud + misstatement + etc. (any). Hence exemption from blocked ITC is not permitted**



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