

Input Tax Credit under GST/ Valuation JB Nagar CPE Study Circle of WIRC

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Coverage

1) Input Tax Credit (ITC):

A) Transitional Provisions

B) Current Provisions with FAQs

C) Input Service Distributor (ISD)

D) Matching, Reversal and Reclaim of ITC

E) GST – Black Listing of Taxable Person

2) Valuation

Input Tax Credit (ITC) – Transitional Provisions

140(1). Amount of CENVAT credit carried forward in a return to be allowed as input tax credit.

- A registered taxable person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—

- I. where the said amount of credit is not admissible as input tax credit under this Act; or
- II. where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or
- III. where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government

(CGST LAW)

Input Tax Credit (ITC) – Transitional Provisions

Certain Issues :

- Many companies take the credit only after payments have been made to the input service provider. Therefore, availment of credit may be delayed. Such credit shall also be taken prior to 31-3-2017.
- Many services are received regularly, but the invoices are raised after the month end only. These services are like security services, renting of immovable property, telephone, etc. The effort should be made to ensure that the bills for these input services are received prior to 31/03/2017 and the credit is availed prior to 31/03/2017 so that the credit is reflected in the returns.

Input Tax Credit (ITC) – Transitional Provisions

Certain Issues :

- Similarly, in many cases, the Company is required to pay the service tax under reverse charge. As per Rule 7 of the Point of Taxation Rules, 2011, the liability to pay service tax under reverse charge arises on the date of payment to the service provider. The date of payment for the invoices received in February or March may be after 31/03/2017. Therefore, the liability to pay service tax will arise only after 31/03/2017. As mentioned above as of now there is no provision for availment of credit after 31/03/2017 for the service tax paid for the services received before 31/03/2017. Therefore, the Company should preferably pay the service tax under reverse charge on or before 31/03/2017 and take the credit.

Input Tax Credit (ITC) – Transitional Provisions

140(2). Unavailed cenvat credit on capital goods, not carried forward in a return, to be allowed in certain situation

A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as Cenvat credit under the earlier law and is also admissible as input tax credit under this Act.

Input Tax Credit (ITC) – Transitional Provisions

Explanation 1.– For the purposes of this section, the expression “unavailed Cenvat credit” means the amount that remains after subtracting the amount of cenvat credit already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of cenvat credit to which the said person was entitled in respect of the said capital goods under the earlier law.

The explanation attached to Chapter XX provides that capital goods means as defined in rule 2(a) of Cenvat Credit Rules 2004.

Input Tax Credit (ITC) – Transitional Provisions

140(3). Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations:

- 1) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:--
 - i. such inputs or goods are used or intended to be used for making taxable supplies under this Act;
 - ii. the said registered person is for input tax credit on such inputs under this Act;
 - iii. the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;

Input Tax Credit (ITC) – Transitional Provisions

- iv. such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and
- v. the supplier of services is not eligible for any abatement under this Act:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

- 2. As per sub-section (10) the amount of credit shall be calculated in such manner as may be prescribed. As per rule 3(ii),3(iii) and 3(b) of Transitional provision Rules the credit will be available as per following:
 - 3(ii) Such credit shall be allowed at the rate of [forty per cent] of the Central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid.
 - 3(iii) The scheme shall be available for six tax periods from the appointed date.

Input Tax Credit (ITC) – Transitional Provisions

3(b) Such credit of central tax shall be availed to satisfying the following conditions, namely–

- I. Such goods were not wholly exempt from duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated.
- II. Document for procurement of such goods is available with the registered person.
- III. Registered person availing this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2) of rule 1, submits a statement in Form GST TRAN--- at the end of each of the six tax periods during which the scheme is in operation indicating therein the details of supplies of such goods effected during the tax period.
- IV. The amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in Form GST PMT-2 on the Common Portal.
- V. The stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

(In CGST Rules)

(3) (a) (i) A registered person, holding stock of goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State availing credit in accordance with the proviso to sub-section (3) of section 140 shall be allowed to avail input tax credit on goods held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of value added tax.

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Input Tax Credit (ITC) – Transitional Provisions

140(4). Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations:

A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,—

- a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him accordance with the provisions of sub-section (1); and
- b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3).

Input Tax Credit (ITC) – Transitional Provisions

140(5). Credit of eligible duties and taxes in respect of inputs or input services during transit

A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of accounts of such person within a period of thirty days from the appointed day:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:

Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

Input Tax Credit (ITC) – Transitional Provisions

Explanation 2 to sec. 140(10)—For the purposes of sub-section (5), the expression “eligible duties and taxes” means--

- I. the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- II. the additional duty leviable under sub-section (7) of section 3 of the Customs Tariff Act, 1975;
- III. the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;
- IV. the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- V. the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- VI. the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;
- VII. the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and
- VIII. the service tax leviable under section 66B of the Finance Act, 1994, in respect of inputs and input services received on or after the appointed day.

Input Tax Credit (ITC) – Transitional Provisions

140(6). Credit Of Eligible Duties And Taxes On Inputs Held In Stock To Be Allowed To A Taxable Person Switching Over From Composition Scheme

A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day subject to the following conditions, namely :--

- I. such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- II. the said registered person is not paying tax under section 10;
- III. the said registered person is eligible for input tax credit on such inputs under this Act;

Input Tax Credit (ITC) – Transitional Provisions

- iv. the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and
- v. such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

Input Tax Credit (ITC) – Transitional Provisions

140(9) Transitional provisions for availing Cenvat credit in certain cases

Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

Input Tax Credit (ITC) – Current Provisions Coverage

Definitions

Exclusions from ITC

Manner of Taking Credit

Conditions for availing the
credit

Reversal of Credit

FAQs

Input Tax Credit (ITC) – Current Provisions

Definition:

i) Section 2(19) defines ‘Capital Goods’ as follows:

“capital goods” means goods, the value of which is capitalised in the books of accounts of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;

ii) Section 2(59) defines ‘input’ as follows:

“input” means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

iii) Section 2(60) defines ‘Input Service’ as follows:

“input service” means any service used or intended to be used by a supplier in the course or furtherance of business;

Input Tax Credit (ITC) – Current Provisions

Definition:

iv) Section 2(62) defines ‘input tax’ as follows:

“input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes--

- 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; i.e. CGST.
- c) the tax payable under the provisions of sub-section (3) and (4) of section 5 of the Integrated Goods and Services Tax Act i.e. 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; or i.e. SGST.
- 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 i.e. UTGST.

but does not include the tax paid under the composition levy;

v) Section 2(63) defines ‘input tax credit’ as follows:

“input tax credit” means credit of input tax;

Input Tax Credit (ITC) – Current Provisions

Credit not available for following :

Input tax credit shall not be available in respect of the following:

- a) motor vehicles and other conveyances except when they are used
 - (i) for making the following taxable supplies, namely
 - further supply of such vehicles or conveyances ; or
 - transportation of passengers; or
 - imparting training on driving, flying, navigating such vehicles or conveyances;
 - (ii) for transportation of goods.

- (b) supply of goods and services, namely,
 - (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where such inward supply of goods or services of a particular category is used by a registered taxable person for making an outward taxable supply of the same category of goods or services;

Input Tax Credit (ITC) – Current Provisions

Credit not available for following :

(ii) membership of a club, health and fitness centre,

(iii) rent-a-cab, life insurance, health insurance except where the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; and

(iv) travel benefits extended to employees on vacation such as leave or home travel concession.

(c) works contract services when supplied for construction of immovable property, other than plant and machinery, except where it is an input service for further supply of works contract service;

(d) goods or services received by a taxable person for construction of an immovable property on his own account, other than plant and machinery, even when used in course or furtherance of business;

Input Tax Credit (ITC) – Current Provisions

Explanation 1.– For the purpose of this clause, the word “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

Explanation 2.– ‘Plant and Machinery’ means apparatus, equipment, machinery, pipelines, telecommunication tower fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation and structural supports but excludes land, building or any other civil structures.

- (e) goods and/or services on which tax has been paid under section 9;
- (f) goods and/or services used for personal consumption;
- (g) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- (h) any tax paid in terms of sections 74,129 or 130.

Input Tax Credit (ITC) – Current Provisions

As per Section 2(119) “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

Section 74 – Relates to payment of demand by reason of fraud, wilful-misstatement or suppression.

Section 129 – Relates to Tax paid on detention

Section 130 – Relates to Tax paid on confiscation

Input Tax Credit (ITC) – Current Provisions

Manner of Taking Credit:

Every registered taxable person shall be entitled to take credit of input tax charged on any supply of goods or services to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person:

- 1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

Input Tax Credit (ITC) – Current Provisions

Conditions for availing the credit

Notwithstanding anything contained in this section, no registered taxable person shall be entitled to the credit of any input tax in respect of any supply of goods and/or services to him unless,–

- a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other taxpaying document(s) as may be prescribed;
- b) he has received the goods and/or services;
- c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and
- d) he has furnished the return under section 39:

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

Input Tax Credit (ITC) – Current Provisions

Provided further that where a recipient fails to pay to the supplier of goods or services or both other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

- Rule 1(1) of Input tax credit provide that credit is available on following documents,
 - a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
 - b) a debit note issued by a supplier in accordance with the provisions of section 34;
 - c) a bill of entry;

Input Tax Credit (ITC) – Current Provisions

- a) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31;
- b) a document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule invoice.7;
- c) a document issued by an Input Service Distributor, as prescribed in clause (g) of sub-rule (1) of rule 4.
 - Rule 1(2) Input tax credit shall be availed by a registered person only if all the applicable particulars as prescribed in Chapter ---- (Invoice Rules) are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person.
 - Rule 1(3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been raised on account of any fraud, willful misstatement or suppression of facts.

As per Rule 2, if supplier is not paid with in 180days Value of supply with tax, the details shall be furnished for the month immediately following period of 180days and shall be added to output tax liability. He tax be paid with interest from the date of availment.

Input Tax Credit (ITC) – Current Provisions

Time Limit

A taxable person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services after furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Depreciation

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

Input Tax Credit (ITC) – Current Provisions

Reversal of Credit

- 1) Where the goods and/or services are used by the registered taxable 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.
- 2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, 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.
- 3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Input Tax Credit (ITC) – Current Provisions

FAQs :

Q 10. What are E-Ledgers?

Ans. Electronic Ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register. Once a taxpayer is registered on Common Portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an electronic tax liability register will be automatically opened and displayed on his dash board at all times.

Q 13. What is an ITC Ledger?

Ans. Input Tax Credit as self-assessed in monthly returns will be reflected in the ITC Ledger. The credit in this ledger can be used to make payment of TAX ONLY and not other amounts such as interest, penalty, fees etc.

Input Tax Credit (ITC) – Current Provisions – FAQs

Q 8. What are the provisions concerning taking of ITC in respect of inputs/capital goods sent to a job worker?

Ans. Principal shall be entitled to take credit of taxes paid on inputs or capital goods sent to a job worker whether sent after receiving them at his place of business or even when such the inputs or capital goods are directly sent to a job worker without their being first brought to his place of business. However, the inputs or capital goods, after completion of job work, are required to be received back or supplied from job worker's premises, as the case may be, within a period of one year or three years of their being sent out.

Q 9. What happens when the inputs or capital goods are not received back or supplied from the place of business of job worker within prescribed time period?

Ans. If the inputs or capital goods are not received back by the principal or are not supplied from the place of business of job worker within the prescribed time limit, it

would be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out by the principal (or on the date of receipt by the job worker where the inputs or capital goods were sent directly to the place of business of job worker). Thus the principal would be liable to pay tax accordingly.

Input Tax Credit (ITC) – Current Provisions – FAQs

Q 10. Some capital goods like jigs and fixtures are non-usable after their use and normally sold as scrap. What is the treatment of such items in job work provisions?

Ans. The condition of bringing back capital goods within three years is not applicable to moulds, dies, jigs and fixtures or tools.

Q 11. What would be treatment of the waste and scrap generated during the job work?

Ans. The waste and scrap generated during the job work can be supplied by the job worker directly from his place of business, on payment of tax, if he is registered. If he is not registered, the same would be supplied by the principal on payment of tax.

Input Tax Credit (ITC) – Current Provisions – FAQs

Q 16. Should job worker and principal be located in same State or Union territory?

Ans. No this is not necessary as provisions relating to job work have been adopted in the IGST Act as well as in UTGST Act and therefore job-worker and principal can be located either in same State or in same Union Territory or in different States or Union Territories.

Q 3. Does input tax includes tax (CGST/IGST/SGST) paid on input goods, input services and capital goods? Ans. Yes, it includes taxes paid on input goods, input services and capital goods. Credit of tax paid on capital goods is permitted to be availed in one instalment.

Input Tax Credit (ITC) – Current Provisions – FAQs

Q 6. Where the goods against an invoice are received in lots or instalments, how will a registered person be entitled to ITC? Ans. The registered person shall be entitled to the credit only upon receipt of the last lot or instalment.

Q 9. Who will get the ITC where goods have been delivered to a person other than taxable person ('bill to'– 'ship to 'scenarios)?

Ans. It would be deemed that the registered person has received the goods when the goods have been delivered to a third party on the direction of such taxable person. So ITC will be available to the person on whose order the goods are delivered to third person.

Input Tax Credit (ITC) – Current Provisions – FAQs

Q 12. Is credit of tax paid on every input used for supply of taxable goods or services or both is allowed under GST?

Ans. Yes, except a small list of items provided in the law, the credit is admissible on all items. The list covers mainly items of personal consumption, inputs use of which results into formation of an immovable property (except plant and machinery), telecommunication towers, pipelines laid outside the factory premises, etc. and taxes paid as a result of detection of evasion of taxes.

Q 13. A taxable person is in the business of information technology. He buys a motor vehicle for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle? Ans. No. ITC on motor vehicles can be availed only if the taxable person is in the business of transport of passengers or goods or is providing the services of imparting training on motor vehicles. Q 14. Sometimes goods are destroyed or lost due to various reasons? Can a person take ITC to the extent of such goods?

Ans. No, a person cannot take ITC with respect to goods lost, stolen, destroyed or written off. In addition, ITC with respect of goods given as gifts or free samples are also not allowed.

Input Tax Credit (ITC) – Current Provisions – FAQs

Q 16. What is the ITC entitlement of a newly registered person?

Ans. A person applying for registration can take input tax credit 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. If the person was liable to take registration and he has applied for registration within thirty days from the date on which he became liable to registration, then input tax credit of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

Input Tax Credit (ITC) – Current Provisions – FAQs

Q 18. What is the eligibility of input tax credit on inputs in stock for a person who obtains voluntary registration?

Ans. The person who obtains voluntary registration is entitled to take the input tax credit of input tax on inputs in stock, inputs in semi-finished goods and finished goods in stock, held on the day immediately preceding the date of registration.

Q 19. What would be input tax eligibility in cases where there is a change in the constitution of a registered person?

Ans. The registered person shall be allowed to transfer the input tax credit that remains unutilized in its electronic credit ledger to the new entity, provided that there is a specific provision for transfer of liabilities.

Input Tax Credit (ITC) – Current Provisions – FAQs

Q 20. Where goods or services or both received by a taxable person are used for effecting both taxable and non-taxable supplies, whether the input tax credit is available to the registered taxable person?

Ans. The input tax credit of goods or services or both attributable only to taxable supplies can be taken by registered person. The manner of calculation of eligible credit would be provided by rules.

Q 21. If input tax credit is allowed only in respect of goods or services or both for effecting taxable supplies, would it not lead to loss of input tax credit on exempt supplies when exported?

Ans. Zero-rated supplies have been covered within taxable supplies for the purpose of allowing input tax credit. The scope of zero-rated supply is provided in the Integrated Goods and Services Tax Act which includes even exempt supplies.

Input Tax Credit (ITC) – Current Provisions – FAQs

Q 24. A person paying tax under compounding scheme crosses the compounding threshold and becomes a regular taxable person. Can he avail ITC and if so from what date?

Ans. He can avail ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods (reduced by prescribed percentage points) on the day immediately preceding the date from which he ceases to be eligible for composition scheme. The manner of calculation of eligible credit would be provided by rules.

Q 29. Is there any restriction on period for availment of ITC?

Ans. In cases of new registration, change from composition to normal scheme, from exempt to taxable supplies, the concerned person cannot avail ITC after the expiry of one year from the date of issue of tax invoice relating to such supply.

Input Tax Credit (ITC) – Input Service Distributor (ISD)

"Input Service Distributor" is defined in section 2(61) as follows:

"Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;

Input Tax Credit (ITC) – Input Service Distributor (ISD)

Manner of Distribution

The Input Service Distributor may distribute the credit subject to the following conditions, namely:

- a) the credit can be distributed against a prescribed document issued to each of the recipients of the credit so distributed, and such document shall contain details as may be prescribed;
- b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;
- c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;
- d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed only amongst such recipient(s) to whom the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover in a State of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

Input Tax Credit (ITC) – Input Service Distributor (ISD)

(e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Explanation –For the purposes of this section,

(a) the “relevant period” shall be

- i. if the recipients of the credit have turnover in their States in the financial year preceding the year during which credit is to be distributed, the said financial year; or
- ii. if some or all recipients of the credit do not have any turnover in their States in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed.

(b) the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

(c) the term ‘turnover’, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

Input Tax Credit (ITC) – Input Service Distributor (ISD)

❖ Rule 4 prescribes following manner of distribution

(a) the input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR-6** in accordance with the provisions of Chapter ---- (*Return Rules*);

(b) the Input Service Distributor shall, in accordance with the provisions of clause (d), separately distribute the amount in-eligible as input tax credit under the provisions of sub-section (5) of section 17 and the amount eligible as input tax credit;

(c) the input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);

(d) the input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of sub-section (2) of section 20 to one of the recipients '*R1*', whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, "*C1*", to be calculated by applying the following formula:-

$$C1 = (t1 \div T) \times C$$

where,

"C" is the amount of credit to be distributed,

"t1" is the turnover, as referred to in section 20, of person R1 during the relevant period,
and

"T" is the aggregate of the turnover of all recipients during the relevant period;

Input Tax Credit (ITC) – Input Service Distributor (ISD)

- (e) the input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;
- (f) the input tax credit on account of central tax and State tax shall,
 - i. in respect of a recipient located in the same State in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax respectively;
 - ii. in respect of a recipient located in a State other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax that qualifies for distribution to such recipient in accordance with clause (d);
- (f) The Input Service Distributor shall issue an ISD invoice, as prescribed in sub-rule (1) of rule invoice-7, clearly indicating in such invoice that it is issued only for distribution of input tax credit.
- (g) The Input Service Distributor shall issue an ISD invoice, as prescribed in sub-rule (1) of rule invoice-7, clearly indicating in such invoice that it is issued only for distribution of input tax credit.
- (h) The Input Service Distributor shall issue an ISD credit note, as prescribed in sub-rule (1) of rule Invoice-7, for reduction of credit in case the input tax credit already distributed gets reduced for any reason.
- (i) Any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (g) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) above and such credit shall be distributed in the month in which the debit note has been included in the return in FORM GSTR-6.

Input Tax Credit (ITC) – Input Service Distributor (ISD)

(j) Any input tax credit required to be reduced on account of issuance of a credit note to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which input tax credit contained in the original invoice was distributed in terms of clause (d) above, and the amount so apportioned shall be,–

- i. reduced from the amount to be distributed in the month in which the credit note is included in the return in **FORM GSTR-6**; and
- ii. added to the output tax liability of the recipient and where the amount so apportioned is in the negative by virtue of the amount of credit to be distributed is less than the amount to be adjusted.

(2) If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process prescribed in clause (j) of sub-rule (1) shall, *mutatis mutandis* apply for reduction of credit.

(3) Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the ISD credit note specified in clause (h) of sub-rule (1), issue an ISD Invoice to the recipient entitled to such credit and include the ISD credit note and the ISD Invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

Input Tax Credit (ITC) – Input Service Distributor (ISD)

Manner of Recovery

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of amount to be recovered.

Input Tax Credit (ITC) – Input Service Distributor (ISD)

FAQs :

Q2. What are the requirements for registration as ISD?

Ans. An ISD is required to obtain a separate registration even though it may be separately registered. The threshold limit of registration is not applicable to ISD. The registration of ISD under the existing regime (i.e. under Service Tax) would not be migrated in GST regime. All the existing ISDs will be required to obtain fresh registration under new regime in case they want to operate as an ISD.

Q 4. Can an ISD distribute the input tax credit to all suppliers?

Ans. No. The input tax credit of input services shall be distributed only amongst those registered persons who have used the input services in the course or furtherance of business.

Input Tax Credit (ITC) – Input Service Distributor (ISD)

FAQs :

Q 14. How to distribute common credit among all the recipients of an ISD?

Ans. The common credit used by all the recipients can be distributed by ISD on pro rata basis i.e. based on the turnover of each recipient to the aggregate turnover of all the recipients to which credit is distributed.

Input Tax Credit (ITC) – Matching, Reversal and Reclaim of Credit

❖ Section 42 makes provision with regard to verification of credit. This section reads as follows:

- 1) The details of every inward supply furnished by a registered taxable person (hereinafter referred to in this section as the 'recipient') for a tax period shall, in the manner and within the time prescribed, be matched—
 - a) with the corresponding details of outward supply furnished by the corresponding taxable person (hereinafter referred to in this section as the 'supplier') in his valid return for the same tax period or any preceding tax period,
 - b) with the additional duty of customs paid under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of goods imported by him, and
 - c) for duplication of claims of input tax credit.

Input Tax Credit (ITC) – Matching, Reversal and Reclaim of Credit

(2) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.

(3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.

(4) The duplication of claims of input tax credit shall be communicated to the recipient in the manner as may be prescribed.

(5) The amount in respect of which any discrepancy is communicated under subsection (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

Input Tax Credit (ITC) – Matching, Reversal and Reclaim of Credit

(6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.

(7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the supplier declares the details of the invoice and/or debit note in his valid return within the time specified in sub-section (9) of section 39.

(8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.

Input Tax Credit (ITC) – Matching, Reversal and Reclaim of Credit

(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed:

PROVIDED that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

(10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

Input Tax Credit (ITC) – GST Black-Listing of Taxable Person to Block Credit

Section 149 of Model GST Law provides that every taxable person shall be assigned a GST compliance rating score based on his records of compliance with the provisions of this Act. The rating score will be determined on the basis of parameters which will be prescribed.

CBEC has published business process note for returns. Annexure X of the business process note gives details of black-listing of dealers for blocking tax credits. Trigger for blacklisting, default, rating and compliance profile and blacklist are given below:

Trigger for Blacklisting

- i. Continuous default for 3 months in paying ITC that has been reversed.
- ii. Continuous default of 3 months or any 3 month-period over duration of 12 months in uploading sales details leading to reversal of ITC for others. Defaulters of even a single event should also be flagged and put in public domain as being a potential black listed dealer so as to alert the buyers.
- iii. Continuous short reporting of sales beyond a prescribed limit of 5% (of total sales) for a period of 6 months.

Input Tax Credit (ITC) – GST Black-Listing of Taxable Person to Block Credit

Default

Not doing the activity within the prescribed cut off dates. A system of rating the dealers based on their compliance should also be done and put in public domain to inform prospective buyers.

Rating and Compliance Profile

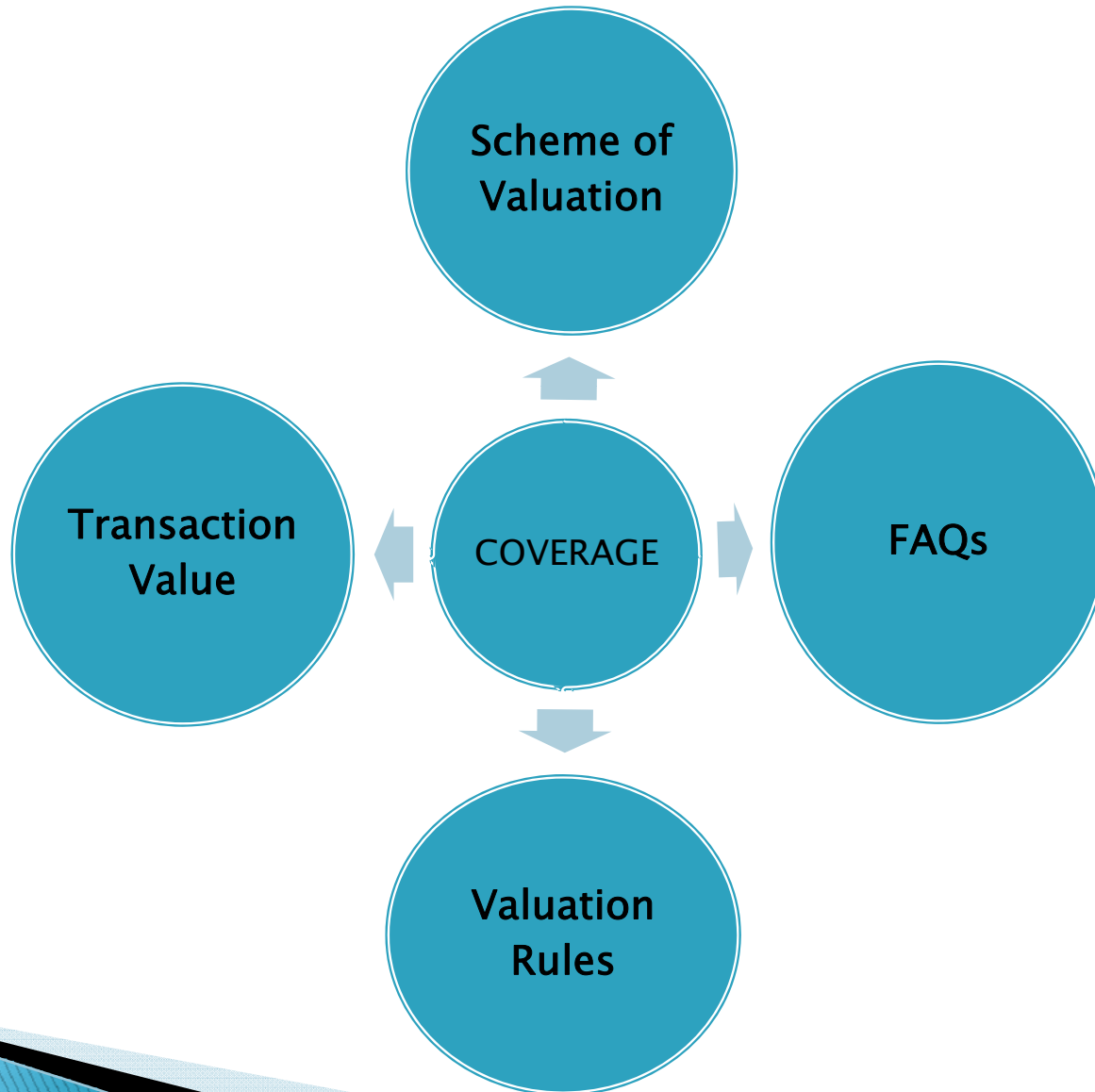
There should also be a continuous rating system, provided under model law, for dealers based on parameters such as promptness in e-return filing, discrepancies detected where the dealer has had to make corrections, making prompt payment in lieu of reversed ITC, etc. The profiles for all dealers would be posted in public domain so that the dealer community is kept aware of the compliance profile of all registered dealers with whom they may have to deal with during the course of their business. While the system of blacklisting may only highlight deviant behaviour after it crosses a certain threshold, a system-updated dealer profile will serve as a continuing rating mechanism for the entire community and leaders within a certain industry can set a benchmark for others to emulate.

Input Tax Credit (ITC) – GST Black-Listing of Taxable Person to Block Credit

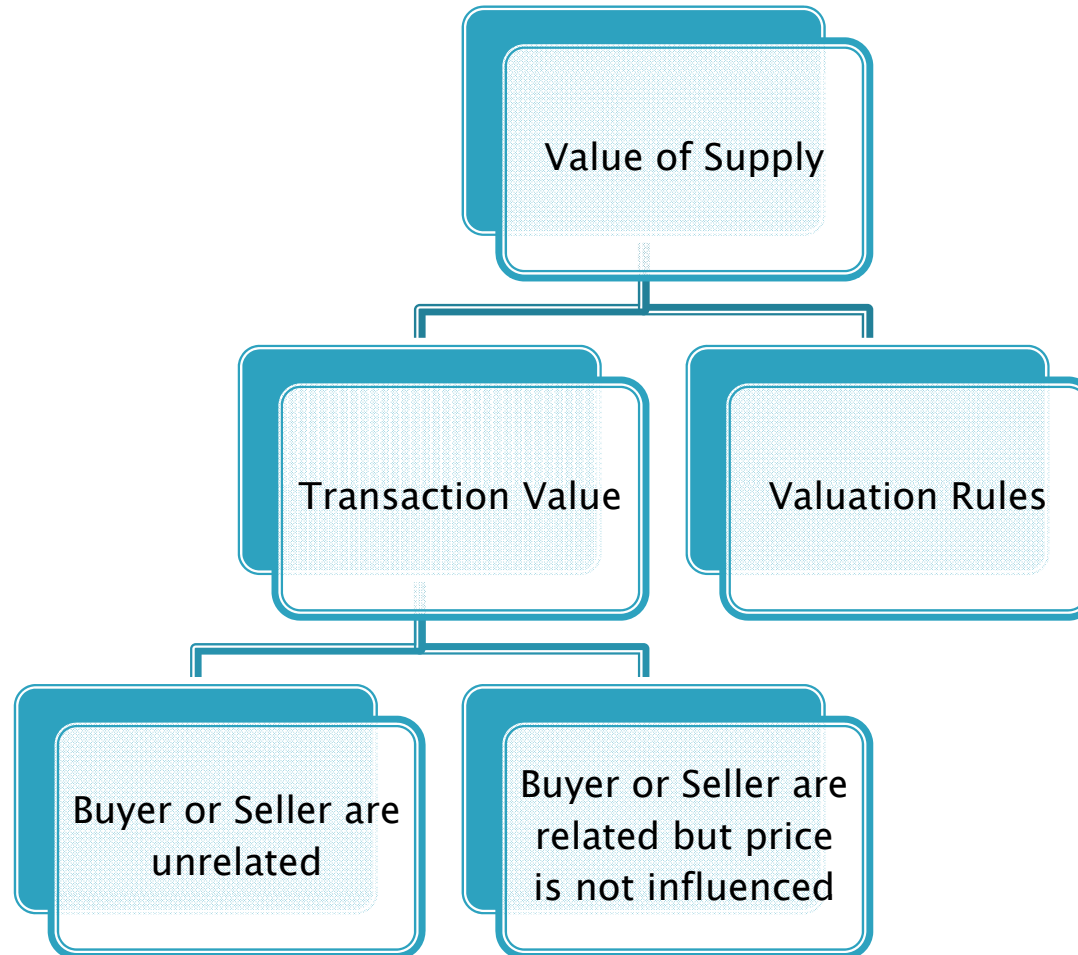
Blacklisting

- i. Only for regulating ITC by others.
- ii. Will be based on dealer rating. A dealer will be blacklisted if dealer rating falls below the prescribed limit.
- iii. To be put in public domain.
- iv. To be notified (auto-SMS) to all dealers who have pre-registered this dealer (black listed now) as their supplier.
- v. To be prospective only (from month next to blacklisting)
- vi. Blacklisted GSTINs cannot be uploaded in purchase details. Corresponding denial of ITC to be supported by suitable provision in the law.
- vii. ITC reversal in hands of the buyer should take place for disowning of any tax invoice with date prior to effect of blacklisting of the seller.
- viii. Once blacklisting is lifted, buyers can avail unclaimed ITC subject to this dealer uploading sales details along with tax and interest.

2. Valuation Under GST



2. Valuation Under GST Scheme of Valuation



2. Valuation Under GST

Transaction Value

What is Transaction Value ?

Transaction value refers to the price actually paid or payable for the supply of goods or services where the supplier and the recipient are not related and price is the sole consideration for the supply.

It includes any amount which the supplier is liable to pay but which has been incurred by the recipient of the supply.

2. Valuation Under GST

Transaction Value

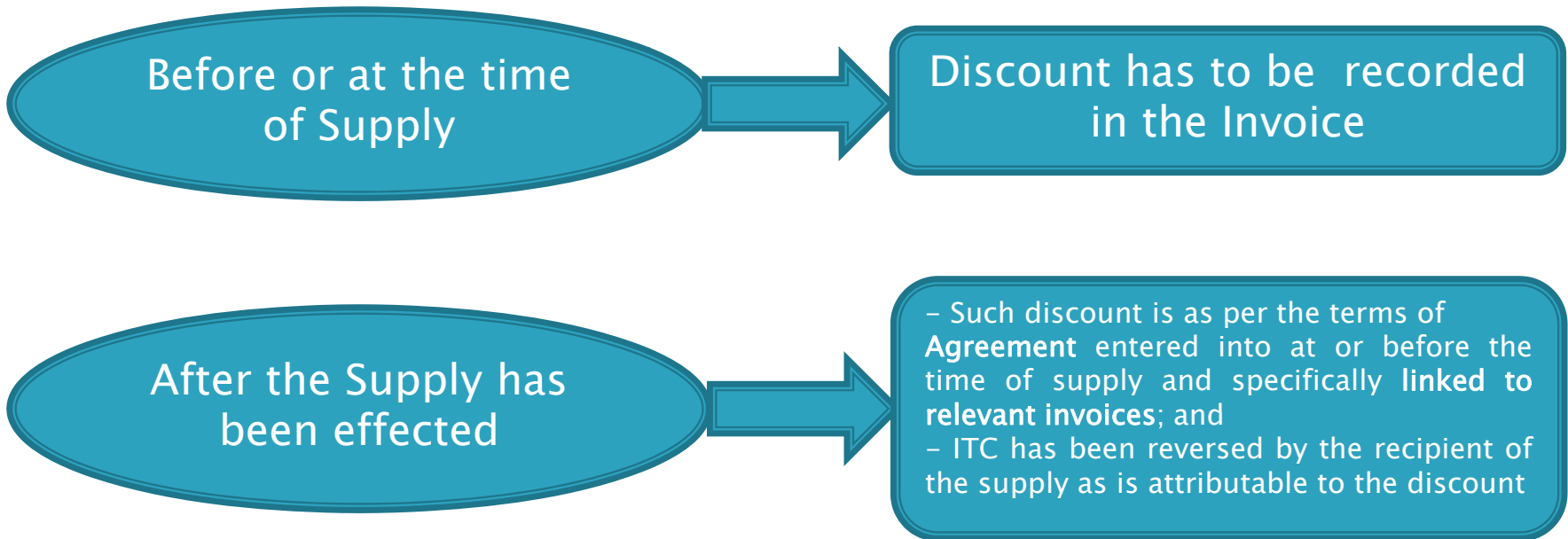
Transaction Value – Price actually paid or payable for the supply where parties are : – Unrelated and the price is sole consideration

Transaction Value shall include :

- Taxes levied other than GST Acts, if charged separately.
- Amount that supplier is liable to pay in relation to such supply but incurred by recipient and not included in the price.
- Incidental Expenses such as Commission & Packaging and charged by the supplier to the recipient including any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before the delivery of the goods or , supply of the services
- Interest or late fee or penalty for delayed payment of any consideration for any supply
- Subsidies directly linked to the price excluding subsidies provided by the CG, SG. The subsidy shall be included in the value of supply of supplier who receives the supply.

2. Valuation Under GST Transaction Value

Transaction Value shall not include discount received. There are two exceptions for the same as below –



2. Valuation Under GST FAQs

- ▶ Are there separate valuation provisions for CGST, SGST and IGST and for Goods and Services?

No, section 15 is common for all three taxes and also common for goods and services.

2. Valuation Under GST FAQs

- ▶ Is contract price not sufficient to determine valuation of supply?

Contract price is more specifically referred to as 'transaction value' and that is the basis for computing tax. However, when the price is influenced by factors like relationship of parties or where certain transactions are deemed to be supply, which do not have a price, the value has to be determined in accordance with the GST Valuation Rules.

2. Valuation Under GST FAQs

- ▶ Is reference to GST Valuation Rules required in all cases?

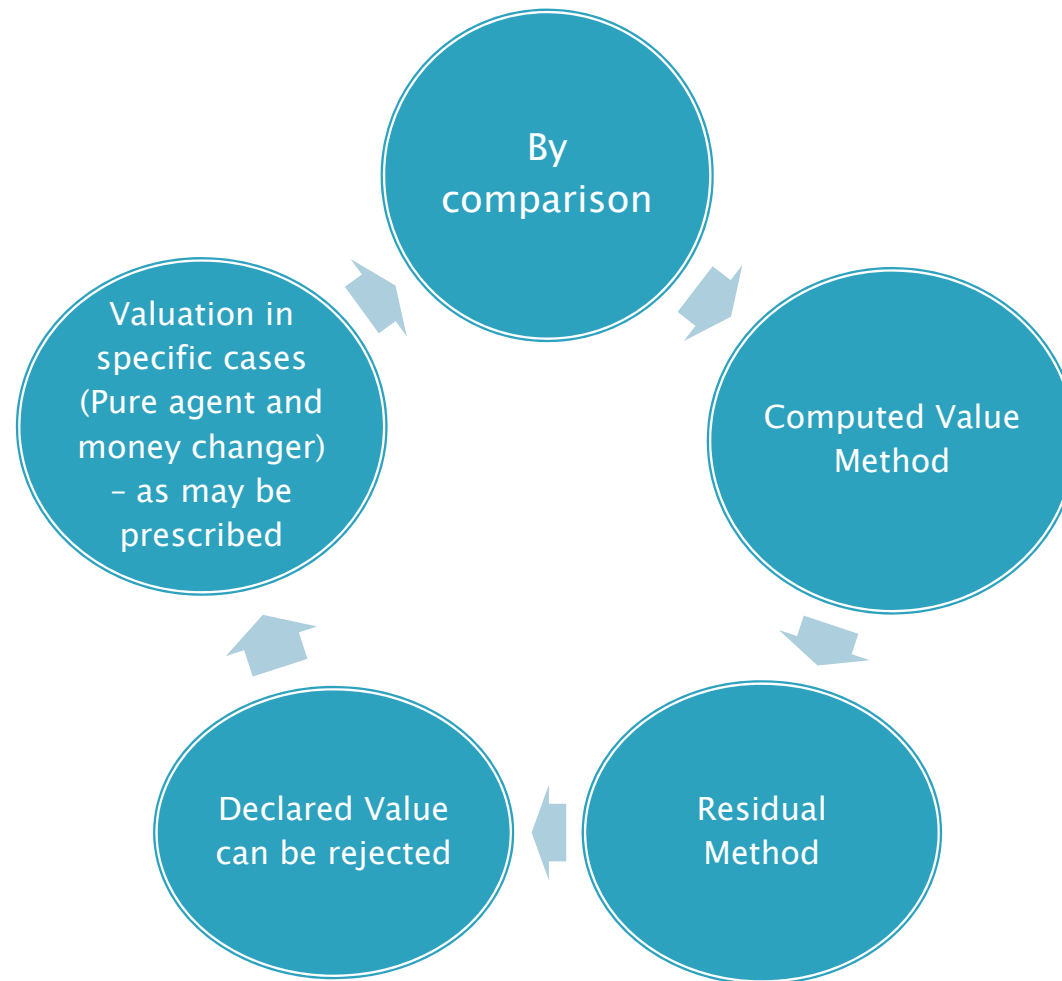
No. Reference to GST Valuation Rules is required only in cases where value cannot be determined under sub-section (1) of Section 15.

- ▶ Q 6. Can the transaction value declared under section 15(1) be accepted?

Yes, it can be accepted after examining for inclusions as per section 15(2). Furthermore, the transaction value can be accepted even where the supplier and recipient are related, provided the relationship has not influenced the price.

2. Valuation Under GST

Valuation Rules



GST

What We Thought

What We Received



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