

**INTRODUCTION TO GST**  
**INPUT TAX CREDIT\_01-PART 3**

**CMA ANIL SHARMA**

(B.com. (Hons.), M. Com., FCMA, TIOL Awardee, Practising Cost Accountant)

**Management**

**The Institute of Cost Accountants of India, Kolkata**

**Week 05**

**Lecture 21**

GST/5/17/08

**If any expenditure or facility is provided in business because Law of the land made it mandatory ..?**

In case any facility or expenses incurred because Law of the land made it mandatory, ITC on taxes paid for such expenses or facility shall not be covered under Block Credits.  
i.e Transport facility, Crèche , medical etc. But in case of CSR expenses experts have different views.....

These types of facilities are required for employees to be provided in the factory because their working conditions are like that. So, in such situations GST law says if expenditures are incurred because law of the land made it mandatory then they are not covered under ITC. They are not covered under block ITC. So, it is allowed. So, transport facility: But transport facility in any law doesn't say a car to be provided. A bus provided for employees means in general it is provided to employees or all employees, ITC is available and it is not covered under the category of block credits. Similarly, Creche facility provided where female workers are there in a factory any expenditure incurred by employer for these items ITC is available. Similarly, medical services.

But friends in case of CSR (Corporate Social Responsibility) expenses which are made mandatory under Companies Act 2013 for certain class of companies to spend two percent of their profit, first as Social Responsibility expenses. But GST is very clear on these expenses

that ITC on CSR expenses is not allowed. So, if any company has spent CSR expenditures, they paid GST to the service provider or the goods supplier, ITC will not be available to the company because the expenditure is incurred for CSR purposes under Companies Act 2013. ITC will not be available.

GST/5/17/09

**Is ITC available for expenses incurred on CAPITAL GOODS like Land, Building etc.**

ITC on GST paid for following assets is not allowed:

- Land, Building and Civil structure
- Telecom towers
- Pipe lines laid out side factory premises

All these items have been excluded from the definition of capital goods/plant and machinery

There are class of capital goods. Though they are capital goods for a company, they are capitalized in their books of accounts like land, building, civil structures. In telecommunication sector, telecom towers without which telecommunication is not possible. Mobile phones cannot run without telecom towers. Then pipelines laid out outside the factory premises. There are so many industries like this where pipelines are being laid down out of the premises of the factory for transportation of maybe some liquid gases, maybe CNG, maybe some water; though it is capitalized and it is part of plant and machinery but GST does not recognize these items as assets of the factory so ITC not allowed.

Further friends' question is, Is ITC available for all input services used for manufacturing of goods or services? Means if I am a manufacturer and I have paid taxes on my inputs, input services or my consumables. So, means should tax be available to all such expenses? Answer is no.

**Is ITC is available for all inputs/services used or consumed for manufacturing of goods and/ or providing services?**

No. Taxes i.e. CGST/SGST/UTGST/IGST paid on all inputs including Capital Goods and /or Services consumed are not available for ITC benefits.

As we have seen in section 16 and section 17. Section 16 impose conditions for availing ITC. Section 17 puts some restrictions on that. So, it is not a general phenomenon that whatever I will purchase for business purposes, ITC is available to me. It is not the case. It is not like that. So, section 16 and section 17 are most important sections of CGST, IGST and we should study these sections very carefully where ITC is available and where ITC is not available. So, then what are the cases where ITC is available?

**For what type of goods and/or services ITC benefits are available?**

- Taxes paid for the inputs used to manufacture Taxable Goods and /or providing Taxable services under GST are available for ITC benefits.
- Taxes paid for the inputs used to manufacture exempted Goods and /or providing exempted services under GST are not available for ITC benefits.
- Further, Taxes paid for the inputs used to manufacture non-GST Goods and /or providing Non-GST services are also not available for ITC benefits.

*For example: Taxes paid for inputs used to manufacture Diesel, Petrol and Liquor for human consumption, ITC benefits are not available.*

So, for what type of goods or services ITC benefits are available? Friends, GST says if you are manufacturing goods which are subject to GST, ITC will be available. But if you are manufacturing goods on which GST is not applicable then ITC is totally ruled out, then you will not get a single penny on the taxes you pay to your supplier on your inputs or input services. Meaning thereby ITC will be available for the products on which GST is being paid or GST is applicable and where the product is exempted from GST, any taxes paid on manufacturing or procurement of inputs used for such products, ITC will not be available.

For example, if I am a bicycle manufacturer and bicycle is subject to GST. For this bicycle manufacturing, I purchase steel, pipes, tires, other rubber parts, oil and mobile plant and machinery, services of advocates, auditors, insurance, surveyors, clearing house agents, transporters and many more. So whatever GST I will pay for procurement of steel, pipes, rubber parts or all these services, that tax which I have paid to my service provider or to my supplier, ITC will be available subject to conditions laid down in section 16 and restrictions laid down in section 17, because ITC is available because bicycle is subject to GST. And I have to pay tax on cycle. That's why inputs are available for me as input tax credit.

But if I am having a plant for generation of electricity, which is exempted from GST. There is no GST on electricity. But to generate electricity, I need plant and machinery. I need hydro projects. I need coal-based thermal plants, which have huge investment in form of buildings, in form of machinery, in form of engineering. ITC on all these inputs is not available. So, it's a big shock to power sector. So, all inputs and GST paid on these inputs is a cost to the manufacturing/generation of electricity. So, it will be a cost to the company.

So, friends, to avail ITC, one of the major and first condition is that your product/final product which you are selling must be subject to GST. And apart from that, to avail ITC, you must fulfil the conditions laid down in section 16, subject to the restrictions as imposed in section 17. So here also, the respective section of the GST law says, taxes paid for inputs used to manufacture taxable goods (taxable goods means where GST is applicable like on car, GST is applicable on cycle, GST is applicable on fabric, GST is applicable on computers, GST is applicable on mobile, etc.). So, all these products which are subject to GST and where tax is paid on inputs used for manufacturing of such taxable products, ITC is available. And if any such item is exempted from GST, ITC is not available on all its inputs.

Where tax is paid for inputs used for manufacturing of exempted goods and or providing exempted services ITC is not available. For if you are providing exempted services ITC is not available on all your inputs.

So, health related services/hospital services to indoor patients, are not subject to GST. If a patient is admitted to hospital for cardiac arrest and he has been operated by hospital, whatever the charges of doctors, whatever charges of room, whatever charges for medicines given, whatever charges for items used for operating this patient, and if bill is around 2 lakh rupees of surgery, then those 2 lakh rupees is not subject to GST. And if that is not subject to GST because it's a medical service, ITC is not available to you, besides the fact that all inputs used for

providing this service to the patient are subject to GST. Means all medicines provided to the patient, hospital facilities equipment used for this operation, when the hospital procured them, even if GST was paid on them. But now it becomes part of your cost because ITC is not available to you. Because your final service that is service to the patient for operating is exempted from GST.

Similarly, in case of education: Education is also a service and if it is provided by private coaching centres, GST is applicable and they can take input credit for their inputs. But primary education service by schools/colleges are exempted from GST. So, all their inputs become cost. No ITC is available.

So, we have to see business transaction. We have to see the nature of the business while availing ITC, while dealing with GST. It's very important.

Further friends, for tax paid for the input used for manufacture of non-GST items or providing non-GST services, ITC is also not available. So, what is non-GST now? We have read taxable goods. We have read exempted goods. Now third category of goods are non-GST items.

Means items which are not covered under GST. Like petrol, diesel, liquor. These items are not covered under GST. GST is not applicable on these items. We read this in our introductory part. So whatever inputs we are using to manufacture liquor or whatever inputs we are using for diesel and petrol from crude oil, all inputs are subject to GST but ITC is not available because their final product that is diesel, petrol, liquor are non-GST item and they are not covered under GST. So, if any GST is paid on their procurements on their inputs or input services will be part of their cost. All these items are non-GST in nature, they are not covered under GST law, so no ITC. There is no question of ITC because when these items are not taxed under GST why ITC to be given or ITC benefit to be given for their inputs.

GST/5/17/3

**What if inputs on which taxes are paid, are used to manufacture both taxable and exempted goods?**

Inputs to the extent used to manufacture taxable goods including **Zero rated** goods and or services, ITC benefits are available to that extent. Inputs used to manufacture **exempted goods or exempted supplies**, ITC to that extent shall be reduced from total ITC available on total inputs including capital goods and inputs services purchased/ consumed as the case may be.

Next friends again since we are reading section 17 at this point of time and in section 17 itself another question comes into the mind, what if inputs on which taxes are paid are used to manufacture both taxable and exempted goods?

It happens so many times that we are manufacturing two, three products in the same company with same facility, with the same machinery, with the same manpower, at same place. One product is taxable, and another product is exempted from tax, i.e. it is not covered under GST. There are so many such items. One item is taxable but not the other; though raw material is same, manpower is same, but for some or the other reason because of their nature or importance for the industry or the market, it is not subjected to GST. Then what? You are purchasing same raw material, out of that raw material, you are getting two products, one is subjected to GST, another is exempted from GST. How we will deal with ITC?

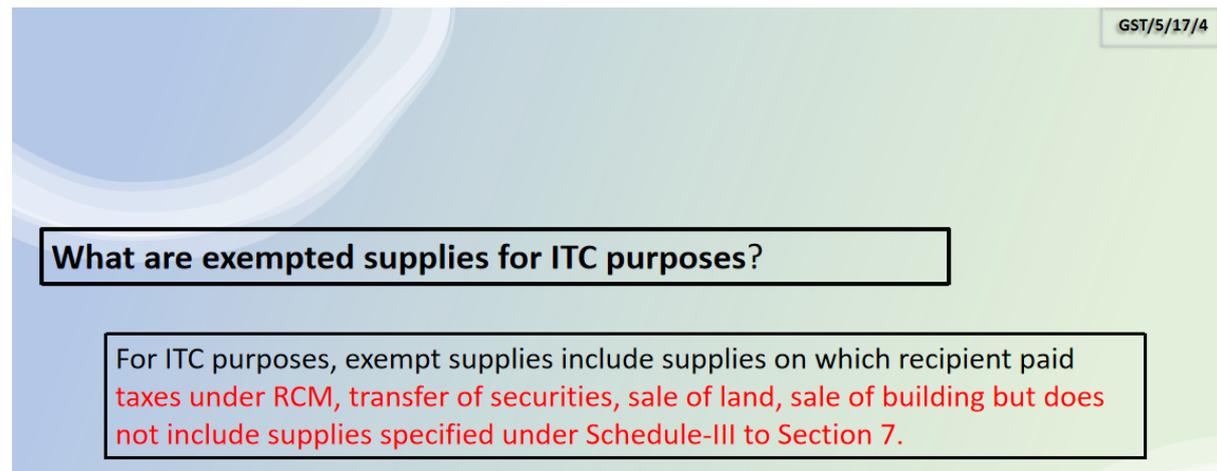
The provisions are very clear. And it says inputs means your raw material, your consumables, your input services, and your capital goods, which are/have been used to manufacture these two or three products, then ITC benefit is available to the extent they are used to manufacture taxable goods including zero rated goods or services. (This is an important point to consider) So if I have procured raw material for rupees 100 to manufacture one product which is taxable under GST but manufacturing process is such that out of this process, I am getting another material/product also called Y, which is exempted from GST (on which GST is not applicable). So, 100 rupees of raw material, when I am using/processing, I am getting one product A, another product Y and Y is not subject to GST, then what? ... 'to the extent used for taxable goods' so means, I have to note down the activities/the production process, note down the raw material consumed for both the products and accordingly bifurcate ITC, to avail ITC for taxable item and to forgive or ignore for the exempted item. Inputs used to manufacture exempted goods, exempted services, ITC to the extent shall be reduced from ITC available in my books of accounts.

So, in 100 rupees of raw material, if GST is 10 rupees, and out of this Rs. 100, Rs. 75 raw material is used for taxable goods and Rs. 25 material is used for exempted goods; in the same ratio, ITC will be available for taxable goods. That is Rs. 7.5 and Rs. 2.5 will be cost to the production. No ITC is available on that Rs. 2.5.

So, in the nutshell, if I am using raw material for taxable goods, ITC is available. If I am using raw material for exempted goods, ITC is not available. If I am using same raw material for both the products, means taxable or non-taxable or exempted, bifurcate the input tax credit in that

ratio. Establish the relationship of raw material to taxable, raw material to exempted product to the extent it is possible to have a maximum accuracy while calculating and availing ITC.

As I told you that ITC is very important for industry. It's my working capital. But at the same time, department will try to say that you are not eligible for that. So, whenever you are claiming ITC, whenever you are working, though formulas are given in GST law itself, still, it happens that we work out wrong ITC and have litigation with the department.



GST/5/17/4

**What are exempted supplies for ITC purposes?**

For ITC purposes, exempt supplies include supplies on which recipient paid taxes under RCM, transfer of securities, sale of land, sale of building but does not include supplies specified under Schedule-III to Section 7.

So, further law also raises some questions because business is so complex. What are exempted supplies for ITC purposes?

Because different definitions are used for different purposes, so for ITC purposes, what are the exempted supplies? It happens when your inputs are there, it is not necessary that every input is deducted to GST. Sometimes there are inputs which are exempted from GST. For input tax credit purposes, exempted supply includes all procurements on which RCM is paid, and have been treated as exempted supplies. Transfer of security because on share market GST is not applicable. Land is also not subject to GST. Sale of building but does not include supplies specified in the Schedule 3 of Section 7. So, there are some definitions, some criteria is given for exempted supplies under ITC. When you refer respective law, definitely you will understand it in better way. But yes, we should keep in mind that there are certain cases where they have been treated as exempted for ITC purposes.

### How Banks, FIs and NBFC avail ITC for their Output liability?

Banks, FIs including NBFC have options to either:

- Avail ITC benefits based on the value of taxable and exempted services or
- Avail 50% of the total eligible ITC available in a month on all inputs including Capital goods. Rest of the ITC amount will lapse after that month.

So, friends, whatever we have discussed, it was related with normal business means manufacture or traders or other commercial activities. But for banking and financial institutions or non-banking financial institutions, there are some specific provisions for availing ITC. Because in banking, interest is cost to the bank, so interest is not subject to GST.

But if you go to bank for DD, demand draft for GST, RTGS for bank guarantee, for locker; bank charges some commission, and that commission is subject to GST. So, whenever you are approaching bank for demand draft of 1 lakh rupees, bank may charge 50 rupees as its commission and that 50 rupees is subject to GST at the rate of 18%. So here it is a liability for bank to pay GST. So, if bank is providing taxable service and if RTGS is there and bank is charging something on that, that commission is again subject to GST.

And if bank is charging some locker rent from you, that locker rent of 2000 rupees or 3000 rupees a year is also subject to GST. So, it means bank is giving you taxable services in form of renting of locker, commission on DD, commission on your bank guarantee and all. And at the same time, bank is giving you interest also on your FD and saving account. And that interest is not subject to GST. So, bank is giving you both type of services taxable as well as exempted. To provide these all services bank is also having its inputs/procurement of inputs. These maybe furniture, computers, ACs, renting buildings for branches to open, branch advocate services, auditor services, telephone services, internet services and many more. So, on its inputs/services, bank is giving GST to the suppliers. And on the other side, under GST, bank is having outward liability in form of tax or GST on its commissions. And also giving exempted services for interest, in form of interest.

So accordingly, ITC will be available to the bank or banking or the financial institutions. So, law has given a formula for this industry to avail ITC and law says banks, financial institutions, including NBFC (Non-Banking Financial Institutions) they have option to first, avail ITC benefit based on the value of taxable and exempted services as we have discussed in our previous slide, in proportion to the extent of taxable services and to the extent of exempted services. Further, another option is given to them or avail 50% of the total eligible ITC available in a month. So whatever inputs bank has procured during the month (because month is a taxable period/tax period for which bank is supposed to file their return), suppose services of rupees one lakh and on this one lakh rupees of input services GST for the calculation purpose is 10 percent means 10000 is banks ITC's available to a bank for all these ITCs. So, after having one lakh rupees services or procurements or inputs a bank is giving services of interest on FDRs or savings and also these are exempted services and also giving taxable services that is your commission on DD, commission on your bank guarantee and all where 18 % GST is applicable. So, law says either you follow this first option or you avail straight away 50 % of the total ITC available to you and forget about rest of the 50 %. So, either option you can adopt. So, to my mind, second option is better for simplification of the calculations and to avoid any type of litigation. Straight away whatever inputs you have procured during the month, calculate tax paid on that procurement and claim 50% as ITC and use that 50% ITC against your outward liabilities on GST paid/on commissions and matter is over.

So, this way, banking companies can avail ITC without any further litigation at all.