



SECTION 17 OF CGST ACT, 2017

Harshal Gala

Email : hv gala22@gmail.com

GST(Goods & Service Tax); the term which is known to almost all the people associated with Financial Markets is growing expeditiously right from 1st July 2017 till date. As per the Latest news, GST of 1.72 Lakh Crore Rupees was collected by the Government marking its pinnacle to the chart in October 2023. While calculating this GST, the most important part is Apportioning the eligible Input Tax Credit (ITC) available from total ITC. Section 17 deals with Input Tax Credit Apportionment and Blocking of Ineligible GST Credits. To avoid cascading effect of taxes and provide seamless flow of ITC in GST, this section gains its importance. Let us learn about Section 17 of CGST Act in an incisive way.

Section 17(1) states that in case any Registered Party (Person/Firm/Company/Body Corporate/etc.) has ITC which is not fully related to the business that he/she/it conducts, then only that proportionate ITC on Inward Supplies which relate to the furtherance or ordinary course of business shall be availed as Eligible ITC. The remaining ITC which does not relate to the business will be ineligible or blocked. The method of apportionment is prescribed under **Rule 42 and Rule 43** of the CGST Rules. Rule 42 deals with 'Distribution of ITC on Inputs and Inputs Services' whereas Rule 43 deals with 'Distribution of ITC on Common Credits of Capital Goods'.

For example, if Mr. X, a Registered Person, runs an Ice-Cream Shop. He purchases 100 Ice-Creams worth Rs.1,000/- on which GST @18% paid by him is Rs.180/-. Out of 100 quantity, he used 10 Ice-Creams for his personal use. So as per Section 17(1) r.w.s. 17(5)(g), such ITC pertaining to personal purpose is blocked. Thus, even though he may get coolness from inside, he won't get coolness of ITC from GST!

Section 17(2) states that any Registered Party (Person/Firm/Company/Body Corporate/etc.) that has ITC on inward supplies which are partly related for making Taxable or Zero-rated Supplies under GST and partly related for making Exempt Supplies under GST, then only proportionate ITC on Inward Supplies which relate to the Taxable or Zero-rated supplies shall be availed as Eligible ITC. The ITC on Exempt supplies will be ineligible. Zero-rated Supplies include Exports Supplies or SEZ Supplies which are also allowed.

As per Section 2(108) of CGST Act, *“Taxable supply” means a supply of goods or services or both which is leviable to tax under this Act.*

As per Section 2(47) of CGST Act, *“Exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply, (Non-taxable Supply means Supply that is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act)*

Zero Rated Supplies are *Exports supplies or supplies to SEZ that do not attract any GST.*

Section 17(3) The value of an exempt supply under subsection (2) shall be accordingly and shall also include supplies where the person is accountable for the tax on the basis of reverse charges, transactions in securities, the sale of land, and, subject to clause (b) of paragraph 5 of schedule II, the sale of a building. [Explanation: For this subsection, the term “value of exempt supply” shall not include the value of any activities or transactions as mentioned in Schedule III, except those listed in said Schedule's paragraph 5]

Section 17(4) is applicable only to Banking Companies and NBFCs wherein they have an option to either choose the method of apportionment: (I) As per the provisions of Section 17(1) and (2) along with Rules 42/ Rule 43, or (II) Rule 38 of CGST Rules.

Rule 38:

As per Rule 38, every month, Banking Companies or NBFCs can claim 50% of the eligible ITC on the Inward Supplies (inputs, capital goods and input services) in that particular month and ignore the ITC ineligible u/s 17(5) or

ITC used for other than business. But 100% ITC is available on Inter-Bank supplies i.e. Supplies within the same entity but different registrations which can be interpreted as different branches of the same bank. But once this Option has been availed, the same cannot be changed during the said Financial Year.

Now comes the Capstone of Section 17: Blocked Credits u/s Section 17(5)!

Section 17(5) in the CGST Act begins with the following: “*Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18...*” This means that Section 17(5) will over-rule/over-ride the provisions of Section 16(1) i.e. Eligibility and conditions for taking input tax credit and Section 18(1) i.e. Availability of credit in special circumstances.

Every registered person in GST always desires to claim all the ITC available to the entity; whether used for business or not. But the Government is also very smart with respect to giving us the benefits of ITC against our Liability. Section 17(5) deals with some Input Supplies wherein the ITC is BLOCKED (ineligible) to be availed. Here is the tabular representation of the Section 17(5):-

Section	Particulars of Blocked Credits	Proviso's (Eligible ITC)
17(5)(a)	ITC on Motor Vehicles used for Transportation of person having capacity less than 13 passengers (including driver)	If used for further supply of such vehicles, or providing training for driving, or transportation of person, if used for goods transportation
17(5)(aa)	ITC on Aircrafts and Vessels	If used for further supply of such vehicles, or providing training for flying aircrafts or navigating vessels, or passenger transportation, if used for goods transportation
17(5)(ab)	ITC on Ancillary Services like Insurance, Repairs, etc. for vehicle as mentioned in 17(5)(a) and (aa) above	Same as 17(5)(a) & (aa) above + if such person deals in Insurance of the said vehicles as his business or is engaged in manufacturing of the said vehicles
17(5)(b) {b=beverages or beauty}	(i) ITC on Food & Beverages, Outdoor Catering, Beauty Treatments, Life/Health Insurance, Renting or Hiring of Motor Vehicles or Aircrafts except used for purposes as per Section 17(5)(a)/(aa)	If such Inward Supplies as mentioned in (i) are used for making same Outward Supplies by Registered Persons
---do---	(ii) Membership of Club, Health and Fitness Centers (iii) Employee Travel Benefits	ITC in respect of goods or services or both as mentioned in (iii) shall be available where it is required that an employer offer the same to its workers under any Law currently in effect.
17(5)(c) {c=construction }	ITC on Works Contract Services for Repairs, Additions, Construction, Renovations, etc. of Immovable Property	Construction of Plant & Machinery*, or if used for further supply of such services, or such services use for Movable Property
17(5)(d) {d=development }	Same as 17(5)(c) above; here the immovable property is developed by the registered party himself/herself/itself	Same as 17(5)(c) above

Section	Particulars of Blocked Credits	Proviso's (Eligible ITC)
17(5)(e) {e=ease in Tax for CSD}	ITC on Composition Levy Inward Supplies. (Simple reason: If you pay less outward tax on supplies:1% or 5%, even government will not give ITC on inward supplies as specified u/s 10(4) of CGST Act)	-
17(5)(f) {f=foreigner}	ITC on inward supplies of Non Resident Taxable Person (NRTP)	If such NRTP imports any goods (not services) to India
17(5)(g) {g=ghar}	ITC on inward supplies utilized for home consumption (simple reason: if not used for business purpose, no	-
17(5)(h) {h=happy gifts}	ITC on goods received as gifts, free samples, stolen, loss by theft, destroyed, etc.	-
17(5)(i) {i=Interest & Penalty}	ITC on Tax paid u/s 74, 129 or 130 (misrepresentation of facts, fraud, tax evasions, etc.)	-

Plant and Machinery, here means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports. But it specifically excludes a) land, building or any other civil structures; b) telecommunication towers; and c) pipelines laid outside the factory premises.

So this is about Section 17 of CGST Act in a concise way. I hope this helps you all to know about apportioning the Eligible ITC and not considering Blocked or Ineligible Credits while filing GSTR-3B! Thank You...
