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Subject: Goods and Services Tax (GST)

Topic: Apportionment of credit & blocked credit-1.

Apportionment of credit & blocked credit

Section 17- Apportionment of credit & blocked credit

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

(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.

Explanation.—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule

(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse.

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year.

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

Analysis – The input tax credit eligibility is based on the fact as to whether the goods or services or both are used for taxable supplies or exempt supplies. Where the goods or service or both are used for both taxable and exempted supplies, only proportionate credit is allowed to a registered person.

- Proportionate credit: ITC based on usage in business- In simple words use of Input tax credit for business purpose, ITC Available

and for other purpose ITC not available. Attribution of ITC to be made as per Rule 42 of CGST RULES, 2017.

- ITC used partly for Taxable supplies including zero rated supply and partly for Non-taxable, Nil Rated and exempt supply so attribution of ITC to be made as per rule 42 of CGST RULES 2017.
- Definition of Exempt Supply- It is very interesting to note that although an exempt supply is defined in section 2(47), section 17(3) read with explanation (2) in rule 45 for purposes of input tax credit reversal includes the following transactions as well –
 - a. Tax paid under reverse charge
 - b. Transaction in securities
 - c. Sale of land and sale of building subject to clause (b) of Paragraph 5 of Schedule II.

√ Point to be noted that the value of supplies in respect of which the outward supplier is not liable to pay tax but the recipient is made liable to pay tax under Sections 9(3) and 5(3) of the CGST and IGST Act respectively, would be regarded as 'exempt supplies' for the limited purpose of determining net available input tax credit. In this context, it would be relevant to note that Section 17(3) identifies supplies attracting reverse charge to be an exempt supply in the hands of the supplier effecting such supplies and not in the hands of the recipient who avails such services liable under reverse charge.

√ Transactions listed in schedule III are “NOT SUPPLIES” and hence they are neither ‘exempt supplies’ nor are they ‘non-taxable supplies’

√ An explanation has been added to Section 17(3) to provide that value of exempt supplies shall not include transactions listed under Schedule III (Transactions which are treated “neither as a supply of goods nor a supply of services”) except sale of Land and Completed Building.

- In case of banking and financial institution option available to them either apportion ITC as per rule 42 of CGST RULES or avail every month amount equivalent to 50 % of eligible ITC.