INPUT TAX CREDIT MECHANISM UNDER GST REGIME

Input Tax Credit (ITC) is the backbone of the GST regime. GST is nothing but a value added tax on goods & services combined. It is these provisions of Input Tax Credit that make GST a value added tax i.e., collection of tax at all points after allowing credit for the inputs. The procedures and restrictions laid down in these provisions are important to make sure that there is seamless flow of credit in the whole scheme of transition without any misuse.Thus, the clarity of rules of availment and utilization will have significant impact on making GST a taxpayer-friendly tax.

One of the biggest advantages expected from the implementation of GST Act is that it would remove cascading effect by facilitating seamless flow of credit. This would be given effect by providing for the availment of ITC to the purchasing dealer in respect of the GST paid by the supplying dealer and thus by removing the restrictions placed in the present Cenvat credit rules on availment of credit which lead to break in the credit chain and consequent cascading effect which further leads to increase in cost of goods and services. Thus linking of invoice to invoice would eliminate any ambit for revenue leakage.

Chapter V of the model law deals with ITC mechanism provisions. ITC has been defined as credit of IGST/CGST/SGST charged on any supply of goods and or services used or intended to be used in the course or furtherance of business and includes the tax payable under revserse charge . Registered taxable person shall be eligible to avail ITC credited to the e-credit ledger subject to condition prescribed without restrictions of availment (such as 50% of capital goods).

Conditions for availing of ITC:

- Taxpaying documents such as tax invoice, debit note etc.,

- Goods / service should have been received/deemed to be received by the taxable person

- Tax charged on the invoice and should have been paid to the credit of government.

- Return should have been furnished by the tax payer.

- Credit for goods against an invoice received in lots / installments can be availed only on last lot in installment.

- The timelines for entitlement of credit against a particular invoice shall lapse on the expiry of one year from date of issue of invoice.

Ways / Manner for availing/payment of ITCby a registered person:

- Tax credit entitlement on stock held and contained in semi-finished and finished goods
    - On the day immediately preceding the date of registration in case person obtaining voluntarily registration
    - On the day immediately preceding the date from which the person becomes liable to pay tax, in case person applied for registration within 30 days from the date of liability to pay tax or in case person ceases to pay composition tax and becomes liable to pay tax. under normal provision
    -

- Proportionate credit in case of goods/services used partially for business use and partially for non-business
- Proportionate credit in case goods/services are used partly for effecting taxable supplies and zero rated supplies and partly for effecting nontaxable supplies and exempt supplies

- Transfer of unutilized credit allowed in case of change in constitution of person due to sale, merger, de-merger, amalgamation or transfer of business with provision for transfer of liabilities.

- Switch over from regular scheme to composite scheme by debiting cash ledger of amount equivalent to ITC on stock, semi-finished and finished goods.

- ITC taken on capital goods when it is supplied should be paid after reduction of prescribed percentage points or tax on actual transactions value whichever is higher.

Ineligible credit:

The following are the ineligible input credits:

- Motor vehicles used except when supplied in the usual course of business or for providing taxable service of transportation of passengers, goods and training/driving skills

- Goods or services used mainly for the purpose of personal use or consumption of employees

- Principal acquiring goods or services in works contract for construction of immovable property except plant & machinery.

- Principal acquiring goods or services wherein the property is not transferred and are used in construction of immovable property except plant and machinery

- Goods or services on which composition tax has been paid

- Goods or services used for private or personal consumption

- ITC is not eligible on invoice after filing of return for the month of September or filing of annual return for the said year whichever is earlier

Input credit of Job Workers

Section 16A & 17 of the GST law deals in detail on the manner of taking credit for inputs sent for job work and ondistribution of credit by Input service distributors respectively.

The existing provisions of ITC on Job work has remained unchanged i.e. in case of inputs sent to job worker by the principal, restriction of 180 days have been placed for the inputs / completed jobs to be

returned back and the 2 years in the case of capital goods sent to job worker. Otherwise, the principal is made to pay the amount of ITC along with interest which he can take the credit upon the actual receipt of such inputs/capital goods. The principal is also allowed to send goods directly to the job worker and also to sell the goods from the job workers door steps.

Input service distributors (ISD)

The credit of Input received by an Input service Distributor is allowed to be distributed in the prescribed manner:

- Where the recipient are located in different states:
  - Credit of IGST,CGST and SGST may be distributed as IGST

- Where the recipient being a business vertical are located in same state:
  - Credit of IGST may be distributed as CGST/SGST
  - Credit of CGST may be distributed as CGST
  - Credit of SGST may be distributed as SGST

- If the ISD distributes credit in excess of the credit available, the excess credit shall be recovered from such distributor along with interest.

Conclusions:

Under the present structure, the way the CENVAT credit provisions are drafted has led to a lot of litigation concerning availability of CENVAT credit. The provisions related to denial of CENVAT credit for exempted goods and or services have also contributed to many litigation. It is hoped that the proposed GST regime would simplify the provisions regarding availability of input tax credit.

Milind Deshmukh
Executive Partner - Compliance, Mumbai
Email: milind.deshmukh@asa.in