B.COM (Hons.) 3rd Year
GST & Customs Law

Week 4: INPUT TAX CREDIT (Unit 3) introduction
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10

CHAPTER

INPUT TAX CREDIT

LEARNING OBJECTIVES

After studying this chapter, you shall be able to understand the following:

- Definitions of related terms
- Conditions for Claiming ITC
- Procedure for Claiming ITC
  - On inputs
  - On Capital Goods
- Blocked Credits
- Special Provisions

10.1 INTRODUCTION

When a registered person purchases goods or avails services, GST is paid on such inward supplies. These supplies are used for furtherance of business and the outward supplies are made. On such outward taxable supplies, GST is collected from the recipient. The total GST collected on outward supplies will not be payable to the Government in entirety, but it will get reduced on account of adjustment of tax paid on inward supplies, subject to certain conditions. This mechanism in which tax paid on inward supply is adjusted towards tax paid on outward supply is known as Input Tax Credit (ITC). The GST laws provide the benefit of ITC not only on input goods/services but also on capital goods. This ITC available reflects in the electronic credit ledger of the tax-payer maintained at the GST common portal. In this chapter, we will discuss the various aspects of ITC like conditions, circumstances, manner of computation, reversal etc.

10.2 MEANING OF INPUT TAX CREDIT

As per Section 2 (*63*) of the CGST Act, 2017 "input tax credit" means the credit of input tax. Input-tax is defined under section 2(*62*) of the CGST Act as follows:—

It means the Central tax, State tax, Integrated tax or Union territory tax charged on any supply of goods or services or both made to a registered person but does not include the tax paid under the composition levy.

It shall also include:—

(*a*) The integrated goods and services tax which is charged on import of goods

(*b*) The tax payable as per section 9(3) and (4) of the CGST Act

(*c*) The tax payable as per section 5(3) and (4) of the IGST Act (*d*) The tax payable as per section 9(3) and (4) of the respective SGST Act

(*e*) The tax payable as per section 7(3) and (4) of the UTGST Act.

Example 10.1:

Suppose Mr. A is a registered wholesaler in Mumbai. He purchased goods worth ₹ 5,00,000 from Mum and paid GST @ 12%. After value addition and profit margin, Mr. A sold these goods to Mr. B (a register dealer in Maharashtra state) for ₹ 9,00,000 and charged GST @ 12% on it. Now,

	GST paid on **Inward** Supply	GST collected on **Outward** Supply
CGST	6% of ₹ 5,00,000 = ₹ 30,000	6% of ₹ 9,00,000 = ₹ 54,000
SGST	6% of ₹ 5,00,000 = ₹ 30,000	6% of ₹ 9,00,000 = ₹ 54,000

It is clear that Mr. A has input tax credit of CGST and SGST for ₹ 30,000 each. Now, Mr. A will pay ₹ 24,00 each as net GST. This amount has been arrived at after deducting ₹ 30,000 already paid at the time o purchase of goods. This benefit or system of adjustment of "GST paid on inward supplies" towards "GS on outward supplies" is called as Input Tax Credit (ITC).

10.3 RATIONALE BEHIND ITC UNDER GST

The credit mechanism under the indirect tax aims to mitigate the cascading effect of duty on duties. It provides for credit of duties paid on goods or services which are used as inputs in production of output goods or provision of output services. This aim was not achieved to the fullest as various duties, taxes and cess were levied at the central and state levels and all were not adjusted against each other. With the introduction of GST, credit on goods and services is available across the entire supply chain barring a few exceptions. It may be noted that it is an auto populated feature.

10.4 LEGAL FRAMEWORK OF ITC

The various provisions related to INPUT TAX CREDIT (ITC) are given under Chapter V (Sectio 16-21) of the CGST Act, and CGST Rules. These provisions of ITC under CGST are also applicabl to the IGST Act. Section 20 of the IGST Act has made the provisions applicable. The aspects covere under various sections are:—

Section 16: Eligibility and Conditions for taking Input tax credit

Section 17: Apportionment of credit and blocked credits

Section 18: Availability of Credits in Special Circumstances

Section 19: Taking input tax credit in respect of inputs and capital goods sent for job work.

Section 41: Utilization of ITC

Section 42: Matching, Reversal and Reclaim of ITC.

CGST RULES, 2017 RELATING TO ITC

The Chapter V of CGST Rules, 2017 contains the following rules in relation to ITC:

Rule 36: Documentary requirements & conditions for claiming ITC

Rule 37: Reversal of ITC in the case of Non-Payment of consideration

Rule 38: Claim of credit by a Banking Company or a Financial Institution

Rule 39: Procedure for distribution of ITC by Input Service Distributer (ISD)

Rule 40: Manner of claiming credit in special circumstances

Rule 41: Transfer of credit on sale, merger, etc.

Rule 42: Manner of determination of ITC in respect of inputs or input services & reversal

Rule 43: Manner of determination of ITC in respect of Capital goods & reversal thereof

Rule 44: Manner of reversal of credit under special circumstances

Rule 44A: Manner of reversal of credit of Additional Duties of Customs

Rule 45: Conditions and restrictions in respect of inputs and Capital Goods to the job worker

10.5 ELIGIBILITY FOR AVAILING ITC [SECTION 16(1)]

As per section 16(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 business and the said amount shall be credited to the electronic credit ledger of such person.*"

The analysis of above statutory provision reveals the following:

1. **Registered Person:** As per Section 16(1), Input tax credit is available only to a registered person. When a registered person is supplied with goods or services or both, on which tax has been charged, he is allowed to take credit of the input tax paid. This means, if a person is unregistered he will not be eligible to claim Input tax credit.

   Exception: There is one exception wherein ITC is not available although the person is registered. This exception applies to a person who pays tax under section 10 of the CGST Act, under the compounded levy scheme. Such person cannot claim ITC in respect of inward supplies made by him. In-fact, the tax paid under Composition levy does not fall within the definition of Input tax.

2. **In the course of or in furtherance of business:** The goods/services must be used or intended to be used in the course of or in furtherance of his business. However, no such credit is available in respect of inputs used for outward supply of exempted goods or services.

3. **Credit Ledger:** The amount of ITC shall be credited to the Electronic Credit Ledger of the person entitled.

4. **Manner of Utilisation:** The ITC shall be utilised in the manner specified in section 49. (Please refer Para 11.11 for detail)

5. **Rules under CGST Rules, 2017:** The conditions and restrictions have been specified in Chapter V of CGST Rules, 2017 (Rule 36 to Rule 45). These rules have been mentioned under the appropriate heading throughout this chapter.

10.6 CONDITIONS FOR AVAILING ITC [SECTION 16(2)]

The registered person is entitled to the credit of any input tax credit on fulfilment of following conditions:

(*a*) Possession of Tax Invoice or Debit Note

(*b*) Receipt of Goods and Services

(*c*) Payment of tax to the Government

(*d*) Filing of Valid Return

NOTE: The above conditions are given in section 16(2), which starts with "Notwithstanding anything contained in this section....". It means that it is an over-riding section. Moreover, these conditions are cumulative; therefore, they all must be satisfied in order to be eligible for availing tax credit.

(a) Possession of Invoice:

As per section 16(2)(a), no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, he is in possession of a tax invoice or debit note issued by a supplier registered under this Act. As per Rule 36(1), any of the following documents suffice the condition of possession of Invoice—

(a) an invoice issued by the supplier of goods or services or both

(b) an invoice raised by the recipient in case of inward supplies from unregistered person.

(c) a debit note issued by a supplier of goods or services or both

(d) a bill of entry or any similar document prescribed under the Customs Act, 1962

(e) an Input Service Distributor invoice or Input Service Distributor credit note or any other document issued by the input service distributor for distribution of credit.

These documents must have all the particulars as specified in the provisions of Chapter VI and all relevant particulars prescribed in Rule 46 of the CGST Rules such as the name address, GST Number, HSN code of goods and services, description of goods or services etc.

The section does not specify which copy of the invoice will be the basis of taking ITC. However, Rule 48 does clarify that original copy should be kept by the recipient for the purposes of record.

Recent Development:

Vide **Notification No. 49/2019 CT dated 09.10.2019**, with effect from 9-10-2019, a new Rule 36(4) has been introduced to specify the quantum of ITC that can be claimed against the invoices/debit notes uploaded and invoices/debit notes not uploaded, by the supplier. As per this sub-rule, ITC in respect of invoices/debit notes, the details of which have not been uploaded by the suppliers in GSTR-1, cannot exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1. Following the recommendation of GST Council, the Government *Vide* **Notification No. 75/2019-Central Tax 26th December, 2019** has reduced this limit of 20% to 10% with effect from 1st January, 2020. **[Refer 10.6.1 for detail]**.

Exception:

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 confirmed on account of any fraud, wilful misstatement or suppression of facts.

(b) Receipt of Goods or Services or both:

As per section 16(2)(b), the registered person should have received the goods or services or both. This means the ITC will not be available unless the goods are received by the registered person.

Example 10.2:
ABC Limited has purchased goods from XYZ Limited and PQR Limited for ₹ 90,000 and ₹ 2,00,000 respectively. In respect of both the supplies, the invoice has been received. The goods were received in April 2018 (from XYZ Limited) and in May (from PQR Limited). **Now, in this example** the ITC is admissible on ₹ 90,000 only for the month of April 2018. The ITC as regards supplies from PQR for ₹ 2,00,000 shall not be available in April. Since the goods are received in the month of May, the ITC shall be available in May, 2018.

10.5 **When goods are deemed to have been received:**

Statutory Provision:

As amended by **The Central GST (Amendment) Act, 2018**, the Explanation to section 16(2) clarifies, *"for the purpose of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—*

(*i*) *Where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;*

(*ii*) *Where the services are provided by the supplier to any person on the direction of and on account of such registered person".*

Analysis of the Provisions:

It is not necessary that the goods are delivered to the buyer only. Where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, it shall be deemed that the registered person has received the goods

In principle the person who wants to avail ITC must have received the goods or services but he may even direct that goods or services may be delivered to another person *i.e.* a third party through transfer of documents of title of goods or otherwise. He may do so either before or during the movement of goods. This exceptional transfer is known as "Bill to Ship to Model." Thus, even if the goods and/or services are directed to be delivered to a third person, the person who is directing is the deemed recipient of goods and/or services under the Act.

Example 10.3: [Deemed receipt]
X of Delhi agreed to supply goods to Mr. Y of Bombay. As a part of agreement, these goods are to be delivered to Z at Ahmedabad. This is "Bill to Ship to Model" and Y shall be treated as deemed recipient and shall be eligible for the ITC. In other words, Mr. Z who is actually receiving the goods will not be eligible for ITC on such transactions.

(*c*) **Payment of Tax to the Government:**

As per section 16(2)(*c*), the third essential condition is that the tax should have actually been paid to the government on the goods or services for which ITC is being taken. This payment can be done by the supplier either by:—

(*a*) Making the payment through cash or

(*b*) through utilization of ITC.

However, when the recipient claims ITC, it is provisionally allowed to be utilized for making the payment of self-assessed tax on outward supply, before matching in the common portal. It is later on verified after filing of GSTR 3.

(*d*) **Filing of valid Return:**

As per Section 16(2)(*d*), the fourth essential condition is that the registered person should have furnished the return under section 39.

The return has to be filed before 20th of the month succeeding the month in which the supplies were received. This return must be furnished in Form GSTR-3 and must contain all the details of inward supplies.

10.6.1 Restriction on availment of ITC in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1 [Rule 36(4) inserted in rule 36 of the CGST Rules]:

Section 16(2) of the CGST Act provides certain conditions for availing ITC wherein one of the conditions is that the taxpayer must be in possession of the tax invoice or other Tax paying document in respect of which he is claiming the ITC. Rule 36 of CGST Rules lays down the documents and other conditions basis which the registered person can claim ITC.

With effect from 09.10.2019, rule 36(4) has been introduced in rule 36 to specify the quantum of ITC that can be claimed against the invoices/debit notes uploaded and invoices/debit notes not uploaded, by the supplier. As per this sub-rule, the ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-1, cannot exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1. This **limit of 20% has been further reduced to 10% w.e.f. 1-1-2020** by the Government vide Notification No. 75/2019-Central Tax dated 26th December, 2016.

This can be further understood as under -

S. No.	Case	Amount of ITC to be claimed by recipient
(i)	Where invoice/debit note has been uploaded by the supplier in his GSTR-1	Full ITC, if all other conditions of availing ITC are fulfilled.
(ii)	Where invoice/debit note has not been uploaded by supplier in his GSTR-1	From 9th October, 2019 to 31st December, 2019 20% of the eligible ITC available in respect of the uploaded invoices/debit notes. However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded. **[Refer Example 10.6A]** **From 1st January 2020 onwards** 10% of the eligible ITC available in respect of the uploaded invoices/debit notes. However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded. **[Refer Example 10.6B]**

Example 10.6:

Mr. Shyam, a registered supplier, receives 100 invoices (for inward supply of goods/services) involving GST of ₹ 10 lakh, from various suppliers during the month of December 2019. Compute the ITC that can be claimed by Mr. Shyam in his GSTR-3B for the month of December 2019 to be filed by 20th January 2020 in the following independent cases assuming that GST of ₹ 10 lakh is otherwise eligible for ITC:

Case I	Out of 100 invoices, 80 invoices involving GST of ₹ 6 lakh have been uploaded by the suppliers in their respective GSTR-1 filed on the prescribed due date.
Case II	Out of 100 invoices, 75 invoices involving GST of ₹ 8.5 lakh have been uploaded by the suppliers in their respective GSTR-1 filed on the prescribed due date.

Answer

Case I

ITC to be claimed by Mr. Shyam in his GSTR-3B for the month of December 2019 to be filed by 20th January 2020 will be computed as under-

In respect of	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)	Remarks
80 invoices uploaded in GSTR-1	6 lakh	6 lakh	In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
20 invoices not uploaded in GSTR-1	4 lakh	1.2 lakh	The ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. Thus, in respect of 20 invoices not uploaded in GSTR-1, the ITC has been restricted to ₹ 1.2 lakh [20% of ₹ 6 Lakh].
Total	**10 lakh**	**7.2 lakh**	**ITC available as per Rule 36(4)**

Case II

ITC to be claimed by Mr. Shyam in his GSTR-3B for the month of December 2019 to be filed by 20th January 2020 will be computed as under-

In respect of	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)	Remarks
75 invoices uploaded in GSTR-1	8.5 lakh	8.5 lakh	In respect of invoices uploaded by the suppliers in their GSTR-1 , full ITC can be availed
25 invoices not uploaded in GSTR-1	1.5 lakh	1.5 lakh	The ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. However, since in this case, the actual ITC (₹ 1.5 lakh] in respect of 25 invoices not uploaded in GSTR-1 does not exceed 20% of the eligible ITC in respect of invoices uploaded in GSTR-1 [₹ 1.7 Lakh being 20% of ₹ 8.5 Lakh], actual amount of ITC can be availed.
Total	**10 Lakh**	**10 Lakh**	**ITC available as per Rule 36(4)**

Example 10.6B:

Mr. Sumit, a registered supplier, receives 50 invoices (for inward supply of goods/ services) involving GST of ₹ 6 lakh, from various suppliers during the month of January 2020. Consider the following independent cases:

Case	Uploading of invoices by suppliers in their GSTR-1			
	Yes		No	
	No. of Invoices	Corresponding ITC	No. of Invoices	Corresponding ITC
I	20	₹ 2,60,000	30	₹ 3,40,000
II	30	₹ 4,00,000	20	₹ 2,00,000
III	45	₹ 5,60,000	5	₹ 40,000

Compute the ITC that can be claimed by Mr. Sumit in his GSTR-3B for the month of January 2020 to be filed by 20th February 2020 in all the above cases.

Answer:

Particulars		Case I	Case II	Case III
Eligible ITC as per books	**(A)**	6,00,000	6,00,000	6,00,000
Eligible ITC regarding uploaded invoices	**(B)**	2,60,000	4,00,000	5,60,000
10% of ITC of uploaded invoices	**(C)**	26,000	40,000	56,000
ITC regarding invoices not uploaded	**(D)**	3,40,000	2,00,000	40,000
Eligible ITC for invoices not uploaded as per Rule 36(4) as amended w.e.f. 1-1-2020 **[Lower of (C) or (D)]**	**(E)**	26,000	40,000	40,000
Total Eligible ITC after amended Rule 36(4) [**(B)** + **(E)**]	**(F)**	2,86,000	4,40,000	6,00,000
ITC restricted as per amended Rule 36(4) [**(D)** - **(E)**]	**(G)**	3,14,000	1,60,000	Nil

10.7 REVERSAL OF ITC IN CASE OF NON-PAYMENT OF CONSIDERATION

The following are the relevant provisions given under CGST Act, 2017:

(1) **ITC availed to be paid along with Interest [Second Proviso to Section 16(2)]:** Where a recipient fails to pay to the supplier of goods or services or both, the amount towards the value of supply along with tax payable thereon, **within 180 days** from the date of issue of invoice by the supplier, an amount equal to ITC availed by the recipient shall be added to his output tax liability, along with interest thereon, in the manner as may be prescribed.

Related provisions as prescribed under Rule 37 of CGST Rules, 2017
As per Rule 37(1), a registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof, the value of such supply along with the tax payable thereon, within the time limit specified in the second proviso to section 16(2), shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in **FORM GSTR-2** for the month immediately following the period of 180 days from the date of the issue of the invoice:

When Supply is made without consideration: The value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.

Deemed Receipt: Any amount, which the supplier was liable to pay, but has been paid by recipient is added in the value of Taxable Supply as per section 15(2)(*b*). The Notification No. 26/2018-CT (dated 13-06-2018) provides that it shall be deemed to have been paid for the purpose of second proviso to section 16(2).

As per Rule 37(2), the amount of ITC availed [referred to in rule 37(1)] **shall be added to the output tax liability** of the registered person for the month in which the details are furnished.

Rule 37(3) further provides that such person shall be **liable to pay @ 18% p.a.** for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, is paid.

Example 10.6: [Proportionate reversal of ITC]

Mr. Sanskar received a tax invoice on 12.08.2017 of ₹ 4,00,000 on which IGST of ₹ 72,000 was payable and he availed Input tax credit in the return for the month of August 2017 (filed in the month of September 2017). The part payment of ₹ 3,54,000 was made on 28th December, 2017 and a balance of ₹ 1,18,000 inclusive of tax was pending. As per second proviso to section 16(2), the payment should be made within 180 days from the date of invoice. This period of 180 days expires on 8th of February 2018. Since the recipient has not made the payment, he will have to furnish the details in GSTR 2 for the month of February (to be filed in the month of March, 2018) and pay the amount of proportionate ITC availed. Thus, one fourth of ₹ 72,000 (i.e. ₹ 18,000) along with interest @ 18% will be added to the outward tax liability. [*Please refer example 10.7 for computation of interest in case of reversal of ITC*]

(2) Re-Entitlement when payment is made subsequently: 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. In case part payment has been made, proportionate credit would be allowed.

Related provisions as prescribed under Rule 37(4) of CGST Rules, 2017

The time limit of availing credit as specified in section 16(4) shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or the provisions of this Chapter that had been reversed earlier.

(3) Exceptions to the Limitation Period of 180 days: The condition of payment of value of supply plus tax within 180 days does not apply in the following cases:

(*a*) The supplies on which tax is payable under Reverse Charge.

(*b*) Deemed supplies without consideration as specified in Schedule I of CGST Act, 2017.

Example 10.7: [Comprehensive example on reversal of ITC due to non-payment]

M/s Saroj Traders is a registered dealer in GST. The firm deals in taxable goods covered under forward charge. It has made the following inward supplies from five different wholesalers.

Supplier	Date of issue of invoice	Date of availing credit by recipient	ITC availed by the recipient (₹)	Date of payment by recipient
A	12-11-2017	15-12-2017	18,250	17-08-2018
B	14-08-2017	15-09-2017	26,064	11-04-2018
C	17-10-2017	15-11-2017	29,000	08-02-2018
D	08-12-2017	15-01-2018	54,750	24-07-2018
E	10-01-2018	15-02-2018	16,000	10-05-2018

You are required to answer the following:

(a) What is the date up to which payment should have been made by the recipient so that the reversal of ITC is not attracted as per the second proviso to section 16?

(b) Also calculate the amount of ITC that shall be added towards the output tax liability of M/s Saroj Traders together with Interest.

Solution:

(a) **Determination of date up to which payment should be made:**

As per second proviso to section 16, the payment should be made by the recipient within 180 days from the date of invoice. The following table shows the determination of the date, on which 180 days expires.

	Working showing the calculation of 180 days from the date of invoice. Format used is No. of days (Name of Month)	Last Date up to which payment should be made
A	18 (Nov.) + 31 (Dec.) + 31 (Jan.) + 28 (Feb.) + 31 (Mar.) + 30 (April) + 11 (May)	11-5-2018
B	17 (Aug.) + 30 (Sep.) + 31 (Oct.) + 30 (Nov.) + 31 (Dec.) + 31 (Jan.) + 10 (Feb.)	10-2-2018
C	14 (Oct.) + 30 (Nov.) + 31 (Dec.) + 31 (Jan.) + 28 (Feb.) + 31 (Mar.) +15 (Apr.)	15-4-2018
D	23(Dec.) +31(Jan.) +28 (Feb.) +31(Mar.) +30 (April) +31(May) + 6 (June)	06-6-2018
E	21(Jan.) +28 (Feb.) +31(Mar.) +30 (April) +31(May) +30 (June) + 9 (July)	09-7-2018

Reversal of ITC (Applicability of Second Proviso to section 16)

Supplier	Date on which 180 days expires	Date of payment to supplier	Whether above Proviso attracts
A	11-5-2018	17-08-2018	Yes
B	10-2-2018	11-04-2018	Yes
C	15-4-2018	08-02-2018	No
D	06-6-2018	24-07-2018	Yes
E	09-7-2018	10-05-2018	No

It is clear that the reversal of ITC is not required in case of supplies made from "C" and "E" as the payment has been made before the expiry of 180 days from the date of issue of invoice.

(b) **Amount to be added in Output Tax Liability**

As per Rule 37(2) of CGST Rules, 2017, the registered person shall be liable to pay interest @ 18% p.a. for the period starting from the date of availing credit on such supplies till the date when the amount is added to the output tax liability.

Table showing the amount to be added in liability (Reversal of ITC + Interest)

Supplier	ITC Availed	Interest @ 18% p.a. from the date of availing credit till the date it is added to Output Tax Liability (Refer W. Note 1)	Total Amount
A	18,250	18,250 × 18% × 182/365 = ₹ 1,638	₹ 19,888
B	26,064	26,064 × 18% × 181/365 = ₹ 2,326	₹ 28,390
D	54,750	54,750 × 18% × 181/365 = ₹ 4,887	₹ 59,637

Working Note 1:

The number of days for interest calculation has been determined in the following manner:

10.8 NO ITC IF DEPRECIATION IS CLAIMED ON TAX COMPONENT [SECTION 16(3)]

Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed. It is clear that in respect of tax paid on such items, double benefit cannot be claimed under GST laws and Income-tax Act, 1961 simultaneously. Therefore, the assessee has the option to either claim depreciation on tax component of capital goods by capitalizing the capital goods inclusive of tax in the books of account or to claim ITC. A person is not allowed to take the dual benefit under two different laws simultaneously.

Example 10.8 [No ITC if Depreciation is claimed on tax component]

Z limited purchased a machine for ₹ 15,00,000 plus GST @ 18%. The machine has been capitalized in the books at ₹ 17,70,000 (i.e. inclusive of GST paid). Accordingly, the depreciation was claimed for ₹ 2,65,500 (i.e. 15% of ₹ 17,70,000) under the Income-tax Act. Since depreciation is claimed on tax (GST) component of cost of machinery, the ITC shall not be allowed.

10.9 TIME LIMIT FOR AVAILING THE INPUT TAX CREDIT [SECTION 16(4)]

A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after:

- the due date of 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.

In other words, the ITC on invoices or on debit notes relating to invoices which pertain to a particular financial year must be availed before the earlier of the following:

Earlier of		
The due date of filing of return for the month of September immediately following the end of financial year *i.e.* 20th October.	**OR**	Date of filing the annual return of the relevant financial year, the due date for which is 31st December of succeeding financial year.

As per section 39(1), due date of filing of return for every calendar month is 20 days from the end of the calendar month. It means the return for the month of September is to be furnished by 20th October.

As per section 44(1), annual return for every financial year is to be furnished on or before the 31st December following the end of such financial year.

Example 10.9:

The date of invoice for supply of goods is 24-10-2017 for which ITC is available. Determine the time limit for availing ITC if the annual return has been furnished:

(*a*) On the last date (31-12-2018)

(*b*) On 5-10-2018

Solution:

The time limit for taking ITC in respect of invoice dated 24-10-2017 shall be the earlier of the following:

Particulars	CASE I	CASE II
Date of filing of return	31-12-2018	5-10-2018
Due Date of filing return for the month of September 2018	20-10-2018	20-10-2018
Last date by which ITC can be claimed (Earlier of the above two dates)	**20-10-2018**	**5-10-2018**

The following additional points may be noted as regards the time limits for claiming ITC.

Example 10.10:

Ramesh purchased goods worth ₹ 4,00,000 (exclusive of CGST and SGST @ 9% each) under the cover of invoice dated 8-12-2017. The payment was made to the supplier on the same date. The claim for ITC on this transaction was not taken by Ramesh till 3-6-2018. Ramesh, now wants to avail ITC. The annual return for 2017-2018 has been filed by Ramesh on 19-8-2018. Do you think ITC is available on 3-6-2018.

Solution: In the given case, the ITC can be taken on earlier of the following dates:

(*a*) 20-10-2018 (Being the due date of furnishing return of month of September, 2018) or

(*b*) 19-8-2018 (Being the date of furnishing of Annual Return by Ramesh).

Therefore, Ramesh can avail credit of GST on 3-6-2018.

1. **Relevant Date for Debit Note:** If debit note is issued in respect of an invoice subsequently, in the next financial year, the date of invoice will be relevant and not the date of debit note in determining the time limit.

Example 10.11:

Anil purchased goods on 15-3-2018. A debit note was issued by the supplier in respect of same invoice on 4th April, 2018. In this case, although the debit note is issued in the financial year 2018-2019 but the invoice for the same was issued in the year 2017-2018. Therefore, the last date for availing ITC would be either 20th October or the date of filing annual return for Financial Year 2017-2018, whichever is earlier. **It means,** the date of invoice will be relevant for the corresponding debit note which has been issued subsequently.

2. **No time limit for reclaiming ITC reversed due to non-payment within 180 days:**

   As per rule 37 the time limit specified in sub-section (4) of section 16 shall not apply to a claim for re-availing of any credit, which has been reversed earlier, in accordance with the provisions of the Act. Therefore, the amount so added to the output tax liability can again be re-claimed as ITC, once the payment is made. If part payment is made after the expiry of 180 days and after the ITC availed has been added to output liability, the proportionate ITC can be reclaimed without any limitation of time.

3. **One Year from the date of Invoice in special cases:**

   The Section 18(2) provides that in special circumstances, like new registration or voluntary registration, the registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply. **For Example:** Subhash enter-