

## 8

## Input Tax Credit

## Extra provisions for detailed and comprehensive study

**80.4 Blocked ITC – Others – Goods lost, disposed, etc.**

**Clarification on procedure in respect of return of time expired drugs or medicines** [Circular 72/46/2018-GST] - The common trade practice in the pharmaceutical sector is that the drugs or medicines (“goods”) are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice or bill of supply, as case may be. Such goods have a defined life term (date of expiry). **Expired** goods are returned to the manufacturer through the supply chain. It has been clarified that the retailer/wholesaler can return the time expired goods **either** by (A) treating it as fresh supply (discussed below) or (B) issuing Credit Note (discussed in para 109.1).

- *Where person returning goods is a registered person (other than a composition taxpayer)* - He may, at his option, return the goods by treating it as a **fresh supply** and issuing invoice for the same (“return supply”). Value of goods shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. Recipient of such supply (wholesaler or manufacturer) shall be **eligible to avail ITC** of tax levied on return supply (subject to fulfilling conditions u/s 16 (para 74).
- *Where person returning goods is a composition taxpayer* - He may return the goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. ITC will **not be available** to the recipient of return supply.
- *Where person returning goods is an unregistered person* - He may return the goods by issuing any commercial document **without charging any tax** on the same.
- *Where the returned goods are destroyed by the manufacturer* - Manufacturer is required to **reverse** the ITC availed on the return supply [as ITC is blocked in respect of goods destroyed]. ITC which is required to be reversed is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

Though the above stated circular discusses scenarios in relation to return of goods on account of expiry, it may be applicable to such other scenarios where goods are returned on account of reasons other than the one detailed above.

**Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period** [Circular 195/07/2023-GST] – The following clarifications have been issued:

Issue	Clarification
1: There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/ or repair services to the customer during the warranty period, <b>without</b> separately charging any consideration at the time of such replacement/ repair services. Whether GST would be payable on such replacement of parts or supply of repair services, without any consideration from the customer, as part of warranty?	<p>The value of original supply of goods (provided along with warranty) by the manufacturer to the customer <b>includes</b> the likely cost of replacement of parts and / or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods.</p> <p>As such, where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, <b>no further GST is chargeable</b> on such replacement of parts and/ or repair service during warranty period.</p> <p>However, if any <b>additional</b> consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then <b>GST will be payable</b> on such supply with respect to such additional consideration.</p>

<p><b>2:</b> Whether in such cases, the manufacturer is required to <b>reverse ITC</b> in respect of such replacement of parts or supply of repair services as part of warranty, in respect of which <b>no additional</b> consideration is charged from the customer?</p>	<p>In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer <b>includes</b> the likely cost of replacement of parts and/ or repair services to be incurred during the warranty period.</p> <p>Therefore, these supplies <b>cannot</b> be considered as <b>exempt</b> supply [para 78] and accordingly, the manufacturer, who provides replacement of parts and/ or repair services to the customer during the warranty period, is <b>not required to reverse ITC</b> in respect of the said replacement parts or on the repair services provided.</p>
<p><b>3:</b> Whether GST would be payable on replacement of parts and / or repair services provided by a distributor <b>without</b> any consideration from the customer, as part of warranty on behalf of the manufacturer?</p>	<p>There may be instances where a distributor of a company provides replacement of parts and / or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor in respect of the said replacement and/ or repair services from the customer.</p> <p>In such cases, as no consideration is being charged by the distributor from the customer, <b>no GST would be payable</b> by the distributor on the said activity of providing replacement of parts and / or repair services to the customer.</p> <p>However, if any <b>additional</b> consideration is charged by the distributor from the customer, either for replacement of any part or for any service, then <b>GST will be payable</b> on such supply with respect to such additional consideration.</p>
<p><b>4:</b> In the <i>above scenario</i> where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer and whether the distributor would be required to reverse ITC in respect of such replacement of parts?</p>	<p><b>A:</b> There may be cases where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and <b>charges</b> the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer.</p> <p>In such a case, <b>GST would be payable</b> by the distributor on the said supply by him to the manufacturer and the manufacturer would be <b>entitled to avail ITC</b> of the same. In such case, <b>no reversal of ITC</b> by the distributor is required in respect of the same.</p> <p><b>B:</b> There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty.</p> <p>In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, <b>without</b> separately charging any consideration at the time of such replacement, <b>no GST is payable</b> on such replacement of parts by the manufacturer. Further, <b>no reversal of ITC</b> is required to be made by the manufacturer in respect of the parts so replaced by the distributor under warranty.</p> <p><b>C:</b> There may be cases where the distributor replaces the part(s) to the customer under warranty out of the supply <b>already received</b> by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced. Accordingly, the tax liability may be <b>adjusted</b> by the manufacturer, subject to the condition that the said distributor has <b>reversed the ITC</b> availed against the parts so replaced.</p>

<p><b>5:</b> Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer <b>without</b> any consideration, as part of warranty, on behalf of the manufacturer but <b>charges the manufacturer</b> for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?</p>	<p>In such scenario, there is a supply of service by the distributor and the manufacturer is the recipient of such supply of repair services. Hence, <b>GST would be payable</b> on such provision of service by the distributor to the manufacturer and the manufacturer would be <b>entitled to avail ITC</b> of the same.</p>
<p><b>6:</b> Sometimes companies provide offers of <b>extended warranty</b> to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?</p>	<p><b>A:</b> If a customer enters in to an agreement of extended warranty with the manufacturer at the time of <b>original</b> supply, then the consideration for such extended warranty becomes part of the value of the <b>composite</b> supply, the principal supply being the supply of goods, and <b>GST would be payable</b> accordingly.</p> <p><b>B:</b> However, in case where a consumer enters into an agreement of extended warranty at any time <b>after</b> the original supply, then the same is a <b>separate</b> contract and GST would be payable by the service provider, whether manufacturer or the distributor or any third party, depending on the nature of the contract (i.e., whether the extended warranty is only for goods or for services or for composite supply involving goods and services)</p>

### **81. ENTITLEMENT OF ITC IN CERTAIN SITUATIONS [S. 18(1)/(2); R. 40(1)]**

#### *Procedure to claim ITC:*

1. The registered person should make a **declaration** in FORM GST ITC-01, electronically on the common portal, to the effect that he is eligible to avail ITC as aforesaid.
2. Declaration should be made within 30 days from the date of **becoming eligible** to avail ITC (such period can be extended by the Commissioner).
3. Declaration should clearly specify the details relating to inputs or capital goods as on the day specified in the Table above.
4. Details furnished in the declaration should be duly **certified** by a practicing chartered accountant or a cost accountant if the **aggregate** value of the ITC claim (on account of CSGST, SGST, UTGST, IGST) **> ₹ 2 lakh**.

### **84. TRANSFER OF ITC UPON CHANGE IN CONSTITUTION [S. 18(3); R. 41]**

#### *Procedure –*

1. The registered person should furnish the details of such change in the constitution electronically on the common portal along with a request for transfer of unutilized ITC to the transferee.
2. Transferor should also submit a copy of a **certificate** issued by a practicing chartered accountant or cost accountant certifying that such change in constitution has been done with a specific provision for the transfer of liabilities.
3. Once the transferee **accepts** the details, so furnished by the transferor, on the common portal, the unutilized ITC is credited to his electronic credit ledger.
4. Inputs and capital goods so transferred should be duly accounted for by transferee in his books of account.

**85. TRANSFER OF ITC ON OBTAINING MULTIPLE REGISTRATIONS WITHIN A STATE/UT [R. 41A]**

*Procedure –*

1. The transferor should furnish the prescribed details, electronically on the common portal, within 30 days from obtaining such separate registrations.
2. ITC is transferred to the transferees in the ratio of the **value of assets** held by them at the time of registration. For this purpose, the value of assets means the value of the **entire** assets of the business whether or not ITC has been availed thereon.
3. The transferee should, on the common portal, **accept** the details so furnished by the transferor.
4. Upon such acceptance, the unutilised ITC is credited to the electronic credit ledger of the transferee.

**86.3 Transfer of ITC [S. 53 of CGST Act; S. 18 of IGST Act]**

On utilisation of ITC of **CGST** for payment of **IGST**, the amount collected as CGST stands reduced by the amount of such ITC. The amount so reduced is transferred by the Central Government from CGST A/c to IGST A/c.

Similarly, on utilisation of ITC of **IGST** for payment of **CGST/UTGST**, the amount collected as IGST stands reduced by the amount of such ITC. The amount so reduced is transferred by the Central Government from IGST A/c to CGST A/c or UTGST A/c, as the case may be.

On utilisation of ITC of **IGST** for payment of **SGST**, the amount collected as IGST stands reduced by the amount of such ITC. However, in this case the amount so reduced is **apportioned** to the appropriate State Government and Central Government transfers the amount so apportioned to the account of the appropriate State Government.

-----  
*ILLUS: See illustrations 8.1 and 8.2 in Chapter 1.*  
-----

