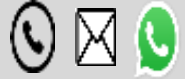




Serial No. 014  
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## Section 17(5) of CGST Act,

### 17(5). Blocked Credits.

(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely: —

(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely: —

- A. further supply of such motor vehicles; or
- B. transportation of passengers; or
- C. imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used—

(i) for making the following taxable supplies, namely: —

- A. further supply of such vessels or aircraft; or
- B. transportation of passengers; or
- C. imparting training on navigating such vessels; or
- D. imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available—

- (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
- (ii) where received by a taxable person engaged—
  - I) in the manufacture of such motor vehicles, vessels or aircraft; or
  - II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(b) the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation. —For the purposes of clauses (c) and (d), the expression — “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(e) goods or services or both on which tax has been paid under section 10;

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

(g) goods or services or both used for personal consumption;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

### Our Interpretation

Section 17(5)	<p><b><u>Blocked Credit</u></b></p> <p>Legislature has list down certain credits as Blocked Credit, not available to recipient even incurred for taxable supplies. These blocked credits are listed in section 17(5) of CGST Act. A taxable person is not eligible to take Input Tax Credit (ITC) on the goods and services specified under 17(5) of CGST Act 2017.</p> <p>Clauses (a) and (b) of Sec 17(5) has been substantially amended vide <b>Notification No.02 /2019-CT dated 29-01-2019</b> and are <b>effective from 01-02-2019</b>.</p>
Section 17(5)(a)	<p><b>Motor Vehicle – Section 17(5)(a) of CGST Act</b> – Input Tax Credit (ITC) is not eligible in respect of motor vehicles such as:</p> <ul style="list-style-type: none"><li>• Four-wheeler motor cars or</li><li>• Three-wheelers or auto rickshaws or</li><li>• Two-wheeler motorbikes or cycles or</li><li>• Tempo Travellers (TT) or buses having less than or equal to 13 seats, including the driver.</li><li>• Or any other vehicle used on the road</li></ul> <p><b>Except</b> when they are used for making the following taxable supplies, namely: —</p> <p>A. <b>further supply</b> of such motor vehicles; or</p>

	<p>B. <b>transportation of passengers</b>; or</p> <p>C. <b>imparting training</b> on driving such motor vehicles;</p>
Section 17(5)(aa)	<p><b>Vessels and Aircraft- Section 17(5)(aa) of CGST Act-</b> ITC is not eligible in respect of vessels and aircraft <b>except</b> when they are used for—</p> <p>A. <b>further supply</b> of such vessels or aircraft; or</p> <p>B. <b>transportation of passengers</b>; or</p> <p>C. <b>imparting training</b> on navigating such vessels; or</p> <p>D. <b>imparting training</b> on flying such aircraft; and</p> <p>E. <b>transportation of goods</b>;</p>
Section 17(5)(ab)	<p><b>Services related to Motor Vehicle, Vessels and Aircraft – Section 17(5) (ab) of CGST Act-</b> ITC is not eligible in respect of services of <b>general insurance, servicing, repair and maintenance</b> in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa).</p> <p><b>Exception:</b> ITC in respect of <b>services of general insurance, servicing, repair &amp; maintenance</b> in relation to Motor Vehicle, Vessels &amp; Aircraft shall be available in following cases: -</p> <p>(a) The motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein.</p> <p>(b) For manufacturers of the above-listed conveyances (Manufacturer of such motor vehicle is eligible to take ITC on insurance premium)</p> <p>(c) Supply of general insurance services in respect of covering such above-listed conveyances</p>
Section 17(5)(b)	<p><b>Section 17(5)(b)(i)</b> of means that Input Tax Credit (ITC) shall not be available in respect of following supply of Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, life insurance and health insurance, <b>leasing, renting or hiring of motor vehicles, vessels or aircraft. However, ITC claims may be allowed for exceptional cases given under clauses (a) and (aa) above.</b></p> <p><b>Exception:</b></p> <ol style="list-style-type: none"> <li>1. Where an inward supply is used by a registered person for making a same category of outward taxable supply, then ITC shall be allowed.</li> <li>2. ITC shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force (proviso to section 17(5)(b) of CGST Act inserted w.e.f. 01-02-2019.).</li> </ol> <p><b>Section 17(5)(b)(ii) –</b> Membership of a club, health and fitness centre is not eligible for ITC.</p> <p><b>Exception:</b> ITC shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force (proviso to section 17(5)(b) of CGST Act inserted w.e.f. 01-02-2019.).</p> <p><b>Section 17(5)(b)(iii) –</b> Travel benefits extended to employees on vacation such as leave or home travel concession is not eligible for ITC.</p> <p><b>Exception:</b> ITC shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force (proviso to section 17(5)(b) of CGST Act inserted w.e.f. 01-02-2019.).</p> <p><b>For example:</b> Input Tax Credit of canteen services provided to employees shall be available in view of proviso to section 17(5)(b) of CGST Act as according to section 46 of Factories Act, provision of canteen facility is mandatory if number of workers employed in the factory are 250 or more.</p>

Section 17(5)(c)	<p><b>Work Contract Services</b></p> <p>Works contract services when supplied for construction of an immovable property (other than plant and machinery) is not eligible, except where it is an input service for further supply of works contract service. ITC shall be available to builder or contractor who himself is undertaking works contract service, as he is using these services for further supply of works contract service.</p> <p>Input tax credit is available if expenses of renovation, repairs, reconstruction or alterations are not capitalized in books of account of taxable person.</p>
Section 17(5)(d)	<p><b>Construction material or services received</b></p> <p>Input tax credit is not available for goods or/and services received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including even if such goods and services are used in the course or furtherance of business.</p> <p>Input tax credit is available if expenses of renovation, repairs, reconstruction or alterations are not capitalized in books of account of taxable person.</p> <p><b>Thus, any GST registered person cannot claim ITC on GST paid on the building construction or job work expense. Such buildings could be used either for commercial or residential purposes. It also includes any GST paid on materials used for construction. One cannot claim ITC if he incurs money on renovation or repair of buildings, wherever it is capitalised in accounts. However, ITC on the above expense will be allowed for construction companies, builders and promoters who are into the resale of such buildings once constructed. ITC will still be allowed for the purchase or construction of plants or machinery.</b></p>
Section 17(5)(e)	<p><b>Goods or Services on which tax deposited by composition dealer</b></p> <p>Goods or services or both on which tax has been paid under section 10 (composition scheme) are not eligible.</p>
Section 17(5)(f)	<p><b>Goods or services or both received by a non-resident taxable person</b></p> <p>Goods or Services or both received by a non-resident taxable person are not eligible for input tax credit except on goods imported by him.</p>
Section 17(5)(g)	<p><b>Goods and services used for personal consumption</b></p> <p>Goods or services or both used for personal consumption are not eligible for input tax credit. Personal consumption means for non-business consumption by partners or directors or proprietor.</p>
Section 17(5)(h)	<p><b>Lost, stolen or destroyed goods and free samples</b></p> <p>Goods lost, stolen, destroyed, written off or disposed off by way of gift or free sample are not eligible for input tax credit</p>
Section 17(5)(i)	<p><b>GST paid after detection of fraud or suppression or goods removed in contravention of GST Act</b></p> <p>Any Tax paid in accordance with the provisions of section 74, 129 and 130 CGST Act are not eligible for input tax credit. This covers GST paid after detection of fraud or suppression or goods removed in contravention of CGST Act – section 74, tax paid after detention of goods in transit for violations of provisions of e-way bill- Section 129 and penalty paid after confiscation of goods- Section 130.</p>

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