



BLOCKED INPUT TAX CREDIT (ITC) UNDER GST



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❑ SECTION – 16 Central Goods And Services Tax Act, 2017:

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 his business and the said amount shall be credited to the electronic credit ledger of such person, subject to conditions, restrictions and blocked credit provisions under Sections 16, 17, 18 and related rules.



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- ❑ **Input Tax Credit (ITC)** is the credit of GST paid on purchases used for business purposes.
- ❑ ITC avoids cascading of taxes and ensures tax is paid only on value addition.
- ❑ ITC allows businesses to:
 - Reduce tax burden.
 - Avoid cascading effect of taxes.
 - Pay GST only on value addition.

However, certain credits are restricted under GST law (even if used for business purposes), popularly known as **Blocked ITC**.

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- **Blocked ITC** refers to the **Input Tax Credit** that is **not allowed to be claimed**, even if the goods or services are used for business purposes.
- These restrictions are provided under **SECTION:17(5) of the CGST Act, 2017.**
- Such credit **cannot be utilized to pay GST liability.**



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Objective of Blocking ITC :

Prevent
misuse of
credit

Avoid
revenue
leakage

Ensure credit is
allowed only for
genuine business
inputs

Restrict
personal
consumption
claims

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Major Categories of Blocked ITC Under Section 17(5), ITC is not available on:

Clause (a)
Motor vehicles
etc.

Clause (b) Food,
insurance, club
etc.

Clause (c)
Works
contract

Clause (d)
Construction
other than WCT

Clause (e)
Composition
levy

Clause (f)
received by non-
resident taxable
person except
imported by him

Clause (fa) CSR
activities as per
Companies Act,
2013.

Clause (g)
Personal
consumption

Clause (h)
Lost/stolen
goods/Gifts/free
samples

Clause (i)
Fraud cases



Motor Vehicles and Conveyances (Section 17(5)(a) & (aa))



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- **SECTION-17(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
- **SECTION-17(5)(a):** ITC is **not available on motor vehicles for transportation of persons** with seating capacity up to 13 persons (**including driver**).
- No restriction on vehicles for transportation of goods.
- **SECTION-17(5)(aa): Exceptions** where ITC is allowed:
 - Further supply of vehicles
 - Transportation of passengers
 - Driving training

Example:

Car purchased for director – **ITC not allowed**

An illustration of a woman with long dark hair, wearing a teal shirt and a dark skirt, standing behind a wooden podium. She is pointing with her right hand towards a large chalkboard. The chalkboard has a dark grey surface and a brown wooden frame. On the chalkboard, the text 'Food, Beverages & Personal Consumption (Section 17(5)(b))' is written in a yellow, serif font. At the bottom of the chalkboard, there are three small, colorful objects: a yellow one, a blue one, and a white one with a brown top. The background behind the chalkboard is a light blue wall with a faint, stylized pattern of trees or buildings.

Food, Beverages & Personal Consumption (Section 17(5)(b))

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➤ SECTION 17(5)(b):

ITC is not available on:

- Food and beverages
- Outdoor catering
- Beauty treatment
- Cosmetic surgery

➤ Exception:

ITC allowed if used for making outward taxable supply of the same category or as an element of taxable composite or mixed supply.

➤ Example:

Restaurant purchasing food items – **ITC allowed**

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- Under **Section 17(5)(b)** of the CGST Act, Input Tax Credit (ITC) is generally blocked for various inward supply mentioned therein, including "food and beverages" and "renting or hiring of motor vehicles." However, a **SECOND PROVISIO** added with effect from **February 1, 2019**, creates an exception:

“ITC is available where it is obligatory for an employer to provide such goods or services to its employees under any law for the time being in force.”

- The proviso has been relied upon in rulings to allow ITC where provision of such goods/services is obligatory for the employer under any law in force, subject to facts and proportionality issues

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The following Advance Rulings are relevant for the issue on hand:

- **M/s. Zentiva Private Limited 2024 (6) TMI 224 - AUTHORITY FOR ADVANCE RULING, GUJARAT**
- **M/s Tata Motors Limited 2022 (12) TMI 1363 - APPELLATE AUTHORITY FOR ADVANCE RULING, GUJARAT**
- **M/s. Amneal Pharmaceuticals Pvt Limited 2025 (4) TMI 221 - AUTHORITY FOR ADVANCE RULING, GUJARAT**

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- Across all three rulings, the Authorities focused on two primary pillars: **Section 7** (Scope of Supply) regarding recoveries from employees, and **Section 17(5)(b)** (Blocked Credits) regarding the eligibility of ITC when services are legally mandated.
- Of course, Advance Rulings are binding only on the applicant and jurisdictional officer, though they have persuasive value.

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1. GST on Recoveries from Employees:

- **Canteen Charges:** Nominal recoveries from employees, where facilities are provided as part of employment terms/policy and not as an independent commercial activity, have been held in certain rulings as not liable to GST
- **Transportation Charges:** Similarly, subsidized recoveries for bus/transportation facilities (as seen in the *Zentiva* case) are not liable to GST, provided they are part of the contractual agreement or company policy for employees.
- **Key Condition:** This tax-free status generally applies only to **direct/permanent employees** on the company payroll, not to third-party or contract labour.

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2. Input Tax Credit (ITC) Eligibility: The rulings clarify the application of the proviso to **Section 17(5)(b)**, which was amended effective February 1, 2019.

- **Statutory Obligation:** If a factory employs more than 250 workers, providing a canteen is mandatory under **Section 46 of the Factories Act, 1948**.
- **ITC Availability:** Because the service is "obligatory under law," the restriction on food and beverages under **Section 17(5)(b)** is lifted. Companies can claim ITC on the GST charged by Canteen Service Providers (CSP).
- **The "Cost-Borne" Restriction:** ITC is not allowed on the full invoice value if the company recovers a portion from the employee.
 - **Allowed:** ITC on the portion of the cost subsidized/borne by the company.
 - **Disallowed:** Proportionate ITC attributable to the amount recovered from employees.

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3. Core Legal Principles Established:

- **Circular No. 172/04/2022-GST:** This is the "gold standard" reference used in all three cases. It clarifies that the "obligatory by law" proviso applies to the entire list of blocked credits in **Section 17(5)(b)**, including food, beverages, and health insurance.
- **Employer-Employee Relationship:** Services provided by an employee to an employer are "outside the scope of GST" (Schedule III). Consequently, perquisites provided by the employer to the employee as part of the employment contract are also non-taxable.
- **Apportionment:** Following the Ultratech Cement Ltd precedent, a taxpayer cannot claim credit for tax that has been effectively "passed on" to or borne by the employee (the ultimate consumer).

Works Contract & Construction (Section 17(5)(c) & (d))



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➤ Section 17(5)(c) & (d):

• ITC Not Allowed On:

- Works contract services for construction of immovable property
- Construction on own account.

• Exception:

- ITC allowed if used for further supply of works contract services.

• Important: Construction includes:

- Reconstruction
- Renovation
- Additions (to the extent capitalized)

The ITC is allowed on inputs/input services (other than works contract) which are used to construct immovable property which is given on lease- can be assailed legally.

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- **SECTION 17(5)(e):** goods or services or both on which tax has been paid under section 10;
- **SECTION 17(5)(f):** goods or services or both received by a non-resident taxable person except on goods imported by him;
 - (fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013);

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- **SECTION 17(5)(g):** goods or services or both used for personal consumption;
- **SECTION 17(5)(h):** goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- **SECTION 17(5)(i):** any tax paid in accordance with the provisions of Section 74 in respect of any period up to Financial Year 2023-24 (Tax paid due to evasion detected).



Employee Related Expenses



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ITC is not allowed on:

- Rent-a-cab services
- Life insurance
- Health insurance
- Travel benefits (leave travel concession)

Exception:

ITC allowed, If it is **mandated by law**.

Example:

Health insurance required under **Labour laws** – ITC allowed.

Club Membership & Recreation

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ITC is not allowed on:

- Membership of clubs
- Health & fitness centres
- Recreation facilities

- Reason:

These are considered **personal consumption expenses**.

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IMPACT ON BUSINESSES

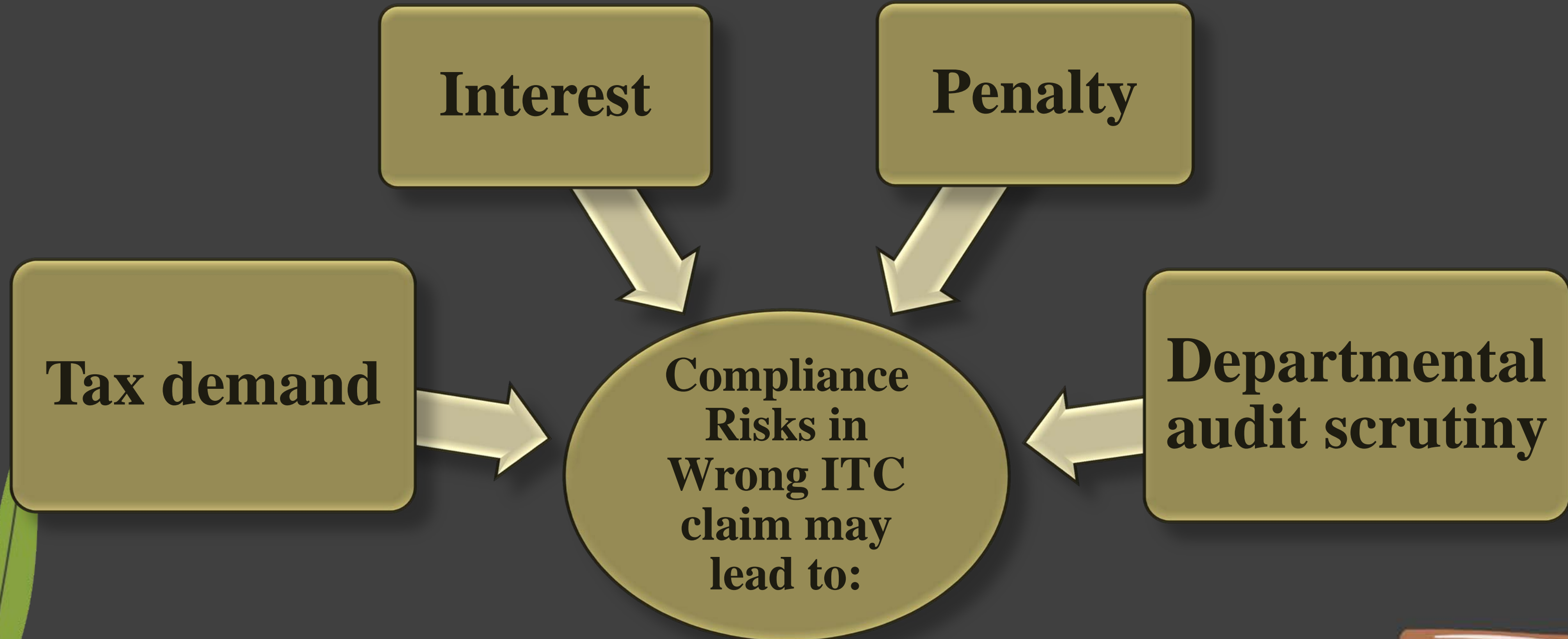


Impact on Other Persons



Example: Employer providing cab facility cannot claim ITC unless mandated by law.

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**Thank
you!**



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