




## Blocked Credits under GST

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 [taxguru.in/goods-and-service-tax/blocked-credits-gst.html](https://taxguru.in/goods-and-service-tax/blocked-credits-gst.html)

ITC of tax paid on almost every inputs and input services used for taxable supply of taxable goods or services or both is allowed under GST except a small list of items provided u/s. 17(5) of CGST Act.

List given under section is discussed below:

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 & Conveyance – ( Amended vide CGST Amendment Act 2018 and applicable w.e.f. 01 Feb 2019 )**

Motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), **except when used for** making following taxable supplies:

**A.** Further supply of such vehicle or conveyance e.g. for car dealers.

**B.** For transportation of passenger e.g. travels agency, airlines agency etc.

In Mrs. Mohana Ghosh , it was contended that people take the car on rent for the transportation of passengers. Rent-a-Cab is, therefore, essentially associated with the transportation of passengers. GST paid on the purchase of motor vehicles for supplying rent-a- cab service should, therefore, be admissible in terms of Section 17(5)(a)(b) of the CGST Act.

The Hon'ble AAR, West Bengal vide Order No. 06/WBAAR/2019-20 dated June 10, 2019 held that **GST paid on the purchase of motor vehicles for supplying rent-a-cab service is not admissible for credit in terms of Section 17(5)(b)(i) of the CGST Act.**

**C.** For imparting training e.g. motor driving schools.

Note 1 :- Sec 17(5)(a) blocked credit only for the motor vehicle for transportation of passengers with exceptions as stated above . Motor vehicles for transportation of goods are not in the list of blocked credit. No condition is required to be fulfilled to avail the ITC for vehicles meant for transportation of goods.

(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;

**Note 2** . Clause aa is inserted to cover vessels and aircraft specifically as they were not falling in definition of motor vehicle and clarity was not there for ITC available for vessels & aircrafts

(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

**Note 3** :- It is clarified that ITC on purchase of vehicle is blocked credit then the ITC of maintenance, insurance and servicing on such vehicles will also not be available.

**(II)** in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

**Note 4** (This part covers the Manufacturing industry and general insurance industry. The provision allows the Input tax credit to them too. It is an important insertion for both of these industries.)

(b) Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery , leasing , renting or hiring of motor vehicle , vessels or aircrafts refer to clause (a) and (aa) **except where**

Inward supply of these is used for making an outward supply of **same category** or as an element of a taxable composite or mixed supply.

(c ) Membership of club, health & fitness center.

(d) Rent a cab, life insurance and health insurance **except where** The government has made it obligatory for an employer to provide any of these services to its employees Inward supply of these

services is used for making an outward supply of **same category** or as element of a taxable composite supply or mixed supply.

(e) Travel benefits to employees on vacation such as Leave travel concession or home travel concession e.g. foreign trip provided to employee on leave.

(f) Works contract services for construction of immovable property **except when**

- It is input service for further supply of works contract service e.g. Subcontract
- Immovable property is plant and machinery i.e. ITC on works contract services used for construction of immovable plant and machinery is available.

(g) Inward supply received by a taxable person for the construction of an immovable property (other than plant and machinery) on **his own account** even when such supplies are used in the course of or furtherance of business.

Writ petition filed before Orissa High Court challenging denial of ITC to real estate companies, hotels, malls in cases where construction is undertaken by the Company itself.

The key issue raised before the Court was that where inputs are consumed in the construction of an immovable property, which is meant and intended to be for the provision of taxable output services, whether input tax credit was available to the assessee?

Hon'ble Orissa High Court in W.P. ( C) No. 20463 of 2018 vide order dated April 17, 2019 , in **M/s Safari Retreats Private Limited case** , allows ITC of GST on goods & services used for construction of hotels though falling under Negative list

(h) Inward supplies on which tax has been paid under **Composition scheme**.

(i) Inward supplies received by **Non Resident taxable person except goods imported** by him.e.g. Goods imported by Non resident taxable person is chargeable under customs which includes IGST paid by him, credit of which is available to Non resident taxable person.

(j) Goods or services used for **personal consumption**.

(k) Goods that are lost, stolen, destroyed, written off, or disposed of by way of free samples or gift.

(l) Tax paid u/s. 74(Fraud), 129(Seize), 130(Confiscation).