

INPUT TAX CREDIT MECHANISM UNDER GST

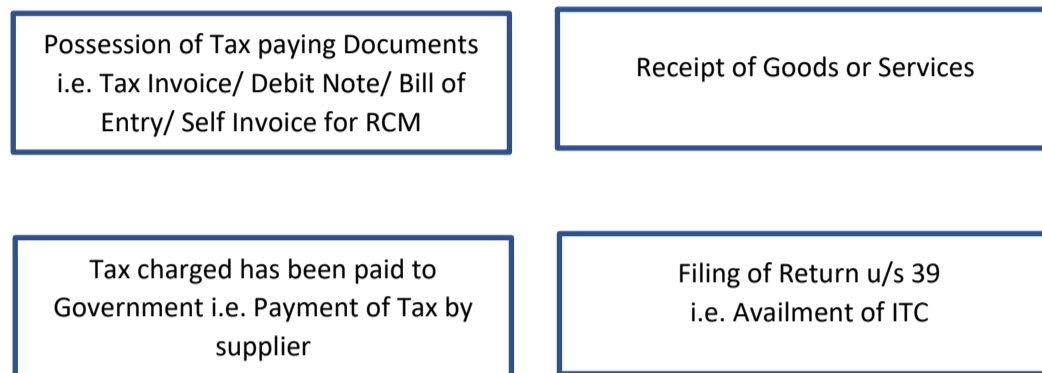
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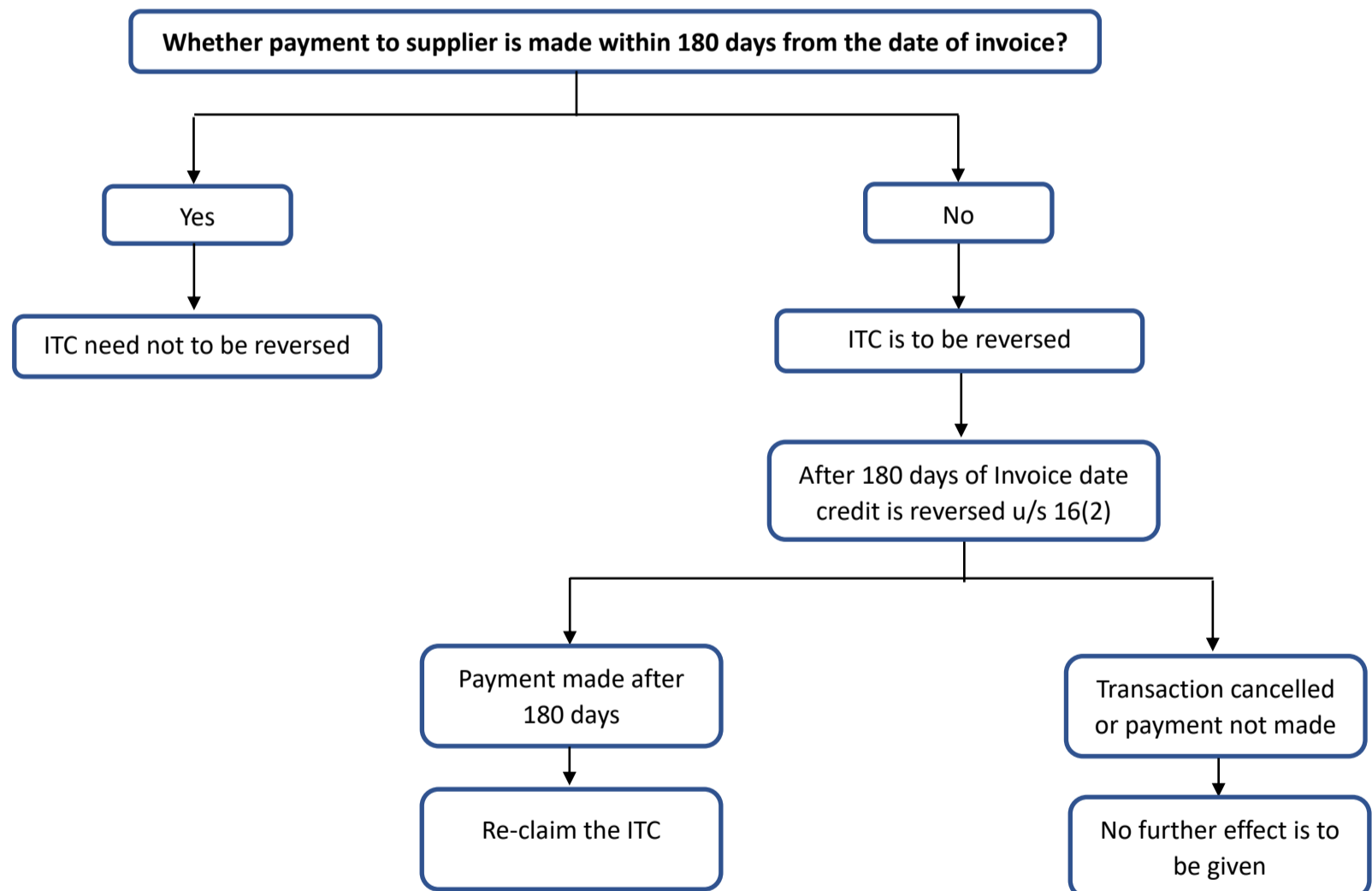
❖ LEGAL PROVISIONS UNDER GST RELATED TO AVAILMENT OF ITC:

- Chapter V of CGST Act, 2017 deals with Input Tax Credit. Sec: 16 of CGST Act, 2017 specifies the eligibility and conditions for availing ITC. Following conditions must be satisfied while availing ITC in GST return:

1. *Goods or Services procured are to be used or intended to be used in the course or furtherance of business for taxable supply.*
2. *Pre-Conditions for availment of Input Tax Credit:*



3. *Post- availment conditions linked with Input Tax Credit:*



4. *ITC shall not be available if depreciation is claimed on Tax component of the cost of capital goods under Income Tax Act*
5. *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.*

❖ ELIGIBILITY OF INPUT TAX CREDIT SECTION 17(5) OF CGST ACT, 2017:

1. Purchase of Motor Vehicles & Services of General Insurance, Servicing and Repairs & Maintenance of Motor Vehicles – Sec 17(5)(a)/(ab)

Sr. No.	Motor Vehicles for	Seating capacity (incl. driver)	Used for	Credit Eligibility – Motor Vehicles	Credit Eligibility – Related Services
1	Transportation of Person	More than 13 persons	Any purpose	Yes	Yes
2	Transportation of Person	Less than or Equal to 13 persons	Further supply of motor vehicle	Yes	Yes
			Transportation of passenger	Yes	Yes
			Training on driving	Yes	Yes
			Purpose other than above	No	No*
3	Transportation of Goods	NA	NA	Yes	Yes
4	Other special purposes, such as Dumpers, Work trucks, Fork-lift trucks, etc.	NA	NA	Yes	Yes

*But credit shall be available if received by:

- i. Manufacturer of such motor vehicles
- ii. Supplier of General insurance services of such motor vehicles

2. Purchase of Vessels and Aircrafts & Services of General Insurance, Servicing and Repairs & Maintenance –Sec 17(5)(aa)/(ab)

Sr. No.	Vessels & Aircrafts used for	Credit Eligibility – Vessel/Aircraft	Credit Eligibility – Related services
1	Further supply of vessel or aircraft	Yes	Yes
2	Transportation of passengers	Yes	Yes
3	Training on navigating/flying	Yes	Yes
4	Transportation of Goods	Yes	Yes
5	Purposes other than above	No	No*

*But credit shall be available if received by:

- i. Manufacturer of such vessels or aircrafts
- ii. Supplier of General insurance services of such vessels or aircrafts

3. Food and Beverages, Outdoor catering, Beauty treatment, Health services, Cosmetic and Plastic surgery, Life Insurance and Health Insurance –Sec 17(5)(b)

Sr. No.	Purpose	Condition	Credit Eligibility
1	Similar line of Business	Not Applicable	Yes
2	Not in Similar line of Business	Obligatory for Employer to provide to its Employees	Yes
		Not Obligatory for Employer to provide to its Employees	No

4. Membership of a club, health & fitness center & Travel benefits extended to employees – Sec 17(5)(b)

Sr. No.	Type of Inward supply	Condition	Credit Eligibility
1	Membership of club, health and fitness centre	Obligatory for Employer to provide to its Employees	Yes
		Not Obligatory for Employer to provide to its Employees	No
2	Travel Benefits extended to employees	On vacation, such as leave or home travel concession	Obligatory for Employer to provide to its Employees
			Not Obligatory for Employer to provide to its Employees
	For Business trip	Not Applicable	Yes

5. Leasing, Renting or Hiring of Motor Vehicles, Vessels or Aircrafts –Sec 17(5)(b)

Sr. No.	Type of Conveyance	Used for	Credit Eligibility
1	Motor Vehicles	Further supply (rental, lease, etc.) of motor vehicle	Yes
		Transportation of passenger	
		Training on driving	
		Purpose other than above	No*
2	Vessels / Aircrafts	Further supply (rental, lease, etc.) of vessels or aircraft	Yes
		Transportation of passengers	
		Training on navigating/flying	
		Transportation of goods	
		Purposes other than above	No*

*But credit shall be available if it is obligatory for the employer to provide the same to its employees.

6. Works contract services, Goods or services received for Construction of Immovable Property – Sec 17(5)(c)/(d)

Sr. No.	Type of Inward supply	Type of Property	Use of the Property for	Type of Expenditure	Credit Eligibility
1	Works Contract Services	Immovable Property	Own use	Capital	No
				Revenue	Yes
			Further supply of Works Contract service	Capital	Yes
				Revenue	Yes
		Further supply of other service (e.g. Renting, etc.)	Capital	No	
	Revenue	Yes			
	Plant & Machinery*	-	-	-	Yes
2	Goods or services	Immovable Property	Own use	Capital	No
				Revenue	Yes
			Further supply in course or furtherance of business	Revenue	Yes
				Capital	No
		Plant & Machinery*	-	-	Yes

*The expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

- i. land, building or any other civil structures;
- ii. telecommunication towers; and pipelines laid outside the factory premises.

7. Miscellaneous Clause – Sec 17(5)(e) to (i)

Sr. No.	Type of Inward supply	Situation	Credit Eligibility	
1	Goods or services or both	Outward tax paid u/s 10, i.e. Composition Scheme	No	
		Received by Non-Resident Taxable Person	Goods Imported	Yes
			Goods Procured from within India	No
			Services received from India/outside India	No
			Used for Personal consumption	No
2	Goods	lost/ stolen/ destroyed/ written off disposed by way of gift/ distributed as free samples	No	
3	-	Any tax paid u/s 74, 129, 130	No	

❖ CRITICAL POINTS TO BE TAKEN CARE BEFORE 20-10-2021 (BEFORE SEPTEMBER GSTR-3B DUE DATE) FOR THE YEAR 2020-21:

- Following are some important deadlines regarding claiming and reversal of ITC including amendments and issuance of credit note:

Particulars	Specified date (A)	Filing of Annual return (B)	Last Date for Adjustment
Claiming Input Tax Credit (ITC) for F.Y. 2020-21	20 th October, 2021	31 st December, 2021	Earliest of (A) & (B)
Reversal of Input Tax Credit (ITC) for F.Y. 2020-21			(A)
Issuing credit note for the supply made in F.Y. 2020-21			Earliest of (A) & (B)
Amendments/rectification for supply made in F.Y. 2020-21			Earliest of (A) & (B)

❖ IMPORTANT RULE 36(4) OF CGST RULES, 2017 EMPHASIZES ITC MATCHING WITH FORM GSTR-2A:

- Relevant extract of the said Rule is reproduced below:

36. Documentary requirements and conditions for claiming input tax credit.-

1. ...
2. ...
3. ...
4. *Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in FORM GSTR-1 or using the invoice furnishing facility shall not exceed [5 per cent.] of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in FORM GSTR-1 or using the invoice furnishing facility.*

Provided that the said condition shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.

Provided further that such condition shall apply cumulatively for the period April, May and June, 2021 and the return in FORM GSTR-3B for the tax period June, 2021 or quarter ending June, 2021, as the case may be, shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.

- Before insertion of said Rule, taxpayer was claiming ITC on a self-declaration basis in Form GSTR-3B. The amount of ITC which is not reflected in Form GSTR-2A/2B was treated as provisional credit.
- However, after insertion of Rule 36(4) of CGST Rules, 2017; the provisional ITC amount is restricted only to the extent of 20% of the total eligible ITC amount reflected in the Form GSTR-2A/2B for such period. The said limit is now reduced to 5% of total eligible ITC amount populated in Form GSTR-2A. The changes in said limit made for different period is tabulated as under:

0% ITC restriction from 01.07.2017 to 09.10.2019			
ITC as per Books	Eligible ITC populated in GSTR-2B	ITC restricted up to @ 0%	Total ITC available
50,000/-	35,000/-	-	50,000/-
1,00,000/-	70,000/-	-	1,00,000/-
20% ITC restriction from 10.10.2019 to 31.12.2019			
ITC as per Books	Eligible ITC populated in GSTR-2B	ITC restricted up to @ 20%	Total ITC available
50,000/-	35,000/-	7,000/-	42,000/-
1,00,000/-	70,000/-	14,000/-	84,000/-
10% ITC restriction from 01.01.2020 to 31.12.2020			
ITC as per Books	Eligible ITC populated in GSTR-2B	ITC restricted up to @ 10%	Total ITC available
50,000/-	35,000/-	3,500/-	38,500/-
1,00,000/-	70,000/-	7,000/-	77,000/-
5% ITC restriction from 01.01.2021 Onwards			
ITC as per Books	Eligible ITC populated in GSTR-2B	ITC restricted up to @ 5%	Total ITC available
50,000/-	35,000/-	1,750/-	36,750/-
1,00,000/-	70,000/-	3,500/-	73,500/-

- While calculating the maximum ITC available as per Rule 36(4) of CGST Rules, 2017; ITC in respect of following shall not be considered:
 - a. ITC available on the Bill of Entry against import of goods.
 - b. ITC available on RCM (including import of services/ 9(3), 9(4) etc.)
 - c. Invoice issued by Input Service Distributor since its credit appears in GSTR-6A.
 - d. Re-availment of credit under Rule 37 or after year calculation under Rule 42
 - e. ITC claimed through ITC-01, ITC02, TRAN-1, TRAN-2 and TRAN-3.

- The reason behind inserting the said Rule is listed as under:
 - Regularity in filing of Form GSTR-1 by the registered persons.
 - No ITC would be claimed against fake invoices raised.
 - Registered persons would report their outward taxable supplies in totality due to ITC matching mechanism.

- Compliance of new Rule will affect taxpayer as under:
 - This new rule would affect the working capital of the taxpayer since he would be required to pay the liability in cash, despite having eligible ITC on payment of Taxes to its supplier.
 - Moreover, the taxpayer would not be able to claim refund of excess Tax paid by them due to default of the suppliers.
 - It becomes vital for a business to regularly reconcile their purchase data between their books and the GSTR-2A/2B.

❖ INTRODUCTION OF CLAUSE (AA) U/S 16 OF CGST ACT, 2017 – 100% ITC MATCHING WITH FORM GSTR-2A:

- Section 16 (2) (aa) of the CGST Act is proposed to be inserted to provide that ITC on invoice or debit note should be availed only when such details are uploaded by supplier in GSTR-1. In nutshell, for availing ITC on inward supply; new condition is proposed to be inserted where invoice or debit note for which recipient wants to avail ITC must be auto-populated in Form GSTR-2A / GSTR-2B.

- Rule 36(4) of CGST Rules, 2017, was introduced to put restriction on availment of ITC. The said Rule has been amended several times and after the insertion of this sub-clause in Section 16, the date wise impact on ITC restriction is tabulated as under:

Time Period	Restriction (%)	ITC Restriction in value (Rs.)	Total ITC Available (Rs.)
From 01.07.2017 to 09.10.2019	0%	-	50,000/-
From 10.10.2019 to 31.12.2019	20%	7,000/- (20% of 35000)	42,000/- (35000 +7000)
From 01.01.2020 to 31.12.2020	10%	3,500/- (10% of 35000)	38,500/- (35000 +3500)
From 01.01.2021 to date to be notified	5%	1,750/- (5% of 35000)	36,750/- (35000 +1750)
From date to be notified	100%	-	35,000/-

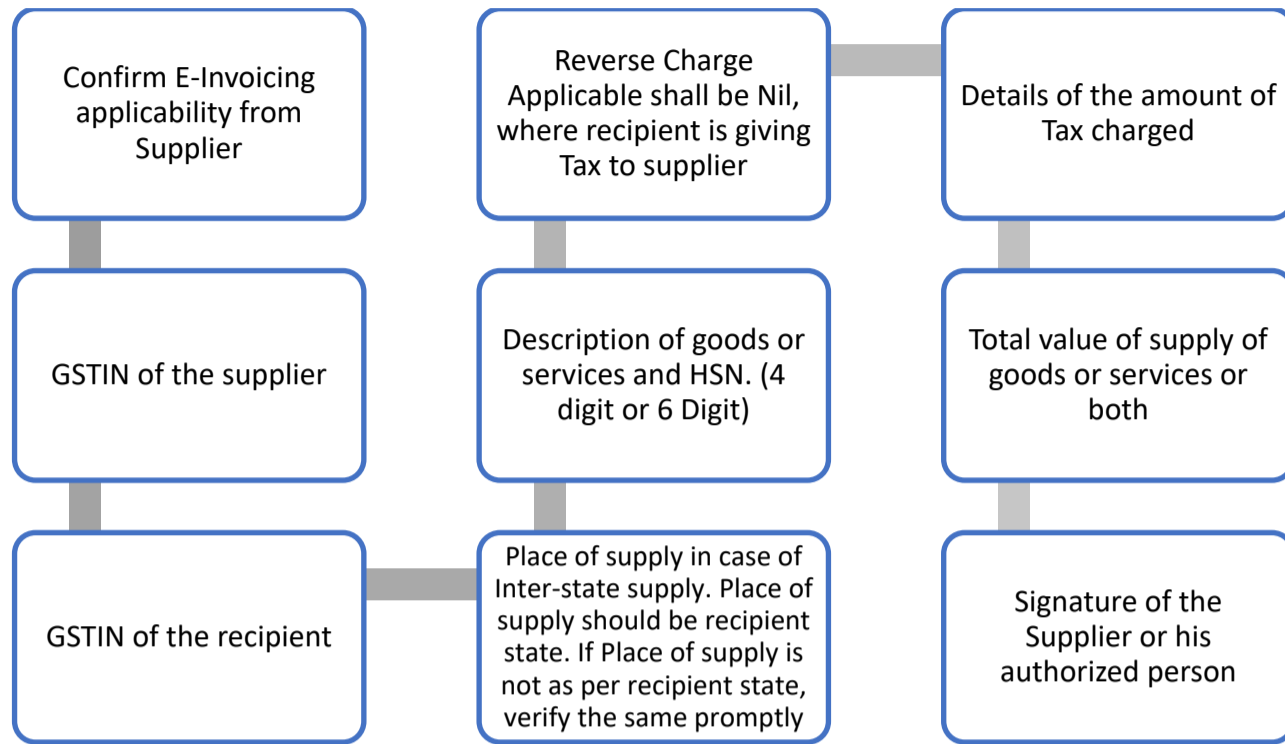
❖ ITC RECONCILIATION PROCESS:

- ITC matching is a recurring process and not an annual exercise. Matching of ITC with Form GSTR-2A/2B is coupled with stringent Government penal actions. Hence, the same ITC matching process should be included as an integral process of company's monthly Tax compliance and not just consider it as an annual exercise.

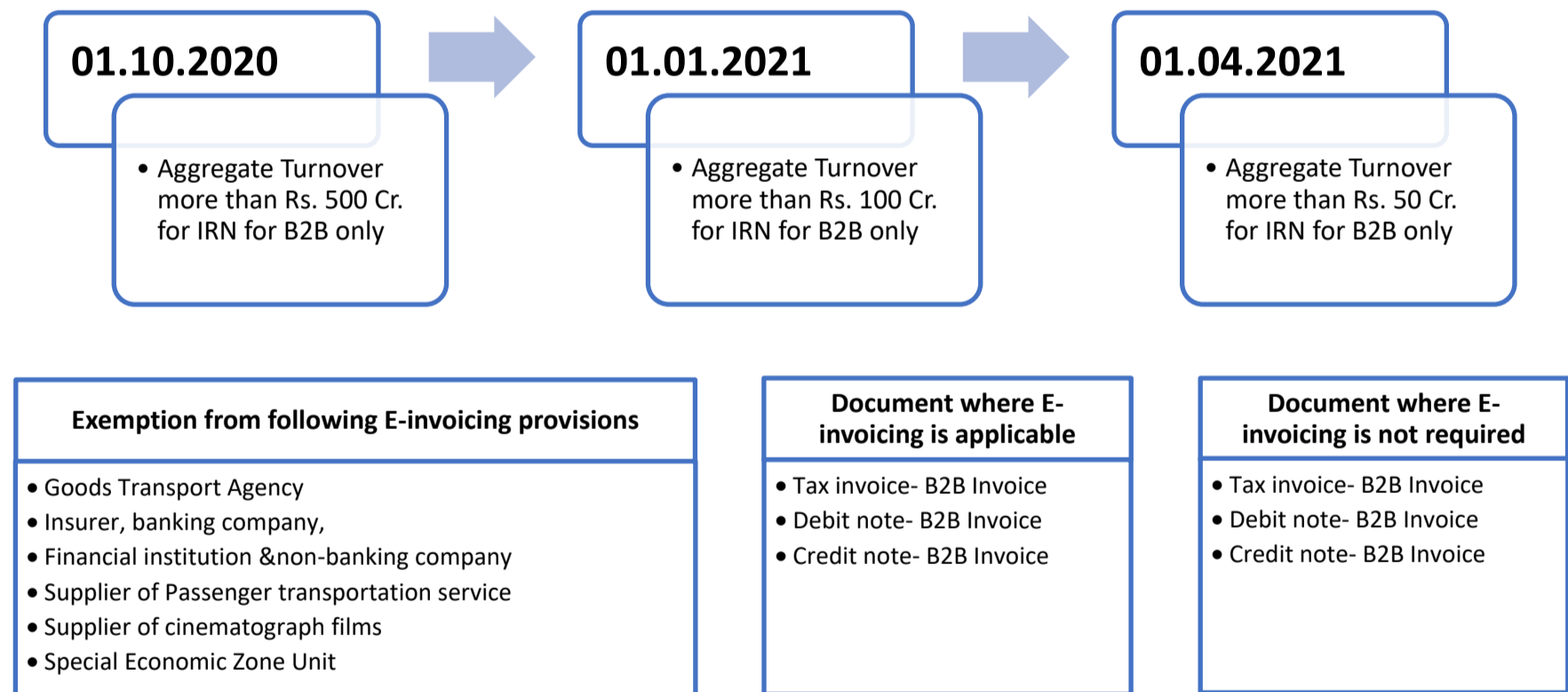
- Entire process shall be divided in following four parts:
 - 1) Invoice Verification Process.
 - 2) GSTR-2B Reconciliation Process.
 - 3) Invoice Payment & GST Realization instructions to the Payment department.

1. INVOICE VERIFICATION PROCESS:

- As per proviso to Rule 36 of CGST Rules, 2017 an invoice issued by supplier should contain following **mandatory** details that enables recipient of invoice to claim ITC.



- E-invoicing applicability is explained graphically as under:



If -E-invoicing applicable to supplier and E-Invoice is not generated, then said invoice is not valid Tax paying document for claiming ITC.

2. GSTR-2B RECONCILIATION PROCESS:

- **GSTR-1/IFF Return/ GSTR-3B Due date:**

Before starting ITC verification process on GST portal, please note that due date of filing Form GSTR-1/IFF/Form GSTR-3B is as below:

Outward Return Type	Outward Return Due Date	GSTR-3B Due Date
Monthly GSTR-1	11 th of the succeeding month	20 th of the succeeding month
IFF Return & Quarterly GSTR-1	13 th of the succeeding month	22 nd / 24 th of the succeeding Quarter month

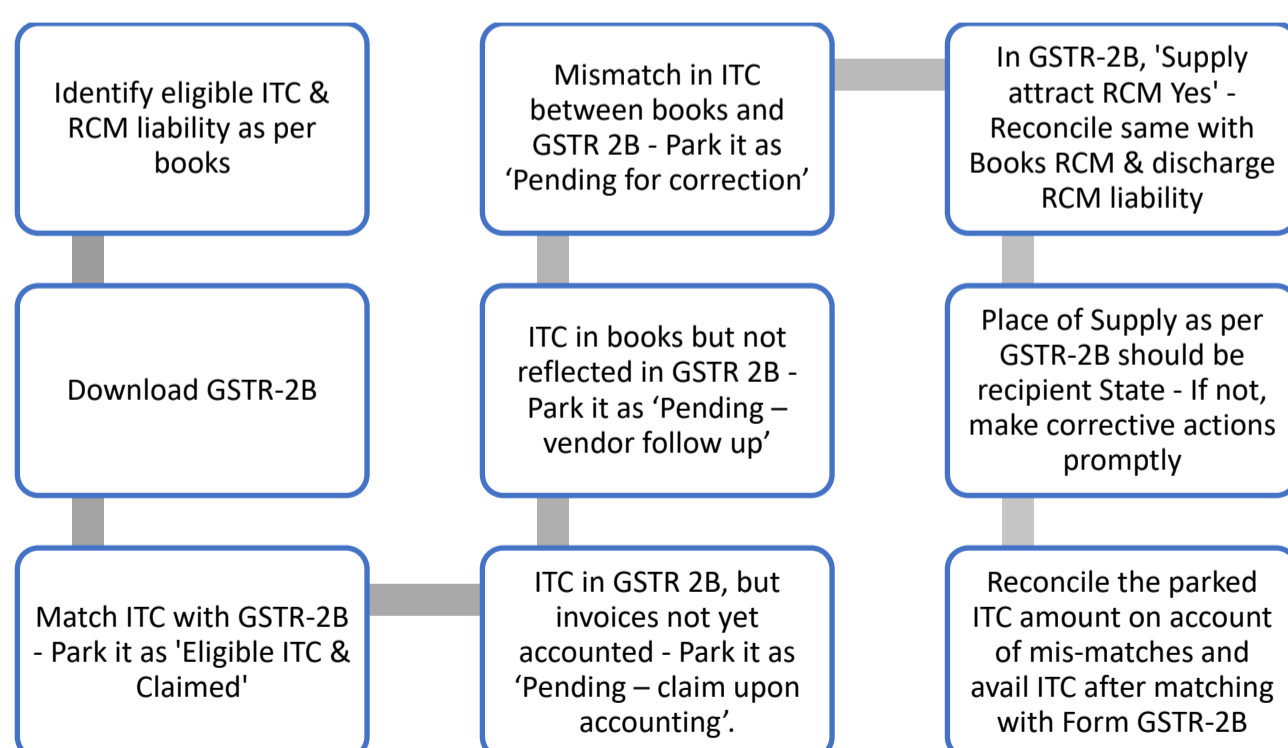
- Form GSTR 2B is an auto-drafted document that will act as an Input Tax Credit (ITC) statement for taxpayers. It is static in nature. The statement is finalised every month and details cannot be changed afterward based on the actions of suppliers or recipients. While filing returns in Form GSTR 3B, the auto drafted GSTR-2B statement can be used as a basis for calculating ITC claims. Form GSTR-2B contains below mentioned Tables:

Sr.	Type	Remark
1.	B2B	Inward supplies from registered persons including supplies attracting reverse charge
2.	B2BA	Amendments to previously filed invoices by supplier
3.	B2B-CDNR	Debit/Credit notes (Original)
4.	B2B-CDNRA	Amendments to previously filed Credit/Debit notes by supplier
5.	ISD	ISD Credits
6.	ISDA	Amendments ISD Credits received
7.	IMPG	Import of goods from overseas on bill of entry
8.	IMPGSEZ	Import of goods from SEZ units/developers on bill of entry

- Difference between Form GSTR-2A and Form GSTR-2B is explained as under:

Parameters for Comparison	GSTR-2A	GSTR-2B
Nature of the statement	Dynamic, as it changes from day to day, as and when a supplier uploads the documents.	GSTR-2B is static in nature, i.e., it contains all purchases uploaded & filed between 14 th of the month till 13 th of the following month irrespective of month of return and date of invoice.
Use for the purpose of availing ITC	GSTR-2A can be utilised for the purpose of claiming ITC subject to certain adjustment.	Data auto-populated in GSTR-2B is to be used for claiming ITC in GSTR-3B. ITC appeared in GSTR-2B auto-populates in GSTR-3B while filing.
When will ITC entries get reflected from various sources?	GSTR-1: Saved/filed/submitted, GSTR-6: Submitted GSTR-7 and GSTR-8: Filed then ITC entries get reflected.	After filing of GSTR-1, GSTR-5, or GSTR-6, ITC entries get reflected.
Inclusion of SEZ unit's data	The data for SEZ units will not be included in this return.	SEZ unit data will be included in GSTR-2B.
Bifurcation	GSTR-2A does not bifurcate the ITC between eligible and Ineligible.	GSTR-2B bifurcates the ITC into eligible and ineligible ITC.

- Below mentioned standard operating procedure (SOP) is required to be followed for claiming ITC. Let us understand how to make reconciliation of ITC as per books with Form GSTR-2B:



3. INVOICE PAYMENT & GST REALIZATION INSTRUCTIONS TO THE PAYMENT DEPARTMENT:

- The GST component on supplies received from a supplier should be retained till the corresponding credit has become available to it in its Electronic Credit Ledger (ECL). It is required to verify Form GSTR-2B generated on GST portal.
- In the case of mismatch of credits with GST Electronic Credit Ledger, make such type of arrangements that enables supplier to indemnify recipient due to loss of ITC along with Interest and Penalty.
- Payment of GST to the supplier should not be made in the event where the supplier's GST registration status becomes cancelled or suspended on the GST portal either due to irregular return filing or due to any non-compliance of GST provisions or otherwise. If the GST registration status of supplier becomes inactive/cancelled/suspended, then corrective measures are required to be taken as soon as possible so that loss of ITC and legal complexities can be minimized.
- The supplier assures that all statutory compliances have been made or will be made as may be prescribed in law. The supplier shall indemnify the recipient for loss of damages arising out of breach of any laws and regulations by the supplier including any claims suits and proceedings in that respect.
- Communication with taxpayers – GST portal has introduced a functionality to communicate with recipient or suppliers.
(Under 'Services > 'User Services'). Some features of the utility are as follows:
 - *Read and reply to options available.*
 - *Email & SMS notification sent to registered details.*
 - *Missing invoices can be uploaded by recipient to the supplier.*
 - *Limit – 100 notifications to a GSTIN.*
 - *Payment status can also be provided to suppliers.*
 - *Webinar on Communication Channel between Taxpayers can be viewed from:
<https://www.youtube.com/watch?v=hEUgoXQy-Ig>.*