

**GOODS  
AND  
SERVICES  
TAX**

**GST  
UPDATES**

Clarification on Availability of ITC in Case of Ex-Works  
Contract u/s16(2)(b) of CGST Act, 2017

The Government of India issued **Circular No. 241/35/2024-GST on December 31, 2024**, to clarify availability of input tax credit u/s 16(2)(b) of the CGST Act, 2017 in respect of goods which have been delivered by the supplier at his place of business under Ex-Works Contract.

### **What is an Ex-works contract (EXW)?**

EXW is a contract where the seller obligation is limited to making the goods available at the designated premises (mainly the factory gate of the seller) and buyer assumes the primary responsibility for all subsequent logistics and associated costs. **The invoice is issued by the former at the time the goods are handed over to the transporter/recipient at the gate of factory premises.**

Now, the question here arises that whether the recipient is eligible to avail the input tax credit (ITC) at the time **invoice is issued** or when the goods are made **physically available** to the recipient.

### **Relevant legal prepositions and clarification: -**

Sec 16(2)(b) starting with a non-obstante clause state that one of the conditions for availing the ITC is that the good must be received by the recipient subject to certain explanations.

Explanation provides the condition of “received” is satisfied when:

- a) the goods are delivered to a recipient or to any other person on the direction of such registered person
- b) such direction may be given before or during movement of goods;
- c) Delivery may be either by way of transfer of documents of title to goods or otherwise.

Thus, in case of EXW, the property/ownership is transferred at the time goods are available at the designated premises and hence the essential condition of “received” is satisfied.

Therefore, the CBIC vide this circular clarifies that ITC is available at the time goods are made available at the designated premises subject to other conditions of availability of ITC.


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