

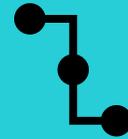
GST in Hospitality Sector

Restaurants & Catering

Presented by:

Manish Raj Dhandharia, FCA

Agenda of the Session



Agenda:

1

Background of restaurant and catering services

2

Taxability of Restaurant Services

3

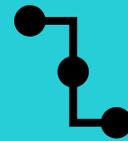
Restaurant sector-specific peculiarities

4

Taxability of Catering Services



Background of restaurant and catering services



Extract of Schedule II:

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:-

(a) works contract as defined in clause (119) of section 2; and

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

Relevant definitions:

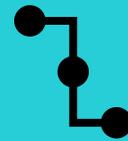
Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017

(xxxii) 'Restaurant service' means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.

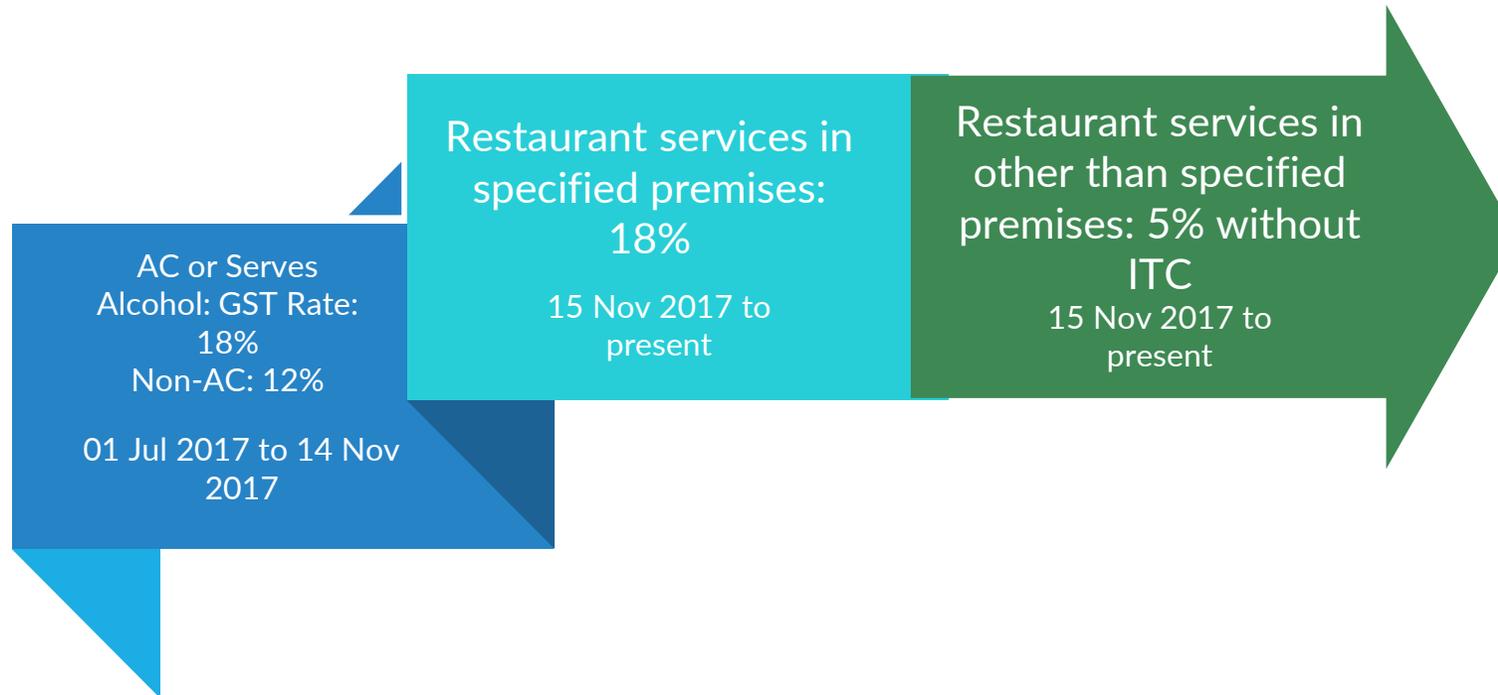
(xxxiii) 'Outdoor catering' means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature.

[The above definitions have been inserted w.e.f. 01-10-2019]

Taxability of Restaurant Services under GST



GST Rate: Restaurant Services



Place of supply:

Section 12 of the IGST Act

12(4) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be **the location where the services are actually performed.**



Value of supply:

Section 15 of the CGST Act

- Transaction value where parties are not related, and the price is the sole consideration



MEDIA BRIEF

INTRODUCING THE ALL-NEW

Domino's CHEESY REWARDS

ENROLL ON THE DOMINO'S APP OR STORE AND GET A

FREE* PIZZA

ON EVERY 6TH ORDER

ENROLL NOW

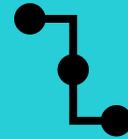
Domino's

The advertisement features a background of faint, repeating icons of pizzas and glasses. On the right side, there is a photograph of a whole pizza with a slice being lifted by a white plastic fork. The pizza is topped with yellow peppers, green onions, and red tomatoes.

Value of supply?

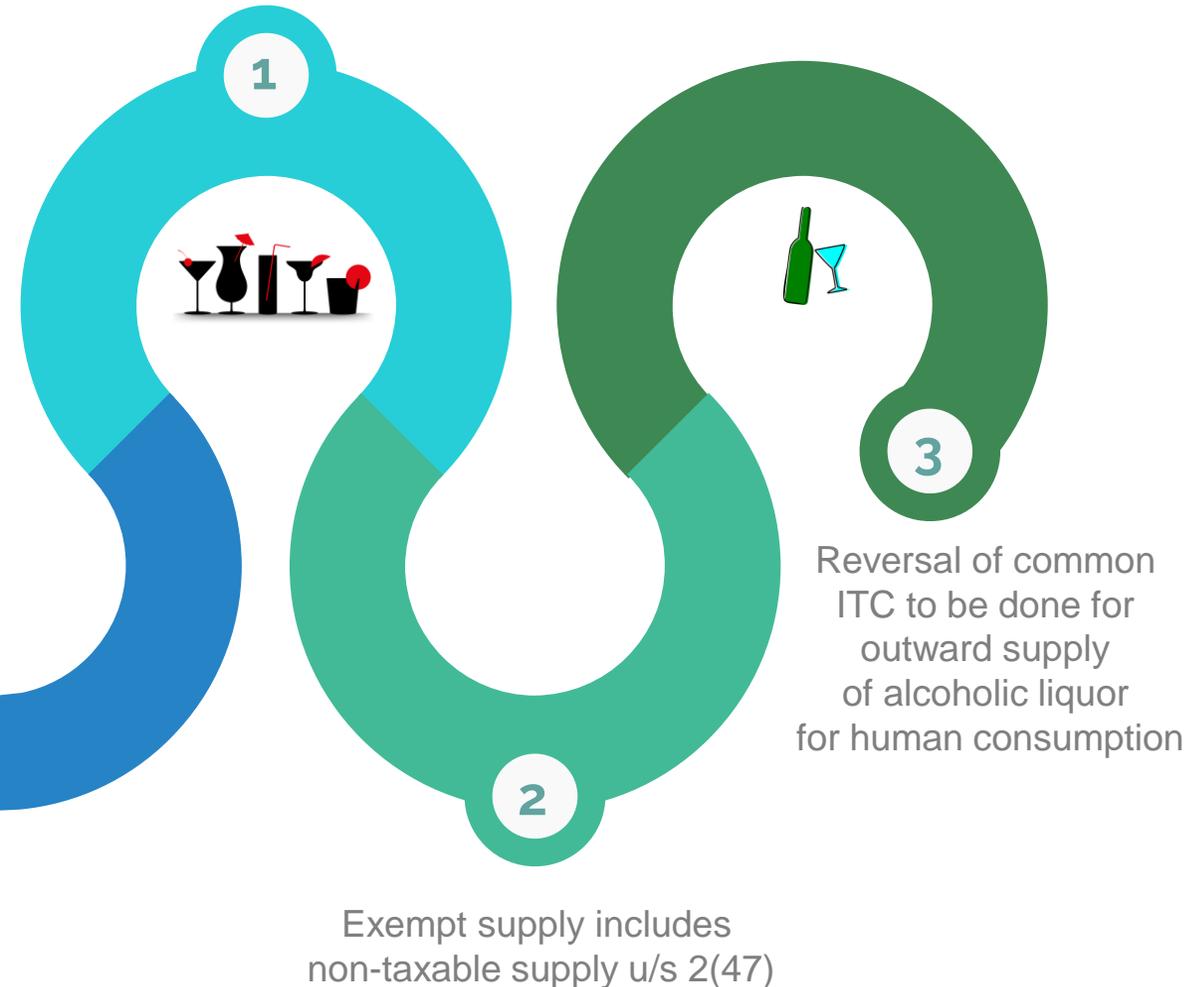


Sector-specific peculiarities



Supply of alcoholic liquor for human consumption

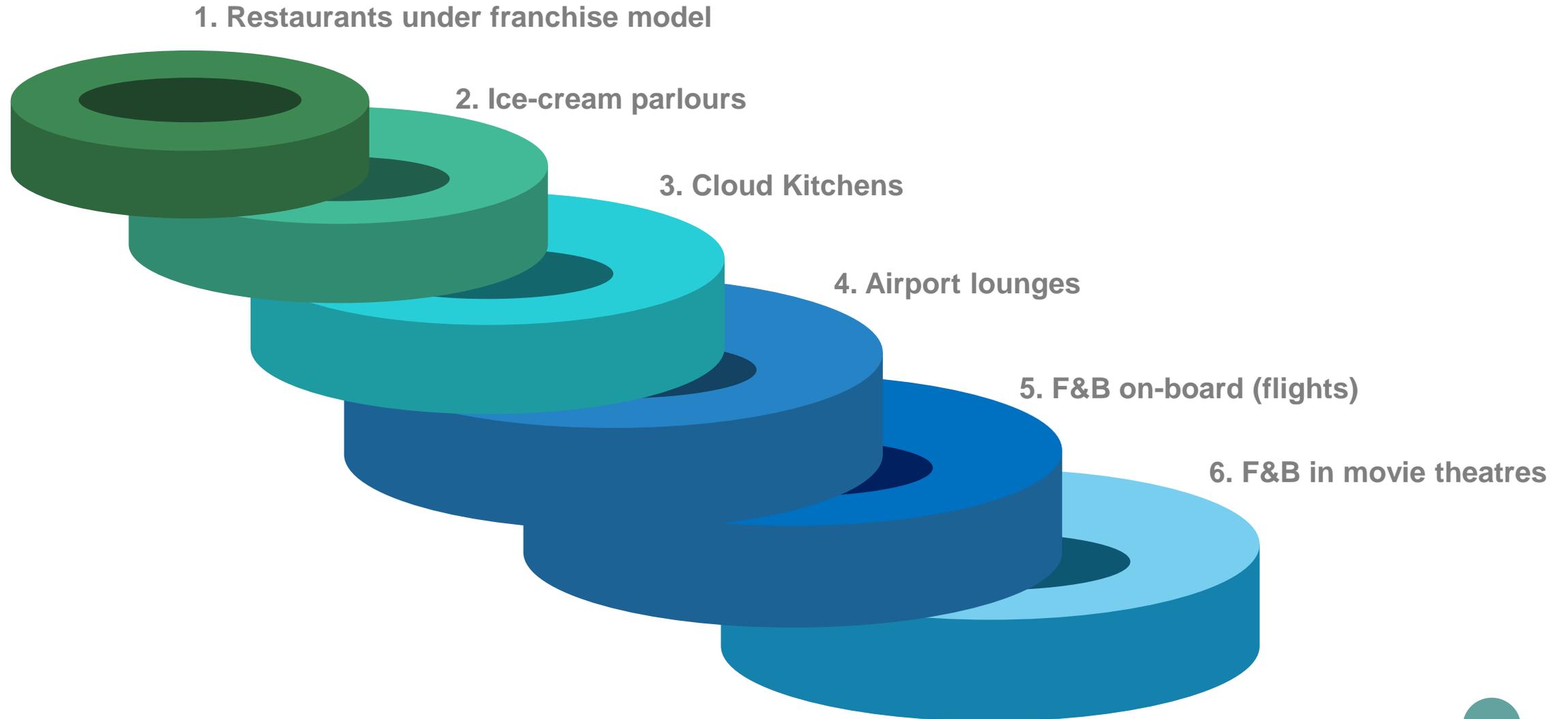
Alcoholic liquor for human consumption is a non-taxable supply [Section 9 r/w 2(78)]



Karnani FNB Specialities LLP – WBAAR

Clause (47) of section 2 defines 'exempt supply' to include non-taxable supplies. Thus, by reading sections 2(47) and 2(78) together, it is clear that the sale of alcoholic liquor for human consumption is also considered an 'exempt supply' under the GST Act. Accordingly, the applicant shall be required to reverse ITC attributable to the exempt supply under sub-section (2) of section 17 of the GST Act read with rule 42 of the GST Rules.

Areas to be covered:



Some case laws:

In Re : HRPL Restaurants Pvt. Ltd, (2023) 4 Centax 410 (A.A.R. - GST - Guj.)

- **Issue-**

- Whether supply of readily available ice cream along with cooked food at restaurant can be considered as supply of 'restaurant services'.

- **Decision-**

- An ice-cream when ordered and supplied along with cooked or prepared food through the outlets would assume character of composite supply, wherein prepared food being principal supply and, hence, qualifies as 'restaurant services'. Further, such composite supply, would be classifiable under 'restaurant service' which would be leviable to GST at 5% with no input tax credit.

Some case laws:

M/s. Kundan Misthan Bhandar, AAR Ruling, Uttarakhand [2019 (24) G.S.T.L. 94 (App A.A.R. - GST)].

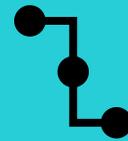
▪ **Issue:-**

- Whether supply of pure food items such as sweetmeats, namkeens, cold drink and other edible items from sweetshop which also runs a restaurant is a transaction of supply of goods or a supply of Service?
- What is the nature and rate of tax applicable to the said items supplied from ground floor of a sweetshop in which restaurant is also located on the first floor and whether the applicant is entitled to claim benefit of Input Tax Credit with respect to the same?

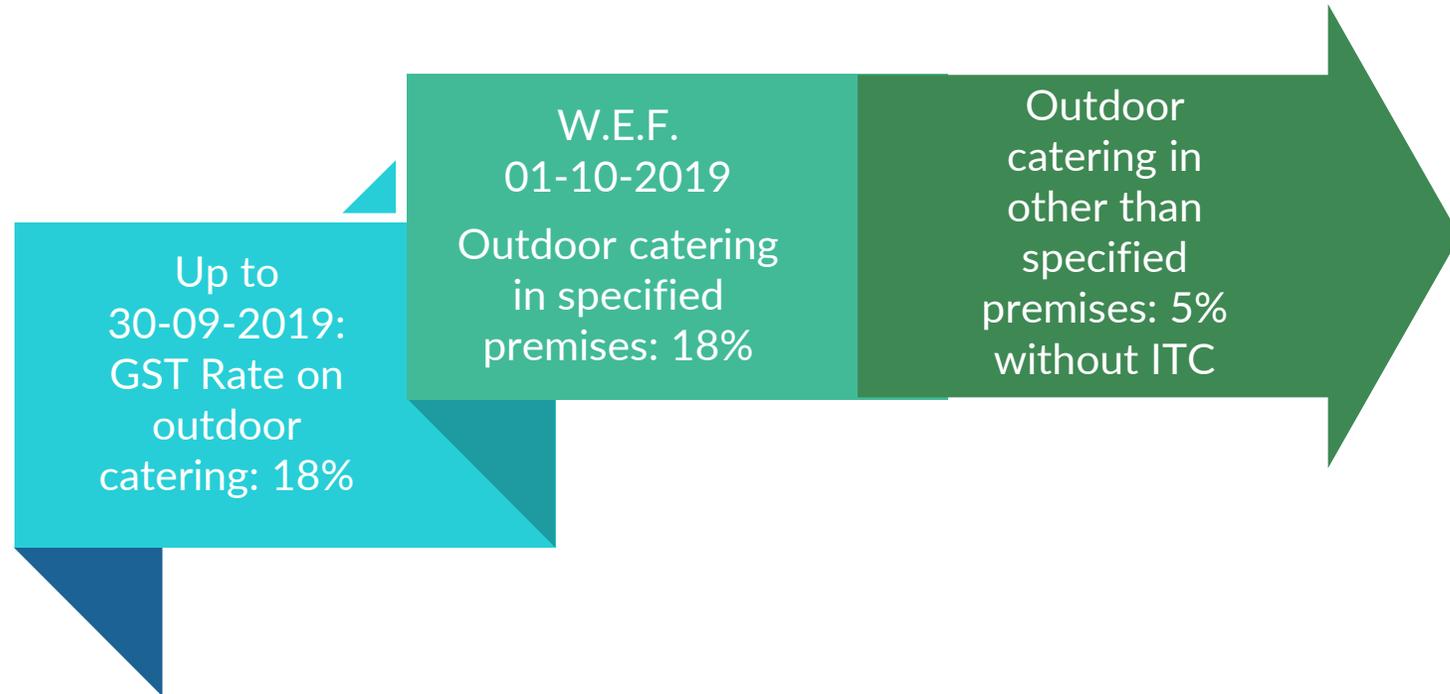
▪ **Decision-**

- When sweets, namkeens, cold drinks and other edible items are supplied to customers in restaurant or as takeaway from restaurant counter which are billed under restaurant head, then such supply is composite supply with restaurant service as principal supply - These would be liable to GST at the rate of 5% as applicable to restaurant service, without ITC.
- However, such goods when supplied at sweetshop counter have no direct or indirect nexus with restaurant service. This is not composite supply but individual supply of goods. Such supply would be levied with applicable GST rate with ITC facility available.

Taxability of Catering Services



GST Rate: Catering Services



(xxxvi) 'Specified premises' means premises providing 'hotel accommodation' services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.

Catering Services: Place of Supply



Section 12(4): Location, where services are actually performed

Example:

Location of Caterer: Maharashtra

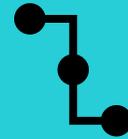
Location of event: Gujarat

Place of Supply: Gujarat

Nature of Tax: IGST



Eligibility of ITC in the hands of recipient



Eligibility of ITC in the hands of recipient:

Section 17(5) of CGST Act

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

(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;

Case Study:

Sl. No.	Situation	Remark
1	'Restaurant A not in specified premises' procures canned juices, beverages and ready to cook snacks.	ITC not available - Proviso to Section 17(5)(b) specifically allows credit but ITC is restricted as per GST Rate Notification
2	'Restaurant A located in specified premises' procures canned juices, beverages and ready to cook snacks.	ITC available - No restriction in GST Rate Notification - Proviso to Section 17(5)(b) specifically allows credit
3	Mr. A is providing outdoor catering services to customer. He receives inward supply of outdoor catering services from Mr. B.	ITC not available - Proviso to Section 17(5)(b) specifically allows credit but ITC is restricted as per GST Rate Notification
4	Mr. A is providing event management services (as a composite supply) to the customer. Inward supply of Mr. A includes outdoor catering.	ITC available - Proviso to Section 17(5)(b) specifically allows credit



Thank you.

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