

GOODS AND SERVICE TAX (GST) – TRANSITIONAL PROVISIONS

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PRESENTATION COVERAGE



TRANSITIONAL PROVISIONS UNDER CGST/SGST
ACT – SEC. 139 TO 142 OF CGST ACT

TRANSITIONAL PROVISIONS UNDER IGST ACT – SEC.
20 OF IGST ACT

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- Credit of duties and taxes on stock of inputs, work-in-process and finished goods

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Summary of Provisions

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Summary of Provisions

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INTRODUCTION



Chapter XX of CGST Act and Chapter IX of IGST Act makes provisions for transition from the old tax structure that is excise duty, service tax and sales tax to GST regime.

SEC. 139 – REGISTRATION AND MIGRATION



SEC. 139 – REGISTRATION AND MIGRATION

- ❑ The existing registration under any Act will be migrated into GST Act
- ❑ The government has issued registration rules and formats giving the process of migration which are discussed in sec. 139 of the GST Act
- ❑ One registration for one state – Every taxable person is required to take separate registration in each State or Union Territory from where he makes taxable supply of goods and services.
- ❑ A person may have different place of business in one state.

SEC. 139 – REGISTRATION AND MIGRATION

- For example, G Company Pvt. Ltd. has
 - factory at Pune,
 - Head Office at Nagpur and
 - godown in Mumbai.

Now, G Company Pvt. Ltd. will be provided with one registration in the state of Maharashtra with the address of “Principle Place of Business” and all other locations will be considered as an additional “Place of Business”

SEC. 139 – REGISTRATION AND MIGRATION

- Principle place of business means the place of business specified as principle place of business in certificate of registration
- Place of business includes
 - ▣ Place from where the business is ordinarily carried on, including warehouse, godown, storage, etc.
 - ▣ Place where taxable person maintains his books of accounts
 - ▣ Place where taxable person is engaged in business through an agent, by whatever name called

SEC. 139 – REGISTRATION AND MIGRATION

- MULTIPLE REGISTRATION PERMITTED FOR SEPARATE BUSINESS VERTICAL
 - ▣ Business vertical means distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals
 - ▣ For the purpose of this clause, factors that should be considered in determining whether goods or services are related, include -
 - ▣ Nature of goods or services

SEC. 139 – REGISTRATION AND MIGRATION

- ▣ Nature of production processes
- ▣ Type or class of customers for the goods or services
- ▣ Nature of regulatory environment (e.g., banking, insurance, public utilities)
- It is option of the taxable person to take separate registration for separate verticals.
- He may not take separate registration for business verticals.

SEC. 139 – REGISTRATION AND MIGRATION

- For example, G Company Pvt. Ltd. are into the business of
 - ▣ manufacturing of LED lights as well as
 - ▣ processing of mozzarella cheese.

It can be said that G Company Pvt. Ltd. has two different business verticals, as nature of both the products and its production processes are different. Now, it is upto the company to decide whether it wants to opt for multiple registration or not.

The government has not made it compulsory

SEC. 139 – REGISTRATION AND MIGRATION

MIGRATION BY MANUFACTURER :

- They will be automatically provided with the certificate of registration on provisional basis by VAT authorities.
- The person registered with VAT authorities will have registration in different states. Normally VAT law provides for declaring any one place as “Principal Place of Business”.
- The registration is granted on the location and the state having being declared as “principle place of business”

SEC. 139 – REGISTRATION AND MIGRATION

MIGRATION BY SERVICE PROVIDER :

- Service provider will have to obtain registration in each state **from where** he makes taxable supply of services.
- A person having centralized registration under Service Tax shall be granted one provisional registration.
- If a person is operating in different states, with the same PAN, he cannot operate with a single registration. He will be liable to get registered separately for each state.

SEC. 139 – REGISTRATION AND MIGRATION

- For example, say if Mr. G is a service provider and has obtained registration in the State of Maharashtra.
- He has 5 branches in the state of Gujarat, in Rajkot, Ahmedabad, Vadodara, Surat and Jamnagar.
- He chooses Vadodara as his principle place of business and all other branches will be considered as additional place of business.
- Mr. G shall make an application to the Jurisdictional Officer at Vadodara Commisionarate for registration for the state of Gujarat.

SEC. 140 (1) - AMOUNT OF
CENVAT CREDIT CARRIED
FORWARD IN THE RETURN
ALLOWED AS INPUT TAX CREDIT.

SEC. 140 (1) - AMOUNT OF CENVAT CREDIT CARRIED FORWARD IN THE RETURN ALLOWED AS INPUT TAX CREDIT.

Section 140 (1) provides for transfer of credit into electronic credit ledger maintained by government on the basis of CENVAT credit balance shown in the return as at the end of the date, immediately preceding the appointed date, i.e., 30.06.17

□ REFLECTION OF CREDIT IN RETURN

- Reflection of credit in return furnished by registered taxable person under earlier law for the period ending 30.06.17 is essential.
- It should be reflected either in ER-1, ST-3, VAT returns or any other returns.

SEC. 140 (1) - AMOUNT OF CENVAT CREDIT CARRIED FORWARD IN THE RETURN ALLOWED AS INPUT TAX CREDIT.

- The amount of any input credit carried forward in a return, which is unutilized under the existing tax regime may be carried forward into the GST regime except in the case of a person who opts to pay tax under composition scheme in a GST regime.
- Proviso to section 140(1) states that credit will be allowed to be carried forward to the GST regime, if the following conditions are satisfied:
 - The said credit is admissible as input tax credit under the provisions of the CGST Act;
 - The registered person has furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date.
 - Input tax credit does not relate to goods manufactured and cleared under exemption notifications as are notified by the Government.
 - Input tax credit carried forward will not be allowed if such credit relates to goods manufactured and cleared under exemption notifications as notified by the government.

SEC. 140 (1) - AMOUNT OF CENVAT CREDIT CARRIED FORWARD IN THE RETURN ALLOWED AS INPUT TAX CREDIT.

- CIRCUMSTANCES IN WHICH ASSESSEE DOES NOT REFLECT CREDIT IN ST-3 RETURNS BUT THEY MUST
 - ▣ In cases of dispute with the department, in order to avoid show cause notice.
 - ▣ Disputed availment of credit on commission of sales, services, etc. many companies avail the credit and reverse the same, it is advisable that companies take re-credit of the same.
 - ▣ Many companies take credit after the payment is done. Even if payment is not received by 30.06.17, it advisable to take the credit.

SEC. 140 (1) - AMOUNT OF CENVAT CREDIT CARRIED FORWARD IN THE RETURN ALLOWED AS INPUT TAX CREDIT.

- Many services are received regularly but invoices are raised only after month end, like, security services, renting of immovable property, telephone, etc. Credit of the same should be availed prior to 30.06.17
- In case company is required to pay service tax on reverse charge, the date of payment for invoices received in May or June may be after 30.06.17. As of now there is no provision for availment of credit after 30.06.17 for service tax paid for services recd before 30.06.17. So, company should preferably pay service tax under reverse charge and avail credit.

SEC. 140 (1) - AMOUNT OF VAT CREDIT CARRIED FORWARD IN THE RETURN ALLOWED AS INPUT TAX CREDIT.

□ AVAILABILITY OF CREDIT UNDER SGST ACT

- Sec. 140 (1) of the SGST Act states that where a dealer has entered into specific transaction like inter-state sale, sale to SEZ, etc.,
- then such dealer can carry forward the VAT credit attributable to such transactions
- only when the declarations in corresponding form has been received within the time prescribed under Rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957

SEC. 140 (1) - AMOUNT OF VAT CREDIT CARRIED FORWARD IN THE RETURN ALLOWED AS INPUT TAX CREDIT.

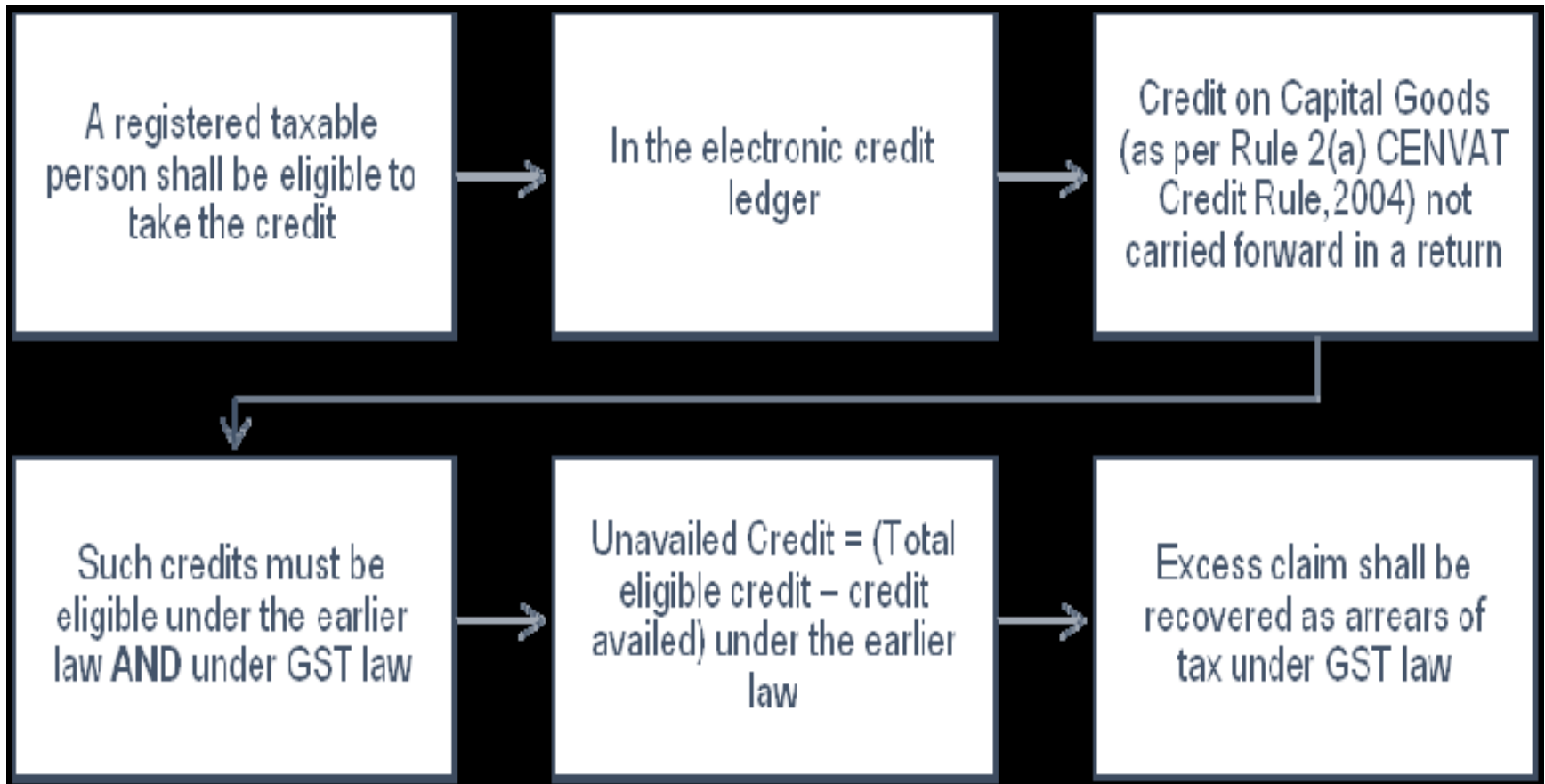
- Rule 1 of Transitional Provisions Rules provides that the registered dealer has to submit an application electronically in FORM GST TRAN-1 specifying the details of the declarations received within the time prescribed under rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957.

■ Example

Credit in Vat Return of 30-06-2017	100000
CST for C form Sales 2% on 30-06-2017 included	4000
Credit to be reduced by 3 % in 30-09-2017 due to non receipt of C form	(6000)

SEC. 140(2) – CREDIT TO BE
CARRIED FORWARD FOR
UNAVAILED CENVAT CREDIT
OF CAPITAL GOODS

SECTION 140(2) OF GST ACT CREDIT TO BE CARRIED FORWARD FOR UNAVAILED CENVAT CREDIT OF CAPITAL GOODS



SECTION 140(2) OF GST ACT CREDIT TO BE CARRIED FORWARD FOR UNAVAILED CENVAT CREDIT OF CAPITAL GOODS

- Explanation to Section 140(2)-Credit which have not been taken in previous years is “unavailed credit”.
- Proviso to Section 140(2) provided for availment of balance credit provided the credit was available under the existing law and is also available under the current law.
- Thus the item not considered as “Capital Goods” in GST act will not be allowed under this section.
- “Capital Goods” definition are different in both act but the said is summed up by explanation 2 to chapter XX of GST Act.
- **FORM GST TRAN-1** (To be submitted electronically within 60 days of the appointed day)

SEC. 140(3) – CREDIT OF
STOCK INPUTS, WIP AND
FINISHED GOODS

SEC. 140(3) – CREDIT OF STOCK INPUTS, WIP AND FINISHED GOODS

- Sec. 140 (3) of the GST Act provides that a registered person (GST Law) who was:
 - ▣ Not liable to be registered under existing law
 - ▣ Engaged in manufacture of exempted goods or provisions of exempted service
 - ▣ Providing works contract services and was availing of the benefit of Notification No. 26/2012-ST, dated 20th June, 2012
 - ▣ Registered as 1st stage dealer or 2nd stage dealer or as importer or depot of the manufacturer under the Central Excise Rules, 2002

Shall be entitled to take credit of eligible duties and taxes in respect of inputs held in stock as on date immediately preceding the appointed date.

SEC. 140(3) – CREDIT OF STOCK INPUTS, WIP AND FINISHED GOODS

- **Conditions to be satisfied for availing the credit :**
 - Such inputs or goods are used or intended to be used for making taxable supplies under CGST Act
 - The said registered person is eligible for input tax credit on such inputs under CGST Act
 - The said registered person is in possession of invoice and/or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs
 - Such invoices and/or other prescribed documents were issued not earlier than 12 months immediately preceding the appointed day and
 - The supplier of services is not eligible for any abatement under the CGST Act
 - In terms of Sub Rule 2(b) of the Transition Provision Rules the application in Form GST TRAN -01 shall specify separately the details of stock held on the appointed day upto 6 tax periods indicating the details of supplies effected during each tax period.

SEC. 140(3) – CREDIT OF STOCK INPUTS, WIP AND FINISHED GOODS

- Duty Paying Documents: Rule 9 of Cenvat Credit Rules 2004
 - Invoice
 - Supplementary Invoice
 - Bill of entry
 - Certificate issued by an appraiser of custom in respect of goods imported through foreign post office.
 - CHALLAN evidence payment of service tax-Reverse Charge Service Tax

SEC. 140(3) – CREDIT OF STOCK INPUTS, WIP AND FINISHED GOODS

- Eligible duty of taxes :
 - ▣ Additional duty of excise leviable u/s 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
 - ▣ Additional duty leviable u/s 3 of the Customs Tariff Act, 1975,
 - ▣ Additional duty leviable under sub-section (5) of section 3 (f) the Customs Tariff Act, 1975;
 - ▣ Additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
 - ▣ Duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
 - ▣ Duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;
 - ▣ National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001;

SEC. 140(3) – CREDIT OF STOCK INPUTS, WIP AND FINISHED GOODS

- Proviso to section 140(3) Deemed Credit – where a person other than manufacturer or supplier of service who is **not in possession** of the invoice or document, then registered taxable person shall be allowed to take credit on the following conditions :
 - ▣ at the rate of 40% of the central tax where goods sold after the appointed date.
 - ▣ The amount shall be credited after the central tax payable on such supply has been paid
 - ▣ The goods are required to be sold within a period of 6 months
- The above provisions is **not** applicable to manufacturer or supplier of services

SEC. 140(3) – CREDIT OF STOCK INPUTS, WIP AND FINISHED GOODS

- Conditions for availing deemed credit –
 - Such goods were not unconditionally exempt from the whole of duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated in the said schedule
 - The document for procurement of such goods is available with the registered person
 - Provisions of rule 1 (2)(b):- Have furnished the details of stock held by him in Form GST TRAN-2 at the end of each of the 6 tax periods during which the scheme is in operation indicating therein the details of supplies of such goods effected during the tax period

SEC. 140(3) – CREDIT OF STOCK INPUTS, WIP AND FINISHED GOODS

- Conditions for availing deemed credit –
 - The amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in FORM GST PMT – 2 on the common portal
 - The stock of goods on which the credit is availed is so sorted that it can be easily identified by the registered person

SEC. 140(3) – CREDIT OF STOCK INPUTS, WIP AND FINISHED GOODS

□ UNDER SGST RULES-

- As per Rule 1(3)(a) a registered person holding stock of goods which have suffered tax at first point of sale in the State
- And subsequent sale of which are not subjected to tax,
- shall be allowed to avail the input tax credit on such goods held in stock.

Therefore, the person availing the credit will have to substantiate that the particular product did not attract VAT in the subsequent sale

- All other conditions mentioned above are also applicable for availment of credit.

SEC. 140 (4) - CREDIT IN
RESPECT OF STOCKS FOR
PERSON MANUFACTURING
EXEMPTED AND NON-
EXEMPTED GOODS OR
PROVISION OF EXEMPTED
AND NON-EXEMPTED
SERVICES

SEC. 140(4) – CREDIT IN RESPECT OF CERTAIN PERSONS

- Sec. 140 (4) of the GST Act provides that where a registered person is engaged in
 - ▣ manufacture/provision of taxable goods/services
 - ▣ as well as exempted goods/services,such person shall be entitled to take credit of following amount:-
 - a) The amount of CENVAT credit carried forward in return in terms of section 140(1): and
 - b) The amount of CENVAT credit of eligible duties as per section 140(3)
- **Example, Pharma company**

SEC. 140 (5) – INPUT OR
INPUT SERVICES IN TRANSIT

SEC. 140 (5) – INPUT OR INPUT SERVICES IN TRANSIT

- Sec. 140 (5) of GST Act provides that a registered person will be entitled to take the credit in his electronic ledger, the credit of eligible duties and taxes paid in respect of inputs and input services received on or after the appointed date.
- It must be noted that the tax shall be prior to 30.06.17 and the consignment shall be received after 30.06.17 in order to avail the credit under this section.
- Receipt of input or input services shall be recorded in the books of accounts within 30 days from the appointed date.
- The taxable person availing the credit shall furnish the statement in the prescribed manner.

SEC. 140 (5) – INPUT OR INPUT SERVICES IN TRANSIT

- The proviso further provides that the receipt of inputs or input services shall be recorded in the books of accounts within 30 days from the appointed date., i.e., by 30-07-17. The period of 30 days can be further extended by maximum 30 days by commissioner.
- In terms of Rule 2(c) of Transition provisions the said taxable person shall furnish the following details:
 - ▣ A statement indicating the name & address of the supplier together with invoice details.
 - ▣ Description, quantity and value of goods or services.
 - ▣ The amount of taxes, duties, VAT, Entry tax charged by the supplier.
 - ▣ The date at which receipt of goods or services are entered in the books of the recipient.

SEC. 140 (5) - CAPITAL GOODS IN TRANSIT

- Sec. 140 (5) of the GST Act does not make any provisions for capital goods in transit its all about inputs and input services in Transit.
- Therefore, availment of credit on capital goods which are in transit shall be covered by Section 140 (2).

SEC. 140 (6) - SWITCHING
FROM COMPOSITION
SCHEME-(AT FIXED RATE)

SEC. 140 (6) - SWITCHING FROM COMPOSITION SCHEME

- Sec. 140 (6) permits a registered person to take credit of eligible duties and taxes in respect of inputs held in stock, inputs contained in semi-finished goods held in stock as on 30.06.17
- Conditions –
 - ▣ Such inputs are used or intended to be used for making taxable supplies under CGST act
 - ▣ The said registered person is not paying tax u/s 10 (composition Scheme under CGST Act)
 - ▣ He is eligible for input tax credit on such input under CGST act
 - ▣ He is in possession of invoice or other prescribed documents evidencing payment of duty as per existing law
 - ▣ Such invoice or other prescribed documents were issued not earlier than 12 months immediately preceding 30.06.16

SEC. 140 (6) - SWITCHING FROM COMPOSITION SCHEME

- In terms of Sub Rule 2(b) of the Transition Provision Rules the application in FORM TRAN-1 shall specify separately the details of stock held on the appointed day upto 6 tax periods indicating the details of supplies effected during each tax period.

SEC. 140 (7) - AVAILMENT OF
CREDIT BY INPUT SERVICE
DISTRIBUTOR

SEC. 140 (7) - AVAILMENT OF CREDIT BY INPUT SERVICE DISTRIBUTOR

- ❑ The role of input service distributor is to receive the invoice for input services and distribute the credit to the specified location.
- ❑ This provision has an overriding effect over all other provisions under the GST law.
- ❑ The **services** may be received by the ISD prior to appointed date.
- ❑ The date of receipt of **invoice** by the Input Service Distributor can be any i.e. before/after/on the appointed date.
- ❑ Such services will be eligible for distribution as credit under the GST law.

SEC. 140 (8) - TRANSFER OF
CREDIT WITH CENTRALISED
REGISTRATION

SEC. 140 (8) - TRANSFER OF CREDIT WITH CENTRALISED REGISTRATION

- Sec. 140 (8) of the GST Act permits such person to take credit in the Electronic Credit Ledger for the amount carried forward in the return filed upto 30.06.17 and can be carried forward by the service provider
- Service Tax Return notification 18/2017:- Half yearly returns were filled currently, to file return for Quarter 1(April-June 2017) by 15 August 2017 and revision can be taken care within 45 days.
- As per proviso to section 140(8) that either the original return or revised return shall be filled within 3 months from appointed date i.e. by 30-09-2017.
- If the return is revised the credit shall be less than the credit shown in the original return.

SEC. 140 (8) - TRANSFER OF CREDIT WITH CENTRALISED REGISTRATION

- There can be following two situation possible with the service provider:
 - ▣ File the return on due date and thereafter revise the return.
 - ▣ File the return after the due date or thereafter and does not revise the return.
- Thus it is evident that in case the return is filled subsequent to September-2017 the credit will not be allowed to be carried forward to the person having centralized registration.
- Third proviso to section provides that the credit may be transferred to any registered person having same PAN number for which centralized registration is obtained.
- In terms of Sub Rule 2(b) of the Transition Provision Rules the application in FORM TRAN-1 shall specify separately the details of stock held on the appointed day upto 6 tax periods indicating the details of supplies effected during each tax period.

SEC. 140 (9) - REVERSAL OF
CREDIT DUE TO NON-
PAYMENT OF
CONSIDERATION

SEC. 140 (9) - REVERSAL OF CREDIT DUE TO NON-PAYMENT OF CONSIDERATION

- There can be situations where cenvat credit is to be reversed by the manufacturer/service provider due to non-payment within 3 months to the input service provider. The payment will be made to the input service provider after July 2017
- Sec. 140 (9) of the act specifically provides that in such cases, manufacturer/service provider will be entitled to the credit of tax paid as and when the amount is paid to the input service provider but not later than 3 months from the appointed date i.e. before 30-09-2017

SEC. 141 - STOCK OF INPUTS,
SEMI-FINISHED GOODS AND
FINISHED GOODS AT JOB
WORKER

SEC. 141 - STOCK OF GOODS AT JOB WORKER

- The supply of raw materials to job-worker and receipt of processed goods from job-worker is an ongoing activity
- So, there is bound to be certain stock with the job-worker as on 30.06.17
- REMOVAL OF INPUTS AS SUCH: Section 141 (1)
 - ▣ If the inputs are not returned within six months or extended period, the manufacturer will be liable to reverse the input credit availed as per the provisions of sec 142 (8)(a) of the GST Act.
 - ▣ It appears that in such cases, the law presumes that the manufacturer has supplied the said inputs to the job-worker on which credit is taken by the manufacturer. Therefore, he is required to reverse the credit.

SEC. 141 - STOCK OF GOODS AT JOB WORKER

- REMOVAL OF SEMI-FINISHED GOODS :Section 141 (2)
 - Same as above
 - In addition, the job-worker is permitted to remove the processed goods to the premises of any registered person. The processed goods so removed can further be removed from premises :
 - On payment of duty to any person in India, or
 - Without payment of duty for export

The goods shall be sold in India or exported within 6 months or extended period as the case may be from appointed date and not from the date of receiving back the goods in any registered premises

SEC. 141 - STOCK OF GOODS AT JOB WORKER

- REMOVAL OF FINISHED GOODS: Section 141 (3)
 - Sec. 141 (3) of GST Act permits removal of finished goods from the job worker after undergoing test or any other process, if the said goods are returned to supplier within a period of six months from the appointed date.
 - Sec further permits transfer of goods by job worker to any other premises within six months or extended period as the case be from appointed date.
 - In case goods are not returned back within six months or extended period, the input tax credit shall be recovered from manufacturer in terms of sec 142 (8)(a) of GST Act.

SEC. 141 - STOCK OF GOODS AT JOB WORKER

□ CONTINUATION OF JOB-WORK

- As per sec. 143 of the GST Act, a registered taxable person shall under intimation and subject to such condition as may be prescribed, send any inputs without payment of taxes to a job-worker
- Thus, the principle shall intimate to the Jurisdictional Officer about the nature of inputs to be sent and also the name and address of the job-worker
- It is advisable to file such intimation immediately after the appointed date, so that the transfer of inputs to the job-worker is not interrupted.
- In absence of such procedure, the transfer of input to the job-worker will be difficult

SEC. 141 - STOCK OF GOODS AT JOB WORKER

- **Eg 1:** A manufacturer had removed semi-finished goods worth Rs. 5,00,000 on 1st January, 2017 for further processing. GST is applicable from 1st July, 2017. On 10th October, 2017, these goods are returned by the job worker. Since the goods are returned within 6 months from the date of applicability of GST, no tax will be payable.
- **Eg 2:** In Eg 1 above, if the goods are not returned by the job worker within the period of 6 months from the applicability of GST i.e. till 31st December, 2017, then the input tax credit shall be liable to be recovered in terms of section 142 (8)(a); i.e., the input tax credit shall be liable to be recovered as an arrear under the CGST Act.
- **Eg 3:** In Eg 1 above, assume that the goods are directly transferred to a registered taxable person within 6 months from the applicability of GST i.e. till 31st December, 2017. In this case, tax will be payable under GST if the goods there from are supplied in India and tax will not be payable if the same is exported.

SEC. 142 (1) - DUTY PAID ON
GOODS RETURNED AFTER
APPOINTED DATE

SEC. 142 (1) - DUTY PAID ON GOODS RETURNED AFTER APPOINTED DATE

- Sec. 142 (1) provides refund of duty/tax paid on goods which was sold prior to 30.06.17, but returned to any place of business after 30.06.17 subject to following conditions.
 - ✓ Duty is paid at the time of clearance of goods
 - ✓ Goods are cleared between 01-01-2017 to 30-06-2017
 - ✓ Goods are returned within 6 months i.e. December 2017
 - ✓ Proper officer shall be satisfied about identification of goods.
 - ✓ Goods can be returned at any place of business.

SECTION 142(2)- REVISION IN
PRICE UPWARD OR
DOWNWARD

SECTION 142(2)- REVISION IN PRICE UPWARD OR DOWNWARD

- ISSUE OF SUPPLEMENTARY INVOICE
 - ▣ There can be a situation where finished goods are removed prior to 30.06.17 and the revision of price upward is agreed after July 2017.
 - ▣ Sec. 142 (2) (a) of the GST Act specifically ***empowers the registered person to issue supplementary invoice or debit note*** to be issued in respect of outward supply made under this Act.
 - ▣ It appears therefore the recipient will be able to claim the credit of the differential duty paid.
 - ▣ If the differential amount paid is excise duty or service tax, the credit will be available under the CGST
- However, if it is VAT or any other tax leviable by the State Government, the credit will be available under SGST to the recipient

SECTION 142(2)- REVISION IN PRICE UPWARD OR DOWNWARD

□ DEEMED OUTPUT SUPPLY

- Sub-Section 142(2) of the GST Act provides that the supplementary invoice/debit note or credit note prepared by a registered person for upward or downward revision in price will be deemed to have been issued in respect of outward supply made under this Act.
- The implication of treating or making a deeming provision will be that:
 - The supplementary invoice/debit note or credit note will have to be declared in Form GSTR-1;
 - The portal increases the tax liability of a taxable person and also auto-populate the credit in the account of the recipient;
 - The portal will reduce the tax liability only when the corresponding credit has been reduced by the recipient of the credit note.
- Section 142(2) of GST Act further provides the time limit of supplementary invoice/debit note or credit note. It provides that these documents shall be issued within 30 days of such price revision.

SEC. 142 (3) - REFUND
CLAIM

SEC. 142 (3) - REFUND CLAIM

- Many refund applications may be pending on 30.06.17
- Such applications shall be disposed off in terms of provisions contained in existing law
- The amount shall be *refunded in cash only* and not by credit
- The applicant must satisfy the principle of unjust enrichment. He must substantiate that the incidence of duty has been borne by him. Otherwise the amount will be credited to consumer welfare fund
- Where claim of refund is fully or partially rejected, the amount so rejected shall lapse.
- No refund if credit is carried forward
- **Eg 1: An export manufacturer files a claim for refund of Rs. 5,00,000 on 15th June, 2017.** Assume applicability of GST from 1st July, 2017. The refund claim will be processed under the provision of the earlier law i.e. Central Excise law itself. If the refund is considered as admissible by the Department, then the same will be paid in cash subject to the Doctrine of Unjust Enrichment.

SEC. 142 (4) - REFUND CLAIM
ON EXPORT OF GOODS AND
SERVICES

SEC. 142 (4) - REFUND CLAIM ON EXPORT OF GOODS AND SERVICES

- It is possible that the goods and services get received before 30.06.17 and the amount is received subsequently.
- In such cases, rebate for claim for export of services will be filed subsequent to the appointed date.
- As per sec. 142 (4) the rebate claim shall be decided as per provisions contained under Central Excise Act or Chapter V of Finance Act, 1994, etc.
- In case the claim is rejected, the credit will lapse.
- In case the credit is carried forward, the refund claim will not be allowed.

SEC. 142 (5) - REFUND FOR
SERVICES NOT PROVIDED

SEC. 142 (5) - REFUND FOR SERVICES NOT PROVIDED

- Sec. 142 (5) provides that in case where the service provider has paid the tax prior to the appointed date and has not rendered the service, the service provider shall file their claim of refund of tax and the same shall be disposed off in accordance with the provisions of the existing law.
- Such refund shall be paid in cash in spite of the fact that the service provider may have paid the tax by utilization of credit.

SEC. 142 (6) - CLAIM OF CENVAT CREDIT

SEC. 142 (6) - CLAIM OF CENVAT CREDIT

- Even if the assessee has migrated to GST, yet appeal is filed before 30.06.17 with the respective authorities shall be decided based on the earlier one
- The credit in appeal will relate to period prior to 30.06.17 and government portal will not have the details of invoice on the basis of which credit of the amount is allowed. Hence the law specifically provides for refunding the amount in cash
- The said amount will not be available as a credit to the assessee. However, before refunding the amount in cash, the assessee will have to satisfy that the incidence of tax has been borne by him and has not been passed on to any other person

SEC. 142 (7) –
DETERMINATION OF OUTPUT
TAX LIABILITY

SEC. 142 (7) – DETERMINATION OF OUTPUT TAX LIABILITY

- Sec. 142 (7) of the GST Act makes provisions with regard to recovery of the amount which arises as a result of appeal, review, etc.
- Every proceedings of the appeal, review, etc. or any other application shall be decided as per earlier law.
- As a result of the outcome, if the amount becomes refundable, it shall be refunded to the assessee in cash.
- If any amount becomes recoverable, it shall be recovered as arrears of tax under this Act.
- It is also provided that even if the assessee has paid tax on its output, the recipient of goods and services will not get credit of the same.

SEC. 142 (7) – DETERMINATION OF OUTPUT TAX LIABILITY

- For example, Mr. G has supplied 1,000 kgs of goods to Mr. T at a price of Rs. 10 per kg.
- the department has alleged that the value shall be Rs. 12 as against Rs. 10.
- the duty becomes recoverable from Mr. G.

Now, even if the amount is paid by Mr. G, the credit will not be available to Mr. T who has purchased the goods. Also, the differential duty shall be recovered as arrears of tax.

SEC. 142 (8) - ADJUSTMENT
IN PURSUANCE OF
ASSESSMENT OR
ADJUDICATING
PROCEEDINGS

SEC. 142 (8) – ADJUST. FOR ASSESSMENT PROCEEDINGS

- Sec. 142 (8) makes provisions for treatment of the amount recoverable or refundable in pursuance of the adjudicating proceedings.
- Accordingly, if any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as arrears of tax under this Act.
- If any amount is refundable to the taxable person, the same shall be refunded in cash.

SEC. 142 (9) - REVISION IN RETURN

SEC. 142 (9) - REVISION IN RETURN

- The statute provides for revision of return to correct the mistake or omission. The correction of mistake or omission may result in any addition of liability or payment of tax or reduce the liability or payment of tax.
- Sec. 142 (9) of GST Act makes provision for recovery of amount or refund of amount respectively.
- In case of recovery of amount – it shall be recovered as arrears of tax and the same will NOT be available as input tax credit under this Act.
- In case of refund of amount – the same should be done in cash irrespective of whether the amount is paid to him by utilization of credit or not.

SEC. 142 (10) - TREATMENT
OF LONG-TERM CONTRACTS

SEC. 142 (10) - TREATMENT OF LONG-TERM CONTRACTS

- Long term contracts sometimes take around 4-5 years to get completed
- Work order may be issued prior to 30.06.17 but actual work under contract may be completed subsequent to 01.07.17
- The said supply will be taxable under GST law.
- Eg 1: A contract for a painting job was entered on 19th June, 2017. Assume the applicability of GST from 1st July, 2017. The job is performed from 10th July, 2017 to 30th July, 2017. The said supply will be taxable under GST law.

SEC.142 (11) - TAX LIABILITY
WHEN POINT OF TAXATION
IS AFTER APPOINTED DATE

SEC.142 (11) - TAX LIAB WHEN TAXATION IS AFTER APPOINTED DATE

- GST is applicable at the time of supply of goods and services
- There will be instances where the supplier has received payment prior to 30.06.17 and supplied goods or services after the date.
- Sec. 142 (11) provides for exemption from GST when amount for supply has been received and appropriate tax has been paid on the goods or services under existing law.
- Sec. 140 (11)(c) provides that where on any supply both VAT and Service Tax is paid, the taxable person will be entitled to take credit of VAT or Service Tax paid to the extent of supplies made after the appointed date.

SEC.142 (11) - TAX LIAB WHEN TAXATION IS AFTER APPOINTED DATE

- Eg: Advance of Rs. 1,00,000/- was received on 10th June, 2017 for service to be rendered in July, 2017. The invoice for the service was raised for Rs. 1,50,000/- on 31st July, 2017. Assuming appointed day as 1st July, 2017, GST shall be levied only on Rs. 50,000/-
- Eg: Contract entered in March, 2017 for Rs. 1,00,00,000/-. Advance received till 30th June, 2017 amounts to Rs. 10,00,000/-. Value Added Tax of Rs. 40,000/- and Service Tax of Rs. 60,000/- have been paid on the said advance. And the appointed day is 1st July, 2017 GST shall be levied on Rs. 1,00,00,000/- as per Sec 13 of the CGST Act. The value added tax and service tax paid shall be allowed as credit under the existing law in the manner as may be prescribed.

SEC. 142 (12) - GOODS ON
APPROVAL BASIS RETURNED
AFTER APPOINTED DATE

SEC. 142 (12) - GOODS RETRUNED AFTER APPOINTED DATE

- Sec. 142 (12) of the GST Act makes provisions for goods sent for approval to customer and returned after 30.06.17.
- Accordingly, GST is not payable on such goods on following conditions :
 - ▣ Goods are sent for approval between 01.01.17 and 30.06.17
 - ▣ Goods are rejected by buyer and sent to seller between 01.07.17 and 31.12.17. the said 6 months can be extended by competent authority by 2 months.
 - ▣ If the goods are returned after extended period, the tax will be payable by the buyer. If the goods are not at all returned, tax will be payable by the seller.

SEC. 142 (13) - TAX
DEDUCTED AT SOURCE

SEC. 142 (13) - TAX DEDUCTED AT SOURCE

- VAT Act has invariably provided TDS on certain circumstances
- GST Act also provides for TDS for certain transactions
- Sec. 142 (13) of the GST Act provides that if tax has already been deducted prior to 30.06.17 and paid to the government, the tax shall not be deducted again u/s 196 of the GST Act. This is in order to avoid double deduction of tax on same invoice

THANK YOU

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