



Goods and Service Tax – Transitional & Miscellaneous Provisions

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GST – Transitional & Miscellaneous Provisions

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GST – Transitional & Miscellaneous Provisions

- Transitional Provisions
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GST – Transitional & Miscellaneous Provisions

Dictionary meaning of Transition “movement, passage, or change from one position, state, stage, subject, concept, etc., to another; change”

From GST Transition provisions applies to transactions which have happened pre GST era and received or returned during the GST era.

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Section – 139 : Migration of existing taxpayers

Excise, Value Added Tax, Service Tax etc will be issued a provisional certificate.

Basis of verification of documents submitted for provisional registration, final registration certificate will be issued. (details refer to Registration Rules).

The provisional certificate issued is deemed to be canceled if the registration is not required under Section 22 - Persons liable for registration or Section 24 – Compulsory registration in certain cases.

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Section – 140 Sub-Section 1 : Input tax credit

CENVAT Credit can be carried forward basis on the return filed immediately prior to the appointed day and the same is not allowed in the following cases

- where the said amount of credit is not admissible as input tax credit under this Act; or
 - where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or
 - where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.
- Unavailed portion of the CENVAT Credit on capital goods can be availed immediately based on the balance in the return filed immediately day before the appointed day.

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Section – 140 Sub-Section 2 : Closing Stock

➤ ITC can be taken by the following taxpayers in GST on inputs held in stock and inputs contained in semi-finished or finished goods on stock held before the appointed day

- Not registered under the existing law,
- manufacture of exempted goods or
- provision of exempted services,
- works contractor
- first stage dealer
- second stage dealer
- registered importer or
- depot of a manufacturer

Section – 140 Sub-Section 2 : Closing Stock

➤ ITC is available in the following conditions

–Used for only taxable supplies

–Eligible to take ITC under the new law'

–Has duty paid documents with him

–Invoice date is not latter than 12 months preceding the appointed date

–Not eligible for abatement in the current law

➤ In case if the person does not have any duty paying documents, then he can claim credit based on process given in Rules

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Section – 140 Sub Section 4 : Taxable and exempted goods

- ITC can be taken on the inputs / semi finished goods or finished goods on the stock held on day prior to appointed day if such goods which are exempted under the current law but the same are taxable under GST.
- The process of availing ITC is same as above

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Section – 140 Sub-Section 5 : Goods and Services received after appointed day

➤ Goods or Services received after the appointed day

– Taxes have been paid under old taxes (excise, VAT, Service Tax)

– Should be taken within 30 days from the appointed day & Can be extended for another 30 days

– A separate statement has to be furnished for such goods / services where ITC is taken

– What will happen in cases of AMC / Services for which invoice is issued but to be rendered through the year?

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Section – 140 Sub-Section 6 : ITC on closing stock where taxes are paid on fixed rate or fixed amount

ITC is eligible on closing stock of inputs, inputs held in semi finished goods & finished goods

- Such goods or inputs are intended to be used for making taxable supplies
- The taxable person is not registered under composition scheme
- The taxable person is in possession of the duty paying document
- The tax paid documents are not later than 12 months from appointed day

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Section – 140 Sub-Section 7 : Invoices received by ISD after appointed day

ISD can avail in the ITC on invoices received after the appointed day

–Such credit received can be distributed to other units

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Section – 140 Sub-Section 8 : ITC in case of centralized registration

In case of taxpayers who are required to take centralized registration under existing law and decentralized registration under new law

- The credit balance is available in the CENVAT balance
- Has filed returns within 3 months preceding the appointed day
- Can transfer the ITC to other registrations with the same PAN Number
- What basis ITC is to be transferred? What documents? No clarity

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Section – 140 Sub-Section 9 : ITC Reversal & Reclaim

Applicable in case of service tax

–ITC reversed prior to appointed day

–Supplier is paid within 3 months of the appointed day then ITC can be reclaimed

–On reclaim will it be taxes under GST or old taxes?

–How the same is reflected in the GST Returns ?

–What happens to ITC if the supplier is paid after three months of the appointed day due to cash flows – is he not eligible for ITC ???

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Section – 141 : Job work, repairs etc

For goods sent before the appointed day for further processing, repairs, testing, reconditioning etc

- Has to be received within 6 months from the appointed date
- Can be extended for another period of 2 months by the commissioner
- If not received in said period then taxes have to be paid under GST and not eligible for ITC
- The above is applicable only if the principal or job workers (if registered) declares the goods in prescribed format for the stock held on the appointed day

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Section – 142, Sub-section 1 : Goods returned after appointed day

Applicable for goods sent on duty paid documents earlier than 6 months from the appointed day

–Goods have to be returned within 6 months from the appointed day

–If returned by the customer (unregistered under GST) duty paid under previous taxes can be claimed as refund

–If returned by the customer (registered) considered as deemed supply as the customer is expected to clear the goods with payment of duties under GST

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Section – 142, Sub-section 2 : Price Revision

for supplies made prior to appointed date and taxes have been paid

- Price revision happens after the appointed date
- Debit note / credit note or supplementary invoice has to be issued within 30 days of the said revision
- The buyer can take the tax benefit under GST by reducing the tax liability if the seller has reduced his ITC
- How the same will be reflected in the system ? As the original invoice is not uploaded in GSTR -1. how will validation will happen in such cases ?

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Section – 142, Sub-section 3 : Existing Refunds

For claim of refund of Cenvat Credit, duty tax or interest before the appointed day

- Will be processed as per the old laws
- If eligible for refund, the same will be paid in cash
- If any refund is rejected it will lapse

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Section – 142, Sub-section 4 : Refunds - exports

For refund claimed after the appointed date for export of goods or services

- Will be processed as per the old laws
- If eligible for refund, the same will be paid in cash
- If any refund is rejected it will lapse

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Section – 142, Sub-section 5 : New refund after appointed day

For claim of refund of Cenvat Credit, duty tax or interest after the appointed day

- Will be processed as per the old laws
- If eligible for refund, the same will be paid in cash
- If any refund is rejected it will lapse

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Section – 142, Sub-section 6 : Appeals

every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day will be processed as per the old laws

- If appeal is in favor of the tax payer it will be paid in cash
- If dismissed it will be lapsed

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Section – 142, Sub-section 7 : Appeals towards output tax liability

every proceeding of appeal, review or reference relating to a output tax liability whether before, on or after the appointed day will be processed as per the old laws

–If appeal is in favor of the tax payer it will be paid in cash

–If appeal is not in favor of the tax payer then they will be processed ad arrears under GST

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Section – 142, Sub-section 8 : tax liability towards old transactions

every proceeding of appeal, review or reference relating to a output tax liability whether before, on or after the appointed day will be processed as per the old laws

–If appeal is in favor of the tax payer it will be paid in cash

–If appeal is not in favor of the tax payer then they will be processed ad arrears under GST



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Section – 142, Sub-section 9 : Revised Return

Return filed prior to the appointed day

–Same return modified / revised

–If there is any change in the CENVAT Credit is not allowed / ineligible the same will be recovered in cash or as arrears in GST



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Section – 142, Sub-section 10 : old contracts

Contracts entered prior to the appointed day

–Supplies after the appointed day will be with GST

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Section – 142, Sub-section 12 : goods sent on sale or approval basis

Goods sent on sale or approval basis prior to the appointed day

- Returned back within 6 months then no taxes are payable
- If returned after the above period then taxes are applicable under the current law
- Can be extended by another 2 months

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Section – 142, Sub-section 13 :Tax deduction at source

If TDS is recovered under any state of UT VAT prior to appointed day

–If payment is made after appointed day then taxes as per Sec 51 is not applicable

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Section – 143, Job work procedure

What is job work Section 2, Sub section 68

“means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly”

–Person sending the goods is principal

–Person receiving the goods job worker

–Excluded from job work “moulds and dies, jigs and fixtures, or tools”

–Principal has to define the job workers address as his additional place of business if job worker is not registered under GST

–Responsibility of maintaining accounts is with the principal

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Section – 143, Job work procedure

If the material sent on job work are not received within period then taxes are payable as per the rate on the date of removal of goods

- Removal can happen through delivery challan
- Delivery challan should be serially numbered
- Reported in GSTR – 1 during the month sent and in the month received back
- No formats available for returns, which section
- E-waybill applicable ?
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Section – 143, Job work procedure

Job worker can sell scrap or supply on behalf of principal if the job worker is registered

- Law is silent on the tolerance for wastage / scrap etc
- ITC can be availed on inputs if the same are directly sent to the job worker
- Reported in GSTR – 1 during the month sent and in the month received back
- No formats available for returns, which section
- E-waybill applicable ?
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Miscellaneous Provisions

Section – 144 : Presumption as to documents in certain cases.

Any documents submitted under any law will be used as evidence

Section – 145 : Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence.

Including data maintained electronically



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Section – 148 : Special procedures

Special procedures may be notified by government on recommendation of GST Council

Can be notified to certain class of persons

Special procedures may be related to registration, furnishing of return, payment of tax and administration of such persons



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Section – 149 : Compliance Rating

Compliance ratings for all tax payers

To be updated from time to time

Parameters for deriving compliance rating will be as prescribed



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Section – 150 : Obligation to furnish information

Any person is required to furnish information



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Section – 162 : Bar on jurisdiction of civil courts

Civil Courts do not have any jurisdiction to deal and decide on question arising this act

Section – 164 : Power to make rules

Government on recommendations of the council can formulate any rule

It can be retrospective also

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Section – 170 : Rounding

The amount of tax, interest, penalty, fine or any other sum **payable**, and the amount of refund or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

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Section – 170 :Anti Profiteering Measure

(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.





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