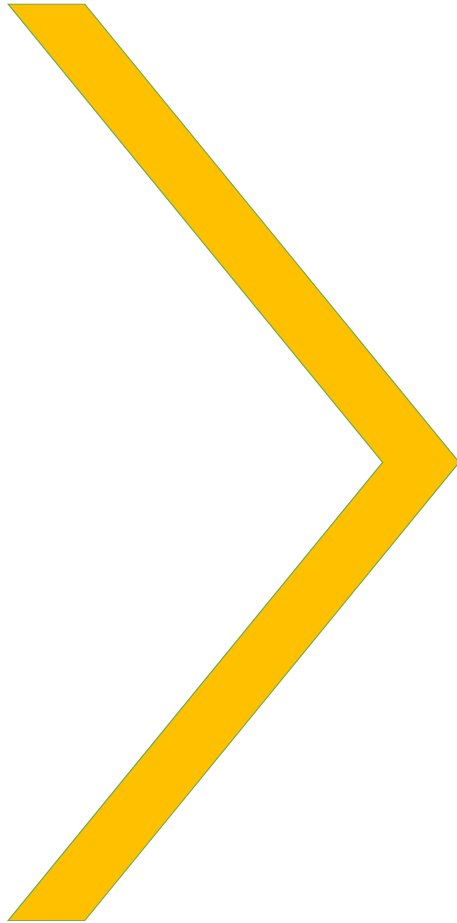


# GOODS & SERVICE TAX

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## TRANSITIONAL PROVISIONS

## **Transitional Provisions**

**Pending CENVAT  
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taxes on Input Stock**

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Situations**

## Pending Credits

### Amount of Credit carried forward in a return to be allowed as input tax credit

#### Section 140 (1)

A registered person shall be entitled to take in his electronic credit ledger, **the amount of CENVAT (and/or VAT) credit** carried forward in the return relating to the period ending with the day immediately preceding the appointed day.

### Unavailed CENVAT credit on capital goods, not c/f in a return

#### Section 140 (2)

A registered person shall be entitled to take, in his electronic credit ledger, credit of the **unavailed CENVAT credit in respect of capital goods, not carried forward in a return**, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day

- The said amount of credit shall be admissible as input tax credit under this Act
- Has furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date
- The said amount of credit does not relate to goods manufactured and cleared under exemption notifications as are notified by Central Government
- The registered person is not opting to pay tax under section 10 of GST Acts (Composition Levy Scheme)
- Shall **within ninety days** of the appointed day, submit a declaration electronically in **FORM GST TRAN-1**, specifying therein, separately, the amount of input tax credit to which he is entitled.
- In the case of a claim under sub-section (2) specify separately
  - (i) the amount of tax or duty availed or utilized under each of the existing laws till the appointed day, and
  - (ii) the amount of tax or duty yet to be availed or utilized under each of the existing laws till the appointed day;

## Eligible Taxes & Duties in Input Stock (Section 140 (3))

A registered person who was,

- Not liable to be registered under the existing law (Retailers & Traders, SSI under Central Excise etc)
- Engaged in the manufacture of exempted goods or provisions of exempted services, or
- Providing works contract service and was availing of the benefit of notification No. 26/2012-ST
- A first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer,

shall be **entitled to take credit inputs held in stock** and inputs contained in semi finished or finished goods held in stock on the appointed day subject to the following conditions,

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;
- (iv) such invoices or other prescribed documents were issued **not earlier than twelve months** immediately preceding the appointed day; and
- (v) the supplier of services is not eligible for any abatement under this Act:

Shall **within ninety days** of the appointed day, submit a declaration electronically in **FORM GST TRAN-1**, specifying therein separately,

- the amount of input tax credit to which he is entitled and
- the details of stock held on the appointed day;

## CENVAT paid documents not available [Proviso to Section 140 (3)]

A registered person, other than a manufacturer or a supplier of services, shall be allowed to avail of input tax credit on goods held in stock which he is not in possession of any document evidencing payment of central excise duty

Shall date be allowed to **avail credit of the CGST** applicable on supply of such goods after the appointed day at the rate

- of **sixty per cent.** on such **goods which attract central tax at the rate of nine per cent. or more** and
- **forty per cent. for other goods**

Where **IGST is paid on such goods**, the amount of credit shall be allowed **at the rate of thirty per cent. and twenty per cent** respectively on IGST paid

Shall be credited after the CGST / IGST payable on such supply has been paid.

The scheme shall be available **for six tax periods** from the appointed date

### Conditions

- i. Goods were not unconditionally exempt from Central Excise duty or were not nil rated.
- ii. The **document for procurement** of such goods is available with the registered person.
- iii. Specify separately the details of stock held on the appointed day in **FORM GST TRAN 1**
- iv. Submits a statement in **FORM GST TRAN 2** at the end of each of the six tax periods during which the scheme is in operation indicating therein the details of supplies of such goods effected during the tax period.
- v. The stock of goods on which the credit is availed is **so stored** that it can be easily identified by the registered person
- vi. Shall **pass on the benefit** of such credit by way of reduced prices to the recipient

## Credit Transfer Document

- A registered manufacturer under Excise law can issue "Credit Transfer Document" (CTD) to person who was unregistered under Excise Law but he is registered under the CGST Act, 2017.
- CTD to be issued to goods valued **higher than rupees twenty five thousand per piece**, bears the brand name of the manufacturer or the principal manufacturer and are identifiable as a distinct number such as chassis / engine no. of a car.
- CTD shall be serially numbered and would contain the excise registration no., address of concerned department, name, address and GSTIN no. of dealer, description, classification, invoice no., rate, quantity, duty and other specified details.
- The person issuing CTD shall be liable to maintain records of every piece or item of such goods for which CTD is issued and such record shall be made available to Excise Officer for verification on demand.
- **The manufacturer to ensure** that the dealer to whom Credit Transfer Document is issued **is in possession of such manufactured goods** in the form in which it was cleared by him..
- **CTD shall be issued within 30 days of the appointed date and copy of the corresponding invoices shall be enclosed** with the CTD.
- **The dealer shall maintain copies of all invoices relating to buying and selling**, even if made through intermediate dealer.
- The dealer availing of credit using CTD **shall not be eligible to avail of credit under rule 1(4) of Transition Rules on identical goods manufactured by same manufacturer available in the stock.**
- The person issuing CTD shall be jointly and severally responsible for excess credit availed by the dealer and shall be liable for recovery of such credit, interest and penalty under CCR Rules, 2004.
- The person issuing CTD and person availing of credit using CTD shall submit details in table 1 and table 2 of **Form - TRANS 3**, respectively, within 60 days from the appointed date.
- The dealer shall mention the corresponding CTD number in the invoice at the time of making supply of such goods

## **Eligible Taxes & Duties in Input Stock**

### **Providing both Exempted & Non Exempted Manufacturing / Service / Sales - Section 140 (4)**

A registered person, who was engaged in the manufacture / provision of service / sale of goods of non-exempted as well as exempted goods / services shall be entitled to take, in his electronic credit ledger-

- (a) the amount of CENVAT / VAT credit carried forward in a return furnished under the existing law by him in terms of sub - section 1; and
- (b) the amount of CENVAT / VAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to exempted goods or services, in terms of sub-section 3.

### **Compounding Under Existing Law - Section 140 (6)**

A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the conditions stipulated similarly as the conditions in section 140 (3)

## Invoice in Previous Law; Goods received Subsequently - Section 140 (5)

A registered person shall be entitled to take, in his electronic credit ledger,

- credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day
- but the duty or tax in respect of which has been paid by the supplier under the existing law,

subject to the condition that the invoice or any other **duty or tax paying document** of the same was **recorded** in the books of accounts of such person **within a period of thirty days** from the appointed day:

The period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days.

Following details shall be furnished in **FORM GST TRAN- 1**

- (i) the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which credit of input tax was admissible under the existing law,
- (ii) the description and value of the goods or services,
- (iii) the quantity in case of goods and the unit or unit quantity code thereof,
- (iv) the amount of eligible taxes and duties or, as the case may be, the value added tax [or entry tax] charged by the supplier in respect of the goods or services, and
- (v) the date on which the receipt of goods or services is entered in the books of account of the recipient.



## Service Received on Prior Date

### Service received by ISD on Prior Date but Invoice Received Subsequently - Section 140 (7)

Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor **shall be eligible for distribution as credit under this Act** even if the invoices relating to such services is received on or after the appointed day

### CENVAT Credit on Service Tax Reversed due to Non Payment- Section 140 (9)

Where any CENVAT credit availed for the **input services** provided under the existing law has been **reversed due to non payment** of the consideration within a period of three months, such credit **can be reclaimed** subject to the condition that the registered person **has made the payment** of the consideration for that supply of services **within a period of three months from the appointed day**

## Distribution of Credit by Centrally Registered in the current Law - Section 140 (8)

- Registered person having centralised registration under the existing law shall be allowed to take credit of CENVAT credit **carried forward in a return** furnished under the existing law by him:
- If the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:
- He shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:
- Such **credit may be transferred to any of the registered persons having the same PAN** for which the centralized registration was obtained under the existing law.

## **Transitional provisions relating to Job Work, Goods sent for testing etc (Section 141)**

(1) Where any inputs received in a factory had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose or

(2) Where any semi-finished goods had been removed from the factory to any other premises for carrying out certain manufacturing processes or

(3) Where any excisable goods manufactured in a factory had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not,

- If such goods are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned **within six months** from the appointed day:
- on sufficient cause being shown, may be extended by the Commissioner for a further **period not exceeding two months**.
- if the said goods are not returned within a period of six months or the extended period from the appointed day, the input tax credit shall be liable to be recovered in terms of clause (a) of sub-section (8) of section 142
- The Principal Manufacturer & Job worker **to declare the details of the goods held in the stock by the Job Worker** on behalf of the Manufacturer in **Form Trans-1**
- the manufacturer may transfer the said goods **to the premises of any registered person for the purpose of supplying there from** on payment of tax in India or without payment of tax for exports within six months or the extended period from the appointed day.

## Upward / Downward Revision of Goods Supplied Prior Date [Section 142 (2)]

- Where, in pursuance of a contract entered into prior to the appointed day,
  - (a) the price of any goods or services or both is **revised upwards** on or after the appointed day, the registered person who had removed or provided such goods or services or both may **issue to the recipient a supplementary invoice or debit note**
  - (b) the price of any goods or services or both is **revised downwards** on or after the appointed day, the registered person who had removed or provided such goods or services or both **may issue to the recipient a credit note**
- Containing such particulars as may be prescribed, **within thirty days of such price revision** and for the purposes of this Act such supplementary invoice or debit note or credit note **shall be deemed to have been issued in respect of an outward supply made under this Act.**
- The registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.

## Refund Claim[Section 142 (3) &(4)]

- (3) Every claim for refund filed by any person before, on or after the appointed day, **for refund of any amount of CENVAT credit, duty, tax, interest or any other amount paid under the existing law,**
- (4) Every claim for refund filed after the appointed day **for refund of any duty or tax paid under existing law** in respect of the goods or services **exported before or after the appointed day,**
- (5) Every claim filed by a person after the appointed day **for refund of tax deposited under the existing law** in respect of **services not provided**
- Shall be disposed of in accordance **with the provisions of existing law** and any amount eventually accruing to him **shall be paid in cash,**
  - Where any claim for refund of CENVAT credit is **fully or partially rejected,** the amount **so rejected shall lapse:**
  - No refund claim shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act

## Proceedings of appeal, review or reference **[Section 142 (5) to (9)]**

- (6) Pursuant to every proceedings of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day, under the existing law
- (7) Pursuant to every proceedings of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law
- (8) Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law
- (9) Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision
- **If any amount becomes refundable to the taxable person, the same shall be refunded to him in cash**
  - **If any amount becomes recoverable from the person the same shall be recovered as an arrear of tax under this Act**

## **Overlapping [Section 142 (10) to (11)]**

(10) Goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

(11) (a) No tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;

(b) No tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;

## Goods lying at Agent's Place [Section 142 (12)]

Any goods or capital goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid.

subject to fulfilment of the following conditions :

- (i) the agent is a registered taxable person under this Act ;
- (ii) both the principal and the agent declare the details of stock of goods or capital goods lying with such agent on the day immediately preceding the appointed day in **Form GST Trans-1**
- (iii) the **invoices** for such goods or capital goods **had been issued not earlier than twelve months** immediately preceding the appointed day ; and
- (iv) the **principal has either reversed or not availed** of the input tax credit in respect of such goods or capital goods or, having availed of such credit, has reversed the said credit, to the extent availed of by him.



## **Tax Deducted at Source [Section 142 (13)]**

Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under any law of a State relating to Value Added Tax and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

*Thank  
you*



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