



INDIAN GST

TRANSITION PROVISIONS

RAKESH GARG, LLB, FCA
(AUTHOR & CONSULTANT)



Tax Credit

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Claimed / Stock-in-Hand

Abbreviation used : Appointed Day - AD

Transition Provisions - Generality

- *Firstly to look at –Whether applicable to CGST or SGST*
- *SGST provisions are State specific. Liability and benefits cannot be transferred to other State. For Ex. Benefit of ITC under the Delhi VAT can be obtained only under Delhi GST*
- *CGST provisions are also State specific. Unless otherwise stated in the provision, credit or obligations cannot be transferred to other State*

Carried over Amount in Return

S.N.	Existing Law	GST
140 (1)	Cenvat Credit in Returns (CGST)	<ul style="list-style-type: none">a. Registered taxable person other than composition dealers are eligibleb. Equal to amount carried over in last Returnc. Must be admissible under the GST lawd. Must have furnished all returns under existing law for 6 tax periods preceding AD <ul style="list-style-type: none">• For ex. ABC Ltd. a manufacturing Co. has cenvat credit balance of Rs. 10 Lakhs on 30.06.2017 (assuming appointed date). ABC Ltd. shall be allowed to take credit of Rs. 10 lacs in its electronic Credit Ledger subject to conditions already stated

Carried over Amount in Return

S.N	E.Law	GST
140 (1)	VAT and Entry Tax (SGST)	<ul style="list-style-type: none">a. Registered taxable person other than composition dealers are eligibleb. Equal to amount carried over in last Returnc. Must be admissible under the GST lawd. Return must be filed within 90 days of appointed daye. Must have furnished all returns under existing law for 6 tax periods preceding ADf. Credit shall be reduced by the amount of tax payable in respect of pending forms under the CST Act, which shall be refunded when such claims are substantiated. For example, ABC has carried over ITC of Rs. 10 lacs in its return ending 30.6.2017. It also have tax component of Rs. 7 lacs in respect of pending Forms C and F. It would be allowed to carried over only Rs. 3 lacs. Rs. 7 lacs would be refunded after furnishing of Forms

Transition Rules

- Every registered person, entitled to take credit of ITC u/s 140, shall submit an application electronically in Form GST TRAN-1.
- Application shall be submitted within 60 days of the appointed day on the GSTN Portal.
- Amount of tax or duty for which said person is entitled as credit, will be separately stated in the Form.
- CGST - Where the inputs have been received from an EOU or a unit located in Electronic Hardware Technology Park, the credit shall be allowed to the extent as provided in rule 3(7) of the Cenvat Credit Rules.
- Amount of credit specified in the application Form GST TRAN-1 shall be credited to the electronic credit ledger of the applicant maintained in Form GST PMT-2 on the GSTN Portal.

Transition Rules

SGST

- The application shall also specify separately the followings: -
 - (a) the value of claims in respect of Forms C, F and Certificates in Forms E, H, I made by the applicant during the financial year relating to the relevant return, and
 - (b) the serial number and value of declarations in Forms C, F and Certificates in Forms E, H, I specified in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, submitted by the applicant in support of the claims referred to in previous clause.

Carried over Amount in Return

- Claim of SGST is **state specific**. Therefore, credit claimed in the return of a particular State, say in Delhi, will be eligible to be carried forward only in the succeeding SGST law of Delhi, and cannot be availed as credit in any other State GST Law.
- There is no specific time limit on the period to which such transitional credit should pertain to under the CGST/ SGST law. Thus, the credit might even be carried for several years in the repealing law.
- Where the dealer fails to state the carry over amount in its last return, he would not claim credit under this section. It could be claimed by way of refund u/s 142(2).
- If the surcharge or cess which is levied under the respective State/Union laws is eligible for credit, then such credit is eligible for carry forward as SGST/CGST credit.

Carried over Amount in Return

- In case more than one registration of a single person in one State and where credits are claimed in every registration, the credits brought forward in multiple returns would also be consolidated into a single ITC in the respective SGST ledger of that State since multiple registrations of a particular State would be consolidated into a single GST registration in that State (except in case of distinct business verticals).
- Where the taxpayer is not eligible for partial amount of credit: *For Ex.* ABC has credit in its return of Rs. 3 lac whereas he is eligible for only Rs.2 lacs, then, he would claim only Rs.2 lacs under GST in electronic credit ledger.

Carried over Amount in Return

- **Where any transitional credit carry forward in the GST return is held to be ineligible under an assessment/ adjudication proceeding, whether initiated before or after appointed day, such credit shall be recovered as an arrear of tax under GST.**
- **If there is any variation between the C/F amount as per last returns and C/F amount as per books of accounts, the taxpayer would carry the amount as stated in the last return. The amount of duty, tax or cess carried forward as per the books of accounts is immaterial.**

Unavailed CENVAT on Capital Goods

S.N.	Existing Law	GST
140 (2)	Unavailed Cenvat Credit (CC) on <u>capital goods</u> not carried forward in the Return (CGST + SGST)	<ul style="list-style-type: none">a. Registered person other than composition dealers are eligibleb. Pertains to the period up to ADc. Must be admissible under the old law as well as new lawd. “Unavailed Cenvat Credit” = Aggregate eligible credit (-) amount of C.C. already availed in the Returnse. Capital goods means the goods as defined u/r 2(a) of CC Rules, 2004 (CGST only)

Transition Rules – C+S

- Every registered person entitled to take credit of input tax shall submit an application electronically in Form GST TRAN-1 within 60 days, on GSTN portal stating the eligible amount of tax/duty separately.
- The application shall also specify the following particulars separately in respect of every item of capital goods as on the appointed day:-
 - (a) Amount of tax/duty availed or utilized by way of input tax credit under each of the existing laws till the appointed day, and
 - (b) Amount of duty/tax yet to be availed or utilized by way of input tax credit under each of the existing laws till the appointed day.

Unavailed CENVAT on Capital Goods

- As per Rule 4(2) (b) of the CENVAT Credit Rules, CC on capital goods, which has not been availed in the first year will be available in any financial year subsequent to the financial year in which it was purchased. CC Rules does not prescribe any time limit for availment of CC on Capital Goods.
- Similarly, depending upon the State VAT provisions, the dealer might have unavailed input tax credit. Therefore, credit on capital goods can be claimed to the extent of unavailed portion, if it is admissible as credit under SGST law.
- Where capital goods are received after the appointed day; and thus, no amount could be claimed before that day, entire credit on such capital goods may be claimed after the appointed day under this sub-section.

Unclaimed Taxes –Inputs held in stock

	Existing Law	GST
140 (3)	<p>Unclaimed Central Duties</p> <p>by persons not liable to tax under existing law or URD Person in Repealing Act</p> <p>(CGST)</p>	<p>a. Applicable to a person, who was -</p> <ul style="list-style-type: none"> • not liable to be registered under existing law, or • engaged in the manufacture of exempted goods or provision of exempted services, or • providing works contract service and was availing of the benefit of notification No. 26/2012-Service Tax, dated 20.06.2012 (Abatement) or • a first stage dealer or a second stage dealer or • a registered importer, (for CGST) <p>b. Pertains to the period up to AD in respect of eligible duties and taxes</p> <p>c. Could not claimed as he was not liable to pay tax</p> <p style="text-align: right;">Contd.....</p>

Unclaimed Taxes –Inputs held in stock

S.N.	Existing Law	GST
140 (3)	Unclaimed Central Duties by persons not liable to tax under existing law or URD Person in Repealing Act (CGST)	<p>d. In respect of -</p> <ul style="list-style-type: none">• inputs held in stock and• inputs contained in semi-finished/finished goods held in stock <p>e. Conditions:</p> <ul style="list-style-type: none">• Must otherwise be admissible under the GST• To be used for taxable supplies• Has invoice/other evidence not existing than 12 months from the appointed date• Must Pass on the benefit of such credit by way of reduced prices to the recipient where he don't have invoice/duty-paying document• To be calculated in the prescribed manner

Unclaimed Taxes – Inputs held in stock

First Stage Dealer – R-2(ij)/CCR - Means a dealer, who purchases the goods directly, under cover of an invoice, from -

- (i) the manufacturer under the cover of an invoice issued in terms of the provisions of Central Excise Rules, 2002; or**
- (ii) the depot of the said manufacturer, or**
- (iii) premises of the consignment agent of said manufacturer or from where the goods are sold by or on behalf of the said manufacturer; or**
- (iv) an importer or the depot of an importer; or**
- (v) the premises of the consignment agent of the importer.**

Second stage dealer – R-2(s)/CCR - Means a dealer who purchases goods from a first stage dealer.

- It may be noted that third and subsequent stage dealers are not covered specifically in this section.**

Unclaimed Taxes –Inputs held in stock

S.N.	Existing Law	GST
140 (3)	Unclaimed Central Duties and State VAT & Entry Tax by persons not liable to tax under existing law or URD Person in Repealing Act (CGST & SGST)	<p>f. Credit under Central Act pertains to-</p> <ul style="list-style-type: none">• Excise Duty specified in the First & Second Schedule to the Central Excise Tariff Act• AED leviable u/s 3 of the Additional Duties of Excise (Textile and Textile Articles) Act• AED leviable u/s 3 of the Additional Duties of Excise (Goods of Special Importance) Act,• National Calamity Contingent Duty under Finance Act;• Additional duty leviable u/s 3(1) & (5) of the Customs Tariff Act, <p><i>No credit of Service Tax under this sec</i></p> <p>g. Credit under State Act pertains to VAT & Entry Tax. Thus CST paid on purchases cannot be claimed.</p>

Unclaimed Taxes –Inputs held in stock

	Existing Law	GST
140 (3)	Unclaimed State VAT & Entry Tax by persons not liable to tax under existing law or URD Person in Repealing Act (SGST)	Applicable to a person, who was - (a) not liable to be registered under existing law, or (b) engaged in the sale of exempted goods or tax free goods under the existing law, but the same are taxable under GST, or (c) where the person was entitled to the credit of input tax at the time of sale of goods (iii) Amount pertains to the credit of VAT & Entry Tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock. b. Pertains to the period up to AD in respect of VAT and Entry taxes

Unclaimed Taxes –Inputs held in stock

S.N.	Existing Law	GST
140 (3)	Unclaimed State VAT & Entry Tax by persons not liable to tax under existing law or URD Person in Repealing Act (SGST)	In respect of - <ul style="list-style-type: none">• inputs held in stock and• inputs contained in semi-finished/finished goods held in stock Conditions: <ul style="list-style-type: none">• Must otherwise be admissible under the GST• To be used for taxable supplies• Has invoice/other evidence not existing than 12 months from the appointed date• Must Pass on the benefit of such credit by way of reduced prices to the recipient where he don't have invoice/duty-paying document• To be calculated in the prescribed manner

Transition Rules

- Every registered person entitled to take ITC shall submit an application in Form GST TRAN-1 within 60 days, on GSTN portal.
- Such credit shall be allowed @ 40% of the CGST/SGST applicable on supply of such goods after the appointed date.

To illustrate, an unregistered person in the existing law holds the stock of INR 8 Lakh on the appointed day on which excise duty is payable @12.5%. These goods are sold at INR 10 Lakh. CGST applicable on these goods is 9%. He is allowed a credit of INR 36,000/- ($10,00,000 * 9\% * 40\%$). Rate of ED under existing law is insignificant for this purpose.

- Credit shall be allowed after the CGST/SGST payable on such supply has been paid. This means until the goods, on which the registered person is claiming ITC, are supplied and tax thereupon is paid, he is not eligible for ITC under the GST.

Transition Rules

- **CGST only - Such goods were not wholly exempt from duty of excise specified in the First Schedule to the Central Excise Tariff Act, or were not Nil rated.**
- **Document for procurement of goods is available with regd person.**
- **Stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.**
- **The scheme for availing tax credit shall be available for 6 tax periods from the appointed date.**
- **In addition to Form GST TRAN-1, regd person shall also submit a statement in Form GST TRAN--- at the end of each of the 6 tax periods during which the scheme is in operation indicating therein details of supplies of such goods effected during the tax period.**
- **Service provider (URD in VAT) may claim ITC on inputs under this section – Revised FAQ by CBEC**

Unavailed/Unclaimed CENVAT on Input

S.N	Existing Law	GST
140 (4)	CC in respect of Duties and VAT & Entry Tax in CGST+SGST Person dealing in taxable & Exempted Goods or services	<ul style="list-style-type: none">• He was engaged in -<ul style="list-style-type: none">○ mfr of non exempted (+) exempted goods (or)○ provision of non-exempted (+) exempted services. (CGST)○ engaged in sale of taxable goods as well as exempted/tax free goods (SGST)• He shall be entitled to take credit for –<ol style="list-style-type: none">a. Amount of CC/ITC carried forward in a return furnished under existing law - in terms of 140(1)b. CC/ITC is in respect relates to inputs held in stock or in semi-finished/finished goods relating to exempted goods on the AD- in terms of Sec. 140(3)

Input & Input Services-In Transit

S.N.	Existing Law	GST
140(5))	CC in respect of Duties and State VAT & Entry Tax in Repealing Act (CGST & SGST)	<ul style="list-style-type: none">• Shall be entitled to take credit of eligible duties/ taxes in respect of -<ul style="list-style-type: none">○ inputs or input services received on or after the appointed day, but○ duty/tax in respect of same has been paid under the existing law• Invoice or any other duty/tax paying document was recorded in the books of accounts of such person within a period of 30 days from the appointed day (extendable to further 30 days)• He shall furnish a statement in GST TRAN-1 in 60 days, in respect of such credit

Transition Rules

- Every registered person entitled to take ITC shall submit an application in Form GST TRAN-1 within 60 days, on GSTN portal.
- He shall furnish the following details: -
 - (a) 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,
 - (b) The description, quantity and value of the goods or services,
 - (c) The amount of eligible taxes and duties charged by the supplier in respect of the goods or services,
 - (d) The date on which the receipt of goods or services is entered in the books of account of the recipient.

Input & Input Services-In Transit

Illustrations:

- Where importer pays CVD before the appointed day, but goods are received in its factory after the appointed day, he may take credit after the appointed day.
- Invoice is raised prior to the appointed day and goods and/or services are received after the appointed day, the recipient is eligible to avail credit provided the receipt is recorded by the receiver within 30 days in his books of accounts.
- Where services have been invoiced prior to the appointed day but the services are completed after the appointed day, credit may be claimed under this section.

Input & Input Services-In Transit

Illustrations:

- If any credit on inputs/input services has been missed to be availed or in respect of which duty paying documents are not available as on the appointed day, credit cannot be claimed under this section.
- Credit on capital goods received after the appointed day is beyond the scope of this section. It may be claimed u/s 140(2)

Switch over to Normal Sch. by Compo. Dealer

S.N.	Existing Law	GST
140 (6)	Unclaimed Central Duties and State VAT by Composition Dealer in Repealing Act (CGST & SGST)	<p>a. Taxes/Duties could not be claimed as he was Composition Dealer</p> <p>b. Must otherwise be admissible under the old law as well as new law</p> <p>c. <u>In respect of</u> inputs and inputs contained in WIP & finished goods</p> <p>d. Conditions:</p> <ul style="list-style-type: none">• To be used for taxable supplies• Not opted for composition in GST• Has invoice/other evidence not existing than 12 months from appointed day• To be calculated in prescribed manner

Switch to Normal Scheme by Compo. Dealer

Instances of composition scheme:

- **Compounded levy scheme u/r 15 of Central Excise rules, provides for payment of duty on basis of production capacity. It is presently applicable to stainless steel pattas/patties and Aluminium circles. It is optional scheme and not compulsory like production capacity basis scheme u/s 3A of CEA.**
- **Various composition scheme under State VAT Act applicable to works contracts, retailers, general turnover based composition schemes, etc.**
- **Following are not composition schemes: -**
 - **Paying VAT on percentage basis in relation to works contract**
 - **Paying service tax availing abatement**

Credit could not be claimed in relation to capital goods and input services.

Centralized Registration - Cenvat

S. N.	Existing Law	GST
140 (8)	Centralized registration- Availing of Cenvat Credit (CGST only)	<ul style="list-style-type: none">• Where a taxable person having centralized registration under the existing law has obtained a registration under this Act• He has CC in the return furnished immediately before the appointed day.• The said return (original/revised) must be filed within 3 months from the appointed day• Credit must be admissible under GST Act• He can take such Cenvat credit in the Return.• He is also allowed to transfer the credit to other GSTIN with same PAN• GST TRAN-1 filed with 60 days from AD.

Centralized Registration - Cenvat

Section 140(1) vs. 140(8):

- Both these sections deal with cenvat credit carried forward in the last return before AD
- Where ABC (having places of business at Delhi, UP and MP) has centralised registration, say in Delhi, and has unutilized cenvat credit on the AD -
 - i. he may carry forward his credit in CGST in Delhi; or
 - ii. He may avail the entire credit in Delhi; and transfer the whole or part of the said credit to UP and MP. It is needless to mention that ABC would require separate GST registrations in Delhi, UP and MP.

Section 140(8) comes into operation in case of (ii) above.

Availing Cenvat Credit in certain cases

S. N.	Existing Law	GST
140 (9)	Availing Cenvat Credit in certain Cases (CGST only)	<ul style="list-style-type: none">• Where any Cenvat credit has been availed for the input services provided under existing law• C.C. has been reversed due to non-payment of the consideration within a period of 3 months,• such credit can be reclaimed provided that the taxable person has made the payment of the consideration for that supply of services within a period of 3 months from the appointed day.

- **At present, CC is required to be reversed if payment is not made within 3 months to the vendor and such credit may be re-claimed on payment to the vendor as and when the payment is made. Sec. 197 of the GST covers such types of cases where CC has been reversed, but not reclaimed.**



Tax Liability

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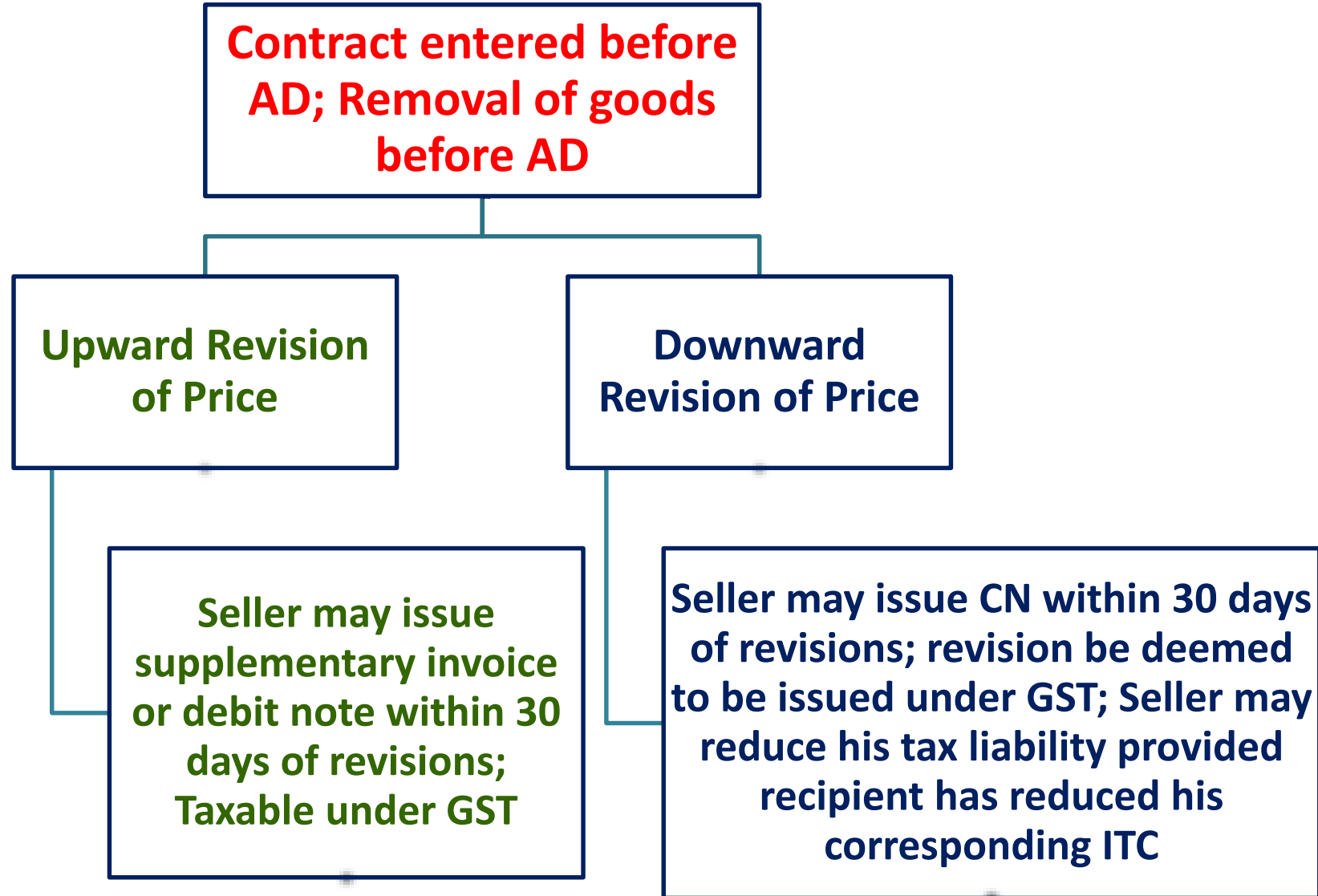
Output GST

Abbreviation used : Appointed Day - AD

Return of Goods- Taxable in GST

S.N.	Existing Law	GST
142(1))	Return of Goods; taxability in GST (CGST & SGST)	<ol style="list-style-type: none"> Goods are supplied within 6 months before AD Goods are returned to place of business within 6 months after AD If both the conditions satisfies- Not taxable in the hands of purchaser; and seller is eligible for Refund, provided goods are identifiable to the satisfaction of the Proper Officer If returned after 6 months– <ul style="list-style-type: none"> <u>By URD under GST</u> – Seller not eligible for Refunds, <u>By RD in GST-</u> Deemed as supply qua person retuning goods

Revision of Price – S. 142(2) – CGST/SGST



Ongoing Contracts

S. N.	Existing Law	GST
142 (10) / 142 (9)	Treatment of works contract (CGST & SGST)	<ul style="list-style-type: none">a. Contract entered before the appointed date (AD)b. Supply of goods/services after the ADc. To be taxable under the GST

Supply of Goods / Services – 142(11)

S. N.	Existing Law	GST
142 (11) / 142 (10)	Supply of Goods – VAT Leviable (CGST & SGST)	<p>Notwithstanding anything contained in section 12 (time of supply), no tax shall be payable on goods under the CGST/SGST Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State.</p> <p>For example,</p> <p>ABC makes a sale of INR 10,000/- in June 2017 and raises the invoice; payment for the same is received in July 2017, i.e., after the appointed day. In such case, since VAT is payable in June 2017, no tax would be levied in CGST.</p>

Supply of Goods / Services – 142(11)

S. N.	Existing Law	GST
142 (11) / 142 (10)	Supply of Services – ST Leviable (CGST & SGST)	<p>Notwithstanding anything contained in section 13 (time of supply), no tax shall be payable on goods under the CGST/SGST Act to the extent the tax was leviable on the said goods under the Finance Act.</p> <p>For example,</p> <p>MNO renders the service and receives the payment of INR 20,000/- in June 2017; but raises the invoice on 5th July 2017, i.e., after the appointed day. In such case, since service tax is payable in June 2017, no tax would be levied in CGST.</p>

Supply of Goods / Services – 142(11)

S. N.	Existing Law	GST
142 (11) / 142 (10)	Supply of goods and services after the appointed day (CGST & SGST)	<p>Where tax was paid on any supply both under the State VAT Act and under the Finance Act, 1994, tax shall be leviable under this Act, and the taxable person shall be entitled to take credit of VAT or service tax paid under the existing law <u>to the extent of supplies made after the appointed day</u>, and such credit shall be calculated in such manner as may be prescribed.</p> <p>This clause prevents the misuse of the transition provisions. As per this provision, where supply has been made after the appointed day, it would be taxable under the GST; however, the supplier could take credit of tax paid on such supply under the existing law.</p>

Return of Goods sent on Approval

S. N.	Existing Law	GST
142 (12) 142(11)	<p>Goods sent on approval basis returned on or after appointed day</p> <p>(CGST & SGST)</p>	<ol style="list-style-type: none"> Goods were sent on approval not earlier than 6 months prior to appointed day Goods are returned/rejected to the place of business within 6 months from the appointed date; Extendable by 2 months If above conditions are satisfied - not taxable If not returned within the said period: <ul style="list-style-type: none"> Tax shall be payable by the person returning goods Tax shall also be payable by the person who sent the goods on approval <p>Furnish Form GST TRAN-1 within 60 days</p>



Revision of Returns

Abbreviation used : Appointed Day - AD

Revision of Returns

S. N.	Existing Law	GST
142 (9) / 142 (8)	Treatment in pursuance of Revision of Returns (CGST & SGST)	<ul style="list-style-type: none"> Where any return, furnished under the existing law, is revised after AD, and in pursuant to such revision - <ol style="list-style-type: none"> Amount eventually accruing to him shall be paid in cash (refunded under the SGST as per the provisions of repealing law) <u>provided return is revised within the prescribed time</u> Amount eventually recoverable shall be recoverable as an arrears of GST; and such amount shall not be claimed as ITC in GST <p><i>Return may be revised due to –</i></p> <ol style="list-style-type: none"> <i>Increase/Decrease in output Tax Liability</i> <i>Increase/Decrease in Input Tax Credit</i>



Job Work

Abbreviation used : Appointed Day - AD

Return of Goods sent for certain work

S.N.	Existing Law	GST
141	Removal of good for job work etc. before appointed date and return after that date; (CGST & SGST)	S.141(1) – Removal / Dispatch of inputs as such, or otherwise, for job work before AD for further processing, testing, repair, reconditioning or any other purpose S.141(2) – Removal / Despatch of semi-finished goods for job work before the appointed date S.141(3) - Removal / Despatch of finished goods without payment of duty for test/processing, not amounting to manufacture, before the appointed day

Return of Goods sent for certain work

**Removal of goods for
job work u/s 141**

**(1) No Tax, if return
within 6+2 M from
AD**

**(2) If not returned
within the specified
time**

- a. Tax to be payable by job worker**
- b. Further, ITC claimed by transferor shall also be recovered**
- c. Mfr. may also transfer goods from said premises on payment of tax for making taxable sale/ export within said period.**

In addition, disclosure of details of such goods held by job-worker + manufacturer on the AD in case of (1) and (2)

Transition Rules

- Every person to whom the provisions of sec 141 apply (i.e., the principal or manufacturer or the person dispatching goods) shall submit an application electronically in Form GST TRAN-1.
- Application shall be submitted within 60 days of the appointed day on the GSTN Portal.
- He will specify the following details in the application: -
 - Details of the stock or, as the case may be, capital goods held by him on the appointed day,
 - Details of stock or, as the case may be, capital goods held by him as a principal at the place/places of business of his agents/branch,
 - He shall submit the stock details agent-wise and branch-wise separately.



Refunds, Assessment Proceedings & Appeal

Abbreviation used : Appointed Day - AD

General Rule

REFUNDS

- (i) Amount of refund claims (which has not been carried over in GST Returns) shall be disposed of in accordance with the provisions of existing law.
- (ii) Amount of refund under the Central Act shall be paid in cash.
- (ii) Amount eventually accruing to him under the State Act shall be refunded in accordance with the provisions of the existing law.

Proceedings

- (i) Any proceedings relating to existing law shall be disposed of in accordance with the provisions of existing law.
- (ii) Amount of refund under the Central Act shall be paid in cash. No refund claim shall be allowed of any amount of Cenvat credit where the balance of the said amount as on the AD has been carried forward under the GST Act.
- (ii) Amount eventually accruing to him under the State Act shall be refunded in accordance with the provisions of the existing law.

Other Aspects

Abbreviation used : Appointed Day - AD

Closing Stock on appointed day

- Taxpayer must ensure that its physical stock *vis-à-vis* the stock in books of accounts matches.
- The taxpayers would be required to give details of the stock in hand on the appointed day.
- All the stock in hand on the appointed, when sold, would be taxable at the rates applicable in the GST

Existing Long Term Contracts

- All acts envisage levy of taxes as per the provisions prevailing at the time of event.

- The contracts, which have been entered before the appointed day and to be partly/wholly executed after that day, might relate to -

- Works contract activities,
- Leasing activities,
- Recurrent supplies under a master agreement

- In case of “exclusive of tax” contracts, the contractor must ascertain that he should be in a position (contractually) to transfer the additional burden of tax, if any, upon the contractee. If there is no such clause in the contract, suitable amendments must be carried out before the appointed day.

Existing Long Term Contracts

- All the existing contracts, which have been executed “inclusive of all taxes”, must be renegotiated to safeguard their interest.
- It should also be ensured that invoices for the work done are raised before the appointed day.
- For this purpose, it is necessary, that provisions in respect of “time of supply” and Transition provisions are properly understood.

Existing Long Term Contracts

- **Special care is to be taken in WORKS CONTRACTS.**

- Many contractors are claiming deduction for sub-contractors under the VAT as per the L&T / State VAT provisions – However, not possible under the GST

- No more exemption for sale in the course of import (first limb of S.5(1)/CST). If the contractor has certain stock in his hand, which has not been billed before the AD, it would be taxed under the GST.

- Presently iron & steel, incorporated in WCT, is taxed @ 5%. However, under GST, irrespective of rate of tax on iron & steel, it would ultimately be taxed at the rate applicable to the services, might be 18%.

Existing Long Term Contracts

Special care is to be taken in WORKS CONTRACTS.

It has to be looked into whether present exemption under the Service Tax is continued in GST. If No, then impact is to be evaluated . Where Service is exempt, the contractor is unable to claim Cenvat credit, and becomes its cost.

Presently works contracts are taxable under service tax plus VAT. Under GST, it would be taxable as service. No abatement, similar to in service tax and VAT

Where the contractors (with turnover of more than INR 50 lakhs) are paying tax under the composition scheme, they must evaluate the impact since there might not be such scheme under the GST.

Impact of Exemptions in GST

- **Presently Mega Exemption is available to services only**
- **Generally VAT does not allow any exemptions. Thus the supplier is eligible for credit on goods**
- **Under GST, where entire contract is exempt, the supplier could not recover any output tax, and would not avail any ITC. Needless to mention, that inputs would be taxable at higher rate of tax.**

Raising of Invoice/CN/DN

- Ensure that no running bills in respect of supply of goods or service is pending on the appointed day (AD)
- Where service is rendered under ST regime, but raising of invoice and receipt of payment after AD – GST is leviable -
 - Few organizations are raising invoice on first day of the month for all services rendered during the last month – They must raise invoice on last date of the ST Regime
- If the service providers wants to issue credit note for service rendered under ST regime, try to raise before AD itself
- Likewise, if the seller of goods wants to give credit note for quantity discount or return of goods, try to raise before AD

Input Tax Credit

- Under the GST, input tax credit would be available to the buyer only if the counterparty supplier has paid tax to the appropriate govt. and has filed its valid returns.
- It means that if a supplier does not deposit his GST liability, all of his counterparty recipients would not receive the credits of ITC, even if they have paid the entire consideration to the supplier.
- These provisions require chasing by the recipients of the suppliers to deposit tax liability on or before due date.
- Therefore, efforts should be started right now to identify such dealers who are generally tax defaulters.
- Taxpayers might have to change their business model by keeping security deposit or indemnity bond from such suppliers till these suppliers file their valid return.

Invoice & Records

- Format of invoice has been prescribed in the Draft GST Invoice Formats, which has number of additional columns as compared to the columns presently applicable.
- After the appointed day, taxpayer will use new format only.
- Therefore, he must have suitable software before that day, which could facilitate the generation of invoice in the prescribed format.
- Stating of HSN on the invoice

Change in Practices - Goods

- Time of supply
 - Tax payment on advance
 - Precise time of supply
- Issuance of invoice
 - Precise time
 - Prescribed information including quantitative details
- Value of supply
- Branches have been treated as distinct person
 - Suppose, order is received to Branch A, supply by Branch B: Deemed supply from A to B
- Goods Returns - Credit note – Subject to GST – No 6 M
- Records, Accounts, Audit – State wise
- Certain records- Place of business/showroom wise

Change in Practices - Services

- Time of supply - Precise time of supply
- Issuance of invoice
 - Precise time
 - Prescribed information including quantitative details
- Value of supply
- Centralized registration gone
- Branches have been treated as distinct person
 - Suppose, order is received to Branch A, supply by Branch B: Deemed supply from A to B
- State wise compliances; records; accounts; audit

Determination of Cost & Impact

Factors affecting Cost and Value of the Goods

- Existing rate of VAT & Excise Duty vs. Tax Rates under GST.
- CENVAT / Input tax credit presently available vs. Availability of input GST credit.
- Non-creditable list in the GST.
- Industries which are kept outside the scope of GST, such as, Power, Liquor and petroleum Companies. Their inputs would be subject to GST but output would not. Further, power companies could not purchase against form C.
- Quantum of Inputs procured from non-GST Companies. If power tariff is increased, it would certainly increase the cost of GST Companies. Likewise, companies using natural gas would be adversely affected.

Determination of Cost & Impact

Factors (contd..)

- **Change in manner of determination of supply & its valuation under GST. Many transactions, even without consideration, would be deemed as supply under GST.**
- **Impact on input suppliers and output receivers of the concerned entity under the GST.**
- **No. of additional registration and returns**
- **Capacity of the supplier to pass on the additional GST burden to its customers.**
- **Denial of Input credit to an entity due to non-deposit of taxes by its counterparty suppliers.**
- **Cost of additional human resources and professionals for compliance of GST provisions.**

Determination of Cost & Impact

MRP goods:

- Whether these companies would get sufficient time to recompute their MRP
- What would happen to such goods in stock after AD with the companies and its distributors and retailers;
- What would happen to work in process, semi-finished goods, labels in stock, etc. .
- If MRP is changed to cover taxes –
 - By the manufacturer - Whether Excise (based upon MRP) would also be recovered by the Deptt.
 - By the distributor/stockiest – would it be the violation of weights and measurement Act, and Consumer Goods (Mandatory Printing of Cost of Production and Maximum Retail Price) Act, 2006

Human Resources

- Taxpayers might require additional human resources which are well qualified and trained to meet this challenge, due to -
 - Increase in number of registrations, particularly, the service providers;
 - Increase in number of returns to be filed in a given tax period in each State;
 - Increase in number of details and information required to be given in each return;
 - Maintenance of additional records and documents.

Other Points

- Additional Working Capital Requirements :
 - Elimination of
 - Form C,
 - Form E-I/II,
 - Form F,
 - Form H,
 - Exporters – If input are made Taxable (such as fabric) or where input are taxable at higher rate
- Updating of software
- Reorganize the marketing model, number of godowns, etc.

Awareness & Knowledge

- Knowledge is the essence for smooth transition.
- Once the appointed day is notified, the entire regime would be new: from 12.00 midnight itself.
- Any invoice issued on 12.01 AM on that day would be subject to GST instead of VAT/CST/Excise Duty/Service Tax.
- Therefore, unless we and our systems and software are ready for this change, everything would be messed up in the morning of the appointed day.
- Comprehensive training would be required to the staff of the taxpayers' community, both at senior level and at junior level
- **Don't Forget – GST is applicable to we professional as well**

THANK YOU



RAKESH GARG, LLB, FCA

*(Author of Central Sales Tax,
Delhi VAT, Service Tax & GST)*

S S A R & ASSOCIATES, N. DELHI

Ph: (011) 65960912-13, 9810216270

