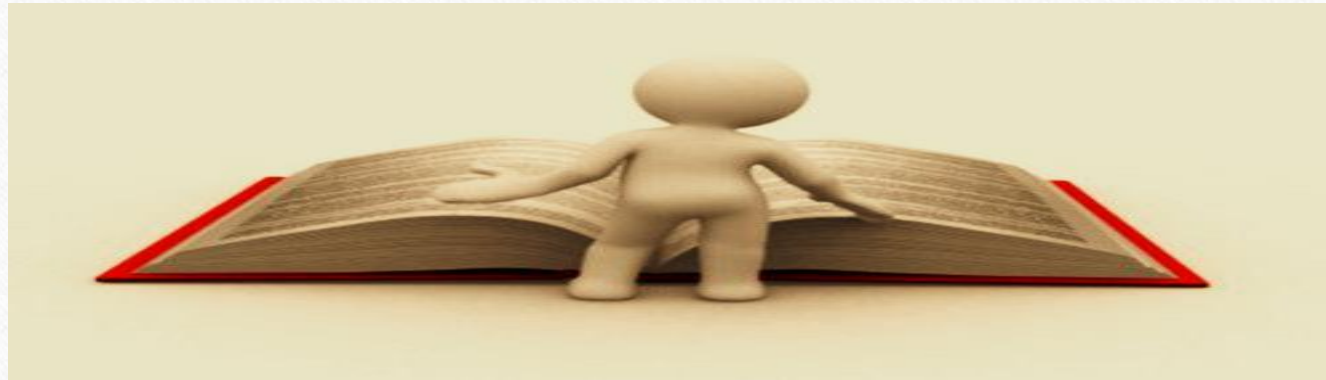


GST Overview



~CA Unmesh G. Patwardhan~
Mobile No.98224 24968

Brief History & Concept of GST

Journey of GST

14th June – Draft
Model GST law

8th Aug –
Lok Sabha
passes the
bill

26th Nov- Revised
draft of Model
Law

13th April – 5 GST Laws
passed by Parliament
receives President's
assent

Telangana
State is the
first state to
pass State
GST

State GST under
process

16th Sept – GST
Council Notified

30th Aug –
50% States
pass the GST
bill

1st Jul
2017 –
The 'D'
Day

Why GST ?

- To reduce the number of Indirect taxes
- To reduce cascading effect on value of Goods & Services
- To bring uniformity in Tax rates
- Make unified Indian market
- Ease of making business

What is the way forward?

- Central GST & Integrated GST are passed by Parliament
- State GST to be passed by all states
- GST Network to be tested and ready
- GST Rules, Notifications and Forms to be finalized
- Rate of tax on various Goods & Services to be finalized

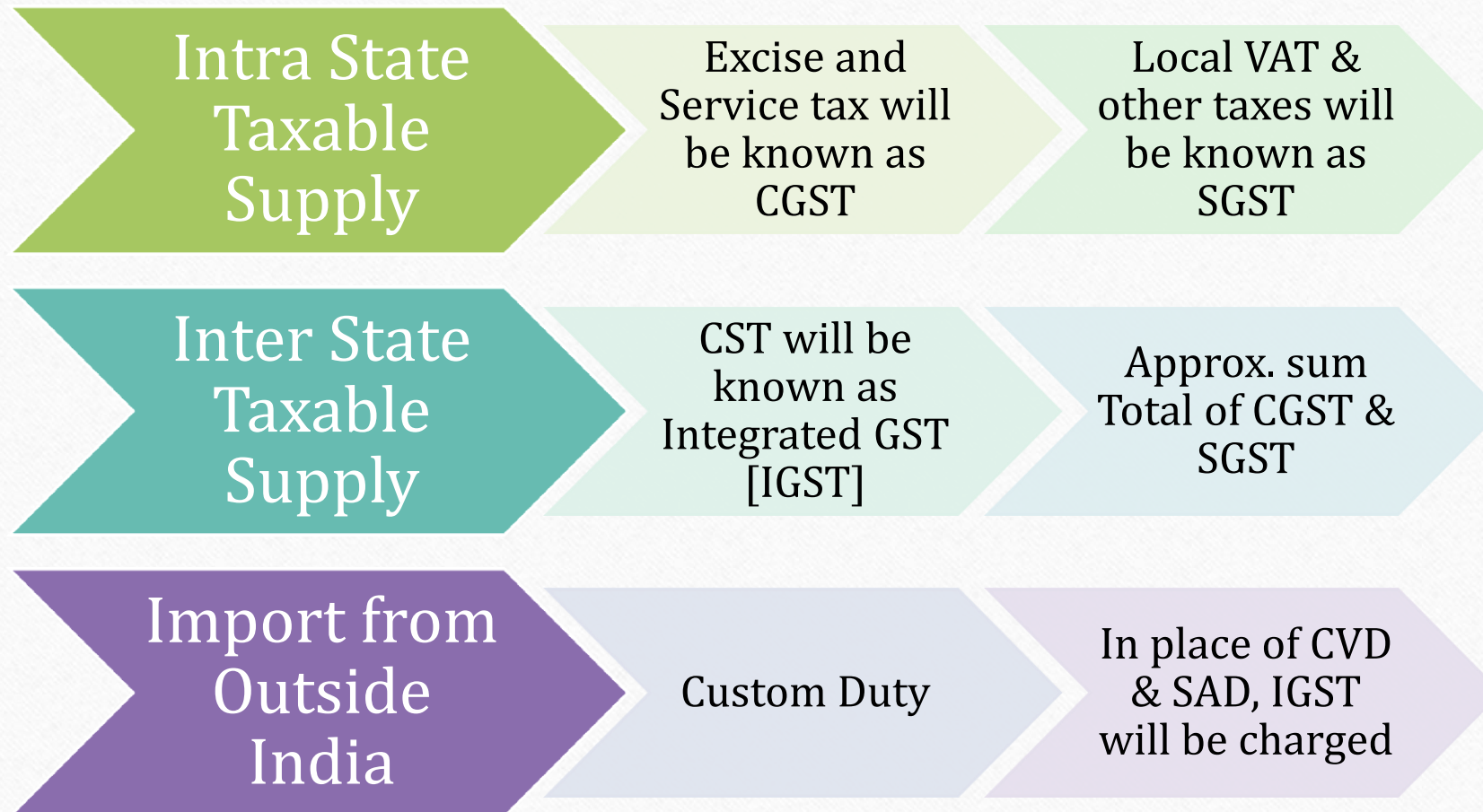
Present Taxes **Versus** GST Structure



Taxes / Goods not covered under GST

- Basic Custom Duty
- Profession Tax
- Stamp Duty
- Property Tax
- Electricity duty
- Taxes on Vehicles – Road Tax
- Entertainment tax levied by local bodies
- Excise duty on alcohol and liquor
- Petroleum Products
- Tobacco Products under GST with Central Excise duty

Indirect Tax Structure under GST



Registration

Registration

- Registration is linked to Aggregate TO. If Aggregate TO > 20/10 Lakh then :
 - Each State – wherefrom taxable supplies is made – shall be treated as distinct person
 - Different business verticals in a state – Choice is given to go for different registrations

“Aggregate Turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.

Registration

- Registration is not required for :
 - If a person exclusively engaged in supplying goods/services not liable to tax or are wholly exempt from tax
 - Agriculturist, to the extent of supply of produce out of cultivation of land.

Compulsory Registration

- Registration is mandatory for :
 - ☐ Person making an inter-State supply (outward supply);
 - ☐ Casual taxable persons;
 - ☐ Person required to pay tax under reverse charge mechanism;
 - ☐ Persons required to pay tax on the supply of notified services [u/s 9(5)];
 - ☐ Non-resident taxable person;
 - ☐ Persons required to deduct tax u/s 51;
 - ☐ Principal and Agent
 - ☐ Input service distributors;
 - ☐ Persons who supply goods and/ or services [other than supplies u/s 9(5)] through e-commerce operators who are required to collect tax u/s 52
 - ☐ Every e-commerce operator;
 - ☐ Persons supplying online information & database access or retrieval services from a place outside India to an unregistered person;

Concept of Supply

Important Aspects of Supply of Goods and/or Services



1. What is Supply

2. Time of Supply

3. Value of Supply

4. Place of Supply

Ingredients of Supply

- Supply of Goods and/or Services
- Made or agreed to be made
- For Consideration
- By a person
- In the course or furtherance of business

Schedule I - Activities to be treated as Supply even if made without Consideration

1. Permanent transfer/disposal of business assets if ITC is availed.
2. Supply between related persons (Sec.15) made in the course or furtherance of business (Sec.25) *[Gifts less than Rs.50,000/- in a FY by an employer to an employee will not be treated as Supply]*
3. Supply between distinct persons made in the course or furtherance of business (Sec.25)
4. Supply of Goods by principal to agent when he undertakes to supply for principal
5. Supply of Goods by agent to principal when he receives for principal
6. Importation of services by taxable person from related person or from his establishment in the course or furtherance of business

Schedule II – Activities to be treated as Supply of Goods or Supply of Services

Supply treated as that of Goods

- ❖ Transfer of title in Goods
- ❖ Transfer / Disposal of Business assets
- ❖ Supply by association to members

Supply treated as that of Services

- ❖ Transfer of right without title in goods
- ❖ Lease, tenancy, license etc of Land / Building
- ❖ Personal / Other use of Business assets
- ❖ Treatment or process i.e. job work
- ❖ Renting of immovable property
- ❖ Construction before completion
- ❖ Temporary transfer of IPR
- ❖ Development, Design etc. of Information technology software
- ❖ Obligation to refrain to act, tolerate an act
- ❖ Works Contracts
- ❖ Supply of food and beverages

Schedule III – Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

1. Services by an employee to employer in the course of his employment
2. Services by any court or Tribunal
3. Functions performed by Members of Parliament etc.
4. Services of funeral, burial, crematorium or mortuary
5. Sale of land and building
6. Actionable claims, other than lottery, betting and gambling

Composite and Mixed Supply

Composite Supply

Supply shall be treated as that of principal supply where supply comprises two or more supplies

Ex : Goods supplied + packing + transport + insurance

Ex : Doctor's services

Works Contract & Supply of Food/drink

Mixed Supply

Supply shall be that, which attracts the highest rate of tax where supply comprises two or more supplies

Ex : Dry fruit boxes, Mixed fruit juices, cakes, chocolates

Time of Supply

Time of Supply of Goods

As per Section 12(2) of CGST ACT, time of supply of goods shall be **earlier** of **invoice/ payment**, i.e., –

Actual **date of issue of invoice** by the supplier

Due date for issue of invoice by the supplier [Section 31*]:

- **Supply involves movement:** Time of removal of goods for supply
- **Sale on approval basis:** Earlier of time at which it becomes known that the supply has taken place OR 6 months from date of removal
- **Other cases:** Delivery of goods/ making available to the recipient or
- **Notified categories of supplies:** Time to be specified by Rules

**Where payment is received in advance, the Supplier shall issue a receipt voucher, and NOT a tax invoice*

Date on which **payment is entered in the books of supplier**

Date on which **payment is credited** to the supplier's bank a/c

Time of Supply of **Services**

As per Section 13(2) of CGST ACT, time of supply of services shall be **earlier of invoice/ payment, i.e., –**

Actual **date of issue of invoice** by the supplier

Due date for issue of invoice by the supplier [Section 31*]:

- Before/ after the supply of service, but within 30 days
- **Notified categories of supplies:** Any other prescribed document shall be deemed to be the tax invoice

**Where payment is received in advance, the Supplier shall issue a receipt voucher, and NOT a tax invoice*

Date on which **payment is entered in the books of supplier**

Date on which **payment is credited** to the supplier's bank a/c

Value of Supply

Value of Supply of goods or services shall be the **“Transaction Value”**

- Supplier and recipient are not related
- Price is actually paid / payable and is the sole consideration

Transaction Value INCLUDES:

- Amounts charged by supplier to recipient in respect of any **taxes, duties, cesses, fees and charges levied** under any statute, other than taxes paid under GST regime;
- **Amount incurred by Recipient** which is liable to be paid by the Supplier;
- Charges by Supplier to Recipient being:
 - **Incidental expenses** (e.g.: packing, commission)
 - **Charges for anything done by the Supplier** at the time or before the supply, in respect thereof
 - **Interest/ late fee/ penalty** for delayed payment of consideration
 - **Subsidies directly linked to price** – for supplier receiving the subsidy (excluding Central and State Govt subsidies; i.e., Government subsidies will not be included in transaction value)

Transaction Value EXCLUDES discount:

- **Before/ at the time of supply**
 - **Single condition:** Such discount is duly recorded in the invoice
- **After the supply: Cumulative conditions:**
 - Agreement establishing discount entered into before/ at the time of supply
 - Discount specifically linked to relevant invoices
 - ITC reversed by the recipient to the extent of discount

Place of Supply of Goods and /or Services

Place of Supply of Goods – Sec 10 IGST (other than goods imported/ exported)

Section 10(1)(a)

Supply involves movement of Goods

Location of goods at the time at which movement terminates for delivery to recipient

Section 10(1)(b)

Goods supplied on direction of the third person

Principal Place of Business of the third person (i.e., address in Registration Certificate)

Section 10(1)(c)

Supply does not involve movement of Goods

Location of goods at the time of delivery to the recipient

Section 10(1)(d)

Goods are assembled or installed at site

Place of installation or assembly

Section 10(1)(e)

Goods supplied on board a conveyance e.g. vessel, aircraft, train, vehicle etc.

Location at which such goods are taken on board

Where none of the above rules apply, place of supply would be determined in the manner to be prescribed

Place of Supply of Goods – Sec 11 IGST (goods imported into/ exported from India)

- **Export of goods:** Means taking goods out of India to a place outside India;
- **Import of goods:** Means bringing goods into India from a place outside India;

Section	Situation	Place of supply
11(a)	Goods imported into India	Location of importer
11(b)	Goods exported from India	Location outside India

Note: Section 5 provides that **IGST shall be levied** on goods imported into India as per Section 3 of Customs Tariff Act

- *Point of taxation* - When duties of customs are levied on the said goods
- *Value* - As determined as per Customs Act

Place of Supply of Services – Sec 12 IGST (where supplier & recipient are in India)

For Supply of any
other Service,
Place of supply is:

Section 12(2)(a): Registered recipient: Location of recipient

Section 12(2)(b)(i): Unregistered recipient: Address in supplier's records

Section 12(2)(b)(ii): Unregistered recipient: Location of supplier if address not available

Place of Supply

- Basic principal for determining intra / inter state supply will be :
 - Location of Supplier and
 - Place of Supply
 - Both in One State – Intra State Supply – Liable for CGST and SGST
 - Either one in another state – Interstate Supply - IGST
- Supply to/from SEZ and Goods in the course of Imports – are always interstate supplies – i. e. IGST applicable

Levy and Collection

Levy & Collection

- Levy on All intra state and interstate supplies @Rates specified but not exceeding 20%
- Tax will be payable RCM also
- Composition Levy :
 - Its optional scheme for Small dealers whose TO < 50 Lakh in F Y 2016-17
 - 2% for manufacturer, 5% for Restaurants and 1% for others

Composition Levy

- Composition levy Not Applicable to :
 - Engaged in supply of services (even supply of Goods treated as service also)
 - Who makes supply of goods not liable for tax under this Act
 - Who makes interstate outward supply of Goods
 - Sale through E Commerce Operator
 - Notified manufacturers
- Turnover for Composition will be calculated on PAN basis and No Set off

Reverse Charge Mechanism

All about Reverse Charge Mechanism?

- Liability to pay tax
- By recipient of Supply of Goods or Services or Both
- Government to specify categories of supply of goods or services or both
- Registration – basic limit of Rs.20 lacs is not applicable
- Supply of taxable goods
- By supplier who is not registered to recipient who is registered
- Recipient to issue an Invoice on date of receipt of goods and / or services

Time of Supply of Goods / Services- **Reverse Charge**

Date on which **payment is entered in the books of recipient**

Date on which **payment is debited** to the recipient's bank a/c

Where tax liable to be paid on reverse charge basis, the time of supply of goods/services shall be **earliest** of–

31st day (in case of goods, and 61st day in case of services) from the date of issue of invoice by supplier

Note: This factor is not relevant in case of services from a supplier being an associated enterprise outside India

Where it is not possible to determine time of supply in the **3 other cases: Date of entry in the books of account of the recipient**

Note: On the date of receipt of goods (or services) from a supplier being an unregistered person, the recipient shall issue an invoice

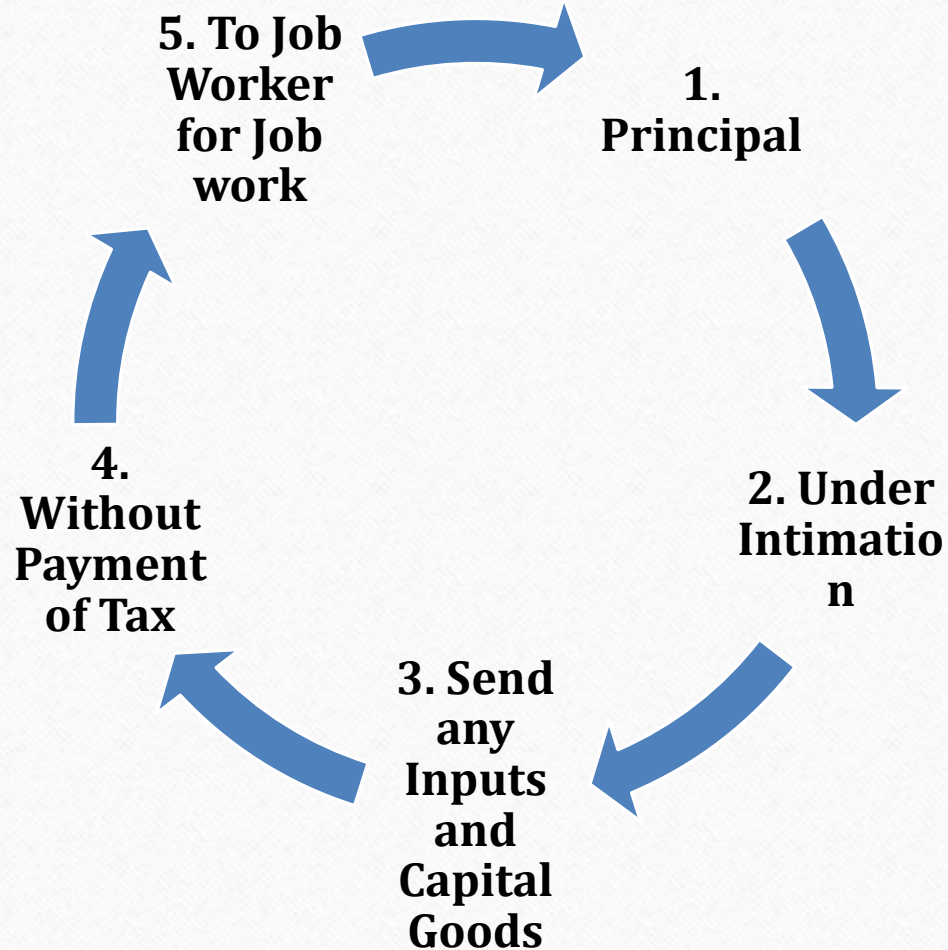
Job Work under GST

What is Job Work

Job Work means –

- Any treatment or process
- Undertaken by a person
- On goods belonging to another registered person

Job work procedure



Conditions :

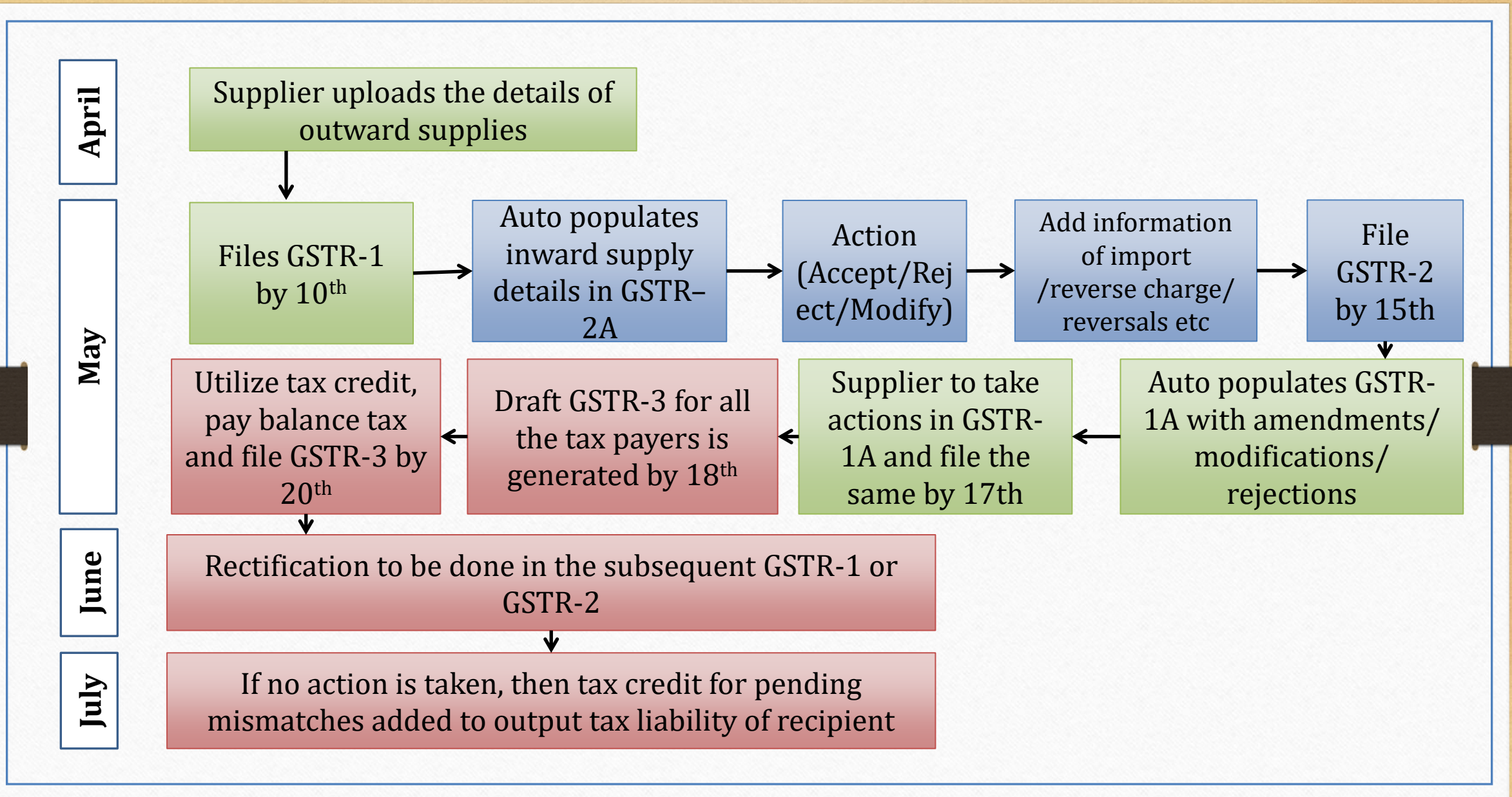
1. Bring back inputs within 1 year
2. Bring back capital goods within 3 years
3. Other than moulds and dies, jigs and fixtures, or tools
4. Can send to another job worker for further processing
5. Principal can supply goods directly from place of business of registered job worker
6. For point no.5, in case of unregistered job worker, principal shall have to add the place in his additional place of business

Returns under GST

Returns under GST

RETURN FORM	PARTICULARS	DUE DATE	APPLICABLE FOR
GSTR1	Outward Supplies	10 th of the next month	Normal/ Regular Taxpayer
GSTR2	Inward Supplies	15 th of the next month	Normal/ Regular Taxpayer
GSTR3	Monthly return [periodic]	20 th of the next month	Normal/ Regular Taxpayer
GSTR4	Return by compounding tax payers	18 th of the month next to the quarter	Compounding Taxpayer
GSTR5	Return by non resident tax payers [foreigners]	Within 7 days of the last day of registration	Foreign Non-Resident Taxpayer
GSTR6	Return by input service distributors	13 th of the next month	Input Service Distributor
GSTR7	TDS return	10 th of the next month	Tax Deductor
GSTR9	Annual return	31 st December next FY	Normal/ Regular Taxpayer, Compounding Taxpayer
Ledgers	ITC ledger, cash ledger, tax ledger	On a continuous basis	

Returns flow chart

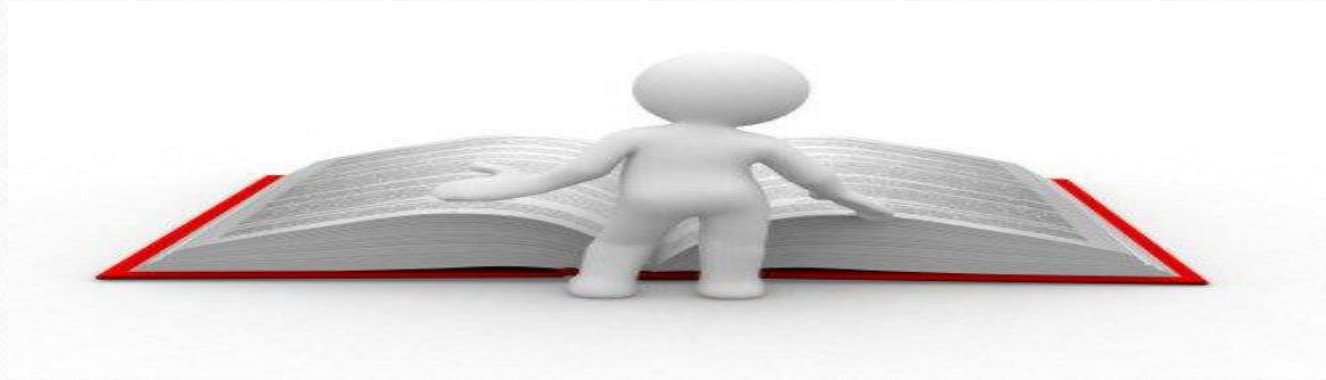


Returns under GST

- Default list in case of Non-files and late filers.
- Return would be treated as invalid return until full tax is not paid and would not be considered for matching of ITC.
- Matched ITC claimed to be communicated to dealer after 20th of the succeeding month. ITC reversal due to mismatch would be auto populated in the 2nd month after filing the return (as per Process Report)
- Notice to non-filers asking to file return within prescribed time
- Late fee for delay in return filing – Rs. 100/- per day maximum Rs. 5,000/-

GST

Transitional Provisions



By
CA Unmesh G. Patwardhan

Transitional Provisions – Statutory Provisions

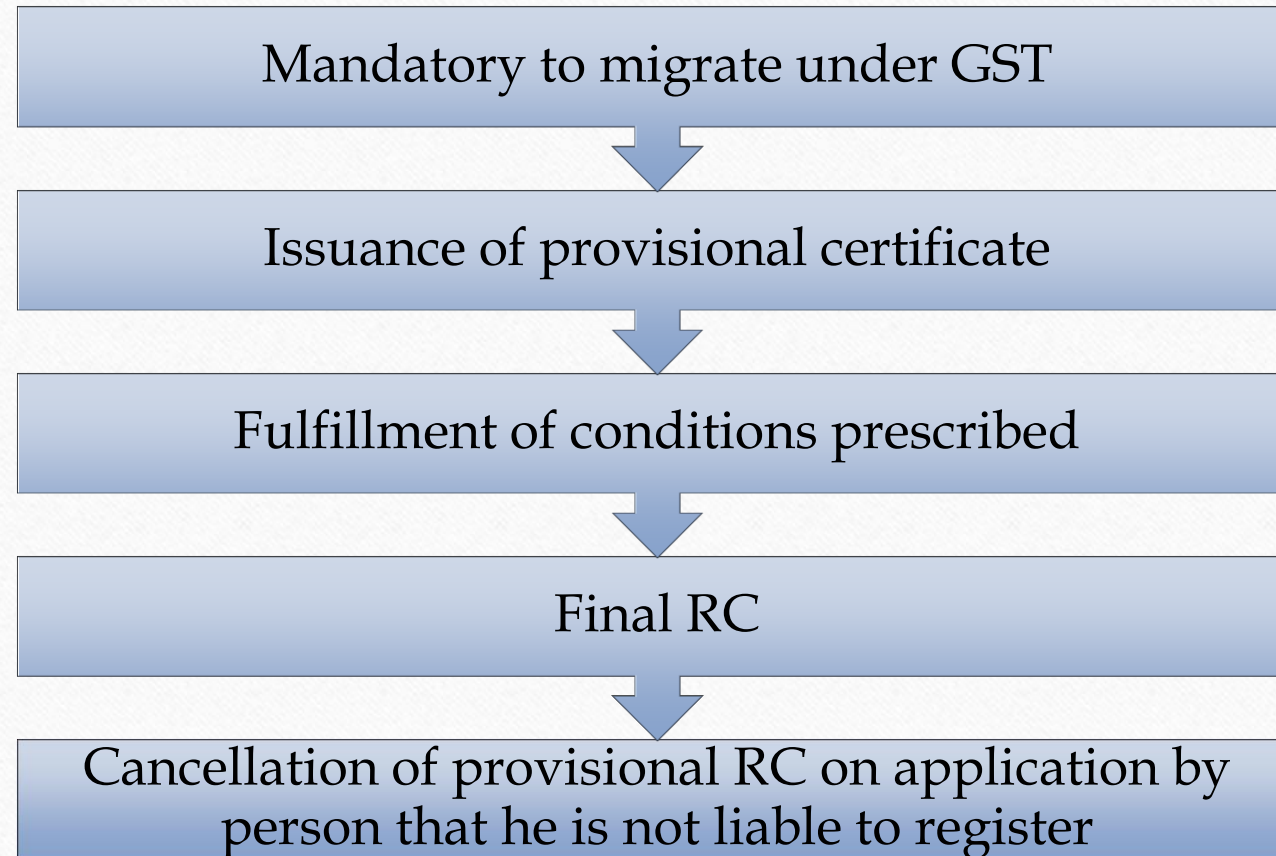
Section 139 – Migration of existing taxpayers

Section 140 – Transitional arrangements for input tax credit

Section 141 – Transitional provisions relating to job work

Section 142 – Miscellaneous Transitional provisions

Migration of existing taxpayers to GST



Transitional arrangements for Input Tax credit

Carry forward of Cenvat Credit (Sec. 140 (1))

- A registered person can carry forward unutilized amount of Cenvat Credit as disclosed in excise and service tax returns relating to the period ending with the day immediately preceding the appointed day, furnished by him.
- The registered person shall not be allowed to take credit in the following circumstances, namely: —
 - i. where the said amount of credit is not admissible as input tax credit under GST Act; or*
 - ii. 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*
 - iii. where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.*

Unavailed Cenvat Credit on capital goods, not carried forward in a return (Sec 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 last return as per Service Tax and Central Excise Law.
- Credit can be carried forward only if it is admissible as CENVAT credit under the existing law and is also admissible as input tax credit under GST Act.

Entitlement of credit to specified registered persons Sec 140(3)

- Section 140(3) of the GST Act provides that a registered person who :
 - i. who was not liable to be registered under the existing law, or
 - ii. who was engaged in the manufacture of exempted goods or provision of exempted services, or
 - iii. who was providing works contract service and was availing of the benefit of notification No. 26/2012 – Service Tax, dated the 20th June, 2012, or
 - iv. a first stage dealer or a second stage dealer or a registered importer, or
 - v. a depot of a manufacturer

shall be entitled to take credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock, as on the date immediately preceding the appointed date

Entitlement of credit to specified registered persons – (Sec 140(3))

- Conditions for availing input tax credit :-
 - i. such inputs or goods are used or intended to be used for making taxable supplies under GST Act;*
 - ii. the said registered person is eligible for input tax credit on such inputs under GST 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 GST Act:*

Entitlement of credit to specified registered persons Sec 140(3)

- where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

Admissibility of Central Tax Credit to person who was not registered under the existing law (Rule 3 of Transitional Provisions Rule.)

- A registered person, who was not registered under the existing law, availing credit shall be allowed to avail input tax credit on goods held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of central excise duty.
- Such credit shall be allowed at the rate of 40% of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid.
- The scheme shall be available for six tax periods from the appointed date.

Admissibility of Central Tax Credit to person who was not registered under the existing law (Rule 3 of Transitional Provisions Rule.)

Such credit of central tax shall be availed subject to following conditions, -

- i. Such goods were not wholly exempt from duty of excise or were not nil rated.
- ii. Document for procurement of such goods is available with the registered person.
- iii. Registered person availing this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2) of rule 1, submits a statement in **FORM GST TRAN---** 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.
- iv. The amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2**
- v. The stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

Admissibility of credit to manufacturer of exempt goods and provider of exempt services earlier- Sec 140(4)

A registered person, who was engaged in the manufacture of taxable as well as exempted goods or provision of taxable as well as exempted services, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger

- a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him accordance with the provisions of sub-section (1); and
- b) the amount of CENVAT 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 such exempted goods or services, in accordance with the provisions of sub-section (3).

Credit w.r.t. inputs and input services received on or after the appointed date- Sec. 140(5)

- *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 is allowed.*
- Invoice should be recorded within a period of thirty days from the appointed day.
- A statement of such credit shall be given in prescribed format

Rule 2(c)-Furnishing of details in respect of claim U/s 140(5)

Every applicant shall furnish following details –

1. Name of supplier
2. Serial number and date of issue of invoice by the supplier
3. Any other document on the basis of which credit of input tax was admissible
4. Description, quantity and value of the goods or services
5. The amount of eligible tax and duties charged by the supplier in respect of goods or services
6. The date on which the receipt of goods or services is entered in the books of account of the recipient.

Admissibility of credit to registered person paying tax at fixed rate or fixed amount in lieu of tax-Sec 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 can avail 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 following conditions, namely:--

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

Distribution of Credit by ISD –Sec. 140(7)

- 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 GST Act even if the invoices relating to such services are received on or after the appointed day.

Credit in case of registered person having Centralized Registration-Sec. 140(8)

- A registered **person having centralized registration** has obtained a registration under GST Act, shall be allowed to take credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day Subject to following conditions:
 - The registered person furnishes his return within 3 months of the appointed day,
 - The credit shall be reduced from that claimed earlier
 - Credit is admissible under this Act:
- Credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralized registration was obtained under the existing law.

Credit w.r.t non-payment of consideration within 90 days- Sec. 140 (9)

- Where any CENVAT credit on input services has been reversed due to non-payment of the consideration within 3 months, such credit can be reclaimed subject to the condition that the payment of the consideration is made within a period of three months from the appointed day.

Rule 1(1) & (2) - Transitional Provisions

- Every registered person entitled to tax credit of input tax under Section 140
- Shall within 60 days of the appointed day
- Submit an application electronically
- In **Form GST TRAN-1**
- On the common portal specifying therein, separately,
- The amount of tax or duty to the credit of which the said person is entitled

In respect of Capital Goods [Sec.140(2)] specify separately

- Every item of capital goods,
- Amount of tax or duty availed or utilized, and
- Amount of duty or tax yet to be availed or utilized

In respect of claim under Sec.140(3), (4), (6), (8) & (9)

- Details of stock held on the appointed day

Rule 1(1) - Transitional Provisions in SGST rules

The application in Form GST TRANS-1 shall specify –

1. The value of claims in respect of C forms
2. The value of claims in respect of H forms
3. The value of claims in respect of E / E-1 forms
4. The value of claims in respect of F forms
5. The value of claims in respect of sale to SEZ units
6. Serial number and Value of declarations in all the above forms

Transitional provisions relating to Job Work

Job Work- Sec. 141 (1)

- No tax shall be payable on any inputs removed as such or removed after being partially processed to a job worker, if such inputs are returned within six months from the appointed day:
- The period of six months may be extended by the Commissioner for a further period of two months:
- If such inputs are not returned within the six months, the input tax credit shall be liable to be recovered along with interest.

Semi-finished goods sent for manufacturing process- Sec. 141(2)

- No tax shall be payable on any semi-finished goods removed from the place of business to any other premises for carrying out certain manufacturing processes, if such goods are returned within six months from the appointed day. The period of six months may be extended by the Commissioner for a further period not exceeding two months.
- If the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered as arrears of tax and amount so recovered shall not be admissible as input tax credit.
- 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 the period specified in this sub-section.

Finished goods removed without payment of duty- Sec. 141 (3)

- No tax shall be payable on any excisable manufactured goods 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 within six months from the appointed day. The period of six months may be extended by the Commissioner for a further period not exceeding two months:
- If the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered with interest.
- The manufacturer may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

Rule 2 – Declaration of stock held by a principal

- Every person to whom provisions of Section 141 apply shall,
- Within 60 days of the appointed day
- Submit an application electronically
- In Form **GST TRAN-1**
- Specifying therein, the stock or capital goods held by him on the appointed day, or
- Specifying therein, details of stock or capital goods held by him as a principal
- At the place/ places of business of his agents/branch,
- Separately agent-wise/ branch-wise

Miscellaneous Transitional provisions

Sales Return- Sec. 142 (1)

- If any duty paid goods, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day by un-registered person then the registered person shall be eligible for refund of the duty paid under the existing law provided goods are returned within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:
- However, if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.

Issuance of debit or credit note– Sec. 142 (2)

- If in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised upwards on or after the appointed day, then a registered person shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed.
- If , in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised downwards on or after the appointed day, then the registered person issue to the recipient a credit note, containing such particulars as may be prescribed.
- Such credit or debit note shall be issued within 30 days of such price revision

Issuance of debit or credit note– Sec. 142 (2)

- Tax liability can be reduced on account of credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.
- Such debit note or credit note shall be deemed to have been issued in respect of an outward supply made under GST Act:

Refund claims – Sec. 142(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, shall be disposed of in accordance with the provisions of existing law.
- Any amount eventually accruing to registered person 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 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 GST Act.

Refund claim in respect of export- Sec. 142 (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, shall be disposed of in accordance with the provisions of the existing law:
- If any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:
- No refund 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 GST Act.

Claim of tax paid in respect of services not provided- Sec. 142 (5)

- Every claim filed by a person after the appointed day for refund of **tax paid under the existing law in respect of services not provided shall be** disposed of in accordance with the provisions of existing law.
- Any amount eventually accruing to registered person **shall be paid in cash.**

Appeal, Review or Reference relating to a claim for CENVAT credit- Sec. 142 (6)

- Every proceeding 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 shall be disposed of in accordance with the provisions of existing law,
- Any amount of credit found to be admissible to the claimant shall be refunded to him in cash, *and the amount* rejected, if any, shall not be admissible as input tax credit under GST Act;
- No refund 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 GST Act;
- If any amount of credit becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under GST Act.

Appeal, Review or Reference relating to output duty or tax liability - Sec. 142 (7)

- every proceeding 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, shall be disposed of in accordance with the provisions of the existing law,
- if any amount becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of duty or tax under GST Act
- the amount so recovered shall not be admissible as input tax credit under GST Act.
- any amount found to be admissible to the claimant shall be refunded to him in cash
- *the amount rejected, if any, shall* not be admissible as input tax credit under GST Act.

An assessment or adjudication proceedings instituted- Sec. 142 (8)

- Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law:
- Any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under GST Act and the amount so recovered shall not be admissible as input tax credit under GST Act;
- Any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash and the amount rejected, if any, shall not be admissible as input tax credit under GST Act.

Effects of revised return- Sec. 142(9)

- If any amount of Cenvat Credit is found to be recoverable on account of revised return after the appointed day then such amount shall be recovered as an arrear of tax under GST Act and the amount so recovered shall not be admissible as input tax credit under GST Act;
- If pursuant to revised returned filed after the appointed day but within the time limit specified for such revision under the existing law, any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, then the same shall be refunded to him in cash under the existing law, and the amount rejected, if any, shall not be admissible as input tax credit under GST Act.

Tax payable on goods or services supplied on or after appointed date- Sec. 142(10)

The 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 GST Act.

Treatment of tax leviable under existing laws- Sec. 142 (11)

- No tax shall be payable on goods under GST Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;
- *No tax shall be payable on services* under GST Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;
- *If service tax and Vat was paid on any supply*, tax shall be leviable under CGST Act.
 - the taxable person to take **credit of VAT and Service Tax paid under the existing law** to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

Goods sent on approval basis- Sec. 142(12)

- No Tax shall be payable on any goods sent on approval basis, not earlier than six months before the appointed day and are rejected or not approved by the buyer and returned to the seller within six months from the appointed day. The said period of six months may, be extended by the Commissioner for a further period of 2 months.
- If said goods are returned after 6 months or extended period then the tax shall be payable by the person returning the goods, if tax is payable under GST Act.
- If said goods are returned after 6 months or extended period then tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under GST Act.
- Details of goods sent on approval basis shall be submitted in Form GST Tran-1 within 60days of the appointed day

TDS or WCT deducted under existing law- Sec. 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 or Union territory 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.

Important Precautions

Precautions to be taken during transition period :

1. Avail credits for goods / services received before the date of transition
2. Ensure Capital goods in transit are received and credit availed
3. Receive goods before appointed date on which you have to claim credit based on 40% clause
4. Settle cases relating to defective invoices
5. Pay off invoices within 3 months from the date of transition, where credit reversed due to non-payment under Rule 4(7) of Cenvat credit rules
6. Maintain proper inventory of goods in stock on which credit has to be availed

Thank You!!!!

Contact: CA Unmesh G. Patwardhan

(M) 098224 24968

(T) 020-65280184 / 25432957

E-Mail unmeshgp@gmail.com

www.caunmeshpatwardhan.com