2017

Transition Provisions under CGST Act,2017 and Rules

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4/19/2017

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Transition Provision in CGST Act,2017 with Rule

Transition provision is one time provision which shall be applicable at the time of migration to GST on the appointed day. These provision may be said as most crucial because of migration of existing law in to GST and may face many challenges as well. Provisions have been well laid down in CGST Act,2017 and Rule of Transition.

Migration of existing tax Payer –[Section – 139]

On and from appointed day , any person registered under any of the existing law and having PAN shall be provided provisional registration subject to certain condition as prescribed . After submission of certain documents as may be precribed , final registration shall be granted.

Transition arrangement for input tax credit [Section -140]

Transition Arrangement for Input Tax Credit

1. Registered Person [RP] other than person opting to pay tax u/s 10, may take credit in electronic credit ledger of amount of CENVAT carry forward in the last return filed before appointed day. Under the following circumstances credit shall not be allowed

    - ✓ Input credit is not allowed under this act.
    - ✓ He has not filed in last six months all returns proceeding the appointed day.
    - ✓ Where the credit relates to goods manufactured and cleared under exemption notification.

File GST TRAN-1 within sixty days of appointed day.

[Under CGST Rule]

i] and will separately specify the value of claim u/s 3, 6, 6A, subsection 8 of section 8 of the Central Sales Tax Act,1956 during the financial year relating to the relevant return shall specify the detail of stock as on appointed day.

In case of claim under section 5 shall furnish the following details

- ➢ name of supplier , Serial number, date of issue of invoice by supplier
- ➢ description, quantity and value of goods or services
- ➢ amount of taxes and duty
- ➢ date of receipt of goods or services

ii] the serial No. and value of declaration in Form-C, F,E, H,I submitted by the applicant in support of claim .

[Under SGST Rule]

2. RP other than registered under section 10 , may take credit of unavailed CENVAT on capital goods which is not carry forward in return under existing law. RP can take such credit only if it is allowed in the existing law as well under this Act.

   Specify the following separately in Form GST TRAN-1.

   i] ITC availed under existing law before appointed day
   ii] ITC to be availed till appointed day.

3. RP who was not liable to be registered under the existing law, or engaged in the manufacture of exempted goods or provision of exempted services or who was providing work contract services and was availing the benefit of notification no. 26/2012 or first stage dealer or second stage dealer or registered importer or depot of manufacturer, shall take input on his stock on the appointed day subject to the following conditions .

   - ✓ If the Input is used for taxable supply under this Act
   - ✓ RP is entitle for input tax credit under this Act
   - ✓ RP is in possession of Invoice or other duty payment documents
   - ✓ Such Invoices were not more than twelve months old.
   - ✓ Supplier of services is not eligible for abatement under this Act.

Rule 1 [3] :

a)i] RP shall be allowed to take ITC on goods held in stock on appointed day where he is not having documents evidencing payment of central excise duty.
ii] such credit shall be allowed @ of 40% of central tax applicable
iii] scheme shall be available for six tax period

b] SUCH CENTRAL TAX SHALL BE AVAILED SUBJECT TO THE FOLLOWING CONDITION.

- ✓ Such goods were not exempt or nil rated
- ✓ Document of procurement is available with RP
- ✓ Submit statement in GST TRAN-1 form , the supply of such goods in each of six tax period.
- ✓ Amount shall be credited in ECL in form GST PMT-2 .
- ✓ Stockt stored should be easily identifiable.

[CGST Rule]

Registered person holding stock of goods paid tax at first point and not paid tax at subsequent point of sale availing credit as per section -140[3] shall be allowed to take ITC on goods held in stock on appointed day where he is not having documents evidencing payment of value added tax.

- ✓ Such credit shall be allowed at 40% of state tax .
- ✓ Scheme is for six tax period
- ✓ stock stored should be easily identifiable

Scheme is available subject to the following

- ✓ Such goods were not exempt or nil rated
- ✓ Document of procurement is available with RP
- ✓ Submit statement in GST TRAN-1 form , the supply of such goods in each of six tax period.
- ✓ Amount shall be credited in ECL in form GST PMT-2

[SGST Rule offering tax on MRP]

4. RP who is engaged in manufacturing of taxable as well as exempted goods or provision of taxable as well as exempted services shall be entitle to take credit under this Act.

    - ✓ Amount of cenvat credit carry forward in existing return as per sub section- 1 and
    - ✓ The amount of cenvat credit eligible in respect of input stock , semi-finished and finished goods on appointed day as prescribed in Sub rule- 3.

5. RP may take credit of eligible duties and taxes in respect of input or input services on or after the appointed date provided the duties of the such input or input services has been deposited by supplier under the existing law and the invoice has been recorded in the books within 30 days from the appointed day.

    Provided such period may further be extended up to 30 days by commissioner on sufficient cause .

6. RP who is paying at tax at fixed rate or paying fixed amount in lieu of tax payable under the existing law shall be entitle to get the credit on his input stock, semi finished and finished stock on the appointed date subject to the following conditions;

    - ✓ Such Input stock used for taxable supply under this Act.
    - ✓ RP is not covered under section 10 of this Act.
    - ✓ RP is eligible for ITC under this Act.
    - ✓ RP is in possession of such Invoice or other duty payment documents.
    - ✓ Such Invoices are not more than twelve months old on appointed day.
    - ✓

7. ISD may distribute the credit of service received before appointed date even if such invoices are received on or after the appointed day.

8. Where RP having centralised registration under the existing law has obtained registration under this Act , can take credit in electronic credit ledger, credit of the amount of CENVAT carry forward in return furnished under the existing law . If the original / revised return under the existing law has been filed within three months of appointed day. Such credit may be taken at any of the centralised place having the same PAN.

9. Where any cenvat has been reversed on account of non payment within three months under the existing law , can be reclaimed at the time of making payment of such services if the payment of such reversed amount has been made within three months from the appointed day.

10. The amount of credit under sub section 3,4, and 6 shall be calculated in such way as may be prescribed.

Explanation -1 for the purpose of sub section 3,4 and 6 , the expression " eligible duties and taxes" means

(i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;

ii) the additional duty leviable under sub-section (*1*) of section 3 of the Customs Tariff Act, 1975;

iii) the additional duty leviable under sub-section (*5*) of section 3 of the Customs Tariff Act, 1975;

iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;

(*v*) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;

(*vi*) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and

(*vii*) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001;

in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Explanation-2 for the purpose of sub section 5 , the expression " eligible duties and taxes" means

(*i*) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;

(*ii*) the additional duty leviable under sub-section (*1*) of section 3 of the Customs Tariff Act, 1975;

(*iii*) the additional duty leviable under sub-section (*5*) of section 3 of the Customs Tariff Act, 1975;

(*iv*) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;

(*v*) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;

(*v*) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;

(*vii*) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and

(*viii*) the service tax leviable under section 66B of the Finance Act, 1994,

in respect of inputs and input services received on or after the appointed day.

Transition provision relating to Job work [Section 141]

- Where any input received has removed as such or removed after partial processing to a job worker for further processing, repair, testing, reconditioning or any other purpose as per the existing law before appointed day and such input are returned after the appointed day, no tax shall be payable if such goods are received within six months from the appointed day. The said period may be extended for another two months on sufficient cause. If the input is not returned within the stipulated period above then the input shall be recovered with interest ,fine and penalty.

- Where finished goods manufactured had been removed for testing or for any other purpose to any premises weather registered or not prior to appointed day , no tax shall be charged if the goods are returned within six months from the appointed day. The said period may be extended for another two months on sufficient cause. If the input is not returned within the stipulated period above then the input shall be recovered with interest ,fine and penalty

- No tax shall be payable in above cases , if such goods are declared by manufacturer and job worker as prescribed.

  Rule :
  File declaration of stock in GST TRAN-1 detail of stock including capital goods specifying stock held as principal, agent or branch.

Miscellaneous Transition Provision [Section 142]

1. Where any goods on which duty has been paid is removed not earlier than six months before the appointed date , returned from the unregistered person within six months from the appointed day , the duty of refund shall be paid to registered person under the existing law. But if the goods are returned by registered person , return of goods shall be treated as supply of goods.

2. Where any contract has been entered before appointed day and the price of goods or services or both revised upward after the appointed day , RP here will issue supplementary invoice or debit notes within 30 days from the date of revision. Such revision shall be treated as supply under this Act.

   Where any contract has been entered before appointed day and the price of goods or services or both revised downward after the appointed day, RP may issue credit note within 30 days from such revision and credit note shall be deemed to have been issued in respect of outward supply made under this Act. RP will reduce his tax liability for such credit note.

3. Any claim for refund of CENVAT ,duty, tax ,interest or other amount under the existing law filed by RP before or after the appointed date shall be disposed under the existing law and paid in cash . and where claim is fully or partially rejected will lapse. However no refund of CENVAT shall be allowed, if the same has been carry forward.

4. Any proceeding of appeal, review or reference for cenvat credit or output liability under the exiting law shall be disposed off as per the existing law and if any credit arises shall be paid in cash. And in case of any demand , the same shall be recovered as arrear of tax under this Act.

5. In case of any assessment or adjudication proceeding before, on or after the appointed day shall be disposed off as per the existing law and if any credit arises shall be paid in cash. And in case of any demand , the same shall be recovered as arrear of tax under this Act.

6. In case of any return filed under the existing law has been revised after the appointed date and if any credit arises shall be paid in cash. And in case of any demand , the same shall be recovered as arrear of tax under this Act.

7. Despite anything provided in section 12 , no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the State VAT.

8. Despite anything provided in section 13 , 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 Finance Act,1994.

9. Where any input goods sent for approval basis as per the existing law, not earlier than six months before appointed day and such input are returned after the appointed day, no tax shall be payable if such goods are received within six months from the appointed day. The said period may be extended for another two months on sufficient cause. If the input is not returned within the stipulated period above then the tax shall be paid by the person sending the goods back or by person to whom the goods was sent for approval.

   Submit application in GST TRAN- 1 mentioning the stock including capital goods within 60 day of appointed day

10. Where any supply of goods made under any law of State or Union Territory where TDS was supposed to be deducted and invoice for the same is also issued before the appointed date. NO TDS can be deducted under section 51 of the Act while making payment to supplier after the appointed date

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