GST

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TRANSITIONAL PROVISIONS OF GST

Section-139

Migration of Existing tax payers

Conditions

- Every person registered under existing law is will be issued a certificate of registration on provisional basis.
- Which will be valid unless replaced by a final certificate of registration or cancelled on an application filed by such person.

- **What will happen to the input tax credit accumulated up to the appointed day. If the goods in which assessee is dealing is no more liable to tax in GST.**

- Now he is not liable to for registration under GST law as per section 23 of Registration.
- No credit will be given in GST of inputs if he is not using those goods for taxable supply.
- No refund will be given in GST if goods are nil rate or exempt goods as per section 54(3).
- **Suggestion:** Utilize all the Input Tax Credit before appointed day or claim it as refund if available as per existing law by moving an application of refund.

Section-140(1)

Amount of Cenvat Credit, Carried forward in a return to be allowed as input tax credit.

Conditions

- Input tax/CENVAT credit must be carried forward through a return.
- Such Credit must be eligible under earlier law and GST law.
- Person has furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date.
- That person must not be paying taxes under section 10.
- Excess credit taken will be recovered as arrears of taxes under GST law.

Section-140(2)
Unavailed CENVAT credit on capital goods, not carried forward in a return, to be allowed in certain situations.

Conditions

- A Registered taxable person shall be eligible to take the credit.
- In the electronic credit ledger.
- Credit on capital goods (as per rule 2(a) , CCR) not carried forward in a return.
- Such credit must be eligible under the earlier law and under GST law.
- Unavailed credit= (Total eligible credit-credit availed) under the earlier law.
- Excess claim of credit shall be recovered as arrear of taxes under GST.

Section-140(3)

Credit of eligible duties and taxes in respect of input held in stock to be allowed in certain situations.

Person eligible for input tax credit

✓Who is not liable to be registered under the earlier law but liable to be register under the GST law.

✓Who is engaged in manufacture/sale of exempted goods or provision of exempted services under the earlier law but liable to tax under GST.

Credit available on

✓Inputs held in stock and input contained in semi finished goods or finished goods held in stock on appointed day.

✓Such Credit can be taken in the electronic credit ledger.

Continue……

Section-140(3)

Credit of eligible duties and taxes in respect of input held in stock to be allowed in certain situations.

Conditions

- ➢Goods must be used for the taxable supply.
- ➢Eligible to take the credit under the GST law.
- ➢Possession of invoice or other prescribed documents.
- ➢Invoice should be within 12 months from the appointed day.
- ➢Supplier of services is not eligible for abatement under GST act.
- ➢Excess claim will be recovered as arrears of taxes under GST law.

Section-140(4)

Treatment of credit of duties/taxes on inputs held in stock by taxable person engaged in manufacture of taxable/exempted goods or service provider providing taxable/ exempted services under earlier laws.

Provision applicable only on

✓Manufacturer/service provider providing taxable as well as exempted goods and services, which now under GST liable to tax.

Credit available on

✓Can carry forward the credit as per the last return in respect of taxable goods and services.

✓If their exempted goods/exempted services liable to GST, the credit attributable to the inputs held in stock in respect of such exempted goods and services would also be eligible.

Continue……

Section-140(4)

Conditions

- Goods must be used for the taxable supply.
- Eligible to take the credit under the GST law.
- Possession of invoice or other prescribed documents.
- Invoice should be within 12 months from the appointed day.
- Supplier of services is not eligible for abatement under GST act.
- Excess claim will be recovered as arrears of taxes under GST law.

Section-140(6)

Credit of eligible duties & taxes on input held in stock to be allowed to a taxable person switching over from composition scheme.

Person eligible for input tax credit

✓A registered taxable person paying taxes under the composition scheme under the earlier law and now switched to normal scheme in GST.

Credit available on

✓Inputs contained in stock of RM/semi finished goods or finished goods held on appointed day.
✓Credit can be taken in the electronic credit ledger.

Section-140(6)
Credit of eligible duties & taxes on input held in stock to be allowed to a taxable person switching over from composition scheme.

Conditions

- Person not paying taxes in composition scheme under GST.
- Goods must be used for taxable supply.
- Eligible to take the credit under the earlier law and GST law.
- Possession of invoice or other prescribed documents.
- Invoice should be within 12 month from appointed day.

Section-140(7)
Credit Distribution of Service tax by ISD

Conditions

Input service distributor shall be eligible for distribution of credit

- **Services are received prior to the appointed day**
- **Invoice for such services are received on or after the appointed day**

Section-140(9)

Cenvat Credit reversed due to non payment of the consideration within three months

Conditions

➢Credit can be reclaimed if registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

Section-141(1)
Input removed for job work and returned on or after the appointed day.

Tax shall not be payable when

- ✓Goods removed as such or after partial processing for job work.
- ✓Such goods are returned within six months or within extended period (2 months) from the appointed day to said factory or place of business.

Tax shall be payable when

- ✓Such goods not returned within six months or extended period.
- ✓Goods are liable for payment of taxes under GST.
- ✓ITC shall be recovered in accordance with 142(8)(a).

Applicability of Exemption: Tax shall not be payable, only if the manufacturer and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of Manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

Section-141(2)
Semi finished goods removed for job work and returned on or after the appointed day.

Tax shall not be payable when

- ✓Semi finished goods removed/dispatched for processing.
- ✓Such goods are returned within six months or within extended period (2 months) from the appointed day to said factory or place of business.

Tax shall be payable when

- ✓Such goods not returned within six months or extended period.
- ✓Goods are liable for payment of taxes under GST.
- ✓ITC shall be recovered in accordance with 142(8)(a).
- ✓Manufacturer may transfer said goods to the premises of any other registered person for supplying therefrom on payment of tax.

Applicability of Exemption: Tax shall not be payable, only if the manufacturer and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of Manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

Section-141(3)

Finished goods removed for carrying out certain processes and returned on or after the appointed day.

Tax shall not be payable when

✓Finished goods removed without payment of duty/dispatched for processing under earlier law.

✓ Such goods are returned within six months or within extended period from the appointed day.

Tax shall be payable when

✓Such goods not returned within six months or extended period from the appointed day.
✓Goods are liable for payment of taxes under GST.
✓ITC shall be recovered in accordance with 142(8)(a)
✓Manufacturer may transfer goods from such place within six months on payment of taxes in India or export without payment of duty.

Applicability of Exemption: Tax shall not be payable, only if the manufacturer and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of Manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

Section-142(1)

Duty paid goods returned to the place of business on or after the appointed day.

Conditions

When Buyer is not Registered

✓Supplier is entitled for refund of taxes paid.

✓Buyer need not to pay any tax on return of goods.

When Buyer is Registered person.

✓Supplier is entitled for refund of taxes.

✓Buyer shall pay GST on his return of goods treating it as supply

Section-142(2)

Issue of supplementary invoice, debit note or credit note where price is revised in pursuance of a contract.

Situation

Contract entered prior to the appointed day and price of goods and/or services revised on or after the appointed day

Upward revision in the prices

Issue of supplementary invoice/debit note within 30 days from such revision.

Downward revision in the prices

Issue of supplementary invoice/credit note within 30 days from such revision.

Continue…….

Section-142(2)

Issue of supplementary invoice, debit note or credit note where price is revised in pursuance of a contract.

Critical points

➢Where tax liability is reduced due to downward revision co. can take benefit only if recipient has reduced corresponding Input tax credit to such reduction of liability.

➢**How price revision will be dealt under GST:**

- Suppose goods are sold in June, 2017 as per contract under current regime and tax is charged @ 15%.
- Now Rate of tax under GST is 18% .
- A Debit Note is issued under GST i.e. after 1-July-17 for price revision upwards of Rs. 20,000/-.
- Invoice should be issued within 30 days of such revision.
- Such debit note is liable to tax under GST @ 18%

Section-142(3)
Pending refund claims to be disposed off under earlier law.

Conditions

- Every claim of refund of duty/tax & interest and any other amount paid under earlier law.
- An application must be filed before on or after the appointed day.
- Refund proceeding will be in terms of earlier law.
- If eligible for refund will be paid in cash .
- If fully or partially rejected balance shall lapse.

Section-142(4)

Claim of Refund in case of export of goods or services before or after the appointed day.

Conditions

- Claim of refund filed after the appointed day for duties and taxes paid under earlier law.
- In respect of Goods or services exported before or after the appointed day.
- Admissible Cenvat credit shall be refunded in cash under GST.
- If fully or partially rejected balance shall lapse.

Section-142(5)
Claim for Refund of taxes in respect of services not provided.

Conditions

- Claim of refund filed after the appointed day for duties and taxes paid under earlier law.
- In respect of services not provided.
- Claim shall be disposed off in accordance with the provision of existing law.
- Admissible Cenvat credit shall be refunded in cash under GST.

Section-142(6)

Claim of Cenvat credit to be disposed off under the earlier law

Conditions

- Proceeding of appeal, revision, review or reference relating to claim of input tax credit/Cenvat credit will be disposed off in accordance with earlier law.
- Inadmissible credit shall be recovered as arrears of tax under GST.
- Admissible Cenvat credit shall be refunded in cash under GST.
- It shall not be eligible for claim of input tax credit under GST.

Section-142(7)
Finalisation of proceedings relating to output duty liability.

Conditions

- Proceeding of appeal, revision, review or reference relating to output duty liability initiated before on or after the appointed day will be disposed off in accordance with earlier law.
- Any amount payable shall be recovered as arrear of tax under GST.
- Admissible credit shall be refunded in cash.
- It shall not be eligible for claim of input tax credit under GST.

Section-142(8)

Treatment of amount recovered in pursuance of assessment or adjudication proceeding.

Conditions

- Assessment or adjudication proceeding instituted against recovery of tax, interest or penalty whether before or after the appointed day.
- Amount payable shall be recovered as arrear of tax under GST.
- It shall not be eligible for claim of input tax credit under GST.
- Admissible Cenvat credit shall be refunded in cash.

Section-142(9)

Treatment of amount recoverable or refundable pursuant to revision of return.

Conditions

Revision of return furnished under earlier law

Amount payable on account of revision or ITC found inadmissible → Recovered as arrear of tax under GST and no Input tax credit will be available on that.

Amount refundable on account of revision or ITC found admissible → Refunded in cash only if return is revised within time specified under earlier law and No ITC will be available

- **Point to remember:** In order to take the refund you must file your revised return in time.

Section-142(12)

Goods sent on approval basis returned on or after appointed day

Conditions

Tax shall not be payable when

✓Goods sent on approval basis under earlier law prior to six months from appointed day.

✓Such goods returned within six months or within the extended period from appointed date.

Tax shall be payable when and by whom

✓Goods are liable for payment of taxes under GST.

✓Such goods returned after six months or extended period from the appointed day.

✓Tax shall be payable by the person returning the goods.

✓ Tax shall be payable by the person who has sent goods on approval basis, if the goods are not returned within six months or extended period of time from the appointed day.

Section-142(13)
Deduction of Tax at source

Conditions

TDS Shall not be made when

- **Invoice are issued before appointed day**
- **Payment of such invoices is made on or after the appointed day**

THANK YOU!

Contact Us

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