GST GOOGLY

TRANSITION TO GST

- BY CA DIVYANSHU SENGAR

TOPICS

1. Overview.
2. PERSONS REQUIRED to MIGRATE.
3. Input Credit – Carry Forward in Returns.
4. Input Credit – Capital Goods.
5. Input Credit – Stock in Hand.
6. Input Credit – Taxable Person previously Taxable under Composition Scheme.
7. Input Credit - Eligible Duties & Taxes.
8. Procedure

1. Overview –

(1) As GST Implementation Date is coming CLOSER, Need of Proper Planning & Accurate System with required COMPLIANCES are the need of the hour.

(2) So it's better to be prepared & to have proper & ACCURATE PATH ready for the TRANSITION as per GST ACT & RULES, So that no extra burden or hardship will arise due to negligence.

(3) The objective of this slide is to guide with proper steps toward migration & to cover all the legal impact applicable on business.

(4) The major concern for businesses is the availability and eligibility for claiming input tax credit when the current indirect tax regime changes to GST.

(5) Transition provisions will HELP in covering All the ISSUES & incorporated in such a way that TRANSITION will be as SMOOTH AS POSSIBLE.

2. PRE TRANSITION STEPS –

1. INVENTORY SHOULD BE PROPERLY RECORDED.
2. RECONCILE INPUT CREDIT IN BOOKS WITH RETURNS.
3. TRY TO COLLECT ALL OR MAXIMUM TAX INVOICE OF INVENTORY LYING HAVING AGEING LESS THAN 12 MONTHS.
4. PROPER DOCUMENTATION, TRAILS IN PLACE TO ESTABLISH THE CLAIM OF THE CREDIT AT A LATER DATE DURING DEPARTMENTAL AUDITS.
5. FILING OF THE LAST RETURN IN THE CURRENT TAX REGIME.
6. PERFORMING GST IMPACT ANALYSIS.

3. MIGRATION OF EXISTING TAXPAYERS (SEC 139)

(1)

PERSON REGISTERED under ANY EXISTING LAWS + VALID PAN → SHALL BE ISSUED → A CERTIFICATE OF REGISTRATION on PROVISIONAL BASIS

(2)

(2) THE FINAL CERTIFICATE OF REGISTRATION → SHALL BE GRANTED → IN SUCH FORM & MANNER & SUBJECT TO SUCH CONDITIONS as may be PRESCRIBED.

(3)

(2) IF A PERSON is NOT LIABLE to REGISTRATION u/s 22 or 24 → APPLICATION Filed by such person → The Provisional Registration certificate deemed to have not been issued.

4. TRANSITIONAL ARRANGEMENTS FOR INPUT TAX CREDIT (SEC 140)

(1) EVERY Registered Person (other than opting for Composition Levy under Sec 10), shall be entitled to take Input Credit.

Conditions –

1. CENVAT CREDIT should be reflecting in the return furnished by him as per existing law.
2. Input Tax Credit should be allowed as per GST Act also.
3. All the returns required under the existing law for the period of six months immediately preceding the appointed date should be filed.
4. Input Credit should not be related to Exempted goods.

(2) EVERY Registered Person (other than under Sec 10), shall be entitled to take Unavailed Input Credit in respect of **CAPITAL GOODS**.

Condition –

1. Input Tax Credit should be allowed as per GST Law & Existing Law also.

4. TRANSITIONAL ARRANGEMENTS FOR INPUT TAX CREDIT (SEC 140) (CONT),

(3) PERSON NOT LIABLE TO BE REGISTERED UNDER EXISTING LAW BUT LIABLE IN GST , SHALL BE ENTITLED TO TAKE, IN HIS ELECTRONIC CREDIT LEDGER, CREDIT OF ELIGIBLE DUTIES IN RESPECT OF INPUTS HELD IN STOCK AND INPUTS CONTAINED IN SEMI-FINISHED OR FINISHED GOODS HELD IN STOCK ON THE APPOINTED DAY, SUBJECT TO THE FOLLOWING CONDITIONS, NAMELY:

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
(ii) eligible for input tax credit on such inputs under this Act;
(iii) 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.
(v) the supplier of services is not eligible for any abatement under this Act.

INPUT OF GOODS, IF INVOICE IS NOT AVAILABLE (SEC 140 (3) CONT.)

- Provided that where a registered person (TRADER ONLY), is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, Then also, such CREDIT shall be allowed at **40 % of CGST** 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.

CONDITIONS –

- Such goods were not wholly exempt from duty of excise or NIL rated goods.

- Document for procurement of such goods is available with the registered person.

- registered person 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.

- The amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the Common Portal

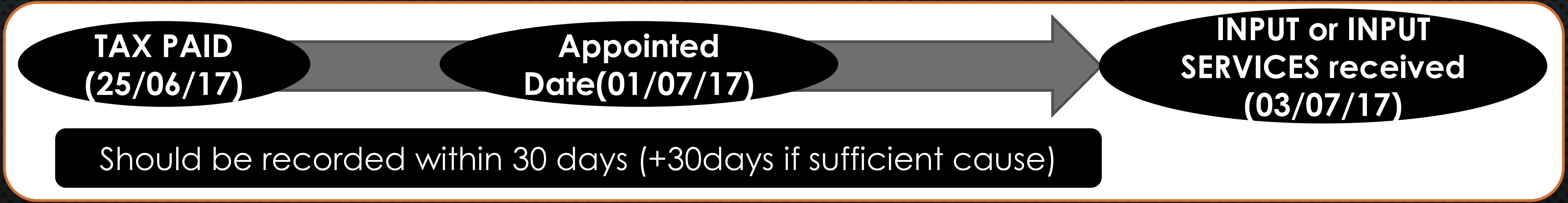
- The stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

(4) REGISTERED PERSON, PREVIOUSLY ENGAGED IN TAXABLE AS WELL EXEMPTED GOODS OR SERVICES BUT LIABLE IN GST SHALL BE ENTITLED TO TAKE CREDIT -

- (*A*) THE AMOUNT OF CENVAT CREDIT CARRIED FORWARD IN A RETURN FURNISHED UNDER THE EXISTING LAW IN 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)

(5) INPUT OR INPUT SERVICES RECEIVED ON OR AFTER THE APPOINTED DAY BUT DUTY OR TAX HAS BEEN PAID BY THE SUPPLIER UNDER THE EXISTING LAW (IN TRANSIT) -

- REGISTERED PERSON SHALL BE ENTITLED TO TAKE, IN HIS ELECTRONIC CREDIT LEDGER, CREDIT OF ELIGIBLE DUTIES AND TAXES IN RESPECT OF SUCH INPUTS OR INPUT SERVICES
- CONDITIONS –
- (A) THE INVOICE OR ANY OTHER DUTY OR TAX PAYING DOCUMENT OF THE SAME WAS RECORDED IN THE BOOKS OF ACCOUNT OF SUCH PERSON WITHIN A PERIOD OF **30 DAYS** FROM THE APPOINTED DAY.
- (B) THE PERIOD OF 30 DAYS MAY, ON SUFFICIENT CAUSE BEING SHOWN, BE EXTENDED BY THE COMMISSIONER FOR A FURTHER PERIOD NOT EXCEEDING 30 DAYS.
- (C) THAT SAID REGISTERED PERSON SHALL FURNISH A STATEMENT, IN SUCH MANNER AS MAY BE PRESCRIBED, IN RESPECT OF CREDIT THAT HAS BEEN TAKEN UNDER THIS SUB-SECTION.



FOLLOWING DETAILS NEED TO BE FURNISHED, IN THE CASE OF A CLAIM UNDER SUB-SECTION (5)

(I) THE NAME OF THE SUPPLIER, SERIAL NUMBER AND DATE OF ISSUE OF THE INVOICE BY THE SUPPLIER OR ANY DOCUMENT ON THE BASIS OF WHICH CREDIT OF INPUT TAX WAS ADMISSIBLE UNDER THE EXISTING LAW,

(II) THE DESCRIPTION, QUANTITY AND VALUE OF THE GOODS OR SERVICES

(III) THE AMOUNT OF ELIGIBLE TAXES AND DUTIES OR, AS THE CASE MAY BE, THE VALUE ADDED TAX [OR ENTRY TAX] CHARGED BY THE SUPPLIER IN RESPECT OF THE GOODS OR SERVICES,

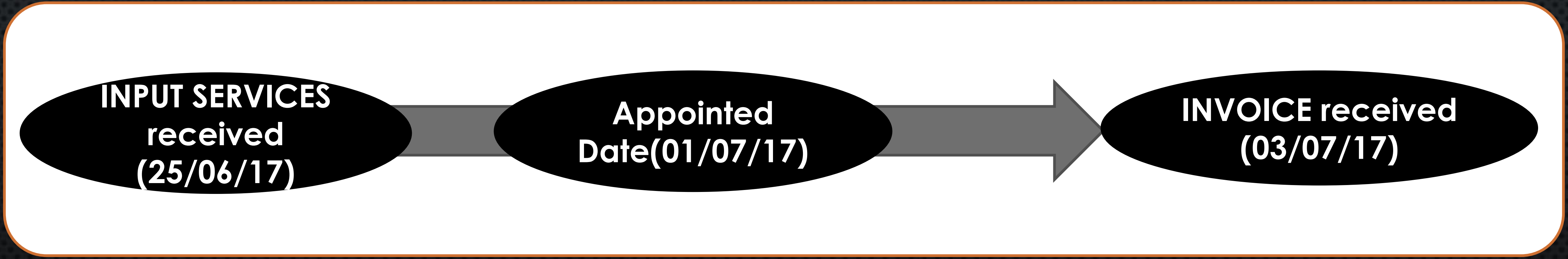
(IV) THE DATE ON WHICH THE RECEIPT OF GOODS OR SERVICES IS ENTERED IN THE BOOKS OF ACCOUNT OF THE RECIPIENT.

TAXABLE PERSON SWITHING OVER FROM COMPOSITION SCHEME {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 SHALL BE ENTITLED TO TAKE, IN HIS ELECTRONIC CREDIT LEDGER, CREDIT OF ELIGIBLE DUTIES IN RESPECT OF INPUTS HELD IN STOCK AND INPUTS CONTAINED IN SEMI-FINISHED OR FINISHED GOODS HELD IN STOCK ON THE APPOINTED DAY, SUBJECT TO THE FOLLOWING CONDITIONS, NAMELY:—
- *(I) SUCH INPUTS OR GOODS ARE USED OR INTENDED TO BE USED FOR MAKING TAXABLE* SUPPLIES UNDER GST.
- *(II) THE SAID REGISTERED PERSON IS NOT PAYING TAX UNDER COMPOSITION SCHEME ;*
- *(III) THE SAID REGISTERED PERSON IS ELIGIBLE FOR ITC ON SUCH INPUTS* UNDER GST;
- *(IV) THE SAID REGISTERED PERSON IS IN POSSESSION OF INVOICE OR OTHER PRESCRIBED* DOCUMENTS EVIDENCING PAYMENT OF DUTY UNDER THE EXISTING LAW ; AND
- *(V) SUCH INVOICES OR OTHER PRESCRIBED DOCUMENTS WERE ISSUED NOT EARLIER THAN* 12 MONTHS.

CREDIT DISTRIBUTION BY INPUT SERVICE DISTRIBUTOR SEC. 140 (7).

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

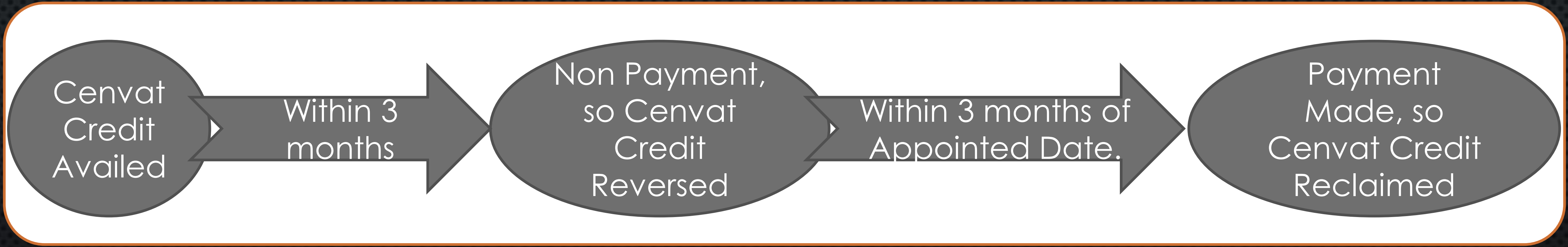


TRANSFER OF UNUTILIZED CENVAT CREDIT BY TAXABLE PERSON HAVING CENTRALIZED REGISTRATION UNDER THE EARLIER LAW {SEC 140 (8)}

- CENVAT CREDIT CARRIED FORWARD IN A RETURN, FURNISHED UNDER THE EXISTING LAW BY HIM, SUCH CREDIT SHALL BE ALLOWED SUBJECT TO THE CONDITION THAT
- RETURN FURNISHED WITHIN 3 MONTHS OF THE APPOINTED DATE.
    - THE SAID RETURN IS EITHER AN ORIGINAL RETURN OR
    - A REVISED RETURN WHERE THE CREDIT HAS BEEN **REDUCED FROM THAT CLAIMED EARLIER**.
- THE SAID AMOUNT SHOULD BE ADMISSIBLE AS INPUT TAX CREDIT UNDER THE GST.
- SUCH CREDIT MAY BE TRANSFERRED TO ANY OF THE REGISTERED PERSONS HAVING THE SAME PERMANENT ACCOUNT NUMBER FOR WHICH THE CENTRALISED REGISTRATION WAS OBTAINED UNDER THE EXISTING LAW.

WHERE ANY CENVAT CREDIT AVAILED FOR THE INPUT SERVICES PROVIDED UNDER THE EXISTING LAW HAS BEEN REVERSED DUE TO NON-PAYMENT OF THE CONSIDERATION WITHIN A PERIOD OF 3 MONTHS, { SEC 140 (9) }-

- SUCH CREDIT CAN BE RECLAIMED SUBJECT TO THE CONDITION THAT THE REGISTERED PERSON HAS
- MADE THE PAYMENT OF THE CONSIDERATION FOR THAT SUPPLY OF SERVICES
- WITHIN A PERIOD OF 3 MONTHS FROM THE APPOINTED DAY.



SEC 140 (10) ELIGIBLE DUTIES UNDER SUB-SECTIONS (3), (4) AND (6)

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

(*ii*) CVD,

(*iii*) SAD,

(*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 CETA,

(*vi*) the duty of excise specified in the Second Schedule to the CETA,

(*vii*) NCCD,

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

SEC 140 (10) ELIGIBLE DUTIES & TAXES UNDER SUB-SECTIONS (5)

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

(*ii*) CVD,

(*iii*) SAD,

(*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 CETA,

(*vi*) the duty of excise specified in the Second Schedule to the CETA,

(*vii*) NCCD,

(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.

IN CASE OF ANY QUERY/ CLARITY/ CORRECTION, YOU CAN REACH ME @ CADIVYANSHUSENGAR@GMAIL.COM.

THANK YOU