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Kotak Mahindra Bank

Expert Session: GST,

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GOODS & SERVICES TAX

Transitional Provisions

Transition Rules are hosted on the Government website; its salient features are as under:

1. Persons entitled to take transition credit will have to submit a declaration within 90days (upto 30th Sept) specifying the credit he wants to take on stocks lying with him on 30th June.
2. Declaration will have to be submitted in form GST Tran-1
3. Commissioner can extend this timeline by another 90days
4. In case of capital goods whose part credit was availed in current period and part credit is to be availed under GST, he will have to submit the declaration specifying :
 - a) Amount of credit already availed in the current law
 - b) Amount of credit yet to be availed under the existing law and which he intends to avail under GST period
5. Persons having excise invoices for stocks lying as on 30th June will be entitled to take full credit of excise mentioned in the invoices.
6. Deemed credit:

Persons, who do not have excide invoice, will be eligible to take credit in the following manner:

 - a) For goods taxable @ 18% or above- Credit shall be allowed at the rate of 60% of CGST payable on that goods- so if the

rate is 18% then credit will be availed @ 5.4% (60% of 9% CGST)

b) For goods other than above- Credit shall be allowed at the rate of 40% of CGST payable on that goods- so if the rate is 12% then credit will be available @ 2.4% (40% of 6% CGST)

7. Credit in the above Deemed credit scheme will be available only once the said goods are sold and GST is paid. Its like a cash back scheme.
8. To take the credit in this scheme following conditions will have to be fulfilled:
 - a) Such goods were not unconditionally exempt from excise
 - b) The document for procurement of such goods is available
 - c) The stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.
9. Deemed credit scheme will go on for 6 months from GST date, So stocks lying as on 30th June have to be sold maximum upto 31st December,2017. No credit will be available if these goods are sold after December 2017.
10. Separate return under for GST TRAN-2 will have to be filled.
11. Every person to whom the provision of Section 142(11)(c) applies, shall submit a declaration within 90days of GST date in form GST TRAN-1 furnishing the proportion of supply on which VAT or service tax has been paid before the GST day but the supply is made after the GST day, and the ITC admissible thereon.
12. Every person to whom the provisions of section 141(job worker) apply shall, within 90days of the GST day, submit a declaration electronically in form GST TRAN-1, specifying therein, the stock held by him on the appointed day.

13. Every person having sent the goods on approval under the existing law and to whom section 142(12) applies shall, within 90 days of the appointed day, submit details of such goods sent on approval in form GST TRAN-1.

Detailed provisions analysis is as follow

01. Transitional Provisions under GST

- ✓ What is the Status of Existing Dealers, Manufacturers & Service Provider?
- ✓ ITC Related Transitional Provisions?
- ✓ Movement of Goods after the enactment of GST?
- ✓ Price Fluctuations?
- ✓ Taxability in case of Job Work?
- ✓ Adjudication /Appeals under earlier law?
- ✓ How transactions in midway can be treated?

02. Migration of existing Taxpayers to GST (Sec 139 of CGST Act) [Rule 16 of Registration]

- Every person registered under earlier laws is issued a certificate of registration on **provisional** basis.
- Provisional Certificate of registration shall be **valid for six months** from the date of issue.
- GST Council may extend this time such person shall furnish **further information** within given time (3 Months)

- **Final certificate** of registration shall be granted
- If information not furnished, registration certificate shall be cancelled
- The existing tax payer may apply for cancellation, if he is not liable to registration under **Section 19**, within 30 days from appointed day.

02. Migration of existing Taxpayers to GST (Sec 139 of CGST Act) [Rule 16 of Registration]

- Person has a factory at Nagpur and Aurangabad, he is registered under Central Excise for each factory separately – Also register under VAT and service tax – he will get only one single registration in state
- For Centralized registered person also get one single registration for all location in state
- Company has two unit in Vapi and Ankleshwar and office in Ahmedabad – Ahmedabad office can be declared as principle place of business and other as additional place of business

03. Input Tax Credit related Transitional Provisions?

03.1 Amount of CENVAT credit carried forward in a return?(Sec140(1) of CGST Act)

- A registered taxable person shall be entitled to take, in his **electronic credit ledger**, credit of the amount of Cenvat credit **carried forward** in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately

preceding the appointed day in such manner as may be prescribed.

(i) Input tax credit **should be admissible** in the earlier regime

(ii) Has furnished the returns under the existing law

(iii) Amount of credit does not relate to manufacture of Exempted goods

(iv) should be admissible in CGST/SGST Act.

- File Form GST Tran – I within 90 days – specifying amount of tax or duty with act and section of act (But advisable to file form as early as possible to get credit in GST from first month itself)

Illustration 1:-

- Assume that GST is applicable from 1st July, 2017 and the amount of credit as per the return for the period ending 30th June, 2017 is as follows:-

Particulars of Input tax Credit	Credit amount as per return
Central Excise	200,000
Service Tax	100,000
Education Cess	10,000
Secondary and Higher Education Cess	5,000
Krishi Kalyan Cess	5,000
Additional Duty u/s 3(1) of CTA	40,000
Additional Duty u/s 3(5) of CTA	30,000

Input Tax Credit under VAT	50,000
Total	440,000

- What will be the amount of opening CGST and SGST to be brought forward as per the GST Law as on 1st July, 2017?

Sol: The amount of CGST and SGST to be brought forward on 1st July, 2017 will be calculated as follows:

- **A. If the tax payer is a Manufacturer:-**

CGST Components	ITC as CGST
Central Excise	200,000
Service Tax	100,000
Additional Duty u/s 3(1) of CTA	40,000
Additional Duty u/s 3(5) of CTA	30,000
Total CGST	370,000

Note: KKC and Education cess, S&HE cess will not be allowed

- SGST Components: SGST Value Input Tax Credit under VAT
Rs.50,000/-

Total SGST Rs.50,000/-

03.Input Tax Credit related Transitional Provisions

- Credit which assessee intends to avail by 30-6 is reflected in excise return / service tax return / VAT return and shown in books of a/c
- Many company take input credit on payment of invoice – such credit should be taken before 30-6
- Many services received regularly but invoices are raised after month end – like security service, renting of immovable property, telephone – ensure that bills for these input services received prior to 30-6-17 and credit availed prior to 30-6-2017

03.2 Un-availed CENVAT credit on capital goods, not carried forward in a return, to be allowed in certain situations (Sec 140(2) of CGST Act) [Rule 1(2)(a) of Transitional Provision]

- A **registered taxable 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 a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:
 - ✓ Input tax credit **should be admissible** in the earlier regime
 - ✓ Also should be admissible in GST
 - ✓ **Unavailed Cenvat** credit means the amount that remains after subtracting the amount of Cenvat credit already availed
 - ✓ Capital goods means capital goods under CCR 2004
 - ✓ Spare parts, accessories are capital goods under old law – so balance credit is available – even they are not capitalized

Illustration:

A manufacturer purchased a capital asset worth Rs.11,25,000/- (including excise duty of Rs.1,25,000) on 5th May, 2017. In the financial year 2017-18, Is he eligible for availing balance CENVAT Credit?

Sol: Yes, he could only avail CENVAT Credit to the extent of 50% i.e. Rs. 62,500. The Unavailed CENVAT Credit on Capital Goods as on 1st July, 2017 will be Rs. 125,000 –62,500 = Rs. 62,500.Can be availed in GST Regime.

Submit statement:

Following to be submitted in statement

- Amount of tax availed or utilized till appointed day
- Amount of tax yet to be availed or utilized till appointed day

03.3 Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations? (Sec 140(3) of CGST Act) [Rule 1(3) of Transitional Provision]

- The registered taxable person, who

(i) was not liable to be registered under existing law

(ii) was engaged in the manufacture of exempted goods or services

(iii) was providing works contract services and was availing benefit of notification no. 26/2012-ST, dated 20th June, 2012

(iv) was registered as first stage dealer or a second stage dealer or registered as importer or depot of manufacturer under the Central Excise rules, 2002

Entitled to take credit of eligible duties and taxes in respect of inputs held in stock, contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions:

- Such inputs/goods are used/intended to be used for **making taxable supply**
- Eligible for **input tax credit in the GST law**
- In **possession of the invoices or other prescribed documents not older than 12 months preceding the appointed day**
- Supplier of service is not eligible for any abatement under act
- Amount of credit to be computed as per **GAAP**

Eligible Duties and Taxes :- (Explanation 1 of Sec 140 of CGST Act)

CGST

- Excise duty specified in First Schedule to CETA, 1985
- Excise duty specified in Second Schedule to CETA, 1985
- Additional duty of excise leviable under Section 3 of Additional Duties of Excise (Textile and Textile Articles) Act, 1978
Additional duty of excise leviable under Section 3 of Additional Duties of Excise (Goods of Special Importance) Act, 1957
- NCCD

- Additional duty leviable under Section 3(1) of Customs Tariff Act, 1975 – CVD
- Additional duty leviable under Section 3(5) of Customs Tariff Act, 1975 – SAD

SGST - Value Added Tax

Illustration:

- Builder was providing works contract service under notification 26/2012-ST – whether he can avail credit of excise duty paid on inputs related to flats not sold on appointed date ?

Sol: Yes, builder may have stock of cement & steel in hand or been used in construction of premises which is yet not sold as on appointed date or for which point of taxation has not arisen – then builder will be entitled to credit of excise duty paid on inputs

Deemed credit in CGST

- As per proviso to sec. 140(3) of CGST act, any person other than manufacturer or supplier of service who is not in a possession of invoice or documents, then such registered person shall be allowed to take credit at rate specified by government
- As per Rule 1(3), credit shall be allowed at rate of 40% for goods under 18% and 60% for goods above 18% of central tax applicable on supply of goods
- Amount will be credit after central tax payable on such supply has been paid
- Goods are required to be sold within 6 months

- Goods are not wholly exempt or nil rate in excise duty
- Documents for procurement of goods available with registered person
- Amount of credit will be allowed in form GST PMT -2
- Stock of such goods should be stored that it can be easily identifies

Deemed credit in CGST

- Wholesaler buy product from manufacturer – but not receive excise invoice at time of receipt of goods
- So he can avail deemed credit of 40% / 60% after sale of such product
- Alternatively, wholesaler can insist upon the manufacturer to provide excise invoice from Dec-2016 to June -2017

Deemed credit in SGST

- Registered person holding stock of goods which have suffered tax at first point of sale in state and subsequent sale of which are not subject to tax shall be allowed to avail the input credit on goods held in stock (MRP based tax)
- Person has to substantiate that on second sale there is no Vat
- Other condition same as CGST

03.4 Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations? (Manufacturer& Service

Provider who does BOTH EG & NEG or ES & NES(Sec 140(4) of CGST Act) [Rule 1(1) &(3) of Transitional Provision]

A registered taxable person, who

- was engaged in the manufacture of non-exempted as well as exempted goods under the Central Excise Act, 1994 or
- Provision of taxable service as well as exempted service
- shall be entitled to take, in his electronic credit ledger,
- the amount of **Cenvat credit carried forward in a return furnished** under the earlier law by him in terms of Section 140(1) of CGST Act and
- the amount of Cenvat credit of **eligible duties in respect of inputs held in stock on the appointed day, relating to** exempted goods or services, in terms of Section 140(3) of CGST Act

03.4 Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations? (Manufacturer& Service Provider who does BOTH EG & NEG or ES & NES(Sec 140(4) of CGST Act) [Rule 1(1) &(3) of Transitional Provision]

- Pharma company is manufacturing product (A) and product (B)
- Clears product (A) on payment of duty whereas product (B) exempt from excise and vat
- Credit of excise duty paid on inputs which are exclusively used in manufacture of product (B) will not be availed by manufacturer
- Company has stock of (B) as semi-finished stock and finished stock

- So as per section 140(4) manufacturer can avail excise duty paid on input related to product (B)
- Also he can avail Vat on inputs related to product (B)

03.5 Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from Composition Scheme?(Sec 140 (6) of CGST Act)

- A registered taxable person, who was either paying tax at a fixed rate or paying a fixed **amount in lieu of tax payable under the earlier law (“Composition Taxpayer”)**, shall be entitled to take, in his electronic credit ledger, 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 on the appointed day subject to following conditions:
- Such **input/goods are used/intend to use for making taxable supply**
- Such tax payer not paying tax under **section 10 – composition under GST**
- **Eligible for credit under the earlier law but for his being composition taxpayer**
- Eligible for **input tax credit in the GST law**
- In possession of the invoices or other prescribed documents **not older than 12 months**
- Amount of credit to be computed as per **GAAP**
- **Excess credit recoverable as arrears of tax revenue**

03.6 Credit distribution of service tax by ISD? (Sec 140 (7) of CGST Act)

- ✓ The **input tax credit on account of services**
- ✓ **received prior to the appointed day by an ISD**
- ✓ Shall be **eligible for distribution as credit under this Act**
- ✓ Even if **invoices relating to such services**
- ✓ **received on or after the appointed day**
- ✓ **Date of receipt of services is more important.**
- ✓ Eg. Rent amount for corporate office in Mumbai for June, 2017 received after 1st July, 2017 by company – then this service tax can be distributed by ISD subsequent to appointed day
- ✓ Advisable – to transfer balance credit as on appointed date is transferred as per existing law and balance of ISD not to carry forward so to avoid any dispute

03.7 Transfer of unutilized Cenvat Credit by taxable person having Centralized Registration(Sec 140 (8) of CGST Act)

- Where a taxable person having **centralized registration under the earlier law has obtained a** registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the **amount of Cenvat credit carried forward in a return, furnished under the** earlier law by him, in respect of the period ending with the **day immediately preceding the** appointed day in such manner as may be prescribed.
- If the taxable person files his return for the period ending with the day immediately preceding the appointed day **within 3 months of**

the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier.

- The taxable person **shall not be allowed to take credit unless said amount admissible as Input Tax Credit under this Act.**
- That such credit may be **transferred to any of the registered taxable persons having** the same PAN for which the centralized registration was obtained under the earlier law.
- If appointed date is 1-7-17 then return for 1-4-17 to 30-6-17 may have to file return by 25-7-17 – such return is filed after 30-9-17 then credit will not be allowed – also if revised return after 30-9-17 but credit is increased then increased credit will not be allowed.

03.7 Transfer of unutilized Cenvat Credit by taxable person having Centralised Registration(Sec 140 (8) of CGST Act)

- The taxable person **shall not be allowed to take credit unless said amount admissible as Input Tax Credit under this Act.**
- That such credit may be **transferred to any of the registered taxable persons having** the same PAN for which the centralized registration was obtained under the earlier law.
- If appointed date is 1-7-17 then return for 1-4-17 to 30-6-17 may have to file return by 25-7-17 – such return is filed after 30-9-17 then credit will not be allowed – also if revised return after 30-9-17 but credit is increased then increased credit will not be allowed

- Person has centralized registration in Mumbai for his offices in Ahmadabad and Bhopal – Mumbai has Rs. 3 cr credit – this 3cr credit can be distributed between two other office.

03.8 Cenvat Credit in case of Re-Credit after Payment of Service in 3 Months(Sec 140 (9) of CGST Act)

- As per Cenvat credit Rule – credit can be availed immediately on receipt of invoice – but if payment not made within 3 months then credit to be reversed and credit can be taken on payment of invoice
- **“Where any Cenvat credit availed for the input services provided under the earlier law has been reversed due to non-payment of the consideration within a period of three 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 three months from the appointed day.”**
- So such invoices to be paid within 3 months to get credit

03.9 Tax paid on Goods lying with Agents to be allowed as credit? (Sec 162A of Model SGST Law)

- **Goods of Principal lying at the premises of the agent on the appointed day**
- **The agent shall be entitled to take credit**
- **Agent is registered taxable person under GST**

- Such **stock is declared by the principal and agent in the form and manner within such** time as may be prescribed
- Invoices relating to such goods **not earlier than 12 months from appointed day**
- The principal has **not availed Input Tax Credit or Reversed the Input Tax Credit.**

03.10 Tax paid on Capital Goods lying with Agents to be allowed as credit? (Sec 162B of Model SGST Law)

- **Capital goods of Principal lying at the premises of the agent on the appointed day**
- The agent shall be **entitled to take credit of tax paid on such capital goods subject to** the conditions:
 - Agent is **registered**
 - Such **stock is declared by the principal and agent in the form and manner within such** time as may be prescribed
 - **Invoices relating to such goods not earlier than 12 months from appointed day**
 - The **principal has not availed input tax credit or reversed the tax credit to the** extent availed by him

03.11 Incase of Branch Transfers? (Sec 162C of Model SGST Law)

- Any amount of **input tax credit reversed prior to the appointed day shall not be eligible as credit of input tax** Under this Act
- Reversal of ITC in case of Branch Transfer is Important.

03.12 Refund of Cenvat Credit?(Sec 142(3) of CGST Act)

- Every claim of **refund of any duty/tax/interest/any other amount filed before, on or after the appointed day shall be disposed off in accordance with the provisions of earlier law**
- Refund claim accepted shall be **paid in cash**
- Partially/ completely **rejected refund claim shall be lapsed**
- if ITC Claimed under GST - NO Refund of Cenvat Credit

Example:

- Person x filed a claim of Rs. 5 crore under Rule 5 of Cenvat credit rule and has debited amount in cenvat account. Commissioner approves claim of Rs. 4 crore and reject claim of Rs. 1 crore after appointed date. So Rs. 1 crore which is rejected by commissioner not reflected in return filed and is not carried forward. So he can only file appeal to authority for Rs. 1 crore claim. If he not pursued then Rs. 1 crore will be lapse

03.13 Refund of Cenvat Credit of Goods or Services Exported? (Sec 142 (4) of the CGST Act)

- Every claim for refund of any duty or tax paid under earlier law, filed after the appointed day, for the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of earlier law.
- Where any claim for refund of Cenvat credit is fully or partially rejected, the amount so rejected shall lapse:

- That no refund claim 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 this Act.

Example:

- Rule 18 of Central excise rule provides rebate of duty paid by manufacturer on export of goods – goods are required to be exported within 6 months from date of clearance from factory. Duty is paid at time of clearance also goods exported till 30-6-17 but refund claim not filed. So as per section 142(4) – exporter can file refund claim for such goods exported before 30-6-17

03.14 Refund of Service Tax on Services NOT Provided? (Sec 142 (5) of CGST Act)

- Every **claim for refund of tax deposited under the earlier law in respect of services not provided,**
- **filed after the appointed day,**
- **shall be disposed of in accordance with the** provisions of earlier law and any amount eventually accruing to him shall be **paid in cash,**
- Provision of unjust enrichment will apply
- Eg. – If service provider has received payment in advance but subsequently service not provided – then he has to claim refund as per this section– service tax cannot be claim as GST by reversing service tax amount

04.Movement of Goods After the enactment of GST?

04.1 Credit of eligible duties and taxes in respect of Inputs or Input Services during Transit?(Sec 140(5) of CGST Act)

- A registered taxable person **shall be entitled to take, in his electronic credit ledger, 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 supplier **before the appointed day, subject to the condition that the invoice or any other duty/tax paid document of the same** was recorded in the books of accounts of such person within a period of **thirty days from the** appointed day.
- The aforesaid period of thirty days may, on sufficient cause being shown, be extended by the competent authority (Commissioner) for a further **period not exceeding thirty days.**
- **The said registered taxable person shall furnish a statement, in such manner as may be prescribed, in** respect of credit that has been taken under this section.

04.Movement of Goods After the enactment of GST?

04.1 Credit of eligible duties and taxes in respect of Inputs or Input Services during Transit?(Sec 140(5) of CGST Act)

- Eg 1:X has clear product input B to M/s Y on 28-6 but received on 5-7 and tax paid before 30-6.So to avail credit recipient should book invoice in his book after 1-7 but before 30-7 – so claim can be available

- Eg. 2 :X imported product and paid custom duty on 29-7 but product received after 1-7. So service like custom agent service and transport service – can be available as credit

04.2 In case of Exempted goods returned to the place of business on or after the appointed day? (Sec 173 of Model SGST Law)

- Where any **goods on which duty had been exempt under the earlier law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon** if such goods are returned to the said place of business **within a period of six months from the appointed day and such goods are identifiable to the** satisfaction of proper officer.
- In case the goods are returned **after 6 months, the tax shall be payable by the such** person returning the goods

Illustration:

- A manufacturer had removed exempted goods for sale worth Rs. 5,00,000/- on 1st March, 2017. These goods become taxable under GST. GST is assumed to be applicable from 1st July, 2017. On 10th November, 2017, goods worth Rs. 1,00,000/- is returned by the buyer.
Is tax payable?

Sol: Since, the goods are returned within 6 months from the date of applicability of GST, no tax will be payable.

In the above Illustration, if the goods had been returned on 10th March, 2018, is there any change in taxability?

Yes, the tax will have to be paid by the buyer who returned the goods on the value of Rs.1,00,000/- because 6 months elapses from the date of applicability of GST

04.3 Duty paid goods returned to the place of business on or after the appointed day? (Sec 142 (1) of CSGT Act)

- Where any goods on which duty had been paid under the earlier law at **the time of removal** thereof, **not being earlier than six months prior to the appointed day**, are returned to any place of business on or after the appointed day, **no tax shall be payable thereon if such goods** are returned to the said place of business within a period of six months from the **appointed day and such goods are identifiable to the satisfaction of proper officer.**
- Taxable person receiving such goods **within a period of 6 months from person other than registered person – credit of duty paid** earlier allowed to claim as refund.
- **Reversal of credit taken by the person now returning goods.**

Illustration:

- A manufacturer had removed goods for sale worth Rs.5,00,000/- on 1st April,2017 after paying the necessary duty under Central Excise Law. These goods are also taxable under GST. GST is assumed to be applicable from 1st July, 2017. On 10th August, 2017, goods worth Rs. 1,00,000 is returned by the buyer.

- If Goods are sold to a person Registered Taxable Person?
- If Goods are sold to a person Other than Registered Taxable Person?

Sol:

- **Sold to registered person:** it will deemed supply and returning goods will pay GST
- **Sold to unregistered person:** Since, the goods are returned within 6 months from the date of applicability of GST, no tax will be payable.

04.4 If Goods sent on approval basis returned on or after the appointed day? Sec 142(12) of CSGT Act

- Goods sent on approval basis, **not earlier than 6 months before the appointed day, (i.e. 1-1-17 to 30-6-17)**
- **Goods returned within six months or extended period (i.e. 2 months) from the appointed day (i.e. before 31-12-17)**
- **No tax shall be payable under this Act**
- **Goods not returned within given period, GST payable by supplier.**
- **Goods returned after given period, GST payable by person returning goods.**
- Details to be submitted in GST-Tran-1

05.PriceFluctuation?

Issue of Supplementary Invoices, Debit or Credit Notes where price is revised in pursuance of a contract (Sec 142 (2) of CSGT Act)

- **Contract prior to the appointed day**
- **Price revised upwards on or after the appointed day**
- **Issue debit note/supplementary invoices to the recipient**
- **Within 30 days of such revision**
- **Debit note shall be deemed to have been issue under this Act**
- **Price revised downwards on or after the appointed day**
- **Issue credit note/supplementary invoices to the recipient**
- **Within 30 days of such revision**
- **Taxable person allowed to reduce output tax liability, when the recipient has reduced his input tax credit to the extent reduction in price**

Illustration

- A contract for supply of manpower was entered on 10th June, 2017 for Rs. 8,00,000. Due to certain re-negotiations, this price was escalated to Rs. 8,60,000 on 15th July, 2017. Assuming applicability of GST from 1st July, 2017, how the variation in price should be treated?

Sol: The supplier should issue a supplementary invoice/debit note for Rs. 60,000 within 30 days of 15th July, 2017 i.e. 15th August, 2017. This supplementary invoice/debit note will be assumed to be for outward supply of Rs. 60,000/- under GST Law.

In GSTR -1 – supplementary invoice / debit note will have to shown Portal increases tax liability of taxable person and also auto-populate credit in account of recipient

06.Taxability in case of Job Work

06.01 Inputs removed for Job Work and returned on or after the appointed day? (Sec 141 (1) of CSGT Act)

- Where any inputs received in a factory/place of business had been removed as such or removed after being partially processed to a **job worker for further processing, testing, repair, reconditioning** or any other purposes in accordance with the provisions of earlier law prior to the appointed day and such inputs, after completion of the job work, are **returned to the said factory/place of business on or after the appointed day, no tax shall be payable if such inputs are returned to the said factory within six months** from the appointed day.
- The period can be **extended by Commissioner for a further period not exceeding 2 months**
- In case **goods not returned in the above time period, GST payable by the Manufacturer**
- In case the **goods returned after the period the Job Worker shall also pay the GST.**
- For taking benefit of this provision, both manufacturer and job worker shall **declare the details of such inputs held in stock on the appointed day.**

Illustration

- **1:** A manufacturer had removed inputs worth Rs. 15,00,000 on 10th February, 2017 for job work. GST is assumed to be applicable from 1st July, 2017. On 25th September, 2017, the inputs is returned by the job worker. Is he liable to pay tax?

Sol: No, since the inputs are returned within 6 months from the date of applicability of GST, no tax will be payable.

- **2:** In the Illustration given above, if the goods had been returned on 10th January, 2018, whether the taxability remains same?

Sol: No, the tax will have to be paid by the Job Worker who returned the goods because 6 months elapses from the date of applicability of GST.

- **3.** If the goods are not returned by the Job Worker within the period of 6 months from the applicability of GST i.e. till 31st December, 2017, What is the effect of tax for Manufacture?

Sol: Tax will have to be paid by the Manufacturer.

06.2 Semi-Finished Goods removed for Certain Manufacturing Process and returned on or after the appointed day? (Sec 141 (2) of CSGT Act)

- Where any **semi-finished goods had been removed from the factory/place of business to any other premises for carrying out certain manufacturing process in** accordance with the provisions of earlier law prior to the appointed day and such goods after undergoing manufacturing process are **returned to the said factory on or after the appointed day, no tax shall be payable if**

the said goods are returned to the said factory within six months from the appointed day.

- **The period can be extended for a further period not exceeding 2 months**
- **In case goods not returned in the above time period, GST payable by the Manufacturer**
- **In case the goods returned after the period - the job worker shall pay the GST**
- **both manufacturer and job worker shall declare the details of the goods held in stock on the appointed day**

06.3 Finished Goods removed for carrying out certain processes NOT amounting to Manufacture and returned on or after the appointed day? (Sec 141 (3) of CSGT Act)

- **Where any excisable goods manufactured in a factory had been 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, in accordance with the provisions of earlier law prior to the appointed day and such goods, after undergoing tests or any other process are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned to the said factory within six months from the appointed day**
- **The period can be extended for a further period not exceeding 2 months**

- In case the **goods returned after the period the job worker shall also pay the GST**
- The manufacturer may transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports

Illustration

- **1:** A manufacturer had removed finished goods worth Rs.5,00,000 on 21st December, 2016 for testing. GST is assumed to be applicable from 1st July, 2017. On 10th December, 2017, these goods are returned by the person testing the goods. Is he liable to pay tax ?

Sol: No, since the goods are returned within 6 months from the date of applicability of GST, no tax will be payable.

- **2:** In Illustration 1 above, if the goods had been returned on 10th January, 2017, Does tax liability occurs?

Sol: Yes, the tax will have to be paid by the person who returned the goods because 6 months elapses from the date of applicability of GST.

07.Adjudication /Appeals under earlier law?

07.1 Claim of CENVAT credit to be disposed of under the earlier law? (Sec 142 (6) of CSGT Act)

- Every **proceeding of appeal, revision, review or reference relating to a claim of CENVAT Credit under the earlier law.**

- Shall be **disposed of in accordance with the provisions of earlier law, and any amount of credit found to be admissible shall be refunded in cash,**
- Notwithstanding anything to the contrary contained under the earlier law other than **Section 11B(2) of Central Excise Act, 1944**
- Shall be disposed of in accordance with the provisions of earlier law, and if any **amount of credit becomes recoverable as a result of such appeals etc. the same shall be recovered as an arrears of tax revenue under this Act and the amount so recovered shall not be admissible as Input Tax Credit.**

07.2 Finalization of proceedings relating to Output Duty Liability? (Sec 142 (7) of CSGT Act)

- Every proceeding of appeal, revision, review or reference relating to any **output duty liability initiated before the appointed day, shall be disposed of in accordance with** the provisions of earlier law,
- If any **amount becomes recoverable as a result of such appeal etc., revision, review or reference, the same shall be recovered as an arrear of tax under this Act and amount** so recovered shall not be admissible as input tax credit under this Act.
- If any amount found to be **admissible shall be refunded in cash, notwithstanding** anything contained under the provision of earlier law other than provisions of **11B (2).**

07.3 Amount recovered or refunded in pursuance of Assessment or Adjudication Proceedings? (Sec 142 (8) of CSGT Act)

- Where in **pursuance of an assessment or adjudication instituted, whether before or** after the appointed day, under the earlier law any amount of tax, interest, fine or penalty becomes :
- **Recoverable as an arrear of tax under this Act and the amount so recovered shall not be eligible for input tax credit.**
- **Refundable to the taxable person, the same shall be refunded to him in cash** under the earlier law, notwithstanding anything contrary in the said law other than Section 11B (2) of Central Excise Act 1944.

07.4 Amount recovered or refunded pursuant to revision of returns? (Sec 142 (9) of CSGT Act)

- Where any **return, furnished under the earlier law, is revised and if, pursuant to such revision,**
- Any amount is found to be **recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be Admissible as Input Tax Credit under this Act.**
- Any amount found to be **refundable to any taxable person, the same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary** contained in the said law other than the **provisions of Section 11B(2) of the Central Excise Act, 1944.**

08.How transactions in midway can be treated?

08.1 In case of long term construction/ works contracts? (sec 142(10) of CGST Act)

- The **goods and/ or services 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 this Act**

A contract for a painting job was entered on 19th March, 2017. Assume the applicability of GST from 1st July, 2017. The job is performed from 10th July, 2017 to 30th July, 2017. Is the supplier taxable?

Sol: Yes, the said supply will be taxable under GST law. It is clearly understood that the provisions of earlier central laws that are to be subsumed under GST would be categorized under CGST and VAT / CST under SGST.

08.2 In case of Progressive or periodic supply of goods or services? (Sec 142 (11) (c) of CSGT Bill)

- **Notwithstanding anything contained in Section 12 (TOSG) and Section 13 (TOSS)**
- **No tax shall be payable on the supply of goods and /or services made on or after the appointed day**
- **If the consideration for the said supply has received prior to the appointed day and the duty or tax payable thereon has already been paid under the earlier law**

08.3 Taxability of supply of services in certain cases (Sec 142 (11) (b) of CSGT Act)

- Notwithstanding anything contained in section 13 or 14, the tax in respect of the **taxable services shall be payable under the earlier law to the extent the point of taxation in respect** of such services arose before the appointed day.
- **Explanation: Where the portion of the supply of services is not covered by this section, such** portion shall be liable to tax under this Act.

08.4 Taxability of supply of goods in certain cases (Sec 142 (11) (a) of CSGT Act)

- Notwithstanding anything contained in section 12 or 14, the tax in respect of the **taxable goods shall be payable under the earlier law to the extent the point of taxation in respect of such** goods arose before the appointed day.
- **Explanation: Where the portion of the supply of goods is not covered by this section, such** portion shall be liable to tax under this Act.

Taxability of supply of goods in certain cases (Sec 142 (11) of CSGT Act)

- Eg. 1: M/s X has paid advance of Rs. 5 lakh on 20-6-17 for receive 500kgs of material from supplier M/s Y – the goods are lying in stock at depot of M/s Y – but due to non-availability of transportation goods are not dispatched on or before 30-6-17 – M/s X depot located at Bhiwandi and stock of 500kgs is available

at Bhiwandi as on 30-6-17 – goods lying in depot have borne incidence of duty. So GST is not payable by supplier for supplies made after 1-7

- Eg 2.:X paid advance to Y chartered Accountant of Rs.2lakh on 27-6-17.Y discharge service tax on Rs. 2 lakh – service provided after 1-7-17 no GST payable even though supply made after 1-7-17

08.5 Deduction of tax source? (Sec 142 (13) of CSGT Bill)

- Where a **supplier has made any sale of goods in respect of which tax was required to be deducted at source under the earlier law and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 196 shall be made by the Deductor under the said section where payment to the said supplier is made on or after the appointed day.**
- So to avoid double deduction of tax on same invoice.

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