



# TRANSITIONAL PROVISIONS

8<sup>th</sup> May 2017, Bengaluru

**THE NASSCOM MEET**

**With**

**CENTRAL EXCISE & SERVICE TAX, BENGALURU ZONE**

**CGST ACT 2017 - CHAPTER XX**

**(<http://cbec.gov.in/resources//htdocs-cbec/gst/cgst-act.pdf>)**

**TRANSITION RULES (DRAFT)**

**(<http://cbec.gov.in/resources//htdocs-cbec/gst/gst-transition-rules.pdf>)**

**IGST ACT 2017- CHAPTER IX**

**(<http://cbec.gov.in/resources//htdocs-cbec/gst/igst-act.pdf>)**

**FAQs on GST as on 31.03.2017**

**(<http://cbec.gov.in/resources//htdocs-cbec/gst/new-faq-on-gst-second-edition.pdf>)**

# **Sources**

# Transitional Provisions

- As they apply to Registration
- As they apply to Input Tax Credit
- As they apply to Job Work
- As they apply to Sales Returns, Price Revisions, Refunds (of credit, duty, tax, interest or any other amount), appeal, review or reference (relating to a claim for CENVAT credit), every proceeding of appeal, review or reference relating to any output duty or tax liability initiated etc.
- More Questions

# Some General Observations

- **Transitional Provisions**
  - Relate to disposal or treatment of issues in respect of events before, on or after the Appointed Day
  - **FORM GST TRAN-1, FORM GST PMT-2 , FORM GST TRAN---** (sub-section (3) of section 140 )
- **Timelines**



# PART I:

## Migration of Existing Taxpayers

# Migration of Existing Taxpayers

- On and from the appointed day, if you are a person registered under any of the existing laws and have a valid Permanent Account Number
  - you will be issued a Certificate of Registration On Provisional Basis, [subject to such conditions and in such form and manner as may be prescribed]
  - The Final Certificate of Registration shall be granted [in such form and manner and subject to such conditions as may be prescribed.]
  - Registration on provisional basis unless replaced by a final certificate of registration shall be liable to be cancelled if the conditions so prescribed are not complied with.
    - If you are a person who is not liable to register under section 22 or section 24 of the CGST Act, you may file an application stating so - and if the Registration issued to you on provisional basis is cancelled in pursuance of your application, it will be deemed not to have been issued
      - Authority: **Section 139 of the CGST Act 2017**



## Part – II

# Transitional Provisions relating to Input Tax Credit

# Transitional arrangements for input tax credit.

- **Will CENVAT credit (or VAT credit) carried forward in the last return prior to GST under existing law be available as ITC under GST?**
  - *A registered person, other than a person opting to pay tax under composition scheme (Section 10), shall be entitled to take credit in his electronic credit ledger the amount of CENVAT (or VAT credit) credit carried forward in the return of the last period before the appointed day, subject to the conditions stated therein.*
    - Authority: **Section 140 (1) of the CGST Act 2017/ similar provision in SGST Act**



# What are those conditions?

## ... Section 140 (1)

- The conditions are that: -
  - the said amount of credit is admissible as input tax credit under the new Act;
  - the registered person has furnished all the returns required under the existing law (i.e. Central Excise and VAT) for the period of six months immediately preceding the appointed date;
  - The said amount of credit does not relate to goods manufactured and cleared under such exemption notifications as are notified by the Government.

# Additional Condition under the SGST Law

- **Under SGST law there will be one more condition as given below: -**
- So much of the said credit as is attributable to any claim related to section 3, sub-section (3) of section 5, section 6, section 6A or sub-section (8) of section 8 of the Central Sales Tax Act, 1956 that is not substantiated in the manner, and within the period, prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 shall not be eligible to be credited to the electronic credit ledger:
- However, an amount equivalent to the credit specified above shall be refunded under the existing law when the said claims are substantiated in the manner prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957.

# What happens to unavailed amount of Credit in respect of Capital Goods?

- A registered person, other than a person opting to pay tax under composition scheme (Section 10), shall be entitled to take credit in his electronic credit ledger **the amount of unavailed CENVAT credit in respect of capital goods**, not carried forward in a return furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day [in such manner as may be prescribed]
- **Condition** : credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under the new Act.
  - Authority: **Section 140 (2) of the CGST Act 2017/ similar provision in SGST Act**

What do you mean by the expression  
“unavailed CENVAT credit”?

- **“Unavailed CENVAT Credit” = the amount that remains after subtracting the From the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law, subtract the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law**

# Section 140 (3)

- If you are a registered person, who
  - was not liable to be registered under the existing law, or
  - was engaged in the manufacture of exempted goods or
  - was engaged in provision of exempted services, or
  - was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax, dated the 20th June, 2012 or
  - Was a first stage dealer or
  - Was a second stage dealer or
  - Was a registered importer or
  - Was a depot of a manufacturer,
- Then you would be entitled to take, in your 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 conditions

# Conditions for taking Credit of Eligible Duties... Section 140 (3)

- In respect of inputs held in stock and
- In respect of inputs contained in semi-finished or finished goods such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- the said registered person is eligible for input tax credit on such inputs under this Act;
- 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;
- such invoices or other **prescribed documents were issued not earlier than twelve months** immediately preceding the appointed day; and
- **the supplier of services is not eligible for any abatement under this Act**

# Proviso.. Section 140 (3)

- If you are a registered person, other than a manufacturer or a supplier of services, 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.

# Taxable And Exempted Supplies [CEA 1944 or FA 1994] which are Not Exempted in GST

- A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act
- Such a person shall be entitled to take, in his electronic credit ledger—
  - **the amount of CENVAT credit carried forward in a return furnished under the existing law by him** in accordance with the provisions of sub-section (1); and
  - **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).
    - Authority: **Section 140 (4) of the CGST Act 2017**



# Tax paid supplies received after the appointed day

- I am registered person, what credit am I entitled to in respect of inward supplies received on or after the appointed day on which taxes have been paid before under the existing law
- You will be entitled to take, in the 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 the supplier under the existing law
- **Subject to the Condition:** The invoice or any other duty or tax paying document of the same was recorded in your [of such person] books of account within a period of thirty days from the appointed day
  - Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:
- You will furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken [under this sub-section].
  - Authority: **Section 140 (5) of the CGST Act 2017**

# Specific or Compounded Levy

- **What is my entitlement to take credit if I am a registered person who is either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law ?**
- You will be entitled to take, in the 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:—**
  - such inputs or goods are used or intended to be used for making taxable supplies under this Act;
  - You are not paying tax under the Composition Scheme ( section 10)
  - You are eligible for input tax credit on such inputs under this Act;
  - You are in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and the documents on the strength of which you wish to take credit were issued not earlier than twelve months immediately preceding the appointed day.
    - Authority: **Section 140 (6) of the CGST Act 2017**

# ISD – Services received prior to the appointed day

- 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.
  - Authority: **Section 140 (7) of the CGST Act 2017**

# Credit in situation of a Centralised Registration... Section 140 (8)

- I am a registered person who had a centralised registration under the existing law – what credit am I allowed to take in my electronic credit ledger?
- You are entitled to take credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by you, in respect of the period ending with the day immediately preceding the appointed day [in such manner as may be prescribed]
- You can transfer this amount of credit to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.
- **Conditions**
  - Furnish a return within 3 months of the appointed day for the period ending on the immediately preceding day
  - No upward revision of credit in case the return is revised
  - Credit taken should be admissible in GST

# PROVISO

## Section 140 (8)...

- Provided that if the registered person **furnishes his return** for the period ending with the day immediately preceding the appointed day **within three 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**
- Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act
- Provided also that 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.

# Reclaiming Credit reversed when I did not pay my vendor in three months

- **How do I reclaim the credit where 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 three months?**
- 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 three months from the appointed day
  - Authority: **Section 140 (9) of the CGST Act 2017**

## Section 140 (10)...

- The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as may be prescribed.

# What are the ‘Eligible Duties’?

- Explanation 1.—For the purposes of sub-sections (3), (4) and (6), the expression “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, means:
  - the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
  - the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;
  - the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;



# Explanation I to Section 140

- the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and
- the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001,

# Explanation 2 to Section 140...

- Explanation 2.—For the purposes of sub-section (5), the expression “eligible duties and taxes” in respect of inputs and input services received on or after the appointed day, means:
  - the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
  - the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;
  - the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;

# Explanation 2....

- the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;
- the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and
- **the service tax leviable under section 66B of the Finance Act, 1994**



## Part – III

# Transitional Provisions relating to Job Work.

# What happens if the job worker does not return the goods within the specified time?

- *Tax will be payable by the job worker on the said goods if they are not returned to the place of business of the manufacturer within six months (or within the extended period of maximum two months) from the appointed day – Section 141(1), 141(2)*

**Can a manufacturer transfer have finished goods sent for testing purpose to the premises of any other taxable person?**

- *Yes, a manufacturer can transfer finished goods sent for testing purpose to the premise of any other registered person on payment of tax in India or without payment of tax for exports within six months (or within the extended period of maximum two months)– section 141(3)*

**Shall a manufacturer or a job worker become liable to pay tax if the inputs or semi-finished goods sent for job work under the existing law are returned after completion of job work after the appointed day?**

- *No tax will be payable by the manufacturer or the job worker under the following circumstances: –*
  - *Inputs/ semi-finished goods are sent to the job worker in accordance with the provisions of the existing law before the appointed day.*
  - *The job worker returns the same within six months from the appointed day (or within the extended period of maximum two months).*
  - *Both the manufacturer and the job worker declare the details of inputs held in stock by the job worker on the appointed day in the prescribed form.*
- *The relevant sections are 141(1), 141(2) & 141 (4).*
  - *However, if the said inputs/semi- finished goods are not returned within six months (or within the extended period of maximum two months), the input tax credit availed is liable to be recovered.*

If finished goods removed from a factory for carrying out certain processes under existing law are returned on or after the appointed day, whether GST would be payable?

- *No tax under GST will be payable if finished goods removed from factory prior to the appointed day to any other premise for carrying out certain processes are returned to the said factory after undergoing tests or any other process within six months (or within the extended period of maximum two months) from the appointed day - section 141(3).*



**When tax shall become payable in GST on manufactured goods sent to a Job worker for carrying out tests or any other process not amounting to manufacture under the existing law?**

- *Tax will be payable in GST on manufactured goods sent to a job worker prior to the appointed day for carrying out tests or any process not amounting to manufacture under the existing law if such goods are not returned to the manufacturer within six months (or within the extended period of maximum two months) from the appointed day. Further, the input tax credit enjoyed by the manufacturer will liable to be recovered if the aforesaid goods are not returned within six months from the appointed day. – Section 141(3)*

# **Is extension of two months as discussed in section 141 automatic?**

- *No, it is not automatic. It may be extended by the Commissioner on sufficient cause being shown.*

## **Inputs received at a place of business -removed as such, or removed after being partially processed to a job worker**

- Where any inputs received at a 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 purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day:
- Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:
- Provided further that if such inputs are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142.
- **Authority: Section 141 (1) CGST Act 2017**

# *semi-finished goods on job work*

- Where any semi-finished goods had been removed from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of existing law prior to the appointed day and such goods (hereafter in this section referred to as “the said goods”) are returned to the said place on or after the appointed day, no tax shall be payable, if the said goods, after undergoing manufacturing processes or otherwise, are returned to the said place within six months from the appointed day
- Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:
- Provided further that 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 in accordance with the provisions of clause (a) of sub-section (8) of section 142:
- Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.
- **Authority: Section 141 (2) CGST Act 2017**

# Manufactured goods removed for tests

- Where any excisable goods manufactured at a place of business 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 existing law prior to the appointed day and such goods, are returned to the said place on or after the appointed day, no tax shall be payable if the said goods, after undergoing tests or any other process, are returned to the said place within six months from the appointed day:
- Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:
- Provided further that 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 in accordance with the provisions of clause (a) of sub-section (8) of section 142:
- Provided also that 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.
- **Authority: Section 141 (3) CGST Act 2017**

# If the stocks held by job worker on behalf of the manufacturer are declared

- The tax under sub-sections (1), (2) and (3) *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 the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.*
- **Authority: Section 141 (4) CGST Act 2017**



## Part – IV

# Miscellaneous Transitional Provisions

# Return of Duty Paid Goods

- Where any goods on which duty, if any, had been paid under the existing 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,
- the registered person shall be eligible for refund of the duty paid under the existing law where such goods are returned by a person, other than a registered person, 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 the proper officer:
  - Provided that if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.
    - Authority: Section **142 (1) of the CGST Act**



# Price Revisions after the appointed day

- Where, 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**, the registered person who had removed or provided such goods or services or both shall issue to the recipient a supplementary invoice or debit note, [containing such particulars as may be prescribed]
  - **Is revised downwards on or after the appointed day**, the registered person who had removed or provided such goods or services or both may issue to the recipient a credit note, [containing such particulars as may be prescribed]
- within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit or credit note (as the case may be) shall be deemed to have been issued in respect of an outward supply made under this Act
  - Authority : Section 142 (2) (a) & (b) of the CGST Act 2017

# For downward price Revision

- **Condition**

- Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.

- **Authority : Proviso to Section 142 (2) (b) of the CGST Act 2017**

## What is the time limit for issue of debit/credit note(s) for revision of prices?

- *The taxable person may issue the debit/credit note(s) or a supplementary invoice within 30 days of the price revision.*
- *In case where the price is revised downwards the taxable person will be allowed to reduce his tax liability only if the recipient of the invoice or credit note has reduced his ITC corresponding to such reduction of tax liability—section 142(2).*

# Claim for Refund of CENVAT Credit, duty, interest etc. paid under existing law

- 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 and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law **other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944:**
- Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse
- Provided further that 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 this Act.
  - **Authority: Section 142 (3) of the CGST Act 2017**

# Refund relating to Exports of goods or Services

- 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
  - Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse
  - Provided further that 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 this Act.
    - **Authority: Section 142 (4) of the CGST Act 2017**

# Refund in respect of services not provided

- 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 and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.
  - Authority: Section 142 (5) of the CGST Act 2017

# Treatment of outcome of appeal, review or reference relating to a claim for CENVAT credit

- 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, and
  - If any amount of credit is found to be admissible to the claimant, it shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act
  - Provided that 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 this Act;
    - **Authority: Section 142 (6) (a) of the CGST Act 2017**

## Treatment of outcome of appeal, review or reference relating to a claim for CENVAT credit...

- 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, and
  - 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 this Act.
    - **Authority: Section 142 (6) (b) of the CGST Act 2017**



# Treatment of outcome of appeal, review or reference relating to any output duty or tax liability

- 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, and
  - 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 this Act and the amount so recovered shall not be admissible as input tax credit under this Act.
  - any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.
    - **Authority: Section 142 (7) (a) & (b) of the CGST Act 2017**

# Recovery

- 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 this Act and the amount so recovered shall not be admissible as input tax credit under this Act;
  - refundable to the taxable person, the same shall be refunded to him in cash under the said law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.
    - **Authority: Section 142 (8) (a) & (b) of the CGST Act 2017**

# Revision of Returns

- *Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision*
  - any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, 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 this Act;
  - any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.
  - **Authority: Section 142 (9) (a) & (b) of the CGST Act 2017**

# **Taxation of supplies in terms a contract entered into prior to the appointed day**

- Save as otherwise provided in this Chapter, 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 this Act.
  - **Authority: Section 142 (10) of the CGST Act 2017**

# TIME AND VALUE OF SUPPLY

- Notwithstanding anything contained 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 Value Added Tax Act of the State;
- Notwithstanding anything contained 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 the Finance Act, 1994;
- Where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or 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.
  - **Authority: Section 142 (11) (a) (b) & (c) of the CGST Act 2017**

# Goods Sent on Approval Basis- if returned or not returned

- Where any goods sent on approval basis, **not earlier than six months before the appointed day**, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day
  - Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:
- Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified in this sub-section:
- Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified in this sub-section.
  - **Authority: Section 142 (12) of the CGST Act 2017**

# TDS

- 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.
  - **Authority: Section 142 (13) of the CGST Act 2017**

# *Explanation to Chapter XX*

- For the purposes of this Chapter, the expressions “capital goods”, “Central Value Added Tax (CENVAT) credit”, “first stage dealer”, “second stage dealer”, or “manufacture” shall have the same meaning as respectively assigned to them in the Central Excise Act, 1944 or the rules made thereunder.



# IGST Act and Transitional Provisions

- *Application of provisions of Central Goods and Services Tax Act*
  - *In terms of [CHAPTER IX – MISCELLANEOUS] Section 20 (xxiv) of the IGST Act 2017, the transitional provisions under the Central Goods and Services Tax Act apply mutatis mutandis, in relation to integrated tax as they apply in relation to central tax, as if they are enacted under IGST Act*



# PART V:

## More Questions

# More Questions

- VAT credit was not available on items 'X' & 'Y' as capital goods in the existing law (Central Excise). Since they are covered in GST, can the registered taxable person claim it now?
- A registered person has excess ITC of Rs 10, 000/- in his last VAT return for the period immediately preceding the appointed day. Under GST he opts for composition scheme. Can he carry forward the aforesaid excess ITC to GST?
- .....

***Thank You  
for  
your Patience***