

GST TRANSITIONAL PROVISIONS



The Government is keen on roll-out of the historic tax reform by its target appointed date of 1st July 2017. One of the keys to the success of Goods & Services Tax (GST) is smooth migration to new regime with minimum noise to business. The enrollment of existing or new taxpayers to GST is first step towards Transitional Provisions in the new regime.

The GST Council has approved rate structure on various items and also approved rules relating to GST Returns and Transition Provisions.

Carry forward of Input Tax Credit

A registered person shall be entitled to claim Input Tax Credit (ITC) of the CENVAT credit carried forward in the return relating to the period immediately preceding the appointed day subject to the following prescribed conditions:

- The amount of credit is admissible as ITC under GST
- All Returns for preceding 6 months filed under existing laws and admissible credit is reflected in last returns filed
- ITC / CENVAT credit does not relate to exempted goods

An electronic application in FORM GST TRAN-1 needs to be submitted within a period of 90 days (earlier 60 days) from the appointed day. The Commissioner is empowered to extend this period by a further period not exceeding 90 days on recommendation of the GST Council. The credit should be reflected in electronic credit ledger of the registered taxpayer.

Credit of Inputs held in inventory on the appointed date

Taxes and duties on Inputs which are held in raw material / semi-finished / finished goods which were for manufacture of exempted goods under the earlier law will be eligible as credit by the following person:

- Those who were not liable to be registered under the earlier law, or
- Those who were engaged in the manufacture of exempted goods or provision of exempted services,
- Those who were providing works contract service and was availing the benefit of notification
- A first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer

Conditions to claim credit of inputs held in stock on the appointed day

- The taxpayer should be registered under GST regime
- The amount of credit is admissible as ITC under GST
- Inputs / goods used or intended to be used for making taxable supplies under GST
- The registered taxpayer is in possession of invoices / other prescribed documents evidencing payment of tax or duty
- The invoices were issued within twelve months prior to appointed day
- The supplier of services is not eligible for any abatement under Central GST (CGST)
- Credit is claimed in FORM GST TRAN-1 shall specify separately the details of stock held on the appointed day up to 6 tax periods from the appointed date indicating the details of supplies effected during each tax period

The claim for credit of taxes paid on stock can be made for all the above situations subject to availability of duty paying documents. In case the duty paying documents are not available, Transitional Rules prescribe deemed credit of 60% of CGST paid if the goods attract a CGST rate of 9% or more. In other cases, the deemed credit is 40% of CGST paid.

In cases when Integrated GST (IGST) is paid on sale of such goods, deemed credit would be available at the rate of 30% of IGST paid, if the IGST rate is 18% or above and 20% of IGST paid in other cases. For claiming deemed credit, the goods should be subjected to excise duty or additional customs duty (in lieu of excise).

In respect of goods having value more than INR 25,000/- where the product bears the brand name of the manufacturer and goods are serially numbered by inventory management systems (e.g. vehicle chassis or fridge etc), the manufacturer will issue a credit transfer document as per prescribed conditions basis which the dealer will be able to claim full credit of the excise duty paid.

Credit of eligible duties and taxes in respect of inputs or input services

A registered person shall be entitled to claim 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 the books of account of such person within a period of thirty days from the appointed day (may be extended by a further period of thirty days by the Commissioner);

The 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.

Material removed for Job Work or other processes like testing repairing or further processing

Where raw material, semi-finished or finished are sent for job work under earlier law and are lying with the job worker on the appointed day, job worker need not pay GST on its return to principal provided the goods are returned within 6 months or extended period of 2 months, from the appointed day.

Principal is required to file an application in FORM GST TRAN-1, specifying the stock or capital goods held by him as a principal at the place/places of business of his agents/branch, separately agent-wise and branch-wise.

If goods are not returned within the specified period, the input tax credit shall be liable to be recovered as an arrear of tax under GST and the amount so recovered shall not be admissible as input tax credit.

Duty paid goods returned to the place of business after the appointment date

Condition I: Such goods are returned within 6 months or such extended period from the appointed day

In this case, the supplier of the duty paid goods is entitled to get refund of excise duty paid by him under the earlier law on removal of goods provided:

- Duty paid goods were removed in earlier law 6 months prior to the appointed date
- Goods are returned by person other than registered taxable person
- Such goods are identifiable to the satisfaction of the GST authorities

If such goods are returned by registered taxable person, then the return of goods shall be deemed to be a supply.

Condition II: Such goods are returned after 6 months or such extended period from the appointed day

If goods are returned by registered taxable person, he will be liable to GST on such supply.

If goods are returned by person other than registered person, then GST will be paid by recipient of goods under reverse charge mechanism.

Issue of supplementary invoice, debit note or credit note when price under existing contract is revised

For upward revision, taxable person is required to issue supplementary invoice or debit note within 30 days from the date of revision in prices of contract entered into before appointed day.

It would be deemed to be a supply in the month in which the supplementary invoice / debit note is issued and the provisions relating to disclosure in the return and payment of tax would apply accordingly.

For downward revision, the taxable person shall issue a credit note within 30 days from the date of such revision.

In terms of the credit note, the supplier of goods would be allowed to reduce the tax liability subject to reversal of corresponding input credit.

Refund claims under existing law

Claim for refund of CENVAT credit any duty, tax, interest or any amount paid under the existing law shall be disposed of in accordance with the provision of existing law.

The refund if allowed will be paid in cash and refund which is rejected will get lapse. In case of recovery of credit under old law, it would be as per the provision of GST.

Treatment of long term contract

In respect of a contract entered into prior to GST regime, the goods or services or both which are supplied on or after the introduction of GST would be liable to tax under the GST to the extent the supply takes place after introduction of GST.

Even if the construction contract or works contract is entered into prior to the date of introduction of GST, the contracts would be taxable under the GST.

Taxability on supply of goods sent on approval basis

No GST shall be payable for goods sent on approval basis, returned to the supplier due to rejection or non approval by the buyer within a period of 6 months or the extended period of 2 months.

If goods are returned after said period, GST shall be paid by the person returning the goods.

If the goods are not returned within the period specified, the person who has sent the goods on approval shall pay GST on the said goods. This shall be available as credit to the purchaser of the goods.

For any GST related assistance, please write to us at:
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