



# **GOODS AND SERVICES TAX- TRANSITIONAL PROVISIONS**

**PRESENTED BY:  
CA Deepak Bansal**





**TRANSITIONAL PROVISIONS  
RELATED TO CGST LAW :**

**SECTIONS 139 to 142 of  
THE CGST / SGST  
ACT, 2017**

# Migration of Existing Taxpayers – Section 139

Shall be issued a certificate of registration on a provisional basis in such form and manner as may be prescribed.



Shall be valid unless replaced by a final registration of certificate.



Provisional Certificate shall be liable to be cancelled if the conditions so prescribed are not complied with.



The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.



The certificate of registration issued to a person shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24.

Every Registered person under any previous Law + Having a Valid PAN= Provisional RC will be granted





# Migration from Existing Law

Person registered under existing law to enrol on the Common Portal by validating e-mail address and mobile number.



Registration granted on provisional basis in **FORM GST REG-25**.



Person granted multiple registrations under existing law on single PAN basis to be granted only one provisional registration under GST.



If information not furnished or is incomplete or incorrect, provisional registration shall be cancelled in **FORM GST REG-25**, but only after opportunity in **FORM GST REG-27**.



Person not liable to register under GST, shall file an application in **FORM GST REG-28** within 30 days from the appointed day, for cancellation of provisional registration.

If information found to be correct and complete, RC will be issued in **FORM GST REG-06**.



Submit an application in **FORM GST REG-26** along with information and documents required within 3 months of the grant of provisional registration.



TRANSITIONAL  
ARRANGEMENTS  
FOR INPUT TAX  
CREDIT – Sec.140

# AMOUNT OF CENVAT CREDIT CARRIED FORWARD IN A RETURN

## Section 140(1)

- Entitled to take amount of Cenvat Credit **carried forward in a return** furnished under **existing law** in respect of the period ending with the day immediately preceding the appointed day. (Other than person opting to pay tax under Composition under Sec 10)
  
- The registered person shall not be allowed to take credit in the following circumstances, namely:—
  - (i) where the Credit is **not admissible** as input tax credit under this Act; or
  
  - (ii) **All** the returns required under the existing law for the period of **6 months** immediately preceding the appointed date are to be furnished; or
  
  - (iii) where the credit relates to goods exempted in the exemption notification.



# APPLICATION IN RESPECT OF TAX OR DUTY CARRIED FORWARD



RULE

- Every registered person entitled to take credit of input tax under section 140 shall, within 60 days of the appointed day, submit an application electronically in **FORM GST TRAN-1**, specifying therein separately, the amount of tax or duty of which the said person is entitled .

# APPLICATION IN RESPECT OF TAX OR DUTY CARRIED FORWARD



- In the application following shall be specified separately—
  - (i) the value of claims under section 3, 5(3), 6, 6A and 8(8) of the CST Act, 1956 made during the financial year relating to the relevant return, and
  - (ii) the serial number and value of declarations in Forms C and/or F and Certificates in Forms E and/or H or Form I specified in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 in support of the claims referred to in (i) above.

(Only for SGST)





# UNAVAILED CENVAT CREDIT ON CAPITAL GOODS

## Section 140(2)

- Reg. taxable person is entitled to take credit of Unavailed Cenvat credit in respect of Capital Goods not carried forward in return furnished under existing law.
- Unavailed credit = Total Credits - Credit Availed under existing law.
- Above Unavailed credit is allowed if admissible under both existing and GST law.

Under Existing Law	Under GST	Result
Unavailable	Available	Not Admissible
Available	Unavailable	Not Admissible
Available	Available	Admissible





## **PARTICULARS TO BE SPECIFIED SEPARATELY IN APPLICATION**

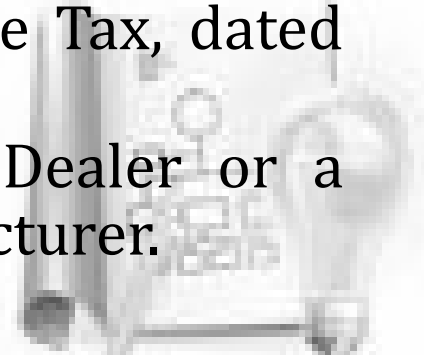
- Every application in FORM GST TRAN-1 shall specify separately the following particulars in respect of every item of capital goods as on the appointed day-
  - (i) the amount of tax or duty availed or utilized under the existing laws till the appointed day, and
  - (ii) the amount of duty or tax yet to be availed or utilized under the existing laws till the appointed day.



# CREDIT OF ELIGIBLE DUTIES IN RESPECT OF INPUTS HELD IN STOCK

## Section 140(3)

- Following Registered Taxable Person, entitled to take credit of “eligible duties” in respect of input held in stock and contained in semi/finished goods held in stock on the appointed day subject to Certain “CONDITIONS” :-
  - Who was not liable to be registered under existing law
  - Who was engaged in manufacture of exempted goods or provision of exempted services
  - Who was providing work contract service and availing benefit of Notification No. 26/2012-Service Tax, dated 20.06.2012
  - a First Stage dealer or a Second Stage Dealer or a Registered Importer or a depot of a manufacturer.



# CONDITIONS

- Inputs/Goods used or intended to be used for making taxable supplies in GST.
- Credit allowed if admissible under GST law.
- Possession of invoice and other related documents evidencing payment of duty.
- Such invoice/document shall not be older than 12 months preceding the appointed day.
- Supplier of Service not eligible for any abatement under this Act.

Where taxable person (other than manufacturer or supplier of services) is not in possession of an invoice or any other evidencing document, then he shall be allowed to take credit at the rate of 40% subject to certain conditions.

Taxable Person passes on the benefit of credit by way of reduced prices to the recipient.

# CREDIT TO BE ALLOWED AT THE RATE OF 40% OF CENTRAL TAX



(In CGST Rules)

This scheme shall be available for 6 'tax periods' from the appointed day subject to the following conditions:

- Central tax payable on supply of such goods has been paid.
- Such goods were not wholly exempt from excise duty or Nil rated.
- Document for procurement of such goods is available.
- Registered person submits a statement in **FORM GST TRAN---** at the end of each of the six tax periods 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.
- The stock of goods on which the credit is availed is so stored that it can be easily identified.

# CREDIT TO BE ALLOWED AT THE RATE OF 40% OF STATE TAX



**(In SGST Rules)**

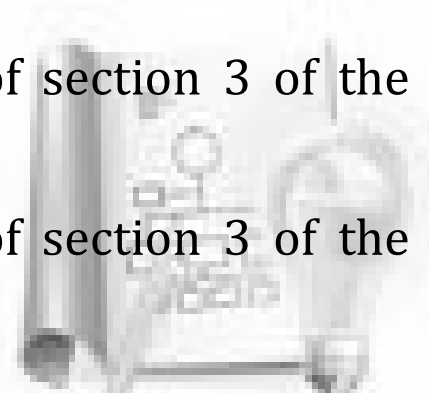
- A registered person, holding stock of goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State, shall be allowed to avail input tax credit on goods held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of value added tax.
- This scheme shall be available for six 'tax periods'.
- All the other conditions to avail credit are same as in case of CGST Rules.



# ELIGIBLE DUTIES

## [For the purpose of Sec. 140(3), (4) & (6)]

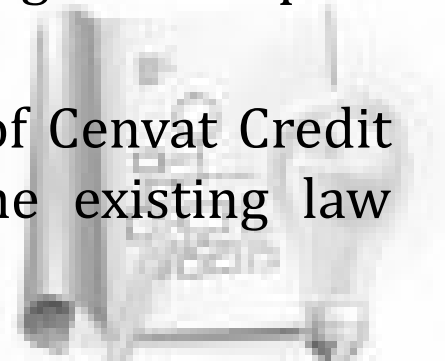
- The duty of excise specified in the First Schedule to the Central Excise, 1985;
- The duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;
- The additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- The additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- The National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001;
- 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.



# CREDIT OF ELIGIBLE DUTIES IN RESPECT OF INPUTS HELD IN STOCK

## Section 140(4)

- Registered taxable person:
  - ❖ Engaged in manufacture of Taxable as well as Exempted goods
  - ❖ Engaged in provision of Taxable as well as Exempted Service under the existing laws, but which are taxable under GST shall be entitled to take:
- Situation I – In terms of Sec. 140(3), Credit available for inputs held in stock and inputs contained in semi-finished /finished goods in stock as on the appointed day (relating to exempted goods or services).
- Situation II – In terms of Sec. 140(1), Amount of Cenvat Credit carried forward in return furnished under the existing law (relating to taxable goods and services).





# CREDIT of ELIGIBLE DUTIES in RESPECT of INPUTS or INPUT SERVICES in TRANSIT

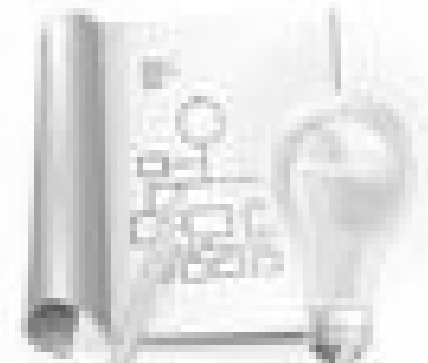
## Section 140(5)

Duty /Tax	Received
Paid under the existing law	
Appointed date	

A registered taxable person entitled to take credit in his electronic credit ledger if he has recorded such invoice in his books of accounts within 30 days of the appointed day.

### RULE 117)

The name of supplier, serial number, date of issue of invoice, description, quantity, value of goods/services, the amount of eligible duties /taxes and the date on which receipt of goods/services are entered in the books of accounts of recipient: These details are to be furnished in GST TRAN-1 (within 90 days of appointed day)



# ELIGIBLE DUTIES

## [For the purpose of Sec. 140(5)]

All the duties which are eligible for the purpose of Section 140(3), (4) and (6) are also eligible for the purpose of Section 140(5), the only additional tax eligible is:

- The service tax leviable under section 66B of the Finance Act, 1994.



# PERSON SWITCHING OVER FROM COMPOSITION SCHEME

## Section 140(6)

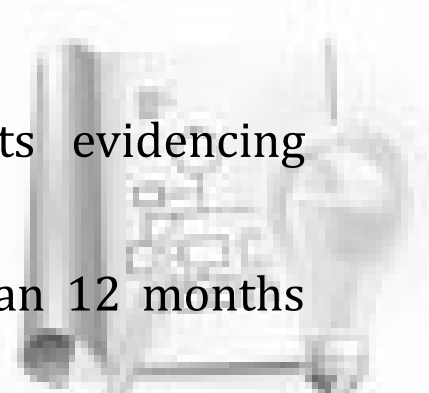
Person who has opted composition scheme under existing laws



Allowed 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 .

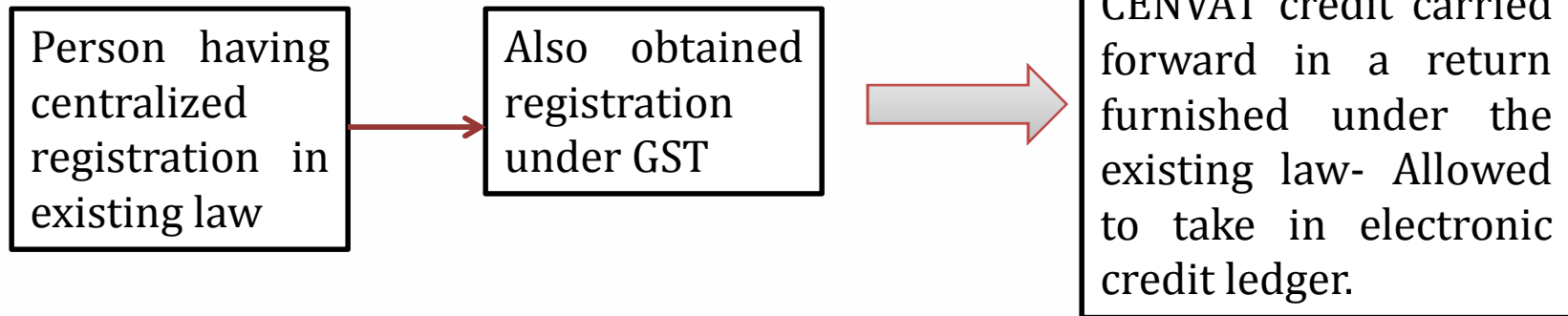
### Conditions:

- Inputs/Goods used or intended to be used for making taxable supplies in GST.
- Not availed Composition scheme under GST.
- Credit allowed if admissible under GST law.
- Possession of invoice and other related documents evidencing payment of duty under the existing law.
- Such invoice/document shall not be issued earlier than 12 months immediately preceding the appointed day.



# UNUTILIZED CENVAT CREDIT BY PERSON HAVING CENTRALIZED REGISTRATION UNDER

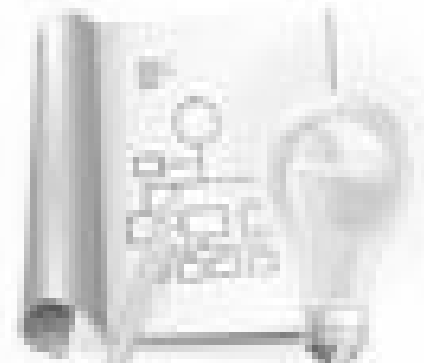
## Section 140(8) THE EXISTING LAW



Then Input will be allowed as claimed in **Original return** or **reduced amount** where it is reduced in the **revised return**.

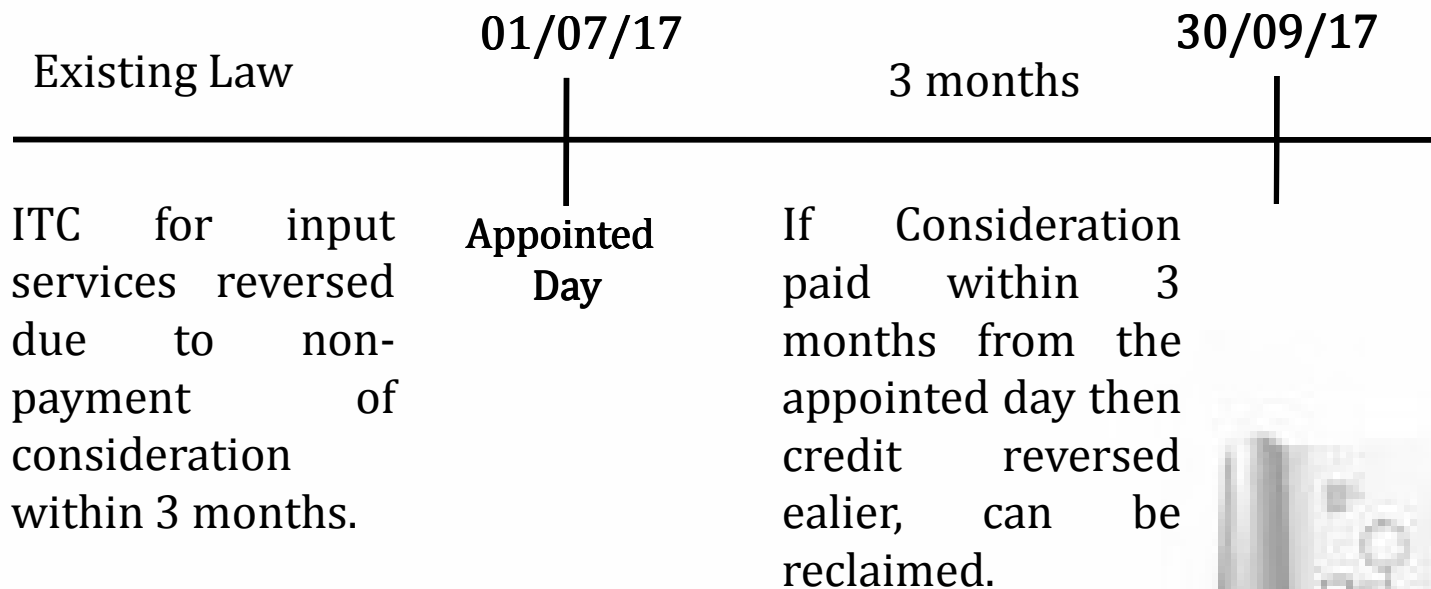
Return under existing law to be furnished within 3 months from the appointed day.

- Credit allowed only if admissible under GST.
- Credit may be transferred to any of the unit of the registered taxable person having the same PAN for which centralized registration was taken.



# TRANSITIONAL PROVISION FOR AVAILING CENVAT CREDIT

## Section 140(9)



# CALCULATION OF AMOUNT OF CREDIT

## Section 140(10)

The manner in which amount of credit is to be calculated, in the following cases, is yet to be prescribed:

### Section 140(3)

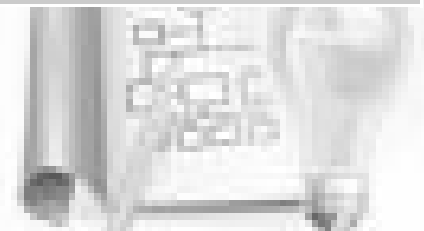
Credit of eligible duties in respect of inputs held in stock where a person is not liable to be registered in the existing law.

### Section 140(4)

Credit of eligible duties in respect of inputs held in stock (when supplier is engaged in both exempted and taxable supplies)

### Section 140(6)

Person switching over from composition scheme.



# DEDUCTION OF TAX SOURCE

## Section 142(13)

- No TDS under GST where payment made to supplier on or after the appointed day if :-
  - Goods sold in respect of which tax was required to be deducted under existing law of a State or Union Territory relating to VAT and Invoice issued before the appointed day.





**TRANSITIONAL  
PROVISION RELATING TO  
IGST LAW:  
SECTION- 21**

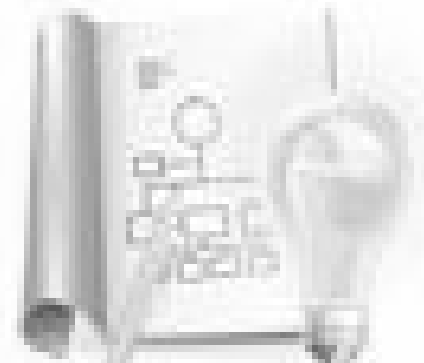


# Import of services made in GST era – Sec.21

- GST shall be payable on import of services made in post-GST regime regardless whether such transaction initiated in pre-GST regime.
- If tax paid in full in the existing law, no tax is payable under GST.
- If tax paid in part in the existing law, balance amount of tax shall be payable under GST.

Transaction deemed to be initiated in pre-GST regime if:

- either invoice is received or
- payment, either in full or in part, has been made before the appointed day.



# Suggestions/Caution

- Full claim of ITC under the existing law.
- Filing of all returns under existing law for six months prior to appointed day.
- CENVAT credit of input services to be utilized before appointed day.
- Carry forward stock should not be older than 12 months.
- Stock in transit or on approval or on job-work or lying at other places to be minimum.
- Carry forward stock to be disposed of within 6 months.
- Purchase of capital goods in post-GST regime.
- Pending refund claims, appeals, assessments to be get settled prior to appointed day.
- Revision of long-term contracts with reference to impact of GST.
- Information with reference to carry forward of stock or lying with others within 60 days.