

## Chapter XVIII

# Transitional Provisions

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### FAQ's

#### Migration of Existing Tax Payers (Section 139)

Similar provisions have been specified in the UTGST Act, 2017

Q1. What is the primary condition for provisional registration?

Ans. Every person, other than a person deducting tax at source or an input service distributor, registered under any of the erstwhile laws (indirect) and having a valid PAN shall enroll on common portal by validating his e-mail address and mobile number, either directly or through a Facilitation Center notified by Commissioner. Further, upon enrolment said person shall be granted registration on provisional basis in **FORM GST REG 25**.

Q2. What will be the validity of the provisional certificate?

Ans. The provisional certificate issued shall be valid unless replaced by the final certificate of registration, shall be liable to be cancelled if the conditions of provisional registration so prescribed are not complied with i.e. not submitting the required documents within the prescribed time limit.

Q3. When will the provisional registration be converted into final registration?

Ans. A person holding the provisional registration certificate shall submit the prescribed information and documents in **Form GST REG 26** as per the CGST Rules within 3 months or the further period as may be extended. On furnishing the information and documents the final registration will be issued.

Q4. GST Registration for old registered dealer has to be taken by submission of documents or will it be done automatically?

Ans. After enrolment on common portal, old registered dealer shall be granted registration on provisional basis, and then said person shall submit an application electronically in **FORM GST REG 26**, duly signed or verified through electronic verification code, along with the documents and information specified there in the said application on the common portal within a period of 3 months or further period as may be extended.

Q5. What happens if the documents are not furnished within the time prescribed?

Ans. The certificate of registration issued to a person provisionally, shall be cancelled, if such person fails to furnish the prescribed information within the specified time by issuing an order in **FORM GST REG 28**. Proper officer after serving a notice in

**FORM GST REG 27** and affording the concerned person an opportunity of been heard, will pass the aforesaid order.

Q6. Can a person voluntary opt out of GST who is registered under the earlier law?

Ans. Yes, a person can opt out of GST voluntarily in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24.

Q7. What will be the status of the provisional registration if the person claims to be, not liable for registration under GST?

Ans. Where a person who has submitted an application for cancellation of his registration is no longer liable to be registration under section 22 or 24, his provisional registration shall be deemed to have not been issued.

Q8. What will be the position of the provisional registration of a composition taxpayer under old law?

Ans. A composition taxpayer under old law has to specifically apply for composition tax (under GST) and the receipt of provisional certificate would not be considered as automatic transition to composition scheme. Further, he has to file an intimation in **FORM GST CMP-01** prior to the appointed day, but not later than 30 days after the said day, or such further period as may be extended. Where, such intimation is filed after the appointed day, the registered person shall not collect any tax from the appointed day but shall issue bill of supply for supplies made after the said day.

Q9. Can a VAT dealer opt for composition scheme after the time prescribed?

Ans. No. When a registered taxable person does not opt to pay tax under composition scheme within the time prescribed, he shall be liable to pay tax under regular provisions.

Q10. What happens in case tax payers have distinct VAT registrations in the same State?

Ans. A person having multiple business verticals in a state may obtain a separate registration for each business vertical as defined under section 2(18), subject to conditions as follow:

- Such person has more than one business vertical in a state.
- No business vertical of said person shall be granted registration to pay tax u/s 10, if any one of the other business vertical of same person is paying tax u/s 9.

Further, where any business vertical of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other business verticals of the said person shall become ineligible to pay tax under the section 10.

- All separately registered business verticals of such person shall pay tax under the Act on supply of goods or services or both made to another registered business vertical of such person and issue a tax invoice for such supply.

**Transitional Arrangements For Input Tax Credit (Section 140)**

Q11. How will a manufacturer/ service provider carry forward the Cenvat credit in his electronic credit ledger?

Ans. The amount of Cenvat credit carried forward, in the last return furnished under the old law shall be allowed to be carried forward as credit in the electronic credit ledger under GST by a registered person other than a person opting to pay tax u/s 10, provided that the registered person shall not be allowed to take the credit in the following circumstances, namely: -

- Where the said credit is not admissible as credit under CGST Act ;or
- Where all the returns required under the old law are not furnished for the period of six months immediately preceding the 1<sup>st</sup> July, 2017.
- Where the amount of credit relates to the exempted goods manufactured and cleared under such exemption notifications as are notified by the Government

Q12. Can a registered tax payer opting to pay tax under composite scheme in GST be eligible for Input Tax Credit?

Ans. No. The amount of input tax credit carried forward in the last return under the old law preceding the appointed date shall lapse and will not be allowed as credit in the electronic credit ledger under GST.

Q13. Will a person registered in a State, say, Maharashtra be eligible to claim credit if he does not take registration in that State under GST for any reason, say, closure of operations etc.?

Ans. No. The credit claimed in the return of a particular State will ordinarily be eligible to be carried forward only in the succeeding SGST law of that State, in the given case Maharashtra, and cannot be availed as credit in any other State GST Law. ISD registration is an option which can be examined.

Q14. Will Education Cess and Secondary and Higher Education Cess which is being carried forward as per the return be allowed to be carried forward as CGST?

Ans. Yes, the input tax credit allowable as per Rule 3 of the CENVAT Credit Rules, 2004 will be eligible as CGST. However, credit of Education Cess and Secondary and Higher Education Cess shall not be allowed. Education Cess and Secondary and Higher Education Cess are not included in list of "eligible duties and taxes" as provided in Explanation to section 140. Which clarifies that credit of EC and HSEC will not be available under GST regime

Q15. Is there any time limit on the period to which the credit being brought forward should pertain to?

Ans. As long as the credit is eligible (including the condition on time limit) under the earlier State / Central law, credit can be rightly availed. There is no specific time limit on the period to which such transitional credit should pertain to under the GST law.

Q16. Whether credit, eligible and claimed by tax payer in any return preceding the last return but failed to bring forward in the last return, eligible for automatic carry forward?

Ans. No. According to the plain reading of the provisions, only the credit carry forward in the last return is eligible for automatic carry forward in the GST return. However, the tax payer can apply for refund under other transitional provisions.

Q17. What is the treatment of various components of Cenvat Credit (such as service tax, excise duty, etc.) in GST transition?

Ans. All eligible components of Cenvat Credit in the last return will be credited to Electronic Credit Ledger of Registered Person. Once credited in Electronic Credit Ledger of Registered Person all components will lose their individual identity.

Q18. How will the credit be claimed in case more than one registration of a single taxable person is available in a State, say two manufacturing units in one State?

Ans. Since multiple registrations of a particular State would be consolidated into a single GST registration in that State (except in case of distinct business verticals), the credits brought forward in multiple returns would also be consolidated into a single input tax credit in the respective CGST ledger of that State.

Q19. What happens to ineligible transitional credit being carried forward in the return as on the appointed date?

Ans. Where any transitional credit carry forward in the GST return is held to be ineligible under an assessment/ adjudication proceeding, whether initiated before or after the appointed date, such credit shall be recovered as an arrear of tax or duty under the GST Act.

Q20. If the amount of duty, tax or cess carried forward as per the accounts is greater than the return, which amount will be allowed to be carried forward?

Ans. The amount of duty, tax or cess carried forward as per the accounts will be immaterial. The input tax credit carried forward as per the last return under the earlier law for the period ending with the day preceding the day when the GST becomes applicable will only be taken into account.

Q21. Will the GST officer issue any order based on which such credit are availed?

Ans. There is no such pre-condition. Credit can be availed suo-motu based on enabling provisions. However, the GST officers are empowered to verify this credit during assessment proceedings and any amount incorrectly availed can be recovered as arrear of tax or duty under GST Act.

Q22. Is there a provision to claim credit if not carried forward in the return for capital goods?

Ans. Yes. Section 140 provides for claiming unavailed credit in respect of capital goods, not carried forward in a return, furnished under the old law.

Provided that the said credit was admissible as credit under old law as well as in GST law.

Q23. Can a tax payer claim cenvat credit of unavailed cenvat credit under earlier law?

Ans. Credit of the unavailed credit in respect of capital goods, not carried forward in the last return is available for credit under the GST law provided it was admissible as credit under old law and also it is admissible as cenvat credit under the GST Act. It may be clarified that the aggregate of credit availed under the GST Act and the earlier law cannot exceed total of eligible credit on such capital goods.

Q24. What is the condition for claiming Cenvat credit on -

- Input and Input services
- Capital goods

For instance - Goods were received before 1<sup>st</sup> April, 2016 but no CENVAT Credit or partial CENVAT Credit was availed till the year 2016-17?

Ans. Credit on inputs and input services already availed under the earlier law and carried forward in the last return before appointment day is eligible for automatic carry forward under the GST law. However, credit of input and input service which is not availed until the last return, is not available as credit under the GST law

As per Rule 4(2) (b) of the CENVAT Credit Rules, the CENVAT Credit on capital goods which has not been availed in the first year will be available in any financial year subsequent to the financial year in which it was purchased. Therefore, credit on capital goods can be claimed to the extent of the unavailed portion, if it is admissible as credit under the old as well as in GST law.

Q25. Will the answer in above question be applicable if instead of Capital Goods, inputs had been purchased before 1<sup>st</sup> April, 2016?

Ans. If inputs had been purchased before 1<sup>st</sup> April, 2016, then no input tax Credit would be available under GST. The CENVAT Credit Rules, 2004 clearly provide for a time period of one year from the date of issue of invoice for CENVAT Credit to be availed. If this period of one year elapses, no Input Tax Credit will be admissible under the CENVAT Credit Rules. Hence, the same would not be available under GST.

Q26. What will happen if the inputs, which are intended for making taxable supplies, are ultimately used for exempt supplies?

Ans. If the inputs in stock in respect of which credit was allowed, is ultimately used for exempt supplies instead of taxable supplies, then so much of the credit on inputs as is used for exempt supplies will be disallowed in the electronic credit ledger

Q27. Apart from Manufacturer or Service Provider who else is eligible for Cenvat credit?

Ans. Following persons are also eligible for Cenvat credit as GST credit even though they were not eligible under the earlier law subject to certain conditions

- Person who was not liable to be registered under the earlier law, for instance Traders.
- Person who were engaged in the supply of exempted goods

- First stage dealer or a second stage dealer or a registered importer or a depot of manufacturer.

The above category of persons can claim 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 1<sup>st</sup> July, 2017.

Q28. Under what circumstances are the above categories of persons (i.e. person mentioned in Q27 above) eligible to claim credit?

Ans. The aforesaid persons can claim credit on fulfillment of the following conditions-

- such inputs 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 the GST Law;
- the said registered person is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of such inputs;
- such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding appointed day;
- the supplier of services is not eligible for any abatement under the Act.

Provided that where a registered person other than manufacturer or supplier of services, is not in the possession of invoice or other document evidencing payment of duty in respect of inputs, then such registered person shall, subject to such conditions, limitations and safeguard as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced price to recipient, be allowed to take the credit in such a manner as may be prescribed.

Q29. How will the condition of reduced price (as per Anti-Profiteering) to recipient be satisfied?

Ans. The component of eligible duties and taxes should be reduced from the ordinary sale price to pass on the benefit of reduced prices. This is illustrated by way of a comparative example –

Particulars	Earlier Law (₹)	GST Law (For old stock) (₹)
Basic Cost	100.00	100.00
Excise @ 12.5%	12.50	12.50
Total Cost	112.50	112.50
Selling Price (excl. applicable taxes)	162.50	162.50

Gross Profit	50.00	50.00
Benefit to pass on in GST regime		8.78 (Assuming GST rate of 18% 162.50 X 9% X 60%)
Net Selling Price (Excluding Taxes)	162.50	153.72

In the above illustration if the registered taxable person sells at Rs 153.72, only then he will get the benefit of credit at the time of supply of this product.

Q30. Can a trader (other than a First stage dealer or a second stage dealer) claim the Cenvat credit on the stock held on the appointed date?

Ans. Yes, a trader who is not a first stage dealer or second stage dealer can claim Cenvat Credit as per section 140(3) subject to fulfilment of following conditions

- such inputs 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 the GST Law;
- the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of such inputs;
- such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding 1<sup>st</sup> July, 2017;
- the supplier of services is not eligible for any abatement under the Act.

Q31. Will Central Sales Tax (CST) paid under the earlier law be available as credit under GST?

Ans. No, the transitional provisions do not permit credit of Central Sales Tax paid, even though such component may be present in inputs in stock or inputs contained in Semi-finished goods or finished goods.

Q32. Can stock held for more than one year be eligible to claim GST credit (i.e. in case of FSD/SSD or Registered importer, etc.)?

Ans. No. The provision contains a condition that only stock in respect of which the duty paying document is issued within one year from the appointed date is eligible for credit under GST.

Q33. What happens if the FSD/SSD or Registered importer, etc. are not in possession of the duty paying document?

Ans. GST law contains an enabling provision which permits credit to be claimed even if the duty paying documents are not in possession of the person availing the credit. In this regard the CGST Rules (Transition provisions) specifies the following conditions –

- Such credit shall be allowed at the rate of 60% (in case of 90% or more) and 40% (in other cases) , as per Rule 117(4), of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such goods has been paid.
- The scheme shall be available for six tax periods from the appointed date.
- Such goods were not wholly exempt from duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated.
- Document for procurement of such goods is available with the registered person.
- Registered person availing this scheme and having furnished the details of stock held by him, submits a statement in a specified form at the end of each of the six tax periods during which the scheme is in operation.
- The amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the Common Portal.
- The stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

Q34. If a taxable person under earlier law was engaged in the provision of exempt services which becomes taxable in GST, will the taxable person under GST be allowed the credit in respect of the inputs in his stock?

Ans. Yes, such a taxable person would be eligible for credit on inputs in stock or contained in semi-finished goods or finished goods and such inputs are actually used or intended to be used for provision of taxable supplies under the GST law.

Q35. Is there any provision which deals with the CENVAT credit for a taxable person dealing in both taxable as well as exempted goods/ services?

Ans. The provisions of section 140 (4) identifies this situation and provides that 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, shall be entitled to take, in his electronic credit ledger,—

- (a) the amount of CENVAT credit carried forward in a return furnished under the old law by him in accordance with the provisions of section 140(1); and
- (b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on

appointed day i.e, 1<sup>st</sup> July, 2017, relating to such exempted goods or services, in accordance with the provisions of section 140(3).

Q36. Can credit be claimed in respect of CENVAT, Entry tax and VAT paid on goods under present law and which is in transit as on the transition date?

Ans. Yes, credit can be claimed subject to the following prerequisites -

The registered person should record the invoice or any other duty or tax paying document of the same in his books of accounts within 30 days from 1<sup>st</sup> July, 2017 or such extended time not more than 30 days and a statement should be furnished in prescribed form furnishing the following details in terms of Rule 117(2) of the CGST Rules: -

- (i) the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which credit of input tax was admissible under the old law,
- (ii) the description and value of the goods or services
- (iii) Quantity in case of goods and the unit or unit quantity code thereof.
- (iv) the amount of eligible taxes and duties or, as the case may be, the value- added tax [or entry tax] charged by the supplier in respect of the goods or services,
- (v) the date on which the receipt of goods or services is entered in the books of account of the recipient.

Q37. Will the credit be available if the Invoice is made on or before 30<sup>th</sup> June, 2017 but is received by the supplier on or after 1st July, 2017?

Ans. Section 140 (5) envisages such a situation wherein Invoice is raised prior to the appointed date and received after the appointed date and credit would be permissible provided the purchase is recorded by the receiver within 30 days or extended period (not more than 30 days) in his books of accounts.

Q38. If any credit on inputs/input services has been missed to be availed or in respect of which duty paying documents are not available as on the appointed date, will it be eligible for credit under section 140(5)?

Ans. Credit under section 140(5) can only be claimed in respect of services / inputs which are in transit and received after the appointed date. A strict reading of the provisions does not enable credit in circumstances where invoice is not available or missed to be availed under the earlier law.

Q39. Can credit of services invoiced prior to the appointed date but the services are completed after the appointed date be claimed as credit?

Ans. Yes, credit of input services received on or after appointed date but the duty or tax in respect of which has been paid by the supplier under the old law, subject to the condition that 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 1<sup>st</sup> July, 2017.

Q40. What are the provisions of credit of duties and taxes for a registered person paying tax under composition scheme under earlier law and switching over to the regular provisions under the GST law?

Ans. A registered person paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the old law shall claim credit of eligible duties in respect of inputs; inputs contained in semi-finished goods/ finished goods held in stock as on the appointed date subject to the following conditions, namely:–

- (i) Such inputs or goods are used or intended to be used for making taxable supplies under the CGST Act;
- (ii) The said registered person is not paying tax under section 10;
- (iii) The said registered person is eligible for input tax credit on such inputs under this Act;
- (iv) The said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the old law in respect of inputs; and
- (v) Such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding 1<sup>st</sup> July, 2017.

Q41. Will persons claiming abatement under service tax notifications and paying service tax at an effective rate lower than 15% be termed as 'composition tax payers' for purpose of section 140(3) of the CGST law?

Ans. The services covered under abatement notifications (such as 26/2012-ST) will not be covered under the said provisions. The abatement notifications are for the purpose of determination of the taxable value on which service tax is assessable and cannot be considered as composition rates. Such services may qualify as 'exempted services' under the Cenvat Credit rules and cannot be termed as services subject to composite tax rates.

Q42. If a dealer paying tax under composition scheme under earlier law continues to pay tax under composition scheme under the GST law will the dealer get any credit under the GST law? Would the answer change if the dealer subsequently opts out of composition scheme?

Ans. No the dealer will not get any credit when he changes over to composition scheme under GST. The position would be same even if he switches out of composition scheme subsequently under GST, except in respect of goods held in stock as on the date of switch over, which is entitled to credit, subject to the conditions specified in section 140(5).

**Transitional Provisions Relating To Job Work (Section 141)**

Q43. What are the implications of GST on the principal manufacturer in respect of goods sent on job work before the appointed date and received within 6 months from the appointed date?

Ans. In case the goods are returned within 6 months from the appointed date, no tax shall be payable by the original supplier, 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.

In case the goods are returned after 6 months or extended period (if any) from the appointed date, the input tax credit claimed by the original supplier shall unless recovered under the old law, be recovered as an arrear of tax. In either case, both the principal manufacturer and job worker shall declare the details of goods held in stock by the job worker as on the appointed date in the prescribed form.

Q44. Who is liable to pay tax when the processed inputs are not returned within the time limit specified?

Ans. When the processed inputs are not returned within specified time limit, the principal manufacturer is liable to reverse the input tax credit already claimed, which shall be recovered under the GST law as per the provisions of section 142(8)(a)

Q45. Is declaration to the effect of stock held by job worker on behalf of manufacturer, compulsory required to be submitted to the prescribed authority?

Ans. Yes, filing of declaration by both the manufacturer and the job worker showing the details of inputs held in stock by job worker on behalf of manufacturer on appointed date is a primary condition to avail exemption specified by section 141.

Q46. What are the implications in case semi-finished goods and finished goods are directly removed from the job workers premises?

Ans. In case of semi-finished goods, the goods can be directly removed from the job workers premises to any other premises of a registered person for the purpose of supplying goods there from on payment of applicable tax. In case of finished goods, the goods can be directly removed from the job-workers premises to any place on payment of applicable taxes. However, the above relaxation is not available for inputs.

Q47. Who is liable to pay tax in respect of goods supplied after completion of job work from the job-workers premises?

Ans. In case of job work, the principal manufacturer affecting the supply has to include the job workers premises in his certificate of registration as his additional place of business. The supply being affected by the principal manufacturer and not by the job worker (except in cases, where job worker is a registered taxable person or where the principal is engaged in supply of goods as may be notified by the commissioner.), tax liability is on the principal manufacturer.

### Miscellaneous Transitional Provisions (Section 142)

Q48. What is the implication of GST in respect of duty paid goods removed before the appointed date and returned after the appointed date?

Ans. As per section 142(1), if any duty paid goods are sold/removed not being earlier than six months of appointed date under the earlier law are returned within six months of the appointed date, the seller is eligible for refund of duties and taxes paid under the earlier law if the sales is made to unregistered buyer, if the sale is to a registered buyer then he will have to charge GST as a supply. It may be noted that section 142(1) is not applicable on goods returned after six months of 1<sup>st</sup> July 2017.

Q49. What are the implications of GST in respect of duty paid goods removed within six months prior to the appointed date and returned after the appointed date?

Ans. In case goods are being returned by registered taxable persons general provisions of supply under GST will apply and the person receiving the goods can also claim the input tax credit under the general provisions. However, where the goods are returned by a person other than registered taxable person then the original supplier will have to pay GST.

Q51. What are the tax implications in respect of goods which are returned after the period of six months?

Ans. It appears that the general provisions of CGST would apply on such goods and GST may be held to be applicable.

Q52. What are the implications in respect of upward price revision for goods removed or services provided prior to the appointed date?

Ans. The supplier shall issue a supplementary invoice/ debit note within 30 days of the price revision and charge GST on such supplementary invoice/ debit note.

Q53. What are the implications in respect of downward price revision for goods removed or services provided prior to the appointed date?

Ans. The supplier may issue a credit note within 30 days of price revision and mention the value of GST on such credit note. The original supplier (registered person) will be allowed to reduce his tax liability subject to the recipient reducing his input tax credit to such extent.

Q54. What is the status of refund claims of Cenvat credit/duty/tax or interest pending as on the appointed date?

Ans. The pending refund claims will be sanctioned in accordance with the terms and conditions specified under the earlier law and shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of old law other than the provisions of section 11B (2) of the Central Excise Act, 1944: and will not get credited to

his electronic credit ledger. Refund can only be claimed of amounts which are not carried forward in the GST law.

Q55. What happens if the refund claim is rejected?

Ans. In cases where the refund claim of cenvat credit/ input tax is rejected the same shall lapse and further the tax payer is not entitled to claim any credit of such amounts.

Q56. What happens to the refund claims filed after the appointed date in respect of goods cleared or services provided under the earlier law?

Ans. Any application of refund filed after the appointed date for a claim pertaining to the earlier law shall be disposed off as per the terms and conditions of the earlier law. The claim would be eligible irrespective of export of goods or services before or after the appointed date, for instance input credit pertaining to April, May and June can be claimed in July even if the export is in July.

Further, where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse. Moreover, no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on 1<sup>st</sup> July, 2017 has been carried forward under this Act.

Q57. What happens to goods removed from factory for export prior to appointed date and exported from the customs port after the appointed date?

Ans. Sub-section (4) of Section 142 permits refund of Cenvat credit or duty paid under earlier law even if the goods are exported after the appointed date.

Q58. What happens to taxes deposited under earlier law if such services are not provided even after the appointed date?

Ans. In terms of Section 142(5) of the CGST Act, 2017, Refund claim filed after the appointed day, 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, provided notwithstanding anything to the contrary contained under the provisions of old law other than the provisions of section 11B (2) of the Central Excise Act, 1944.

Q59. What happens to tax appeals/ revisions, review or reference relating to claim / recovery of cenvat credit/ input tax credit under the earlier law and pending as on the appointed date?

Ans. Every proceeding of appeal, review or reference relating to a claim/ recovery for CENVAT credit initiated whether before, on or after appointed date under the old law shall be disposed of in accordance with the provisions of old law and any amount of credit :

- found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of old law

other than the provisions of section 11B(2) of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act. Further, no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on appointed date has been carried forward under this Act

- becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the old 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.

Q60. If the matter in appeal is remanded back to adjudication, will the matter be dealt under the earlier law or as per the GST provisions?

Ans. Till a particular proceeding is completely disposed off, it will be carried out under the provisions of the earlier law. So, if a particular matter is remanded back to adjudication, then the same will be dealt as per the provisions of the earlier law itself. Only if the amount is found to be recoverable after the disposal of the proceedings, then the amount will be recovered under the GST law as an arrear of tax.

Q61. Can the State officers exercise jurisdiction over disposal of proceedings relating to CENVAT Credit?

Ans. No, all the proceedings till the disposal of appeal will be managed as per the provision of the earlier law. The State officers under the earlier law did not have jurisdiction to conduct the proceedings relating to CENVAT Credit. So, they will not be able to exercise jurisdiction for disposal of proceedings relating to CENVAT Credit.

Q62. Whether input tax credit is available to the buyer or service recipient in respect of amounts payable due to assessment, appeal, review or revision proceedings under the earlier law?

Ans. Any amount recovered from the tax payer arising out of proceedings initiated under the earlier law shall not be eligible for Input tax credit under the GST law but shall be refunded in cash.

Q63. What will be the status of adjudication/ assessment, appeal, review, revision or reference proceedings which are initiated before or after the appointed date in respect of periods covered under the earlier law?

Ans. The adjudication or assessment proceedings shall be conducted and disposed off under the provisions of the old law. If any amount becomes recoverable as a result of the proceedings including appeal/ revision/ review or reference, such amount unless recovered under the old law, shall be recovered as arrears of duty or tax under the GST law. If any amount becomes refundable to the tax payer, such amount shall be refunded in cash under the GST law.

Q64. Whether the amount recovered in pursuance of an assessment or adjudication proceedings instituted, under the old law is admissible as ITC under GST?

Ans. In terms of section 142 (8) of the CGST Act, where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after appointed day under the old law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the old law, be recovered as an arrear of tax under GST Law and the amount so recovered shall NOT be admissible as input tax credit under this Act.

Q65. What are the implications on the tax payer in case of revision of returns filed in respect of periods covered under the earlier law?

Ans. In case where the revision of return results in additional amount payable by the tax payer, such amount, unless recovered under the old law, is recoverable in terms of the provisions of the GST law.

In case where the revision of return filed within the prescribed time limit specified in old law results in refund or increase in credit to the tax payer, such amount is refundable to the person under the earlier law. Then, 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 section 11B (2) of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under GST.

Q66. If services are provided pursuant to a contract entered into prior to the appointed date, which tax is payable?

Ans. All supplies after the appointed date shall be liable to tax under the CGST/SGST Act.

Q67. Whether supply of goods and services post appointed date is liable to tax under CGST even when the tax thereon is paid under the State VAT laws and service tax laws respectively?

Ans. Yes, as per section 142(11) (c) the tax under the CGST Act is liable to be paid in case of supply of goods and services or both happen post the appointed date even when the tax thereon is paid under the State VAT laws or chapter V of Finance Act, 1994. However, the taxable person is entitled to claim credit of VAT paid and service tax paid under the old laws (State VAT laws and service tax law) to the extent of supplies effected after the appointed date and such credit shall be calculated in such manner as may be prescribed.

Q68. Whether goods sent on approval basis before the appointed date and returned after the appointed date are liable to tax under the GST regime?

Ans. The implications of taxes under the GST regime in case of goods sent on approval basis and returned after the appointed date shall be as follows:

- No tax shall be payable if goods are sent for approval within 6 months prior to the

appointed date and received within 6 months from the appointed date (it can be further extended for maximum 2 months);

- Tax shall be payable by the person returning the goods if such goods are liable to tax under GST, and are returned after a period specified in section 142(12)
- 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 section 142(12)

Q69. Whether the recipient is liable to deduct the tax on the payment effected for supply of goods for which tax is already deducted under the old laws and the invoice is also issued before the appointed date?

Ans. No. In terms of Section 142(13), recipient is not required to deduct the applicable taxes from the payments effected to the supplier post appointed date in case the tax is already deducted under the old laws and also the invoice is issued prior to the appointed date.

### MCQ's

Q1. Does an old Tax payer have to surrender the old Registration certificates to obtain GST registration?

- (a) No, automatically he will receive final registration.
- (b) Yes, all registration certificates to be surrendered
- (c) Migrated to provisional registration subject to verification of documents
- (d) No, Provisional Registration is automatic

Ans. (c) *Migrated to provisional registration subject to verification of documents*

Q2. Is PAN Mandatory for Migration to Provisional GST registration?

- (a) No
- (b) Yes
- (c) PAN Application is sufficient.
- (d) Waiver/Exemption can be obtained on application to the officer

Ans. (b) *Yes*

Q3. What is the validity of the provisional registration certificate issued to the old dealers?

- (a) 6 months
- (b) 12 months
- (c) 3 months

(d) None of the above

Ans. (d) *None of the above*

Q4. Is a Composition dealer registered under the old law required to obtain Final GST Registration?

(a) No, Old number will continue

(b) Yes, mandatory for all Composition dealers

(c) Yes, Subject to the turnover crossing the GST Turnover limit.

(d) No, will be governed by old law.

Ans. (c) *Yes, Subject to the turnover crossing the GST Turnover limit*

Q5. Will a person having multiple registration in various states receive single registration on Migration?

(a) Separate Registration would have to be obtained on migration for each State even for a single PAN number

(b) Centralised Registration will be obtained for each PAN number across all States.

(c) Separate Registration would have to be surrendered and fresh registration is required to be obtained.

(d) Single registration with all locations across India disclosed as additional place of business can be obtained

Ans. (a) *Separate Registration would have to be obtained on migration for each State even for a single PAN number*

Q6. If a dealer has multiple registrations in a State, will he obtain a consolidated GST registration or separate GST registrations

(a) Single registration for each State will be granted without any exception

(b) Two or more registrations for each State will be granted in case of separate business verticals

(c) Any number of registrations can be obtained in each State

(d) Rules have to be prescribed in this regard

Ans. (b) *Two or more registrations for each State will be granted in case of separate business verticals*

Q7. What will be the amount carried forward as CGST/SGST from the earlier law and shown in the return filed for the period ending as on appointed date?

(a) No amount will be carried forward from the earlier law

(b) Amount which is admissible under earlier law but may not be admissible under GST

- (c) Amount which is admissible under GST but may not be admissible under earlier law
- (d) Amount which is admissible under both the GST and earlier law

Ans. (d) Amount which is admissible under both the GST and earlier law

Q8. Which amount will be carried forward as CGST under GST law?

- (a) Input tax credit as per the CENVAT Credit Register on 30th June, 2017
- (b) Input tax credit as per the books as on 30th June, 2017
- (c) Input tax credit as per the return furnished for the period ending 30th June, 2017
- (d) Input tax credit as per the last available return furnished under the earlier law

Ans. (c) Input tax credit as per the return furnished for the period ending 30th June, 2017

Q9. Input tax credit as per the VAT law will be carried forward as:

- (a) CGST
- (b) SGST
- (c) IGST
- (d) CGST or SGST at the option of the supplier

Ans. (b) SGST

Q10. Which among the following is not admissible as Opening CGST?

- (a) Krishi Kalyan Cess
- (b) Education Cess
- (c) Swachh Bharat Cess
- (d) All of the above

Ans. (d) All of the above

Q11. Who among the following persons are allowed to carry forward credit under the CGST/SGST law?

- (a) Composition dealers not required to take registration under GST law in view of minimum threshold turnover
- (b) Regular dealers under the earlier law and opting for Composition scheme under the GST law

- (c) Regular dealers under the earlier law and NOT opting for Composition scheme under GST law
- (d) Composition dealers under earlier law and continuing for Composition scheme under GST law

Ans. (c) Regular dealers under the earlier law and NOT opting for Composition scheme under GST law.

Q12. Who among the following are NOT eligible for carry forward of Cenvat Credit available in their Cenvat A/c into input tax credit under the CGST Law?

- (a) Excise First Stage and Second Stage Dealers
- (b) Manufacturers
- (c) Service Providers
- (d) Importers other than a registered importer

Ans. (d) Importers other than a registered importer

They would however be eligible for excise duty credit on the stocks in hand if they were earlier not availing the credits.

Q13. Is there any requirement of a pre-approval or assessment or verification by the GST officers for transitioning the credit lying in balance in the VAT/ Cenvat Return into GST return?

- (a) Specific approval of the jurisdictional officer is required
- (b) On Filing of **Form GST TRAN 1**, closing credit in the respective return would be automatically carried-forward into the electronic credit ledger under GST
- (c) Detailed assessment / audit is mandatory for allowing credit
- (d) All credits availed up to one year prior to appointed date will be available

Ans. (b) On Filing of **Form GST TRAN 1**, closing credit in the respective return would be automatically carried-forward into the electronic credit ledger under GST

Q14. Whether credit brought forward under the old law is eligible as input tax credit under GST law?

- (a) Yes, without any restrictions
- (b) Credit irregularly taken under the earlier law will also be available
- (c) Eligible credit under the earlier law will be available only if it is also admissible as input tax credit under the GST law

(d) Eligible credit under the earlier law is available on a proportionate basis

Ans. (c) *Eligible credit under the earlier law will be available only if it is also admissible as input tax credit under the GST law*

Q15. Unavailed CENVAT Credit on Capital Goods will be carried forward as?

- (a) CGST
- (b) SGST
- (c) IGST
- (d) CGST or SGST at the option of the supplier

Ans. (a) *CGST*

Q16. What is the condition for taking unavailed CENVAT Credit on Capital Goods?

- (a) The CENVAT Credit should have been admissible under earlier law but not under GST
- (b) The CENVAT Credit should have been admissible under GST but not under earlier law
- (c) The CENVAT Credit should not have been admissible under GST or the earlier law
- (d) The CENVAT Credit should have been admissible under both the earlier law and GST

Ans. (d) *The CENVAT Credit should have been admissible under both the earlier law and GST*

Q17. If the unavailed Input Tax Credit on Capital Goods under the earlier law which has been subsequently availed under the GST law is found to be inadmissible as per the Proceedings of the Department, then what will be the course of action for the Department?

- (a) Such amount will be recovered under the GST law
- (b) Such amount will be recovered under the earlier law
- (c) Such amount cannot be recovered
- (d) Such amount may be recovered under the GST law or the earlier law at Department's option

Ans. (a) *Such amount will be recovered under the GST law*

Q18. Which of the following will be allowed as credit under section 140(3)?

- (a) Input services
- (b) Total input purchased during the year
- (c) Capital goods

(d) Inputs held in stock

Ans. (d) *Inputs held in stock*

Q19. The inputs in stock should be used or intended to be used for making:

- (a) Taxable supplies
- (b) Exempt supplies
- (c) Either taxable or exempt supplies
- (d) Both taxable and exempt supplies

Ans. (a) *Taxable supplies*

Q20. For credit to be allowable, invoices should not be issued earlier than:

- (a) Three months before 1<sup>st</sup> July, 2017
- (b) Six months before 1<sup>st</sup> July, 2017
- (c) Nine months before 1<sup>st</sup> July, 2017
- (d) Twelve months before 1<sup>st</sup> July, 2017

Ans. (d) *Twelve months before 1<sup>st</sup> July, 2017*

Q21. Who among the following are not entitled to take credit on inputs held in stock under section 140(3)?

- (a) First and second stage dealers
- (b) Manufacturers of exempted goods
- (c) SSI manufacturers having turnover below 150 lakhs.
- (d) SSI manufacturer having turnover above 150 lakhs.

Ans. (d) *SSI manufacturer having turnover above 150 lakhs*

Q22. Which of the following are not eligible state taxes under the transitional provisions

- (a) Entry tax
- (b) Central Sales Tax
- (c) Value Added Tax
- (d) Profession Tax
- (e) Luxury Tax, Entertainment Tax

Ans. (d) *Profession Tax and (e) Luxury Tax, Entertainment Tax*

Q23. Which of the following will not be considered as eligible duties and taxes?

- (a) Additional duty leviable u/s 3(5) of the CTA

- (b) Basic Customs Duty
- (c) Central Excise
- (d) Service Tax

Ans. (b) *Basic Customs Duty*

Q24. The amount of credit of input tax will be paid by:

- (a) Debiting the electronic cash ledger mandatorily
- (b) Debiting the electronic credit ledger mandatorily
- (c) Debiting the electronic cash ledger or electronic credit ledger or both
- (d) None of the above

Ans. (c) *Debiting the electronic cash ledger or electronic credit ledger or both*

Q25. A manufacturer of exempted and non-exempted goods or a service provider of exempted and taxable services are entitled to Cenvat credit under section 140 (4) on-

- (a) All inputs whether in stock or in finished goods or in semi-finished goods is eligible
- (b) Only inputs directly pertaining to non-exempted goods or taxable services is eligible
- (c) Only proportionate credit based on the previous year turnover of non-exempted goods or taxable services is eligible
- (d) No credit is available in such cases

Ans. (a) *All inputs whether in stock or in finished goods or in semi-finished goods is eligible*

Q26. On the transition date which of the following credits are not available

- (a) Credit available in the return filed under the old law
- (b) Credit of goods in transit
- (c) Credit of incomplete services
- (d) Exempted goods in transit and taxable under the new GST law

Ans. (d) *Exempted goods in transit and taxable under the new GST law*

Q27. Where supply has been made before the date of implementation of GST, no tax shall be Payable:

- (a) If tax/duty has been paid under the earlier law
- (b) If goods were exempted under the earlier law
- (c) If the goods were non-taxable under the earlier law

(d) All of the above

Ans. (d) *All of the above*

Q28. No tax will be payable on retention payment subsequent to 1<sup>st</sup> July, 2017, if:

- (a) Supplies have been made prior to 1<sup>st</sup> July, 2017
- (b) Full amount of tax/duty has been paid before 1<sup>st</sup> July, 2017
- (c) Both (a) and (b)

Ans. (c) *Both (a) and (b)*

Q29. Which of the following is not a condition for availing credit on goods in transit or incomplete services

- (a) Credit should be taken in 30 days from the appointed date
- (b) Credit should be in the nature of eligible duties and taxes
- (c) Duty or tax should have been paid before the appointed date
- (d) Should be in possession of valid invoice or duty paid document
- (e) All of the above

Ans. (e) *All of the above.*

Q30. The time limit of six months or the extended period shall be counted from?

- (a) Appointed date
- (b) Date of removal of inputs to job worker
- (c) Date of receipt of inputs by job worker

Ans. (a) *Appointed date*

Q31. For the purpose of section 141 goods removed shall qualify as?

- (a) Semi-finished goods in the hands of manufacturer
- (b) Finished goods requiring further process
- (c) Inputs removed as such or after processing

Ans. (c) *Inputs removed as such or after processing*

Q32. When should the invoice be received in order to fall under section 140(7) if the services are received before the applicability of GST and is pending for distribution on the date of GST?

- (a) Before the date of applicability of GST
- (b) After the date of applicability of GST
- (c) On the date of applicability of GST

(d) The date of receipt of invoice is immaterial.

Ans. (d) *The date of receipt of invoice is immaterial*

Q33. Where a supplier has made a sale of goods and deducted tax thereon under earlier law and issued invoice for the same before appointed date but received payment after 1<sup>st</sup> July, 2017:

(a) No TDS is required to be deducted again under GST Act

(b) TDS is to be deducted again under GST Act

Ans. (a) *No TDS is required to be deducted again under GST Act*

Q34. Declaration of inputs held in stock by job worker on behalf of manufacturer is to be filed by?

(a) Manufacturer

(b) Job Worker

(c) Both (a) and (b)

Ans. (c) *Both (a) and (b)*

Q35. On which category of person will section 140(6) be applicable?

(a) A registered person either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the old law

(b) A person who pays under the normal scheme under the GST law

(c) A person who was paying under the composition scheme under the earlier law

(d) A person who was exempt in the earlier law

Ans. (a) *A registered person either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the old law.*

Q36. On what portion of the stock does the composition taxable person need to pay tax?

(a) Inputs held in stock

(b) Input within semi-finished/finished goods held in stock

(c) Both (a) and (b)

(d) None of these

Ans. (c) *Both (a) and (b)*

Q37. Which of the following is not a condition to take credit of tax paid on inputs held in stock for a tax payer paying taxes under the composition scheme under the earlier law now switching to the regular scheme under the GST law

(a) Said person is eligible for input tax credit of such inputs under the GST law

- (b) Said person is in possession of invoice or duty paid documents not earlier than 12 months preceding the appointed date
- (c) The said person is continuing to pay taxes under the composition scheme under section 10
- (d) The goods are intended to be used for making taxable supplies.

Ans. (c) *The said person is continuing to pay taxes under the composition scheme under section 10*

Q38. What happens to duties and taxes paid on goods which are returned within six months from the appointed date?

- (a) Revise old return and claim reduction in output liability
- (b) Claim refund of taxes paid earlier on such goods in case of B to C transaction / Return of such goods shall be deemed to be a supply in case of B to B transaction
- (c) Claim re-credit of taxes paid under earlier law as input tax credit under GST law
- (d) Revise the first GST return and claim the credit of taxes paid under earlier law

Ans. (b) *Claim refund of taxes paid earlier on such goods in case of B to C transaction / Return of such goods shall be deemed to be a supply in case of B to B transaction*

Q39. Which of the following is NOT a requirement for claiming the exemption from GST on job work?

- (a) Job work should be for a specified purposes such as processing, testing, repair, etc
- (b) Goods should be returned after completion with six months or such extended period
- (c) Manufacturer should declare the details of inputs held in stock by the job worker on behalf of manufacturer
- (d) Job worker should pay the GST even on returning the goods within the period of six months from appointed date

Ans. (d) *Job worker should pay the GST even on returning the goods within the period of six months from appointed date*

Q40. Who are the persons who should declare the stock of goods on job work to claim exemption under section 141?

- (a) Only job worker
- (b) Only principal manufacturer
- (c) Both (a) and (b)
- (d) Either (a) and (b)

Ans. (c) *Both (a) and (b)*

Q41. In terms of Section 141 of the CGST Act, 2017 which of the following is the difference between the provisions of input sent and semi-finished goods sent to Job worker?

- (a) Goods should be returned within six months from the appointed date
- (b) Goods can be sold/ removed/ exported directly to customer
- (c) Job worker and manufacturer have to both declare the stock of goods held on the appointed date
- (d) None of the above

Ans. (b) *Goods can be sold/ removed/ exported directly to customer*

Q42. What is the consequence of non-return of semi-finished goods, sent for job work, within the specified period?

- (a) Job worker pays GST on return of goods
- (b) Principal Manufacturer pays back/reverse the input tax credit claimed on such goods
- (c) Principal manufacturer pays GST on return of goods
- (d) Job worker claims credit of goods received on job work

Ans. (b) *Principal Manufacturer pays back the input tax credit claimed on such goods*

Q43. Which of the following is not a necessary pre-requisite in respect of upward price revision during transition period?

- (a) Supplier should supplementary issue invoice or debit note
- (b) Such document should be raised within 30 days of price revision
- (c) Contract should have entered prior to appointed date
- (d) Goods should be removed or sold prior or services should be provided prior to appointed date
- (e) Supplier should revise earlier return and pay tax on differential

Ans. (e) *Supplier should revise earlier return and pay tax on differential*

Q44. Which of the following is mandatory pre-condition in respect of downward price revision during transition period?

- (a) Recipient of credit note reduced his input tax credit
- (b) Supplier should revise earlier return and reduce tax liability
- (c) Supplier claims refund of downward revision
- (d) Recipient intimates his jurisdictional officer of such downward revisions

Ans. (a) *Recipient of credit note reduced his input tax credit*

Q45. If the refund claim is fully or partially rejected the amount would \_\_\_\_\_

- (a) Lapse
- (b) Be carried forward
- (c) Be refunded
- (d) None of the above

Ans. (a) *Lapse*

Q46. Under what circumstances will the refund claim filed under the earlier law be rejected?

- (a) Refund claim is filed after appointed date
- (b) Credit is carried forward equivalent to refund amount
- (c) Refund claim is withdrawn
- (d) Refund claim will never lapse and shall be payable mandatorily paid by the department.

Ans. (b) *Credit is carried forward equivalent to refund amount*

Q47. When can a refund claim be filed under provisions of section 142?

- (a) Duty paid under the earlier law and exported prior to appointed date
- (b) Duty paid under the earlier law and exported after to appointed date
- (c) Duty paid after appointed date and exported after appointed
- (d) (a) and (b)

Ans. (d) *(a) and (b)*

Q48. Which of the following is not true about claiming refund of service tax under section 142?

- (a) Service tax is deposited under earlier law
- (b) Provision of service is complete under earlier law
- (c) Refund of service tax would be in cash
- (d) Refund claim should be within the time limit under section 11B (2) of the Central Excise Act, 1944

Ans. (b) *Provision of service is complete under earlier law*

Q49. Which of the following is true in respect of events after the applicability of GST?

- (a) Proceedings under earlier law will be disposed of under the earlier law
- (b) Any default due to proceedings in the earlier law will be recovered in the earlier law
- (c) Proceedings under the earlier law will be disposed of under the new law

(d) Any refund due to the proceedings will be admissible as input tax credit

Ans. (a) *Proceedings under earlier law will be disposed of under the earlier law*

Q50. How will the refunds occurring due to any proceedings under the earlier law relating to CENVAT Credit be treated under GST?

- (a) Such refund will be made in cash
- (b) Such refund will be allowed as input tax credit
- (c) Either a or b at the option of the taxable person
- (d) Either a or b at the option of the Department

Ans. (a) *Such refund will be made in cash*

Q51. Section 142 will cover proceedings:

- (a) Relating to liability under GST
- (b) Relating to output duty liability under the earlier law
- (c) Relating to Cenvat credit or input tax credit under earlier law
- (d) All of the above

Ans. (c) *Relating to cenvat Credit or input tax credit under earlier law*

Q52. The proceedings can involve:

- (a) Appeal
- (b) Review
- (c) Reference
- (d) All of the above

Ans. (d) *All of the above*

Q53. Whether the amount paid as arrears of tax under the earlier law is admissible as input tax credit?

- (a) Yes
- (b) No

Ans. (b) *No*