

Chapter–XX

Transitional Provisions

Statutory provision

139. Migration of existing Tax Payers to GST

Section

- (1) On and from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as may be prescribed, which unless replaced by a final certificate of registration under sub- section (2), shall be liable to be cancelled if the conditions so prescribed are not complied with.
- (2) The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.
- (3) The certificate of registration issued to a person under sub-section (1) 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.

139.1 Introduction

This transitory provision deals with migration of existing registrants into the GST regime. All existing registrants having a valid Permanent Account Number will be issued provisional registration certificate. After furnishing required information final certificate of registration will be granted. If the information is not furnished, the registration is liable to be cancelled.

139.2 Analysis

As part of implementation of GST, the existing tax payers / registrants having a valid PAN would be granted provisional registration certificates under the GST law. The details are as follows:

- (i) The existing tax payer other than a person deducting tax or a ISD shall declare his Permanent Account Number (PAN), mobile number, e-mail address, State or Union territory shall enrol himself for getting the provisional registration certificate.
- (ii) On successful verification of the PAN, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.
- (iii) Upon enrolment the said person will be granted a provisional registration certificate in Form REG-25 incorporating the GSTIN which will be available on the common portal.
- (iv) A person having a single PAN in a State or UT shall be granted only one provisional

registration certificate although he may hold multiple registrations under the existing central and State laws

- (v) A person who holds a provisional certificate of registration is required to furnish certain information in Form REG-24, within a period of 3 months;
- (vi) If the information furnished is correct and complete, a certificate of registration in Form GSTREG 06 will be issued.
- (vii) If the particulars and/or information has not been furnished or not found to be correct or complete, the proper officer shall cancel the provisional registration and issue an order in Form GST REG-26 cancelling the registration after serving a show cause notice in Form GST REG-27 and affording the person concerned a reasonable opportunity of being heard.
- (viii) Every existing taxpayer / registrant, who is not liable to be registered under the Act can file electronically an application in Form GST REG-28 at the Common Portal for cancellation of the registration granted provisionally to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said provisional registration.
- (ix) A person to whom provisional certificate is issued and who is eligible to pay tax under composition, may opt to do so by filing electronically an intimation, within thirty days after the appointed day, or such further period as may be extended by the Commissioner in this behalf. However, where the said person does not opt to pay tax under composition within the time prescribed in this behalf, he shall be liable to pay tax under section 9.
- (x) A Special Economic Zone Unit or a Special Economic Zone Developer shall make a separate application for registration as a business vertical distinct from its other units located outside the SEZ.

139.3 Comparative review

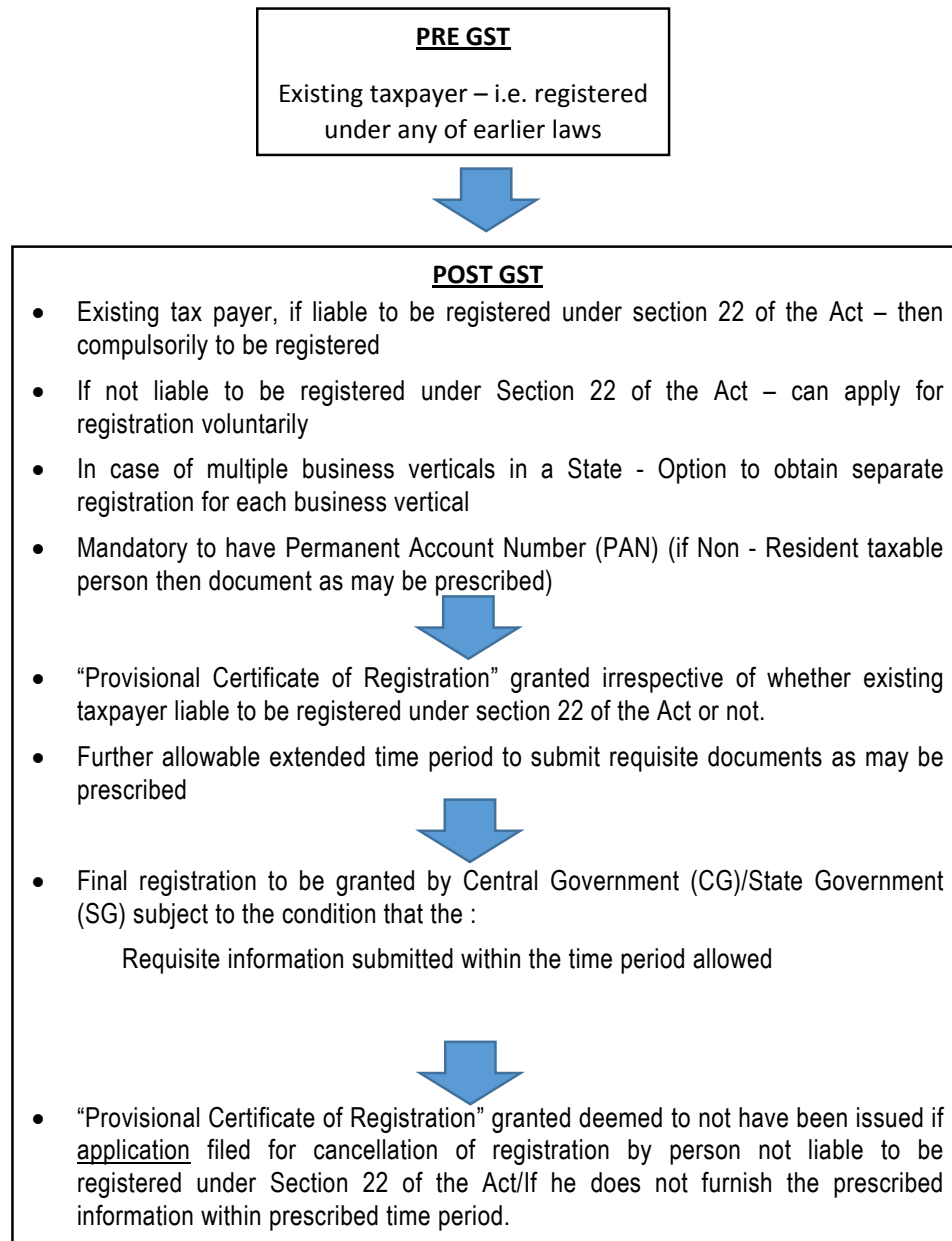
This provision is broadly comparable to the provisions relating to migration of registrations from the erstwhile Sales Tax to the Value Added Tax at the time of introduction of VAT law, in 2004/2005.

139.4 Related provisions

Section	Description	Remarks
Section 22	Registration	Persons liable for registration
Section 23	Registration	Persons not liable for registration
Section 24	Registration	Compulsory registration in certain cases; irrespective of the threshold limit specified under section 22.
Section 28	Amendment of registration	Every registered taxable person shall inform the proper officer of any changes in the information furnished at the time of registration, or furnished subsequently, in the manner and within such period as may be prescribed.

Section	Description	Remarks
		The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in the manner and within such period as may be prescribed: Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed.
Section 29	Cancellation of Registration	The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed.
Section 30	Revocation of cancellation of registration	The registered person whose registration is cancelled by the proper officer, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.
Rule 16 of Registration Rules	Migration of persons under the existing law.	Every person registered under the erstwhile indirect tax laws shall be Provided with a provisional certificate of registration.

Pictorially, an analysis of this transition provision can be presented as follows:



Documents:

S.No.	Documents	File Size Format	Maximum Allowable Size
1.	Proof of Constitution of Business <ul style="list-style-type: none"> In case of Partnership firm: Partnership Deed of Partnership Firm (PDF and JPEG format in maximum size of 1 MB) In case of Others: Registration Certificate of the Business Entity 	PDF or JPEG	1 MB
2.	Photograph of Promoters/ Partners/ Karta of HUF	JPEG	100 KB
3.	Proof of Appointment of Authorized Signatory	PDF or JPEG	1 MB
4.	Photograph of Authorized Signatory	JPEG	100 KB
5.	Opening page of Bank Passbook/ Statement containing Bank Account Number of < Account Number>, Address of Branch, Address of Account holder and few transaction details	PDF	

FAQs

Q1. What is the criteria for issuing provisional registration?

Ans: Every person registered under any of the earlier laws and having a valid PAN will be issued a certificate of registration, provisionally.

Q2. When is the final registration certificate issued replacing the provisional one ?

Ans: The holder of the provisional certificate will be required to furnish certain other information and documents as prescribed in the GST Rules. Upon furnishing the same, the final registration will be issued.

Q3. What happens if the prescribed documents are not furnished within the Prescribed time?

Ans: If the person fails to furnish the prescribed information/documents within the specified time, the certificate of registration provisionally issued may be cancelled.

Q4. Whether the GST Registration for existing registered dealer shall be taken by submission of required documents or will it be done automatically?

Ans: Yes, the data has to be submitted on GSTN portal and only then registration will be granted. A provisional registration will be granted which will be made final upon submission of additional information/documents after the appointed date.

Q5. Can a person who is registered under the earlier law opt out of GST voluntarily?

Ans. Yes, by making an application in Form GST REG 28, a person can opt out of GST.

Q6. What will happen to the provisional registration if the person claims to be not liable for registration under GST?

Ans: The provisional certificate shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person stating that he was not liable to registration.

Q7. What will be the position of the provisional registration of a composite dealer? Will he remain as composite dealer even after the appointed day?

Ans: No. Even existing composite taxpayer has to specifically apply for composition tax within 30 days from the appointed date and the receipt of provisional certificate will not be considered as automatic transition to composite scheme.

Q8. Can a VAT dealer opt for composition scheme after the time prescribed?

Ans: If a registered taxable person does not opt to pay tax under composition scheme within the specified time, he shall be liable to pay tax under regular scheme.

Q9. What happens if the tax payer has distinct VAT registrations in the same State?

Ans: The transitional provisions will allot only one registration certificate in each state based on single PAN even though such person had multiple registrations in the state. He can have distinct registrations in the same State by way of an option only if the business units qualify as business verticals under the GST law.

Q10. What happens to the distinct registrations obtained under the Central Excise and Service Tax laws for the different business premises and units in the same state?

Ans: All business units/premises registered either under the Central Excise or Service Tax law will be consolidated into a single CGST registration for that State, unless these units qualify as distinct business verticals under the GST law.

MCQs

Q1. Should an existing tax payer surrender his registration certificate for obtaining the GST registration?

- (a) Yes, all registration certificates shall be surrendered;
- (b) No. Provisional registration is automatic;
- (c) Migrated to provisional registration only on verification of documents;
- (d) No. Final registration is automatic.

Ans: (b) No. Provisional registration is automatic

Q2. Is PAN mandatory for migration to provisional GST registration?

- (a) Yes
- (b) No
- (c) PAN application is sufficient

- (d) Exempted may be given by the proper officer

Ans: (a) Yes

Q3. Should the composition dealer under the old law require to obtain final GST registration?

- (a) Yes, mandatory for all composition dealers
- (b) Yes, subject to his turnover crossing the threshold under GST
- (c) No, the old number will continue
- (d) No, will be governed by old law.

Ans: (b) Yes, subject to his turnover crossing the threshold under GST

Q4. Can a dealer having multiple registrations in a State obtain a consolidated GST registration or should he get separate GST registrations?

- (a) Rules will have to prescribed in this regard;
- (b) Any number of registrations can be obtained in each state;
- (c) Single registration for each state will be granted without any exception;
- (d) Two or more registrations for each state will be granted in case of separate business verticals.

Ans: Two or more registrations for each state will be granted in case of separate business verticals.

Statutory Provision

140(1)-Amount of CENVAT credit carried forward in the return allowed as input tax credit.

A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed.

PROVIDED that the registered person shall not be allowed to take credit in the following circumstances, namely:—

- (i) where the said amount of credit is not admissible as input tax credit under this Act; or
- (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or
- (iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government

140.1.1 Introduction

This transition provision enables a taxable person to carry forward unutilized input credit under the CENVAT Credit Rules, 2004.

140.1.2 Analysis

The amount of any input credit carried forward in a return, which is unutilized under the existing tax regime may be carried forward into the GST regime except in the case of a person who opts to pay tax under composition scheme in a GST regime.

- The said credit will be allowed to be carried forward to the GST regime, if the following conditions are satisfied:
 - (1) The said credit is admissible as input tax credit under the provisions of the CGST Act;
 - (2) The registered person has furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date.
 - (3) Input tax credit does not relate to goods manufactured and cleared under exemption notifications as are notified by the Government.
 - (4) Input tax credit carried forward will not be allowed if such credit relates to goods manufactured and cleared under exemption notifications as notified by the government.

Particulars	CGST
Credit to be carried forward	CENVAT credit
Relevant law	CENVAT Credit Rules, 2004
Laws to be subsumed and the relevant credit	Central Excise Service tax
Input Tax Credit to be carried forward	<ul style="list-style-type: none"> — Central Excise paid on 'inputs' /capital goods — Countervailing duty paid on 'inputs'/capital goods — Special Additional Duty paid on 'inputs' /capital goods in case of manufacturers — NCCD paid on 'inputs' — Service tax paid on 'input services' – both direct or reverse charge — Krishi Kalyan Cess for Service Provider.
Conditions	<ul style="list-style-type: none"> — The said credit is admissible as input tax credit under the provisions of the CGST Act ; — The registered person has furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; — The said credit does not relate to goods

Particulars	CGST
	<p>manufactured and cleared under such exemption notifications as are notified by the Government;</p> <p>— Must have been reflected as input credit carried forward in the return filed for the last month / period under the existing law, viz., last monthly return or quarterly return or the half yearly return, as the case may be.</p>
Form in which the credit would be availed under the GST Law	<p>Would be available as a balance in the Electronic Credit Ledger of the tax payer.</p> <p>FORM GST TRAN-1 (To be submitted electronically within 60 days of the appointed day)</p>

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

Particulars of Input tax Credit	Credit amount as per return
Central Excise	200,000
Service Tax	100,000
Education Cess	10,000
Secondary and Higher Education Cess	5,000
Krishi Kalyan Cess	5,000
Swachh Bharat Cess	5000
Additional Duty u/s 3(1) of CTA - CVD	40,000
Additional Duty u/s 3(5) of CTA - SAD	30,000
Input Tax Credit under VAT	50,000
Total	445,000

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

Ans. The amount of CGST to be brought forward on 1st July, 2017 will be calculated as follows:

A. If the tax payer is a Manufacturer

CGST Components	CGST Value
Central Excise	200,000
Service Tax	100,000
Education Cess	10,000
Secondary and Higher Education Cess	5,000
Additional Duty u/s 3(1) of CTA	40,000

Additional Duty u/s 3(5) of CTA	30,000
Krishi Kalyan Cess	5000
Total CGST	390,000

Note:

1. Swachh Bharat Cess will not be allowed to be carried forward.
2. Input credit under VAT will not be allowed to be carried forward as CGST.
3. EC and SHEC – Provision relating to carry forward of the same would need to be seen subsequently. At present, the law lacks to provide clarity on the same.
4. KKC may not be allowed to be carried forward by manufacturer.

B. If the tax payer is a Service Provider

CGST Components	CGST Value
Central Excise	200,000
Service Tax	100,000
Education Cess	10,000
Secondary and Higher Education Cess	5,000
Krishi Kalyan Cess	5,000
Additional Duty u/s 3(1) of CTA-CVD	40,000
Total CGST	3,60,000

Note:

1. Service Provider not entitled to avail credit of SAD & Swachh Bharat Cess.
2. Additional Duty u/s 3(1) of CTA – CVD will be available if it is paid on import purchase of specified goods.
3. EC and SHEC – Provision relating to carry forward of the same would need to be seen subsequently. At present, the law lacks to provide clarity on the same

140.1.3 FAQ

- Q1. A person who is registered under service tax as well as under Central Excise and having unavailed cenvat credit in central excise return, has not filed his service tax returns. Whether he can carry forward the unavailed cenvat credit as per the last central excise return to GST regime?

Ans: No. Credit cannot be taken unless he has furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date.

- Q2. Whether returns under CST in relation to the six months immediately preceding the appointed date also to be furnished in order to carry forward the unavailed cenvat credit with respect to service tax and central excise into the GST regime?

Ans: Yes, The registered person has to furnish all the returns required under the existing law for the period of six months immediately preceding the appointed day.

140.1.4 Related provisions

Section	Description
Section 2(107)	Meaning of 'taxable person'
Section 2(46)	Definition of 'Electronic Credit Ledger'
Section 16 to 21	Manner of taking input tax credit
Section 2(48)	Meaning of Existing law

Statutory Provision

140(2). Credit of unavailed CENVAT credit in respect of capital goods, not carried forward in a return, shall be allowed.

A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

PROVIDED that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act:

Explanation .- For the purposes of this section, the expression "unavailed cenvat credit" means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law 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.

140.2.1 Introduction

This transition provision enables a person to avail CENVAT credit of the balance amount (unavailed portion) in respect of capital goods, that has not been availed under the existing laws. The unavailed portion of credit relating to capital goods under the existing laws not carried forward through a return can be availed, Provided such credits are admissible under the GST laws.

140.2.2 Analysis

A registered person (except person opting for composition scheme) shall be allowed to take the amount of CENVAT Credit on capital goods not carried forward in the return. However, the said credit should be admissible under the existing law as well as under the provisions of the CGST Act.

"Unavailed CENVAT credit" means the amount that remains after subtracting the amount of Cenvat credit already availed in respect of capital goods by the taxable person under the

existing law from the aggregate amount of Cenvat credit to which the said person was entitled to, in respect of the said capital goods under the existing law.

- Under the CENVAT Credit Rules, 2004, in respect of eligible capital goods, credit is required to be claimed in 2 parts of 50% each. Credit to the extent of 50% maximum of the central excise duty paid ought to be claimed in the same financial year in which the capital goods are received and the balance 50% can be claimed in any subsequent years.
- Further, it needs to be noted that the capital goods referred above, means the goods as defined under Clause (a) of Rule 2 of CENVAT Credit Rules, 2004.

Eg 1: A manufacturer purchased a capital asset worth Rs. 11,25,000 (including excise duty of Rs. 1,25,000) on 5th May, 2017. In the month of June, 2017, he could avail CENVAT Credit to the extent of 50% only i.e. Rs. 62,500. The unavailed CENVAT Credit on capital goods as on 1st July, 2017 (appointed day) will be Rs. 125,000 – 62,500 = Rs. 62,500.

Eg 2: CENVAT Credit on Capital Goods used outside the factory of manufacturer is not allowable⁹. So, it will not be admissible as input tax credit in the GST Law either.

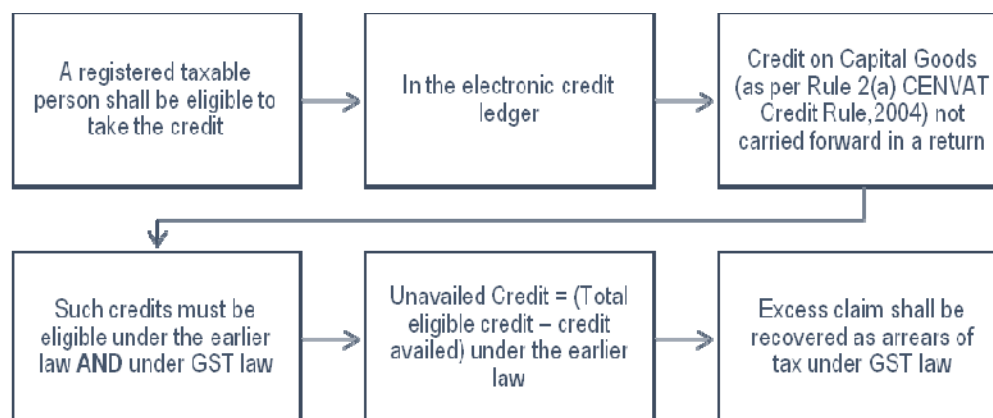
In terms of Sub Rule 2(a) of the Transition provision Rules particulars relating to every item of capital goods in respect of tax/duty awaited or utilised by way of credit under the existing law shall be indicated. Similar details in respect of unavailed portion under the existing laws shall also be stated. The details, conditions and documentation are as follows:

Particulars	CGST
Credit to be carried forward	CENVAT credit
Relevant law	CENVAT Credit Rules, 2004
Details of credit to be carried forward	<ul style="list-style-type: none"> — Central Excise paid on 'capital goods' — Countervailing duty paid on 'capital goods' — Special Additional Duty paid on 'capital goods'
Conditions	<ul style="list-style-type: none"> — Should qualify for eligible input credit under both, the existing law and the GST law — Would be in respect of input credit which is not carried forward in the return filed for the last period under the existing law
Form in which the credit would be availed under the GST law	<ul style="list-style-type: none"> — FORM GST TRAN-1 (To be submitted electronically within 60 days of the appointed day) — Would be available as a balance in the electronic credit ledger of the tax payer

It must be clearly understood that CENVAT Credit can only be availed as CGST Credit in the Electronic Credit Ledger.

⁹ Madras Cement v. CCE (2003) 158 ELT 293 = 56 RLT 978 (CESTAT 3 member bench)

Pictorially this provision can be depicted as follows:



140.2.3 Related provisions

Section of CGST	Description
Section 2(46)	Definition of 'Electronic Credit Ledger'
Section 16 - 21	Manner of taking input tax credit
Section 79	Recovery of tax
Section 2(48)	Existing law

Statutory Provision

140(3). Credit of eligible duties in respect of inputs held in stock allowed in certain situations

A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012-Service Tax, dated 20.06.2012 or a first stage dealer or a second stage dealer or a registered importer, or a depot of a manufacturer, shall be entitled to take, in his 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:

- (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice and/or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;

- (iv) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and
- (v) the supplier of services is not eligible for any abatement under the Act:

PROVIDED that where a registered person, other than a manufacturer or a supplier of services, is 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 in such rate and in such manner as may be prescribed.

The amount of credit under sub-section (3) shall be calculated in such manner as may be prescribed.

Explanation.— For the purpose of this sub section, the expression “eligible duties” means-

- (i) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985(5 of 1986);
- (ii) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985(5 of 1986);
- (iii) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978);
- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957);
- (v) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001(14 of 2001);
- (vi) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975);
- (vii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975); and

in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

140.3.1 Introduction

This transition provision sets out the conditions and procedure for availing input credit in respect of stock held on appointed day by certain registered taxable persons under the GST Law. Inputs which are held in stock and inputs contained in semi-finished / finished goods held in stock which were for manufacture of exempted goods under the earlier law have also been dealt with.

Registration under the GST law is mandatory to claim such credits.

140.3.2 Analysis

The following persons shall be entitled to take credit of eligible duties and taxes on inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the date on which this provision is made effective:

- not liable to be registered under the earlier law, or
- was engaged in the manufacture of exempted goods or provision of exempted services, or
- was providing works contract service and was availing the benefit of notification No. 26/2012-Service Tax, dated 20.06.2012, or
- a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer

The credit shall be allowed to the aforesaid taxable persons subject to the following conditions:

- Such inputs and/or goods are used or intended to be used for making taxable supplies under CGST Act.
- He is eligible for input tax credit on such inputs under CGST Act.
- He is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of such inputs, which
- were issued not earlier than twelve months immediately preceding the date on which these provisions come into effect.
- That the supplier of services is not eligible for any abatement under the CGST Act.
- In terms of Sub Rule 2(b) of the Transition Provision Rules the application in Form GST TRAN -01 shall specify separately the details of stock held on the appointed day upto 6 tax periods indicating the details of supplies effected during each tax period.

Availability of Credit to Trader who is not in possession of invoice evidencing payment of Central Excise Duty –Refer Rule 3 of the Transition Provision Rules

- As per proviso to sub section(1), credit may be allowed to a trader even if he is not in a possession of such invoice/document disclosing payment of duty/tax .
- However, in such cases the person will have to follow the conditions specified below:-
- Credit shall be allowed at the rate of 40%, 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 supply has been paid. This situation arises when invoice is raised under the current tax regime & supply happens in a GST regime.
- 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.
- The registered person is in possession of documents relating to procurement of goods.

- The stock of goods on which the credit is availed must be stored in a way that it can be easily identified.
- The scheme shall be available for six tax periods from the appointed date
- Registered person availing this scheme must furnish the details of stock held by him and submit a statement in **FORM GST TRAN---** at the end of each of the six tax periods during which the scheme is in operation indicating 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.
- Eligible Duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day on which the CGST Act comes into force shall include the laws cited in the Section supra
- Explanation

The expressions “Central Value Added Tax (CENVAT) credit” “first stage dealer”, “second stage dealer”, or “manufacture” shall have the same meaning assigned to them in the Central Excise Act, 1944 or the rules made there under.

Particulars	CGST
Credit to be carried forward	CENVAT credit
Relevant law	CENVAT Credit Rules, 2004
Specified duties which would be allowed as transitional credit	<ul style="list-style-type: none"> — Central Excise paid on ‘inputs’ specified in schedules I and II of CETA, 1985 — Countervailing duty paid on ‘inputs’ under Customs Tariff Act — Special Additional Duty paid on ‘inputs’ — National Calamity Contingent Duty paid on ‘inputs’ — AED paid under AED (Textile & Textile Articles) Act, 1978 on ‘inputs’ — AED paid under AED (Goods of Special Importance) Act, 1957 on ‘inputs’

It must be clearly understood that CENVAT Credit can only be availed as CGST Credit in the Electronic Credit Ledger.

Credit of eligible duties and taxes on input held in stock

140.3.3

Person eligible for input tax credit	Credit available on	Conditions
<ul style="list-style-type: none"> Person not liable to be registered under the earlier law Person engaged in manufacture/ sale of exempted goods, provision of exempted services Person providing works contract service and availing abatement under notification no. 26/2012 First/ Second stage dealer, importer or a depot of a 	<ul style="list-style-type: none"> Inputs held in stock and inputs contained in semi-finished goods or finished goods held in stock as on appointed day Above benefit not available for input services Such credit can be taken in the electronic credit ledger 	<ul style="list-style-type: none"> Goods must be used for taxable supply Eligible to take the credit under GST law Such person should be in possession of invoice or other prescribed document Invoice or other document should be within 12 months from the appointed day Excess claims will be recovered as arrears of tax under GST law

Related provisions

Section	Description	Remarks
Section 2(46) CGST Law	Definition of 'Electronic Credit Ledger'	Input tax credit will be taken in this document.
Section 2(108) CGST Law	Definition of Taxable supply	Only inputs intended to be used for taxable supplies are allowed as credit.
Section 16 to 21 CGST Law	Manner of taking input tax credit	This is for determining the admissibility of Input tax credit under the GST law
Section 79 CGST Law	Recovery of tax	For recovery of arrears of tax under GST for demand arising from proceedings under earlier law
Rule 9(1)	Documents and	Contains the list of documents on the basis of

CENVAT Credit Rules 2004	Accounts	which CENVAT Credit can be availed
Rule 2(d) CENVAT Credit Rules 2004	Definition of exempted goods	One of the possible pre-conditions in respect of category of person is engaged in manufacture/sale of exempted goods
Proviso to Rule 4(7) CENVAT Credit Rules 2004	Time limit for admissibility of CENVAT Credit	Similar time limit prescribed as one of the conditions for availment of credit under GST law
Rule 9 Central Excise Rules 2002	Registration under Central Excise	One of the possible preconditions in respect of category of persons is non registration in earlier law.
Section 69(1) and Rule 4 Finance Act 1994 & Service Tax Rules	Registration under Service Tax	One of the possible preconditions in respect of category of persons is non registration in earlier law.

Statutory Provision**140(4) Credit of eligible duties and taxes in respect of inputs held in stock allowed in certain situations**

<p>(1) 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 Finance Act, 1994, but which are liable to tax under this Act shall be entitled to take, in his electronic credit ledger,</p> <p>(a) 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</p> <p>(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 the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3).</p> <p>Explanation.— For the purpose of this sub section, the expression “eligible duties” means-</p> <p>(i) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985(5 of 1986);</p> <p>(ii) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985(5 of 1986);</p>	
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|-------|--|
| (iii) | the additional duty of excise leviable under section 3 of t(Textile and Textile Articles) |
| (iv) | the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957); |
| (v) | the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001(14 of 2001); |
| (vi) | the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975); |
| (vii) | the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975); and |
| | in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day. |

140.4.1 Introduction

This transition provision sets out the provisions for availing input credit by a taxable person who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or engaged in provision of taxable as well as exempted services under Chapter V of Finance Act, 1994.

140.4.2 Analysis

This provision is applicable only for inputs (not capital goods) held in stock or in respect of inputs contained in semi-finished goods or finished goods held in stock on the appointed day on 'ELIGIBLE DUTIES and the amount of cenvat credit carried forward in a return furnished under the existing law by him.

The definition of 'Eligible Duties ' as stated in explanation 1 to Section 143(10) cited supra is applicable here.

The claim of transitional credit under this Section is subject to the following conditions:

- (i) The person must be a registered person under the GST Laws.
- (ii) The taxable person must have been 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 Finance Act, 1994.
- (iii) In terms of Sub Rule 2(b) of the Transition Provision Rules the application in Form GST TRANS -01 shall specify separately the details of stock held on the appointed day upto 6 tax periods indicating the details of supplies effected during each tax period.

The details of credit availment is as follows:

Particulars	CGST
Credit to be carried forward	Amount of CENVAT credit carried forward in a return furnished under earlier law in terms of section 140(1)

Particulars	CGST
	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 exempted goods or services, in terms of section 140(3). Reference may be in Section 140(3) for better understanding.
Relevant law	CENVAT Credit Rules, 2004
Form in which the credit would be available under the GST law	<ul style="list-style-type: none"> - FORM GST TRAN-1 (To be submitted electronically within 60 days of the appointed day) - Would be available as a balance in the electronic credit ledger of the tax payer

140.4.3 Related provisions

Section of CGST	Description
Section 2(46)	Definition of 'Electronic Credit Ledger'
Section 16 to 21	Manner of taking input tax credit
Section 79	Recovery of tax

Statutory Provision**140(5). Credit of eligible duties and taxes in respect of inputs or input services during transit**

<p>(1) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or taxpaying document of the same was recorded in the books of accounts of such person within a period of thirty days from the appointed day:</p> <p>PROVIDED that the period of thirty 30 days may, on sufficient cause being shown, be extended by the commissioner for a further period not exceeding thirty days.</p> <p>PROVIDED FURTHER that said 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</p>
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140.5.1 Introduction

This transition provision sets out the conditions and procedure for availing input credit in case of transactions that are spread over the transition period.

140.5.2 Analysis

(i) In any given business scenario it is possible that invoices are raised in the current tax regime and applicable taxes are also remitted under the existing laws. However, inputs or input services in respect of such transactions are received in a GST regime. This provision allows the difficulty in clearing credits in such instances. In order to avail such credits in the Electronic Credit Ledger the following conditions need to be satisfied:

- (a) Invoices/duty paid documents must be recorded in the books within 30 days for the appointed date which may be extended by the commissioner for another 30 days on showing sufficient cause.
- (b) The recipient of inputs or input services must furnish a statement as follows:

In terms of Rule 2(c) of Transition provisions the said taxable person shall furnish the following details:

- (i) A statement indicating the name & address of the supplier together with invoice details.
- (ii) Description, quantity and value of goods or services.
- (iii) The amount of taxes, duties, VAT, Entry tax charged by the supplier.
- (iv) The date at which receipt of goods or services are entered in the books of the recipient.

Explanation

For the purpose of this sub section, the expression “eligible duties and taxes” means

- (1) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985(5 of 1986);
- (2) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985(5 of 1986);
- (3) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978);
- (4) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957);
- (5) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001(14 of 2001);
- (6) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975);
- (7) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975);
- (8) the service tax leviable under section 66B of the Finance Act, 1994

140.5.3 Related provisions

Section of CGST	Description
Section 2(46)	Definition of 'Electronic Credit Ledger'
Section 16 to 21	Manner of taking input tax credit
Section 79	Recovery of tax

Statutory Provision**140(6). Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme**

(1)	A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law, shall be entitled to take, in his 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, namely:
(i)	such inputs or goods are used or intended to be used for making taxable supplies under this 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 existing law in respect of inputs; and
(v)	such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

140.6.1 Introduction

This transition provision sets out the conditions and procedure for availing input credit by a registered person who is switching over from composition scheme (paying tax at fixed rate or fixed amount) under the existing laws to a regular scheme under the GST law.

140.6.2 Analysis

This provision is applicable only for inputs (not capital goods) held in stock or in respect of inputs contained in semi-finished goods or finished goods held in stock on the appointed day on 'ELIGIBLE DUTIES' The claim of transitional credit under this Section is subject to the following conditions:

- (i) The person must be a registered person under the existing law as well as GST Laws.
- (ii) He should have opted for payment of tax at a fixed rate or fixed amount in lieu of tax

payable under the existing law. Eg. Compounded Levy Scheme under central excise in case of aluminium/steel pattas/pattis, special service tax rates in case of insurers carrying on life insurance business, persons providing services in relation to purchase/sale of foreign currency including money changers

- (iii) Specified duties paid on 'inputs' would be allowed as input tax credit, in his Electronic Credit Ledger.
- (iv) The person should opt for payment of tax under the regular scheme under the GST law (cannot be a composition taxpayer u/s 10 of CGST Law).
- (v) The relevant inputs should be held in stock on the date of introduction of GST.
- (vi) Inputs may take any of the following forms –
 - (i) inputs as such (in the same form as it was procured / received – may be raw materials, consumables, packing materials, traded goods etc.),
 - (ii) may be contained in WIP or semi- finished goods or
 - (iii) may be contained in the finished goods.
- (vii) Such inputs must be used or intended to be used for making taxable supplies under the GST Laws.
- (viii) Such goods should qualify as eligible inputs under the GST law.
- (ix) The registered person should be in possession of the invoice and such other documents (as may be prescribed) that shall satisfy the following conditions:
 - (a) The invoice / other document should evidence the payment of duty / tax on such goods.
 - (b) The invoice should not be more than 12 months prior to the date of introduction of GST.
- (x) In terms of Sub Rule 2(b) of the Transition Provision Rules the application in FORM TRAN-1 shall specify separately the details of stock held on the appointed day upto 6 tax periods indicating the details of supplies effected during each tax period.

140.6.3 Related provisions

Section of CGST	Description
Section 2(46)	Definition of 'Electronic Credit Ledger'
Section 10	Composition Dealer
Section 16 to 21	Manner of taking input tax credits
Rule 2(b)	Transition Provision Rules under GST Laws

Statutory provisions**140(7). Credit distribution of service tax by Input Service Distributor.**

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.

140.7.1 Introduction

- (i) This provision has an overriding effect over all other provisions under the GST law.
- (ii) This provision is applicable when:
 - (a) The services are received by the Input Service Distributor before the date of applicability of GST and
 - (b) Tax on such services have not yet been distributed by the Input Service Distributor on the date of applicability of GST.
 - (c) Invoices relating to such services are received on or after appointed date.
- (iii) Such services will be eligible for distribution as credit under the GST law.
- (iv) Such provision will be applicable irrespective of the date of receipt of invoice by the Input Service Distributor.

140.7.2 Analysis

Input Service Distributor: This term has been defined under Section 2(61) of the CGST Law to mean “an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office.”

Explanation.- For the purpose of distributing the credit of CGST (SGST in State Acts) and / or IGST or UTGST, Input Service Distributor shall be deemed to be a supplier of services.

Services: This term has been defined under Section 2(102) of the CGST law to mean “anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.”

Date of receipt of invoice is immaterial: In respect of the services received by the Input Service Distributor before the date of applicability of GST, the invoice can be received by the Input service distributor:

- (a) either before the date of applicability of GST; or

- (b) on the the date of applicability of GST
- (c) after the date of applicability of GST

This section seeks to cover all the cases.

Date of receipt of services crucial: For the purposes of this section, it is important that the underlying services must have been received prior to the appointed date.

Distribution of credit under GST Law: If any input service distributor:

- receives services before the date of applicability of GST; and
- such services are yet to be distributed on the date of applicability of GST, for want of invoice
- then irrespective of the date of the receipt of invoices by the Input Service Distributor
- the distribution of credit will be as per the GST law.

Manner of distribution of credit by Input Service Distributor: Section 20 of the CGST law provides the manner in which the credit will be distributed. Following are the key points for consideration:

- If the invoice is received by the Input Service Distributor before the date of applicability of GST, he can distribute the CENVAT Credit under the old law and carry forward this credit as CGST on the date of applicability of GST under section 140(1) of the CGST law. If he distributes the credit on or after the applicability of GST, he can take it as CGST or IGST depending on the nature of supply being intra State or inter-state respectively.
- If the invoice is received by the Input Service Distributor on or after the date of applicability of GST, he can distribute the credit in the form of CGST or IGST depending on the nature of supply being intra State or inter-state .
- If the Input Service Distributor and the recipient of credit are located in two different States, then the input tax credit of both CGST and IGST will be distributed as IGST.
- If the Input Service Distributor and the recipient of credit are located in the same State, then the input tax credit of both CGST and IGST will be distributed as CGST.

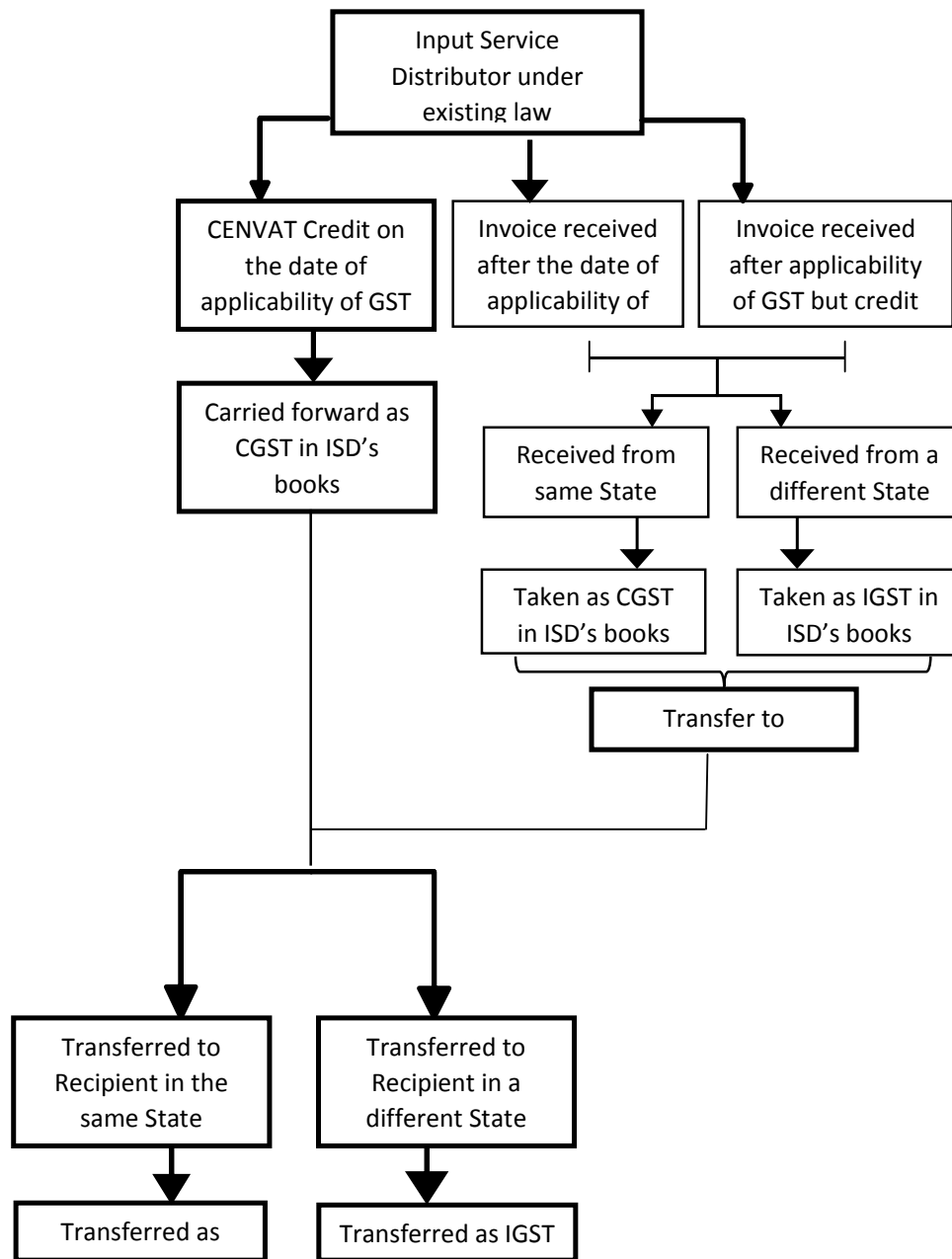
140.7.3 Comparative Review

This is a transitional provision for converging the provisions of the earlier law with the GST law. As this provision is temporary and only for the transition period, there are no comparative provisions in the earlier law which can be relatable to this section.

140.7.4 Related provisions

Section	Description	Remarks
2(61)	Definition of Input Service Distributor	To know the meaning of Input Service Distributor under the GST law
2(102)	Definition of Service	It is imperative to know the meaning of service to determine as to what will be distributed under the GST law
20	Manner of distribution of Input Tax Credit by ISD	Section 20 acts as an extension of section 140(7). The eligibility of the credit is discussed as per Section 140(7) whereas the manner of distribution is under section 20.

Analysis of this transitional provision can be presented in the following flowchart:



Statutory provisions**140(8). Provision for transfer of unutilized Cenvat Credit by taxable person having centralized registration under the earlier law**

Where a registered person having centralized registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of cenvat credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

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:

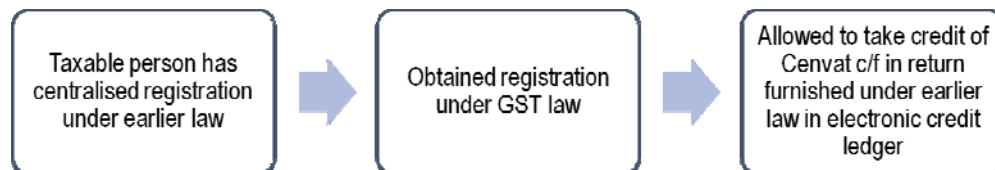
Provision also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralized registration was obtained under the existing law.

140.8.1 Analysis

Under the current law where centralized registration is obtained and credit is lying in balance, it is Provided that:

- Credit balance may be taken and carried forward in GST
- Such credit transfer will require filing of a return within 3 months
- Credit is required to be eligible under the GST law
- Credit is permitted to be transferred to other locations of the person which qualify as taxable persons in GST having the same PAN.

It is interesting that the provision does not lay down any criteria for such transfer of credit between various locations of the person and this is a welcome measure as part of the transition steps.

Transfer of unutilised Cenvat credit by a person having centralised registration**Note:**

1. Only those credits which are admissible under GST laws will be allowed

2. Credit may be transferred to any registered taxable person having the same PAN for which centralised registration was obtained under existing law
3. This section does not prevent upward revision of credits. However, in respect of downward revision of credits such lower credits alone shall be permitted.

In terms of Sub Rule 2(b) of the Transition Provision Rules the application in FORM TRAN-1 shall specify separately the details of stock held on the appointed day upto 6 tax periods indicating the details of supplies effected during each tax period.

Statutory Provisions

140(9) Reclaiming CENVAT credit reversed due to non-payment of consideration

Where any 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.

140.9.1 Introduction

This transition provision has been introduced with a view to enable the availment of credit in cases where CENVAT credit has been reversed in terms of second proviso to rule 4(7) of the CENVAT Credit Rules, 2004. In terms of the said proviso, CENVAT credit is reversed in case of input services, the payment of consideration for which is not made within a period of 3 months from the date of invoice/challan etc. Subsequently, such credit is allowed as and when the payment is made.

140.9.2 Analysis

This Section would apply in the following circumstances:

- (i) The CENVAT credit had been reversed by the manufacturer or the service provider in terms of second proviso to Rule 4(7) of the CENVAT Credit Rules, 2004.
- (ii) Such payment is then made after the appointed day.
- (iii) The payment is made within 3 months from the appointed day.

It provides that where the above conditions are fulfilled, the credit shall be allowed as CGST credit.

For the period ending with the day immediately preceding the appointed day, if the registered person files an original/revised return within 3 months of the appointed day.

Statutory Provision

141 Transitional provisions relating to job work

(1) 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.

(2) 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.

(3) 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

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.

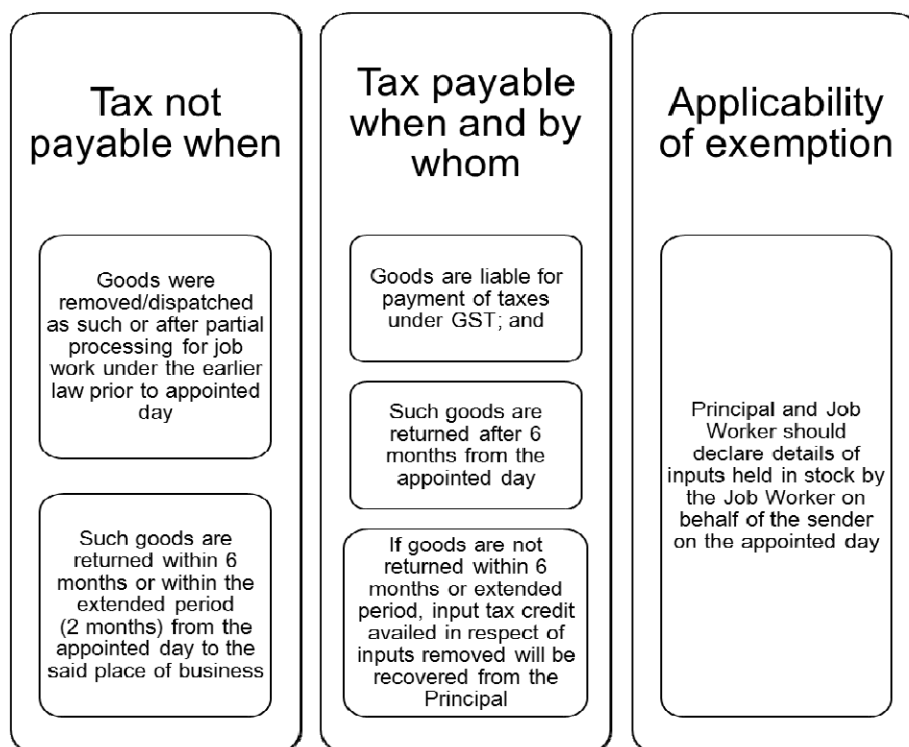
141(1) Inputs removed for job work and returned on or after the appointed day**141.1.1 Introduction**

This transition provision is with respect to inputs removed as such or after partial processing from a place of business for the purposes of carrying out any processing, repair, reconditioning or for any other purposes under the existing laws but are returned / returnable after the date of implementation of GST.

141.1.2 Analysis

- Inputs removed by a Principal to a Job Worker's premises that are returned to the Principal within 6 months (or within an extended period of further 2 months) no tax shall be payable. However, if the inputs are not returned within 6 months or such extended period of 2 months then the input tax credit availed by the Principal shall stand be recovered as arrears of tax under CGST Law and no input tax credit of such tax paid shall be allowed under the CGST Law.
- Every Principal and the Job Worker shall within 60 days from the appointed day file an application in Form GST TRAN-1 specifying the stock/capital goods held by him in the Job Worker's premises agent wise/branch wise. Refer Rule 2 of GST Transition Rules.
- **Eg 1:** A manufacturer had removed inputs worth Rs. 5,00,000 on 1st January, 2017 for job work. GST is assumed to be applicable from 1st July, 2017. On 10th December, 2017, the inputs are returned by the job worker. Since, the inputs are returned within 6 months from the date of applicability of GST, no tax will be payable.
- **Eg 2:** In Eg 1 above, if the goods are not returned by the job worker within the period of 6 months from the applicability of GST i.e. by 31st December, 2017, then the input tax credit shall be liable to be recovered in terms of section 142 (8)(a); i.e., the input tax credit shall be liable to be recovered as an arrear of tax under the CGST Act and the amount so recovered shall not be admissible as input tax credit..

Inputs removed for Job work and returned on or after the appointed day



141.1.3 Related provisions

Section	Description
Section 2(68)	Definition of 'Job work'
Section 2(72)	Definition of 'Manufacturer'
Section 2(85)	Definition of 'Place of Business'
Section 142(8)(a)	Recovery of any amount in pursuance of assessment or adjudication proceedings under the existing laws
Section 79	Recovery of amount payable to Government

Statutory Provision

141(2) Semi-finished goods removed for job work and returned on or after the appointed day

141.2.1 Introduction

This transitional provision is with respect to semi-finished goods which were dispatched from a place of business for job work (for the purpose of carrying out any manufacturing processes) under the existing laws but are returned / returnable after the date of implementation of GST.

141.2.2 Analysis

- Semi-finished goods removed by a Principal to a Job Worker's premises that are returned to the Principal within 6 months (or within an extended period of further 2 months) no tax shall be payable. However, if the semi-finished goods are not returned within 6 months or such extended period of an additional 2 months then the input tax credit availed by the Principal shall stand reversed under the existing law or as arrears under the CGST Law.
- Every Principal and the Job Worker shall within 60 days from the appointed day file an application in Form GST TRAN-1 specifying the stock/capital goods held by him in the Job Worker's premises agent wise/branch wise. Refer Rule 2 of GST Transition Rules.
- The manufacturer may, instead of bringing the said goods back to his place of business, transfer the said goods to the premises of any registered person for the purpose of supplying there from to places within India or for exports. The premises of the same registered person refers to premises like bonded warehouses where to goods manufactured can be removed from the place of manufacture without payment of excise duty by complying with the relevant provisions of the Central Excise Law. If the supplies from those premises are made within India, tax shall be paid on such supplies. If the said goods are exported no tax need to be paid on such supplies.

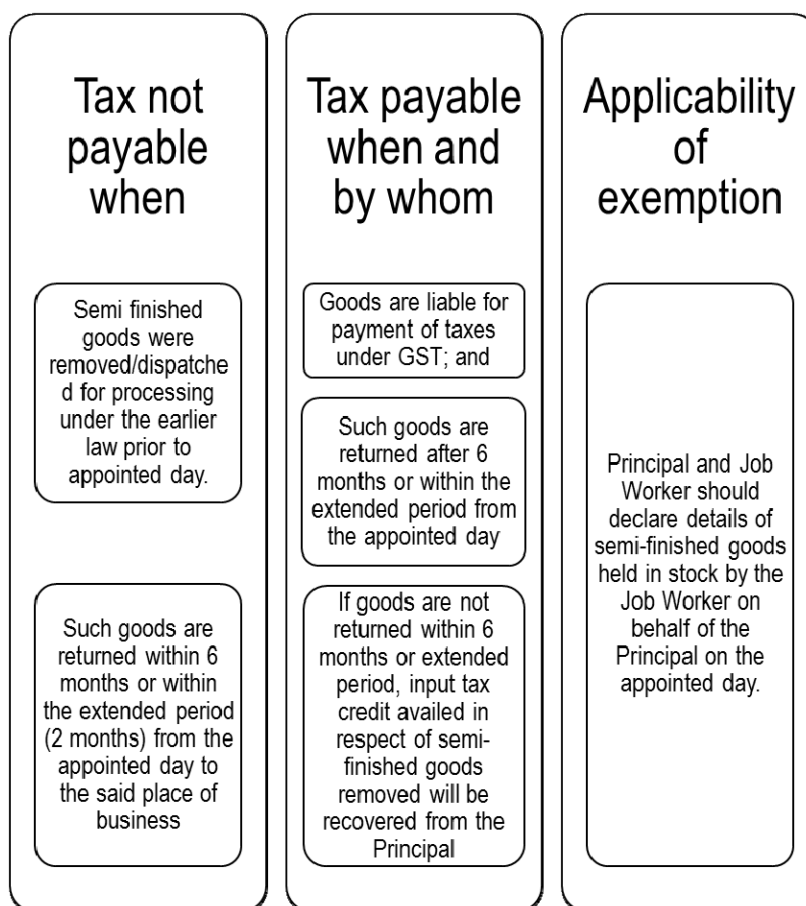
Eg 1: A manufacturer had removed semi-finished goods worth Rs. 5,00,000 on 1st January, 2017 for further processing. GST is assumed to be applicable from 1st July, 2017. On 10th October, 2017, these goods are returned by the job worker. Since the goods are returned within 6 months from the date of applicability of GST, no tax will be payable.

Eg 2: In Eg 1 above, if the goods are not returned by the job worker within the period of 6 months from the applicability of GST i.e. till 31st December, 2017, then the input tax credit shall be liable to be recovered in terms of section 142 (8)(a); i.e., the input tax credit shall be liable to be recovered as an arrear under the CGST Act.

Eg 3: In Eg 1 above, assume that the goods are directly transferred to a registered taxable person within 6 months from the applicability of GST i.e. till 31st December, 2017. In this case, tax will be payable under GST if the goods there from are supplied in India and tax will not be payable if the same is exported.

The analysis of above provision in a pictorial form is summarised as follows:

Semi-finished goods removed for Job work and returned on or after the appointed day



141.2.3 Related provisions

Section	Description
Section 2(68)	Definition of 'Job work'
Section 2(72)	Definition of 'Manufacturer'
Section 2(85)	Definition of 'Place of Business'
Section 142(8)(a)	Recovery of any amount in pursuance of assessment or adjudication proceedings under the existing laws

Statutory Provision**141.3 Finished goods removed for carrying out certain processes and returned on or after the appointed day****141.3.1 Introduction**

This transition provision is with respect to excisable goods manufactured and removed from a place of business without payment of duty for the purposes of carrying out any tests or any other process and which are returned / returnable after the date of implementation of GST.

141.3.2 Analysis

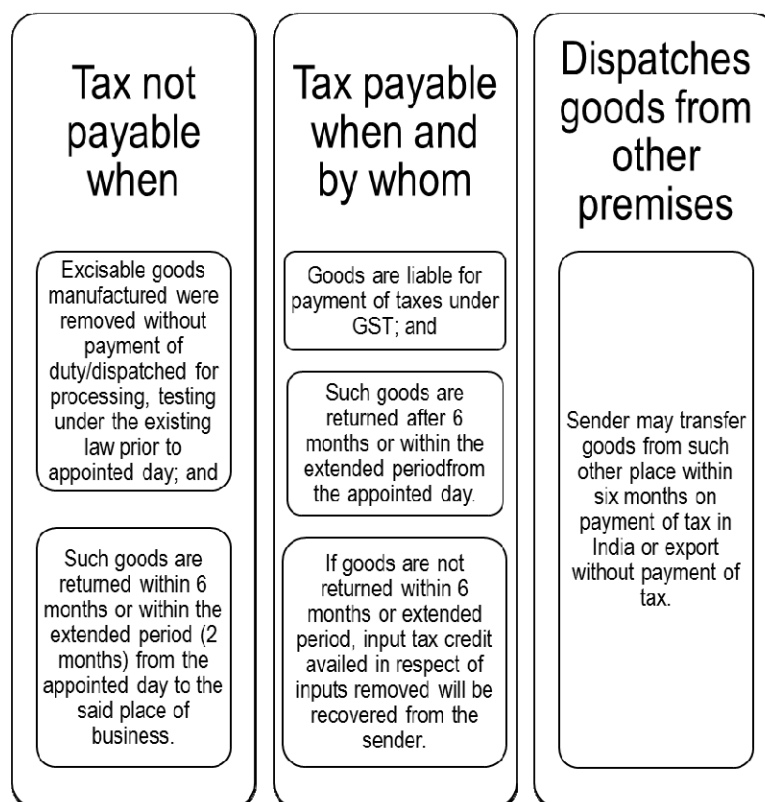
- Excisable goods are manufactured and removed from the place of business without payment of duty for carrying out tests or any other process (not amounting to manufacture), to any other premises, whether registered or not, in terms of the earlier law prior to the appointed day. Subsequently such goods, are returned to the said place of business on or after the appointed day, then no tax shall be payable if the said
- goods, after undergoing the process, are returned to the said place within 6 months from the appointed day.
- The period of 6 months may be extended by the Commissioner for a further period not exceeding 2 months.
- If the said goods are not returned within 6 months or extended period, from the appointed day, the input tax credit shall be liable to be recovered under the existing law. If the input tax credit is not recovered under the existing law, it will be recovered as an arrear under the CGST Act.
- The manufacturer may, in terms of the provisions of the earlier law, transfer the said goods to the premises of any registered person from where the said goods are supplied on payment of tax or exported. The premises of the same registered person refers to premises like bonded warehouses to where goods manufactured can be removed from the place of manufacture without payment of excise duty by complying with the relevant provisions of the Central Excise Law. If the transfer from those premises are made within India, tax shall be paid on such transfers. If the said goods are exported no tax need to be paid on such transfers.

Eg 1: A manufacturer had removed finished goods worth Rs. 5,00,000 on 1st January, 2017 for testing. GST is assumed to be applicable from 1st July, 2017. On 20th November, 2017, these goods are returned by the person after testing the goods. Since the goods are returned within 6 months from the date of applicability of GST, no tax will be payable.

Eg 2: In Eg 1 above, assume that the goods are not returned directly from the premises of the tester within 6 months from the applicability of GST i.e. till 31st December, 2017. In this case, input tax credit shall be liable to be recovered in terms of section 142(8)(a).

The analysis of above provision in a pictorial form is summarised as follows:

Finished goods removed for carrying out certain processes and returned on or after the appointed day



141.3.3 Related provisions

Statute	Section	Description
IGST	Section 10	Place of supply of goods

This provision stipulates that immunity from paying tax under section 141(1), 141(2) and 141(3) is available only if both the manufacturer and the job worker declare the details of inputs or goods held in stock by the job worker on behalf of the manufacturer.

141.3.4 FAQs

- Q1. Can the benefit of sub section 1, 2 & 3 be availed even if the date of removal of inputs, semi-finished goods or finished goods is falling beyond one year before the appointed date?

Yes. There are no restrictions in Sec 141 regarding the time period before the appointed date within which the date of removal of goods removed should fall in order to avail the benefit of Sec 141. The restriction regarding the time limit is only in respect of receiving back of the goods to the place of business from where those goods were originally removed.

Statutory Provision**142(1) Duty paid Goods returned to the place of business on or after the appointed day**

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.

142.1.1 Introduction

This transitional provision provides for refund of duties paid on goods under existing law when returned to the place of business.

142.1.2. Analysis

This section provides for refund in respect of sales returns, viz., where the sale was under the existing law and the return is under the GST law. The Section provides that the person receiving the said goods back under the GST regime would be eligible to refund of the duty paid under the existing law at the time of removal of goods, if the person returning the goods is not a registered person, return of goods by a person registered would tantamount to be a deemed supply.

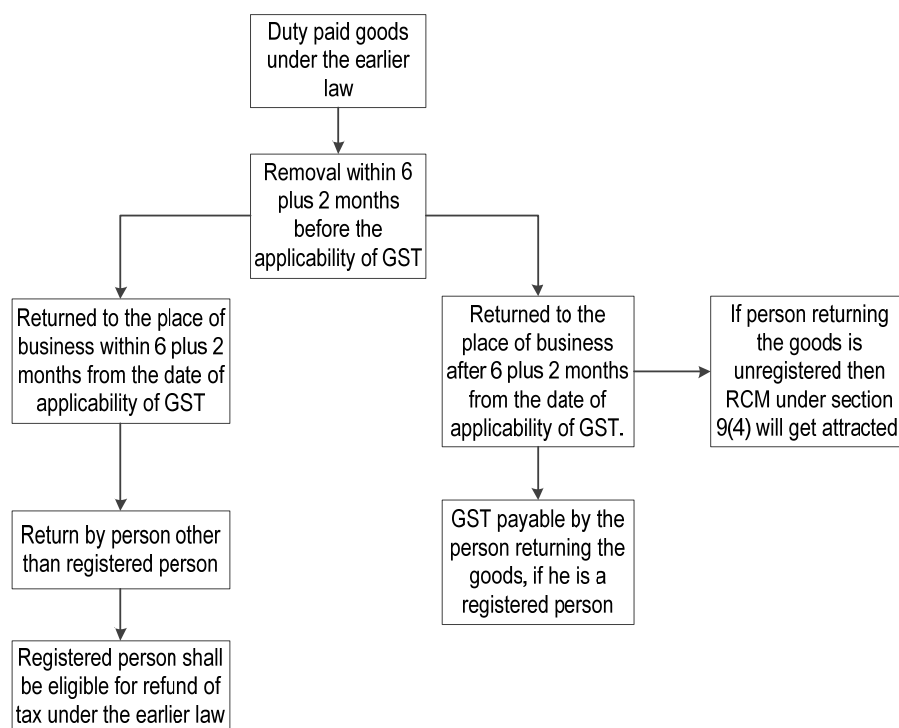
This provision would be applicable in the following circumstances:

- (i) **Duty was paid at the time of removal:** Central Excise duty, should have been paid when the goods were removed/sold under the existing law.
- (ii) **Sales return should be to any place of business:** While the law provides that the return can be to any place of business (in the same state by a person other than a registered person) and not necessarily to the same place of business from where it was removed, it is essential that the return should be to the same taxable person.
- (iii) Return of goods by a registered person will be held to be a deemed supply of goods and the original supplier receiving the goods shall not be entitled to input tax credit if returned within 6 from appointed date. No input tax credit if returned after 6 months.
- (iv) **Time period:** The Section provides for time lines for both, the removal and the return.
 - (a) **Removal:** It should have taken place not earlier than 6 months from the date of introduction of GST.
 - (b) **Return:** It should be within 6 months from the date of introduction of GST.

If the goods are not returned within the time line, the supplier shall not be eligible for the said refund.
- (v) Also, please note that similar provision would find place in the SGST Act so that the full incidence of GST flows to these transaction.

Eg 1: A manufacturer had removed goods for sale worth Rs. 5,00,000 on 1st March, 2017 after paying the necessary duty under Central Excise law. These goods are also taxable under GST. GST is assumed to be applicable from 1st July, 2017. On 10th July, 2017, goods worth Rs. 1,00,000 are returned by the buyer. Since, the goods are returned within 6 months from the date of applicability of GST, the supplier shall be eligible for refund of Central Excise Duty paid by him.

The analysis of above provision in a pictorial form is summarised as follows:



Statutory Provision

142(2) Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract

- (a) 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 taxable person who had removed or Provided such goods or services or both may issue to the recipient a supplementary invoice or debit 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 note shall be deemed to have been issued in respect of an outward supply made under this Act.
- (b) Where, in pursuance of a contract entered into prior to the appointed day, the price of

any goods or services or both is revised downwards on or after the appointed day, the registered taxable person who had removed or Provided such goods or services or both may issue to the recipient a supplementary invoice or 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 credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

PROVIDED that the said registered taxable 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.

142.1.1 Introduction

This is a transition provision with respect to **goods or services or both** in respect of which there is either an upward or a downward revision of price under a contract which was entered into prior to the date of introduction of GST.

142.1.2 Analysis

In cases where there is a price revision, either upward or downward, the CGST Act provides that the amount to the extent of such revision is deemed to be an outward supply under the CGST Act. Consequently, all the CGST provisions including issue of invoices (debit or credit notes) and payment of taxes would apply to such revision. This would apply to the provisions of supply of goods and services, respectively.

This provision would apply as follows:

- (i) **For upward revisions:** The taxable person shall issue a supplementary invoice or a debit note within 30 days from the date of such revision.

The amount of tax involved therein would be deemed to be the tax payable on such supplies under the CGST Act.

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.

The supplementary invoice / debit note would have to comply with the requirements as prescribed under the CGST Act.

Eg 1: A contract for supply of manpower was entered on 10th June, 2017 for Rs. 5,00,000. Due to certain re-negotiations, this price was revised to Rs. 5,50,000 on 15th July, 2017. Assuming applicability of GST from 1st July, 2017, the supplier should issue a supplementary invoice/debit note for Rs. 50,000 within 30 days of 15th July, 2017 i.e. 15th August, 2017. This supplementary invoice/debit note will be assumed to be for outward supply of Rs. 50,000 with GST charged on the same

- (ii) **For downward revisions:** 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 as if the adjustment is under the CGST Act.

It would be deemed to be a supply (adjustment) in the month in which the credit note is issued and the provisions relating to disclosure in the return and adjustment to tax would apply accordingly. This adjustment (reduction in the tax liability) would be allowed only if the recipient of the credit note also reduces his input credit correspondingly.

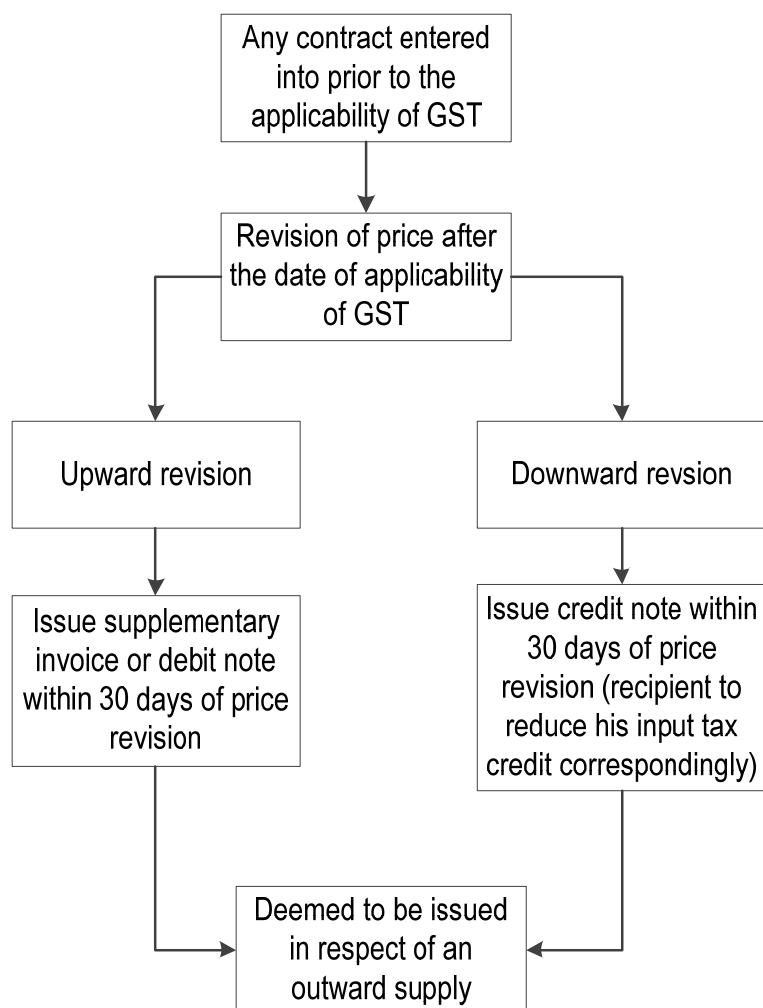
The credit note would have to comply with the requirements as prescribed under the CGST Act.

Eg 2: A contract for supply of manpower was entered on 10th June, 2017 for Rs. 5,00,000. Due to certain re-negotiations, this price was revised downwards to Rs. 4,00,000 on 15th July, 2017. Assuming applicability of GST from 1st July, 2017, the supplier should issue a credit note for Rs. 1,00,000 within 30 days of 15th July, 2017 i.e. 15th August, 2017. This credit note will be assumed to be for outward supply of Rs. 1,00,000 and accordingly the tax liability would be reduced. However, the said reduction shall be allowed only if the recipient of the credit note has reduced his corresponding input tax credit.

142.1.3 Comparative review

Rule 6(3) of Service Tax Rules, 1994: Where an assessee has issued an invoice or received any payment, against a service to be Provided which is not so Provided by him either wholly or partially for any reason (or when the invoice amount is re-negotiated due to deficient provision of service, or any terms contained in a contract) **the assessee may take the credit of such excess service tax paid by him**, if the assessee has refunded the payment or part received for the service Provided or has issued a credit note for the value of the service not so Provided to the person to whom an invoice had been issued.

The analysis of above provision in a pictorial form is summarised as follows:



Statutory Provisions**142(3) Refund claims for amount paid under existing law to be disposed of 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 or 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 claim shall be allowed of any amount of Cenvat credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

142(4) Refund claims filed after the appointed day for goods cleared or services Provided and exported before or after the appointed day to be disposed of under existing law

Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law for the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of 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 claim shall be allowed of any amount of Cenvat credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

142.3.1. Introduction

This transition provision is with respect to

- Refund claims/applications under the existing law.
- Refund claims/applications under the existing laws filed after the appointed day for the goods or services exported before or after the appointed day.

It provides that the claim for such refund should be processed as prescribed under the relevant existing law.

142.3.2. Analysis

The section provides that where any person has made an application for refund of CENVAT credit, duty, tax or interest paid, the same would have to be processed in terms of the provisions contained in the respective existing laws. The provisions of GST law would have no bearing on the same.

Therefore, refund application under the current laws can continue to be filed under this section, even after the introduction of GST.

It also provides the following:

- (i) The refund, if allowed, would accrue in cash under the existing law and would not be credited to the electronic credit ledger or electronic cash ledger.
- (ii) The refund if rejected, fully or partially would lapse.
- (iii) No refund claim shall be allowed of any amount of Cenvat credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

Eg 1: An export manufacturer files a claim for refund of Rs. 5,00,000 on 15th June, 2017. Assume applicability of GST from 1st July, 2017. The refund claim will be processed under the provision of the earlier law i.e. Central Excise law itself. If the refund is considered as admissible by the Department, then the same will be paid in cash subject to the Doctrine of Unjust Enrichment.

Eg 2: If the refund claim is rejected, then the amount so rejected will lapse and not be available as credit.

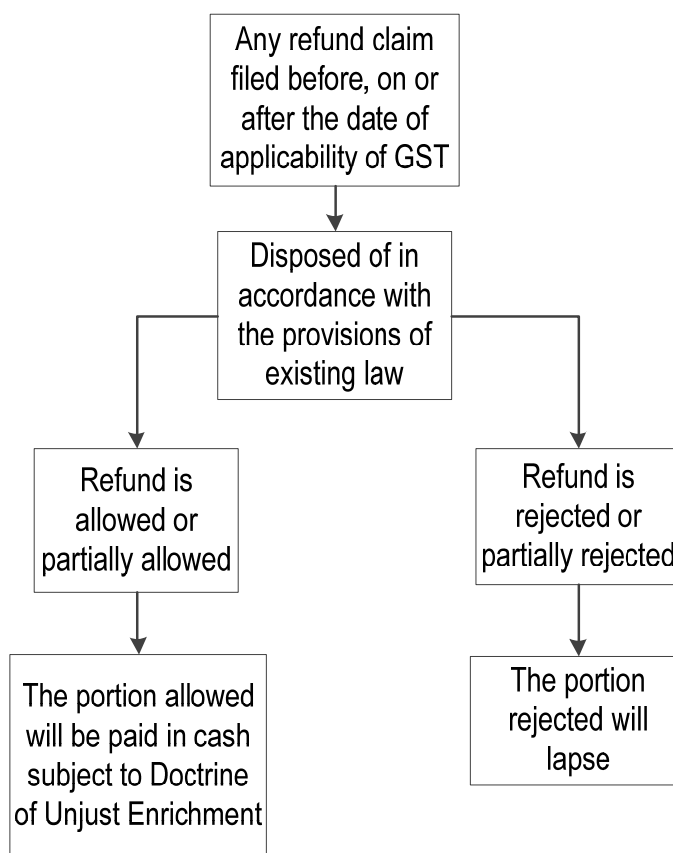
142.4.1. Analysis

The section provides that every claim for refund of any duty or tax paid under existing law, filed after the appointed day, for the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of the existing law.

It also provides the following:

- (i) The refund, if rejected, fully or partially would lapse.
- (ii) No refund claim shall be allowed of any amount of Cenvat credit / input tax credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

Analysis of this transition provision can be presented through a flowchart as under:



Statutory provision

142(5) Refund claims filed after the appointed day for payments received and tax deposited before the appointed day 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 subsection (2) of section 11B of the Central Excise Act, 1944

142.5.1 Introduction

This transition provision is with respect to refund claims in respect of services not Provided, filed after the appointed day.

142.5.2 Analysis

The section provides that every claim for refund of any tax deposited under the existing law in respect of **services not Provided**, filed after the appointed day, shall be disposed of in accordance with the provisions of the existing law and any amount eventually accruing to him shall be paid in cash.

142.5.3 Related provisions

Statute	Section	Description
Central Excise Act, 1944	Section 11B (2)	Provision for unjust enrichment

Statutory provision

142(6) Claim of CENVAT credit to be disposed of under the existing law	
(a)	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 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 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.
(b)	Every proceeding of appeal, review or reference relating to recovery of 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 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.

142.6.1 Introduction

This transition provision is with respect to claim of CENVAT Credit initiated under the existing law and disposal of appeals, reviews or reference proceedings pertaining thereto.

142.6.2 Analysis

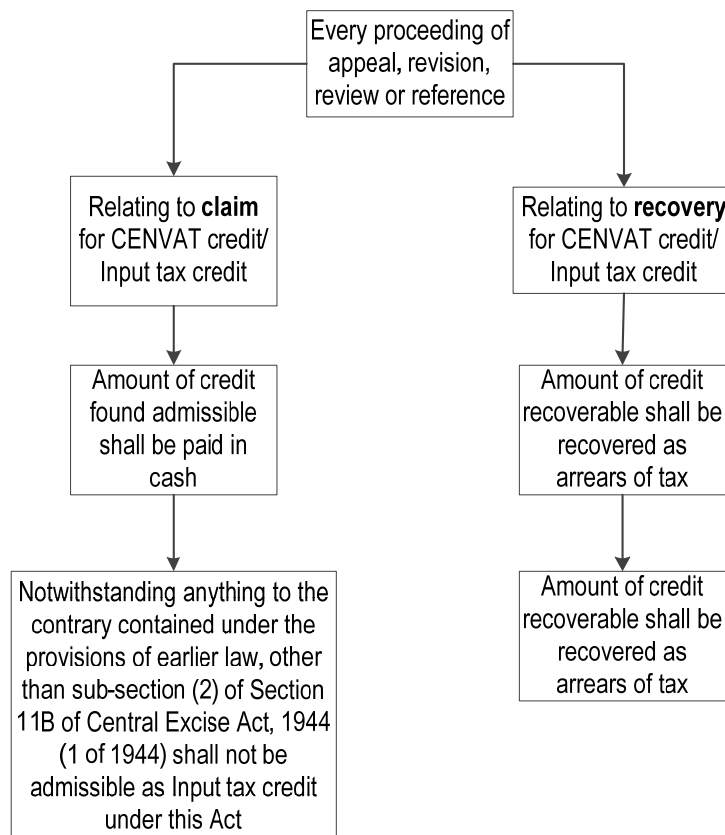
The Section applies where any matter in respect of CENVAT credit is pending in an appeal or review or reference under any of the existing laws.

It provides that the provisions of CGST would have no bearing on the same and should be dealt with in accordance with the provisions of existing laws as follows:

- **If the input credit are finally allowed:** A refund would accrue to the claimant in cash.
- **If the input credit is disallowed:** It would become recoverable as an arrear of tax under the CGST.

— The amount so recovered would not be allowed as input tax credit under the CGST law.

Analysis of this transitional provision can be presented as a flowchart as under:



Statutory provision

142(7) Finalization of proceedings relating to output duty or tax liability

- (1) 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 amount so recovered shall not be admissible as input tax credit under this Act.
- (2) Every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day, shall be disposed of in accordance with the provisions of the existing law, and 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.

- 142(8)** (a) 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;
- (b) 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 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.

142.8.1 Introduction

This transition provision is with respect to output tax / duty liabilities pending in appeal, review, or reference proceedings under any of the existing law.

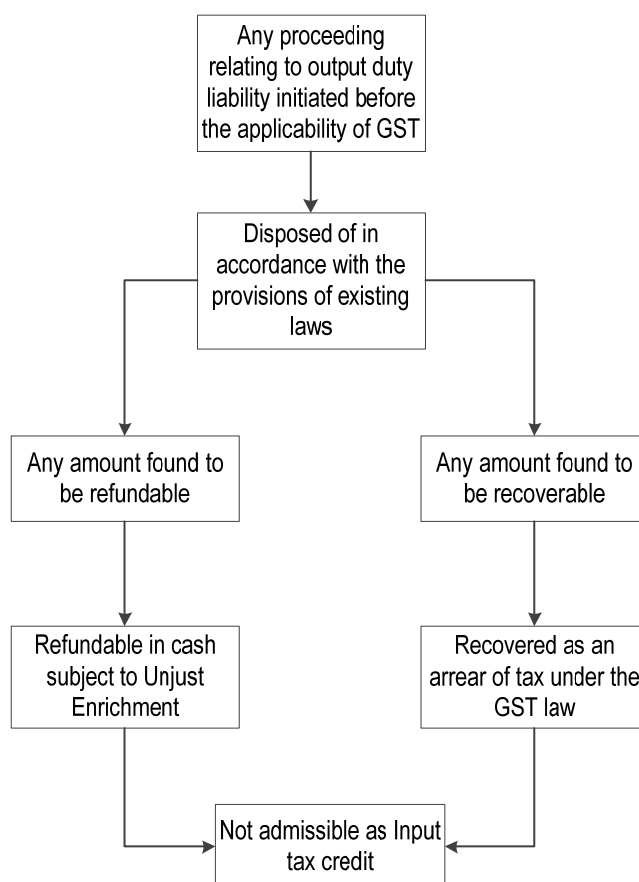
142.8.2 Analysis

The section applies where any matter in respect of output tax / duty liabilities are pending in appeal, review or reference proceedings under any of the existing law.

It provides as follows:

- **If the output liability is finally payable:** It should be recovered as an arrear of tax under CGST Act.
- The amount so recovered would not be allowed as input tax credit under the CGST laws.
- **If the output liability is finally allowable to the claimant:** It would accrue to the claimant as refund in cash under the existing law. If any amount is rejected, the same shall not be available as input tax credit under CGST.

Analysis of this transition provision can be presented in the following flowchart:



Statutory Provisions

142(9) Treatment of the amount recovered or refunded pursuant to revision of returns

- (a) 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.
- (b) Where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, 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 amount rejected, if any, shall not be admissible as input tax credit under this act.

142.9.1 Introduction

This transition provision deals with a situation where tax becomes payable or refundable by virtue of revision of returns under existing law.

142.9.2 Analysis

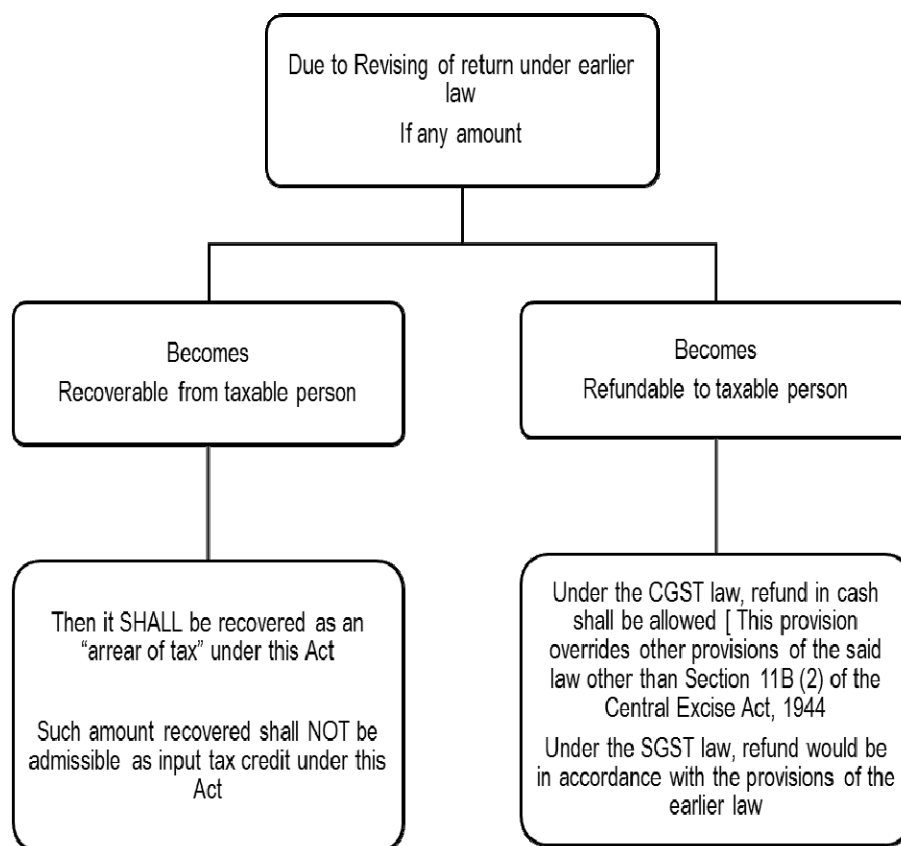
This Section applies where any return is revised under the existing laws by virtue of which any amount becomes payable by or refundable to, the taxable person. This could arise due to any of the following reasons:

- (i) Short payment of output tax liability (payable);
- (ii) Excess payment of output tax liability (refundable);
- (iii) Short claim of CENVAT credit (refundable);
- (iv) Excess claim of CENVAT credit (payable);

The Section specifies that:

- **If any amount is recoverable:** It should be recovered as an arrear of tax under the CGST Act. The amount so recovered would not be allowed as input tax credit.
- **If the amount is allowable as refund:** It would accrue to the claimant as cash refund under the existing law.

Analysis of this transitional provision can be presented in the following flowchart:



Statutory Provisions

142 (10) Treatment of long term contracts

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.

142.10.1 Introduction

This transitional provision deals with long term contracts.

142.10.2 Analysis

It provides that 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 Act 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 Act.

Eg 1: A contract for a painting job was entered on 19th June, 2017. Assume the applicability of GST from 1st July, 2017. The job is performed from 10th July, 2017 to 30th July, 2017. The said supply will be taxable under GST law.

Statutory Provisions

142(11) Progressive or periodic supply of goods or services

- (a) 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;
- (b) 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;
- (c) 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.

142.11.1 Introduction

This transition provision deals with transactions which have suffered tax (Value Added Tax or Service Tax) on the ground that consideration was received under the earlier law, whereas the supply is made after the date of introduction of GST.

142.11.2 Analysis

- I. No CGST shall be levied on:
 - 1. **Goods**, to the extent tax was leviable under the Value Added Tax Act of the state;
 - 2. **Service**, to the extent Service Tax was leviable on the said service.

In short, GST shall not be levied on a supply to the extent Value Added Tax or Service Tax, as the case may be, was leviable on the said supply.

Eg: Advance of Rs. 1,00,000/- was received on 10th June, 2017 for service to be rendered in July, 2017. The invoice for the service was raised for Rs. 1,50,000/- on 31st July, 2017. Assuming appointed day as 1st July, 2017, GST shall be levied only on Rs. 50,000/-.

- II. Where tax was paid under both Value Added Tax Act and under Finance Act, 1994, viz., Construction service, works contract or supply of food/beverages, Tax shall be leviable under CGST Act on the supplies effected after the appointed day and the Value Added Tax or Service Tax shall be admitted as credit to the taxable person.

Eg: Contract entered in March, 2017 for Rs. 1,00,00,000/-. Advance received till 30th June, 2017 amounts to Rs. 10,00,000/-. Value Added Tax of Rs. 40,000/- and Service

Tax of Rs. 60,000/- have been paid on the said advance. Assuming appointed day as 1st July, 2017 GST shall be levied on Rs. 1,00,00,000/- as per Sec 13 of the CGST Act. The value added tax and service tax paid shall be allowed as credit under the existing law in the manner as may be prescribed.

- III. Supplies liable to both VAT as well as ST are Provided for in this clause. For eg. Works contracts, Hoteliers when the time of supply under CGST Act applies. The differential tax under GST and those already paid under current law will become payable. Credit of tax already paid must not be understood as 'input tax credit' as defined u/s 2(63). This is an apparent conflict but not so u/s 140(5) of the CGST Act which needs to be reconciled. The said credit pertains to the credit under existing laws and the same shall be available as credit under existing laws..

142.11.3 Related provisions

Section	Description
Section 2(28)	Definition of consideration
Section 12	Time of supply of goods
Section 13	Time of supply of services

Statutory Provisions

142(12) Taxability of supply of goods sent on approval basis.

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 subsection:

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.

142.12.1 Introduction

This transition provision covers the goods sent on approval basis under existing law returned to the supplier within a period of 6 months from the appointed day or extended period and beyond.

142.12.2 Analysis

No CGST shall be payable for goods sent on approval basis, returning 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. However, tax shall be payable by the person returning the goods as well as by the

person sending the goods if the goods are returned after the period of six months and such goods are liable to tax under the CGST Law.

142.12.3 Time period:

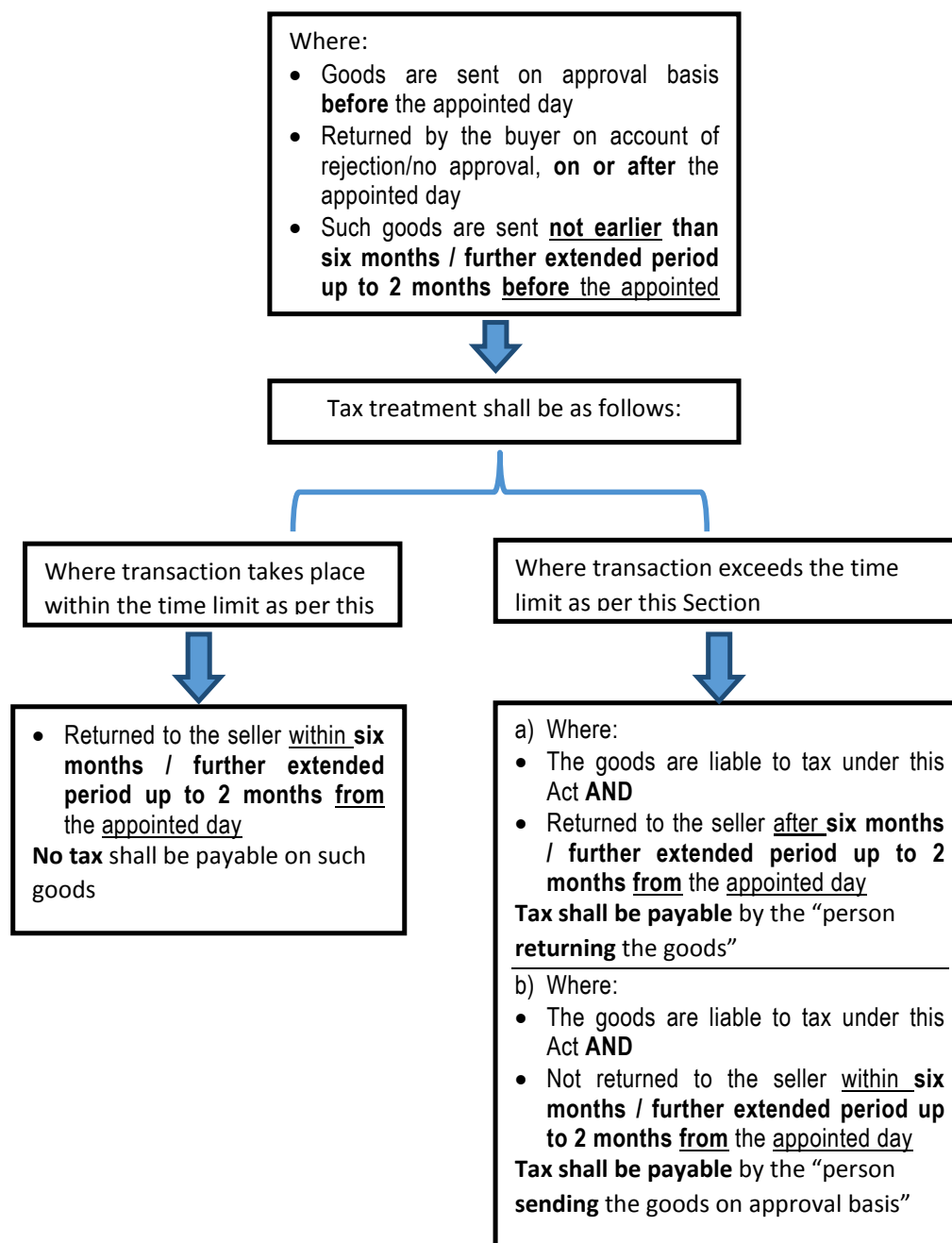
- (a) **Sending of goods:** It should have taken place not earlier than 6 months prior to the appointed day.
- (b) **Return of goods:** It should be within 6 months from the appointed day or as extended by the commissioner by a period not exceeding two months on sufficient causes being shown.

If goods are returned after the said period, CGST 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.

In case of sale of approval prior to appointed date, GST TRAN -1 to be filed within 60 days as per Rule 3 of the GST Transitional Provision Rules.

Flowchart analysing the transitional provisions in Section 142(12).



Statutory Provisions**142(13) Supply of goods in respect of which tax is to be deducted at source.**

Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under the 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.

142.13.1 Introduction

This transition provision is in respect of TDS under Section 51. It is a transitional provision to ensure that there is no double deduction of tax at source due to introduction of GST.

142.13.2 Analysis

This Section would apply in the following circumstances:

- (i) The supplier had sold any goods under the existing law; and
- (ii) TDS applies on such transactions under existing law; and
- (iii) The supplier had issued the invoice before the appointed day;
- (iv) Payment is made to the supplier after the appointed day.

It provides that merely because payment is made to the supplier after the date of introduction of GST, the TDS provisions under Section 51 of the CGST Act will not apply. In other words, no tax shall be deductible under CGST Act at the time of making payment to the supplier.

Related provisions

Statute	Section	Description
CGST	Section 51	Tax deduction at source