

LIVE WEBCAST ON

“STOCK TRANSFER, REJECTS & RETURNS”

- ***ORGANISED BY:
INDIRECT TAXES COMMITTEE
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF
INDIA***
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STOCK TRANSFER – CURRENT SCENARIO

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Stock Transfer

- Term 'Stock Transfer' not defined under the current/ GST draft law
- In common parlance, it implies transfer of goods from one place of business to another of the same person

Taxability under Existing Law

- Normally, under Central Excise, clearance of finished goods from the place of removal attracts excise duty, whereas, clearance of inputs require reversal of Cenvat credit
- Under VAT/ CST law, inter-state stock transfer is exempt, subject to supply of Form F

STOCK TRANSFER – TAXABILITY UNDER GST

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Supply – Section 2(95)

“supply” shall have the meaning as assigned to it in section 3;

Meaning and scope of supply – Section 3

- 1) **Supply *includes*—**
 - a) *all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,*
 - b) *importation of services, for a consideration whether or not in the course or furtherance of business, and*
 - c) ***a supply specified in Schedule I, made or agreed to be made without a consideration.***
- 2) *Schedule II, in respect of matters mentioned therein, shall apply for determining what is, or is to be treated as a supply of goods or a supply of services.*
- 3)

STOCK TRANSFER – TAXABILITY UNDER GST

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Supply without consideration - Schedule I

- 1)
- 2) **Supply of goods or services** between related persons, or **between distinct persons** as specified in section 10, when made in the course or furtherance of business.
- 3)

Taxable Person – Section 10

- (1)
- (2) A person who has obtained or is required to obtain more than one registration, whether in one State or more than one State, shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- (3) An establishment of a person who has obtained or is required to obtain registration in a State, and any of his other establishments in another State shall be treated as establishments of distinct persons for the purposes of this Act.”

STOCK TRANSFER – TAXABILITY UNDER GST

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Supply in case of inter-State trade – Section 3 - IGST

- 1) Subject to the provisions of section 7, supply of goods in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States.

Supply in case of intra-State trade – Section 4 - IGST

- 1) Subject to the provisions of section 7, intra-State supply of goods means any supply of goods where the location of the supplier and the place of supply are in the same State:

Place of Supply of Goods – Section 7(2) - IGST

- 2) Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Levy of CGST/ SGST and IGST are governed by Section 8 of the draft GST Law and Section 5 of the draft IGST Law respectively

STOCK TRANSFER – VALUATION

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Valuation – Section 15

- 1) *The value of a supply of goods and/or services shall be the **transaction value**, that is the price actually paid or payable for the said supply of goods and/or services where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.*
- 4) *Where the value of the supply of goods or services cannot be determined under sub-section (1), the same shall be **determined in such manner as may be prescribed**.*

Draft GST Valuation Rules – Rule 3(5)

- 1)
- 2) *The “transaction value” shall be the value determined in monetary terms.*
- 4) *The transaction value shall be accepted even where the supplier and recipient of supply are related, provided that the relationship has not influenced the price.*
- 5) *Where goods are transferred from*
 - a) **one place of business to another place of the same business**
 - b) *the principal to an agent or from an agent to the principal, whether or not situated in the same State,*
the value of such supply shall be the transaction value.
- 6) *The value of supplies specified in sub-section (4) of section 17 of the Act shall be determined by proceeding sequentially through rules 4 to 6.*

STOCK TRANSFER TIME OF SUPPLY & CREDIT

Time of Supply – Section 12

- 2) The time of supply of services shall be the earlier of the following dates, namely:-
 - a) the date of issue of invoice by the supplier or the last date on which he is required, under section 28, to issue the invoice with respect to the supply; or
 - b) the date on which the supplier receives the payment with respect to the supply:

Input Tax Credit

- Credit of CGST/ SGST or IGST will be governed by normal provisions of credit under the act

There are no specific transition provisions with respect to stock transfer. However, stock transfer done before the appointed day should not be taxable under the Act

STOCK RETURNS & REJECTS

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Credit and Debit Notes – Section 31

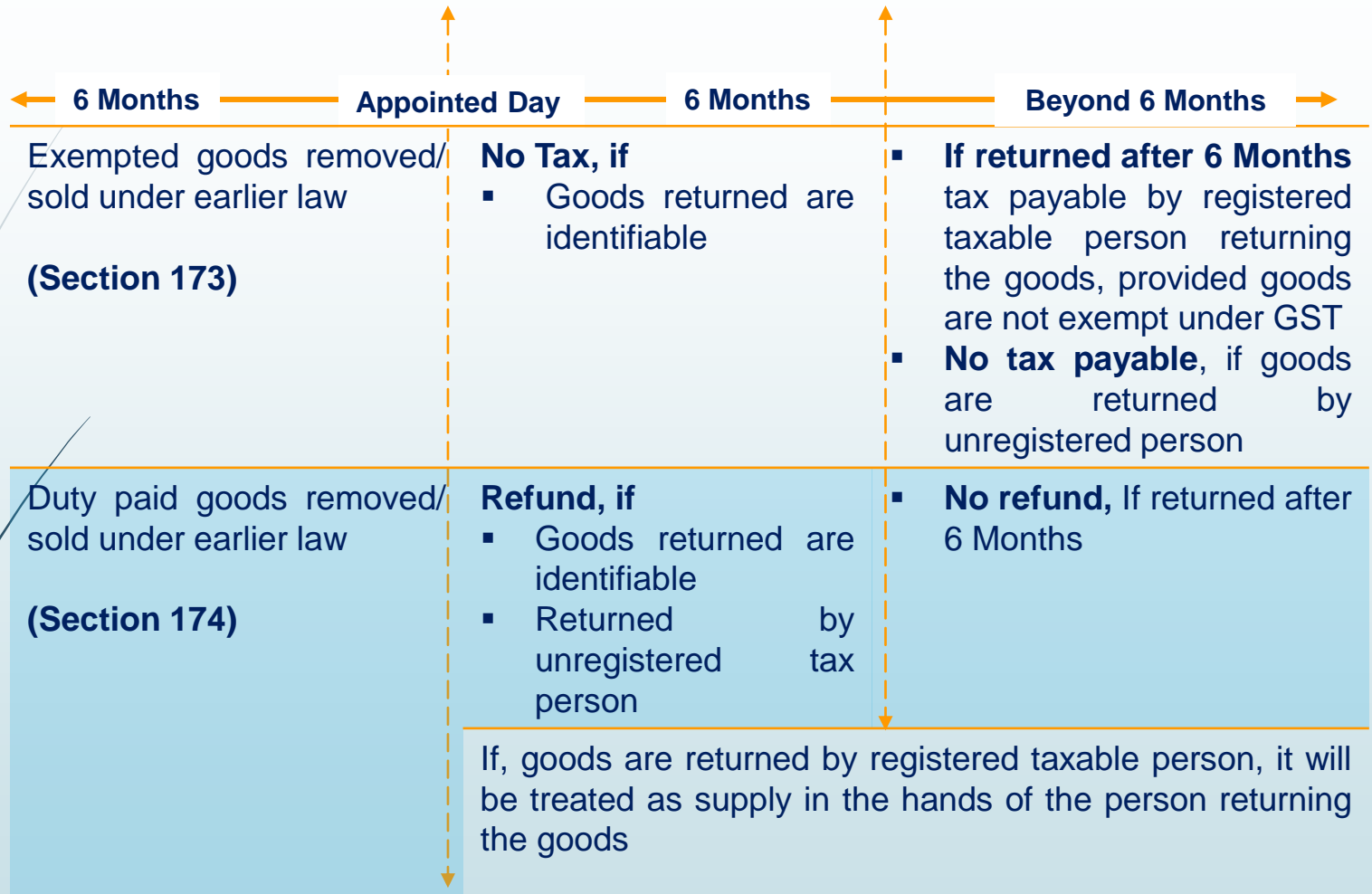
- (1) Where a **tax invoice** has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to **exceed the taxable value** and/or tax payable in respect of such supply, or where the goods supplied **are returned by the recipient**, or where services supplied are found to be deficient, the registered taxable person, who has supplied such goods and/or services, **may issue to the recipient a credit note** containing such particulars as may be prescribed.
- (2) Any **registered taxable person who issues a credit note** in relation to a supply of goods and/or services **shall declare the details of such credit note in the return for the month during which such credit note has been issued** but not later than September following the end of the year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in the manner specified in this Act:

*PROVIDED that **no reduction** in output tax liability of the supplier shall be permitted **if the incidence of tax and interest on such supply has been passed on to any other person.***

Adjustment of credit note amount permissible against output tax liability in terms of Section 38

TRANSITION PROVISIONS – SALES RETURN

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THANKS

For any Clarification, Please Contact
Indirect Taxes Committee of ICAI
Email: indtc@icai.in ; Website: www.indtc.icai.org
or <https://www.youtube.com/indirecttaxcommittee>