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## GST Transition Provisions and Challenges

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**Abstract :** GST is a significant reform in the field of indirect taxes in our country. Multiple taxes levied and collected by the Centre and States would be replaced by one tax called Goods and Services Tax (GST). GST is a multi-stage value added tax on consumption of goods or services or both.

As GST seeks to consolidate multiple taxes into one, it is very essential to have transitional provisions to ensure that the transition to the GST regime is very smooth and hassle-free and no ITC (Input Tax Credit)/benefits earned in the existing regime are lost. The transition provisions can be categorized under three heads (1) Relating to Input Tax Credit, (2) Continuance of existing procedures such as job work for a reasonable period without any adverse consequence under GST law and (3) All claims (pending as well as future) pertaining to existing laws filed before, on or after the appointed day.

There are several transition issues and implementation challenges being faced by the industry such as (1) Treatment of closing inventory (2) Adherence anti-profiteering provisions (3) Modification of IT systems to make them GST-compliant and (4) Intra-branch supply of services.

**Keywords:** GST transition provision, GST transition challenges.

### 1. GST Transition Provisions

GST is a significant reform in the field of indirect taxes in our country. Multiple taxes levied and collected by the Centre and States would be replaced by one tax called Goods and Services Tax (GST). GST is a multi-stage value added tax on consumption of goods or services or both. As GST seeks to consolidate multiple taxes into one, it is very essential to have transitional provisions to ensure that the transition to the GST regime is very smooth and hassle-free and no ITC (Input Tax Credit)/benefits earned in the existing regime are lost. The transition provisions can be categorised under three heads:

- I. Relating to Input Tax Credit
- II. Continuance of existing procedures such as job work for a reasonable period without any adverse consequence under GST law
- III. All claims (pending as well as future) pertaining to existing laws filed before, on or after the appointed day

#### I. Relating to Input Tax Credit:

Transitional arrangements for ITC Elaborate provisions have been made to carry forward the ITC

earned under the existing law. Such credit should be permissible under the GST law. However, the taxable person opting for composition scheme would not be eligible for carry forward of the existing ITC. ITC of various taxes under the existing laws (CENVAT credit, VAT etc.) would be carried forward as under:

#### (a) Closing balance of the credit in the last returns:

The closing balance of the CENVAT credit/VAT in the last returns filed under the existing law can be taken as credit in electronic credit ledger. Such credit would be available only when returns for the previous last six months have been filed under the existing law. In order to claim this credit, declaration in form GST TRAN 1 is required to be furnished on the common portal within ninety days from the appointed day i.e. the day on which the GST law would come into force.

#### (b) Un-availed credit on capital goods:

The balance installment of un-availed credit on capital goods credit can also be taken by filing the requisite declaration in the GST TRAN 1.

#### (c) Credit on duty paid stock:

A registered taxable person, other than the



manufacturer or service provider, may have duty paid goods in his stock on the appointed day. GST would be payable on all supplies of goods or services made after the appointed day. It is not the intention of the Government to collect tax twice on the same goods. Hence, in such cases, it has been provided that the credit of the duty/tax paid earlier would be admissible as credit. Such credit can be taken as under:

- Credit shall be taken on the basis of invoice evidencing payment of duty of excise or VAT
- Such invoices should be less than one-year old
- Declare the stock of duty paid goods within the prescribed time on the common portal

**(d) Credit on duty paid stock when Registered Person does not possess the document evidencing payment of excise duty/VAT:**

For traders who do not have excise or VAT invoice, there is a scheme to allow credit to them on the duty paid stock. The features of this scheme are as under:

- The scheme is operative only for six months from the appointed day. It is not available to manufacturer or supplier of service. It is available to traders only.
- Credit @ 60% on such goods which attract central tax @ 9% or more and @ 40% for other goods of GST paid on the stock cleared after the appointed day would be allowed. However, such goods should not be unconditionally exempted goods or taxed at nil rates under the existing law. It has also been provided that where integrated tax is paid on such goods; the amount of credit shall be allowed at @ 30% and 20% respectively of the said tax.
- Credit would be allowed after the GST is paid on such goods subject to the condition that the benefit of such credit is passed on to the customer by way of reduced prices.
- The statement of supply of such goods in each of the six tax periods has to be submitted.
- Stocks stored should be easily identifiable.

**(e) Credit relating to exempted goods under the existing laws which are now taxable:**

Input Tax Credit of CENVAT/VAT in respect of

input, semi-finished and finished goods in stock attributable to exempted goods or services which are now taxable can also be taken in the same manner.

**(f) Input/input services in transit:**

There might be a scenario where input or input services are received on or after the appointed day but the duty or tax on the same was paid by the supplier under the existing law. Registered person (RP) may take credit of eligible duties and taxes, provided the invoice has been recorded in the books within 30 days from the appointed day. The period can be extended by the Commissioner GST by another 30 days. A statement of such invoices has to be furnished. ISD can also distribute such credit.

**(g) Tax paid under the existing law under composition scheme:**

Those taxpayers who paid tax at fixed rate or fixed amount in lieu of the tax payable under the existing law but are working under normal scheme under GST can claim credit on their input stock, semi-finished and finished stock on the appointed date, subject to the following conditions:

- Such input stock used for taxable supply under this Act
- Registered Person is not covered under section 10 (composition scheme) of this Act
- Registered Person is eligible for ITC under this Act
- Registered Person is in possession of the invoice or other duty payment documents
- Such invoices are not more than twelve months old on the appointed day

**(h) ITC in case of Centralised Registration under service tax:**

Such Registered Person can take credit of the amount of CENVAT carry forwarded in return furnished under the existing law, if the original/revised return under the existing law has been filed within three months. Such credit may be transferred to any of the Registered Persons having the same PAN for which the centralised registration was obtained.

**(i) Reclaim the reversed Input Service credit:**

CENVAT credit reversed on account of non-payment of consideration within three months can be reclaimed if the payment is made to the supplier of service within 3 months from the appointed day

**(j) Where any goods or capital goods belonging to the principal are lying at the premises of the agent on the appointed day:**

This provision is specific to SGST law. In such cases, agent shall be entitled to take credit, subject to the following conditions:

- The agent is a registered taxable person
- Both the principal and the agent declare the details of stock
- The invoices are not older than twelve months
- The principal has either reversed or not been availed on the input tax credit

**II. Transition provisions relating to job work, goods returned/sent on approval etc.**

**(a) Job work**

Inputs, semi-finished goods or finished goods were sent to the job worker or any other premises without payment of duty/VAT under the existing law. No GST is payable by the job worker when such goods are returned by him within six months after the appointed day. The period can be extended by the Commissioner, GST by another two months.

If not returned within the prescribed period, then ITC shall be liable to be recovered from the principal as per second provision to section 141(1) of the Act. In addition, the job worker will have to pay the GST on such supplies. In case of semi-finished goods, the manufacturer may transfer the goods to premises of a Registered Person without payment of tax within the prescribed period. In case of finished goods, the manufacturer may transfer the goods on payment of tax or clear for export within the prescribed period.

**(b) Goods removed before 6 months of the appointed day but returned within 6 months from the appointed day:**

If such goods are returned by an unregistered

person, then refund of the duty/VAT paid under the existing law can be claimed.

If returned by a Registered Person, then the return of goods shall be treated as supply of goods (ITC can be claimed).

**(c) Goods sent on approval basis before 6 months of the appointed day but re-turned within 6 months from the appointed day:**

No tax is payable by the person returning the goods. Commissioner may extend the period by 2 months. If returned after that, tax is payable if the supply is taxable under GST (by the recipient). If not returned, tax is payable by the person who sent the goods on approval basis.

**(d) TDS deducted in VAT:**

Where a supplier has made any sale of goods, and tax was required to be deducted under VAT Act, and invoice was issued before the appointed day, however, the payment was made on or after the appointed day. In such cases, no TDS under GST is to be deducted.

**(e) Price revision in respect of existing contracts:**

In case of upward price revision, a registered person will issue a supplementary invoice or debit notes within 30 days from the date of revision and such revision shall be treated as supply under GST, and tax is payable under this Act.

In case of downward revision, Registered Person may issue credit note within 30 days from such revision and credit note shall be deemed to have been issued in respect of outward supply made under this Act. A Registered Person will reduce his tax liability for such credit note, subject to reversal of credit by the recipient.

**III. Proceedings under the existing laws:**

GST law would become operational w.e.f. the appointed day and existing laws would be repealed. Elaborate provisions have been made to save the pending as well future claims relating to existing law made before, on or after the appointed day. Such proceedings may pertain to refund claims of CENVAT credit/VAT or export related rebate or service tax, and the



proceedings may either result in recovery of tax or refund.

All such cases would be disposed of under the existing law. If any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse. Refund of CENVAT credit shall be paid in cash. There will be no refund of CENVAT if already carry forwarded. If any amount becomes recoverable, the same shall be recovered as arrear of tax under GST Act.

Statutory provisions relating to transition are contained in chapter XX (section 139 to 142) of the GST law and the transition rules available at department website [www.cbec.gov.in](http://www.cbec.gov.in) may be referred.

## **2. GST Transition Challenges**

There are several transition issues and implementation challenges being faced by the industry:

- Treatment of closing inventory
- Adherence anti-profiteering provisions
- Modification of IT systems to make them GST-compliant
- Intra-branch supply of services

### **I. Treatment of closing inventory:**

There is significant apprehension about the treatment of closing inventory—especially in sectors such as textile, pharmacy, fast-moving consumer goods, medical equipment, etc., which may lead to lower off take of products, affecting the industry badly. The absence of transition provisions relating to capital goods in transit on 1 July is also a big challenge for industries.

### **II. Adherence anti-profiteering provisions:**

The government has issued press releases for the telecom and real estate sectors, with an instruction to reduce the prices. However, on the ground, industry is finding it difficult to identify the quantum of benefit in the absence of specific guidelines on the anti-profiteering provisions. Though the intent is to pass on the benefit to the trader/consumer, the continuing lack of clarity has become a key challenge for industry. The mechanism to be followed for price reduction with respect to pre-

printed maximum retail price/retail sale price products is an unknown mystery. The anti-profiteering rules released by the GST council, however, do not address these challenges—including the manner of computation of profiteering, whether the anti-profiteering investigation is to be done at the product or service level, etc.

### **III. Modification of IT systems to make them GST-compliant:**

IT teams across industries are burning the midnight oil to make changes in their IT systems. Incorporating the recent changes in the reporting of returns is an additional challenge when it comes to being GST-ready. The multiplicity of rates, decentralized registration, generation of item-wise invoice with multiple copies, calculation of item-wise GST for multiple slab rates, and printing of such invoices containing numerous details, have increased the implementation challenge. Lack of clarity on the computation of the customs education cess has left both consultants and companies grasping for clarity.

The generation of self-invoices and issuance of payment vouchers for purchase from unregistered dealers has added a layer of complexity to compliance under the GST regime. While the implementation of the electronic way bill has been deferred, it is expected that this will be issued in some modified form. The requirement of issuing an electronic way bill for every movement of consignments in excess of Rs50,000, and meeting the validity period for each such way bill, is expected to burden the industry's logistics and supply chain. Also, the limitation on issuance of a single credit note for annual discounts and generation of triplicate invoice, especially where there is no transporter involved, is an added challenge.

### **IV. Intra-branch supply of services:**

There is lack of clarity on determining the intra-branch services, transaction with employees, its valuation, and situations in which they have to comply with input service distributor provisions. The determination of location of the recipient in the case of a multi-location company and the corresponding place of supply adds to the complexity. The treatment of unbilled revenue for ongoing construction contracts for setting up a factory/plant, and whether such contracts are to be classified

as work contracts of immovable property, has emerged as a challenge for the EPC (engineering, procurement, construction) contractor.

### Conclusion:

Businesses that do not take care in the initial period would face disputes/ demands after 3-4 years of frustration during audit, as they do not have any reconciliation, evidence to prove compliance in the transitional phase. Effective GST transition could result in capturing new customers, safeguarding the present market as well as to protect the present margins. While it is true that *'Every challenge is an opportunity'*, in early study and for smooth transition, the saying *'a stitch in time saves nine'* is also important.

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