

Goods and Service Tax



Day 5



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Day 5 Session II

Transitional Provisions



Transitional Provisions and Rules

Chapter XX - Section 139 to 140
Transition Rules (Rule 117 to 121)
Transition Formats (Tran 1 and Tran 2)

Transitional Provisions (Section 139)

Every **registered person** under the existing laws with valid PAN shall be issued a certificate of **registration on provisional basis**.

which unless replaced by a final certificate of registration shall be liable to be cancelled if the conditions prescribed are not complied with.

The **final certificate of registration** shall be granted **GST REG 06**.

The certificate of registration issued to a person under sub-section (1) shall be **deemed to have not been issued if the registrant file GST REG 29 at GSTN within 30 days**.

Person holding provisional certificate of registration need to file **REG-26 within a period of three months**.

Transitional Provisions (Section 140)

- Amount of **CENVAT/VAT/ENTRY TAX** credit carried forward **in a return** to be allowed **as input tax credit**.
 - Provided said amt. is also admissible as ITC under GST.
 - Furnished all returns required under existing law for immediate six months
 - ITC does not relates to goods manufactured and cleared under exemption notification.
- **Unavailed cenvat/ input tax credit on capital goods**, not carried forward in a return, to be allowed as ITC under GST.
 - Provided said amt. was admissible as CENVAT under existing law.
 - Provided said amt. is also admissible as ITC under GST.

GSTR TRAN-1 to be submitted electronically **within 90 days**.

Transitional Provisions (Section 140)

- Credit of eligible duties and taxes **in respect of inputs held in stock** to be allowed in certain cases.

A Registered taxable person,

- not liable to register under earlier law
- engaged in manufacturing of exempted goods / provision of exempted services
- providing work contract services and availing benefit of Noti 26/2012-Service Tax dated 20/06/2012.
- First stage or second stage dealer
- Registered Importer or depot of manufacturer

shall be entitled to ITC in respect of inputs held in stock/WIP/FG held in stock on the appointed day.

Provided

- such input are used for making taxable supplies under GST
- **posses Invoice as duty paying doc issued not earlier than 12 months**
- *benefit passes as reduced prices to the recipient.*

- Anti profiteering Clause Section 171

Transitional Provisions (Section 140)

- If 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, be allowed to take credit at such rate and in such manner as may be prescribed

Such credit shall be allowed at **the rate of 60%** of the central tax applicable (if GST rate on Supply is more than 18%) on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid.

Such credit shall be allowed at **the rate of 40%** of the central tax applicable (if GST rate in less than 18%) on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid.

The scheme shall be available for 6 tax periods from appointed date.

GST TRAN-2 to be filed electronically for all six tax periods

Transitional Provisions -Section 140(5)

- Credit of eligible duties and taxes in respect of inputs or input services during **transit (on or after appointed day)** but the duty or **tax paid under the existing law**, subject to condition that
Invoice / other duty paying document was **recorded in the books of accounts within 30 days** from the appointed day.
- Credit of **VAT [and entry tax]** in respect of inputs received on or after appointed day but the **tax paid under earlier / existing law**, subject to condition that
Invoice / other duty paying document was received or **recorded in the books of accounts within 30 days** from the appointed day.

Transitional Provisions -Section 140(6)

- Credit of eligible duties and taxes on inputs held in stock /WIP / FG to be allowed to a taxable **person switching over from composition scheme** subject to following conditions..
 - Used or intended to be used for making taxable supplies under GST
 - Also eligible ITC on such goods under GST
 - Is in possession of Invoice and/or other duty paying documents
 - Invoice / other duty paying documents were issued not earlier than 12 months immediately preceding the appointed day.

Section 140(9)

- **Reclaiming CENVAT credit** (for input services) reversed **due to non-payment of consideration** within a period of 3 months, can be **reclaimed on payment** of the consideration for that services **within 3 months from the appointed day.**

Transitional Provisions -Section 140(8)

- Provision for transfer of **unutilized CENVAT Credit** by taxable person **having centralized registration** under the earlier law

Such person shall be **allowed** to take credit of **CENVAT carried forward in a return** furnished under the earlier law

Provided if he **files his return within 3 months of the appointed day**, such credit shall be allowed subject to the condition that the said return is **either original or a revised where the credit has been reduced**.

Provided said amt. is also admissible as ITC under GST

Such credit may be transferred to any of the registered person having same PAN (Input Service Distributor)

Transitional Provisions

- **Duty / Tax paid goods removed not earlier than 6 months** prior to the appointed day are **returned to (within 6 months from the appointed day)** to the place of business on or after the appointed day

Refund of duty paid under earlier law, where such goods are returned by a person, other than a registered taxable person and such goods are identifiable to the satisfaction of the proper officer.

If goods are returned by a registered taxable person the return shall be deemed to be a supply.

- **Input / Semi Finished Goods/ Finished Goods removed for job work or testing and returned on or after the appointed day**

No tax shall be payable if such inputs are **returned within 6 months** from the appointed day.

provided manufacturer and job worker declare the details of **inputs held in stock by the job worker on behalf of manufacturer** on the appointed day.

Transitional Provisions

- Issue of **supplementary invoices**, debit or credit notes where **price is revised upward on or after appointed day**, in pursuance of a contract, within 30 days of price revision and shall be **deemed to have been issued under GST**.
- In case of **downward revision, only if recipient** of invoice / credit note has **reduced his ITC** corresponding to such reduction of tax liability.
- **Pending refund claims** to be disposed of under **earlier law**.
- **Refund** claims filed **after the appointed day** for **goods cleared or services provided before the appointed day** and exported before or after appointed day to be disposed of under **earlier law**.
- **Refund** claims filed **after the appointed day** for payment received and tax deposited before the appointed day **in respected of services not provided** shall be disposed of in accordance with provisions of **earlier law**.

Transitional Provisions

- Every **proceeding of appeal, revision, review relating to claim for CENVAT credit / ITC initiated whether before , on or after the appointed day under the earlier law** shall be disposed of in accordance with earlier law and

If any amt of credit found to be **admissible** to the claimant, shall be **refunded** to him **in cash** and same shall not be admissible as ITC under GST.

If any credit becomes **recoverable**, the same shall be recovered as an arrear of tax **under GST** and the amt so recovered shall not be admissible as ITC under GST.

- Same in case of output duty or tax liability

If Recovery – shall be recovered **as an arrear under GST** with no ITC admissible

If Refund – shall be **refunded in cash** with no ITC admissible

Transitional Provisions

- **Treatment of the amount recovered or refunded in assessment or adjudication** proceedings instituted before , on or after the appointed day under the earlier law
 - If Recovery** – shall be recovered as an arrear under **GST** with no ITC admissible
 - If Refund** – shall be **refunded in cash** with no ITC admissible
- Treatment of the amount recovered or refunded pursuant to **revision of returns**
 - If Recovery** – shall be **recovered as an arrear** under GST with no ITC admissible
 - If Refund** – shall be **refunded in cash** with no ITC admissible
- Treatment of **long term construction / work contract**

Any supply (goods/services) **after appointed day** shall be liable to tax **under GST**.

Transitional Provisions

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

No CGST shall be levied on

1. Goods: to the extent VAT was levied

2. Service: to the extent Service Tax was leviable on the said service.

Eg: Adv of Rs 1 Lacs recd and tax levied. Inv of Rs. 1.5 Lacs issued after appointed date. GST leviable on Rs. 50K only.

3. Where VAT & Service Tax both were paid (Construction / Work contract etc.)

Tax leviable under GST but credit of VAT and/or Service Tax allowed to taxable person

- Taxability of Supply of Goods / Services in Certain Cases

If **point of taxation before** the appointed day - **under earlier law**

if **point of taxation after** the appointed day- **under GST**

- ITC on account of any service received prior to the appointed day by an **ISD** shall be **eligible for distribution as credit under GST** even if the invoice(s) relating to such services is received on or after the appointed day.

Transitional Provisions

- **Tax paid on goods/ capital goods lying with agents to be allowed as credit.**
 - i. Agent is a registered taxable person under GST.**
 - ii. Both principal and agent declare goods lying with agent.**
 - iii. Invoices are issued not earlier than 12 months**
 - iv. The principal has either reversed / not availed of ITC on such goods.**
- **Treatment of branch transfer**

Any ITC reversed prior to the appointed day shall not be admissible as credit of input tax under GST.
- **Goods sent on approval basis returned (being rejected) on or after the appointed day**

No Tax payable if returned within 6 months.

TRANSITIONAL RULES (Rule 117 to 121)

Duty credit carried forward under existing law or on goods held in stock

(1) Every registered person entitled to ITC under section 140 shall, within 90 days, submit an application electronically in FORM **GST TRAN- 1**, duly signed, on the Common Portal specifying therein, separately, the amount of tax or duty to the credit of which the said person is entitled under the provisions of the said section:

Provided that where the inputs have been received from an EOU or a unit located in Electronic Hardware Technology Park, the credit shall be allowed to the extent as provided in rule 3 (7) of the CENVAT Credit Rules, 2004: **[this proviso only in CGST rules]**

- CENVAT credit in respect of inputs or capital goods produced by 100% EOU or by a unit in an EHTP or in a STP other than a unit which pays excise duty levied u/s 3 of the Excise Act read with serial numbers 3,5, 6 and 7 of notification No. 23/2003-Central Excise, dated the 31st March, 2003, shall be admissible equivalent to the amount calculated in the following manner, namely:-

50% of X multiplied by $\{(1+BCD/100)\}$ multiplied by $(CVD/100)$,

X denotes the assessable value.

TRANSITIONAL RULES (Section 139 to 142)

Duty credit carried forward under existing law or on goods held in stock

Provided in the case of a claim u/s 140(1), the application shall specify separately—

(i) the value of claims under section 3, section 5(3), sections 6 and 6A and section 8(8) of the CST Act, 1956 made by the applicant during the FY relating to the relevant return, and

(ii) the serial number and value of declarations in Forms C and/or F and Certificates in Forms E and/or H or Form I specified in rule 12 of the CST (Registration and Turnover) Rules, 1957 submitted by the applicant in support of the claims referred to in sub clause (i) above;

[this proviso only in SGST rules]

TRANSITIONAL RULES (Section 139 to 142)

Duty credit carried forward under existing law or on goods held in stock

(2).Every application under sub-rule (1) shall:-

(a) in the case of a claim u/s140(2), specify separately the following particulars in respect of every item of capital goods as on the appointed day-

(i) the amount of tax/duty **availed/utilized** as ITC under each laws and

(ii)the amt of duty/tax **yet to be availed/utilized** as ITC under each laws;

(b) in the case of a claim under subsection (3), or (4)(b)/(6)/(8)/(9) of Section 140 shall specify separately details of stock held on the appointed day;

TRANSITIONAL RULES (Section 139 to 142)

Duty credit carried forward under existing law or on goods held in stock

(c) in the case of a claim under sub-section (5), shall furnish the following details—

(Credit in case of input or input services during transit)

(i) the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which ITC was admissible under the existing law,

(ii) the description, quantity and value of the goods or services

(iii) the amount of eligible taxes/duties, the value added tax /entry tax charged by the supplier in respect of the goods or services,

(iv) the date on which the receipt of goods/services is entered in the books of account of the recipient.

3. The amount of credit specified in the application in FORM GST TRAN-1 shall be credited to the electronic credit ledger of the applicant maintained in FORM GST PMT-2 on the Common Portal.

TRANSITIONAL RULES (Section 139 to 142)

Duty credit carried forward under existing law or on goods held in stock

(4) (a) (i) A registered person, who was not registered earlier, availing credit as per section 140(3) shall be allowed to avail ITC on stock on the appointed day in respect of which he is not in possession of any document evidencing payment of central excise duty.

(ii) Such credit shall be allowed at **the rate of 60%** (if such goods attract CGST @9% or more) **or 40%** (for other goods) 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.

(iii) The scheme shall be available for 6 tax periods from appointed date

TRANSITIONAL RULES (Section 139 to 142)

Duty credit carried forward under existing law or on goods held in stock

- 4(b) Such credit subject to satisfying the following conditions, namely,-
- (i) Such goods were not wholly exempt from duty or were not nil rated.
 - (ii) Document for procurement is available with the Registered person.
 - (iii) Registered person availing this scheme and having furnished the details of stock held by him in accordance with the provisions of rule 1(2)(b), submits a statement in FORM GST TRAN -- at the end of each of 6 tax periods indicating details of supplies of goods effected during tax period.
 - (iv) The amt of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in FORM GST PMT-2 on the Common Portal.
 - (v) The stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.
- (In CGST Rules)**

TRANSITIONAL RULES (Section 139 to 142)

Duty credit carried forward under existing law or on goods held in stock

Similar provision in SGST

(4) (a) (i) A registered person, holding stock of goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State availing credit as per section 140(3) shall be allowed to avail ITC on goods held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of VAT.

(ii) Such credit shall be allowed at the **rate of 40%** of the State tax applicable on supply of such goods after the appointed date and shall be credited after the State tax payable on such supply has been paid.

(iii) The scheme shall be available for **6 tax periods** from the appointed date.

TRANSITIONAL RULES (Section 139 to 142)

Duty credit carried forward under existing law or on goods held in stock

Similar provision in SGST

4 (b) Such credit subject to satisfying the following conditions, namely,-

- (i) Such goods were not wholly exempt from tax under the Value Added Tax Act,.....
- (ii) Procurement document of such goods is available with the registered person.
- (iii) Registered person availing this scheme and having furnished the details of stock held by him as per rule 1(2)(b), submits a statement in FORM GST TRAN--- at the end of each 6 tax periods during which the scheme is operational indicating details of supplies of such goods effected during the tax period.
- (iv) The amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in FORM GST PMT-2 on the Common Portal.
- (v) The subject stock of goods is easily identified by registered person.

TRANSITIONAL RULES (Section 139 to 142)

Duty credit carried forward under existing law or on goods held in stock

118. Declaration to be made under section 142(11)(C)-

Every person to whom the provision of clause (c) of sub-section (11) of section 142 applies, shall within a period of ninety days of the appointed day, submit a declaration electronically in FORM GST TRAN-1 furnishing the proportion of supply on which Value Added Tax or service tax has been paid before the appointed day but the supply is made after the appointed day, and the Input Tax Credit admissible thereon.

119. Declaration of stock held by a principal

Every person to whom the provisions of section 141 apply shall, **within 90 days** of the appointed day, submit an application electronically in FORM GST TRAN-1, specifying therein, the stock / capital goods held by him on the appointed day details of stock / capital goods held by him as a principal at the place/places of business of his agents/branch, separately agent-wise / branch-wise.

TRANSITIONAL RULES (Section 139 to 142)

Duty credit carried forward under existing law or on goods held in stock

120. Details of goods sent on approval basis

Every person having sent goods on approval under the earlier law and to whom section 142(12) applies shall, **within 90 days** of the appointed day, submit details of such goods sent on approval in FORM GST TRAN-1.

121. Recovery of credit wrongly availed

The amount credited under rule 1(3) may be verified and proceedings under section 73 or, as the case may be section 74 shall be initiated in respect of any credit wrongly availed, whether wholly or partly.

Form GST TRAN – 1

Transitional ITC / Stock Statement

1. GSTIN –
2. Legal name of the registered person –
3. Trade Name, if any –
4. Whether all the returns required under existing law for the period of six months immediately preceding the appointed date have been furnished:-
Yes/No
5. Amount of tax credit carried forward in the return filed under existing laws:
(a) Amount of Cenvat credit carried forward to electronic credit ledger as central tax (Section 140(1) and Section 140(4)(a))

Sl. no.	Registration no. under existing law (Central Excise and Service Tax)	Tax period to which the last return filed under the existing law pertains	Date of filing of the return specified in Column no. 3	Balance cenvat credit carried forward in the said last return	Cenvat Credit admissible as ITC of central tax in accordance with transitional provisions
1	2	3	4	5	6
	Total				

Form GST TRAN – 1

Transitional ITC / Stock Statement

(b) Details of statutory forms received for which credit is being carried forward

Period: 1st Apr 2015 to 30th June 2017

TIN of Issuer	Name of Issuer	Sr. No. of Form	Amount Applicable	VAT Rate
C-Form				
Total				
F-Form				
Total				
H/I-Form				
Total				

Form GST TRAN – 1

Transitional ITC / Stock Statement

(b) Amount of unavailed input tax credit carried forward to electronic credit ledger as State/UT tax

(For all registrations on the same PAN and in the same State)

Sr. no	Invoice / Document no.	Invoice / document Date	Supplier's registration no. under existing law	Recipients' registration no. under existing law	Details regarding capital goods on which credit is not availed		Total eligible VAT [and ET] credit under existing law	Total VAT [and ET] credit availed under existing law	Total VAT [and ET] credit unavailed under existing law (admissible as ITC of State/UT tax) (8-9))
					Value	Taxes paid VAT [and ET]			
1	2	3	4	5	6	7	8	9	10
		Total							

Form GST TRAN – 1 Transitional ITC / Stock Statement

7.Details of the inputs held in stock in terms of sections 140(3), 140(4)(b) and 140(6).

(a) Amount of duties and taxes on inputs claimed as credit excluding the credit claimed under Table 5(a) and 7(a)

Sr. no.	Details of inputs held in stock or inputs contained in semi-finished or finished goods held in stock				
	HSN (6 digit)	Unit	Qty.	Value	Eligible Duties paid on such inputs
1	2	3	4	5	6
7A Where duty paid invoices or any other document are available					
Inputs					
Inputs contained in semi-finished and finished goods					
7B Where duty paid invoices are not available (Applicable only for person other than manufacturer or service provider) – Credit in terms of Rule 1 (4)					
Inputs					

Form GST TRAN – 1 Transitional ITC / Stock Statement

(c) Stock of goods not supported by invoices/documents evidencing payment of tax (credit in terms of rule 1 (4)) (To be there only in States having VAT at single point)

Details of inputs in stock				
Description	Unit	Qty.	Value	Tax paid
1	2	3	4	5

Form GST TRAN – 1 Transitional ITC / Stock Statement

9. Details of goods sent to job-worker and held in his stock on behalf of principal
 Details of goods sent as principal to the job worker under section 141

Sr. No.	Challan No.	Challan date	Type of goods (inputs/ semi-finished/ finished)	Details of goods with job- worker				
				HSN	Description	Unit	Quantity	Value
1	2	3	4	7	8	9	10	11
GSTIN of Job Worker, if available								
Total								

b. Details of goods held in stock as job worker on behalf of the principal u/s 141

Sr. No.	Challan No.	Challan date	Type of goods (inputs/ semi-finished/ FG)	Details of goods with job- worker				
				HSN	Description	Unit	Quantity	Value
1	2	3	4	7	8	9	10	11
GSTIN of Manufacturer								
Total								

Form GST TRAN - 2

5. Credit on State Tax on the stock mentioned in 4 above
(To be there only in States having VAT at single point)

Opening stock for the tax period			Outward supply made				Closing balance
HSN (at 6 digit level)	Unit	Qty.	Qty.	Value	State Tax	ITC allowed	Qty.
1	2	3	4	5	6	7	8



Question *n* Answer Session



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Thank You

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