

Dhiren Shah & Co.

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# Background- Model GST Law

# **GST- Concept** - Dhiren Shah & Co

- ❑ GST is a stage wise - destination based – consumption tax. It is a single comprehensive tax levied and collected on value addition at each stage of sale or purchase of goods or supply of services based on input credit method but without state boundaries.**
- ❑ Uniform single tax across the supply chain and it encourages an unbiased tax structure that is neutral to business processes, business models, organization structure, product substitutes and geographical locations.**

# Impact Of GST On Implementing Countries

Questions	New Zealand	Canada (Dual) (India has adopted the Canadian model)	Australia	Thailand
Year of Introduction	1986	1991	2000	1992
Model of GST	Single	Dual	Single	Single
Standard GST Rate	15%	5 to 15%	10%	7%
GDP Growth	YES	NO	NO	NO
Did Inflation fall	YES	YES	YES	YES
Did the tax to GDP ratio increase	YES	YES	YES	YES
Was the ruling party re-elected post GST?	NO	NO	NO	NO

# Understanding GST Impact Through An Example

PARTICULARS	CURRENT SCENARIO	GST
Base price of Goods (Manufacturer)	1,00,000	1,00,000
ADD: Excise / CGST	12,500	9,000
ADD: VAT / SGST	16,875	9,000
Total Sale Value	1,29,375	1,18,000
LESS: Input Tax Credit	<b>16,875</b>	<b>18,000</b>
Landed Cost (Distributor / Dealer)	1,12,500	1,00,000
Value Addition (Distributor / Dealer)	10,000	10,000
Basic Sale Value	1,22,500	1,10,000
ADD: VAT / SGST	18,375	19,800
Cost to end Customer	1,40,875	1,29,800
Differential Savings due to tax		11,075
Percentile Savings on Manufacturer's price		11.07%

# MAKE IN INDIA versus IMPORT INTO INDIA

Particulars	Make in India	Import
Base Price of Goods (Including Profit)	1,00,000	1,00,000
ADD: N.A. / BCD + Cess	0	<b>8,000</b>
ADD: GST / IGST	18,000	19,440
Total Sale Value	1,18,000	1,27,440
Less: Input Tax Credit	18,000	<b>19,440</b>
Landed Cost: (Distributor / Dealer)	1,00,000	1,08,000
Value Addition (Distributor / Dealer)	10,000	10,000
Basic Sale Value	1,10,000	1,18,000
ADD: GST	19,800	21,240
Cost to End Customer	1,29,800	1,39,240
Differential Tax outflow		9,440

❑ Note: Importing will become beneficial, if Import price is lesser by just 8% (to the extent of BCD and CESS)

# GST Nature

## PRESENT SCENARIO

- Excise Duty – Manufacturing of Goods
- VAT/CST – Sale of Goods
- Service Tax – Provision of Service
- Import Duty – Goods imported outside of India
- Export Duty – Duties, Cesses, Taxes cannot be exported

## FUTURE SCENARIO

- Central GST and / or State GST – Intra-state Supply of Goods and Services
- IGST and ~~1% additional tax on SS of Goods~~ – Inter-state Supply of Goods and Services
- BCD and IGST (in place of CVD and SAD) – Imports
- Zero Rated – Exports

# Concepts of CGST, SGST and IGST

◆SGST: A State Goods and Service Tax levied on all intra – State supplies of goods and / or services at the rate specified in the Schedule to the Act and collected in such manner as may be prescribed. The revenue collected under SGST is for State Government.

◆CGST: A Central Goods and Service Tax levied on all intra – State supplies of goods and / or services at the rate specified in the Schedule to the Act and collected in such manner as may be prescribed. The revenue collected under CGST is for Central Government.

◆IGST: Under Article 269A of the Constitution, an Integrated Goods and Service Tax is levied on all supplies of goods and / or services made in the course of inter – State trade or commerce at the rate specified in the Schedule to the Act and collected in such manner as may be prescribed. The same shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

# Applicable GST Rate Structure

SGST+ CGST Total Rate %	Goods and Services
Zero Rated	This will be applicable for 50% goods falling under Consumer Price Index including food grains.
5%	It will be levied on essential foods items and goods that are commonly used. This will include the goods most used by people
12%	It is a standard slab rate
18%	The goods that are not included in the above rates will be taxed at 18%
28%	The rate will be levied on luxurious goods such as washing machines, air conditioners, cars etc

Note: Further, the Central Government has given power to State Government to levy 2% extra or lower tax over and above the rate of SGST



# Status Of Central Levies

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## TO BE MERGED

- Excise Duty
- Service Tax
- CVD/SAD
- Central Sales Tax

## NOT TO BE MERGED

- Customs Duty

# Status Of State Levies

## TO BE MERGED

- State VAT
- Entry/Purchase Tax
- Octroi/LBT
- Luxury/Entertainment Tax

## NOT TO BE MERGED

- Lottery
- Betting and Gambling Tax
- Property Tax
- Stamp Duty
- Professional Tax
- Municipalities / Panchayat will retain right to levy taxes.

# GSTN – SPV

- ❑ Special Purpose Vehicle (GSTN-SPV) has been set up to create enabling environment for smooth introduction of GST.
- ❑ It will provide IT infrastructure, services to various stakeholders including the Centre and State.
- ❑ It is strategically controlled by the Government due to sensitivity of role and information that will be available with them.
- ❑ GSTN – SPV is a not – for – profit, non-government, private limited company with 49% equity held by the Govt. And 51% equity held by the non-Government institutions.

# Role of GSTN – SPV

The SPV will be responsible for

- Providing common PAN based registration
- Enable returns filing and payment processing for all States on a shared platform
- Integration of common GST portal with existing tax administration systems of Central /State Govt.

# SUPPLY

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- For consideration & for business – sale, **barter**, transfer, **exchange**, license, rental, lease and disposal
  
- Whether or **not** for consideration or business – Importation of service
  
- Supply without consideration –
  - a: Permanent transfer / disposal of business assets
  - b: Temporary application of business assets to a private or non-business use
  - c: Services put to a private or non-business uses
  - d: Assets retained after deregistration
  - e: Supply of goods and / or services by a taxable person to another taxable or non-taxable person in course of business
  - f: Services provided by an Aggregator under his own brand name

# GOODS Vs. SERVICE

## Goods

- Transfer in title in goods
- Supply of goods by unincorporated association of body to their members for consideration
- Transfer of business assets except transfer made for the private use with or without consideration

## Services

- Transfer of goods without transfer in title thereof
- Transfer of business assets for private use with/without consideration
- Lease, tenancy, license to occupy land
- Lease or letting out of commercial or residential building
- Treatment or process which is applied to another person's goods
- Declared list of service

# Time of Supply: Goods & Services

Time of Supply	Goods	Services
Normal Supply	<p>Earliest of –</p> <ul style="list-style-type: none"> <li>-Date of removal of goods</li> <li>-Date on which goods made available to recipient</li> <li>-Date of issue of invoice/receipt of payment</li> <li>- Date on which receipt is shown by recipient in his books</li> </ul>	<p>Invoice within time – Earlier of issue of invoice or receipt of payment</p> <p>Invoice not within time – Earlier of completion of service or receipt of payment</p> <p>Other than above – Date of receipt in books of recipient</p>
Continuous Supply	<ul style="list-style-type: none"> <li>-Date of expiry of successive payment/statement</li> <li>-If no successive account then earliest of –                             <ul style="list-style-type: none"> <li>➤ date of issue of invoice</li> <li>➤ date of receipt of payment</li> </ul> </li> </ul>	<p>Due date of payment is ascertainable – Date on which payment is liable to made irrespective of invoice or payment</p> <p>Due date of payment is not ascertainable – Earlier of payment or invoice</p> <p>Payment linked to completion of event – Time of completion</p>
Reverse Charge	<p>Earliest of –</p> <ul style="list-style-type: none"> <li>➤ Date of receipt of goods</li> <li>➤ Date of Payment</li> <li>➤ Date of receipt of invoice</li> <li>➤ Date of debit in books of accounts</li> </ul>	<p>Earliest of –</p> <ul style="list-style-type: none"> <li>➤ Date of receipt of service</li> <li>➤ Date of Payment</li> <li>➤ Date of receipt of invoice</li> <li>➤ Date of debit in books of accounts</li> </ul>
Goods sent on Approval (JANGAD)	<p>Earliest of :</p> <ul style="list-style-type: none"> <li>➤ Time of Supply when it is known</li> <li>➤ 6 months from date of removal</li> </ul>	N A
Others	N A	Date of filing of return OR Date on which CGST / SGST is paid

## Place of Supply of Goods

Sr. No.	Scenario	Place of Supply
1	Movement of goods	Place where movement of goods terminate
2	Supply on direction of Agent	Location of such agent
3	Supply without movement	Location of goods at time of delivery to recipient
4	Supply on Board Conveyance	Location at which goods are taken on board
5	Others	As per law of Parliament based on Council's suggestion



# Place of Supply of Services

Sr. No.	Scenario	Place of Supply
1	General Provision	- Supply to Registered Person : Location of such person - Supply to any other Person : Location of recipient of services where the address is on record, and in other cases location of supplier of service
2	Immovable Property	- Location of such Property
3	Restaurant, Personal Grooming, Fitness, etc	- Location where the services are performed
4	Training service, Transportation of goods including mail & courier	- Where supplied to a registered person, location of such person - Any other person, location where services are performed
5	Admission to a cultural, sporting event etc.,	- Location where event is actually held
6	Organization of a cultural, sporting event etc.,	- Supply to Registered Person : Location of such person - Supply to any other Person : Location where event is held

## Place of Supply of Services (contd.)

7	Goods Transportation Service	<ul style="list-style-type: none"> <li>- Supply to Registered Person : Location of such person</li> <li>- Supply to any other Person : Location where goods are handed over for their transportation</li> </ul>
8	Passenger Transportation Service	<ul style="list-style-type: none"> <li>- Supplied to Registered Person : Location of such person</li> <li>- Supply to any Person : Location from where the passenger embarks on the conveyance</li> </ul>
9	Services provided on board a conveyance	<ul style="list-style-type: none"> <li>- Location of first scheduled point of departure of that conveyance</li> </ul>
10	Telecommunication services, including data transfer, broadcasting, DTH	<ul style="list-style-type: none"> <li>- Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed</li> <li>- For mobile connection for telecommunication and internet services:                             <ul style="list-style-type: none"> <li>Post paid basis : Location of billing address of the recipient</li> <li>Pre paid basis through a voucher : Location where such pre – payment is received / vouchers are sold</li> </ul> </li> </ul>
11	Banking & Other Financial Services	<ul style="list-style-type: none"> <li>- Account linked services : Location of recipient</li> <li>- Non Account linked services : Location of supplier</li> </ul>
12	Insurance Services	<ul style="list-style-type: none"> <li>- Supplied to Registered Person : Location of such person</li> <li>- Supply to any other Person : Location of the recipient of services on record of supplier</li> </ul>

# Valuation Of Supply:

## Rule 3 – Transaction Value:

**VALUE of SUPPLY = TRANSACTION VALUE, s. to.  
Unrelated Parties  
Price is sole consideration.**

Shall include -

- Amount paid by recipient instead of supplier and not included in price
- Value of goods / services supplied by the recipient free of charge or at reduced cost
- Royalties and License fees related to and as a condition to supply
- Taxes and duties other than GST
- Incidental costs/ expenses (such as commission, packing, royalties etc.)
- Subsidies linked to the supply
- Reimbursable expenses incurred on behalf of the supplier
- Discount or incentive allowed after the supply

# Valuation Of Supply (Contd.)

## **Rule 3:**

### **Transaction Value –**

Shall not include:

- Post supply discount known before supply and linked to invoices
- Any discount allowed before or at the time of supply as recorded in invoice

### **Transaction value accepted in following scenarios:**

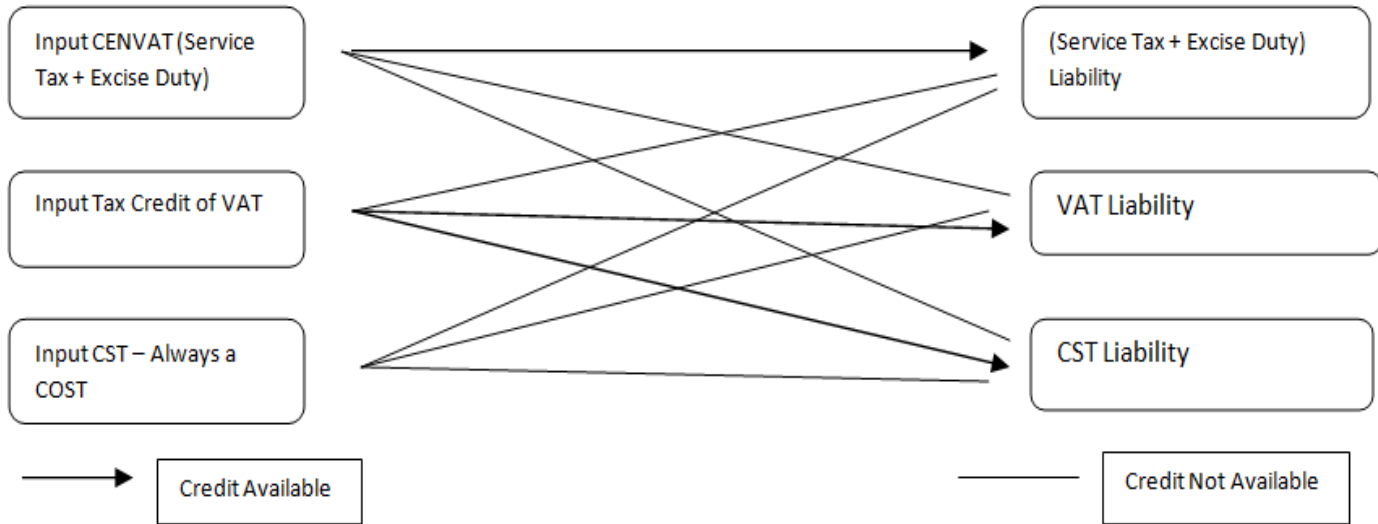
- Related party transaction where price not influenced by relationship
- Goods transferred from one place of business to another
- Principal to an agent or vice versa

## Valuation Of Supply (Contd.)

Rule	Particulars	Valuation
Rule 4 -	Value by comparison	- Goods / services of like kind, quality and supplied at the same time - Adjustment by proper officer
Rule 5 -	Computed value method	- Cost + charges for design or brand + profit and general expenses
Rule 6 -	Residual method	- Value determined using reasonable means
Rule 7 -	Prescribes the mechanism for rejection of declared value	
Rule 8 -	Valuation in certain cases	Pure Agent of service recipient  Money Changer

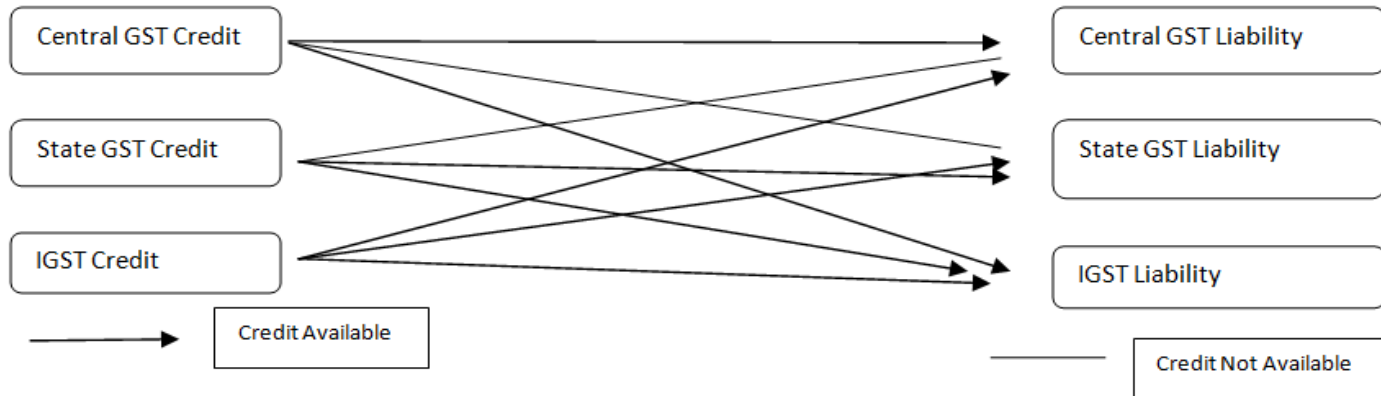
# Tax Credit (Present)

Availability of CENVAT Credit under the Present Scenario -



# Tax Credit (GST)

To be Set off in the <b>same Order</b>	Credit of CGST	Credit of SGST	Credit of IGST
1	CGST Liability	SGST Liability	IGST Liability
2	IGST Liability	IGST Liability	CGST Liability
3	X	X	SGST Liability



# Input Tax Credit (ITC)

**Time Limit** – Credit in respect of any invoice pertaining to a financial year cannot be taken after:

1. Filing of return for the month of September following the end of financial year to which such invoice pertains, or;
2. Filing of the relevant annual return, whichever is earlier

**Capital Goods** – Credit not admissible on such tax component of the cost of capital goods, for which depreciation has been claimed under the Income Tax Act, 1961



# Input Tax Credit (ITC)(Contd.)

## ITC in respect of STOCK –

Entitlement of Credit of Input tax in respect of Input held in stock and Inputs contained in Semi Finished or Finished Goods	<b>Person Eligible</b>	<b>Point in Time</b>
	Person who has applied for registration within 30 days from the date he becomes liable and has been granted certificate of registration	On the day immediately preceding the date from which he becomes liable to pay tax
	Person who has taken Voluntary Registration u/s 19(3) of GST Act	On the day immediately preceding the date of registration
	Registered Taxable Person ceases to pay tax u/s 8 i.e. Composition levy	On the day immediately preceding the date from which he becomes liable to pay tax u/s 7

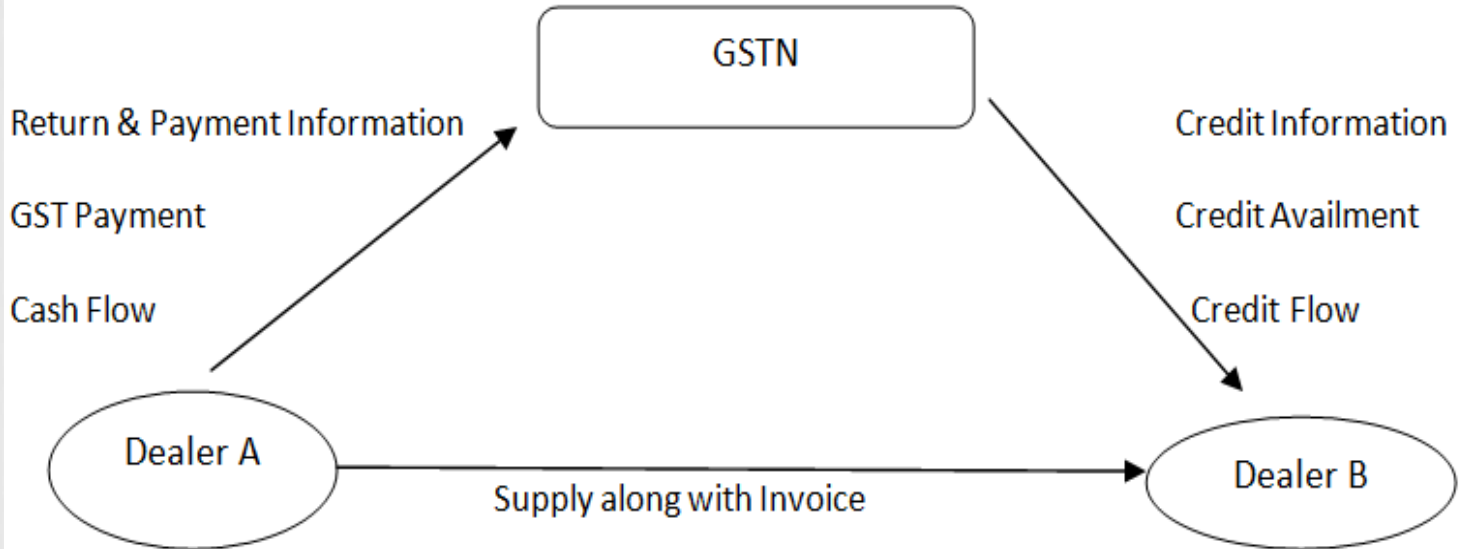
# Input Tax Credit (ITC)(Contd.)

Exclusions from ITC –

- Motor Vehicle
- Goods / Service –
  - a: Personal use of Employee
  - b: Private or Personal Use
  - c: Taxed under Composition Levy
- Immovable Property –
  - a: Construction Service
  - b: Works Contract

# GST Electronic Credit

GST Electronic Credit Allowed on Supply Transactions –



# Compliance And Procedural Aspects

## Registration –

- State wise, Business vertical wise and Voluntary Registration options are available
- Concept of ISD continue
- Single threshold limit for goods and services i.e. Rs. 9 Lakhs for normal category and Rs. 4 Lakhs for Northern Eastern State incl. Sikkim
- Certain persons required to take compulsory registration. Such as Interstate supplier, Casual dealer, Person required to pay tax under RCM, Person paying TDS, Person acting agent, ISD, e-Commerce operator, Aggregator, Other persons to be notified by Government.

# Compliance And Procedural Aspects (Contd.)

## Payment –

- Single threshold limit for goods and services. i.e. Rs. 10 Lakhs for normal category and Rs. 5 Lakhs for Northern Eastern State including Sikkim
- Three modes of payment of tax under GST regime are proposed i.e. through internet banking / credit or debit card, Over the Counter payment (upto Rs. 10,000 per challan) and payments through NEFT/RTGS
- The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed

# Compliance And Procedural Aspects (Contd.)

## Refund –

- Refund claim is required to be filed within 2 years from relevant date
- Refund order to be passed within 90 days from the date of receipt of application
- 80% refund can be released provisionally and balance 20% after verification
- For refund application < Rs. 5 Lakhs only declaration & proof for incidence of tax is required
- Refund claim available in cases of: a: Export, b: Accumulated credit due to inverted duty structure and c: Deemed Export

# Compliance And Procedural Aspects (Contd.)

## Returns

Sr. No.	Types of Return	Form	Period for filing Return
1	Outward Supplier	GSTR-1	10 <sup>th</sup> of next month
2	Inward Supplier	GSTR-2	15 <sup>th</sup> of next month
3	All assesses except specified	GSTR-3	20 <sup>th</sup> of next month
4	Person paying TDS	GSTR-7	10 <sup>th</sup> of next month
5	ISD (Input Service Distributor)	GSTR-6	13 <sup>th</sup> of next month
6	Composition Dealer	GSTR-4	18 <sup>th</sup> of next month following end of quarter
7	Annual Return	GSTR-8	31 <sup>st</sup> December following the F. Y.
8	Final Return	-	3 months from the date of cancellation or order of cancellation whichever is later

# Tax Disputes

## **LITIGATION: 'GSTAT' (Goods and Service Tax Appellate Tribunal) -**

One branch for each of the State i.e. 29 GST Appellate Tribunal

GSTAT shall comprise of the following members:

1. Member (Judicial)
2. Member (Technical – CGST)
3. Member (Technical – SGST)



# Department Audits

- ❑ General Audit: By officers of CGST / SGST at the premises of tax payer & is to be concluded in 3 months
- ❑ Special Audit: AC or DC with prior approval of Commissioner gives notice to taxable person to get books audited by CA or CMA

# Migration Provisions

## Migration of Existing Registered Tax Payers:

STEPS –

- Issuance of Provisional Certificate of Registration (RC)
- Validity of RC for 6 months or extended period
- Furnish information as may be prescribed
- Final RC to be issued if information found adequate
- Cancellation of provisional RC on failure to submit information

# Migration Provisions

## Carry forward of CENVAT Credit / ITC:

- ❑ Amount of CENVAT Credit / ITC to be allowed to registered taxable person under GST: Amount of eligible credit carried forward as per earlier law in return filed for the period ending immediately prior to appointed day
  - Such CENVAT credit **is eligible** for utilizing credit against CGST / SGST as the case may be
  
- ❑ Amount of **un-availed\*** CENVAT credit of Capital goods to be allowed to registered taxable person under GST: Un-availed CENVAT credit not carried forward in return filed for the period ending immediately prior to appointed day under earlier law -  
Such amount **should also be eligible** for CENVAT Credit under CGST / SGST

# Eligible Duties & Taxes to be carried forward

- Excise Duty
- Service Tax
- Special Additional Duty (SAD)
- National Calamity Contingent Duty
- Counter veiling Duty (CVD)
- Additional Excise Duty on Goods of Special Importance
- Additional Excise Duty on Textile and Textile Articles

# Exempted or Duty Paid Goods returned after Appointed Date

Exempt goods / Duty paid goods removed/sold under earlier law within 6 month prior to appointed day:

- Returned within 6 months from appointed day to any place of business: No tax payable under GST Law
- Not returned within 6 months of appointed day to any place of business: Tax payable by person returning the goods if such goods are liable to tax under GST

# Price Revision in a Contract

1. Upward Revision: A supplementary invoice or debit note is required to be issued within 30 days of revision and Tax is required to be paid to the extent revision under GST regime.
2. Downward Revision: A supplementary invoice or credit note is required to be issued within 30 days of revision and Tax liability to be reduced to the extent of revision.

# Goods Sent on Approval basis

□(SGST – i.e. only in cases of Intra State Transfers)

1. Goods returned within 6 months (further can be extended by 2 months by competent authority) from appointed day: No tax payable
2. Goods returned post 6 months (further can be extended by 2 months by competent authority) from appointed day: tax shall be payable by: a) Person returning goods and b) Person who has sent goods on approval basis

# Import / Interstate Supply on or after Appointed Date

## Import / Interstate Supply on or after Appointed Date:

Transaction	Liability of Tax payment under GST Regime
Supply made on or after appointed date	Liable to tax
Transaction initiated on or before appointed date on which full tax has been paid in earlier law	Not liable to tax
Transaction initiated on or before appointed date on which partial tax has been paid in earlier law	Liable to pay Tax to the extent of balance amount

A transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.



# Goods sent on **JOBWORK**

Particulars	Input	Semi finished goods	Finished Goods
Type	Inputs received in factory/ place of business had been removed /dispatched as such or post partial process	Semi finished goods had been removed from factory /dispatched from place of business	Excisable goods manufactured in a factory / any goods dispatched from place of business
Process to be done prior to the Appointed Day	Further processing, testing, repair, reconditioning or any other purpose	For carrying out certain manufacturing processes	Carrying out tests or any other process not amounting to manufacture, to any other premises
Returned after completion of process, within 6 months from Appointed Day	To factory / place of business - No Tax payable	To factory / place of business - No Tax payable	To factory / place of Business - No Tax payable
Returned after completion of process, after 6 months from Appointed Day	Tax shall be payable if Taxable under GST by Job worker or Manufacturer	Tax shall be payable if Taxable under GST by Job worker or Manufacturer	Tax shall be payable if Taxable under GST by person returning goods
Selling goods directly from premises of Job Worker within 6 months	N.A.	On payment of duty within India or export without payment of duty	

# Legal Aspect

## TCS ON E-COMMERCE TRANSACTIONS

- EG: Consumer ---> OLA ---> Supplier of Service (Cab Owner)
- Consumer makes payment to OLA: Rs. 100/-
- Suppose OLA need to pay to Supplier: Rs. 80/-
- Payment to be made to Supplier: Rs. 80/-
- Less: Tax Collected at Source:       Rs. 5/-
- Total amount to be paid:               Rs. 75/- (OLA will deposit Rs.5/- in Supplier's Cr. Ledger who will take its cr.)

# Legislative Journey - So Far

So Far:

1. GST was first mooted in Budget 2005
2. In Budget 2006 – GST Levy date set at 01.04.2010
3. Discussion Paper on GST published by Emp. Committee in 2009
4. Constitutional Bill introduced in May 2011 – lapsed in March 2014
5. 122<sup>nd</sup> Constitution Bill introduced in December 2014 – passed on 08.08.2016
6. Atleast 16 States have to ratify the bill – which then the Hon. President signs (Out of 30 states – 6 states have ratified as on 23.08.2016)
7. GST Council (GST C) is formed

# Legislative Journey - The Pending Steps

## Pending Steps:

8. The Council then decides on draft CGST, SGST and IGST laws
9. The Parliament / Assemblies then pass 3 laws
10. Various rates and exemption are agreed upon in the GST C
11. GSTN (IT Backbone) is rolled out successfully
12. GST gets implemented

# Thank You!

*For any Information/ Explanation please contact us on  
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