

TRANSITIONAL PROVISIONS PART -2

CGST ACT, 2017

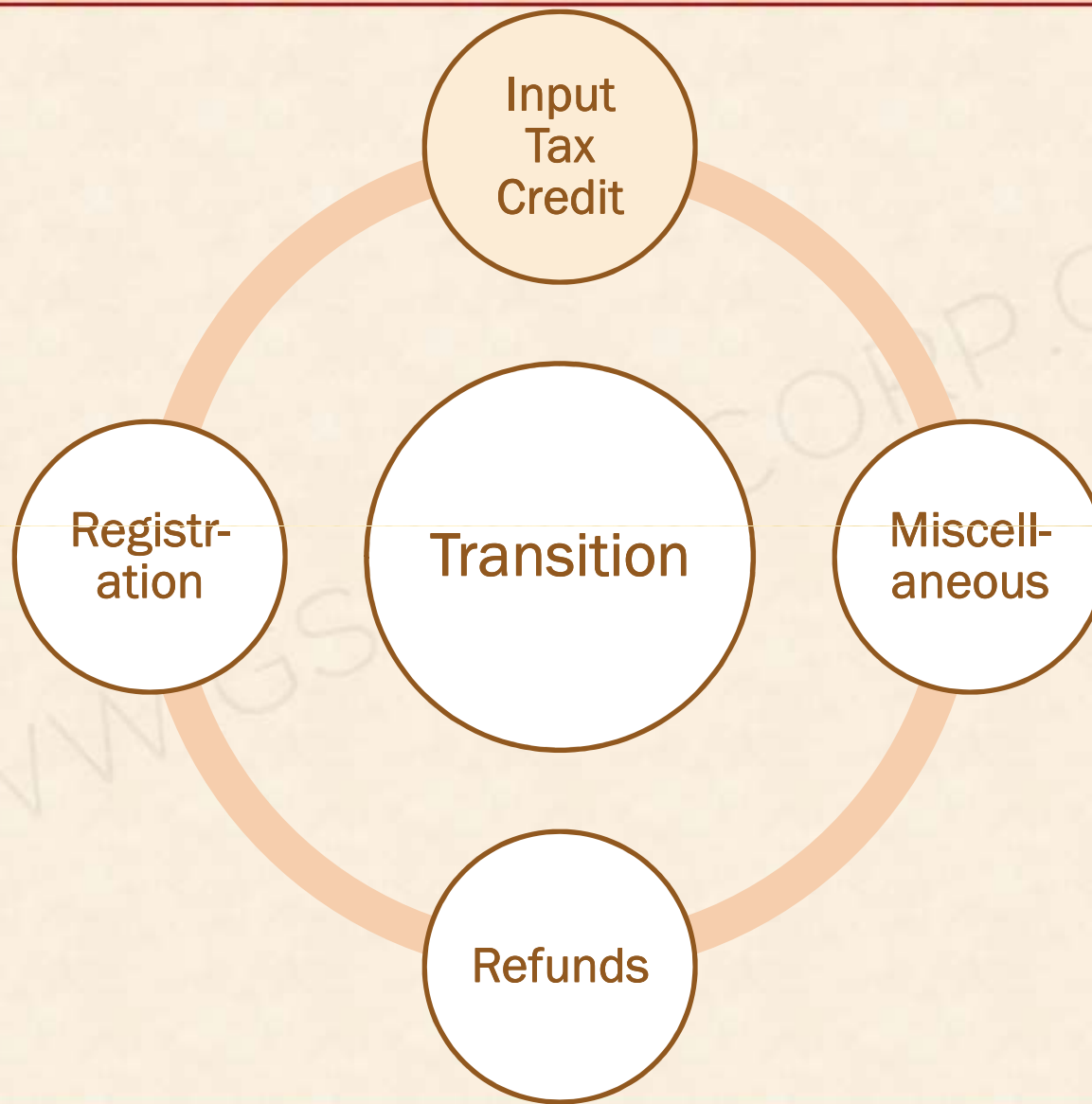
APPOINTED DAY ASSUMED AT 01st July, 2017

Compiled by:-
Gaurav Goyal
Anil Chaurasia
Ajay Kumar Khera

Updated On
12th June, 2017

Contact Us at:-
info@gsttaxcorp.com

TRANSITIONAL PROVISION CGST ACT, 2017



TRANSITIONAL PROVISIONS CGST ACT, 2017

Amount of CENVAT of INPUTS for Some Person (Section 140(4) & (6))

A PERSON

Manufacturing Taxable and Exempted Goods

Providing Taxable and Exempted Services

Paying tax at Fixed rate or
Paying Fixed amount in lieu
of Tax

Registered under GST

Shall be entitled to,

-Carry forward credit as per return
and

-Take Credit of eligible duties in
respect of inputs, Semi Finished or
Finished Stock as per Section
140(3)

Shall be entitled to,

-Take Credit of eligible duties in respect
of inputs, Semi Finished or Finished
Stock as per Section 140(3)
and

-It is not a composition dealer in GST.

TRANSITIONAL PROVISIONS CGST ACT, 2017



Summary of Conditions for ITC C/f (Section 140(3), (4) & (6))

Category of Persons Condition in Gst Regime to C/f Credit	One of Specified Category	Mfg & Prov of Taxable & Exempt Goods/ Services	Person paying tax at fixed rate	Trader
1. Will Make TAXABLE Supplies under GST	✓	✓	✓	✓
2. ITC available in GST Act	✓	✓	✓	✓
3. Invoice or Some other documents	✓	✓	✓	✓
4. Inv or Doc must be within 12 months prior to appointed day	✓	✓	✓	✓
5. Supplier of SERVICES not eligible for abatement	✓	✓	×	NA
6. Not A Composition Dealer	NA	NA	✓	NA
7. Miscellaneous	NA	NA	NA	Has to clear goods within Six month

TRANSITIONAL PROVISIONS CGST ACT, 2017

Amount of CENVAT of INPUTS or INPUT SERVICES (Section 140(5))

PRE GST

A PERSON (SUPPLIER)

has paid EXCISE or SERVICE TAX on
Goods or Services because

- Paid excise on removal of goods before appointed day

- Paid Service Tax on advance received from service recipient

Case Studies:-

Goods Despatched by supplier	Goods received by recipient	Credit Available or not
25 th June	2 nd July	✓
25 th June	30 th June	NA
30 th June*	31 st July	x

*However extension of time can be demanded for additional 30 days.

POST GST

Registered under GST (RECEPIENT)

Could not claim credit of EXCISE or SERVICE TAX paid by supplier on Goods or Services

- has not received goods till appointed day

- has not received services/Invoice till appointed day

- CAN CLAIM CREDIT IF RECORD INVOICE/DOC IN BOOKS OF ACCOUNTS

WITHIN 30 DAYS

NEXT 30 DAYS

FROM APPOINTED DAY

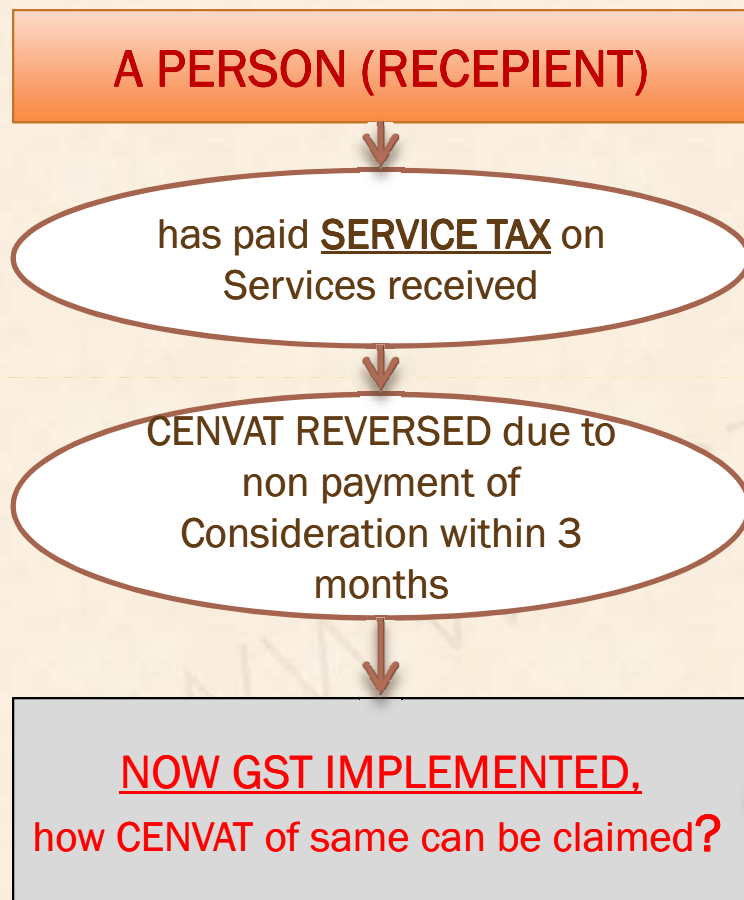
EXTENDED TIME

TRANSITIONAL PROVISIONS CGST ACT, 2017

Amount of CENVAT of INPUT Services in case of reversal (Section 140(9))

PRE GST

POST GST



- Need to Pay Consideration to claim CENVAT
- With in 3 MONTHS from Appointed Day

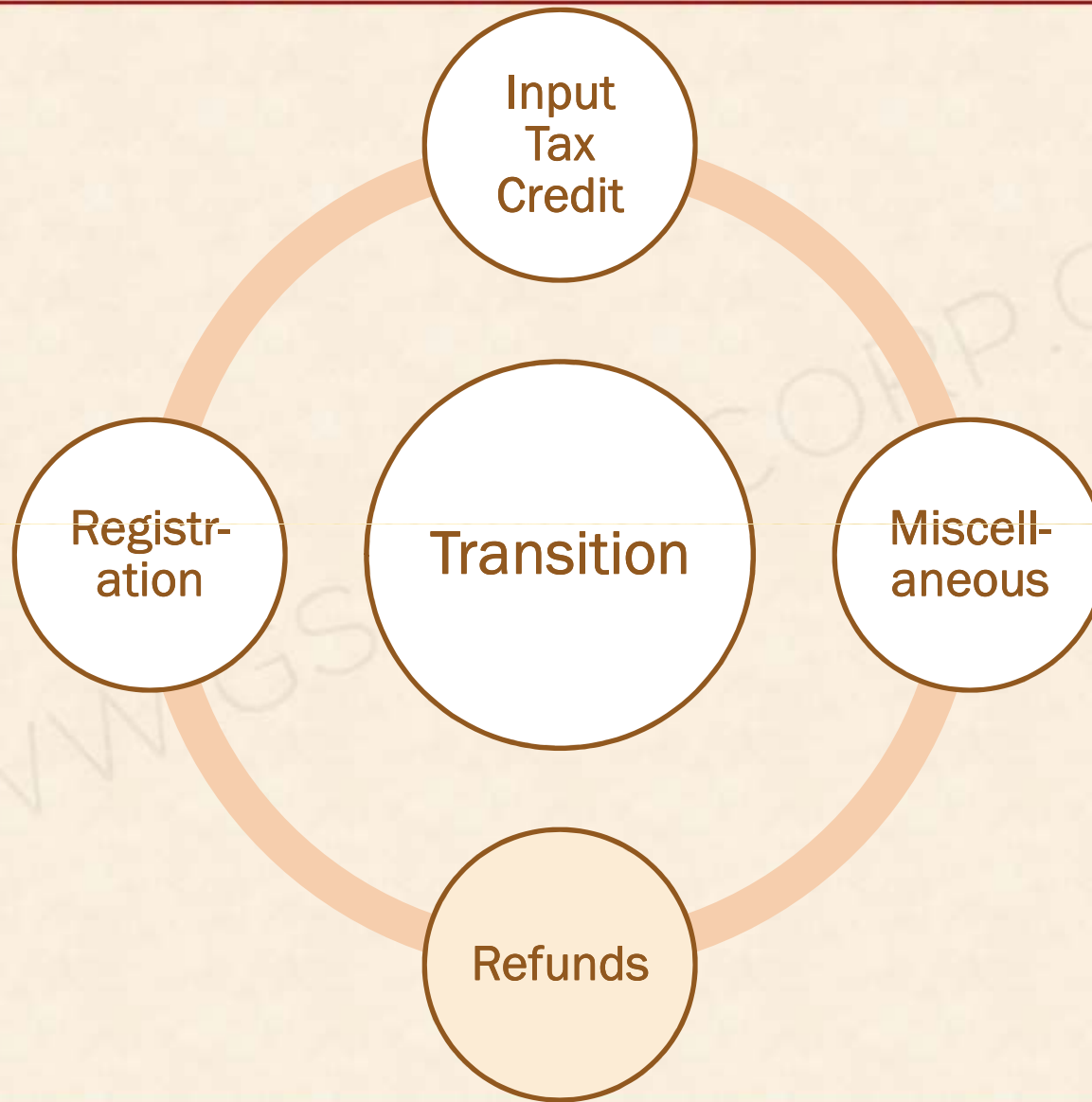
Case Studies:-

Services Provided	Payment Made PRE GST	CENVAT reversed	Date of Payment under GST	Credit Available or not
30 th March	Not Made	30 th June	30 th Sep	✓
30 th March	29 th June	NA	NA	×
28 th Mar*	30 th June	Not Reversed	NA	×
28 th Mar**	Not Made	Not Reversed	2 nd July	×

*In such case payment is made before appointed day, hence Credit is not required to be carried forward under GST.

** In Author's view CENVAT can not be carried forward, however it can be demanded in Service Tax Audit.

TRANSITIONAL PROVISION CGST ACT, 2017



TRANSITIONAL PROVISIONS CGST ACT, 2017

Amount of CENVAT in case of GOODS RETURN (Section 142(1))

PRE GST

POST GST

A PERSON (SUPPLIER)

- Paid duty on GOODS under old law
- Goods removed within SIX MONTHS prior to appointed day

- Returned to Supplier
- With in 6 MONTHS from Appointed Day

Returned by NON
Registered
Person

Returned by
REGISTERED
PERSON

Supplier will
claim REFUND
under old law

Will be treated as
supply and GST will
be levied

Reverse Charge
u/s 9(4) may Get
Attracted in such
case

Case Studies:-

Goods Sold	Goods Returned	Person Returning Goods	Refund Available or not
01 st Jan 17*	31 st Dec 17	Registered	No Refund
01 st Jan 17	31 st Dec 17	N Registered	Yes
01 st Mar 17	1 st Dec 18	N Registered	No Refund
01 st Mar 17*	1 st Dec 18	Registered	No Refund
31 st Dec 16**	31 st Dec 17	N Registered	No Refund

*It is deemed supply and person returning goods will be charged GST on same.

** Goods were sold prior to six months from appointed day.

Treatment in case of PRICE REVISION

(Section 142(2))

**-Contract is entered Prior to Appointed Day
&
-Price is Revised after Appointed Day**

Price Revision
UPWARD

Price Revision
DOWN WARD

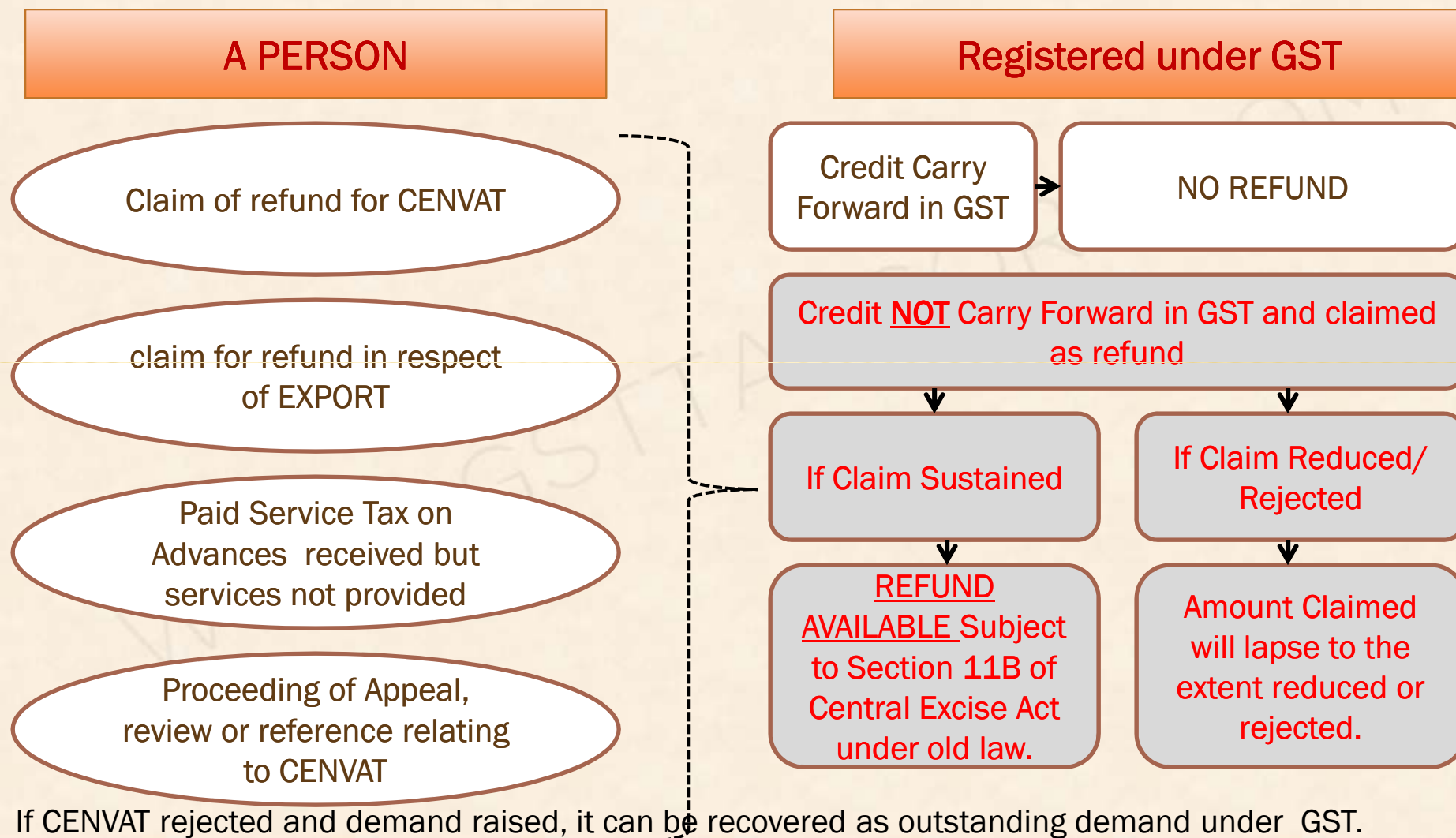
-Issue Supplementary Invoice, or
Debit Note,
- Within 30 Days of Price Revision
&
-Chargeable to Tax under GST.
*(It will result in increase in GST liability, Hence
no Condition is stipulated)*

-Issue Credit Note,
- Within 30 Days of Price Revision
&
-Chargeable to Tax under GST.
*(It will result in decrease in GST liability, Hence
additional Condition is stipulated)*

**-After issue of Credit Note Tax
liability will be reduced only if
-Recipient has reduced
-His ITC accordingly.**

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Treatment of Refunds claimed PRE GST (Section 142 (3),(4) ,(5) & (6))



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Demands in case of Appeals etc.

(Section 142 (7),(8) & (9))

A PERSON

Proceeding of Appeal,
review or reference relating
to Output Liability

Assessment or Adjudication
Proceeding

Revision of Return under
Old law

Registered under GST

Claim Allowed and
amount becomes
refundable

Amount becomes
Recoverable

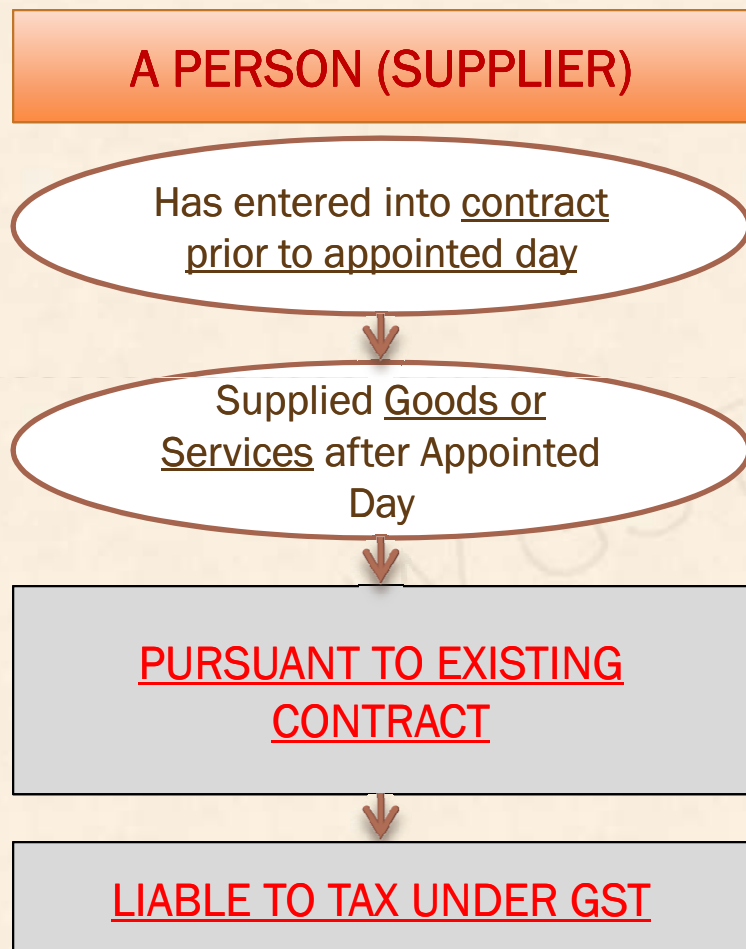
REFUND
AVAILABLE Subject
to Section 11B of
Central Excise Act
under old law.

Amount
Recoverable can
be recovered as
arrears of Duty or
Tax under GST

No Input will be
available to
recipient, if such
demand is passed
on to him through
Debit Note etc.

TRANSITIONAL PROVISIONS CGST ACT, 2017

Rate of Tax for Old Contracts (Section 142(10))



Point of Taxation in Both Laws (Section 140(11))

- In case of Goods or Services,
- Tax was also paid under old law,
- Pursuant to section 142(10),
- Taxable under GST,
- Then only Balance Tax Is Payable under GST

Advance Received under Service Tax before 30-06-2017	Service Tax Paid on such Advances	Bill raised in GST regime levying GST	Only Balance Tax will be payable (GST-Ser Tax)
10,00,000	1,50,000	10,00,000 + 1,80,000(18%)	30,000 (1,80,000-1,50,000)

TRANSITIONAL PROVISIONS CGST ACT, 2017

Amount of CENVAT in case of GOODS SENT ON APPROVAL (Section 142(12))

PRE GST

POST GST

A PERSON (SUPPLIER)

- SENT GOODS ON APPROVAL
- within SIX MONTHS prior to appointed day

1. Returned to Supplier with in 6 MONTHS (+2) from Appointed Day

No Tax

2. Returned to Supplier AFTER 6 MONTHS (+2) from Appointed Day

Person Returning Goods will Pay Tax under GST

3. NOT Returned within 6 MONTHS (+2) from Appointed Day
or
Returned to Supplier AFTER 6 MONTHS (+2) from Appointed Day

Supplier will also Pay GST on such Goods deeming it as supply under GST.

Case Studies:-

Goods Sent on Approval	Goods Returned	
01 st Jan 17	31 st Dec 17	No Tax
01 st Jan 17	Not Returned	Tax Payable, Supplier will Pay Tax
01 st Mar 17*	1 st Dec 18	No Tax
01 st Mar 17	1 st March 18	Tax Payable by person returning goods, and Supplier will also pay tax when 6+2 months time limit lapsed.

*Subject to permission for additional time of 2 months

Transition summary in respect of ITC

ITC TRANSITION

CREDIT CARRY FORWARD

1. Cenvat Carried in Return
2. Capital Goods Cenvat
3. Cenvat for Specified persons and Traders
4. Cenvat in case of Goods in Transit and Advances.
5. Cenvat Reversed because of Non Payment of Consideration

REFUND MECHANISM

1. Goods Return from Non Registered
2. Refund arise due to pendency of appeal or assessment proceedings

TRANSITIONAL PROVISIONS CGST ACT, 2017



For Part – 1 [Click Here](#)



Prepared by –
Advocate Anil Chaurasia
CA Gaurav Goyal
CA Ajay Kumar Khera

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