



REFRESHER COURSE ON GST

WIRC OF ICAI DT. 08/06/2017

Session by KIRAN G GARKAR, FCA

Agenda

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- **Related to Job Work including related Transitional Provisions**
- **Ecommerce including provisions related to TCS,**
- **Registration, Payment of Taxes, Related Transition provisions**
- **Documentation, Transitional provision related to stock**
- **Anti profiteering**
- **[Based on CGST & IGST Act, 2017, Draft* Rules]**

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JOB WORK PROVISIONS

Job work procedure- Section 143

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Job work

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graph TD; A([Job work]) --> B[U/s 143]; A --> C[Other than 143]; B --> D[No GST payable on :  
• Supply of raw material from principal to job worker  
• Supply of semi/finished goods from job worker to manufacture  
GST on Job work charges payable]; C --> E[GST payable on:  
• Supply of raw material from principal to job worker  
• Supply of semi/finished goods from job worker to manufacture  
No GST on Job work charges];
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U/s 143

No GST payable on :

- Supply of raw material from principal to job worker
- Supply of semi/finished goods from job worker to manufacture

GST on Job work charges payable

Other than 143

GST payable on:

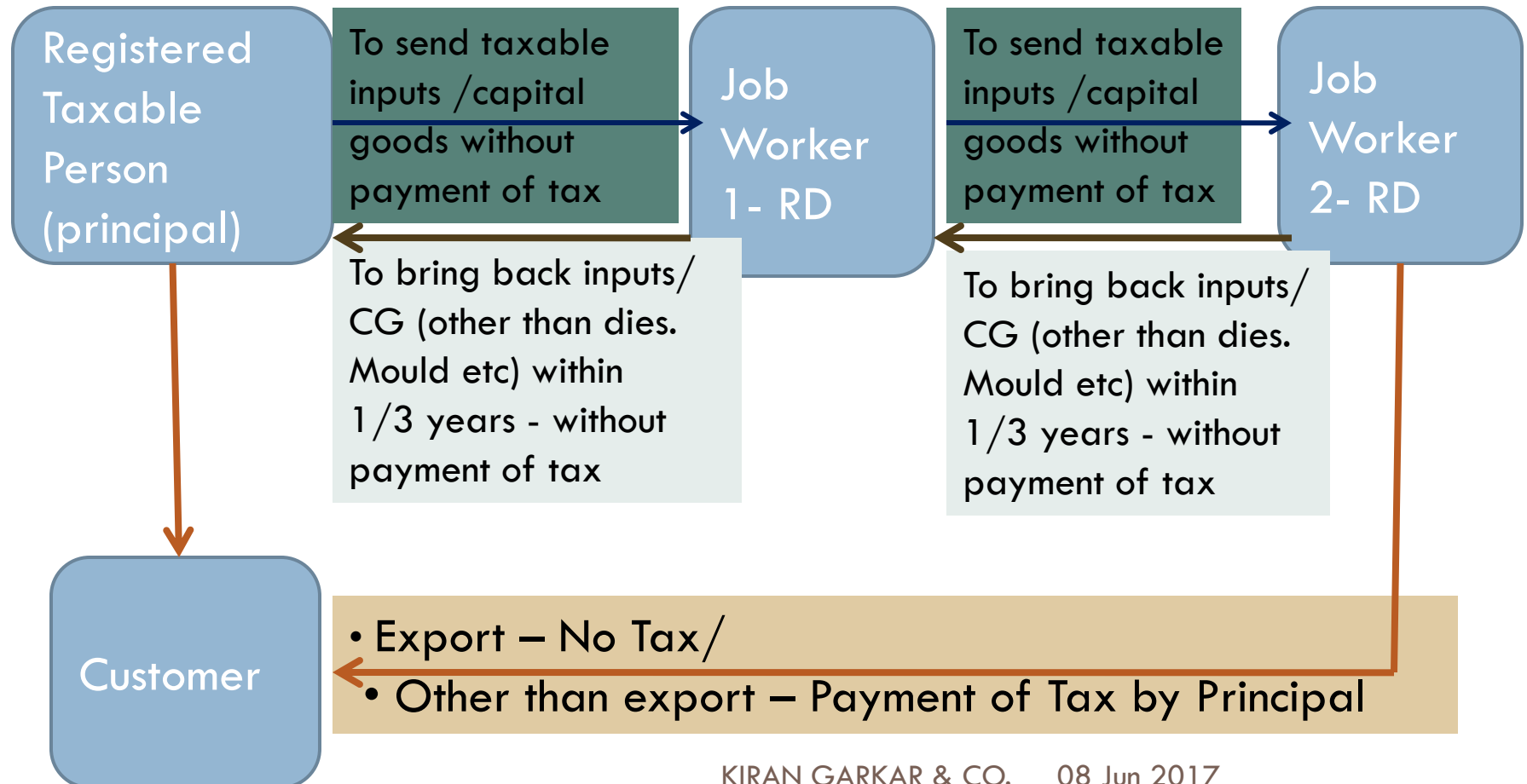
- Supply of raw material from principal to job worker
- Supply of semi/finished goods from job worker to manufacture

No GST on Job work charges

JOB WORK U/S 143- SPECIAL PROCEDURE FOR REMOVAL OF GOODS

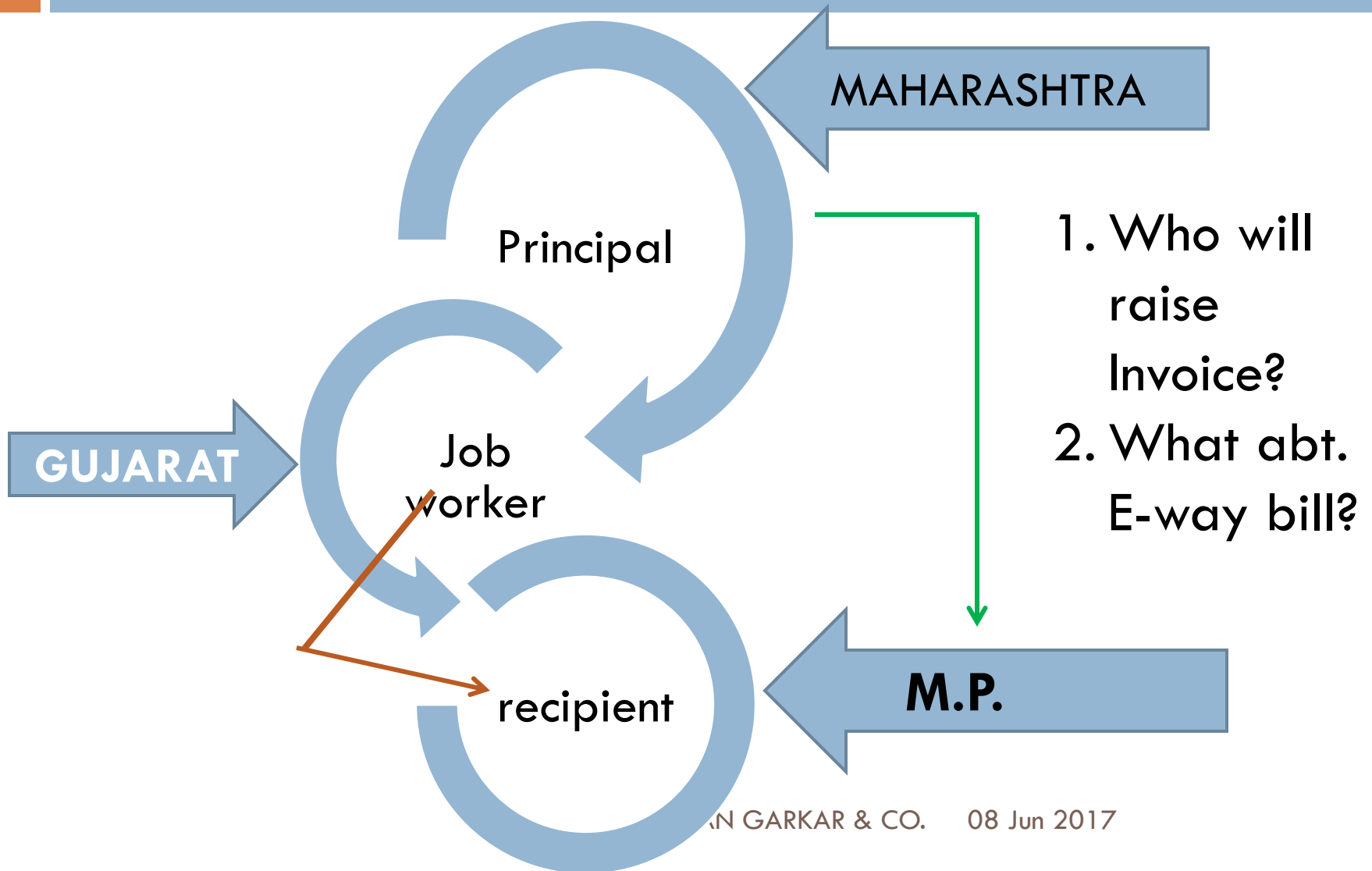
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UNDER INTIMATION & SUBJECT TO CONDITION



Issue

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JOB WORK U/S 143

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- • Principal is responsible for accountability of Input/capital goods [Section 143(2)]
- • Goods are permitted to be supplied from place of business of job worker provided:[Proviso section 143(b)]
 - Principal declares the place of business of job worker as his **‘additional place of business’** except
 - • job worker is registered u/s. 25
 - • Principal is engaged in supply of such goods as may be notified by commissioner in this behalf.

JOB WORK U/S 143- SPECIAL PROCEDURE FOR REMOVAL OF GOODS

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- • If Inputs sent for job-work are not received back by principal within 1 year from date of sending, it shall be deemed that such inputs were supplied by principal to job-worker on the day when such inputs were sent out ???
- • If Capital goods (Except Dies/mould etc.) sent for job-work are not received back by principal within 3 years from date of sending, it shall be deemed that such Capital were supplied by principal to job-worker on the day when such capital goods were sent out ???
- • Supply of goods by a principal to a job-worker u/s 143 shall not to be included in “Aggregate Turnover” of registered job worker – Section 22(4)

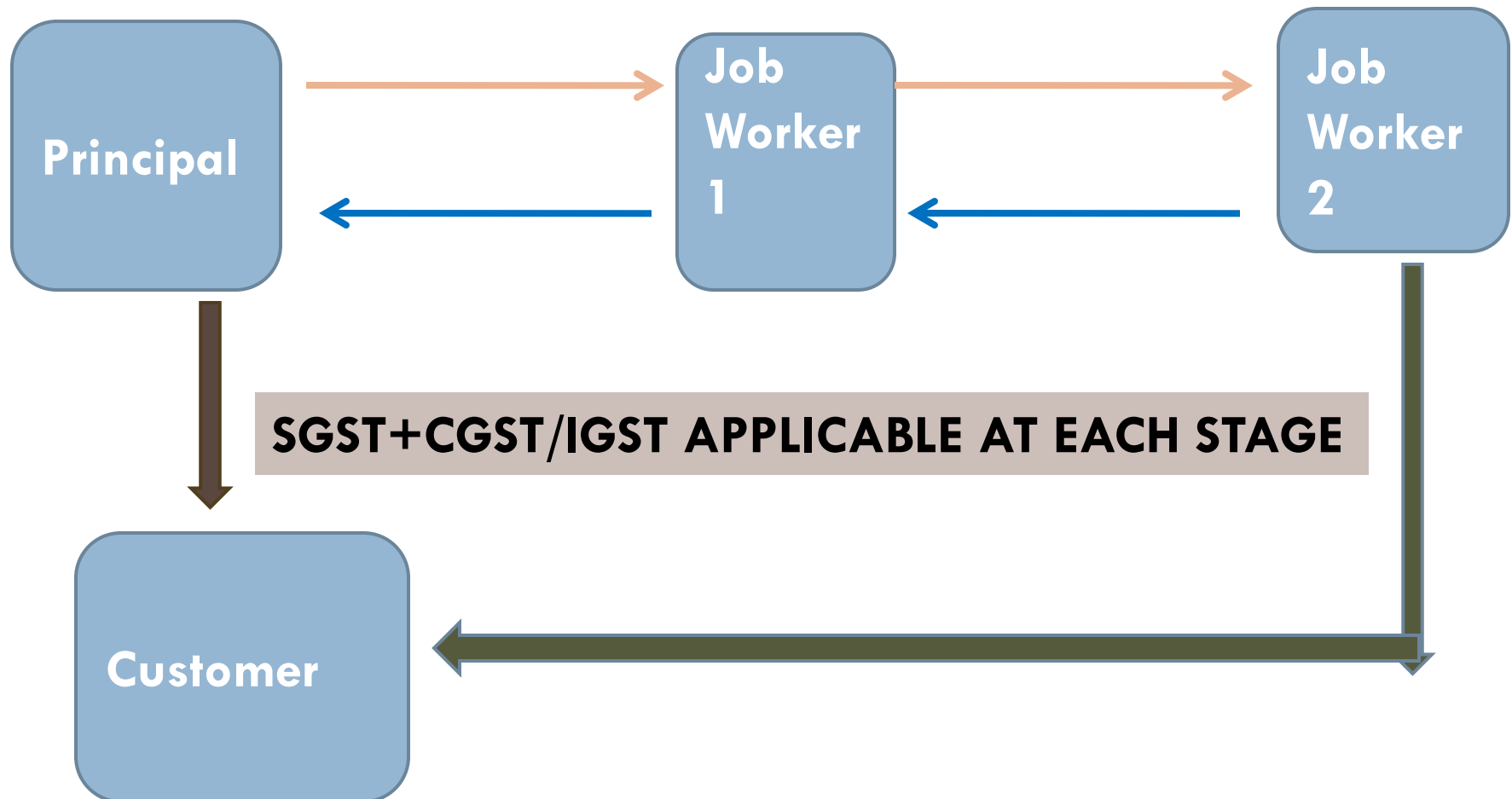
JOB WORK U/S 143- SPECIAL PROCEDURE FOR REMOVAL OF GOODS

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- Any waste/scrap generate during job work
- ↓ Job worker registered
- Yes
 - ↳ May be supplied by job worker directly from his premises on payment of tax
- No
 - ↳ To be supplied by principal on payment of tax

JOB WORK OTHER THAN U/S 143

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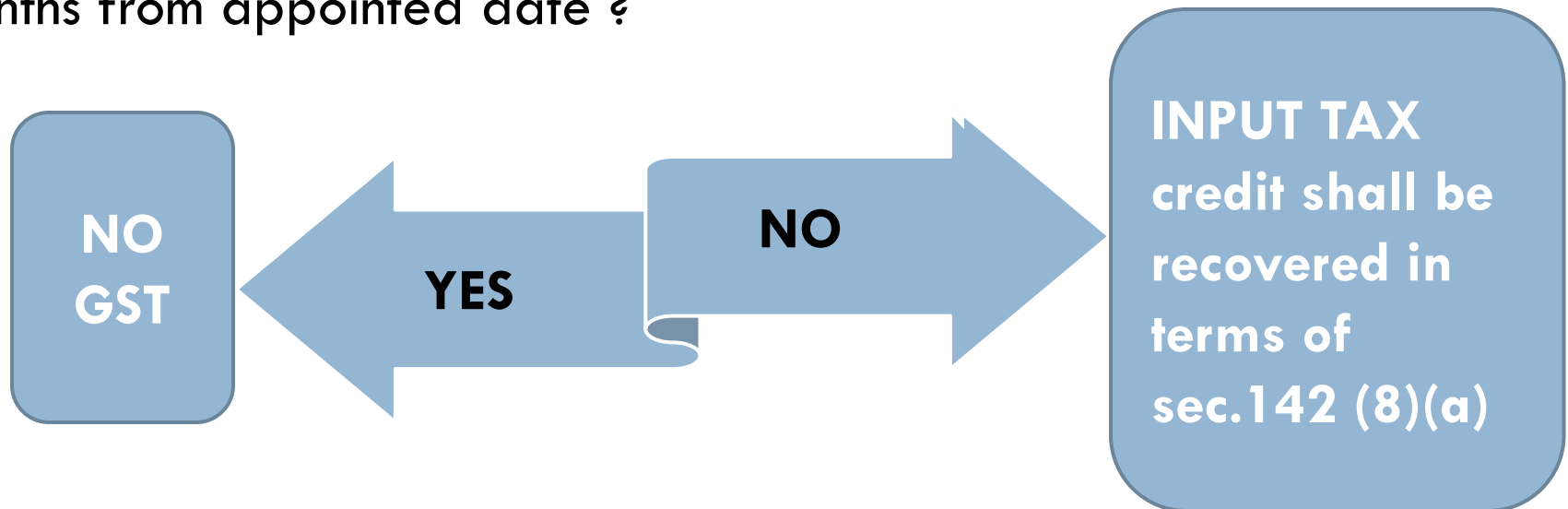
Transitional provisions... Section 141

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When Inputs, semi-finished goods, finished goods send on JOB Work in existing law



Returned back within 6 months or further extend period up to 2 months from appointed date ?



Manufacturer can transfer said goods to any registered person for supply on payment of Tax in India or export without payment of Tax

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Ecommerce including provisions related to TCS

Ecommerce

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- (44) “*electronic commerce*” means the supply of goods or services or both, including digital products over digital or electronic network;
- (45) “*electronic commerce operator*” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

Ecommerce

14 □ Levy and collection of Tax

- Sec. 9 (5) *The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:*
- Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:
- Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Ecommerce

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□ Collection of tax @ Source:

- **52. (1) Notwithstanding anything to the contrary contained in this Act, every *electronic* commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.**
- *Explanation.—For the purposes of this sub-section, the expression “net value of taxable supplies” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.*
- **(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.**

Ecommerce

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- (3) *The amount collected under sub-section (1) shall be paid to the Government by the operator **within ten days after the end of the month.***
- (4) *Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, **within ten days after the end of such month.***
- (5) *Every operator shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, **before the thirty first day of December following the end of such financial year.***

Ecommerce

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- *(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:*
- *Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.*
- *(7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.*

Ecommerce

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- (8) *The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.*
- (9) *Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.*
- (10) *The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.*

Ecommerce

- (11) *The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.*
- (12) *Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—*
 - *(a) supplies of goods or services or both effected through such operator during any period; or*
 - *(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.*

Ecommerce

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- (13) *Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.*
- (14) *Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.*
- *Explanation.—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.*

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Registration, Payment of Taxes, Related Transition provisions

Chapter VI: Registration:

22

Sec. 22 to 30



About Registration

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- Section 22 provides for registration of every person who is liable to be registered .
- Legally recognised as a supplier of Goods and/or Services;
- Proper accounting of taxes paid on the input goods and / or services;
- Utilisation of input taxes for payment of GST due on supply of goods and / or services or both;
- Pass on the credit of the taxes paid on the goods and / or services supplied to purchasers or recipients.

About Registration

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Section 22 (1) > Every supplier shall be liable to be registered under this Act in the State or Union territory

- Every supplier whose aggregate TO in a financial year exceeds **Rs. Twenty lakhs.**
- Turnover limit is kept @ **Rs. Ten lakhs for Special category States***
- ***Explanation: Article 279A (4)(g)**
- States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand

Abt. Registration

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- Calculation of aggregate TO for threshold limit: 2(6)
- To include aggregate value of all taxable supplies (excl. value of inward supplies on which tax is payable on RCM), exempt supplies, exports and inter-State Supplies of persons having same PAN to be computed on all India basis but excludes central tax, State tax, UT tax, Integrated tax and cess
- *Expl: To include all supplies made by the taxable person, whether on his own account or made on behalf of his principals.
- Supply of goods by a regd. Job-worker, after completion of job work [supply of goods by the “principal” sec.143]
 - ▣ The value of such goods shall not be included in the aggregate turnover of the registered job worker.

Abt. Registration

26

- 22(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.*

- 2(48) “existing law” means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation

Abt. Registration

27

22(3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

Abt. Registration

28

22(4) Notwithstanding anything contained in subsections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal. # * #

Abt. Registration

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- Section 23: Persons not liable for registration:
 - Person engaged in exclusively supplying goods /services not liable to tax or wholly exempt from tax
 - An agriculturist to the extent of supply of produce out of cultivation of land

Sec. 24: Notwithstanding Sec. 22(1)..

- ❑ following persons shall get registered compulsorily
- ✓ Persons making any inter-state taxable supply;
- ✓ casual taxable persons making taxable supply;
- ✓ persons who are required to pay tax under reverse charge;
- ✓ **person who are required to pay tax under sub-section (5) of section 9;**
- ✓ non-resident taxable persons making taxable supply;
- ✓ persons who are required to deduct tax under section 51, whether or not separately registered under this Act;
- ✓ persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;

Sec. 24: Notwithstanding Sec. 22(1)..

- ❑ following persons shall get registered compulsorily
- ✓ Input Service Distributor, whether or not separately registered under this Act;
- ✓ persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;
- ✓ every electronic commerce operator;
- ✓ every person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person; and
- ✓ such other person or class of persons as may be notified by the Government on the recommendations of the Council.

Abt. Registration

□ Section 25 (1):

- Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration.
- A casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to commencement of business.
- Expl: Every person who makes supply from territorial waters of India shall obtain registration in the Coastal State or UT where the nearest point of the appropriate base line is located.

Abt. Registration

□ Section 25 (2)

- A person seeking registration under this Act shall be granted a single registration in a State or Union territory:
- Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.

Abt. Registration

- 2 (18) “business vertical” means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.
- Explanation.—For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—
 - (a) the nature of the goods or services;
 - (b) the nature of the production processes;
 - (c) the type or class of customers for the goods or services;
 - (d) the methods used to distribute the goods or supply of services;
 - and (e) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;

Abt. Registration

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- REGN QUA STATE : even though the taxable person may be a single entity.
- Multiple business verticals in one State may obtain separate registrations (subject to conditions)
- SEZ/SEZ Developer to apply as business vertical distinct from its other units located outside SEZ.

Abt. Registration

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□ Voluntary Registration: Sec.25(3)

- (3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.
- (4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

Abt. Registration

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- (5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.
- 2 (50) “fixed establishment” means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;

Abt. Registration

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- (6) Every person shall have a Permanent Account Number issued under the Income tax Act, 1961 in order to be eligible for grant of registration:

- Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

Abt. Registration

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- (7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.

Abt. Registration

- (8) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.

Abt. Registration

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- (9) Notwithstanding anything contained in sub-section (1),
 - (a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries ; and
 - (b) any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.
- ▶ The supplier supplying to these organisation is expected to mention the UID on the invoices and treat such supplies as business to business (B2B) supplies.

Abt. Registration

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- (10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.

- (11) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.

- (12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.

Abt. Registration

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- 26. (1) The grant of registration or the Unique Identity Number under the SGST Act or the UTGST Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25.

- (2) Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the SGST Act or the UTGST Act shall be deemed to be a rejection of application for registration under this Act.

Abt. Registration

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□ Sec. 27 : Casual taxable & Non-resident taxable person:

- Registration shall be valid for a period specified in registration or of ninety days from the effective date of registration extendable by another ninety days at the request of taxable person.
- Such person shall make an advance deposit of tax in an amount equivalent to the estimated tax liability. Further deposit on above lines when the extension is sought.
- To be credited to the electronic cash ledger of & utilized in the manner per section 49 (payment of tax, interest, penalty and other amounts).

Abt. Registration

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- Sec. 28: Amendment of Registration Certificate:

- Sec. 29: Cancellation / Surrender of Registration
 - ▣ (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or
 - ▣ (b) there is any change in the constitution of the business; or
 - ▣ (c) the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.

Abt. Registration

46

□ Sec. 29: Cancellation / Surrender of Registration:

- (2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—
 - (a) a registered person has contravened such provisions of the Act or the rules made there under as may be prescribed; or
 - (b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or
 - (c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or
 - (d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
 - (e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:
- Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

Abt. Registration

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- (3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

- (4) The cancellation of registration under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

Abt. Registration

29(5)> On RC cancellation, dealer shall pay an amount equivalent to the credit of ITC held in stock & in semi-finished or finished goods held in stock on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher.

- The payment can be made by way of debit in the electronic credit or electronic cash ledger, in case of capital goods, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the prescribed percentage points or the tax on the transaction value of such capital goods, whichever is higher.

Abt. Registration

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□ Sec. 30: Revocation of cancellation of registration

- RD may apply to proper officer for revocation of cancellation of the registration within thirty days from the date of service of the cancellation order.
- The proper officer may in prescribed manner and within prescribed period, by an order, either revoke cancellation of the registration, or reject the application for revocation for good and sufficient reasons.
- Revocation of cancellation of registration under the CGST Act / SGST Act shall be deemed to be a revocation of cancellation of registration under the SGST Act / CGST Act.

* # Contrary provision Sec. 87, Just to draw attention

□ Liability in case of amalgamation or merger of companies.

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- (1) When two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.
- (2) Notwithstanding anything contained in the said order, for the purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled with effect from the date of the said order.

Transitional provision

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- 139. (1) On and from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as may be prescribed, which unless replaced by a final certificate of registration under sub-section (2), shall be liable to be cancelled if the conditions so prescribed are not complied with.
- (2) The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.
- (3) The certificate of registration issued to a person under sub-section (1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24.
- Information of business on migration to be submitted within 3 months or extended period.
- SC notice in Form GST REG 27 to be given if info. Is not correct/complete.
- A dealer required to be migrated may apply within 30 days from appointed day in form GST REG 28 for cancellation, provided he is not liable for registration.

Chapter X: Payment of tax: Sec. 49 to 53

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Payment of tax

53

- GST regime is proposed to be a self-assessment regime, where payment of tax including interest, penalty and any other amounts play pivotal role.
- In addition to determining the levy, place/time of supply, it is also important to make timely payment of the taxes.
- Payment of tax is required as a matter of compliance and in addition it is important to understand that the customer of the tax payer shall not be eligible to take the credit in his electronic credit ledger until the payment is made by the supplier of goods and/or services to the credit of the Government.

Payment of tax

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- The mode of payment of taxes could be under the following methods:
 - Payment through electronic cash ledger
 - Payment through electronic credit ledger

- For ease of payment and compliance, and to ensure transparency, responsiveness and simplicity to the taxable person and for the tax administration, payment system under GST has been developed based on Information Technology Platform which can handle both receipt and payment process.

Payment of tax

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- 49(1)> Every deposit made towards tax, interest, penalty, fee or any other amount by a taxable person
 - by internet banking or
 - by using credit/debit cards or
 - National Electronic Fund Transfer or
 - Real Time Gross Settlement or by any other mode, subject to such conditions and restrictions as may be prescribed in this behalf,
- shall be credited to the **electronic cash ledger** of such person to be maintained in the manner as may be prescribed.
- Explanation: The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit.

Payment of tax

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- 49 (3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made there under in such manner and subject to such conditions and within such time as may be prescribed.
- 49(6) Balance in the electronic cash ledger can be claimed as refund in accordance with the provisions of Section 54 of CGST Act and correspondingly the balance in the electronic cash ledger will stand reduced.
- 49 (2) 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.
- 49(4) Amt. available in electronic credit ledger may be used for making any payment towards output tax under CGST/SGST or IGST in prescribed manner & conditions

Payment of tax

□ Payment through Electronic Credit Ledger

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- (i) Input Tax Credit would be credited to the Electronic Credit Ledger. Balance in Electronic Credit Ledger can only be utilized towards making payment of tax but not for making payment of interest, fee & penalties.
- (ii) The Electronic Credit Ledger shall be maintained in the manner to be prescribed. The Electronic credit ledger may include the following:
 - ITC on inward supplies from registered tax payers, ITC available based on distribution from ISD.
 - ITC on Input held in stock on the day immediately preceding the date from which the taxpayer became liable to pay tax provided he applies for registration within 30 days from the date of his liability.
 - Permissible ITC on inputs held on the day of conversion from composition scheme to regular tax scheme.
 - ITC eligible on payment made on reverse charge basis
- The above list is illustrative and not exhaustive.

Payment of tax

- (iii) The **Electronic Credit Ledger** has only three Major Heads of Credit:

- **Input tax**

- IGST

- CGST

- SGST

- **Output tax**

- IGST

- CGST

- SGST

- CGST

- IGST

- SGST

- IGST

- Hence, cross utilization of credit is available only as above **IN THAT ORDER.**

- **The main** restriction is that the CGST credit cannot be utilized for payment of SGST and vice versa.

Payment of tax

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- 49 (7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed.

- 49 (8) Every taxable person shall discharge his tax and other dues under this Act or the rules made there under in the following order:
 - (a) self-assessed tax, & other dues related to returns of previous tax periods;
 - (b) self-assessed tax, & other dues related to the return of the current tax period;
 - (c) any other amount payable under the Act or the rules made there under including the demand determined under Section 51 of the CGST Act.

- 49 (9) Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods and/or services.

Payment of tax

□ TAX LIABILITY LEDGER:

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- Tax Liability Ledger is required to be maintained electronically for all liabilities of a taxable person. This ledger may include the following amounts (illustrative and not exhaustive)
 1. The amount of liability based on self-assessment of returns.
 2. Liability arising out of any demand notice or adjudication proceedings requiring payment of tax or penalty or reversal of ITC or interest.
 3. Liability arising out of compounding proceedings.
 4. The available credit utilized as against the available amounts in the cash register or the credit register.
- **Order of discharge of tax**
- Sub-Section (8) prescribes the chronological order [discussed supra]

Payment of tax

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- Interest on delayed payment of tax:
 - On failure to pay tax in time, every person shall, pay on his own, interest at such rate, not exceeding 18 % as may be notified & in the manner prescribed.
 - A taxable person who makes an undue or excess claim of ITC u/S 42(10) or excess reduction of output tax liability under sec. 43(10) shall pay interest on such amount at rate not exceeding 24% as notified.

Payment of tax

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□ Few FAQs from BGM of ICAI :

- Q1. Whether Input Tax Credit would be available only on payment?
- Ans: Yes, under GST, credit would be available only on making payment of taxes. Otherwise, credit would be not being available.

- Q2. Can an unregistered person make payment using GSTIN?
- Ans: Yes, an unregistered person on behalf of taxpayer can make a payment as per the direction of tax authority using the GSTIN. In this method, GSTIN would provide for a validation check (like CAPTCHA) so that a challan can be created by a person and not by a machine.
[* To be rechecked, in view of RCM provided for supplies from URD]

- Q3. Can the taxes be paid using Credit Card?
- Ans: Yes, payment through credit card is possible. Under GST, tax payer need to preregister his credit card from which the tax payment is intended to be made with the GSTIN system.

Documentation, Transitional provision related to stock

Transitional provisions on input tax Credit

140(1) *A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:*

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—

- (i) where the said amount of credit is not admissible as input tax credit under this Act; or*
- (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or*
- (iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.*

Transitional provisions on input tax Credit

140(1): (this proviso only in SGST rules)

Provided that in the case of a claim under sub-section (1) of section 140, the application shall specify separately—

(i) the value of claims under section 3, sub-section (3) of section 5, sections 6 and 6A and sub-section (8) of section 8 of the Central Sales Tax Act, 1956 made by the applicant during the financial year 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 Central Sales Tax (Registration and Turnover) Rules, 1957 submitted by the applicant in support of the claims referred to in sub-clause (i) above;

Transitional provisions on input tax Credit

(2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, **credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him**, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed: Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.

Explanation.—For the purposes of this sub-section, the expression “unavailed CENVAT credit” means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law;

Transitional provisions on input tax Credit

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- ((3) *A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—*
- *(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;*
- *(ii) the said registered person is eligible for input tax credit*
- *(iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;*

Transitional provisions on input tax Credit

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- *(iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and*
- *(v) the supplier of services is not eligible for any abatement under this Act:*
- Provided that where a 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, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

Transitional provisions on input tax Credit

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- (4) A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act,
- shall be entitled to take, in his electronic credit ledger,—
- (a) *the amount of CENVAT credit carried forward in a return furnished under the existing law by him accordance with the provisions of sub-section (1); and*
- (b) *the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3).*

Transitional provisions on input tax Credit

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- (5) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of accounts of such person within a period of thirty days from the appointed day:
- Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:
- Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

Transitional provisions on input tax Credit

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- *(6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—*
- *(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;*
- *(ii) the said registered person is not paying tax under section 10;*
- *(iii) the said registered person is eligible for input tax credit on such inputs under this Act;*
- *(iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and*
- *(v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.*

Transitional provisions on input tax Credit

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- (7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an ISD shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.

Transitional provisions on input tax Credit

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- (8) *Where a registered person having centralised registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:*
- Provided he furnishes his return for the period ending with the day immediately preceding the appointed day **within three months of the appointed day,**
- subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:
- Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:
- Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.

Transitional provisions on input tax Credit

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- (9) *Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.*
- (10) *The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as may be prescribed.*
- *Explanation 1.—For the purposes of sub-sections (3), (4) and (6), the expression “eligible duties” means ...*
- *Explanation 2 —For the purposes of sub-section (5) , the expression ” eligible taxes & duties” means....*

Transitional provisions on input tax Credit

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- **Draft Rule 1. Application in respect of tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day**
- (1) Every registered person entitled to take credit of input tax under section 140 shall, within sixty days of the appointed day, 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 Export Oriented Unit or a unit located in Electronic Hardware Technology Park, the credit shall be allowed to the extent as provided in sub-rule (7) of rule 3 of the CENVAT Credit Rules, 2004:

Transitional provisions on input tax Credit

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- (3) (a) (i) A registered person, who was not registered under the existing law, availing credit in accordance with the proviso to sub-section (3) of section 140 shall be allowed to avail input tax credit on goods held in 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 [**forty per cent.****] 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.
- ** 60% for goods with 18%, 40 % for goods with 28%, half of these rates for IGST
- (iii) The scheme shall be available for six tax periods from the appointed date.

Transitional provisions on input tax Credit

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- (3) (b) Such credit of central tax shall be availed subject to satisfying the following conditions, namely,-
 - (i) Such goods were not wholly exempt from duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated.
 - (ii) Document for procurement 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 in accordance with the provisions of clause (b) of sub-rule (2) of rule 1, submits a statement in **FORM GST TRAN---** at the end of each of the six tax periods during which the scheme is in operation indicating therein the 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 stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

Documentation

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- (1) The input tax credit shall be availed by a registered person, including the ISD, on the basis of any of the following documents, namely:-
 - (a)/(b) an invoice /Debit note issued by the supplier in accordance with the provisions of section 31/ 34;
 - (c) a bill of entry;
 - (d) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31;
 - (e) a document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule invoice.7;
 - (f) a document issued by an Input Service Distributor, as prescribed in clause (g) of sub-rule (1) of rule 4.
- (2) Input tax credit shall be availed by a registered person only if all the applicable particulars as prescribed in Chapter ---- (*Invoice Rules*) are contained in the said document, and the relevant information, as contained in the said document, is furnished in **FORM GSTR-2 by such person.**

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Anti profiteering

Sec. 171

- **171. (1) Any reduction in rate of tax on any supply of goods or services or the benefit** of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.
- (2) *The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*
- (3) *The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.*



THANK YOU!