

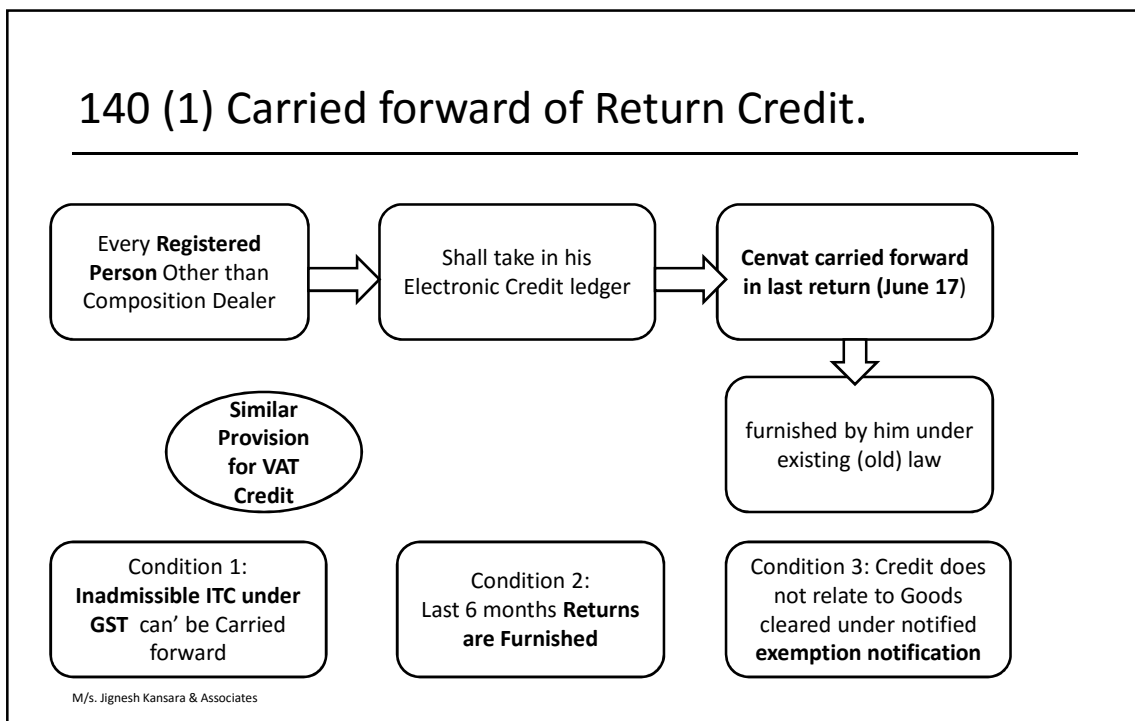
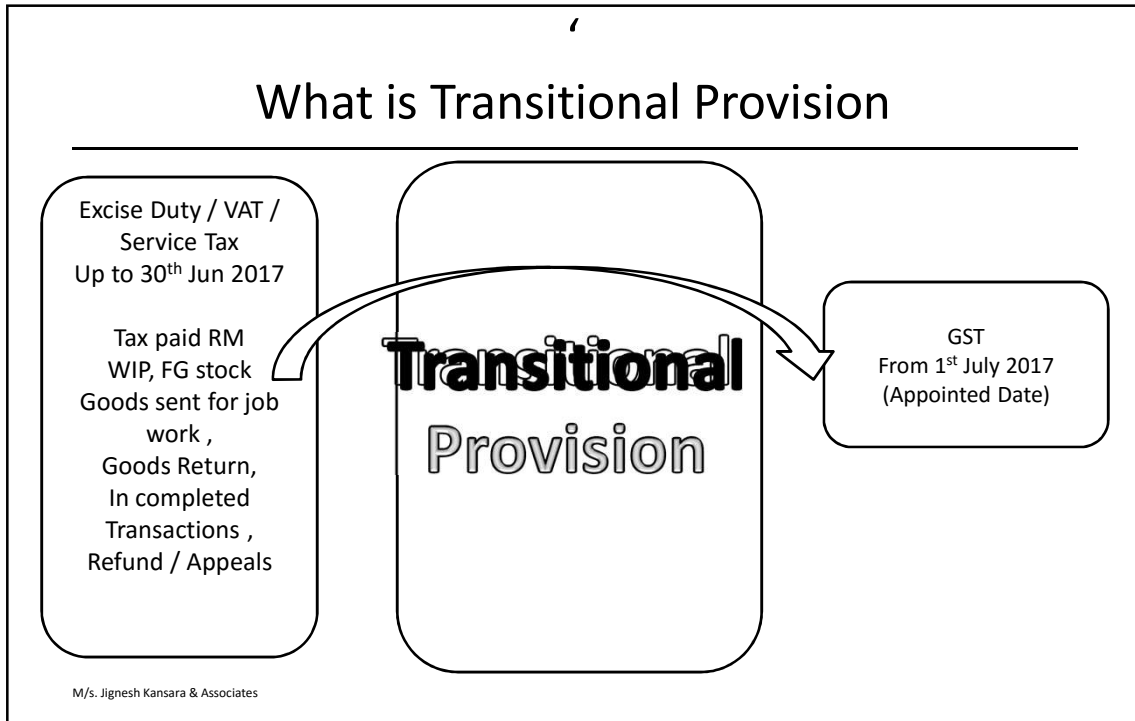
M/s. Jignesh Kansara & Associates  
Chartered Accountants



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## Transitional Provision

Covers Transitional Rules and Formats approved in GST council Meeting 03rd June



## Analysis of 140(1)

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- Cenvat Credit in **ER1** Return of June 17 c/f as **CGST Credit**
- Cenvat Credit in **ST-3** Return of June 17 c/f as **CGST Credit**
- Excess Credit C/f in **VAT** return of June 17 c/f to **SGST Credit**
- Any other local taxes Credit e.g. **Entry Tax c/f to SGST Credit**
- For Apr-Jun 17, Quarterly Service Tax Return ??
- If Return not filed / Late Filed, what will happen to c/f ??
- **C/f will not happen till Return is filed >>> Cash flow situation**

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## Analysis of Conditions - 140(1)

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- 1st condition
- **Cenvat Credit is admissible in old Act** (then only Credit can be claimed) & Cenvat Credit is admissible in **GST Act also**.
- How to find out ineligible Credit in GST out of Balance c/f ?
- FIFO basis
- Credit c/f should not pertain to Blocked Credits in GST.

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## Analysis of Conditions - 140(1)

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- **2<sup>nd</sup> condition (last 6 months Return)**
- April 16 to Sep 16 Service Tax Return not filed .  
Whether c/f allowed. **Legally Yes, Technically Wrong.**
- **3<sup>rd</sup> Condition (exemption notification)**
- Goods are not exempted.
- Common Compliance for Section 140
  - GST FORM TRAN-1 to be online filed by 28th Sep 2017 (90 days from 1<sup>st</sup> July)
  - The GST FORM TRAN-1 to contain details about the credit to be carried forward

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## Issues in 140(1)

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- Credit of RCM Liability is available on Payment tax. If RCM Liability of June 17, paid in say 6<sup>th</sup> July 2017, how to claim this credit in June 17 Return. Whether Lapse ?
- **Advisable to Pay RCM Liability of June by 30<sup>th</sup> June.**
- C/f of Cess (SBC, KKC, Education Cess, SHE etc) allowed ?
- **Yes**
- Service / Goods Received in June but invoice received after filing Last Return. Whether Credit can be c/f ?
- **No**

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## Issues in 140(1)

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- Whether Last Return filed under existing law can be revised ?
- **Yes, but Credit c/f can't exceed Credit c/f in original Return, reduction in credit is allowed.**
- Under existing law Cenvat Credit can be claimed within 1 year of date of Invoice. What will happen to such unclaimed credit if not included in Last Return, even if 1 year limit is not over.
- **It shall Lapse.**

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## Issues in 140(1)

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- Cenvat Credit Reversed under protest, Whether we need to re-claim such credit in Last Return ?
- **No.** We have separate Section for this.
- Presently 30 days allowed to issue Invoice in Service Tax. whether Service Provider can issue Invoice upto 29<sup>th</sup> July 2017 for service rendered on 30<sup>th</sup> June 17?
- it is advisable to issue Invoice immediately by 30<sup>th</sup> June to avoid Credit lapse.
- Many times in big organisation, bills are kept on hold by respective Department due to disputes. Any work around for such invoices.
- **Ensure Credit of such disputed Invoice is claimed in last Return.** If due to dispute subsequently less paid reverse proportionate credit.

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## Section 140(1) of Maharashtra GST Act

- Same provisions under MGST Act with a change in condition 3 that so much of credit that is attributable to
  - › Transit sales
  - › Penultimate sales for export
  - › CST sales
  - › Stock transfers
  - › Sales to SEZ**for which relevant forms (C,F, H, E-I, E-II forms etc) are not available shall not be eligible to be carried forward.**
- If such forms are received subsequently, the equivalent amount shall be refunded

## 140(2) Un availed Credit on Capital Goods

A registered person **other than composition dealer**

entitled to take credit of the **un availed CENVAT credit**

**In respect of capital goods, not carried forward in a in last return (June 17 Return)**

Similar Provision for VAT credit in State Act

## Analysis of Section 140(2)

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- Condition for **taking** Credit :
- Credit admissible as CENVAT credit under the existing law (old) and is also admissible as input tax credit under this (GST) Act.
- Difference between 140(1) and 140(2)
- In 140(1), credit to be claimed in **Returns to be filed in Old Regime** and excess to be c/f
- In 140(2), we can take credit directly in **GST Returns**

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## Analysis of Section 140(2)


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- Capital Goods Purchased in April 2017, 50% cenvat claimed in April 2017, what about balance 50%, can it be claimed in July 17 ?
- **Yes**
- Capital Goods purchased in July 2016, cenvat erroneously could not be claimed, how much credit can be claimed in July 2017?  
**100% (Expln 140(2))**
- Whether More than 1 year old Cenvat of CG be claimed in this section.
- **No.**

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## 140(3) : Credit in respect of **Inputs held in stock**

### Eligible Persons

- A registered taxable person who was
- 1 was not liable to be registered under the existing law 
  - 2 manufacturer of exempted good
  - 3 Provider of exempted services
  - 4 Provider of Works Contract Service & Availing Benefit of 26/2012 (Builder)
  - 5 First Stage / Second Stage Dealer
  - 6 Registered Importer
  - 7 Depot of Manufacturer

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### Conditions

- 1 inputs or goods are **used or intended to be used** for making taxable supplies under GST
- 2 **Person is eligible for input tax credit** on such inputs under this **(GST) Act**
- 3 possession of invoice or other prescribed documents **evidencing payment of duty** under the existing law in respect of such inputs; (CCR Sub Rule 9)
- 4 invoices or other prescribed documents were issued **not earlier than 12 months** from appointed day
- 5 the supplier of services is not eligible for any **abatement under this Act**

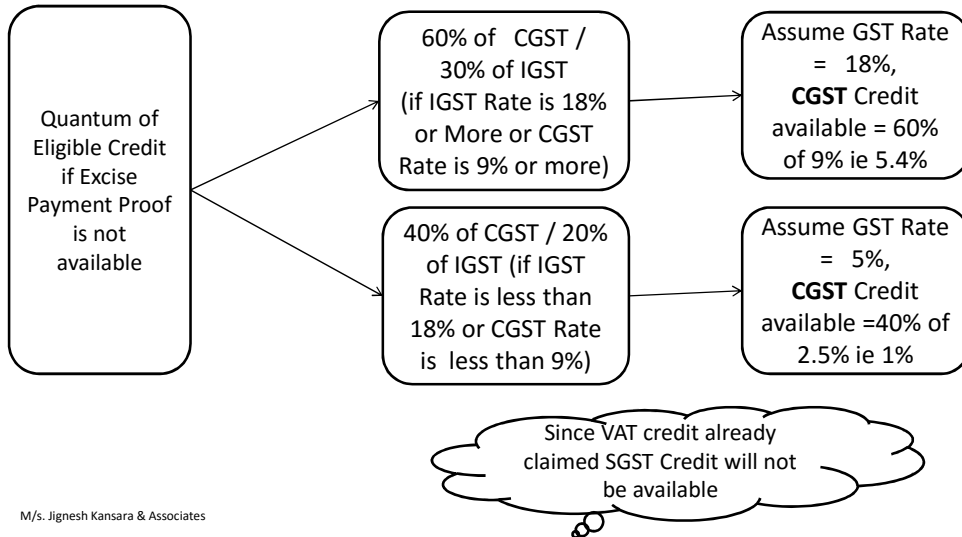
## 140(3) : Credit in respect of Inputs held in stock

- **100% of eligible duties** of **Raw Materials** and inputs contained in **semi-finished or finished goods** held in stock on the appointed day (**1<sup>st</sup> July 2017**) subject to conditions
- Eligible Duties = Generally means Excise duty + CVD (counter vailing Duty on Import) + SAD (Special Additional Duty)+ VAT (as applicable) **as per Excise Invoice**

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## Excise Credit if Evidence of payment of duty not available



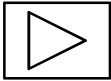
## Conditions for 40% / 60% Excise Credit

1. Taxable person shall **pass on the benefit of such credit** by way of reduced prices to the recipient.
2. **Available only for six months** from the appointed date . Sales must happen within 6 months. Sales after 6 months 40% / 60% Benefit is not applicable.
3. Document for procurement of such goods is available (**Tax Invoice**) with the registered person.
4. **FORM GST TRAN2** to be filed **every month till 6 months** indicating the details of supplies of such goods effected during the tax period.
5. The stock of goods on which the credit is availed is so stored that it can be **easily identified** by the registered person

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### Conditions for 40% / 60% Excise Credit (contd.)

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- 6 Credit only if Inputs (RM / WIP/FG) were
- a) **conditionally exempt from whole of the duty of excise specified in the First Schedule of Central Excise Tariff Act or**
  - b) **Not Nil Rated in the said schedule** 
7. Amount of **Credit** shall be available **only on payment** of GST

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### Analysis 140(3)

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Anti Profiteering Measures: Section 171

**Any reduction in rate of tax** on any supply of goods or services or the **benefits of input tax credit** shall be passed on to the recipient by way of commensurate reduction in price.

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## 140(3) Summary

Particulars	Duty Paying documents available	Duty Paying documents not available.
Stock less than 12 months old	100%	40% / 60 % subject to other conditions.
More less than 12 months old	0%	0%
Condition of passing of benefit to customers	Not applicable	Very much applicable
Time Limit of sale within 6 months	Not applicable	Applicable
When ITC credit	On 1 <sup>st</sup> July 2017	On Payment of Tax
Tax Invoice / Commercial Invoice not available (JRD Purchase)	0%	0%

## 140(3) Summary

Particulars	Duty Paying documents available	Duty Paying documents not available.
Submission of FORM GST TRAN-1, within 60 days from 1 <sup>st</sup> July	Yes	Yes
Submission of FORM GST TRAN-2 for 6 months	No	Yes
Condition of Conditional Exemption / NIL Rate in CETA	No	Yes
<b>Quantum of Excise Credit</b>	As per Excise	40 / 60% of

## 140(4) Taxable / Exempted supplies

Who is eligible :

Registered Manufacture of **taxable goods** (*dutiable*)  
as well as **exempted goods** OR

Registered Service provider engaged in Provision of  
**taxable services** as well as **exempted services** OR

**Registered VAT Dealer** Sale of **taxable goods** as well  
as **exempted / tax free** goods AND

And such Exempted / Tax Free Supply is **now taxable**  
in GST.

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## Eligible Credit c/f 140(4)

Credit carried forward in Return  
(**Taxable Goods / Services**)

• As per  
**140(1)**

&

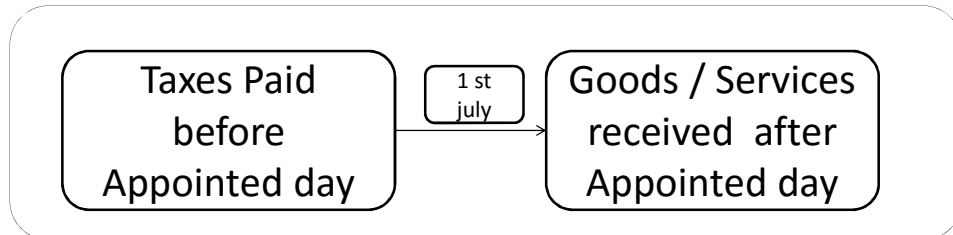
Credit of eligible duties / VAT,  
Entry tax on inputs held in stock,  
in semi-finished / finished goods  
stock relating to **exempted goods**  
**/ Services**

• As per  
**140(3)**

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Goods / services received after appointed day  
[S. 140(5)]

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*Inputs/Input services received after the appointed day on which duty/tax as per existing law has been paid*

**Registered person can take credit** of eligible duties **and taxes** VAT, Entry tax paid earlier **in GST Return.**

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## Section 140(5)

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Instances where 140(5) applicable :

1. Goods removed from factory of seller on 28<sup>th</sup> June 17 and received by buyer on 2<sup>nd</sup> July 17
2. Bill of Entry for Home consumption filed on 28<sup>th</sup> June 17 and Goods received by buyer on 2<sup>nd</sup> July 17
3. Advance was paid to Service Provider in June 17 and Services were rendered in July 17

In all such instance, **Taxes paid under old Act can be taken as Credit in respective GST.**

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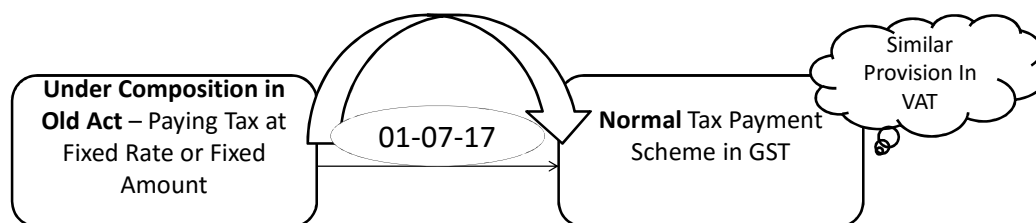
## Section 140(5)

Sr. No	Condition
1	Invoice/ other duty paying <b>document recorded in books within 30 days from appointed day</b> (can be extended by Commissioner on showing sufficient cause)
2	Details furnished with Form <b>GST TRAN-1:</b>

- In SAP / Oracle, back dated entry is not allowed.
- This section covers credit in respect of **Input and Input Services** and therefore Capital Goods Received after the appointed day on which duty/tax as per existing law has been paid will not be eligible for ITC in GST

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## Switching over from Composition 140(6)



Cenvat Credit eligible =  
Eligible duties in respect of Inputs in Stock, Semi Finished or Finished Goods.

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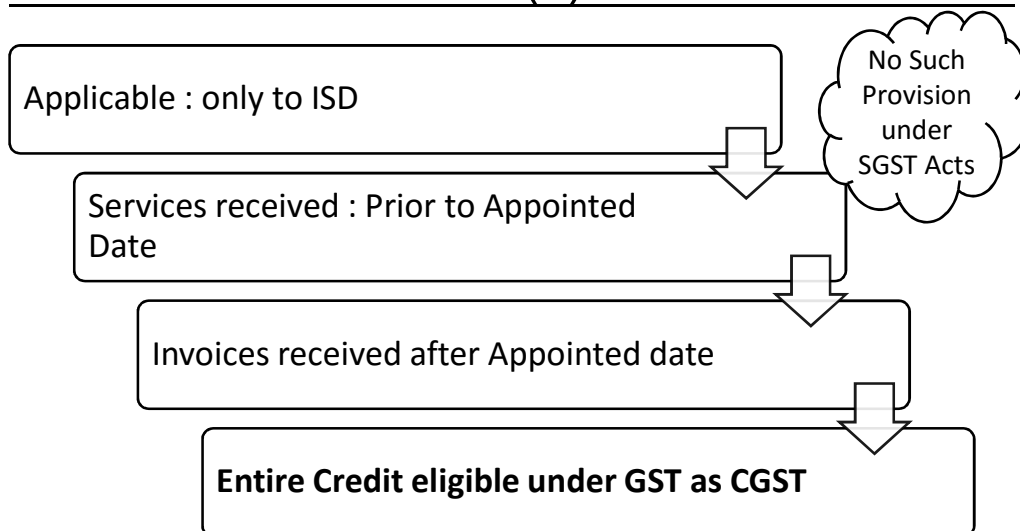
## Switching over from Composition 140(6)

Conditions to avail Cenvat.

- Such goods held in stock are used for the purpose of making taxable supplies under the GST Act;
- The said person is not paying tax under the composition scheme under the GST Act;
- The said person is eligible for input tax credit in respect of such inputs under the GST Act;
- is in possession of invoices or other documents evidencing payment of duty which were issued not earlier than 12 months from the appointed day

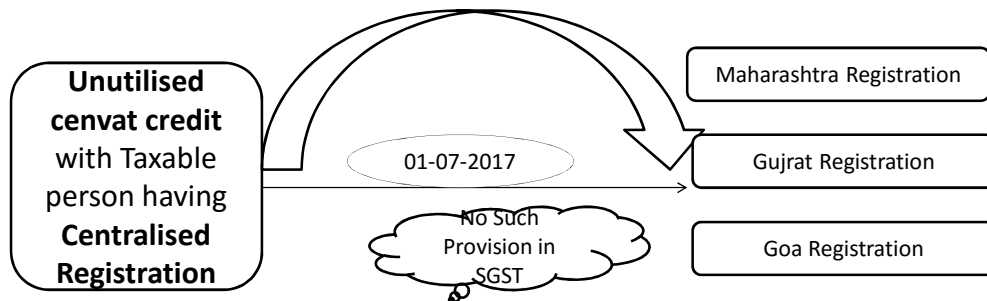
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## Credit Distribution of Service Tax by ISD 140(7)



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## 140(8) : Centralized Registration



**Taxable Person can transfer such credit to any taxable person having the same PAN i.e. for any of its unit**

Conditions :

File last return within 3 months.

credit must be admissible as ITC under GST law.

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## 140(9) : ITC of Reversed Credit

Rule 4(7) of CCR, 2004 : Payment to vendors within 90 days of Invoice Date. If not paid, Cenvat Credit to be Reversed and can be reclaimed on actual payment.

140(9) allows **Re claiming of Reversal of Credit** provided payment of consideration has been made within 3 months from appointed date.

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## Contact Us


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## Contact Us

## Not liable to be registered under the existing law ?

- A manufacturer currently availing SSI exemption and therefore not registered in Excise
- Trader vis-à-vis central excise duty
- Service provider vis-à-vis VAT
- Suppliers of goods which are currently taxed at the first point of sale and are then tax free but which will be liable to tax under GST
- Trader having Turnover less than Threshold limit. 

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## Meaning : conditionally exempt from whole of excise

E.g. Notification No. 34/2015 - Central Excise

100% Excise **Exemption Provided** that the said excisable goods are manufactured from inputs on which appropriate duty of **excise** leviable under the First Schedule to the Central Excise Tariff Act or additional duty of customs under section 3 of the Customs Tariff Act, 1975 (51 of 1975) **has been paid and no credit of such excise duty or additional duty of customs on inputs has been taken by the manufacturer of such goods** (and not the buyer of such goods), under the provisions of the CENVAT Credit Rules, 2004."

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## Meaning of NIL Rated 1<sup>st</sup> Sch CETA

and the entries relating thereto, the expression "cotton" shall include waste and garnetted stock after they have been carded, combed or otherwise processed for spinning.

4. In relation to products falling under heading 5207 or 5208 or 5209, includes bleaching, mercerising, dyeing, printing, water-proofing, shrink-proofing, organdie processing and any other like process or any combination of such processes shall amount to 'manufacture'.

Tariff Item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
<b>5201</b>	COTTON, NOT CARDED OR COMBED		
5201 00	- Cotton, not carded or combed :		
	--- Indian cotton :		
5201 00 11	---- Bengal deshi	kg.	Nil
5201 00 12	---- Indian cotton of staple length 20.5 mm (25/32") and below (e.g., oomras, yellow picking, Assam comillas)	kg.	Nil
5201 00 13	---- Indian cotton of staple length exceeding 20.5mm (26/32") but not exceeding 24.5mm (30/32")	kg.	Nil
5201 00 14	---- Indian cotton of staple length over 24.5 mm (31/32") to 28 mm	kg.	Nil
5201 00 15	---- Indian cotton of staple length 28.5 mm (14/32") and above but below 34.5 mm	kg.	Nil
M/s. Jig 5201 00 19	---- Indian cotton of all staple length 34.5 mm	kg.	Nil

