



GST ALERT XVII

Transitional Provision under GST Law for Credit of Taxes under Existing law

GST is going to be implemented from 1st July 2017. Registered Taxable Person (RTP), other than person opting to pay tax under composition scheme, is eligible to take credit of Duties and Taxes paid under the existing law (i.e. excise, service tax, vat, entry tax), in respect of stock held on cut-off date (i.e. 30th June 2017) or of unutilised Input Tax Credit (ITC) carried forward in the returns filed for the period ending on 30th June 2017.

We have given following case studies to bring clarity on the issues. These case studies do not consider following situations:

- ITC available in respect of capital goods lying on cutoff date.
- VAT dealers paying tax under MRP Scheme.

CASE 1: MANUFACTURER REGISTERED UNDER EXCISE, VAT AND / OR SERVICE TAX:

Unutilised Cenvat Credit or VAT or Entry tax Carried forward in the returns:

- RTP is entitled to take credit of Unutilised Cenvat Credit in respect of excise and service tax carried forward in the respective tax returns filed for the period ending 30th June 2017 (subject to Rules) as CGST.
- RTP is entitled to take credit of VAT or Entry tax carried forward in respective tax Returns filed for the period ended 30th June 2017 (subject to Rules) as SGST
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about such credit carried forward.
- Such Unutilised ITC is **NOT** allowed to be carried forward in following cases:
 - a. The Credit is not admissible as ITC in the GST Law
 - b. All returns for last 6 months have not been furnished under the respective laws.

- c. Cenvat Credit relates to goods manufactured and cleared under notified exemption notifications.
- d. Maharashtra VAT Credit is attributable to sales against Form C, F, E1, E2, H etc., when such forms are not available.

CASE 2: MANUFACTURER REGISTERED UNDER VAT, ENTRY TAX AND/OR SERVICE TAX:

This will cover SSI dealers having exemption from excise and liable to tax under Vat and Entry Tax.

I Unutilised Cenvat Credit or VAT or Entry tax carried forward in the returns;

- RTP is entitled to take credit of, Unutilised Cenvat Credit in respect of excise and service tax carried forward in Service tax return filed for the period ending 30th June 2017 (subject to Rules) as CGST.
- RTP is entitled to take credit of VAT or Entry tax carried forward in respective tax Returns filed for the period ending 30th June 2017 (subject to Rules) as SGST.
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about such credit carried forward.
- Such Unutilised ITC is **NOT** allowed to be carried forward in following cases:
 - a. The Credit is not admissible as ITC in the GST Law
 - b. All returns for last 6 months have not furnished under the respective laws.
 - c. Cenvat Credit relates to goods manufactured and cleared under notified exemption notifications.
 - d. Maharashtra VAT Credit is attributable to sales against Form C, F, E1, E2, H etc., when such forms are not available.

II Excise, CVD, SAD contained in Input lying as Stock on 30th June 17

- Credit of Excise, CVD and SAD in respect of Input contained in stock or included in Semi-finished goods or finished goods remaining in closing stock as on 30th June 2017 (subject to conditions).
- Such closing stock is to be used for making taxable supply.
- Documents/ invoices evidencing payment of duty are required to substantiate claim.
- Date of issue of such invoice must be on or after 1st July 2016.
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about the credit claimed and details about the stock held on 30th June 2017.
- Such claim shall be credited as CGST.

CASE 3: TRADERS REGISTERED UNDER EXCISE, VAT, ENTRY TAX AND/OR SERVICE TAX:

This will cover Registered Importer/ First stage/second stage dealers.

I Unutilised Cenvat Credit or VAT or Entry tax carried forward in the returns;

- RTP is entitled to take credit of, Unutilised Cenvat Credit in respect of excise and service tax carried forward in Service tax return filed for the period ending 30th June 2017 (subject to Rules) as CGST.
- RTP is entitled to take credit of VAT or Entry tax carried forward in respective tax Returns filed for the period ending 30th June 2017 (subject to Rules) as SGST
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about such credit carried forward.
- Such Unutilised ITC is **NOT** allowed to be carried forward in following cases:
 - a. The Credit is not admissible as ITC in the GST Law.
 - b. All returns for last 6 months have not furnished under the respective laws.
 - c. Maharashtra VAT Credit attributable to sales against Form C, F, E1, E2, H etc., when such forms are not available.

II Excise, CVD, SAD contained in Input lying as Stock on 30th June 17.

- Credit of Excise, CVD and SAD in respect of Input contained in stock or included in Semi-finished goods or finished goods in closing stock as on 30th June 2017 (subject to conditions).
- Such closing stock is to be used for making taxable supply.
- Such claim shall be credited as CGST.

Where Duty paying documents are available, full credit thereof will be available.

- Date of issue of such invoice must be on or after 1st July 2016
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about the credit claimed and details about the stock held on 30th June 2017.

Duty paying documents are not available

- Credit allowed @ 40% of CGST applicable on supply of the stock after 1st July 2017 attracting GST @5% or 12% and Credit allowed @ 60% in other cases.
- Credit will be allowed for only those supplies effected during the period starting from 1st July 2017 to 31st December 2017 and based on CGST computed on such supplies on filing of TRAN-2 on monthly basis.

- Invoice for procurement of the goods are essential and must be after 1st July 2016.
- Goods should not be exempt or Nil rated under excise.
- GST FORM TRAN-1 to be filed by 28th September 2017 containing details of stock lying on 30th June 2017.
- RTP should not be supplier of service.

CASE 4: TRADERS REGISTERED UNDER VAT AND SERVICE TAX:

I Unutilised Cenvat Credit or VAT or Entry tax carried forward in the returns:

- RTP is entitled to take credit of unutilised Cenvat Credit in respect of excise and service tax carried forward in Service tax return filed for period ending 30th June 2017 (subject to Rules) as CGST.
- RTP is entitled to take credit of VAT or Entry tax carried forward in respective tax Returns filed for the period ending 30th June 2017 (subject to Rules) as SGST.
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about such credit carried forward.
- Such Unutilised ITC is **NOT** allowed to be carried forward in following cases:
 - a. The Credit is not admissible as ITC in the GST Law.
 - b. All returns for last 6 months have not furnished under the respective laws.
 - c. Maharashtra VAT Credit is attributable to sales against Form C, F, E1, E2, H etc., and if such forms are not available.

II Excise, CVD, SAD contained in Input lying as Stock on 30th June 17

- Credit of Excise, CVD and SAD in respect of Input contained in stock or included in Semi-finished goods or finished goods in closing stock as on 30th June 2017 (subject to conditions)
- Credit shall be available by way of CGST
- Such closing stock is to be used for making taxable supply.

Where Duty paying documents are available, full credit will be available.

- Date of issue of such invoice must be on or after 1st July 2016
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about the credit claimed and details about the stock held on 30th June 2017.

Duty paying documents are not available

- Credit allowed @ 40% of CGST applicable on supply of the stock after 1st July 2017 attracting GST @5% or 12% and Credit allowed @ 60% in other cases.
- Credit will be allowed for supplies effected during the period starting from 1st July 2017 to 31st December 2017 and based on CGST computed on such supplies on filing of TRAN-2 on monthly basis.
- Invoice for procurement of the goods are essential and must be after 1st July 2016.
- Goods should not be exempt or Nil rated under excise.
- Such closing stock is to be used for making taxable supply.
- GST FORM TRAN-1 to be filed by 28th September 2017 containing details of stock lying on 30th June 2017.
- RTP should not be supplier of service.

CASE 5: SERVICE PROVIDER PAYING SERVICE TAX AT NORMAL RATE.

I Unutilised Cenvat Credit Carried forward in the returns:

- RTP is entitled to take credit of, Unutilised Cenvat Credit in respect of excise and service tax carried forward in Service tax return filed for period ended 30th June 2017, subject to Rules, as CGST.
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about such credit carried forward.
- Such Unutilised ITC is **NOT** to be carried forward in following cases:
 - a. The Credit is not admissible as ITC in the GST Law.
 - b. All returns for last 6 months have not furnished under the respective laws.

II Excise, CVD, SAD contained in Input lying as Stock on 30th June 17

- Credit of Excise, CVD and SAD in respect of Input contained in stock or included in Semi-finished goods or finished goods remain in closing stock as on 30th June 2017 (subject to conditions)
- Such closing stock is to be used for making taxable supply.
- Credit shall be available by way of CGST.

If Duty paying documents are available, full credit will be available.

- Date of issue of such invoice must be on or after 1st July 2016.
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about the credit claimed and details about the stock held on 30th June 2017.
- Such closing stock is to be used for making taxable supply.

CASE 6: MANUFACTURER/SERVICE PROVIDER NOT LIABLE TO BE REGISTERED UNDER ANY CURRENT LAWS NOW REGISTERED UNDER GST (E.G. TEXTILE MANUFACTURER):

Excise, CVD, SAD contained in Input lying as Stock on 30th June 17

- Credit of Excise, CVD and SAD in respect of Input contained in stock or included in Semi-finished goods or finished goods remaining in closing stock as on 30th June 2017 (subject to conditions)
- Such closing stock is to be used for making taxable supply.
- Credit shall be available by way of CGST.

If Duty paying documents are available, full credit will be available.

- Date of issue of such invoice must be on or after 1st July 2016.
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about the credit claimed and details about the stock held on 30th June 2017.
- Such closing stock is to be used for making taxable supply.

CASE 7: TRADER NOT REGISTERED UNDER ANY CURRENT LAWS NOW REGISTERED UNDER GST (E.G. TEXTILE TRADER):

I Excise, CVD, SAD contained in Input lying as Stock on 30th June 17

- Credit of Excise, CVD and SAD in respect of Input contained in stock or included in Semi-finished goods or finished goods remaining in closing stock as on 30th June 2017 (subject to conditions).
- Such closing stock is to be used for making taxable supply.
- Credit shall be available by way of CGST.

If Duty paying documents are available, full credit will be available.

- Date of issue of such invoice must be on or after 1st July 2016.
- GST FORM TRAN-1 to be e-filed by 28th September 2017 containing details about the credit claimed and details about the stock held on 30th June 2017.
- Such closing stock is to be used for making taxable supply.

Duty paying documents are not available:

- Credit allowed @ 40% of CGST applicable on supply of the stock after 1st July 2017 attracting GST @5% or 12% and Credit allowed @ 60% in other cases.
- Credit will be allowed for supplies effected during the period starting from 1st July 2017 to 31st December 2017 and based on CGST computed on such supplies on filing of TRAN-2 on monthly basis.
- Invoice for procurement of the goods are essential and must be after 1st July 2016.
- Goods should not be exempt or Nil rated under excise.
- GST FORM TRAN-1 to be filed by 28th September 2017 containing details of stock lying on 30th June 2017.
- RTP should not be supplier of service.
- Such closing stock is to be used for making taxable supply.

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