



## The mystery over GST Transition Rules unfolds...but Credit Transfer Document rules still in draft mode

The Goods and Services Tax (GST) Transition Rules finalised by the GST Council at its meeting held on 03.06.2017 have been made available in the public domain. In a nutshell, the said Rules provide for the following:

- The time limit for claiming input tax credit of carried forward taxes and duties u/s 140 will be 90 days from the appointed date. The Commissioner may extend this period by a further period not exceeding 90 days. This was earlier proposed to be 60 days.
- The declaration for claiming input tax credit to be carried forward under the SGST Act shall separately specify the value of claims made, and serial number and value of declarations in specified Forms submitted in support of the claims so made by the applicant in any of the earlier tax periods in respect of inter-state sales, sale in the course of exports, in-transit sales and branch sales, and sales made to special economic zones.
- A registered dealer who is not registered under the central excise law, shall be allowed input tax credit on goods on which central excise duty or CVD has been paid and held in stock on the appointed day and in respect of which he is not in possession of any document evidencing payment of central excise duty. The input tax credit so allowed will be as under:

Type of Goods	% of central tax liability allowed as credit	% of integrated tax liability allowed as credit
Goods attracting central tax @ 9% or more	60%	30%
Other goods	40%	20%



- It is to be noted that the said scheme shall be available subject to the condition that the goods are not unconditionally exempt from the whole of excise duty or were not Nil rated in the First Schedule to Central Excise Tariff Act, 1985 and that the document for procurement of such goods is available with the registered person.
- Pursuant to section 142(11)(c) of the CGST Act, 2017, where tax was paid on any supply both under VAT and service tax, the taxable persons shall be liable to pay GST after the appointed date and be entitled to claim input tax credit of VAT or service tax paid under existing law to the extent of supply made on or after the appointed day on which GST is payable. An enabling rule 2 has now been introduced to prescribe the manner in which such credit shall be taken by filing a declaration within 90 days of appointed date.

Separately, the draft rules for issuance of a Credit Transfer Document ('CTD'), to be incorporated as part of the current CENVAT Credit Rules, 2004, has been issued in public domain. The said Rules provides for issuance of a CTD within 30 days of the appointed date by a **registered manufacturer** for transfer of CENVAT credit paid on goods in possession of a person who is not registered under Central Excise Act, 1944 but is registered under the CGST Act, 2017. The transfer of duty credit shall however be available only where the value of goods is higher than Rs. 25000 per piece and bears the brand name of the manufacturer and are identifiable as a distinct number.

The aforesaid draft Rules do not address / are not clear on the following aspects:

1. The CTD provisions do not cover an importer who has a Bill of Entry evidencing payment of duty. E.g. importer / trader of a car where the aforesaid conditions get clearly satisfied. There is no rationale of restricting the CTD to only a manufacturer.
2. The Rules provides for transfer of credit to a person who is not registered under the Excise Act. This condition is not clear as there could be situations where a manufacturer / trader who is registered under excise might have purchased some goods which satisfy the other conditions, however, might have not got certain excise invoices when they would have purchased the goods from an intermediary. There could also be a situation where, a registered person might be dealing with goods under two categories (Air conditioner & TV) and passing credit to its customer only for one category (e.g. Air conditioner). With the aforesaid language, he may not be allowed to receive a CTD for the other category also.
3. Condition (vii) stipulates that CTD shall not be issued in favour of a dealer to whom invoice was issued for the same goods before the appointed date. It appears that the invoice means an excise invoice, however, has been missed out while drafting.
4. The requirement of maintaining invoices of all intermediaries is very onerous and it is not clear as to how this will be commercially dealt with, as this would disclose the entire pricing/ profit margin to the retailer.



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