

**E-COMMERCE**  
*INCLUDING*  
**(PROVISION OF TCS)**

*CA Aarchana Yadav*

*01.06.2017*

# E-Commerce

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# E-Commerce

- Section 2(44) of CGST Act

*“electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic network;*

- Section 2(45) of CGST Act

*“electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;*

# Section 24 - No Threshold CGST ACT 2017

Threshold provided u/s 22(1) of Rs. 20 lacs  
does not apply to :

***Section 24 (ix)*** 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*

***Section 24(x)*** every electronic commerce operator;



# Section 52 - Tax Collected at Source

- ◉ Why Collection at Source? Not deduction.
- ◉ Rate - not exceeding 1%
- ◉ Net taxable supplies- Made through it.
- ◉ To be paid to Govt. within 10 days after the end of the month (Section 52(3))
- ◉ Electronic statement - within 10 days -every month
- ◉ Annual Statement - 31<sup>st</sup> December of next year
- ◉ Matching possible?
- ◉ Set off of TCS- Electronic Cash Ledger?

**JOB WORK**

*INCLUDING*

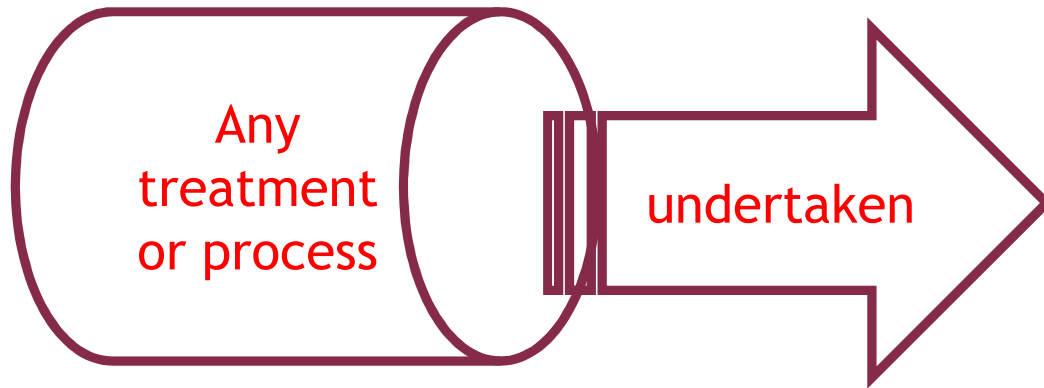
*(Transition Provisions)*

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# Job Work

- What is Job Work in GST? -Section 2(68)



By Person

# Job Work

- ◉ **Is Job Work Supply u/s 7(1)**

“all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business”

- ◉ **Is Job Work -Goods/Services/WCT**

Schedule II - Clause 3

Any treatment or process which is applied to another person's goods is a supply of services

- ◉ **Section 143 - Subject to Conditions -without payment of tax - Inputs / Capital Goods**

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- ◉ **Section 143 - Subject to Conditions -without payment of tax - Inputs / Capital Goods**

# Transition Provisions

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# 141- Transition Provisions

## 141 – Job Work

- Goods Returned by JW within six months of appointed day
- Extended for two months by Commissioner
- Goods if Not Returned with scheduled time,
  - **input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142.**
- Declaration required for goods held in stock by the
- job-worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

# Transition Provisions

- ◉ Chapter XX of CGST Act 2017
  - ◉ Section 139 - deals with Registration Certificate
  - ◉ Section 140 - Input tax credit for stocks lying with person on a day preceding the appointed day
  - ◉ Section 141 - Transitional provisions relating to Job Work
  - ◉ Section 142 - Miscellaneous Transitional provisions
- ◉ GST Compensation Bill
  - ◉ Section 2(q) - “transition date” shall mean, in respect of any State, the date on which the State Goods and Services Tax Act of the concerned State comes into force;
  - ◉ Section 2(r) “transition period” means a period of five years from the transition date
- ◉ Transition rules are yet to be approved by Council (at the time of making of presentation)










# Transition Provisions - Registration

## 139 - Migration of Tax payers

- Person registered under *Existing Laws and having a PAN.*
- Granted a Provisional certificate
- *Replaced by Final Certificate*
- Can be cancelled on application by the person as if he was not liable to registration
- Transition for registration is guided by registration rules which has been passed by *GST Council on 18<sup>th</sup> May 2017*



# Transition Provisions - Inputs

Section No	Particulars
140(1)	ITC in Return 
140(2)	Capital Goods - ITC 
140(3)	Non-registered under Existing Laws 
140(4)	ITC - Taxable as well as Exempt goods 
140(5)	ITC - After appointed day 
140(6)	Fixed rate/Fixed Amount 
140(7)	ITC- ISD 
140(8)	ITC - Centralised Registration 
140(9)	ITC - Reversed -non payment 

# 140(1) - Transition Provisions

## 140 (1) – Registered Person other than Composition Dealer under CGST Act.

**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,

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.



# 140(2) - Transition Provisions

## 140 (2) – Registered Person other than Composition Dealer under CGST Act.

- 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.



# 140(3) -TRANSITION PROVISIONS

## Section 140 (3) – Registered Person who was

- *not registered under earlier laws*
- *engaged in manufacture of exempted goods/services*
- *Works Contract u/N 26/2012 dated 20.06.2012.*
- *First stage Dealer*
- *Second Stage Dealer*
- *Registered Importer*
- *Depot of Manufacturer*

# 140(3)- Conditions

## Conditions for availing the Credit u/s 140 (3)

- such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- *the said registered person is eligible for input tax credit on such inputs under this Act;*
- 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;
- such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and
- the supplier of services is not eligible for any abatement under this Act:



# 140(3) -Transition Provisions

## Conditions for availing the Credit u/s 140 (3)

- Person other than Manufacturer or supplier of services, **not in possession of invoice or duty paying documents** then, subject to

- 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.
- 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.
- The scheme shall be available for six tax periods from the appointed date



# 140(4) -Transition Provisions

## 140 (4) – 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 as per

**Section 140 (1) for taxable goods**

**Section 140 (3) for exempted goods**



# Transition Provisions

## 140 (5) - Registered Person allowed

- 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 account of such person within a period of thirty days from the appointed day
- Extended for thirty more days
- Furnish statement as prescribed for such credit.



# 140(6) -Transition Provisions

## ***140 (6) – Registered Person paying fixed rate or paying a fixed amount in lieu of the tax payable under the existing law***

### *Credit allowed for eligible duties provided*

- such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- the said registered person is not paying tax under section 10;
- the said registered person is eligible for input tax credit on such inputs under this Act;
- 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
- such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.



# 140(7) - Transition Provisions

## 140 (7) – Input Service Distributor

Notwithstanding anything contained under this Act

- input tax credit on account of any services received **prior to the appointed day** by an Input Service Distributor 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.





# 140(8)- Transition Provisions

## ◉ 140 (8) – Centralised Registration

- Allowed CENVAT Credit carried forward in Electronic Credit Ledger
- Provided
  - furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day,
  - registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:
  - such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralized registration was obtained under the existing law.



# 140(9)- Transition Provisions

## 140 (9) – Credit Reversed

- 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.**



# 142- Transition Provisions

## 142 – Miscellaneous Transition Provisions

- *B2C Sales , good returned, tax will be refunded under current law*
- *B2B Sales, transaction will be treated as fresh supply*
- *Revision in Contract – Upward – raise supplementary invoice , within 30 days –treated as supply under CGST Act*
- *Revision in Contract – Downward – raise Credit note – within 30 days – tax reduction allowed only if corresponding credit reduced by recipient*
- *Any refund arising due to credit/duty/tax/interest shall be dealt under existing law and refund paid in cash – Unjust Enrichment to be taken care off*
- *Any tax, interest, fine or penalty becomes recoverable from the person in pursuance of proceedings will be recovered under provision of GST Act.*

# Anti-Profiteering

- What is profiteer?
  - “a person who seeks or exacts exorbitant profits, especially through the sale of scarce or rationed goods.”
  - “Unreasonably high”
- Anti-profiteering Law
  - Australia - 1999
  - Malaysia- 2011
  - West Bengal- 1958
- Section 171 of CGST Act 2017
  - 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



**THANK YOU**

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