

# Transitional Provisions

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# Transitional Challenges

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- ▶ Statutory Requirements;
  - ▶ Internal –
    - ▶ To set up systems as per the statutory requirement and
    - ▶ To set up procedures as per the statutory requirement
  - ▶ External – Statutory Authorities
    - ▶ Filing required returns
    - ▶ Filing required declarations;
    - ▶ Filing required certificates;



# Transitional Challenges

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- ▶ Business Requirements;

- ▶ Internal –

- ▶ Analysis of Impact;
    - ▶ Study of system;
    - ▶ Assessing and restructuring of human resources and IT infrastructure;
    - ▶ Assess the financial position and arrange for additional VWC if required;
    - ▶ Training of resources to enable them to handle the changed environment;
    - ▶ Many More

- ▶ External –

- ▶ Assessing the position of entity in the market in the GST; Take corrective measure if required to sustain the market position.
    - ▶ Assessing the impact on suppliers/vendors and customers;
    - ▶ Impact of the GST on already existing contracts and re-negotiations;
    - ▶ Support to vendors and customers if required to ensure smooth functioning



# Transitional Provisions

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- ▶ Chapter XX of CGST Act, 2017 deals with transitional provisions.
- ▶ It provides specific treatment for certain scenarios wherein there may be loss or impact on existing law being made inoperative and new law is introduced.
- ▶ It is also designed to give clarity in certain circumstances.
- ▶ The right, privilege, obligation, or liability acquired, accrued or incurred in the pre-GST law would not get affected on introduction of GST.
- ▶ Therefore the proceedings initiated or to be initiated under pre-GST law is going to continue even after the introduction of GST.



## Migration of Existing Tax Regd. Persons

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- ▶ Existing Regd. persons having valid PAN will be given Regn. certificate on provisional basis;
- ▶ This will be subject to compliance of conditions and procedure in Rules;
- ▶ On such compliance it will be replaced by final Regn. certificate.
- ▶ If not it is liable for cancellation.
- ▶ If any person who was not required to be registered in terms of GST law, it can be cancelled on specific application and procedure.
- ▶ On such cancellation, it is deemed that no regn. was issued.



# Amount of CENVAT carried forward in return

- ▶ **Benefit** : Closing CENVAT Credit / VAT / Entry tax credit reflected in return filed for the last period is permitted to be taken into GST Credit ledger;
- ▶ CENVAT Credit → CGST;
- ▶ VAT / Entry tax → SGST
- ▶ **Conditions** :
  - ▶ Not opting to pay under composition scheme;
  - ▶ Credit is admissible as input tax credit under GST law;
  - ▶ Furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date;
  - ▶ Amount of credit should not be related to manufactured goods cleared under certain exemption notifications (under pre-GST law) which will be notified.

**Section- 140(I)**

# Amount of CENVAT carried forward in return (contd.)

Section- 140(I)

## Other conditions with respect to the State laws:

Claim of credit relating to:

Transit  
sales

Penultimate  
sales

Stock  
transfer

Inter-state  
sales

Will not be eligible to take in  
ECL without substantiation as  
per Rule 12 of CST  
(Registration and  
Turnover) Rules, 1957

Once substantiated as per  
Rule 12 of CST (Registration  
and Turnover) Rules, 1957, will  
be refunded under earlier law.

# Un-availed CC/input tax of Capital goods

Section- 140(2)

- ▶ **Benefit :** Unavailed CENVAT input tax credit in respect of Capital goods not carried forwarded in returns is permitted to be taken into GST Credit ledger;
- ▶ CENVAT Credit → CGST;
- ▶ VAT / Entry tax → SGST
- ▶ **Conditions :**
  - ▶ Not opting to pay under composition scheme;
  - ▶ Credit is admissible as input tax credit under Pre-GST law;
  - ▶ Credit is admissible as input tax credit under GST law;
  - ▶ Unavailed = Entitled less availed





# Credit of inputs held as stock in certain cases

Section - 140(3)

## Registered person

Not liable to register under earlier law

Mfr / providing of exempted goods/service

Works contractor and availing benefit of Not. 26/2012-ST

1<sup>st</sup> stage, 2<sup>nd</sup> stage dealer & registered importer/Depot of Mfr.

- ▶ Entitled to take credit of eligible duties and taxes on inputs, (in WIP & FG also).
- ▶ Duties and Taxes in respect of inputs –ED, SED, AED (T&T), AED(GSI), NCCD, CVD, SAD, VAT & Entry tax.



# Credit of inputs held as stock (Contd.)- Subject to

Section - 140(3)

**Such inputs/goods**

- Are used or intended for making taxable supplies

**Regd. person**

- Eligible for input tax credit under GST Act

**Regd. person**

- Is in possession of invoice & other Docs as under *earlier law*

**Such documents**

- Are issued not earlier than 12 months from appointed day

**No Abatement  
(CGST)**

- Supplier of service is not eligible for abatement under this Act.

**Declaration within  
60 days**

- In Form TRAN-01.

# Credit of inputs held as stock (Contd.)- No document Cases

Section - 140(3)

**Regd. Person**

- Should not be Mfr. Or S.P.

**No Duty paying docs.**

- But should have documents of procurement

**Anti profiteering**

- Benefit should be passed on by way of reduced prices.

**At the time of paying GST**

- 40% of tax payable on the supply of such goods is given as deemed credit.

**Scheme Available**

- For six months.

# Credit in respect of exempt and taxable goods

Section - 140(4)

## Registered person (CGST)

Manufacturing both exempted and non-exempted goods

Providing both exempted and non-exempted services

## Eligible credit

- ▶ CC c/f u/s 140(1) and
- ▶ CC of eligible duties on inputs, (in WIP & FG also) relating to exempted goods/services as per s. 140(3).



# Credit with respect to inputs / input services in transit

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Section - 140(5)

- ▶ A registered person would be eligible to take credit of eligible duties on inputs or input services
  - ▶ Received on or after appointed day
  - ▶ Duty or tax **paid before appointed day**
- Condition
  - Invoice/other document to be recorded within 30 days/extended period (30 days) from apptd. day



# Person switching over from composition scheme

Section-  
140(6)

- ▶ Registered taxable person
  - who is paying tax at fixed rate/amount under earlier law
  - shall be entitled to take credit of eligible duties -in respect of inputs held in stock(inputs, WIP & FG).
- ▶ The above subject to conditions same as 140(3)



# Credit distribution of service tax by ISD

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Section-140 (7)

- Input tax credit of services received prior to appointed day, by an ISD
  - Is eligible for distribution as credit under GST
  - Even if invoice(s) received on or after the appointed day.
- ▶ **Only under CGST**



# Credit of Centralised regn.

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Section-140 (8)

- Centralized registration is permitted to take closing balance of credit to ECL in full.
- This is available only if returns for the last period is filed within three months.
- If the returns is revised, then credit cannot be increase in the said returns.
- Unless the credit is also eligible credit under GST.
- The credit so availed can be distributed to oher places which was covered under centralised registration.
- **Only under CGST**





# Re-credit of reversed credit.

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Section-140 (9)

- Input service credit availed and payment not made within 3 months the credit availed has to be reversed. It can be re-availed on actual payment.
- If any credit which was so reversed and payment is yet to be made on appointed date,
  - on payment being made can be availed under GST.
- Time limit is three months from the appointed date.



# Refund claims

Section-141(3) & (4)

**Claim for refund**

**Of CENVAT Credit/duty/tax and interest, paid under pre-GST law / relating to export**

**Filed by any person before or after the appointed day**

**Disposed of in accordance with earlier law**

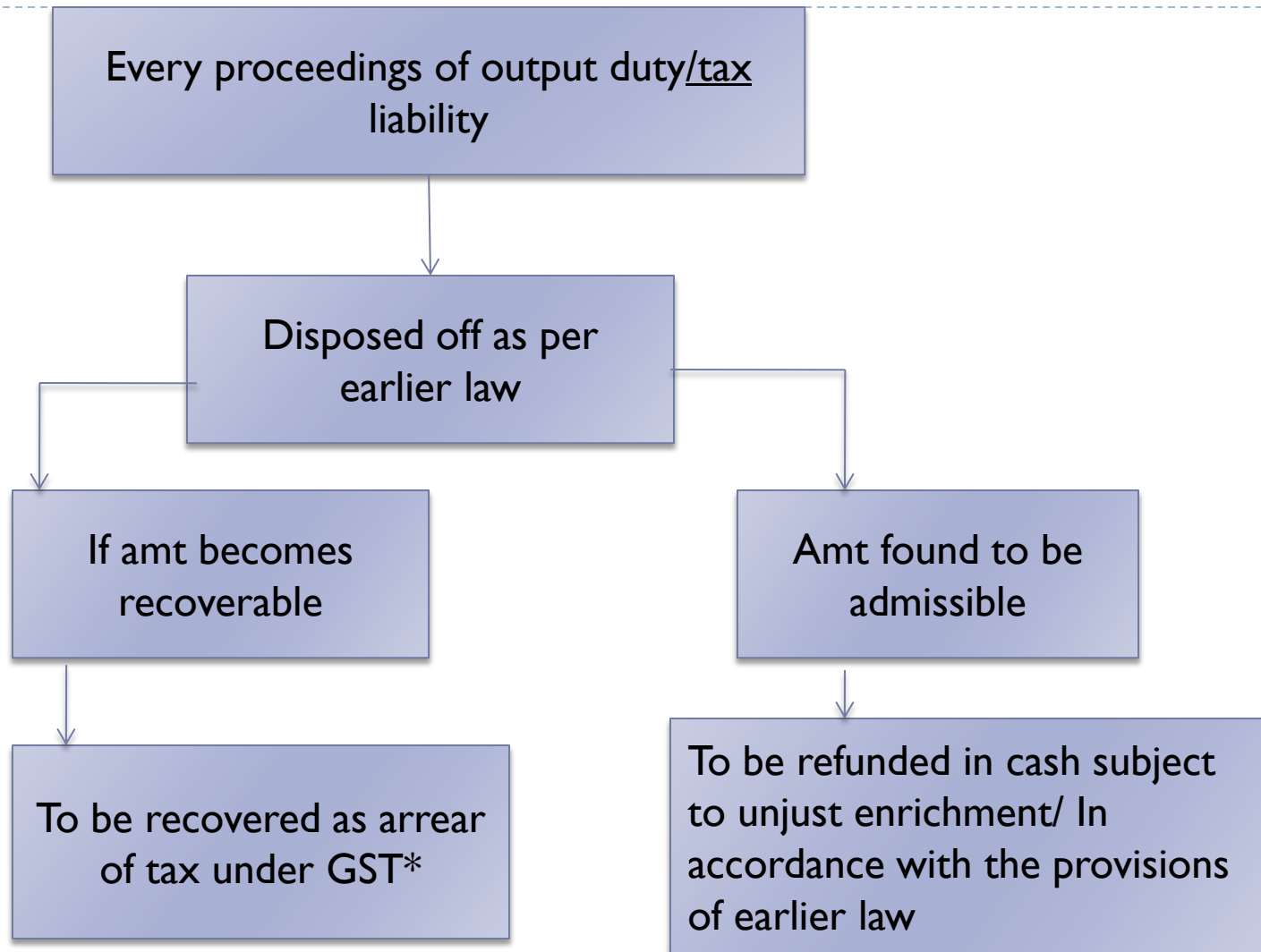


Amt eventually accruing-  
paid in cash subject to unjust  
enrichment/as per the provisions of  
the said law

Claim for refund is fully or  
partially rejected-amount shall  
lapse

No refund of CENVAT credit to the extent c/f on  
appointed day

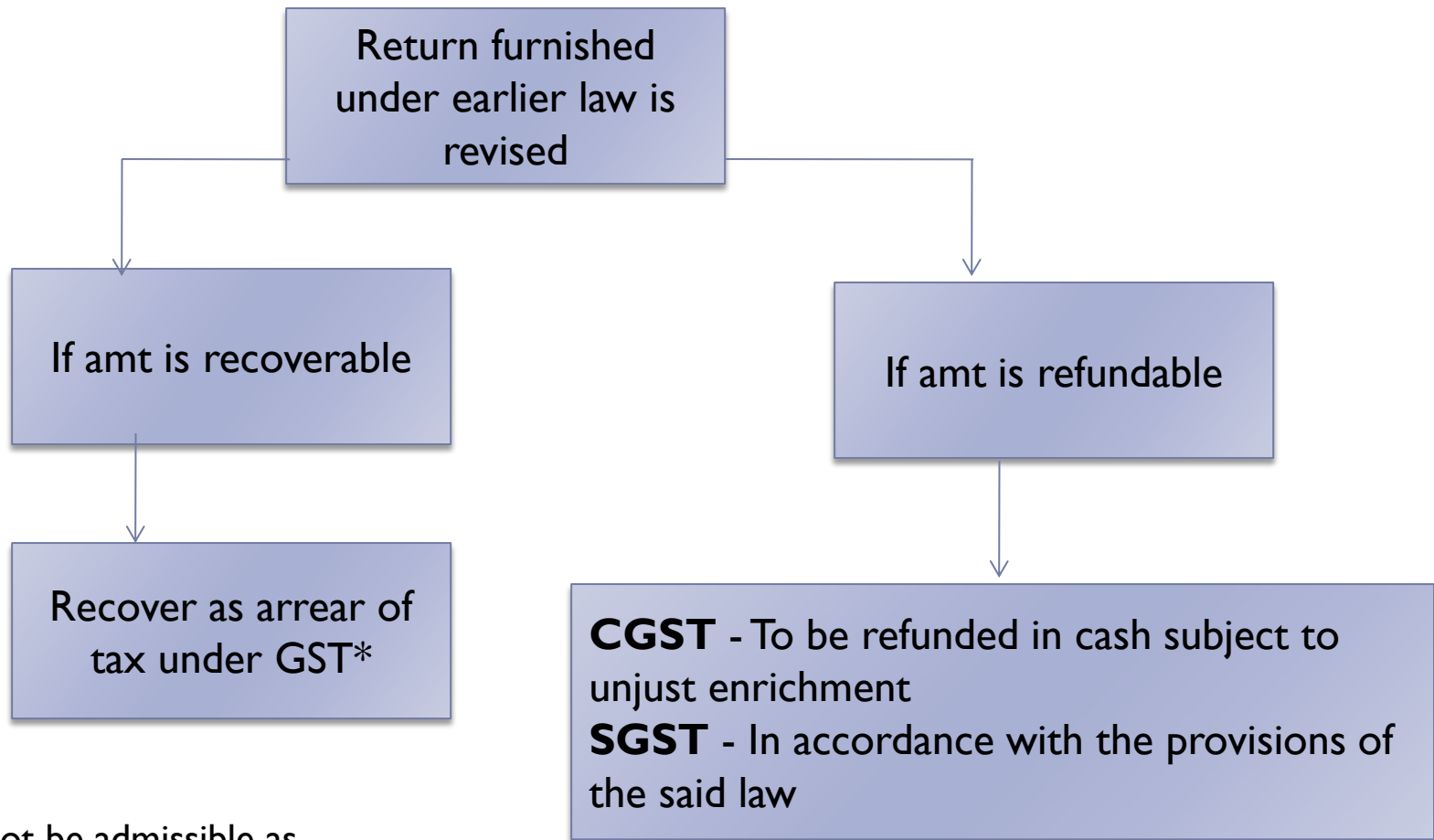
# Assessment/finalization of appeal, revisions, review, relating to output duty/tax liability



\*not be admissible as input tax credit- GST

# Amount recovered or refunded pursuant to revision of returns

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\*not be admissible as  
input tax credit- GST



# Tax payable both pre-GST and Post GST

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- ▶ **Goods** : If **leviable** under pre-GST law, not tax under GST
- ▶ **Services**: If **leviable** under pre-GST law, not tax under GST
- ▶ **Goods and Services** : If leviable under GST, to be paid under GST and avail credit of taxes paid under pre-GST



# THANK YOU



***For any clarification***  
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