



## ***GST: Transitional Provisions***

***Edition 3***

- POT Transition Phase [S.188 and S. 189]
- Credit with ISD [S.190 and S. 191]
- Goods with Agent [S.192 and S.193]
- Transfer of goods to branch [S.194 and S. 195]
- TDS during transit [S. 196]
- Transitional Provisions for availing CENVAT credit [S. 197]



**Taxability of supply of services in certain cases**

Notwithstanding anything contained in S.13 or S.14:

- the tax in respect of the taxable services
- shall be payable under the earlier law
- to the extent the point of taxation
- in respect of such services
- arose before the appointed day
- Where the portion of the supply of services not covered by this section
- such portion shall be liable to tax under this act

*\* Similar enabling provisions under SGST*

**GST – Place of supply of goods and services**

**Which tax is payable**

- ▶ If location of supplier and place of supply are in same State, CGST and SGST are payable.
- ▶ If location of supplier and place of supply are in different States, IGST is payable.
- ▶ This is subject to section 5 of GST Law. Section 5 covers cases of transfer by documents, supply on board a conveyance etc.
- ▶ Exports and imports of goods and services are deemed to be supply in course of inter state trade or commerce.
- ▶ India includes 200 nautical miles inside sea and J&K also

### Taxability of supply of goods in certain cases

Notwithstanding anything contained in S.12 or S.14:

- the tax in respect of the taxable goods
- shall be payable under the earlier law
- to the extent the point of taxation
- in respect of such goods
- arose before the appointed day
- where the portion of the supply of goods not covered by this section
- such portion shall be liable to tax under this act

*\* Similar enabling provisions under SGST*

### Time of supply of goods - earliest of following

- ▶ Date of removal by supplier for recipient or where goods are made available to recipient when not required to be moved
- ▶ Date of issue of invoice
- ▶ Date of receipt of payment with respect to supply
- ▶ Date on which the recipient shows receipt of goods in his books of account
- ▶ Continuous supply of goods by pipe, wire or otherwise - date of invoice issued on periodical basis

**Credit distribution of Service Tax by Input Service Distributor [CGST only]**

Notwithstanding anything to the contrary contained in this Act:

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





### Provision for transfer of unutilised CENVAT Credit by taxable person having centralized registration under the earlier law [CGST only]

Where a taxable person:

- having centralized registration under the earlier law
- and has obtained a registration under this act
- such person shall be allowed to take credit
- of the amount of CENVAT credit c/f in a return
- in respect of the period prior to the appointed day
- provided he files his return **within 3 months** from the appointed day
- Also such amount should be eligible for credit under this act
- such credit may be transferred to any other registered taxable person (having the same PAN)
- for which the centralised registration was obtained under the earlier law



**Tax paid on Goods lying with agents to be allowed as credit [Only in SGST]**

- Goods of Principal lying at the premises of the agent on the appointed day
- The agent shall be entitled to take credit under GST

Agent is registered taxable person



Such stock lying with agent is declared by both principal and agent



Invoices not earlier than 12 months



The principal has either reversed or not availed input tax credit of such goods





## Section 193

### Tax paid on capital goods lying with agents

GST Regime

#### Tax paid on Capital Goods lying with agents to be allowed as credit [*Only in SGST*]

- Capital Goods of Principal lying at the premises of the agent on the appointed day
- The agent shall be entitled to take credit under GST

Agent is registered taxable person



Such stock of capital goods lying with agent is declared by both principal and agent



Invoices not earlier than 12 months



The principal has not availed input tax credit of such capital goods





#### **Background of branch transfers:**

Under State VAT laws in inter-state transfers, ITC to stock transfers are required to be reversed partially or fully as per terms of computation mechanism.

In most States, a percentage of ITC is reversed by applying ratio of value of stock transfers to total taxable transactions.

Notwithstanding anything to the contrary contained in this Act:

- any amount of input tax credit
- reversed prior to the appointed day
- shall not be admissible as credit of input tax under this Act

***\*Only in SGST***

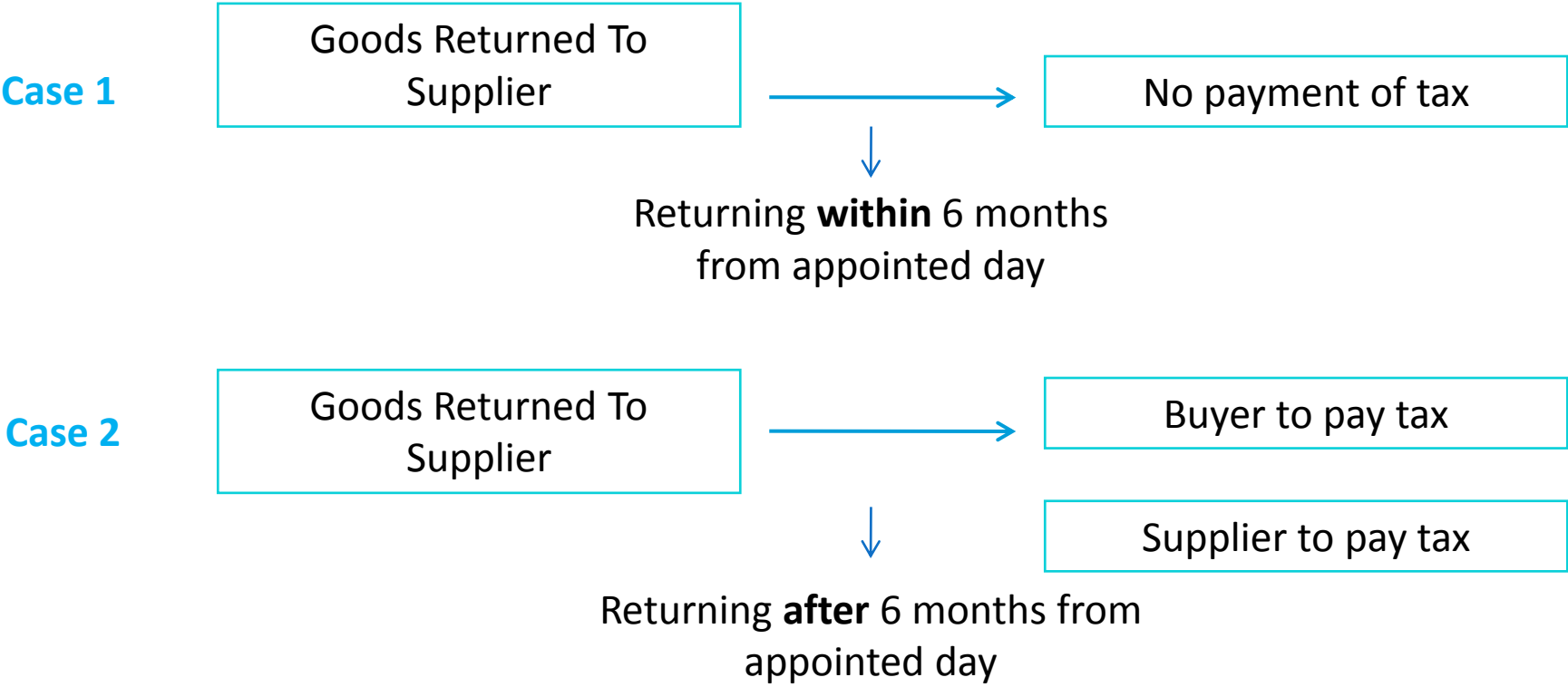


Goods sent on Approval basis returned after the appointed day [Only in SGST]

Where any goods:

- sent on approval basis
- not earlier than 6 months before the appointed day
- either rejected or not approved by the buyer
- and returned to the seller on or after the appointed day
- no tax shall be payable, if such goods are returned within 6 months from the appointed day, else
- tax shall be payable by the person returning the goods
- also tax shall be payable by the person who sent the goods

Goods sent on approval within 6 months prior to appointed day [Only in SGST]





### **Deduction of Tax at source**

Where a supplier:

- has made any sale of goods under the earlier law
- which were subject to TDS
- also issued an invoice on or before the appointed day
- no TDS shall be deducted
- where payment to the said supplier is made on or after the appointed day



## Section 197

### Transitional provisions for availing CENVAT Credit in certain cases

GST Regime

Where any CENVAT Credit:

- availed for the input services
- provided under the earlier law
- was reversed due to non-payment of consideration within 3 months
- can be reclaimed
- provided such payment was made within 3 months from the appointed day

***\*only under CGST***





## About Us

### Who We Are:

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We have been providing services to a proud mix of Multinational companies, Indian companies, High Net Worth Individuals amongst others. Our multinational client-set includes companies belonging to Japan, US, Singapore, China, Taiwan, Hong Kong, and many others.

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