REGISTRATION, RETURNS & TRANSITIONAL PROVISIONS

Date-10 Dec 2016

For

NIRC OF ICAI AT INDIA HABITAT CENTRE

Ashu Dalmia

Partner

Ashu Dalmia & Associates

FCA,DISA,CISA

ICAI Certified-FAFD,ICAI-Certified Arbitrator Special Auditor u/s 72A of the finance Act 1994 (office of the Commissioner, Service, Tax Audit-II Delhi)

Mob:- +919810893243

Email:- ashu.dalmia@ada.org.in

Web:- www.gstindia.biz,www.ada.org.in

TRANSITIONAL PROVISIONS

- Migration
- Input Tax Credit
- Refund Claims
- IGST on Imports/Inter State Supply
- Applicability of GST & Miscellaneous Provisions

TRANSTIONAL PROVISION - MIGRATION SCHEME

TRANSTIONAL PROVISION – INPUT TAX CREDIT

Carried forward of CENVAT/VAT/Entry Tax in electronic credit ledger

- Applicable for Registered person other than covered in composition scheme.
- Such Credits is admissible under GST and under earlier laws.
- Ensure that the CENVAT Credit/VAT inputs to be carried forward are properly quantified and reflected in last return of earlier laws.
- Credit of CENVAT / VAT / Entry Tax should be carried forward in the return furnished under the earlier laws.

Unavailed CENVAT Credit/Input Tax Credit of Capital Goods

- Available to Registered Tax person other than paying composition scheme in GST

Registered Person (Other than Composition Tax payer under GST Act)

→

Unavailed CENVAT Credit in respect of capital goods

→

Not Carried forward in return furnished under earlier law

↓

Entitled to take credit in electronic credit ledger in such manner as may be prescribed

←

Provided that Such credit must be admissible under earlier law and also under GST Act

Unavailed CENVAT Credit/Input Tax Credit of Capital Goods

- Available to Registered Tax person other than paying composition scheme in GST

Mr. X has unutilized CENVAT Credit balance of Rs. 1 Crore and Rs. 50 Lakhs as VAT ITC, whether the same would be allowed to be utilized as GST?

Transitional provisions

Check if it was valid credit under old Law and is valid credit under GST Law

Utilization as CGST, SGST or IGST?

Credit of eligible duties & taxes (Section 169, 170, 171 & 172)

Eligible Duties

- Basic Excise Duty (BED)
- Additional Duty of Excise (AED)
- National Calamity Contingent Duty (NCCD)
- Countervailing Duty (CVD)
- Special Additional Custom Duty (SACD)
- Service Tax

Credit of eligible duties & taxes (Section 169, 170, 171 & 172)

Action Points

- ❖Need to start capturing the duties & taxes paid under the current regime.
- ❖Ensure that there is detailed breakup of stock in held as on the appointed date in GST regime along with duties & taxes paid on the same.
- ❖ Credit to be shown in electronic credit ledger.

Credit eligible duties & taxes in respect of Stock held-Section 169

- A registered taxable person, who was:
  - Not liable to be registered under earlier law
  - Manufacturer of exempted goods
  - Provider of exempted services
  - Works Contractor availing benefit of notification no. 26/2012 – ST
  - First Stage Dealer
  - Second Stage Dealer
  - Registered Importer

Shall be entitled to take credit of eligible duties and taxes in his electronic credit ledger credit of eligible duties and taxes in respect of:-

Inputs	Semi-Finished Goods	Finished Goods

Credit of eligible duties & taxes in respect of Stock held-Section 169

Subject to the following conditions

- Inputs/ gods are used or intended to be used for making taxable supplies
- The said taxable person passes on the benefit of such credit to the recipient
- Eligible for input tax credit under GST Act
- Possession of invoice or other prescribed documents evidencing payment of duty under earlier law
- Not earlier than 12 months immediately preceding the appointed day
- The supplier of services is not eligible for any abatement under the GST Act

PROVISION IS ALSO PROVIDED IN SGST LAW

Credit of eligible duties & taxes in respect of input held in stock-Section 170 (Only in CGST Law)

This is the extension of Section 167 and Section 169

Manufacturer of non exempted as well as exempted goods under Central Excise Act 1944

Provider of non exempted as well as exempted service under Finance Act 1994

Registered Taxable Person

Entitled to take credit as per CENVAT Credit u/s 167 (Last return of earlier law)

Entitled to take credit of inputs held in stock, WIP & FG u/s 169

Credit of eligible duties & taxes in respect of input or input service during transit-Section 171

Input or Input Service received on or after appointed date

Duties or Taxes paid before the appointed date

Recording of Transaction in the books of accounts with in 30 days

Credit can be taken in electronic ledger of the aforesaid input credits

PROVISION IS ALSO PROVIDED IN SGST LAW

Taxpayer switching from Composition scheme in earlier laws to Normal Scheme in GST-Section 172

Subject to the following conditions

Credit in respect of inputs held in stock/input contained in SF or FG held in stock on appointed day

- Inputs/ goods are used or intended to be used for making taxable supplies
- Not registered as Composition Tax payer under GST Act
- Eligible for input tax credit under GST Act
- Possession of invoice or other prescribed documents evidencing payment of duty under earlier law
- Invoice not earlier than 12 months immediately preceding the appointed day

PROVISION IS ALSO PROVIDED IN SGST LAW

Credit Distribution by Input Service Distributor (ISD)-Section 190 (Only in CGST Law)

Services received prior to appointed day

+

Invoice received on or after appointed day

ISD – Eligible to distribute credit under GST Act

Unutilized CENVAT credit of centralized registration under the earlier law-Section 191 (Only in CGST Law)

❖Taxable person having Centralised Registration under earlier law shall be allowed to take CENVAT Credit carried forward and also be allowed to transfer to taxable person having the same PAN for which the Centralised Registration has been taken in pre GST regime.

❖Returns to be filed with in 3 months from appointed date and credit should appear either in original or revised returns.

❖Credit should be admissible under the GST Laws.

Input Credit for goods lying with Agents- Section 192 (Only in SGST Law)

Goods belonging to Principal → Lying at the premises of Agent → On the appointed day → Agent can take credit

Subject to following conditions:

Agent is registered taxable person → Both principal and agent declare details of goods → Invoices issued not earlier than 12 months from the appointed day → Principal has either reversed or has not availed ITC on such goods

Input Credit of capital goods lying with Agents-Section 193 (Only in SGST Law)

Capital Goods belonging to Principal → Lying at the premises of Agent → On the appointed day → Agent can take credit

Subject to following conditions:

Agent is registered taxable person → Both principal and agent declare details of capital goods → Invoices issued not earlier than 12 months from the appointed day → Principal has either reversed or has not availed ITC on such capital goods

Input Tax Credit in Branch Transfer-Section 194 (Only in SGST Law)

Input Tax credit reversed prior to appointed day

No Input Tax Credit under GST Act.

TRANSITIONAL PROVISION-REFUND

Pending refund claims to be disposed of under earlier law-Section 179

Pending Refund Claim Under Earlier Laws

For amount of CENVAT credit, duty, tax paid before the appointed day

- Filed before or after the appointed date
- Disposed in accordance with earlier laws
- Amount of refund should be paid in cash
- No refund claim for any credit which has been carried forward under GST Act
- Rejected claim (Fully or partially) shall lapse

PROVISION IS ALSO PROVIDED IN SGST LAW

Refund claims for goods cleared/services provided before appointed day-export before or after appointed day-Section 180 (Only in CGST Law)

- Refund Claim for export of Goods/Services
- For amount of CENVAT credit, duty, tax paid before the appointed day
  - Duty / Taxes paid under earlier laws
  - Filed after the appointed date
  - Disposed in accordance with earlier laws
  - Rejected claim (Fully or partially) shall lapse
  - No refund claim for any credit which has been carried forward under GST Act

Refund claims filed after the appointed day for payments received and tax deposited before the appointed day i.r.o. the services not provided-Section 181 (Only in CGST Law)

Duty / Taxes paid under earlier laws

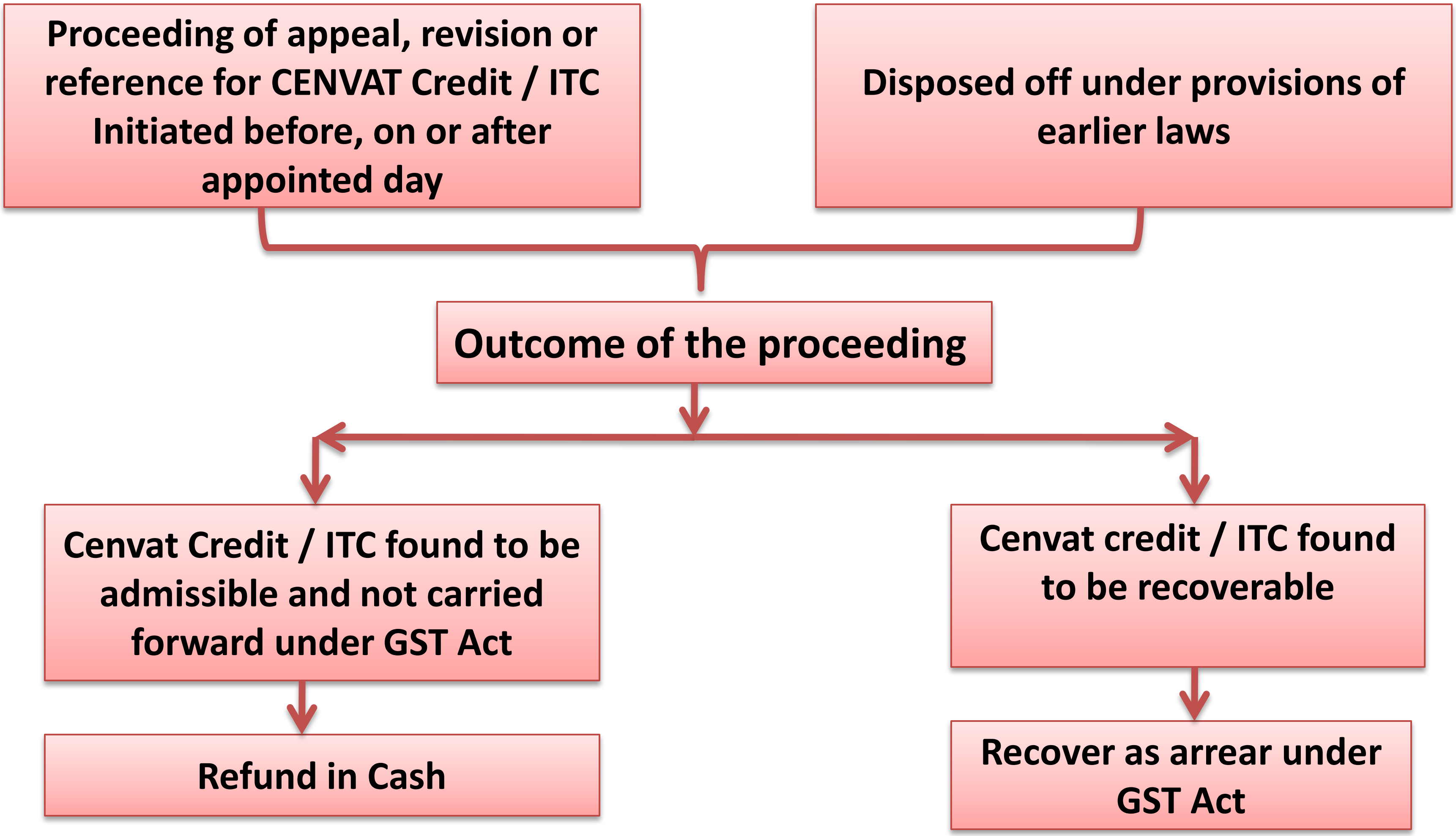
Refund claim Filed after the appointed date

Refund Claim for Service not provided

Amount accruing should be paid in cash

Disposed in accordance with earlier laws

Claim of CENVAT Credit-Section 182



PROVISION IS ALSO PROVIDED IN SGST LAW

Finalization of proceeding relating to output duty or tax liability-Section 183

Proceeding of appeal, revision, review or reference for Output duty or tax liability Initiated before, on or after appointed day

Disposed off under provisions of earlier laws

Outcome of the proceeding

Output Duty / Tax Liability found admissible

Refund in Cash

Output Duty / Tax Liability found to be recoverable

Recover as arrear under GST Act

PROVISION IS ALSO PROVIDED IN SGST LAW

Assessment and Adjudication proceedings - Section 184

Pursuance of an assessment or adjudication proceeding instituted before, on or after appointed day

Under the earlier laws

Outcome of the adjudication proceeding

Tax, Interest and Penalty found to be refundable

Refund in Cash

Tax, Interest and Penalty found to be recoverable

Recover as arrear under GST Act

PROVISION IS ALSO PROVIDED IN SGST LAW

Revision of Returns-Section 185

Return files under earlier Laws

Revised after appointed day

Amount of tax to be recovered or credit is inadmissible

Recover as arrear under GST Act

Amount found to be refundable or credit found admissible

Refund in Cash if filed with in time limit as given under earlier laws

PROVISION IS ALSO PROVIDED IN SGST LAW

IGST ON IMPORT / INTER STATE SUPPLY

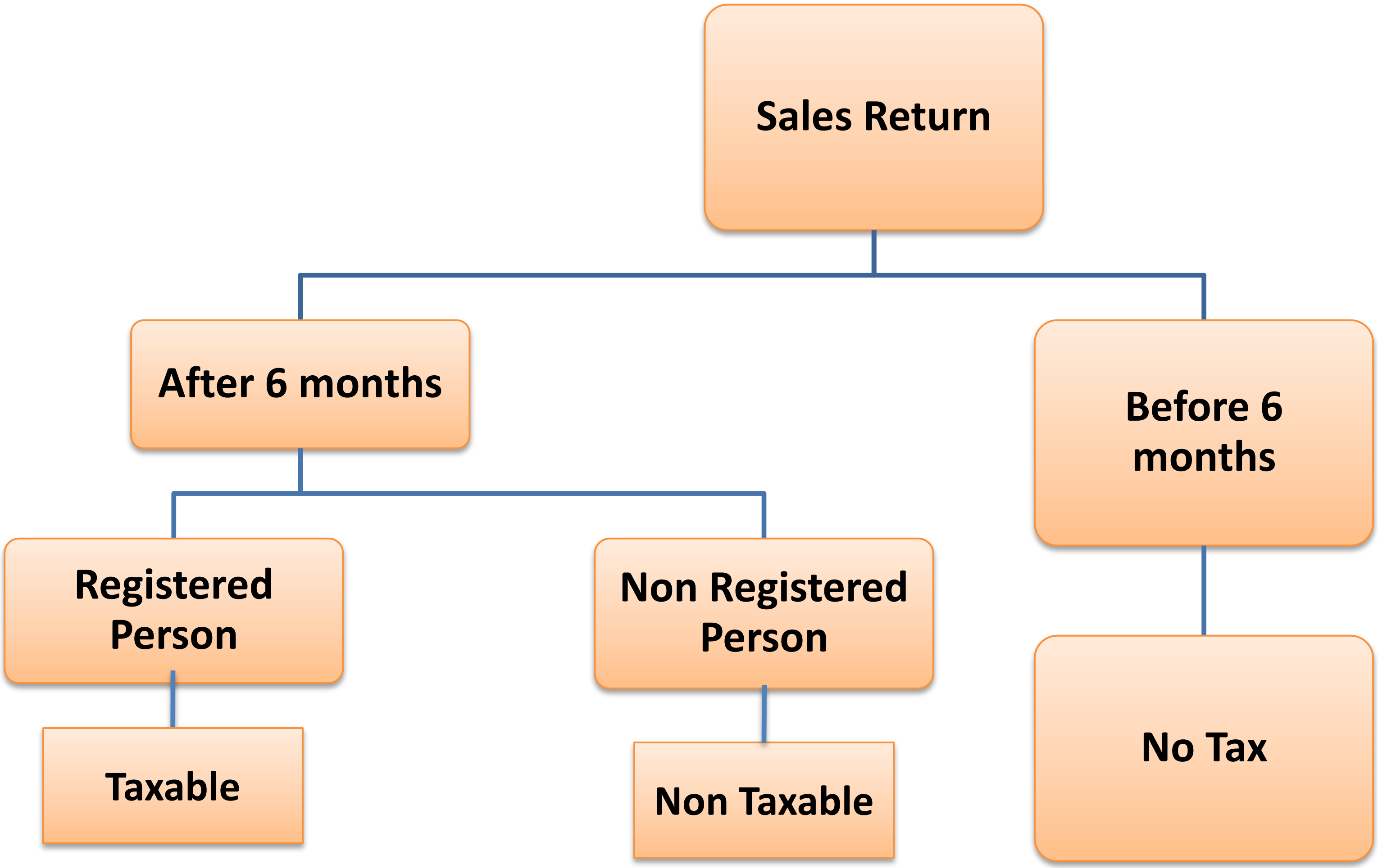
IGST on Import/Inter State supply-Section 21 of IGST Law

Transactions initiated	Supply	Tax Paid	Applicability of IGST
Prior	On or After	No	Yes
Prior	On or After	Yes fully under old provisions	No
Prior	On or After	Yes partly as per old provisions	No, up to portion of tax paid

Initiation of Transaction-If either the invoice relating to such supply or payment either in full or in part done before appointed day

APPLICABILITY OF GST AND MISC. PROVISIONS

Treatment of Sales Return of exempted goods for sale not earlier than 6 months from appointed day-Section 173



PROVISION IS ALSO PROVIDED IN SGST LAW

Duty paid goods returned to the place of business on or after the appointed day-Section 174

Duty paid goods under earlier law are returned

Sales not made earlier than six months prior to appointed date

Returned on or after the appointed date with in 6 months

- Registered Person
  - Supply under GST
- Not Registered Person
  - Refund to Seller

PROVISION IS ALSO PROVIDED IN SGST LAW

Inputs removed for job work-Section 175, 176 & 177

Not returned within 6 months/extended period from appointed date

ITC to be reversed as per Section 184

PROVISION IS ALSO PROVIDED IN SGST LAW

Goods removed under provisions of earlier laws-JOB WORK

The provisions are applicable if the details of goods are declared by manufacturer and job worker in such manner and form and within prescribed time.

Sec 175

- Inputs removed as such or after partial processing

Sec 176

- Semi-finished goods removed for manufacturing process

Sec 177

- Manufactured Goods removed for testing or other process (Except Manufacturing)

goods removed for job work-Section 175,176 & 177

Goods Removed

- No Tax to be paid
- Transfer Goods to Registered Taxable Person
- Within 6 months or extended period
- For Supplying thereof in India – on payment of tax
- For Export – Without payment of tax

PROVISION IS ALSO PROVIDED IN SGST LAW

Supplementary Documents in pursuance - Section 178

Contract prior to appointed day

Upward Revision of price

Within 30 Days of such price revision

Taxable person may issue supplementary invoice / debit note

Deemed to be issued in respect of outward supply under GST Act

PROVISION IS ALSO PROVIDED IN SGST LAW

Supplementary Documents in pursuance - Section 178

- Contract prior to appointed day
- Downward Revision of price
- Within 30 Days of such price revision
- Taxable person may issue supplementary invoice / debit note
- Deemed to be issued in respect of outward supply under GST Act
- Tax liability to be reduced only if corresponding person reduces his input tax credit

PROVISION IS ALSO PROVIDED IN SGST LAW

Goods Sent on Approval Basis-Section 195

Goods not returned within 6 months or extended period

- **Liability to pay tax on person who has sent for approval**

Goods returned after 6 months or extended period

- **Liability to pay tax on person who is returning the goods**

Thank you

REGISTRATION, RETURNS & TRANSITIONAL PROVISIONS

Date-10 Dec 2016

For

NIRC OF ICAI AT INDIA HABITAT CENTRE

Ashu Dalmia

Partner

Ashu Dalmia & Associates

FCA,DISA,CISA

ICAI Certified-FAFD,ICAI-Certified Arbitrator Special Auditor u/s 72A of the finance Act 1994 (office of the Commissioner, Service, Tax Audit-II Delhi)

Mob:- +919810893243

Email:- ashu.dalmia@ada.org.in

Web:- www.gstindia.biz,www.ada.org.in