Lakshmikumaran & Sridharan attorneys

L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

L&S GST Update No. 13
16th June, 2016

Model GST Law – Transitional Provisions

Transitional Provisions

Carry forward of input credit

- The transition provisions are quite comprehensive covering most transitional situations for manufacturers / traders / service providers and allowing them to carry forward the Cenvat Credit or Input Tax Credit (ITC) availed by them under the Central Excise, Service Tax or the Value Added Tax (VAT) legislations.

<table>
<tr><th>S.No.</th><th>Situations</th><th>Transitional provision</th></tr>
<tr><td>1.</td><td>Cenvat Credit and ITC carried forward in return for the period ending with the day immediately preceding the day when GST Act will be applicable.</td><td rowspan="2">• The transitional provisions allow carry forward of Cenvat credit and ITC.
• Cenvat Credit shall be carried forward as CGST and ITC shall be carried forward as SGST.</td></tr>
<tr><td>2.</td><td>Unavailed Cenvat credit and input tax credit in respect of capital goods, not carried forward in a return.
(Cases where staggered credit on capital goods is permitted.)</td></tr>
<tr><td>3.</td><td>Cenvat Credit of eligible duties and taxes / ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock by following person:
a. Person who was not liable to be registered under the earlier law
b. Person who was engaged in the manufacture of exempted goods under the earlier law but which are liable for GST
Accordingly, exempt goods lying in stock made out of tax-paid inputs and in respect of which duty paid documents is available will get covered under this provision.</td><td>• The transitional provisions allow carry forward of such credit subject to prescribed conditions.
• The amount of credit shall be calculated in accordance with generally accepted accounting principles to be prescribed.</td></tr>
</table>

- However, the carry forward requires that the credit should also be admissible in terms of the ITC provisions of the GST Law. The procedure may require to await the Rules to be framed in this regard.

Other transitional provisions

- Inputs/semi-finished/finished goods removed for job work in pre GST regime and returned in GST regime.

- Issue of supplementary invoices, debit or credit notes post GST regime in respect of supplies made pre GST regime.

- Sales made during pre-GST regime but returns under GST regime:
- Pending litigation/refund matters.

- Revision of returns filed under pre GST regime.

- Long term construction / works contracts.

Emerging issues

- Whether credit in respect of the following pre-GST taxes/duties will be allowed, namely:-

  1. Credit of excise duty or service tax in respect of duty paid invoices lying with the erstwhile VAT dealer.

  2. ITC on stock lying with service provider.

  3. CST on inputs held in stock and inputs contained in semi-finished or finished goods held in stock by manufacturer.

  4. CST and excise duty paid stock held by the trader.

  5. Credit of excise duty paid on Goods In transit.

- Whether there will be grandfathering of time bound and project based exemptions and concessions (e.g. area based exemptions) being availed under the Central Excise, Service Tax, VAT or other taxes which are to be subsumed in the GST will be grand in respect of the following pre-GST taxes/duties?

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