

BUCKLE UP! GST IS HERE

With a favourable verdict in 4 state elections held recently, the Central Government now seems more determined than ever to introduce the Goods and Service Tax ('GST') w.e.f 1 July 2017, paving way for one of the biggest post-Independence tax reforms in the country.

GST will subsume various central and state taxes, including excise, additional excise, service tax, additional customs duty, special additional customs duty, and various central cesses under the Central GST Act or the CGST; at the state level, octroi, entry tax, state VAT, luxury tax, entertainment tax, and various state-level cesses under the State GST Act or the SGST/ Union Territory GST Act or the UTGST. Further, the inter-state supply of goods and services would be governed by the Integrated GST Act or the IGST Act.



The migration process from the existing tax system started with the opening of GST portal for provisional registration in November 2016. Besides obtaining the provisional ID and password from the state VAT department, the GST enrolment requires an applicant to provide a valid email ID and contact number, bank account details with IFSC code, proof of business, such as a partnership deed, registration certificate, and LLP Agreement, photograph of partners, owner or Karta (in case of HUF) and other prescribed documents.

Further, every registered person would be required to maintain, at his principal place of business, as mentioned in the certificate of registration, register of production or manufacture of goods, inward or outward supply of goods and/or services, stock of goods, input tax credit availed, output tax payable and paid, and other specified records. In addition, there would be two types of electronic ledgers for every registered taxable person, the Electronic Cash Ledger and the Electronic Credit Ledger to determine the credit that may be available at given time.

As regards the availment and utilisation of credit is concerned, it may be noted that the IGST paid on inter-state purchase shall first be utilised towards payment of IGST then (if amount remaining) towards payment of CGST and SGST/UTGST, respectively. Further, the CGST paid on purchase shall first be utilised towards payment of CGST then (if amount remaining) towards payment of IGST. Similarly, SGST/UTGST paid on purchase shall first be utilised towards payment of SGST/UTGST then (if amount remaining) towards payment of IGST. However, input tax credit of CGST cannot be utilised towards payment of SGST/UTGST and also vice versa.

Thus, it becomes imperative for businesses to prepare themselves so that they can carry forward the credit benefits to GST regime without any leakage/loss. Following could be the suggested course of action:

- Make all procurement from manufacturers/excise dealers/registered service providers/VAT dealers

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- Minimize inventory balance on migration date. This is because a VAT dealer is not entitled to excise credits under existing law. If inventory is held on appointed date and sold post GST, liability of GST would arise without eligibility of corresponding excise credits. If same goods are purchased post the appointed date, credit of GST would be available to set off against output supply
- Undertake Cenvat Credit/VAT input Credit review of transactions of at least last one year prior to transition to identify the instances of missed out credits
- All cases of possible liability under reverse charge must be ascertained and tax paid before the appointed day so that credit could be migrated. If demand is raised post the appointed day in respect of previous transactions, credit not allowed would result in additional cost
- Payment should be made to all vendors outstanding for period more than 3 months so that cenvat credit in respect of such vendor is allowed (not required to be reversed). There is no explicit provision in the GST law to re-avail the credit if payment made post GST
- All credit/debit notes must be settled prior to migration date so that correct credit balance could be ascertained for carry forward
- Any specific forms for charging concessional VAT, if VAT law of any particular state provides, must be obtained prior to the appointed date. If buyer is not able to give, tax should be charged at normal tax rate so that at least buyer could get the credit. If later on (once GST is introduced) buyer is not able to give the form for whatever reasons, seller may have to pay differential tax without corresponding eligibility of credit to buyer
- If any credits were reversed earlier under protest, it should be availed as on transition date and may again be reversed post transition under protest
- If there is doubt/uncertainty as to eligibility of any credits under earlier law, it may be availed under protest under intimation to department so that credit is not lost warranting carry forward in return

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