

**TRANSITIONAL / ACCOUNTING ISSUES WHILE SWITCHING OVER TO  
PROPOSED GST REGIME**

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**Introduction**

Before discussing the transitional issues and accounting issues while switching over to proposed Goods and Service Tax [hereinafter abbreviated as “**GST**”] Regime, it becomes desirable to glance at the following history of Tax Credit in our country:

01.03.1986	MODVAT introduced for selected raw materials when used in production of specified goods.
01.03.1994	Capital goods, Petroleum Products and Specified Spun Yarns covered under MODVAT.
01.03.1996	MODVAT in respect of some Capital Goods denied.
01.03.2000/01/04/2000	<ol style="list-style-type: none"> <li>1. MODVAT has been <b>renamed as CENVAT</b>.</li> <li>2. MODVAT Credit extended to all Input except High Speed Diesel (HSD) and Motor Spirit(Petrol)</li> <li>3. MODVAT credit would be available in respect of all finished goods except matches.</li> <li>4. MODVAT credit has been <b>extended to all capital goods</b>. Restriction of 75% in respect of capital goods credit (for CVD) on project imports has been removed. <b>The condition of installation has been removed</b>. However, <b>availment of capital goods credit has to be spread over two years</b>.</li> </ol>
16.08.2002	Introduction of Service Tax Credit Rules, 2002. In terms of Rule 3(1) of said Rules, Service Tax Credit was made available when Input Service and Output Service fall in the same category. For instance, a Chartered Accountant could avail the credit of Service Tax paid by him in respect of another Chartered Accountant’s Services.
14.05.2003	A new Rule 3(1)(b) was inserted in Service Tax Credit Rules, 2002 . As a result, Service Tax credit was made available even if Input Service and Output Service do not fall in the same category. For instance, a Chartered Accountant can avail the credit of Service Tax paid by him in respect of Telephone Services.
10.09.2004	Introduction of CENVAT Credit Rules, 2004

01.04.2005	Input Tax Credit on turnover of purchases while discharging VAT liability
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Uniformity in implementation of law is the key to success both for tax administrators and concerned assesseees. Presently, following two kinds of Tax Credit are available:

- (A) CENVAT Credit under CENVAT Credit Rules, 2004
- (B) Input Tax Credit under VAT Law

Dual GST will be implemented in our country in due course of time. Therefore, credit of VAT and CENVAT Credit has to be allowed by the State Government and Central Government as tax shall also be collected by the respective Government.

In the light of above background, the transitional as well as accounting issues to be taken care of while switching over to proposed GST Regime have been briefly discussed below:

## **(I) Transitional Issues**

### **(A) Self-adjustment/Refund in respect of Advance Payment or Excess Payment of Taxes under present Regime**

#### **1. Guidelines regarding self-adjustment of unutilized portion of Taxes which will be subsumed in GST**

Illustrative List of Taxes and Levies likely to be subsumed in GST which are presently collected by Central Government

- (A) Central Excise Duty;
- (B) Additional Excise Duties including those levied under Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- (C) Additional Custom Duties in the nature of countervailing duties i.e. CVD, SAD and other Domestic Taxes imposed on imports for attaining a level playing field between domestic and imported goods which are currently classified as Customs Duties;
- (D) Cesses levied by the Union Government i.e. Cess on rubber, tea, coffee etc.

- (E) Surcharges levied by the Union Government i.e. National Calamity Contingent Duty, Education Cess, Secondary & Higher Education Cess Additional Duties of Excise on Motor-Spirit and High Speed Diesel.
- (F) Service Tax; and
- (G) Central Sales Tax-To be completely phased out;

Illustrative List of Taxes and Levies likely to be subsumed in GST which are presently collected by State Governments

- (A) Value Added Tax;
- (B) Purchase Tax;
- (C) State Excise Duty[barring on liquor];
- (D) Entertainment Tax;
- (E) Luxury Tax;
- (F) Octroi;
- (G) Entry Tax in lieu of Octroi; and
- (H) Taxes on Lottery, Betting and Gambling

Above-mentioned illustrative taxes and levies are expected to be subsumed in GST. Comprehensive and clear-cut guidelines must be issued regarding the self-adjustment or refund if above-mentioned Taxes remained unadjusted or utilized, as the case may be in the books of the concerned assessee on the date of implementation of GST.

**2. Guidelines regarding Pre-deposit pending disputes/Advance Payment in respect of taxes for which no Tax Credit will be available under GST**

Any of the following illustrative situations may arise regarding taxes in respect of which no Tax Credit will be available under proposed GST Regime as on the date on which such taxes will be subsumed in GST:

- (i) Pre-deposit of tax in respect of cases which are pending before appropriate Adjudicating/Appellate Authorities.
- (ii) Advance payment of Tax.

Clear-cut Guidelines should be made to deal with above illustrative situations with a view to remove any kind of ambiguity. As far as pending cases [pertaining to pre-GST period] are concerned, if a particular case is pronounced against the concerned assessee, there can not be two opinions that he will have to deposit the outstanding amount of concerned tax along with interest and penalty as per relevant decision in post-GST period. On the other hand, if a particular pending case is decided in favour of concerned assessee, then he will

become entitled to get refund from the Government. But, here, **mode of refund** becomes crucial. If the refund is granted in cash [cheque], then there is no problem. However, if the refund is granted by means of issue of an adjustment voucher in favour of the concerned assessee, then several issues may crop up for instance time up to which such adjustment voucher may be used, consequences if an assessee fails to use the said voucher within the prescribed time. Similarly, if adjustment voucher is issued in respect of tax which was credited to a particular type of Government [for example Central Government] during pre-GST period and in the post-GST period due to any reasons the concerned assessee [say Mr. A] does not have any tax liability payable to that particular Government [Central Government in the present example]. In this particular situation, whether Mr. A will be allowed to use his adjustment voucher against his tax liability towards State Government.

The problem of **mode of refund**, as discussed hereinabove, will arise in case an advance payment of tax is made by assessee of his own accord during pre-GST period.

### **3. Guidelines regarding unutilised balances of CENVAT/VAT**

At the cut-off date [when GST is to be implemented] unutilised balances may be available in CENVAT/VAT Account. Clear-cut Guidelines should be provided in respect of such unutilised balances i.e. whether such balances will be allowed to be carried forward under proposed GST Regime and if so, the period upto which such balances will be allowed to be carried forward. In different words, whether liability of GST arising in post-GST period can be discharged by utilising Tax Credit of State VAT and CENVAT Credit available on the date of transition. Further, if any mistake is noticed subsequently in aforementioned unutilised balance of CENVAT/VAT, whether such unutilised balances will be allowed to be rectified.

Looking from a different perspective, Government must ensure that credits available under prevailing regime under CENVAT Account and State VAT do not get adversely affected under proposed GST Regime. Besides, credit for tax component involved in inputs, work-in-progress and finished goods in stock immediately before the commencement of GST should be made available under proposed GST Regime. Moreover, adequate provisions must be made in respect of Tax Credit contained in the goods and services which are in transit. Further, suitable provisions should also be made in respect of **refund** of Taxes paid [in

respect of **export** of goods and services] before the date on which GST is to be implemented.

#### **4. Guidelines regarding continuity of Long-term Exemptions in operation at the time of implementation**

Presently, either with a view to promote development of certain regions or for any other economic or non-economic reasons, both Central Government as well as State Governments have given long-term exemptions from several types of taxes. The transition to proposed GST is likely to affect the continuity of such exemptions. The Government should, therefore, issue detailed guidelines in respect of method to deal with such Long-term Exemptions in the proposed GST Regime.

##### **(B)Sufficient Transition time**

Consequent upon shifting to GST Regime, assesseees will be required to effect certain changes in the modus-operandi of their respective businesses **for instance** under prevailing system VAT and Central Excise are levied on origin-based principle and under proposed GST Regime, the aforementioned taxes will be levied on destination principle. In view of the aforesaid marked change, an assessee may be required to effect certain changes in its purchase and sales policies and procedures. Therefore, adequate transition time should be allowed to assesseees.

On the top of it, unintentional procedural lapses on the part of assesseees should not be viewed strictly. However, it must be ensured that in the guise of unintentional procedural lapses, there should not be any deliberate attempt on the part of the assesseees to evade payment of legitimate taxes.

##### **(C)Discussion with all stakeholders**

Before Government decides to implement GST from a particular date, it must take into confidence all concerned stakeholders such as Trade and Industry, Professionals, Administrators etc. Purposeful, unbiased and prolific discussion must take place on all the issues raised by concerned stakeholders. Moreover, a genuine endeavor must be made for arriving at a consensus solution in respect of all debatable issues. The foregoing discussion and consensus-building process will not only prove to be beneficial for the assesseees but it is likely to advance the interest of Government Revenue also.

##### **(D)Compensation for states**

States may demand compensation in respect of their revenue loss on the lines of compensation given to them at the time of introduction of VAT with effect from 01.04.2005. This is a issue between Centre and States and needs to be resolved by Empowered Committee in consultation with Union Government before GST sees the light of the day.

## **II Accounting Issues**

### **1. Mandatory Compliance with Accounting Guidelines**

There should be clear-cut provisions relating to maintenance of Accounts and they should not conflict with other fiscal laws. In order to address the problems in the area of accounting, Government must issue comprehensive guidelines. Further, compliance with foregoing guidelines must be made mandatory for all assesseees without exception.

With a view to bring **uniformity** in collection and processing of certain vital information from all assesseees, Government should prescribe certain **Standardized Forms** on the lines of various Forms prescribed for compliance of Service Tax, Central Excise, Customs etc. All assesseees must be obligated to fill-up the relevant standardized forms while submitting the information to the Government with clear-cut instructions that no columns of the relevant forms should be left blank and all answers must be specific rather than vague. In addition, standardization of Forms will also ensure submission of complete information on the part of the assesseees.

Finally, major Deviations from Accounting Guidelines should be viewed seriously and suitable penalty should be imposed for such deviations.

### **2. Suitable Remedial System for common system or process errors in Computerized Accounting System**

Computerized Accounting System [hereafter abbreviated as **“CAS”**] has become an order of the day. Nearly all assesseees are using CAS. However, CAS has certain inherent pitfalls and limitations such as incorrect feeding of data, software-related host of issues etc. Suitable Remedial System must be put into place to take care of foregoing limitations. Further, there may be some teething problems in the beginning while switching over to proposed GST Regime but solutions to such teething problems must be provided at the earliest. Penal provisions may be made liberal at the initial stage of

implementation of GST Regime.

**Conclusion**

If above-mentioned transitional and accounting issues are properly addressed by Government, switching over to GST Regime will become a comparatively smooth and hassle-free excise and there will be win-win situations for all stakeholders.

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