

GST शास्त्र: How to claim credit under 60%/40% scheme?

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Introduction: –

Under transitional provisions, benefits of credit of eligible duties and taxes in respect of inputs held in stock, inputs contained in semi-finished and finished goods held in stock as on appointed day can be availed. This article talks specifically about **proviso to section 140(3) of CGST Act, 2017** which is commonly known as 60%/40% scheme.

Quote –

Section 140(3) of CGST Act, 2017 :

A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of **notification No. 26/2012—Service Tax, dated the 20th June, 2012** or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;
- (iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and
- (v) the supplier of services is not eligible for any abatement under this Act:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

Unquote –

(A) The said proviso to section 140(3) of CGST Act, 2017 applies to traders only even if they are not registered under existing law.

(B) In case traders are not in possession of documents evidencing payment of duty in respect of stock, they can avail benefit and claim input tax credit under the said proviso. If duty paying documents are in possession, go to main section and avail 100% credit.

(C) Other conditions, limitations, manners to avail credit are prescribed in rules.

Quote –

Rule 117(4) of CGST Rules, 2017 :

(a) (i) A registered person who was not registered under the existing law shall, in accordance with the proviso to sub-section (3) of section 140, be allowed to avail of input tax credit on goods (on which the duty of central excise or, as the case may be, additional duties of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975, is leviable) held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of central excise duty.

(ii) The input tax credit referred to in sub-clause (i) shall be allowed at the rate of sixty per cent. on such goods which attract central tax at the rate of nine per cent. or more and forty per cent. for other goods of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid:

Provided that where integrated tax is paid on such goods, the amount of credit shall be allowed at the rate of thirty per cent. and twenty per cent. respectively of the said tax;

(iii) The scheme shall be available for six tax periods from the appointed date.

(b) The credit of central tax shall be availed subject to satisfying the following conditions, namely:-

(i) such goods were not unconditionally exempt from the whole of the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated in the said Schedule;

(ii) the document for procurement of such goods is available with the registered person;

(iii) the registered person availing of this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2), submits a statement in FORM GST TRAN 2 at the end of each of the six tax periods during which the scheme is in operation indicating therein, the details of supplies of such goods effected during the tax period;

(iv) the amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in FORM GST PMT-2 on the common portal; and

(v) the stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

Unquote –

(A) Credit under the said proviso can be availed after supply of goods reported in GST TRAN – 1

(B) Such goods shall be supplied till December, 2017 as the scheme is available for six tax periods

(C) Input Tax Credit at the rate of 60% shall be allowed if such goods attract 9% rate of CGST or In other cases, input tax credit at the rate of 40% shall be allowed. If IGST is paid, such credit allowed shall be 30% and 20% respectively.

(D) Even if benefits are available in the absence of availability of duty paying documents, such person shall be in possession documents of procurement to substantiate the possession of goods.

(E) Such goods shall not be **unconditionally** exempt from whole of the duty of excise or such goods were not nil rated. It implies that if conditional exemption was provided under earlier law, still taxable person can avail the benefit of scheme.

Ex. As per notification 49/2003– CE dated 10th June, 2003 exemption was provided to certain goods if such goods were cleared from a unit in the state of Uttaranchal or Himachal Pradesh. Here, **exemption was granted with a condition** that such units shall be situated in the states of Uttaranchal or Himachal Pradesh only. Otherwise such goods would be taxable. Hence, if taxable persons have stock of goods cleared under the said notification, benefits of scheme can be availed.

Frequently asked questions –

(A) Can I avail the benefit if I don't have duty paying documents?

=> Yes. Such person can avail benefit even if he is not in possession of duty paying documents. However, such person shall be in possession of procurement to substantiate the possession of goods.

(B) My supplier was not registered under Excise Act as he was claiming SSI exemption. As he did not pay excise duty on goods manufactured ever, can I avail benefit of the scheme?

=> Payment of duty is not the precondition to the scheme. However, input tax credit can be availed on goods, on which duty of central excise or additional duties of customs u/s 3(1) of the Customs Tariff Act, 1975, as the case may be, is leviable. Hence, if duties as prescribed above are leviable on the goods, benefits of this scheme can be availed irrespective of the payment of the same.

(C) When can I get input tax credit? After filling of GST TRAN 1 form or TRAN 2 form?

=> GST TRAN – 1 form shall be filed (due date of which is 27th December, 2017) first. Afterwards, GST TRAN – 2 shall be filed on monthly basis. Input Tax Credit will be reflected in electronic credit ledger after filing of GST TRAN – 2 form.

(D) Where to show such stock in GST TRAN – 1 form?

=> Such stock shall be declared in table 7A of GST TRAN – 1 form. Select option “No” for availability of duty paying documents. Similar provision is applicable in state GST laws also for which table 7D is applicable.

(E) What is due date for filling GST TRAN – 2 form?

=> Till date no due date for filling GST TRAN – 2 form has been declared.

*** This article was written on 26th December, 2017.**

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