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**“Transitional issues with illustrations with regard to Registration, Payment, Carry Forward of Credit, Claim of Credit on Inputs, Capital Goods, Timing Differences, and Other Aspects”**

# DESIGN OF PRESENTATION

- Migration and registration in GST [ Sections 165-166]
- Transitional Credit [ Sections 167 – 172]
- Transitional provisions on returned exempt goods/ returned duty paid goods/ returned inputs/ semi-finished goods/finished goods
- [ Section 173- 177]
- Treatment of transactions- certain types and progressive[186-189]

- **TRANSITION : GENERAL AND MIGRATION**

# TRANSITION : GENERAL PROVISIONS

- All existing Central Excise/ Service tax officers/ VAT officers deemed to have been appointed as GST officers
- Powers to Central /State Governments to make Rules for smooth transition into GST

# TRANSITION : MIGRATION AND REGISTRATION( SECTION 166)

ON ROLL OUT DATE:[ 1.07.2017]

- a) Provisional registration to all existing tax payers with valid PAN number
- b) Six months validity ( till January 2018)
- c) “ such information as may be prescribed” to be furnished by GST registrant within that six month period
- d) On furnishing information and subject to Section 23, be granted final registration

# TRANSITION : MIGRATION AND REGISTRATION( SECTION 166)

ON ROLL OUT DATE:[ 1.07.2017]

- e) Failure to furnish information sought for: Liability for cancellation
- f) Provisional registration cancellable on application by a person that he is not liable to be registered
- g) Option for composition under Section 9 can be exercised within  
time and manner prescribed
- h) If not exercised, deemed to be an RTP and liable to pay tax on  
regular basis

# TRANSITION : “ SUBJECT TO SECTION 23”

- **Separate registration in each State of business presence:**  
Application to be made within thirty days from the liability to become registered
  - **Within the State:**
    - May apply for separate registration for each business vertical
- Failure to obtain registration when mandatory:**
- Officer may proceed to register in such manner as may be prescribed

# TRANSITION : BUSINESS VERTICAL

## [ Section 2(18) ]

- **CHARACTERISTICS PRESCRIBED:**

- A) Distinguishable component of an enterprise
- B) engaged in supplying individual or group of related products /services
- C) Risks and returns unique to this BV and different from another BV

- **FACTORS TO BE CONSIDERED:**

- A) nature of products /services
- B) nature of production processes
- C) methods used to distribute the products/provide services
- D) nature of regulatory environment such as banking, insurance, public utilities, if applicable



- **TRANSITIONAL CREDIT**

# TRANSITIONAL CREDIT: CATEGORIES

## – EXISTING TAX PAYER

- a) Inputs
- b) Capital goods

## – NEW REGISTRANT

- a) unregistered under the existing enactments
- b) registered but dealing in exempt goods

# TRANSITIONAL CREDIT: EXISTING TAX PAYER :

## Section 167 of CGST Act

- DATE OF ROLL-OUT:- 1.7.2017
- INPUTS: [ Section 167 ( earlier Section 143)]
- **Excess CENVAT credit**
- **Carried forward** in the Return of 30.6.2017
- **PROVISO:**
- **Eligible under GST law**
- ( eligibility under the existing law no longer a condition precedent)

# TRANSITIONAL CREDIT: EXISTING TAX PAYER :

## Section 167 of SGST Act

- DATE OF ROLL-OUT:- 1.7.2017
- INPUTS: [ Section 167 ( earlier Section 143)]
- **Excess VAT/Entry Tax credit**
- **Carried forward** in a Return relating to June 2017 furnished by the assessee not later than 90 days from 30.06.2017
- PROVISIO:
- **(1) Eligible under GST law**
- ( eligibility under the existing law no longer a condition precedent)

# TRANSITIONAL CREDIT: EXISTING TAX PAYER :

## Section 167 of SGST Act

- **SECOND PROVISOR:**
- Transitional Credit attributable to inter-State sales against C forms, in-transit sales , stock transfers, penultimate exports falling under the provisions of CST Act NOT eligible WHEN statutory forms are not submitted **within the period specified in Rule 12** of Central Sales Tax (Registration & Turnover) Rules, 1957
- ***“where an assessee seeks to file C forms beyond the stage of assessment, the relative power which the concerned authority should invoke is the power defined in the proviso to section 8(4) and not the power defined in the proviso to rule 12(7).”***
- *Arulmurugan & Co. ( FULL BENCH decision of the Madras High Court)*

# TRANSITIONAL CREDIT: EXISTING TAX PAYER :

## Section 167 of SGST Act

- **THIRD PROVISIO:**
- REFUND ELIGIBILITY of an Amount equivalent to Credit attributable to inter-State transactions falling under the provisions of CST Act :
- When substantiated by the forms in the manner prescribed in Rule 12 of Central Sales Tax (Registration & Turnover) Rules, 1957

# TRANSITIONAL CREDIT: CAPITAL GOODS ( Section 168)

DATE OF ROLL-OUT:- 1.7.2017

ELGIBILITY OF UNAVAILED TRANSITIONAL CREDIT OF CAPITAL  
GOODS IN CERTAIN SITUATIONS:

1. **Not Carried forward** in Return of 30.6.2017
2. **Unavailed eligible credit** -VAT/Services Tax/Central Excise
3. **Eligible under GST** also

Explanation 1 to Section 168(1)]: Aggregate *minus* Aailed = Unavailed

Explanation 2: (CGST) : “ capital goods” means the goods mentioned in clause (a)  
of Rule 2 of Cenvat Credit rules,2004 ( newly added)

No such explanation under SGST

# TRANSITIONAL CREDIT: OF INPUTS HELD IN STOCK IN CERTAIN SITUATIONS ( Section 169 ) : CENVAT ACT

DATE OF ROLL-OUT:- 1.7.2017

eligibility to take CENVAT credit on Input /WIP/FG :

PERSONS COVERED:

- Persons not liable to be registered under the earlier law
- Persons engaged in manufacture of exempt goods/ provision of exempt services
- Works contractors availing abatement under Notification 26/2012
- First stage dealer
- Second stage dealer
- Registered importer



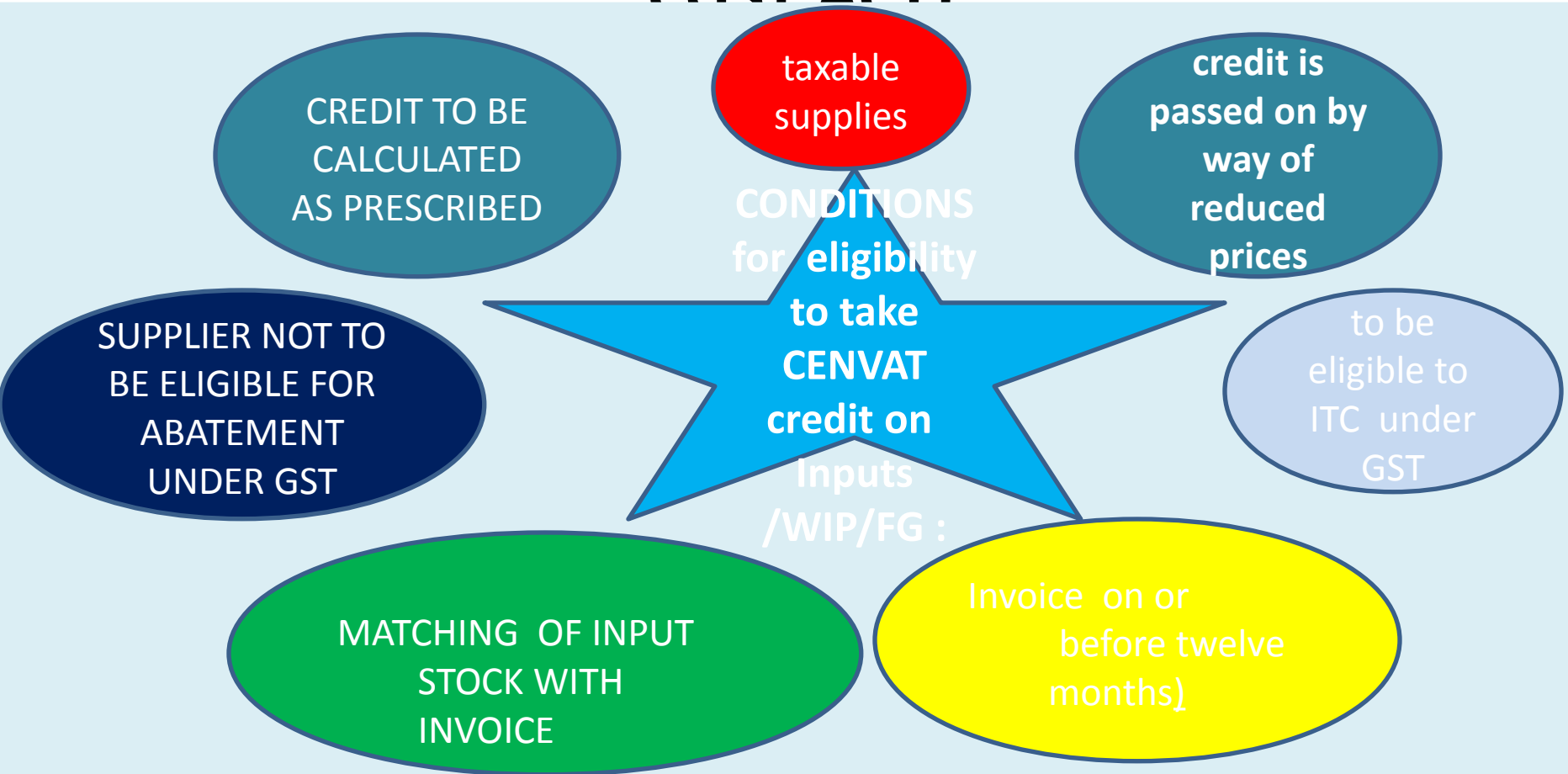
# FIRST STAGE DEALER [ 2(46)]

- Dealer who purchases goods directly from:
  - Manufacturer under Central excise invoice
  - Manufacturer's depot
  - Premises of consignment agent of manufacturer
  - Any other place from where goods are sold directly on behalf of manufacturer
    - OR
  - Importer
  - Depot of an importer
  - Premises of consignment agent of importer
- under cover of an invoice

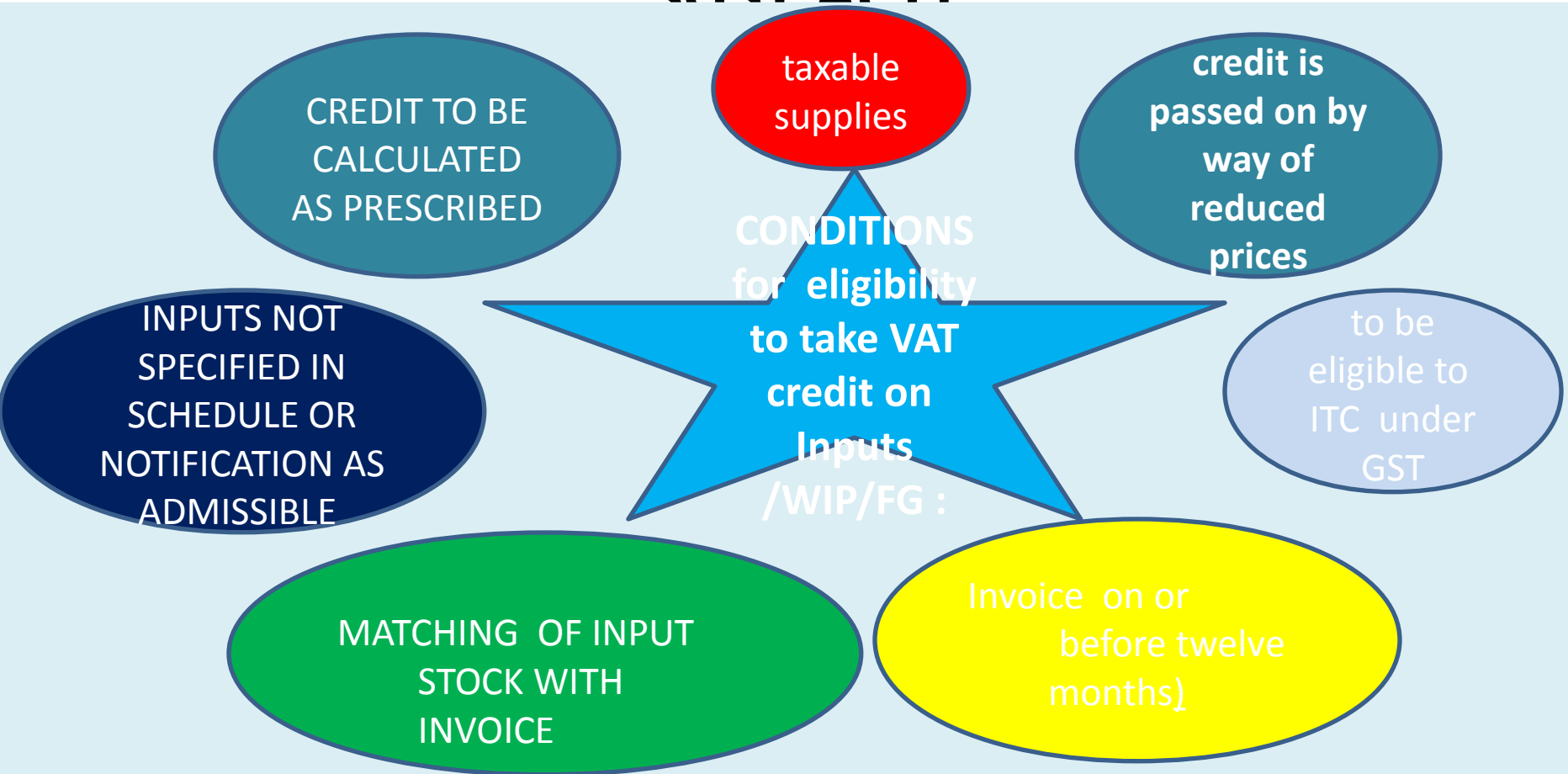
## SECOND STAGE DEALER [ 2(91)]

- Dealer who purchases goods from a first stage dealer

# TRANSITIONAL CREDIT: OF INPUTS HELD IN STOCK IN CERTAIN SITUATIONS ( Section 169 of CGST ACT)



# TRANSITIONAL CREDIT: OF INPUTS HELD IN STOCK IN CERTAIN SITUATIONS ( Section 169 of SGST ACT)



# TRANSITIONAL CREDIT: OF INPUTS HELD IN STOCK IN CERTAIN SITUATIONS

- 
- Cristo & Co. is an exempt dealer under the earlier law. He is in possession of inputs which are all taxable supplies otherwise. He wants to enjoy credit benefits under GST and hence gets registered and switches over to RTP. He wants to utilise the credit captured in the inputs during this switch over. All other conditions satisfied, he is not in possession of the invoices for the inputs. Can he take credit still?

# TRANSITIONAL CREDIT: OF INPUTS HELD IN STOCK IN CERTAIN SITUATIONS ( Section 169 of CGST ACT)

—  
IF INVOICE/EQUIVALENT DOCUMENT MISSING:

ALLOWED TO TAKE CREDIT AT PRESCRIBED RATE AND MANNER PRESCRIBED  
SUBJECT TO LIMITATIONS AND SAFEGUARDS

( PROVISIO)

• [ NOTE: THIS PROVISIO NOT PRESENT IN SGST ACT]

# TRANSITIONAL CREDIT: OF INPUTS HELD IN STOCK IN CERTAIN SITUATIONS ( Section 170 of CGST ACT)

- 
- RTP ENGAGED IN MANUFACTURE OF EXEMPT AND NON-EXEMPT GOODS OR RTP ENGAGED IN PROVISION OF EXEMPT AND NON EXEMPT SERVICES:
  - A) eligible to take credit carried forward as per Section 167
  - B) also eligible to take credit on inputs held in stock/WIP/FG relating to exempt goods in terms of Section 169

# TRANSITIONAL CREDIT: IN TRANSIT ( Section 171 of CGST/SGST ACT)

## DATE OF ROLL OUT 1.07.2017:

- A , a manufacturer/ service provider/ seller enters into a contract with B , for purchase of inputs or for avilment of input services, on 1.06.2017.
- Invoice for the inputs/input services has been raised on 25.06.2017 and payment of the invoice amount with tax element has been made on 28.06.2017.
- Inputs /inputs services relating to the above transactions are however received only on 2.07.2017 viz. after roll out date.
- IS TRANSITIONAL CREDIT AVAILABLE:

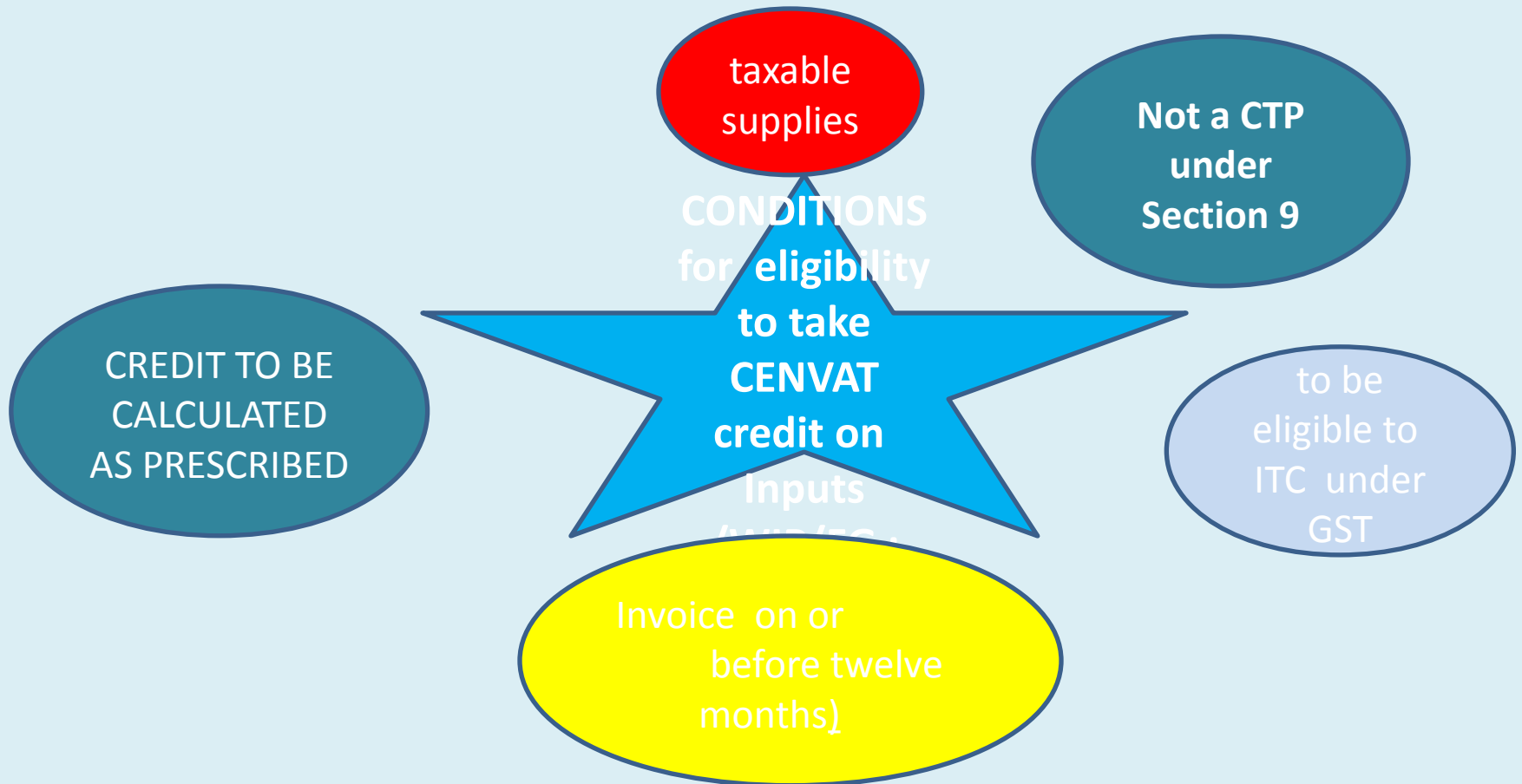


# TRANSITIONAL CREDIT: IN TRANSIT ( Section 171 of CGST ACT)

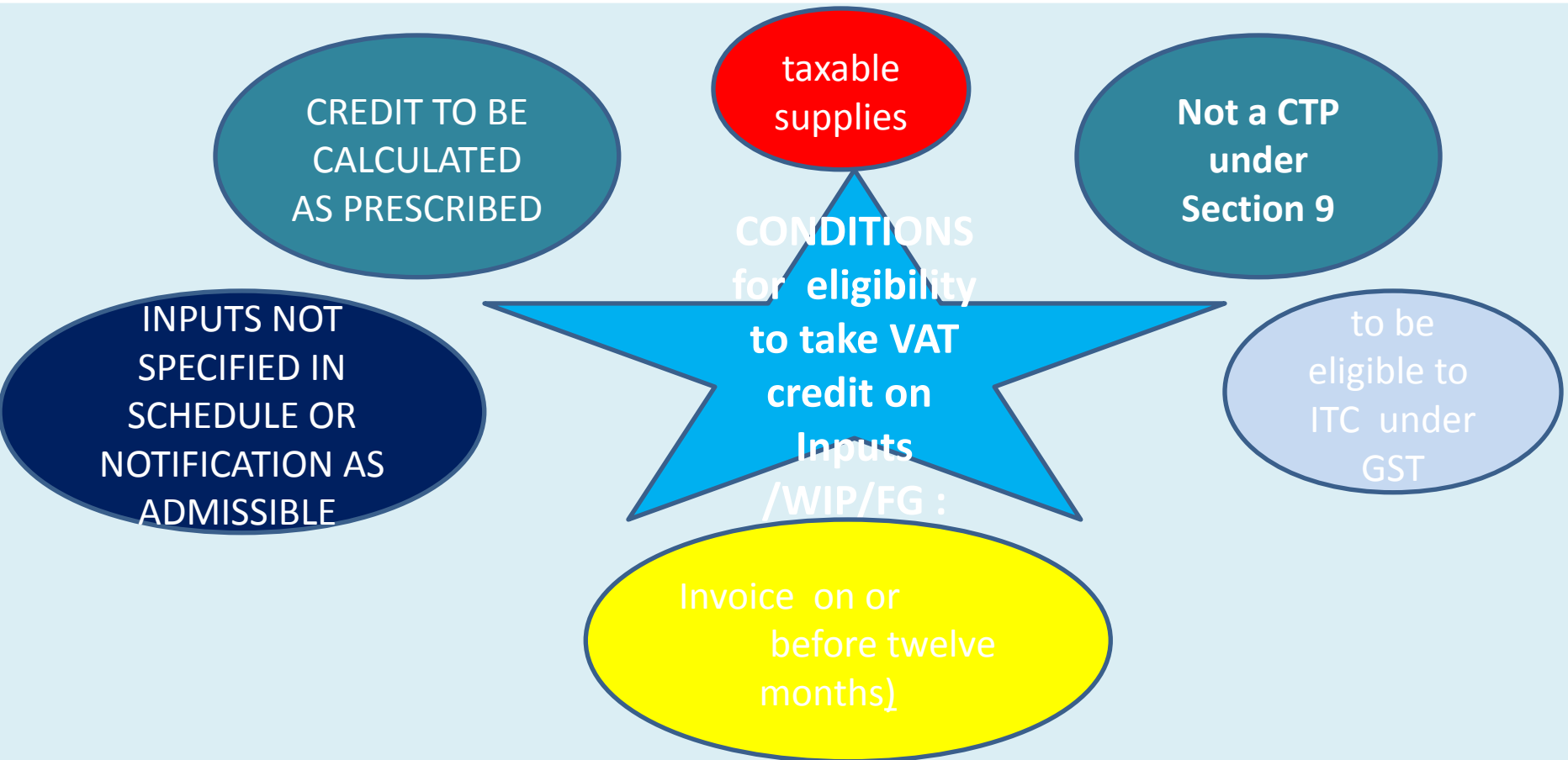
Available SUBJECT to following conditions:

- a) Invoice/ any other equivalent document to be recorded in the books of accounts within a period of 30 days from the roll out date ( on or before 1.08.2017)
- b) Extendable by competent authority on sufficient cause to be shown for a further period of 30 days
- c) The RTP has to furnish statement in the manner prescribed regarding the credit taken

# TRANSITIONAL CREDIT: CTP to RTP( Section 172 of CGST ACT)



# TRANSITIONAL CREDIT: CTP to RTP( Section 172 of SGST ACT)



- **Transitional provisions on returned exempt goods/  
returned duty paid goods/ returned inputs/ semi-  
finished goods/finished goods**

# TRANSITION Return of Exempt goods to POB

## SECTION 173

- SITUATION CONTEMPLATED:

- A) Goods removed/ sold in the earlier regime on which tax is exempt at the time of removal/sale
- B) removal /sale not earlier than 6 months prior to roll out date
- Returned to POB after the rollout date
- NO TAX PAYABLE

- CONDITIONS:

- A) Return within six months from rollout date
- B) goods are identifiable to the satisfaction of proper officer

# TRANSITION Return of Exempt goods to POB

## SECTION 173

- A, a registered tax payer who had purchased /procured EXEMPT goods from B
- ( manufacturer/seller) in the earlier regime returns the goods after January 2018.  
)
- ( all other conditions remaining same),
- Return of goods NOT within time contemplated in Section 173.
- WHO IS LIABLE?
- A , a customer/consumer returns defective goods ( EXEMPT)to B a registered Seller ( having procured during the earlier Regime)( all other conditions remaining same), after the six month period viz.January 2018&0

# TRANSITION Return of Exempt goods to POB

## SECTION 173

- I PROVISIO:
- Liability to pay tax ON the registered person returning the Goods after 6 months from appointed day.

### II PROVISIO:

If the person returning the goods is an unregistered person, NO TAX PAYABLE

# TRANSITION Return of Duty/Tax paid goods to POB

- SITUATION CONTEMPLATED:

- A) Goods removed/ sold in the earlier regime on which duty/ tax has been paid at the time of removal/sale
- B) removal /sale not earlier than 6 months prior to roll out date
- Returned to POB after the rollout date by an unregistered person

- ELIGIBILITY FOR REFUND OF DUTY/TAX

- CONDITIONS:

- A) Return within six months from rollout date
- B) goods are identifiable to the satisfaction of proper officer



# TRANSITION Return of Duty/Tax paid goods to POB

- RETURN BY REGISTERED PERSON:
- DEEMED TO BE A SUPPLY
- IRRESPECTIVE OF TIME LIMIT

**TRANSITION Return of Inputs sent for job work  
returned to POB SECTION 175**

**INPUTS/ PARTIALLY PROCESSED INPUTS REMOVED FROM FACTORY TO JW's  
SITE:**

- a) for further Processing, Testing ,Repairs, Re- conditioning or for Any other purpose
- b) Returned to factory within 6 months or a further period extendable to not more than 2 months by Competent Authority from date of roll out, After completion of the job work

NO TAX PAYABLE

LIABILITY WHEN TIME PERIOD EXCEEDED; Recoverable under Section 184

**TRANSITION Return of Inputs sent for job work  
returned to POB SECTION 175**

**INPUTS/ PARTIALLY PROCESSED INPUTS REMOVED FROM FACTORY TO JW's  
SITE:**

**CONDITIONS:**

- a) Manufacturer and job worker should declare details of inputs held in stock
- b) Stock held by JW to be declared as stock held on behalf of manufacturer
- c) Declaration to be in such manner and within such time as prescribed

## TRANSITION Return of Semi finished goods sent for job work returned to POB SECTION 176

### Semi finished goods (WIP) REMOVED FROM FACTORY TO JW's SITE:

- a) for further manufacturing process in accordance with provisions of earlier law
- b) Returned to factory within 6 months or a further period extendable to not more than 2 months by Competent Authority from date of roll out, After undergoing manufacturing process

NO TAX PAYABLE

LIABILITY WHEN TIME PERIOD EXCEEDED; Recoverable under Section 184

Manufacturer may also transfer the goods from JW's site to the premises of any RTP for the purpose of supply within the six month period or extended period:

(a) If supply in India, ON PAYMENT OF TAX

(b) If exported, WITHOUT PAYMENT OF TAX

**TRANSITION Return of Semi finished goods sent for job work  
returned to POB SECTION 176**

**SEMI FINISHED GOODS REMOVED FROM FACTORY TO JW's SITE:**

**CONDITIONS:**

- a) Manufacturer and job worker should declare details of inputs held in stock
- b) Stock held by JW to be declared as stock held on behalf of manufacturer
- c) Declaration to be in such manner and within such time as prescribed

## TRANSITION Return of Finished goods sent for carrying out tests returned to Factory SECTION 177

Finished goods removed from factory and sent to another premises whether  
registered OR Not:

- a) for carrying out tests/processes Not amounting to manufacture: under earlier law
- b) Returned to factory within 6 months or a further period extendable to not more than 2 months by Competent Authority from date of roll out, After undergoing testing/process not amounting to manufacture

NO TAX PAYABLE

LIABILITY WHEN TIME PERIOD EXCEEDED; ITC Recoverable under Section 184

Manufacturer may also transfer the goods from the other site to the premises of any RTP for the purpose of supply within the six month period or extended period:

- **Treatment of transactions- certain types and progressive**

## TRANSITION: Treatment of transactions- certain

- WORKS CONTRACT:
- ABC Ltd. a construction company has entered into a Supply cum works contract service contract with a developer, during the present tax regime. There is periodical supply of goods and services as per the contract.
- In pursuance of the already existing contract, goods/services are supplied after the roll out date.
- Goods/ services supplied after the roll out date TAXABLE under GST



## **TRANSITION: Treatment of transactions- certain**

- **SITUATION CONTEMPLATED:**
- Contract entered into on 1.06.2017
- Invoice raised on 1.06.2017
- Payment of consideration with tax (service tax/VAT) already made on 25.06.2017 ( ADVANCE )
- Supply of goods/services made after 1.07.2017
- **NO TAX PAYABLE NOTWITHSTANDING SECTION 12 &13**

# NOTWITHSTANDING SECTION 12 & 13

## • TIME OF SUPPLY OF

- Invoicing
- Receipt of payment by supplier
- ( supply deemed to have been made to the extent covered by invoice/payment)

## • TIME OF SUPPLY OF

- Invoicing
- Receipt of payment by supplier
- ( supply deemed to have been made to the extent covered by invoice/payment)

## **TRANSITION: Treatment of Supply of services in**

- **SITUATION CONTEMPLATED:**
- Notwithstanding anything contained in Section 13 &14:
- **Tax in respect of a service for which the POT arose under the earlier law to the extent covered: liable under earlier law**
- **Portion not covered by the POT rules or point of taxation under earlier law, covered under GST**

# **TRANSITION: Treatment of Supply of goods in**

- **SITUATION CONTEMPLATED:**
- Notwithstanding anything contained in Section 12 &14:
- **Tax in respect of goods for which the POT arose under the earlier law to the extent covered: liable under earlier law**
- **Portion not covered by the POT rules or point of taxation under earlier law, covered under GST**

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**THANK YOU**