

Transition provision regarding availment of credit on goods held in stock on the appointed date where document evidencing payment of Central Excise duty is not available

- Section 140 of the CGST Act, lays down the transition provision for input tax credit. As per Clause 1(3) of the Draft Transitional Provisions (released on 01 April 2017), availment of credit on goods held in stock on the appointed date where document evidencing payment of Central Excise duty is not available. The conditions prescribed for availment of credit are summarized as under –
- **Validity :-** Credit of the Central Excise duty, may be availed of procurements dated upto one year prior to the appointed date. This credit may be availed within six tax periods (six months). “Tax period” means the period for which the return is required to be furnished [Section 2 (106) of the draft CGST Act, 2017] from the appointed date.
- **Conditions :-** The availability of credit is subject to the following conditions –
 - Goods forming part of stock were not wholly exempt from duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985.
 - Goods forming part of stock were not nil rated.
 - Document for procurement of such goods are available with the claimant.
 - The claimant furnishes the details of stock as on appointed date separately under Rule 2(b) of the draft Transitional Provisions.
 - The claimant submits a statement in the Form to be prescribed at the end of each of the six tax periods during which credit is availed indicating therein the details of supplies of such goods effected during the tax period.
 - The stock of goods on which the credit is availed is so stored that it can be easily identified by the claimant.

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- **Credit eligibility –**

- Credit will be allowed at the rate of 40 percent of the CGST applicable on supply of such goods after the appointed date.
- The amount of credit allowed will be credited to the electronic credit ledger of the claimant (maintained in FORM GST PMT-2 on the Common Portal).
- The credit will be allowed after the CGST payable on such supply has been paid.

It is pertinent to note that the proviso to Section 140(3) of the CGST Act provides that if any person other than a manufacturer or a supplier of services (namely a trader), 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 fulfilment of the prescribed conditions, be allowed to take credit of the Central tax applicable on the supply of such goods after the appointed day in the manner as may be prescribed subject to the condition that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient.

However, if for the spares lying in the stock before the appointed date and supported by the invoice depicting the excise duty suffered, the trader would be eligible for the 100% credit as against the 40% credit in absence of an invoice/supporting document.

Credit on goods lying in stock at Dealer premises as on date of go-live

Particulars	Excise duty payment docs	Credit availability
Raw Material	Available	Credit is available to Dealer subject to conditions: Date of document is not more than 12 months old; information to be furnished and also the credit taken in returns is carried forward
Raw Material	Not available	Dealer's credit may be restricted to 40% of CGST paid on sale of goods
Finished goods	Available	Credit is available subject to conditions: Date of document is not more than 12 months old; information to be furnished and also the credit taken in returns is carried forward
Finished Goods	Not available	Dealer's credit may be restricted to 40% of CGST paid on sale of goods

*Other conditions such as reporting to authorities in relevant formats to be fulfilled for taking credit