



IMPORTANT CHANGES IN GST MADE EFFECTIVE W.E.F. 1ST JANUARY 2022



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Finance Bill Clause	Section	Existing	Amendment	Author's Analysis
108	7(1)(aa)	<p>Scope of supply:</p> <p>(1) For the purposes of this Act, the expression supply includes—</p> <p>(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;</p>	<p>Scope of supply:</p> <p>(1) For the purposes of this Act, the expression supply includes—</p> <p>(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business</p> <p>(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.</p> <p>Explanation: For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;</p>	<p>Clause (aa) inserted</p> <p>Supply of activities or transactions inter se between a person & its members or constituents shall be deemed to take place from one such person to another – hence shall be treated as a supply.</p> <p>Paragraph 7 of Schedule II specifying supply (of goods) by any unincorporated association or body of persons to a member as a supply of goods accordingly has been omitted retrospectively due to inclusion of the same in Section 7.</p> <p>In view of the above, the decision of Kolkata Club has been negated.</p>
109	16	<p>Eligibility and conditions for taking input tax credit</p>	<p>Eligibility and conditions for taking input tax credit:</p> <p>(aa) the details of the invoice or debit note referred to in clause (a) has been</p>	<p>Clause (aa) inserted, so that eligible ITC can only be allowed when supplier has uploaded the transactions on the</p>



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			furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;”	portal and appearing on GSTR-2B. This will be effective from 1st January 2022. Prior to 1st January 2022, when ITC is availed without considering GSTR-2A or the provisions of Rule 36(4) will be litigated but there are fair chances to still be eligible prior to 01.01.2022. Thereafter, only credit can be availed only when such supplies are uploaded and appearing in GSTR-2B
113	74	<p>Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful misstatement or suppression of facts</p> <p>Explanation 1: For the purposes of section 73 and this section: (i) the expression - all proceedings in respect of the said notice shall not include proceedings under section 132; (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.</p>	<p>Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful misstatement or suppression of facts</p> <p>Explanation 1: For the purposes of section 73 and this section: (i) the expression - all proceedings in respect of the said notice shall not include proceedings under section 132; (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122 & 125 are deemed to be concluded.</p>	<p>Substituted Explanation</p> <p>The proceedings-initiated u/s 129 & 130 for E-way bill violations, i.e. detention, seizure and confiscation of goods or conveyances shall be independent proceedings and closure of parallel proceedings u/s 73 or 74 (in respect of any person including the subject person) shall not result in the deemed closure of the proceedings initiated u/s 129 & 130.</p> <p>In another words, even if demand issued under Section 73 & 74 has been concluded in the adjudication, any action initiated for violation of E-Way Bill condition will still be continued and it will be considered as independent adjudication / proceedings.</p>
114	75	<p>75. General provisions relating to determination of tax</p>	<p>Explanation: For the purposes of this subsection, the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.</p>	<p>Explanation inserted</p> <p>GSTR-1 is notified under Section 37 and GSTR-3B is notified under Section 39. Therefore, self-assessed tax will include only detailed transactions</p>



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				furnished in GSTR-1 and therefore, it is important to file correct return in GSTR-1. Otherwise proceedings will be initiated even if tax might have been paid and reported in GSTR-3B for the transactions not reported in GSTR-1.
115	83(1)	<p>83. Provisional attachment to protect revenue in certain cases.</p> <p>(1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.</p>	<p>(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.</p>	<p>Substituted Sub-Section (1) Powers of provisional attachment have been extended to proceeding under Chapter XII (Assessment), XIV (Inspection, Search, Seizure and Arrest) or XV (Demands and Recovery) for attachment of property including bank account belonging to the taxable person or person who has retained benefits of offences under 122(1A).</p> <p>Due to this amendment, the Commissioner has been empowered to initiate provisional attachment proceedings even during the assessment, investigation etc., if he feels that PA is necessary to protect the revenue. However, for the time being, the rule is that for initiating the PA proceedings, it is necessary to determine the liability and give reasonable time to discharge the obligation.</p> <p>This will be real harassment to the tax payer considering flimsy proceedings or notices in Form ASMT-10 etc. or mismatch provision prior to 1st Jan 2022. Officers will be having powers for provisional attachment.</p>



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116	107	107. Appeals to Appellate Authority:	Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.	Proviso inserted Pre-deposit includes 10% of the duty demand and 25% of the penalty, otherwise appeal will not get admitted.
117	129(1) (a)&(b)	129. Detention, seizure and release of goods and conveyances in transit: (a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty; (b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;	(a) on payment of penalty equal to two hundred per cent. Of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty; (b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty	Sub-Section (a) & (b) Substituted In case of violation of any of the condition for E-Way bill, penalty for taxable goods will be 200% of the tax amount OR 2% of value of the exempted supply OR Rs.25,000/-, whichever is higher. If such person volunteer for the payment of penalty otherwise penalty will be 50% of value of taxable goods OR 200% of tax amount, whichever is higher. For exempted supply, 5% of value of goods OR Rs. 25,000 whichever is less.
	129(2)	(2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.	(2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.	Sub-section (2) omitted. No provisions of sub-section (6) of Section 67 will not be applicable for detention of and seizure of goods and conveyance.

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		<p>(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).</p> <p>(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.</p> <p>(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within [fourteen days]¹⁰¹ of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:</p> <p>Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of [fourteen days]¹⁰² may be reduced by the proper officer.</p>	<p>(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).</p> <p>(4) No penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.</p> <p>(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):</p> <p>Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:</p> <p>Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.</p>	<p>Sub-Section (3) Substituted.</p> <p>Proper officer will have to issue the order specifying the penalty amount within 7 days of issue of notice.</p> <p>Sub-Section (4) Substituted.</p> <p>No penalty can be levied without granting the opportunity of personal hearing.</p> <p>Sub-Section (6) Substituted.</p> <p>The person on whom penalty is levied have to pay the amount within 15 days of the receipt of order otherwise seized goods will be disposed off for recovery of penalty amount.</p> <p>However, seized conveyance can be released on payment of penalty of Rs. 1 Lac or the penalty which is specified above, whichever is lesser.</p>
118	130	<p>130. Confiscation of goods or conveyances and levy of penalty:</p> <p>(1) Notwithstanding anything contained in this Act, if any person—</p>	<p>130. Confiscation of goods or conveyances and levy of penalty:</p> <p>(1) Where” any person—</p>	<p>Sub-Section (1) and (2) Substituted</p> <p>The wider powers provided in the Act for confiscation of goods has been limited for certain specified act as clarified in the section.</p>



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		<p>(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(ii) does not account for any goods on which he is liable to pay tax under this Act; or</p> <p>(iii) supplies any goods liable to tax under this Act without having applied for registration; or</p> <p>(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.</p> <p>(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the</p>	<p>(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(ii) does not account for any goods on which he is liable to pay tax under this Act; or</p> <p>(iii) supplies any goods liable to tax under this Act without having applied for registration; or</p> <p>(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.</p> <p>(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:</p>	



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		<p>said officer thinks fit:</p> <p>Provided that such fine leviable shall not exceed the marketvalue of the goodsconfiscated, less the tax chargeable thereon:</p> <p>Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:</p> <p>Provided also that where any such conveyance is used for the carriage of the goodsor passengers for hire, the owner of the conveyance shall be given an option to pay in lieuof the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.</p> <p>(3) Where any fine in lieu of confiscation of goods or conveyance is imposedunder sub-section (2), the owner of such goods or conveyance or the person referred to insub-section (1), shall, in addition, be liable to any tax, penalty and charges payable inrespect of such goods or conveyance.</p>	<p>Provided that such fine leviable shall not exceed the market value of the goodsconfiscated, less the tax chargeable thereon:</p> <p>Provided further that the aggregate of such fine and penalty leviable shall not be less than the penalty equal to hundred per cent. of the tax payable on such goods</p> <p>Provided also that where any such conveyance is used for the carriage of the goodsor passengers for hire, the owner of the conveyance shall be given an option to pay in lie of the confiscation of the conveyance a fine equal to the tax payable on the goods beingtransported thereon.</p>	<p>Maximum penalty is specified.</p> <p>Sub-Section (3) omitted.</p> <p>Clause w.r.t. fine in lieu of confiscation is removed.</p>
119	151	<p>151. Power to collect statistics:</p> <p>(1) The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act</p>	<p>151. Power to call for information.</p> <p>The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.</p>	<p>Section 151 substituted with New Section</p> <p>At present, the Commissioner has the right to demand the Statistics only by issuing a notification. But from 1st January, he will be empowered to direct</p>



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		(2) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected.		any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and such manner, as may be specified therein. And the person in front will be obliged to give that information.
120	152	<p>152. Bar on disclosure of information</p> <p>(1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorized representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.</p> <p>(2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerization thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.</p>	<p>152. Bar on disclosure of information</p> <p>(1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorized representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act without giving an opportunity of being heard to the person concerned.</p> <p>(2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerization thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.</p>	<p>Sub-section 1 substituted</p> <p>Any information obtained through return or otherwise cannot be disclosed without giving an opportunity of personal hearing.</p>
121	168	<p>168. Power to issue instructions or directions</p> <p>(2) The Commissioner specified in clause (91) of section 2, sub-section (3) of</p>	<p>168. Power to issue instructions or directions</p> <p>(2) The Commissioner specified in clause (91) of section 2, sub-section (3) of section</p>	<p>Subsection 2 substituted</p>

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		section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, [sub-section (1) of section 44, sub-sections (4) and (5) of section 52]119, [sub-section (1) of section 143, except the second proviso thereof]120, sub-section (1) of section 151, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.	5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, [sub-section (1) of section 44, sub-sections (4) and (5) of section 52]119, [sub-section (1) of section 143, except the second proviso thereof]120, sub-section (1) of section 151, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.	
122	Schedule II	7. Supply of Goods The following shall be treated as supply of goods, namely:— Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.	7. Supply of Goods The following shall be treated as supply of goods, namely:— Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.	Para 7 Omitted from Schedule II.

- Mandatory Aadhar authentication for GST Refund application and GST for GST Registration Revocation application from 1st Jan 2022.
- Clarification issued regarding modalities of compliance in respect of supply of “Restaurant Service” through E-Commerce Operators w.e.f. 01.01.2022.
- ✳ ECOS will no longer be required to collect TCS and file GSTR-8 in respect of ‘restaurant services’ on which it pays tax under section 9(5) of the CGST Act, 2017, but will continue to collect TCS and file GSTR-8 for other services.
- ✳ As ECOS are registered in accordance with rule 8 of the CGST Rules, 2017 and there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service.
- ✳ ECOs will be liable to pay GST on restaurant service supplied through them including by an un-registered person.
- ✳ The aggregate turnover of person supplying restaurant service through ECOs shall be computed as defined in section 2(6) of the CGST Act, 2017 and shall include the aggregate value of supplies made by the restaurant through ECOs.
- ✳ ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5) of the Act.
- ✳ ECO shall pay the entire GST liability in cash on restaurant service (No ITC could be utilized for payment of GST on restaurant service supplied through ECO).
- ✳ Registered persons supplying restaurant services through ECOs under section 9(5) will report such supplies in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being.