

Budget Amendments – Goods and Services Tax



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Part I - Goods and Services Tax – Legal Amendments

Author's Note:

1. The Amendments have been regrouped section wise where ever possible, and if not then, logically.
2. All the changes and amendments proposed in the Finance Bill 2022 shall apply only from date to be notified unless specifically mentioned
3. Amendments focused on Overhaul of provisions relating to Return filing system, changes in act to overcome many provisions in Rules ultra vires the Act and a few tax payer friendly amendments

Nature	Amendment
1. Restriction on Availment of ITC u/s 16 [Clause 99 of Finance Bill]	<p>A new clause 16(2)(ba) of the CGST Act is being inserted to provide that Input Tax Credit</p> <p>w.r.t. a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer under section 38.</p> <p>Further, 16(4) is being amended so as to provide for an extended time for availment of ITC by a registered person in respect of any invoice or debit note pertaining to a FY upto 30th day of November of the following FY.</p> <p>Impact: ITC can now be claimed by 30th November of next FY instead of September of next FY and 2 months extra time has been provided.</p>

Nature	Amendment
<p>2. Registration of a person is liable for cancellation – S. 29 [Clause 100]</p>	<p>Sec. 29(2)(b)/(c) amended so as to provide that the registration of a person is liable for cancellation, where –</p> <ul style="list-style-type: none"> (i) Composition Taxpayers: a person paying tax u/s 10 has not furnished the return for a Financial Year beyond 3 months from the due date of furnishing of the said return; (ii) Normal Tax Payers: has not furnished returns for such continuous tax period as maybe prescribed. <p>Impact: <i>Earlier Category (i) above – 3 consecutive tax periods and (ii) above 6 consecutive months were prescribed. Consequent to overhaul of return filing system, these amendments have been made</i></p>
<p>3. Extension of time for issuing of Cr. notes – S.34 [Clause 101]</p>	<p>Section 34 amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year upto thirtieth day of November of the following financial year.</p> <p>Impact: <i>Time Limits u/s 16(4), 34 & 37 , 52 has been extended by 2 months</i></p>
<p>4. Conditions & restrictions for furnishing details of outward supply u/s 37 [Clause 102]</p>	<p>Section 37 of the CGST Act is being amended so as to:</p> <ul style="list-style-type: none"> (i) Provide for prescribing conditions and restrictions for furnishing the details of outward supply and for communication of the details of such outward supplies to concerned recipients; (ii) Do away with two-way communication process in return filing; (iii) Provide for extended time upto 30th day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished earlier (iv) Provide for sequential filing of details of outward supplies
<p>5. Conditions and restrictions for inward supplies u/s 38 [Clause 103]</p>	<p>Section 38 of the CGST Act is being substituted for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with 2 way communication process in return filing.</p> <p>Impact: <i>Imposes a lot of restrictions on availment of ITC by Recipient based on compliance by Supplier. New Section 38 for prescribes the manner as well as conditions and restrictions for communication of details of inward supplies and Input Tax Credit to the recipient by means of an auto-generated statement Potential for heavy litigation. To be analysed along with Sec. 42 / 43 below</i></p>

Nature	Amendment
6. S.42 / 43 / 43A Omitted CGST Act [Clause 106]	<p>Sections 42, 43 and 43A of the CGST Act are being omitted so as to do away with two-way communication process in return filing.</p> <p>Impact: <i>GSTR 2 and GSTR3 and 2 way communication process in return filing Finally removed from Statute and replaced with matching process u/s 38.</i></p>
7. S. 39 amended [Clause 104]	<p>Section 39 of the CGST Act is being amended so as to:</p> <p>(a) Provide that the Non-Resident Taxable Person shall furnish the return for a month by 13th day of the following month;</p> <p>(b) Provide an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an amount that may be prescribed;</p> <p>(c) Provide for an extended time upto 30th day of November of the following financial year, for rectification of errors in the return furnished u/s 39;</p> <p>(d) Provide for furnishing of details of outward supplies of a tax period u/s 37 (1) as a condition for furnishing the return under section 39 for the said tax period.</p>
8. Provisional ITC Concept removed – New Sec. 41 [Clause 105]	<p>Section 41 of the CGST Act is being substituted so as to do away with the concept of “claim” of eligible input tax credit on a “provisional” basis and to provide for availment of Self - assessed input tax credit subject to such conditions and restrictions as may be prescribed.</p> <p>Impact: <i>New Sec. 41 introduced and concept of Provisional ITC removed.</i></p>
9. Levy of late fee for delayed filing of return u/s 52 [Clause 107]	<p>Section 47 of the CGST Act is being amended so as to provide for levy of late fee for delayed filing of return under section 52. Further, reference to section 38 is being removed consequent to the amendment in section 38 of the CGST Act.</p> <p>Impact: <i>Late fees introduced for delay in filing TCS statement by E_Comm operators.</i></p>



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<p>10. Restrictions for electronic credit ledger u/s 49 [Clause 109]</p>	<p>Section 49 of the CGST Act is being amended so as to:</p> <ul style="list-style-type: none"> (a) Provide for prescribing restrictions for utilizing the amount available in the e-credit ledger; (b) Allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person; (c) Provide for prescribing the maximum proportion of output tax liability which maybe discharged through the electronic credit ledger. <p>Impact: Amount lying as balance in the Electronic Cash Ledger can now be transferred to the distinct person for utilization – Tax Payer friendly amendment. Validation of Rule 86B</p>
<p>11. Interest on ITC wrongly utilized u/s 50 (3) [Clause 110]</p>	<p>Sec. 50(3) is being substituted retrospectively, with effect from the 1st July, 2017, so as to provide for levy of interest on ITC wrongly availed and utilized.</p> <p>Notification No. 13/2017 – Central Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under subsection (3) of section 50 of the CGST Act as 18%. Corresponding IGST Notification 6/2017 – Integrated Tax and UGST Notification 10/2017 – Union Territory Tax are also amended retrospectively.</p> <p>Impact: Interest to be charged only if wrong ITC is availed and utilised. Though interest rate fixed through notifications at 18%, the presence of upper cap of 24% in the Act, is worrying</p>
<p>12. Extension of time u/s 52 (6) [Clause 111]</p>	<p>Section 52 of the CGST Act is being amended so as to provide for an extended time upto 30th day of November of the following financial year for rectification of errors in the statement furnished u/s 52(4).</p> <p>Impact: Time Limits u/s 16(4), 34 & 37 , 52 has been extended by 2 months</p>

Nature	Amendment
13. Claim of refund u/s 54 [Clause 112]	<p>Section 54 of the CGST Act is being amended so as to:</p> <p>Explicitly provide that refund claim of any balance in the e-cash ledger shall be made in such form and manner as may be prescribed;</p> <p>Provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 as 2 years from the last day of the quarter in which the said supply was received;</p> <p>Extend the scope of withholding of or recovery from refunds in respect of all types of refund;</p> <p>Provide clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit by way of insertion of a new sub-clause (ba) in clause (2) of Explanation thereto.</p>
14. Common Portal for GST [Clause 114]	<p>Notification No. 9/2018 – Central Tax, dated the 23rd January, 2018, is being amended so as to notify www.gst.gov.in, retrospectively, with effect from 22nd June, 2017, as the Common Goods and Services Tax Electronic Portal, for all functions provided under Central Goods and Services Tax Rules, 2017, other than those provided for e-way bill and for generation of invoices under sub-rule (4) of rule 48 of the CGST Rules.</p>

Part II - GST – Significant Rate and Exemption Changes

15. Exemption for Fish Meal [Clause 116, 119, 122]	<p>Central Tax, Union Territory Tax and Integrated Tax on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, is being exempted during the period commencing from the 1st day of July, 2017, and ending with the 30th day of September, 2019 (both day has been inclusive), subject to the condition that, the same would not be eligible for refund if collected.</p>
16. Service by way of grant of alcoholic liquor license [Clause 117, 120, 123]	<p>Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments, has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service vide Notfn. No. 25/2019- CT (R), 24/2019- IT (R) & 25/2019- UT(R) dt. 30.09.2019 (with retrospective effect from 01.07.2017). However, no refund shall be made of tax which has been collected, but which would not have been so collected, had the said notifications been in force at all material times.</p>