



# ANALYSIS OF MAJOR CHANGES OF CENTRAL GOODS AND SERVICES TAX IN UNION BUDGET 2020-2021

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Hon'ble Finance Minister Mrs. Nirmala Sitharaman has presented the union budget 2020-21 on 01<sup>st</sup> February 2020. In indirect tax area, basically Goods and Services Tax, there are no major significant changes made. However, i have tried to make a comparative chart to analyse the major important changes in the context of Central Goods and Services Tax. The details are as follows:

Clause No.	Provision	Original Provision	Amendment in Budget (Finance Bill 2020)	Analysis	Notes on clauses (Finance Bill 2020)
116	2(114)	<p>“Union territory” means the territory of—</p> <p>(a) the Andaman and Nicobar Islands;</p> <p>(b) Lakshadweep;</p> <p>(c) Dadra and Nagar Haveli;</p> <p>(d) Daman and Diu;</p> <p>(e) Chandigarh; and</p> <p>(f) other territory.</p> <p>Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;</p>	<p>“Union territory” means the territory of—</p> <p>(a) the Andaman and Nicobar Islands;</p> <p>(b) Lakshadweep;</p> <p><b>(c) Dadra and Nagar Haveli and Daman and Diu;</b></p> <p><b>(d) Ladakh;</b></p> <p>(e) Chandigarh; and</p> <p>(f) other territory.</p> <p>Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory</p>	<p>Recently the Union Territory of Dadra and Nagar Haveli and Daman and Diu have merged in to one unit by passing of “Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Bill, 2019. On 9<sup>th</sup> December 2019 the Act has been published in Gazette of India. The same has been given effect in the budget. The same for creation of new territory called Ladakh. Now the taxpayers of Dadra and Nagar Haveli, Daman and Diu would be one union territory.</p>	<p>Clause 116 of the Bill seeks to amend clause (114) of section 2 of the Central Goods and Services Tax Act so as to align the definition of “Union territory” in line with the Jammu and Kashmir Reorganisation Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019.</p>
117	10(2)	<p>The registered person shall be eligible to opt under sub-section (1), if:—</p> <p>(a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;</p> <p>(b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;</p> <p>(c) he is not engaged in making any inter-State outward supplies of goods;</p> <p>(d) he is not engaged in making any supply of goods through an</p>	<p>The registered person shall be eligible to opt under sub-section (1), if:—</p> <p>(a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;</p> <p>(b) he is not engaged in making any supply of goods <b>or services</b> which are not leviable to tax under this Act;</p> <p>(c) he is not engaged in making any inter-State outward supplies of goods <b>or services</b>;</p> <p>(d) he is not engaged in making any supply of goods <b>or services</b></p>	<p>Make a harmonized of sub-section 2A</p>	<p>Clause 117 of the Bill seeks to amend clauses (b), (c) and (d) of sub-section (2) of section 10 of the Central Goods and Services Tax Act to harmonise the conditions for Eligibility for opting to pay tax under sub-section (1) and subsection (2A) of the said Act.</p>

		electronic commerce operator who is required to collect tax at source under section 52; and (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:	through an electronic commerce operator who is required to collect tax at source under section 52; and (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:		
118	16(4)	A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.	A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or <del>invoice relating to such</del> debit note pertains or furnishing of the relevant annual return, whichever is earlier.	Time limit of availing of input tax credit of debit note was linked to the original invoice date. The amendment of delinking of debit note with the original invoice date will certainly remove lots of litigation and difficulties.	Clause 118 of the Bill seeks to amend sub-section (4) of section 16 of the Central Goods and Services Tax Act so as to delink the date of issuance of debit note from the date of issuance of the
119	29(1)(c)	the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24	the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of section 25.	The proposed amendment will be enable the person who has taken registration voluntarily may opt out from registration if he is no longer is liable to register. The changes has taken care the difficulties of the person who has taken registration voluntarily even their turnover does not exceed the taxable limit.	Clause 119 of the Bill seeks to amend clause (c) of subsection (1) of section 29 of the Central Goods and Services Tax Act so as to provide for cancellation of registration Obtained voluntarily under sub-section (3) of section 25.
120	30(1)	Provided that the registered person who was served notice under sub-section (2) of section 29 in the manner as provided in clause (c) or clause (d) of sub-section (1) of section 169 and who could not reply to the said notice, thereby resulting in cancellation of his registration certificate and is hence unable to file application for revocation of cancellation of registration under sub-section (1) of section 30 of the Act, against such order passed up to 31.03.2019, shall be allowed to file	Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,— (a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days; (b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a)	Earlier through Removal of Difficulties Order, (Order no 5/2019 Dt. 23.04.2019) Government has allowed a registered person whose registration was cancelled and unable to file revocation within the time period may file application not later than 22.07.2019. Currently, there is no permanent provision of extension of filing of revocation of cancellation of registration. The proposed amendment to	Clause 120 of the Bill seeks to substitute the proviso to sub-section (1) of section 30 of the Central Goods and Services Tax Act so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.

		application for revocation of cancellation of the registration not later than 22.07.2019		the provision allows the limitation period of 30 days by another 30 days by the Addl. Commissioner or Jt. Commissioner and another 30 days by the commissioner. Indirectly the limitation period is extended by another 90 days in total.	
121	31(2)	Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which— (a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or (b) tax invoice may not be issued.	Provided that the Government may, on the recommendations of the Council, by notification,— (a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed; (b) subject to the condition mentioned therein, specify the categories of services in respect of which— (i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or (ii) tax invoice may not be issued.”.	Enable the Government to notify the <i>specific class of services</i> in respect of the time line of tax invoice may be separate than the general services. Already separate time line for insurance or banking companies are specified as per rule 47 of CGST Rules without any supported provision.	Clause 121 of the Bill seeks to amend section 31 of the Central Goods and Services Tax Act so as to empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance.
122	51(3)	The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.	A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.	Earlier it was mandatory to mention <i>contract value, rate of deduction, mount deducted, amount paid to the Government</i> . The amendment has allowed the Government to prescribe the format of TDS certificate. Now the deductee may or may not mentioned the following details in the certificate which were earlier compulsory: a. Value of the contract b. Rate of Deduction c. Amount paid to Govt This amendment will certainly simplify the form of TDS certificate.	Clause 122 of the Bill seeks to amend section 51 of the Central Goods and Services Tax Act so as to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.
122	51(4)	If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the	Omitted	Penalty provision of delay furnish of certificate of TDS has been omitted	

		Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees			
123	109(6)	The Government shall, by notification, specify for each State or Union territory except for the State of Jammu and Kashmir, a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as “State Bench”) for exercising the powers of the Appellate Tribunal within the concerned State or Union territory	The Government shall, by notification, specify for each State or Union territory <del>except for the State of Jammu and Kashmir</del> , a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as “State Bench”) for exercising the powers of the Appellate Tribunal within the concerned State or Union territory	Now the Government shall specify the Bench of Appellate Tribunal for the Jammu and Kashmir .	<i>Clause</i> 123 of the Bill seeks to amend sub-section (6) of section 109 of the Central Goods and Services Tax Act so as to make the provisions for Appellate Tribunal and its benches thereof applicable in the Union territories of Jammu and Kashmir and Ladakh.
123		Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017	Omitted		
124	122(1A)		Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on	The is a personal liability and the person whose instance the offences of availing input tax credit without any supply of goods or services or both, makes supply of goods or services or both without any invoice leading to evasion of tax is liable to pay penalty equal to the input tax credit availed or tax evasion.	<i>Clause</i> 124 of the Bill seeks to insert a new sub-section (1A) in section 122 of the Central Goods and Services Tax Act so as to make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty.
125	132(1)	Whoever commits any of the following offences, namely:—	Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences	Person who causes the offences of availment of input tax credit without supply of goods or services or both, or supply of goods or services or both without issuance of any invoice shall also be punishable. Now cause of action is a punishable offence.	<i>Clause</i> 125 of the Bill seeks to amend section 132 of the Central Goods and Services Tax Act so as to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable under sub-section (1) of section 69 and to make any
125	132(1)(c)	avails input tax credit using such invoice or bill referred to in clause (b)	avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill		
125	132(1)(e)	evades tax, fraudulently avails input tax credit or fraudulently obtains	evades tax, <del>fraudulently avails input tax credit</del> or		

		refund and where such offence is not covered under clauses (a) to (d);	fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);		person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment
128	172(1)	Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act	Provided that no such order shall be made after the expiry of a period of <del>three</del> <b>five</b> years from the date of commencement of this Act	Extension of period of limitation by another 2 years	Clause 128 of the Bill seeks to amend section 172 of the Central Goods and Services Tax Act so as to extend the Time limit provided for removal of difficulties hereunder from three years to five years, with effect from the date of commencement of the said Act
129	Schedule II	Transfer of business assets (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person; (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;	Transfer of business assets (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, <del>whether or not for a consideration,</del> such transfer or disposal is a supply of goods by the person; (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, <del>whether or not for a consideration,</del> the usage or making available of such goods is a supply of services;	Supply without consideration is covered under schedule I. Items of schedule II are all supplies as per provision of section 7(1). The said changes are made to harmonise with the main provision of sub section (1) of section 7.	Clause 129 of the Bill seeks to amend paragraph 4 of Schedule II to the Central Goods and Services Tax Act so as to omit the words “whether or not for consideration” so as to give clarity to the meaning of the entries (a) and (b) of said paragraph. This amendment shall take effect retrospectively from the 1st day of July, 2017.