



SECTIONWISE ANALYSIS – GST AMENDMENTS (FINANCE BILL 2022)

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1. ITC not to be availed if it is in restricted category of GSTR-2B

Source

Clause 99 (a)(i) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Section 16(2) of the CGST Act, 2017

New Clause

Clause (ba) has been inserted

Amendment

“(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;”

Effect of the Amendment

This is a new condition which is to be satisfied for availment of input tax credit. In GSTR-2B, if the ITC appears in Restricted category, the same cannot be availed by the registered person. Cases where the ITC can be restricted under GSTR-2B has been discussed in clause 103 below.

2. Reference to Section 43A removed from the conditions for availment of ITC

Source

Clause 99 (a)(ii) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Clause (c) of Sub section 2 of Section 16 of the CGST Act, 2017

Provision before Amendment

(c) subject to the provisions of section 41 ~~or section 43A~~, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply

Provision before Amendment

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply

Effect of the Amendment

Section 43A is part of the CGST Act 2017 but has not been notified till date. This provision had been enacted when the new GST returns were in the pipeline. However, the idea of the new returns was scrapped. Therefore, Section 43A is now proposed to be removed from the GST law. Consequently, the reference to Section 43A would also be removed from the conditions for availment of ITC.

3. Extension of due date of availment of ITC to 30th November**Source**

Clause 99 (b) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Sub section 4 of Section 16 of the CGST Act, 2017

Provision before Amendment

(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 debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Provision after Amendment

(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 **“thirtieth day of November”** following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Effect of the Amendment

Earlier, the due date of availment of Input tax credit for any financial year was provided as the due date of furnishing of the return under section 39 for the month of September i.e. 20th October in case of monthly return filers and 22nd / 24th October in case of quarterly return filers. The due date of availing ITC is now proposed to be extended upto 30th November.

This means that in case of forward charge, ITC can only be availed if it appears in GSTR-2B upto the month of October and not afterwards. This way matching can be completed in GSTR-3B for the month of October (or earlier month) which can in turn be filed upto 30th November. If ITC is taken in any GSTR-3B which is filed after 30th November, the same may be subject to litigation.

4. Cancellation of registration due to non-filing of returns for a shorter time period:

Source

Clause 100 of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Clause (b) and (c) to Section 29(2) of the CGST Act, 2017.

Provision before amendment

(b) a person paying tax under section 10 has not furnished ~~returns for three consecutive tax periods;~~

(c) any registered person, other than a person specified in clause (b), has not furnished returns for ~~“a continuous period of six months;~~

Provision after Amendment

(b) a person paying tax under section 10 has not furnished “the return for a financial year beyond three months from the due date of furnishing the said return”

(c) any registered person, other than a person specified in clause (b), has not furnished returns for “such continuous tax period as may be prescribed”

Effect of the Amendment

Composition Taxpayer – Currently, the registration can be cancelled for a composition taxpayer if they do not furnish their return for three consecutive tax periods. It may be noted that the return for composition taxpayers has now become annual instead of quarterly. Therefore, the proposed criteria for cancellation of registration is that GSTR-4 has not been filed for three months from the due date of furnishing such return.

Normal Taxpayer – Currently, the registration can be cancelled for a normal taxpayer if they do not furnish their return for six consecutive months. The proposed criteria for cancellation of registration is that the returns have not been filed for the prescribed period (which is likely to be less than six months).

5. Due date of issuance of credit notes to 30th November

Source

Clause 101 of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Section 34(2) of the CGST Act, 2017.

Provision before Amendment

(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than ~~September~~ following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed.

Provision after Amendment

(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than “the thirtieth day of ~~November~~” following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed.

Effect of the Amendment

Currently, the due date for issuance of credit note is September following the end of the financial year to which the supply relates. The said due date for credit note is proposed to be extended to 30th November following the year in which the supply was made.

6. Restrictions in filing of GSTR-1 and extension of time limit till 30th November.

Source

Clause 102(a), (b), (c) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Section 37(1), 37(2) and 37(3) of the CGST Act 2017.

Provision before amendment:

(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details ~~“shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed”~~:

~~“Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:”~~

(2) ~~“Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly”.~~

(3) Any registered person, who has furnished the details under sub-section (1) for any tax period ~~“and which have remained unmatched under section 42 or section 43,”~~ shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after ~~“furnishing of the return under section 39”~~ for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

[Provided further that the rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September, 2018 till the due date for furnishing the details under subsection (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019] 68

Explanation.—For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

Provision after amendment:

(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically ~~“subject to such conditions and restrictions and”~~ in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details ~~“shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies”~~:

(3) Any registered person, who has furnished the details under sub-section (1) for any tax period shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after ~~“the thirtieth day of November”~~ following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Effect of the Amendment

(i) Section 37 of the CGST Act is being amended so as to 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) The GST law had prescribed for two way communication process between the supplier and recipient through GSTR-1, 1A, 2A and 2. Such two way communication could never be brought into force by the government. Consequently, the Government proposes to remove the provisions (Section 42, 43, Proviso to 37(1), 37(2)) which provided for such mechanism of two way communication earlier. Also, the references to such provisions in the Act have also been removed.

(iii) The time limit for rectification of error or omission in GSTR-1 was the date of furnishing of GSTR-3B for September of the next financial year. The said date is now proposed to be extended to 30th November of the next financial year.

7. Sequential filing of GSTR-1 and its exceptions

Source

Clause 102(d) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Section 37(4) of the CGST Act, 2017.

Amendment

“(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods.”

Effect of the Amendment

It is proposed to be provided in the Act that one cannot furnish a return for the succeeding tax period (say August) if the return for any of the previous tax period is not filed (say July or earlier).

For certain category of taxpayers, the return of future period may be enabled even if the return for the past period has not been filed.

8. Cases where ITC can be restricted in GSTR-2B

Source

Clause 103 of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Section 38 of Central Goods and Services Tax Act, 2017.

Provision before amendment

~~(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall verify, validate, modify or delete, if required, the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 37 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 37.~~

~~(2) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975, and credit or debit notes received in respect of such supplies during a tax period after the tenth day but on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed:~~

~~Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:~~

~~Provided further that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.~~

~~(3) The details of supplies modified, deleted or included by the recipient and furnished under sub-section (2) shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.~~

~~(4) The details of supplies modified, deleted or included by the recipient in the return furnished under sub-section (2) or sub-section (4) of section 39 shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.~~

~~(5) Any registered person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:~~

~~Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.~~

Provision after amendment

(1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an autogenerated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

(2) The auto-generated statement under sub-section (1) shall consist of—

(a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and

(b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,—

(i) by any registered person within such period of taking registration as may be prescribed; or (ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or

(iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said subsection during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or

(iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or

- (v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or
- (vi) by such other class of persons as may be prescribed.”

Effect of the Amendment

The entire Section 38 of the CGST Act 2017 has been substituted. The earlier provides for matching of ITC through two-way communication and furnishing of GSTR-2. The following is the summary of the new Section 38:

1. Details of GSTR-1 filed / ITC furnished by the supplier would be available to the recipient in such form (GSTR-2B) and manner, and subject to conditions and restrictions as prescribed.
2. GSTR-2B will consist of two parts – ITC available and ITC not available to the recipient.
3. The following may be the reasons for classifying the ITC as ‘Not available’ as per GSTR-2B in the hands of the recipient:
 - a. Inward supply is received from a supplier having new registration (upto the prescribed time period)
 - b. Supplier has defaulted in payment of tax and the default has continued for the prescribed time period
 - c. Tax paid in GSTR-3B is lower than the output tax shown in GSTR-1 by the prescribed limit
 - d. Inward supply is received from a supplier who has taken more ITC in GSTR-2B than in GSTR-3B by the prescribed limit
 - e. Supplier has paid higher proportion of taxes from his electronic credit ledger than what is allowed as per law
 - f. Other Notified persons

9. Due date of filing GSTR-5 for non-resident taxable persons.

Source

Clause 104 (a) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Sub section 5 of Section 39 of the Central Goods and Services Tax Act, 2017.

Provision before amendment

(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within ~~“twenty”~~ days after the end of a calendar month or within seven

days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

Provision after amendment

(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within “thirteen” days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

Effect of the Amendment

The due date of filing GSTR-5 for registered non-resident taxable person would now be 13th rather than 20th of the next month.

10. Option to pay self-assessed tax or amount prescribed under the GST rules.

Source

Clause 104 (b) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

First Proviso of sub section 7 of Section 39 of the CGST Act, 2017.

Provision before amendment

~~“Provided that every registered person furnishing return under the proviso to subsection (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed.”~~

Provision after amendment

“Provided that every registered person furnishing return under the proviso to subsection (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,—

(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or

(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.”

Effect of the Amendment

The amendment has been made for taxpayers paying under QRMP scheme. As per the law, an option has been provided to either pay the self-assessed tax or the amount prescribed under the GST rules.

11. Due date of making rectification in GSTR-3B extended till 30th November.

Source

Clause 104 (c) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Sub section 9 of Section 39 of the CGST Act,2017.

Provision before Amendment

(9) ~~“Subject to the provisions of sections 37 and 38, if”~~ any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or subsection (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act: Provided that no such rectification of any omission or incorrect particulars shall be allowed after ~~“the due date for furnishing of return for the month of September or second quarter”~~ following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

Provision after Amendment

“Where” any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or subsection (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after “the thirtieth day of November” following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

Effect of the Amendment

Currently, the last date for rectification of any error or omission for any financial year has been provided as the due date of filing September return of the next financial year i.e. 20th October in case of monthly return filers and 22nd / 24th October in case of quarterly return filers.

This date is now being modified to 30th November. In effect, the last return within which the rectification will be allowed be October GSTR-3B to be filed within 30th November (assuming the returns are filed within the due date). If the returns are not filed within the due date, the return in which the modification of last year is being carried out (say August) should be filed by 30th November.

12. GSTR-3B to be filed only when GSTR-1 of the said period has been filed

Source

Clause 104 (d) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Sub section 10 of Section 39 of the CGST Act, 2017.

Provision before Amendment

A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods ~~has not been furnished by him.~~

Provision after Amendment

A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under subsection (1) of section 37 for the said tax period.

Effect of the Amendment

In the GST law, it would be provided that furnishing of GSTR-3B for a particular period would not be allowed if GSTR-1 for that tax period has not been filed. By notification, the Government may allow certain category of registered person to furnish their GSTR-3B even if the GSTR-3B for the earlier period or GSTR-1 for that tax period has not been filed.

13. Reversal of ITC with interest if the supplier does not pay the taxes and re-availment thereof

Source

Clause 105 of the Finance Bill, 2022.

Effective Date

To be notified by the Government.

Affected Provision

Section 41 of the CGST Act, 2017.

Provision before amendment

~~(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.~~

~~(2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.~~

Provision after Amendment

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

Effect of the Amendment

Section 41 of the CGST Act 2017 provided for provisional credit till the two way matching of ITC was made. Now that the two way matching provisions have been removed, there will not be any requirement of providing provisional input tax credit. Availment in the electronic credit ledger would be considered as final credit itself.

Currently, it has been provided that self-assessed tax output tax (and not the Department assessed liability) could only be paid through such provisional credit. Now that provisional credit is no longer required, this clause is also proposed to be removed. Without any dispute, the Department liability can be paid through the electronic credit ledger now.

If the tax has not been paid by the supplier, the recipient would be liable to reverse his input tax credit along with interest. When the said payment is made by the supplier on a later date, the recipient would be able to re-avail the credit in the prescribed manner.

14. Removal of clauses for two-way communication of ITC mismatches and that of new returns:

Source

Clause 106 of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Section 42, 43 and 43A of the CGST Act, 2017

Effect of the Amendment

The GST law had prescribed for two-way communication process between the supplier and recipient through GSTR-1, 1A, 2A and 2. Such two-way communication could never be brought into force by the government. Consequently, the Government proposes to remove Section 42 and 43 wherein such communication process was provided.

Section 43A is part of the CGST Act 2017 but has not been notified till date. This provision had been enacted when the new GST returns were in the pipeline. However, the idea of the new returns was scrapped. Therefore, Section 43A is now proposed to be removed from the GST law.

15. Levy of late fees for GSTR-8 and removal of that of GSTR-2.

Source

Clause 107 of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Section 47(1) of the CGST Act, 2017.

Provision before amendment :

Any registered person who fails to furnish the details of outward ~~“or inward”~~ supplies required under section 37 ~~“or section 38”~~ or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

Provision after amendment :

Any registered person who fails to furnish the details of outward supplies required under section 37 or returns required under section 39 or section 45 ~~“or section 52”~~ by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

Effect of the Amendment

The provisions for late fees were provided for GSTR-2 also. Now that the same was not made effective, GSTR-2 (Section 38) has been removed from the late fees provisions.

Further, the late fees have been prescribed for GSTR-8 (return for e-commerce operators required to collect TCS) also apart from GSTR-1 and 3B.

16. Removal of reference to Section 38 for GST Practitioners

Source

Clause 108 of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Sub-section (2) of Section 48 of the CGST Act, 2017.

Provision before amendment

(2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, ~~the details of inward supplies under section 38~~ and the return under section 39 or section 44 or section 45 [and to perform such other functions] in such manner as may be prescribed.

Provision after amendment

(2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37 and the return under section 39 or section 44 or Section45 [and to perform such other functions] in such manner as may be prescribed.

Effect of the Amendment

In the provisions for GST practitioners, the reference to GSTR-2 (Section 38) has been removed. This is because Section 38 itself has been completely modified to remove any two-way communication process and no return is to be filed under the said provision.

17. Restriction for utilizing the amount available in electronic credit ledger.**Source**

Clause 109 of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Sub section 2 and 4 of section 49 of the Central Goods and Services Tax Act, 2017.

Provision before amendment

(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with [section 41 "~~or section 43A~~"], to be maintained in such manner as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.

Provision after amendment

(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with [section 41] to be maintained in such manner as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions “and restrictions” and within such time as may be prescribed.

Effect of the Amendment

Section 49(4) is being amended so as to provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger. Under the said provisions, Rule 86A of the CGST Rules 2017 can directly fall. This may also be the enabling provisions for providing further restrictions in the utilization of balance in the electronic credit ledger.

18. Transfer of balance in electronic cash ledger between two distinct persons with same PAN.

Source

Clause 109 (c) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Sub section 10 of Section 49 of the CGST Act, 2017.

Provision before amendment

~~(10) “A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.”~~

Provision after amendment

(10) “A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for,—

(a) integrated tax, central tax, State tax, Union territory tax or cess; or

(b) integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, subsection (5) of section 25, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act:

Provided that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.”;

Effect of the Amendment

Section 49(10) has been amended to 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. This means that ITC may be transferred within various branches of an entity have separate GSTIN but the same PAN

19. Maximum payment of output taxes allowed from electronic credit ledger.

Source

Clause 109 (d) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

New Sub-Section

Sub section 12 of section 49 of the CGST Act, 2017.

Amendment

(12) “Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.”.

Effect of the Amendment

Section 49(12) of the CGST Act 2017 provides that the Government may specify the maximum proportion of output tax liability which may be discharged through the electronic credit ledger for specified class of persons. The balance has to be paid through the electronic cash ledger. Currently, Rule 86B provides for such restriction of utilization from electronic credit ledger only upto 99% of output taxes for certain taxpayers. This may also be the enabling provisions for providing further restrictions in the utilization of balance in the electronic credit ledger.

20. Interest of 18% only on ITC wrongly availed and utilized.

Source

Clause 110 of the Finance Bill, 2022.

Effective Date

1st July' 2017.

Affected Provision

Section 50(3) of the CGST Act, 2017.

Provision before amendment

~~A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty four per cent., as may be notified by the Government on the recommendations of the Council.~~

Provision after Amendment

“Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”.

Effect of the Amendment

Currently, Section 50(3) provides for interest in case of excess claim of ITC or reduction of output tax liability which arises subject to the two way communication process of matching through GSTR 1, 1A, 2 and 2A (section 42 and 43).

Since, the two way communication process was never made effective, interest under Section 50(3) has also been altered. Now, interest would be applicable only upon ITC wrongly availed and utilized due to any reason and not only due to the matching concept.

This is a welcome move as it will put to rest those disputes wherein the Department had been charging interest for mere availment of ITC without its utilization. If the balance is present in the electronic credit ledger after its availment, no interest can be charged on it. This amendment is proposed to be notified with effect from 1st July 2017.

Further, Interest rate under Section 50(3) of CGST Act, 2017 as per Notification No. 13/2017-Central Tax dated 28th June 2017 is currently 24%. Now, it is proposed to get the interest rate down to 18% with retrospective effect.

21. Extension of rectification of GSTR-8 till 30th November.

Source

Clause 111 of the Finance Bill, 2022.

Effective Date

As notified by the Government.

Affected Provision

Proviso to section 52(6) of the Central Goods and Services Tax Act.

Provision before amendment

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the “~~due date for furnishing of statement for the month of September~~” following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

Provision after Amendment

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the “thirtieth day of November” following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

Effect of the Amendment

For E-commerce operators required to collect TCS and are filing GSTR-8, the last date for rectification of any error or omission for any financial year has been provided as the due date of filing September return of the next financial year. This date is now being modified to 30th November.

22. Refund from electronic cash ledger not through GSTR-3B but through prescribed manner.

Source

Clause 112(a) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Proviso to Section 54(1) of the CGST Act, 2017.

Provision before amendment

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in ~~“the return furnished under section 39 in such”~~ manner as may be prescribed.

Provision after amendment

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in “such form and” manner as may be prescribed.

Effect of the Amendment

It is proposed that refund of any balance in electronic cash ledger cannot be claimed in GSTR-3B. The said refund shall be claimed in such form and manner as would be prescribed. It should be noted that currently there is no mechanism to claim refund of electronic cash ledger via GSTR-3B, hence making it a redundant provision in the Act.

23. Extension of limitation period for UN bodies till 2 years.**Source**

Clause 112(b) of the Finance Bill, 2022

Effective Date

Date to be notified by the government

Affected Provision

Section 54(2) of the CGST Act, 2017

Provision before amendment:

A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of "~~six months~~" from the last day of the quarter in which such supply was received.

Provision after amendment:

A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of "two years" from the last day of the quarter in which such supply was received.

Effect of the Amendment

Currently a person specified under Section 55 of the CGST Act, 2017 [certain specified class of persons like specialized agency of the United Nations Organization] had to file refund application before the expiry of six months from the last day of the quarter in which such inward supplies were received. This time limit is now proposed to be extended to two years.

24. Withholding and deduction of amounts extended to all kinds of refunds.**Source**

Clause 112(c) of the Finance Bill, 2022

Effective Date

Date to be notified by the government

Affected Provision

Section 54(10) of the CGST Act, 2017

Amendment

Where any refund is due ~~“under sub-section (3)”~~ to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Explanation. —For the purposes of this sub-section, the expression —“ specified date” shall mean the last date for filing an appeal under this Act.

Effect of the Amendment

Where any refund is due to a registered person who has defaulted in furnishing of any return or has not paid the GST liability, the refund due is liable to be withheld or deductible from the refund due. This clause is applicable only for refund of unutilized input tax credit i.e. for exports, supplies to SEZ and inverted duty structure.

The withholding and deduction of refund is now being extended to all kinds of refunds if there is any pending liability of the applicant.

25. Relevant date prescribed for refund of supplies to SEZ without payment of tax.**Source**

Clause 112(d) of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

New Provision

sub clause “ba” in clause (2) of Explanation of Section 54 has been inserted.

Amendment

“in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services

used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;”.

Effect of the Amendment

Refund is allowed to be claimed only within 2 years from the relevant date. In case of refund of any unutilized ITC on account of supplies to SEZ unit / developer without payment of tax, no relevant date had been prescribed by the GST law. The said loophole is now plugged by providing relevant date for such supplies as the due date of furnishing GSTR-3B of the applicable month for which refund is claimed.

26. Removal of reference to Section 38 in instructions to be issued by the Commissioner of the Board.

Source

Clause 113 of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Affected Provision

Section 168(2) of the CGST Act, 2017.

Provision before amendment

The Commissioner specified in clause (91) of section 2, sub-section (3) of 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, section 44, sub-sections (4) and (5) of section 52, sub-section (1) of section 143, except the second proviso thereof, 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.

Provision after amendment

“The Commissioner specified in clause (91) of section 2, sub-section (3) of 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 (6) of section 39, section 44, sub-sections (4) and (5) of section 52, sub-section (1) of section 143, except the second proviso thereof, 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.”

Effect of the Amendment

Consequent to the amendment in section 38 of the CGST Act, sub-section (2) of section 168 of the CGST Act is being amended so as to remove reference to section 38 therefrom.

27. GST portal applicable for all functions except E-waybill and E-invoice.**Source**

Clause 114 of the Finance Bill, 2022.

Effective Date

Date to be notified by the government.

Amendment

“(1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 58(E), dated the 23rd January, 2018, issued by the Central Government on the recommendations of the Council, under section 146 of the Central Goods and Services Tax Act, 2017 read with section 20 of the Integrated Goods and Services Tax Act, 2017, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Fifth Schedule, on and from the date specified in column (3) of that Schedule. 12 of 2017. 13 of 2017.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under section 146 of the Central Goods and Services Tax Act, 2017 read with section 20 of the 12 of 2017. 13 of 2017. Integrated Goods and Services Tax Act, 2017, retrospectively, at all material times.”

Effect of the Amendment

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 e-invoicing.

28. Levy exempted on on unintended waste generated during the production of fish meal:

Source

Clause 116, 119 and 122 of the Finance Bill, 2022.

Effective Date

1st July' 2017.

Amendment

(1) Notwithstanding anything contained in the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 673(E), dated the 28th June, 2017 issued by the Central Government, on the recommendations of the Council, in exercise of the powers under sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017, no central tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive).

(2) No refund shall be made of all such tax which has been collected, but which would not have been so collected, had subsection (1) been in force at all material times.

Effect of the Amendment

The Finance Act, 2020 exempted levy of GST on fishmeal from 1st July 2017 to 30th September 2019. Now to further help this industry, it is proposed to exempt levy of GST on unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil. Further, it has been proposed to clarify that refund shall not be granted to taxpayers who had collected tax on the aforesaid items.

29. Grant of liquor license to be treated as neither supply of goods nor supply of services.

Source

Clause 117, 120, 123 of the Finance Bill, 2022.

Effective Date

1st July' 2017.

Amendment

- (1) Subject to the provisions of sub-section (2), the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 746(E), dated the 30th September, 2019 issued by the Central Government, on the recommendations of the Council, in exercise of the powers under sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017, shall be deemed to have, and always to have, for all purposes, come into force on and from the 1st day of July, 2017.
- (2) No refund shall be made of all such integrated tax which has been collected, but which would not have been so collected, had the notification referred to in sub-section (1) been in force at all material times.

Effect of the Amendment

On 30th September 2019 the government by way of notification provided that, "Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called" undertaken by the State Governments engaged as public authorities, shall be treated neither as a supply of goods nor a supply of service. It is proposed to give effect to the aforesaid provision retrospectively. Further, it has been proposed to clarify that refund shall not be granted to taxpayers who had collected tax on the aforesaid services.

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