

BUDGET HIGHLIGHTS - INDIRECT TAXES

Goods and Services Tax

Amendments proposed in the CGST Act, 2017

To be effective from a date to be notified after the enactment of the Finance Bill, 2022

- **Amendments in Section 16**

A new clause (ba) to section 16(2) of the CGST Act is proposed to be inserted to provide that input tax credit with respect to a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer under section 38.

Further, section 16(4) of the CGST Act is proposed to be amended so as to provide for an extended time for availment of input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year upto 30th November of the following financial year.

- **Amendment in Section 29**

Clause (b) and (c) of section 29(2) of the CGST Act are proposed to be amended so as to provide that the registration of a person is liable for cancellation, where –

- (i) 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 of the said return;
- (ii) a person, other than those paying tax under section 10, has not furnished returns for such continuous tax period as may be prescribed.

- **Amendment in Section 34**

Section 34(2) of the CGST Act is proposed to be 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.

- **Amendments in Section 37**

Section 37 of the CGST Act is proposed to be amended so as to:

- (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 an extended time upto 30th November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1);
- (iv) provide for tax period-wise sequential filing of details of outward supplies under sub-section (1).

- **Amendment in Sections 38, 47, 48 and 168**

Section 38 of the CGST Act is proposed to be 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 two-way communication process in return filing. Consequential amendments have been made in sections 47, 48 and 168.

- **Amendments in Section 39**

Section 39 of the CGST Act is proposed to be amended so as to:

- (i) provide that the non-resident taxable person shall furnish the return for a month by 13th of the following month;
- (ii) 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;
- (iii) provide for an extended time upto 30th November of the following financial year, for rectification of errors in the return furnished under section 39;
- (iv) provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing the return under section 39 for the said tax period.

- **Amendment in Section 41**

Section 41 of the CGST Act is proposed to be 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.

- **Omission of Sections 42, 43, 43A**

Sections 42, 43 and 43A of the CGST Act are proposed to be omitted so as to do away with two-way communication process in return filing.

- **Amendments in Section 47**

Section 47 of the CGST Act is proposed to be amended so as to provide for levy of late fee for delayed filing of return under section 52.

Further, reference to section 38 is proposed to be removed consequent to the amendment in section 38 of the CGST Act.

- **Amendments in Section 49**

Section 49 of the CGST Act is proposed to be amended so as to:

- (i) provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger;
- (ii) 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;
- (iii) provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.

- **Amendment in Section 50**

- (i) Sub-section (3) of section 50 of the CGST Act is proposed to be substituted *retrospectively*, with effect from the 01.07.2017, so as to provide for levy of interest on input tax credit wrongly availed and utilized.
- (ii) *Notification No. 13/2017 CT dated 28.06.2017* is proposed to be amended retrospectively, with effect from 01.07.2017, so as to notify rate of interest under section 50(3) as 18%. Corresponding notifications issued under IGST Act and UTGST Act have also been accordingly modified. However, these notifications shall be applicable w.e.f the enactment of the Finance Bill, 2022.

- **Amendment in Section 52**

Section 52(6) of the CGST Act is proposed to be amended so as to provide for an extended time upto 30th November of the following financial year for rectification of errors in the statement furnished under sub-section (4).

- **Amendment in Section 54**

Section 54 of the CGST Act is proposed to be amended so as to:

- (i) explicitly provide that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed;
- (ii) provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 as two years from the last day of the quarter in which the said supply was received;
- (iii) extend the scope of withholding of or recovery from refunds in respect of all types of refund;

- (iv) 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.

• **Amendment in Notifications**

- (i) *Notification No. 9/2018 – Central Tax, dated the 23rd January, 2018* is proposed to be amended so as to notify www.gst.gov.in, retrospectively, with effect from 22nd June 2017, as the Common GST Electronic Portal, for all functions provided under Central Goods and Services Tax other than those provided for e-way bill and for generation of invoices under sub-rule (4) of rule 48 of the CGST Rules.
- (ii) *Notification No. 13/2017 – Central Tax, dated the 28th June,* is proposed to be amended retrospectively, with effect from the 1st July, 2017, so as to notify rate of interest under subsection (3) of section 50 of the CGST Act as 18%.

Customs

Amendments proposed in the Customs Act, 1962

Effective from the date of enactment of the Finance Bill, unless otherwise specified

- Section 3 is proposed to be amended to specifically include the officers of DRI, Audit and Preventive formation in the class of Officers so as to remove any ambiguity as regards the class of officers of Customs.
- Section 5 is proposed to be amended to rationalize the powers of the officers of Customs in view of the recent judgements of Court, launch of faceless assessment and other trade facilitation initiatives etc.
- Section 14 is proposed to be amended to include provisions for rules enabling the Board to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods so as to address the issue of undervaluation in imports.
- Section 28E is proposed to be amended so as to omit the Explanation to clause (c) relating to expression 'joint venture in India' and also to omit clause (h) of the said section.
- Section 28H is proposed to be amended to make provisions for prescribing appropriate fees by Board relating to application for advance Ruling and also give flexibility to the applicant to withdraw his application at any time

before a ruling is pronounced from the current 30 days' time period. Consequently, the sub-section (3) is proposed to be omitted.

- Section 28I(7) is proposed to be substituted so as to remove the word "Members" and also make changes accordingly.
- Sub-section (2) under section 28J is proposed to be substituted so that advance ruling under sub-section (1) of section 28J is now valid for a period of three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.
- Section 110AA is proposed to be inserted with a view to affirm the principle that, wherever, an original function duly exercised by an officer of competent jurisdiction, is the subject matter of a subsequent inquiry, investigation, audit or any other specified purpose by any other officer of customs, then, notwithstanding, such inquiry, investigation, audit or any other purpose, the officer, who originally exercised such jurisdiction shall have the sole authority to exercise jurisdiction for further action like re-assessment, adjudications, etc. consequent to the completion of such inquiry, investigation, audit or any other purpose.
- Section 135AA is proposed to be inserted to protect the import and export data submitted to Customs by importers or exporters in their declarations by making the publishing of such information unless provided by the law, as an offence under Customs Act.
- Customs (Import of goods at concessional rate of duty) Rules, 2017 are proposed to be amended to introduce end to end automation in the entire process, to standardize and notify the various forms in which details are to be submitted electronically. In order to leverage the advantage of such submissions electronically, the need for any transaction-based permissions and intimations are all proposed to be done away with. Consequently, the procedure to claim the notification benefit is proposed to be simplified and automated. For effective monitoring of the use of goods for the intended purposes, a Monthly Statement is proposed which is to be submitted by the importer on the Common Portal. An option for voluntary payment of the necessary duties and interest, through the Common Portal is proposed to be provided to the importer.