

BUDGET HIGHLIGHTS - INDIRECT TAXES

Goods & Services Tax

Amendments proposed in the CGST Act, 2017, the IGST Act, 2017, the UTGST Act, 2017 & GST (Compensation to States) Act, 2017

To be effective from a date to be notified after the enactment of the Finance Bill, 2024

- **Amendment in Section 9 of the CGST Act, 2017**

It is proposed to exclude “un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption” from levy of GST by amending section 9(1). Presently, section 9(1) excludes only alcoholic liquor for human consumption from levy.

Parallel amendments are proposed in section 5(1) of the IGST Act, 2017 and section 7(1) of the UTGST Act, 2017.

- **Insertion of Section 11A of the CGST Act, 2017**

New section 11A is proposed to be inserted to empower the Government to regularize non-levy or short levy of central tax due to any general practice prevalent in trade.

Parallel new section 6A is proposed to be inserted in the IGST Act, 2017 and new section 8A is proposed to be inserted in the UTGST Act, 2017. Similarly, parallel section 8A is proposed to be inserted in the GST (Compensation to States) Act, 2017.

- **Amendment in Section 13 & section 31(3)(f) of the CGST Act, 2017**

Section 13 is proposed to be amended to provide that in case of supplies taxable under reverses charge, where invoice is required to be issued by the recipient, the time of supply shall be the date of issue of invoice by the recipient. Amendment is also proposed in section 31(3)(f) to provide that self-generated invoice under the said clause shall be issued within the prescribed period. An explanation is proposed to be inserted to provide that the supplier registered solely for deducting TDS shall be considered as unregistered person for the purpose of said sub-clause. Hence, the recipient shall be required to issue self-invoice in case of supplies received from the said supplier.

- **Amendments in Section 16 of the CGST Act, 2017**

As per the recommendation of 53rd GST Council Meeting, a new sub-section (5) is proposed to be inserted retrospectively from 1st July, 2017 to extend the time

limit for availing credit on an invoice/debit note pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21 upto the 30th November, 2021.

Further, new sub-section (6) is also proposed to be inserted with retrospective effect from 1st July, 2017 to allow the availment of input tax credit in respect of an invoice/debit note in a return filed for the period from the date of cancellation of registration/effective date of cancellation of registration till the date of order of revocation of cancellation of registration, filed within 30 days of the date of order of revocation of cancellation of registration, subject to the condition that the time-limit for availment of credit in respect of the said invoice or debit note should not have already expired under sub-section (4) of the said section on the date of order of cancellation of registration.

Further, where the tax has been paid or the input tax credit has been reversed, no refund of the same shall be admissible. This amendment shall be effective from a date to be notified after the enactment of the Finance (No.2) Bill, 2024.

- **Amendment in Section 17 of the CGST Act, 2017**

The reference of sections 129 and 130 is being removed from clause (i) of section 17(5) which blocks the input tax credit (ITC) of tax paid on inward supplies. The amendment is proposed since tax is no longer payable under amended sections 129 & 130.

Further, non-availability of ITC in respect of tax paid under section 74 is proposed to be restricted only for demands upto Financial Year 2023-24.

- **Amendment in Section 30 of the CGST Act, 2017**

A new proviso is proposed to be inserted in sub-section (2) to provide for an enabling clause to prescribe conditions and restrictions for revocation of cancellation of registration

- **Amendment in Section 39 of the CGST Act, 2017**

Sub-section (3) of section 39 is proposed to be substituted to make monthly filing of TDS return compulsory, irrespective of whether any deduction has been made in the said month or not. Further, along with the form and manner, the time for filing the said return will also be prescribed by rules.

- **Amendment in Section 54 of the CGST Act, 2017 & Section 16 of the IGST Act, 2017**

Second proviso to sub-section (3) is proposed to be omitted and a new sub-section (15) is proposed to be inserted to provide that no refund of unutilised ITC or IGST shall be allowed in cases of zero-rated supply of goods where such goods are subjected to export duty. Simultaneously, sub-section (5) is proposed to be inserted in 16 of the IGST Act, 2017 to provide that no refund of unutilized ITC or of IGST paid on account of zero- rated supply of goods shall be allowed in cases where the zero-rated supply of goods is subjected to export duty.

Further, sub-section (4) of section 16 of the IGST Act, 2017 is proposed to be amended to provide for notification of class of persons who may make zero rated supplies of goods or services or both or class of goods or services which may be supplied on zero rated basis, and refund of IGST in respect of which can be claimed, in accordance with the provisions of section 54 of the CGST Act, 2017, subject to such conditions, safeguards and procedures as may be prescribed.

- **Amendment in Section 70 of the CGST Act, 2017**

Sub-section (1A) is proposed to be inserted to enable an authorised representative to appear on behalf of the summoned person before the proper officer in compliance of summons issued by the said officer. The persons summoned shall be bound to attend, either in person or by an authorised representative, and shall state the truth during examination or make statements or produce such documents and other things as may be required.

- **Insertion of Section 74A & Amendments in Sections 73 & 74 of the CGST Act, 2017**

A new section 74A is proposed to be inserted to provide for determination of tax not paid/short paid/erroneously refunded or ITC wrongly availed/ utilised for both fraudulent and non-fraudulent reasons pertaining to the Financial Year 2024-25 onwards.

It provides a common time limit for issuing demand notices and orders in respect of demands from the Financial Year 2024-25 onwards, irrespective of whether the charges of fraud, wilful misstatement, or suppression of facts are invoked or not, while keeping a higher penalty, for cases involving fraud, wilful misstatement, or suppression of facts.

Under the new section, the notice can be issued upto 42 months from the due date of filing the annual return of the relevant financial year or up to 42 months from the date of erroneous refund. Further, no notice will be issued if the amount in question for a financial year is less than Rs. 1,000. Furthermore, time limit for issuing of order is being proposed as 12 months from the date of issue of notice which can be extended maximum by 6 months.

The amount of penalty for fraud and non-fraud cases is being kept the same as provided under sections 73 and 74 respectively. However, the time limit for the taxpayers to avail the benefit of nil/reduced penalty, by paying the tax demanded along with interest, is being increased from 30 days to 60 days.

Consequent to the insertion of new section 74 for demand notices for financial year 2024-25 onwards, sub-section (12) is proposed to be inserted in sections 73 and 74 to restrict the applicability of the said sections for determination of tax pertaining to the period upto FY 2023-24.

Further, consequential amendments have been made in sections 10, 21, 35, 49, 50, 51, 61, 62, 63, 64, 65, 66, 75, 104, 107 and 127 to incorporate a reference to the proposed new section 74A.

- **Amendment in Section 75 of the CGST Act, 2017**

In view of proposed insertion of new section 74A, sub-section (2A) is proposed to be inserted in section 75 to provide for redetermination of penalty demanded under 74A(5)(ii) as per clause 74A(5)(i), in cases where the charges of fraud, wilful misstatement, or suppression of facts are not established.

- **Amendment in Sections 107 & 112 of the CGST Act, 2017**

As recommended in 53rd GST Council meeting, section 107(6) is proposed to be amended to reduce the maximum amount of pre-deposit for filing appeal before the Appellate Authority from Rs. 25 crores to Rs. 20 crores in CGST.

Section 112(8) is also proposed to be amended to reduce the maximum amount of pre-deposit for filing appeals before the Appellate Tribunal from the existing 20% to 10% of the tax in dispute and also reduce the maximum amount payable as pre-deposit from Rs. 50 crores to Rs. 20 crores in CGST.

- **Amendment in Section 109 of the CGST Act, 2017**

Section 109 is being amended to empower the Government to notify types of cases that shall be heard only by the Principal Bench of the Appellate Tribunal.

- **Amendment in Section 112 of the CGST Act, 2017**

Sub-sections (1) and (3) are proposed to be amended with effect from 01.08.2024, to empower the Government to notify the date for filing appeal/application before the Appellate Tribunal.

Sub-section (6) is also proposed to be being amended to enable the Appellate Tribunal to admit Departmental appeals filed within 3 months after the expiry of the specified time limit of 6 months.

- **Amendment in Section 122 of the CGST Act, 2017**

With effect from 01.10.2023, section 122(1B) is proposed to substitute the words "Any electronic commerce operator who" with "Any electronic commerce operator, who is liable to collect tax at source under section 52" thereby restricting the applicability of sub-section (1B) to only those electronic commerce operators who are required to collect tax at source.

- **Insertion of Section 128A of the CGST Act, 2017**

A new section 128A is proposed to be inserted to provide for conditional waiver of interest and/or penalty in respect of demand notices issued under section 73 for the Financial Years 2017-18, 2018-19, 2019-20 if full tax liability is paid

before a date to be notified. However, this benefit shall not be applicable in respect of any amount payable by the person on account of erroneous refund.

Further, in cases where interest and penalty have already been paid in respect of any demand for the said financial years, no refund shall be admissible for the same.

- **Amendment of Section 140 of the CGST Act, 2017**

Sub-section (7) is proposed to be amended, so as to enable availment of the transitional credit of eligible CENVAT credit on account of input services received by an Input Services Distributor prior to the appointed day, for which invoices were also received prior to the appointed date. The said amendment shall be made effective from 1st day of July, 2017.

- **Amendment of Section 171 of the CGST Act, 2017**

Proviso and explanation are proposed to be inserted in sub-section (2) to empower the Government to notify the date from which the Authority under the said section will not accept any application for anti-profiteering cases.

An explanation is proposed to be inserted to include the reference of Appellate Tribunal in the Authority under the said section so that the Appellate Tribunal may be notified by the Government to act as an Authority under the said section.

- **Addition of paragraphs in Schedule III to the CGST Act, 2017**

Following two activities are proposed to be inserted in Schedule III to treat them as neither supply of goods nor supply of services:

Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in coinsurance agreements, provided that the lead insurer pays the tax liability on the entire amount of premium paid by the insured.

Services by the insurer to the re-insurer, for which the ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, provided that tax liability on the gross reinsurance premium inclusive of reinsurance commission or the ceding commission is paid by the reinsurer.

- **Amendment in Section 20 of the IGST Act**

Section 20 is proposed to be amended to reduce the maximum amount of pre-deposit payable for filing appeal before Appellate Authority from Rs. 50 crores to Rs. 40 crores of integrated tax. Further, it proposes to reduce the maximum amount payable as pre-deposit for filing appeal before the Appellate Tribunal from Rs. 100 crores to Rs. 40 crores of integrated tax.

Amendments proposed in the Customs Act, 1962

Amendments to be effective from the date on which the Finance (No. 2) Bill, 2024 receives the assent of the President of India

- Section 28DA is proposed to be amended to enable the acceptance of different types of proof of origin provided in trade agreements in order to align the said section with new trade agreements, which provide for self-certification.
- A proviso to sub-section (1) of section 65 is proposed to be inserted to empower the Central Government to specify certain manufacturing and other operations in relation to a class of goods that shall not be permitted in a warehouse.
- The exemption from GST compensation cess leviable on imports in SEZ by SEZ unit or developer for authorised operations is proposed to be validated retrospectively ***with effect from 1st July, 2017.***
- Section 143AA is proposed to be amended by substituting the expression "a class of importers or exporters" with "a class of importers or exporters or any other persons" for the purpose of facilitating trade and encouraging compliances.
- Clause (m) of sub-section (2) of section 157 is proposed to be amended by substituting the expression "a class of importers or exporters" with "a class of importers or exporters or any other persons" for enabling the Board to make regulation on the measures and separate procedure or documentation for such persons, apart from the existing class or category specified therein.

Amendments proposed in the Customs Tariff Act, 1975

Amendment to be effective from the date on which the Finance (No. 2) Bill, 2024 receives the assent of the President of India

Section 6 of the Customs Tariff Act, 1975 which provided for levy of protective duties in certain cases by the Central Government on the recommendations of the Tariff Commission is proposed to be omitted, as the Tariff Commission has been wound up by resolution dated 1st June 2022 by the Government of India.