



SUGGESTIONS ON INDIRECT TAXES PROPOSALS OF FINANCE BILL, 2026

A. GST Proposals

1. Post-Sale Discounts – Need for Definition of “Discount” [Section 15(3)(b) of the CGST Act, 2017]

Amendment

Clause (b) of section 15(3) of the CGST Act, 2017 is proposed to be substituted with a new clause as under:

“(b) after the supply has been effected, if for such discount, a credit note has been issued by the supplier and input tax credit as is attributable to such discount has been reversed by the recipient of the supply, in accordance with section 34.”

This removes the requirements of (i) a pre-supply agreement and (ii) linking the discount to specific invoices. The proposed amendment thus allows post-supply price reductions to be excluded from value of supply provided a credit note is issued and the recipient reverses ITC.

Issue

While the amendment is a welcome step towards easing procedural rigidity, the term “discount” has not been defined. In commercial practice, suppliers commonly grant various forms of incentives such as cash discounts, volume-based rebates, performance-linked incentives, loyalty or bonus schemes, target achievement rewards and backend trade credits.



In the absence of a clear-cut definition, divergent views have emerged between taxpayers and tax authorities as to whether such amounts constitute genuine price reductions or represent consideration for an independent supply of service by the recipient.

In several cases, tax authorities have taken the view that certain post-sale incentives are in the nature of consideration for activities undertaken by distributors or dealers and have accordingly sought to treat the same as a separate taxable supply in the hands of the recipient.

Although *Circular No. 251/08/2025-GST* has clarified some of such issues, uncertainty persists regarding the fundamental question of what constitutes a discount.

Suggestion

It is suggested that the term “discount,” be explicitly defined by issuance of a comprehensive clarificatory circular.

The definition should be inclusive in nature so as to cover all typical commercial price reductions. A broad and inclusive formulation would ensure that genuine trade discounts, volume rebates, performance incentives and similar commercial arrangements are recognised as reductions in price, provided they are not consideration for a separately identifiable supply.



Justification

Providing such clarity would uphold the legislative intent of Section 15(3), reduce interpretational disputes, align the law with prevailing business practices, and prevent unwarranted tax demands in respect of legitimate trade incentives. This would significantly enhance certainty and promote ease of doing business.

2. Intermediary Services – Place of Supply [Section 13(8)(b) of the IGST Act, 2017]

Amendment

The Finance Bill, 2026 proposed to omit clause (b) of Section 13(8) of the Integrated Goods & Services Tax Act, 2017 (IGST Act). Under the existing provisions, Section 13(8)(b) fixes the place of supply of intermediary services to be the location of the supplier of services (even if the recipient is outside India). Omission of this clause means that intermediary services will now follow the general rule of Section 13(2), i.e., place of supply = location of recipient of services.

Issue

While the proposed omission is a welcome reform, it is submitted that a large number of disputes relating to denial of export benefits for intermediary services rendered since 1st July 2017 are presently pending before various adjudicating authorities, appellate forums and courts. Considering that the proposed amendment has prospective application, such past transactions may continue to be litigated. This may result in similarly placed taxpayers being treated differently merely on the basis of the period of supply. Further, long-pending disputes may continue unnecessarily



despite the legislative correction now introduced. Since the amendment seeks to rectify a structural inconsistency in the GST framework rather than introduce a new exemption or concession, a suitable transitional clarification is desirable to ensure certainty and effective closure of legacy disputes.

Suggestion

It is suggested that a clarificatory circular be issued by the Board providing that past cases relating to intermediary services may be dealt with on an “as-is-where-is” basis. Further, appropriate instructions may be issued to the field formations not to pursue pending departmental proceedings on this matter and to review and withdraw ongoing litigation, wherever feasible and legally permissible.

Justification

Issuance of such clarification would facilitate resolution of legacy disputes, reduce the litigation burden on both taxpayers and the Government, promote administrative efficiency, provide certainty to industry, and reflect the true legislative intent of aligning GST with the destination-based principle.



B. Customs Proposals

1. Extension of Benefit of Inter-Warehouse Transfer under Section 67 to FTWZ

Amendment

The amendment proposed in Section 67 of the Customs Act, 1962 (Customs Act) seeks to do away with the requirement of prior permission of the proper officer under the said section for removal of warehoused goods from one custom bonded warehouse to another. This would simplify and liberalise the procedural framework governing inter-warehouse transfers of warehoused goods.

Issue

While the proposed amendment is a welcome trade facilitation measure, it is pertinent to note that the term “warehouse” under Section 2(43) of the Customs Act presently refers to a public warehouse licensed under Section 57, a private warehouse licensed under Section 58, or a special warehouse licensed under Section 58A.

Free Trade and Warehousing Zones (FTWZs), though operating under customs control and permitting storage of imported goods without payment of duty until clearance, are not expressly included within the definition of “warehouse” under the Customs Act. Consequently, warehoused goods stored in FTWZ units may not fall within the scope of amended Section 67 and may require prior permission for inter-warehouse transfer. Such differential treatment may create operational constraints for businesses using FTWZ as part of their logistics and trading model.



Given that the objective of the substitution of Section 67 is to simplify procedures and enhance trade facilitation, exclusion of goods warehoused in FTWZ from its scope may result in unintended inconsistency in the treatment of goods under customs supervision.

Suggestion

It is suggested that appropriate amendment be carried out in the Customs Act, 1962 to extend the benefit of hassle free and seamless removal of warehoused goods from one warehouse to another proposed to be made available under Section 67 to goods warehoused in a Free Trade and Warehousing Zone (FTWZ) as well.

The legislative framework may be suitably aligned to ensure uniform treatment of goods stored under customs control, including those in FTWZ units, for the purposes of inter-warehouse transfers.

Justification

Such an amendment would promote parity in the treatment of warehoused goods under customs supervision including FTWZ, facilitate seamless movement of goods within bonded logistics ecosystems, strengthen India's position as a global trading and warehousing hub, and further advance the objective of ease of doing business underlying the proposed substitution of Section 67.