

**GST MONTHLY | BUDGET PROPOSALS | FEB 22**

Dated: 08 Feb 2022

**1. GST DEADLINES****1.1. Deadlines | Feb 22**

- GST Compliance Calendar – Feb 2022**

Due Date	Return/ Compliance	Remarks
11 Feb 22	GSTR1 (Jan 22)	Return of Outward Supplies- Monthly Return
13 Feb 22	GSTR1 (Jan 22)- IFF	Return of Outward Supplies- QRMP
14 Feb 22	GSTR2B (Jan 22)	Auto Drafted ITC Statement available for download
20 Feb 22	GSTR3B (Jan 22)	Last Date for Payment of Tax and Return for Normal Taxpayers (Monthly GSTR3B)
25 Feb 22	PMT 06 (Jan 22)	Details of Job Work Challan (Quarterly Form)
28 Feb 22	GSTR 9 & 9C FY 20-21	GST Annual Return and Reconciliation Statement for FY 20-21

**2. UNION BUDGET 2022 PROPOSED AMENDMENTS**

Following major amendments are proposed by The Finance Bill, 2022 with respect to Goods and Services Tax. They shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.1. New Restrictions in Eligibility Conditions of availing ITC in section 16***(Section 99 of The Finance Bill, 2022)*

A new clause (ba) to sub-section (2) of section 16 of the CGST Act is 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. **Restricted credit** though will be reflected in GSTR2A, but will be barred from availment as per the newly inserted clause.

Eligibility conditions for ITC as per section 16 now are as under:

- Possession of Tax Invoice,
- Details are reflected in GSTR2B, *(applicable from 1 Jan 22)*
- Receipt of goods and services,
- Tax has actually been paid to the government,
- Return has been filed by the taxpayer,
- ITC is not **restricted** in GSTR2A/2B *(yet to be notified)*

## 2.2 Restricted ITC as per Section 38

*(Section 103 of The Finance Bill, 2022)*

Government has identified certain categories of suppliers under Section 38 which will not be able to pass on ITC to the recipient for a specified period. These suppliers are at high risk of defaulting in GST payment and such information will be communicated to the recipient as 'Restricted ITC' through GSTR2A/2B.

In respect of following suppliers ITC cannot be availed and will be communicated as restricted ITC in GSTR2A/2B:

- a) Newly Registered Person,
- b) Existing registered person who defaults in payment of tax for prescribed period,
- c) Supplier who makes short payment of Tax in GSTR3B as compared with GSTR1 beyond the prescribed limit,
- d) Supplier who avails excess ITC in GSTR3B as compared with GSTR2B beyond the prescribed limit,
- e) Defaults in discharging tax liability as per Rule 86B (1% payment through cash ledger),
- f) any other prescribed class of persons. (residuary entry)

## 2.3 Extension in Time limit of availing Input Tax Credit

*(Section 99 of The Finance Bill, 2022)*

Section 16(4) is proposed to be amended so as to provide that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note after the **30th day of November** following the end of the financial year to which such invoice or debit note pertains, or furnishing of the relevant annual return, whichever is earlier.

Time limit of availing of ITC has been increased from 20th / 22nd / 24th October (due date of GSTR-3B of September) to 30th November of next financial year to which the invoice or debit note, of which ITC is being availed, pertains to.

## 2.4 Time limit for issuing credit note under Section 34 extended

*(Section 101 of The Finance Bill, 2022)*

Time limit for declaration of credit notes in return has been extended from September month of succeeding financial year to 30 Nov of the succeeding financial year.

## 2.5 Chronological filing of GSTR1

*(Section 102 of The Finance Bill, 2022)*

A new sub section has been inserted in Section 37 not allowing to file 'details of outward supplies' in GSTR1 if the details of any of the previous tax periods has not been furnished.

## 2.6 Concept of Matching eliminated

*(Section 106 of The Finance Bill, 2022)*

Section 42, 43 and 43A has been omitted to remove the concept of matching from the GST law. Matching of ITC was earlier said to be the backbone of GST Law.

## 2.7 Rectification of errors in GSTR3B or GSTR1

*(Section 102 & 104 of The Finance Bill, 2022)*

Time period of rectification of errors in GSTR3B and GSTR1 has been extended to **30 Nov** of succeeding financial year (Current time limit is due date of furnishing GSTR-3B of September month of next financial year).

## 2.8 Provisional claim of input tax credit proposed to be abolished

*(Section 105 of The Finance Bill, 2022)*

Section 41 of the CGST Act is being 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.

If outward tax liability has not been discharged by the supplier then the recipient has to reverse such input tax credit along with interest. However, upon payment of outward tax liability by the supplier, the recipient can re-avail such input tax credit.

## 2.9 Interest on excess ITC only if utilized

*(Section 110 of The Finance Bill, 2022)*

Sub-section (3) of section 50 of the CGST Act, 2017 has been proposed to be substituted retrospectively, with effect from the 1st July, 2017, so as to provide for levy of interest on input tax credit wrongly availed and utilized. Interest liability shall not be imposed if input tax credit has not been utilized and is only availed and balance is standing in Electronic Credit Ledger. Interest at 18% has been notified retrospectively from 1 July 2017 for reversal of excess ITC.

## 2.10 Amendment in Refund Provisions Section 54

*(Section 112 of The Finance Bill, 2022)*

Refund of electronic cash ledger delinked from Section 39 return. Now, the same can be filed through separate form like other refund applications.

Scope recovery of tax has been extended to all types of refunds. Earlier recovery was allowed only from inverted structure refunds.

Clarity provided 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.

## 2.11 Transfer of Balance in Cash ledger between distinct persons

(Section 109 of The Finance Bill, 2022)

Amendment is proposed in Section 49 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.

## 3. GST PORTAL UPDATES

### 3.1 Deployment of Interest Calculator in GSTR-3B

(Advisory Dated: 26/01/2022)

This functionality will arrive at the system computed interest on the basis of the tax liability values declared by the taxpayers. The interest applicable, if any, on the tax liability declared in the GSTR-3B of a particular tax-period will be computed after the filing of the said GSTR-3B. These system computed interest values will be auto-populated in the Table-5.1 of the GSTR-3B of the next tax-period.

## 4. JUDICIAL PRONOUNCEMENTS

### 4.1 SC on expiry of e-way bill when goods could not be delivered within validity period because of traffic blockage is correct

*SUPREME COURT OF INDIA [Assistant Commissioner(ST)]vs. Satyam Shivam Papers (P) Ltd.2021*

High Court meticulously and correctly examined and found no fault or intent to evade - Goods in question could not be taken to the destination within time for reasons beyond the control of respondent-taxpayer including traffic blockage due to agitation - State alone remains responsible for not providing smooth passage of traffic - No question of law relating to operation and effect of Section 129 involved - Considering department's conduct and harassment faced by taxpayer, costs of Rs. 59,000/- imposed in addition to costs of Rs.10,000/- imposed by the High Court - Special Leave Petition filed by department dismissed

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*Author can be reached at [ca.hsinghal@gmail.com](mailto:ca.hsinghal@gmail.com); +91 99172 11511*