



The Union Budget 2023-24

- GST Analysis

CA Aditya Dhanuka

IN THIS ISSUE

Foreword

With the entire world grappling to stay under inflation and have a positive GDP growth, India is one of the few nations to have outshone and maintain its consistent growth rate.

India is poised to witness GDP growth of 6.0 per cent to 6.8 per cent in 2023-24, depending on the trajectory of economic and political developments globally. Indian economy appears to have moved on after its encounter with the pandemic, staging a full recovery in FY22 ahead of many nations and positioning itself to ascend to the pre-pandemic growth path in FY23. Yet in the current year, India has also faced the challenge of reining in inflation that the European strife accentuated. Measures taken by the government and RBI, along with the easing of global commodity prices, have finally managed to bring retail inflation below the RBI upper tolerance target in November 2022.

The public at large have been waiting for this budget with very high expectations in the form of relaxation of tax slabs and allied deductions, whereas the MSME

business sector has expectations in the form of one-time amnesty from tax disputes, and relief from notices being issued by the department in such a reckless manner; the Finance minister this time partly lived up to their expectation and has given them reasons to cheer.

On the GST front, with stricter compliances being put in place, viz. capping of time limit on filing of various returns, denial of ITC on CSR expenditure, etc. the relaxation of a few compliances will how well balance and off set with these will be known in only the times to come.

While the technicalities associated with the budget, if any, would reveal themselves only in the times to come, do please revert to us with your feedback, comments and questions. I would try my best to assist you in respect of the same.

With Best Regards,
CA Aditya Dhanuka.



FM Nirmala Sitharaman

This budget is woven around 7 Priorities:

- Green Growth
- Youth Power
- Inclusive Development
- Reaching the last mile
- Infrastructure and investment
- Unleashing the potential
- Financial Sector



Remarkable progress in GST

GST has been a landmark reform of Independent India showcasing the spirit of Cooperative Federalism.

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Detailed Analysis

1	Allowing person registered under composition scheme to sell goods through e-commerce operator		
Source	Clause 128 of The Finance Bill, 2023	Provision	Amendment to Section 10 of The CGST Act, 2017
<p>10 Composition levy</p> <p>(1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding,—</p> <ul style="list-style-type: none"> (a) one per cent of the turnover in State or turnover in Union territory in case of a manufacturer, (b) two and a half per cent of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and (c) half per cent of the turnover in State or turnover in Union territory in case of other suppliers, <p>subject to such conditions and restrictions as may be prescribed:</p> <p>Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore and fifty lakh rupees, as may be recommended by the Council:</p> <p>Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.</p> <p>Explanation .- For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.</p> <p>(2) The registered person shall be eligible to opt under sub-section (1), if—</p> <ul style="list-style-type: none"> (a) save as provided in sub-section (1), he is not engaged in the supply of services; (b) he is not engaged in making any supply of goods or services which are not leviable to tax under this Act; (c) he is not engaged in making any inter-State outward supplies of goods or services; (d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52; (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council; and (f) he is neither a casual taxable person nor a non-resident taxable person: <p>Provided that where more than one registered persons are having the same Permanent Account Number [issued under the Income-tax Act, 1961(43 of 1961)], the registered person shall not be eligible to opt for the scheme</p>			

under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent. of the turnover in State or turnover in Union territory, if he is not-

- (a) engaged in making any supply of goods or services which are not leviable to tax under this Act;
- (b) engaged in making any inter-State outward supplies of goods or services;
- (c) engaged in making any supply of ~~goods or~~ services through an electronic commerce operator who is required to collect tax at source under section 52;
- (d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
- (e) a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961 (43 of 1961), the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.....

Effect:

This amendment has been brought so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy.

2	Alignment of ITC provisions in Act as was amended by Notfn. No. 26/2022 –CT dt. 26th December, 2022		
Source	Clause 129 of The Finance Bill, 2023.	Provision	Amendment to Section 16 of The CGST Act, 2017.
16(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—			
(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;			
(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;			
(b) he has received the goods or services or both.			
Explanation .- For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-			

- (i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
 - (ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;
- (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;
- (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; and
- (d) he has furnished the return under section 39 :

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be **added to his output tax liability, along with interest thereon** paid by him along with interest payable under section 50, in such manner as may be prescribed :

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him **to the supplier** of the amount towards the value of supply of goods or services or both along with tax payable thereon.

Effect:

This amendment has been brought to align the said sub-section with the return filing system provided in the law and as amended by Notification No. 26/2022 –Central Tax, dated 26th December, 2022.

3	Inclusion of supply of uncleared warehoused goods for reversal of GST and blocking of ITC where the expenditure incurred is on account of CSR.		
Source	Clause 130 of The Finance Bill, 2023.	Provision	Amendment to Section 17 of The CGST Act, 2017.

17 Apportionment of credit and blocked credits

...(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed , and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II , sale of building.

Explanation .- For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III , **except those specified in paragraph 5 of the said Schedule** except – .

- (i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and
- (ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule

(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of subsection (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:-

- (A) further supply of such motor vehicles; or
- (B) transportation of passengers; or
- (C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used-

- (i) for making the following taxable supplies, namely:-
 - (A) further supply of such vessels or aircraft; or
 - (B) transportation of passengers; or
 - (C) imparting training on navigating such vessels; or
 - (D) imparting training on flying such aircraft;
- (ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available-

- (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
- (ii) where received by a taxable person engaged-
 - (I) in the manufacture of such motor vehicles, vessels or aircraft; or
 - (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(b) the following supply of goods or services or both-

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation .-For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(e) goods or services or both on which tax has been paid under section 10 ;

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;

(g) goods or services or both used for personal consumption;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of sections 74 , 129 and 130 .

Effect:

- This amendment has been brought so as to restrict availment of input tax credit in respect of certain transactions specified in para 8(a) of Schedule III of the said Act, as may be prescribed, by including the value of such transactions in the value of exempt supply.
- Further, sub-section (5) of said section is also being amended so as to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013

4	Substitution of Section 23 – “Persons not liable for registration”, with new provision.		
Source	Clause 131 of The Finance Bill, 2023	Provision	Substitution of Section 23 of The CGST Act, 2017.
<p>23 Persons not liable for registration</p> <p>(1) The following persons shall not be liable to registration, namely:-</p> <p>a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;</p> <p>(b) an agriculturist, to the extent of supply of produce out of cultivation of land.</p> <p>(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.</p> <p>23 Persons not liable for registration</p> <p>Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, —</p> <p>(a) the following persons shall not be liable to registration, namely:—</p> <p>(i) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, 2017;</p> <p>(ii) an agriculturist, to the extent of supply of produce out of cultivation of land;</p> <p>(b) the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.</p> <p>Effect:</p> <p>By virtue of this amendment, to be brought into effect retrospectively from 1st July, 2017, any person liable for compulsory registration in terms of sub section (1) of section and section 22 of the Act need not register if exempt under sub section (1) of section 23.</p>			

5	Restriction on furnishing details of outward supplies after expiry of specified time period		
Source	Clause 132 of The Finance Bill, 2023.	Provision	Addition to Section 37 of The CGST Act, 2017.
<p>37 Furnishing details of outward supplies.</p> <p>...(5) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:</p> <p>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 for a tax period under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said details.</p>			

Effect:

This amendment has been brought so as to restrict the time limit up to which the details of outward supplies under sub-section (1) of the said section for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.

6	Restriction on furnishing return for a tax period after expiry of specified time period		
Source	Clause 133 of The Finance Bill, 2023.	Provision	Addition to Section 39 of The CGST Act, 2017.
39 Furnishing of returns			
<p>...(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:</p> <p>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 for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return.</p>			
Effect:			
Effect:			
<p>This amendment has been brought so as to restrict the time limit up to which the return for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.</p>			

7	Restriction on furnishing annual return for a financial year after expiry of specified time period		
Source	Clause 134 of The Finance Bill, 2023.	Provision	Addition to Section 44 of The CGST Act, 2017.
44 Annual return.			
<p>...(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:</p> <p>Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said annual return.</p>			
Effect:			
<p>Section 44 shall be renumbered as sub-section (1) thereof, and;</p> <p>This amendment has been brought so as to restrict the time limit up to which the annual return under sub-section (1) of the said section for a financial year can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.</p>			

8	Restriction on furnishing GSTR 8 for a month after expiry of specified time period		
Source	Clause 135 of The Finance Bill, 2023.	Provision	Addition to Section 52 of The CGST Act, 2017.
52 Collection of tax at source			
<p>...(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:</p> <p>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 an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement.</p>			
Effect:			
<p>This amendment has been brought so as to restrict the time limit up to which the statement under sub-section (4) of the said section for a month can be furnished by an electronic commerce operator. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.</p>			

9	Removal of provisional ITC clause in refund provisions		
Source	Clause 136 of The Finance Bill, 2023.	Provision	Amendment to Section 54(6) of The CGST Act, 2017.
54 Refund of tax			
<p>(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.</p>			
Effect:			
<p>This amendment seeks to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availment of self assessed input tax credit as per sub-section (1) of section 41 of the said Act.</p>			

10	Specifying the delay period for payment of interest in delayed refund cases.		
Source	Clause 137 of The Finance Bill,2023.	Provision	Amendment to Section 56 of The CGST Act, 2017
56 Interest on delayed refunds			
<p>If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax. for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed.</p> <p>Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.</p> <p>Explanation .-For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).</p>			
Effect:			
This amendment seeks to provide for an enabling provision to prescribe manner of computation of period of delay for calculation of interest on delayed refunds.			

11	Introduction of penal provisions in case of contravention of law by E-commerce operators.		
Source	Clause 138 of The Finance Bill,2023.	Provision	Insertion of Section 122(1B) of The CGST Act, 2017.
122 Penalty for certain offences			
(1B) Any electronic commerce operator who—			
<ul style="list-style-type: none"> (i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply; (ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or (iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act, 			
shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved			

had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher.

Effect:

This addition has been brought to provide for penal provisions applicable to Electronic Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers.

12	Decriminalization of certain offences under GST Law.		
Source	Clause 139 of The Finance Bill, 2023	Provision	Amendment to Section 132 of The CGST Act, 2017
132 Punishment for certain offences			
1. Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely:-			
<ul style="list-style-type: none"> (a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax; (b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax; (c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill; (d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due; (e) evades tax or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d); (f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act; (g) obstructs or prevents any officer in the discharge of his duties under this Act; (h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder; (i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder; (j) tampers with or destroys any material evidence or documents; (k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or (l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) clauses (a) to (f) and clauses (h) to (i) of this section, 			
shall be punishable-			
<ul style="list-style-type: none"> (i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine; 			

- (ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;
- (iii) in the case of ~~any other offence~~ **an offence specified in clause (b)** where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;
- (iv) in cases where he commits or abets the commission of an offence specified in clause (f) ~~or clause (g) or clause (j)~~, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Effect:

This amendment seeks to decriminalize offences specified in clause (g), (j) and (k) of the said sub-section and to increase the monetary threshold for launching prosecution for the offences under the said Act from one hundred lakh rupees to two hundred lakh rupees, except for the offences related to issuance of invoices without supply of goods or services or both.

13	Alignment of compounding provisions in line with changes made in 'Punishment for certain offences' and reduce the compounding amount from the present range of 50 to 150 per cent of tax amount to the range of 25 to 100 per cent.		
Source	Clause 140 of The Finance Bill, 2023	Provision	Amendment to Section 138 of The CGST Act, 2017

138 Compounding of offences.

(1) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed :

Provided that nothing contained in this section shall apply to-

~~(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;~~

(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;

~~(b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;~~

~~(c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;~~

(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132

(d) a person who has been convicted for an offence under this Act by a court;

~~(e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k)~~

~~of sub-section (1) of section 132 ; and~~

(f) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

(2) The amount for compounding of offences under this section shall be such as may be prescribed , subject to the minimum amount not being less than ~~ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.~~ twenty-five per cent. of the tax involved and the maximum amount not being more than one hundred per cent. of the tax involved.

(3) On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Effect:

This amendment seeks to simplify the language of clause (a), to omit clause (b) and to substitute the clause (c) of said proviso so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act. It further seeks to amend sub-section (2) so as to rationalize the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.

14	Insertion of new Section 158A in The CGST act, 2017 – Sharing of information		
Source	Clause 141 of The Finance Bill,2023.	Provision	Insertion of new Section 158A in The CGST act, 2017
158A Consent based sharing of information furnished by taxable person.			
(1) Notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of subsection (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—			
(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;			
(b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;			
(c) such other details as may be prescribed.			
(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of —			
(a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and			
(b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient,			

in such form and manner as may be prescribed.

(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return.

Effect:

This amendment seeks to provide for prescribing manner and conditions for sharing of the information furnished by the registered person in his return or in his application of registration or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or Eway bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified.

15	Retrospective exemption to certain activities and transactions in Schedule III to the Central Goods and Services Tax Act.		
Source	Clause 142 of The Finance Bill, 2023.	Provision	Retrospective exemption to certain activities and transactions in Schedule III to the Central Goods and Services Tax Act.
<p>In Schedule III to the Central Goods and Services Tax Act, paragraphs 7 and 8 and the Explanation 2 thereof (as inserted vide section 32 of Act 31 of 2018) shall be deemed to have been inserted therein with effect from the 1st day of July, 2017.</p> <p>No refund shall be made of all the tax which has been collected, but which would not have been so collected, had subsection (1) been in force at all material times.</p>			
Effect:			
<ul style="list-style-type: none"> Schedule III of the CGST Act is being amended to give retrospective applicability to Para 7, 8 (a) and 8 (b) of the said Schedule, with effect from 01st July, 2017, so as to treat the activities/ transactions mentioned in the said paragraphs as neither supply of goods nor supply of services. It is also being clarified that where the tax has already been paid in respect of such transactions/ activities during the period from 01st July, 2017 to 31st January, 2019, no refund of such tax paid shall be available. 			

16	Revision of the definition of non-taxable online recipient & OIDAR services.		
Source	Clause 143 of The Finance Bill, 2023.	Provision	Amendment to Section 2 of The IGST Act, 2017
2 Definitions			
<p>(16) "non-taxable online recipient" means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.</p> <p>(16) "non-taxable online recipient" means any unregistered person receiving online information and database access or retrieval services located in taxable territory.</p>			

Explanation.—For the purposes of this clause, the expression “unregistered person” includes a person registered solely in terms of clause (vi) of section 24 of the Central Goods and Services Tax Act, 2017’;

(17) "online information and database access or retrieval services" means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply ~~essentially automated and involving minimal human intervention and~~ impossible to ensure in the absence of information technology and includes electronic services such as,-

- (i) advertising on the internet;
- (ii) providing cloud services;
- (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- (v) online supplies of digital content (movies, television shows, music and the like);
- (vi) digital data storage; and
- (vii) online gaming;

Effect:

This amendment seeks to revise the definition of “non-taxable online recipient” by removing the condition of receipt of online information and database access or retrieval services (OIDAR) for purposes other than commerce, industry or any other business or profession so as to provide for taxability of OIDAR service provided by any person located in non taxable territory to an unregistered person receiving the said services and located in the taxable territory. Further, it also seeks to clarify that the persons registered solely in terms of clause (vi) of Section 24 of CGST Act shall be treated as unregistered person for the purpose of the said clause.

Also, clause (17) of the said section is being amended to revise the definition of “online information and database access or retrieval services” to remove the condition of rendering of the said supply being essentially automated and involving minimal human intervention.

17	Omission of Section 12(8) of The IGST Act, 2017		
Source	Clause 144 of The Finance Bill, 2023.	Provision	Omission of Section 12(8) of The IGST Act, 2017

12 Place of supply of services where location of supplier and recipient is in India

(8) The place of supply of services by way of transportation of goods, including by mail or courier to,-

- (a) a registered person, shall be the location of such person;
- (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

Effect:

This amendment has been brought to align the law in line with the clarification issued on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of section 12 of the Integrated Goods and Services Tax Act, 2017 issued vide Circular No. 184/16/2022-GST dated 27th December, 2022.

Contact Me



+91 98365 43836



CAAdityaDhanuka@gmail.com



85A Sarat Bose Road, 3rd floor,
Kolkata - 700025

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