



Clause by clause Proposed amendments in GST law vide Finance Bill 2023

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REGISTRATION RELATED

- Sec 10(2) – Composition scheme – Supply of goods through ECO
- Sec 23 – Person not liable for registration – overriding effect

ITC RELATED

- Second proviso to 16(2) – Supplier payment within 180 days
- Sec 17(3) – ITC reversal on exempted suppliers
- Sec 17(5)(fa) – Ineligible credit – CSR expenditure

COMPLIANCE / FILING RELATED

- Sec 37(5) – GSTR1
- Sec 39(11) – GSTR3B
- Sec 44(2) – Annual return
- Sec 52(15) – TCS GSTR8

REFUND RELATED

- Sec 54(6) - Provision Refund – No concept of provisional ITC
- Sec 56 – Interest on delayed refund

OFFENCES & PENALTIES – DECRIMINALISATION

- Sec 122(1B) – Penalty for ECO
- Sec 132(1) – Decriminalisation
- Sec 138(2) – Compounding of offences
- Sec 158A inserted

SCOPE OF SUPPLY

- Schedule III retrospective amendment

IGST AMENDMENTS

- Sec 2(16) & (17) – NTOR & OIDAR Definition
- Proviso to Sec 12(8) – Place of Supply

REGISTRATION RELATED AMENDMENTS

Fin Bill 2023 Section	CGST Act Section	Brief amendment
128	10(2)	GST Council in its 47th meeting had granted in-principle approval for allowing unregistered suppliers and composition taxpayers to make intra-state supply of goods through E-Commerce Operators (ECOs), subject to certain conditions. Person supplying GOODS through e-commerce operator shall accordingly be eligible to get registered under composition scheme vide this amendment. In other words, Composition dealers are allowed to sell through ECO. Relaxation is only for goods and not for services. This is expected to be implemented w.e.f. 1st Oct 2023.
131	23	With retrospective effect from 1st July 2017, Non obstante clause has been inserted - "Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24" - Thus, Sec 23 shall prevail over Sec 22 & 24. Eg. Agriculturist making inter state supplies need not be registered to the extent of supply of produce out of cultivation of land.

ITC RELATED AMENDMENTS

Fin Bill 2023 Section	CGST Act Section	Brief amendment
129	Second proviso to 16(2)	With recent changes in Rule 37, now proviso to Sec 16(2) is as well proposed to be amended. If payment is not made to supplier within 180 days, ITC is to be paid along with interest u/s 50 (at present, it is to be added to the output tax liability). Thus, the intention could be to resolve the confusion of levying interest u/s 50(1) or 50(3). But is it really achieved to levy interest u/s 50(3) would be time tested.
130(a)	17(3)	Bond-to-bond transfer (Supply of warehoused goods to any person before clearance for home consumption) is included in the scope of exempted supply for the purpose of proportionate ITC reversal.
130(b)	17(5)(fa)	In order to address the disputes and varied advance rulings around eligibility of ITC on CSR expenditure - amendment is proposed specifically blocking ITC on CSR expenditure.

COMPLIANCE/FILING RELATED AMENDMENTS

Fin Bill 2023 Section	CGST Act Section	Brief amendment
132	37(5)	GSTR1 cannot be filed after 3 years from its due date
133	39(11)	GSTR3B cannot be filed after 3 years from its due date
134	44(2)	GSTR9 Annual return cannot be filed after 3 years from its due date
135	52(15)	GSTR8 (TCS return by ECO) cannot be filed after 3 years from its due date

REFUND RELATED AMENDMENTS

Fin Bill 2023 Section	CGST Act Section	Brief amendment
136	54(6)	In line with the amendment in Sec 41 vide Finance Act 2022, since there is no more concept of availment of ITC on provisional basis, corresponding amendment is made in Sec 54(6) on provisional sanctioning of refund.
137	56	Though Sec 56 provides for interest to taxpayer on delayed refund, the manner of computation has not been provided or prescribed. Amendment has been proposed to this extent. Expected to be followed by CGST rules amendment - however if these amendments are made only in 2023, it could be claimed retrospectively as well - to be time tested!

OFFENCES & PENALTIES RELATED AMENDMENTS

Fin Bill 2023 Section	CGST Act Section	Brief amendment
	138122(1B)	<p>Penal provisions introduced for E-commerce operator for irregular transactions routed through them - ECO is liable to pay a penalty of ₹10,000 or the tax amount computed on such supply of goods or services, whichever is higher, in the following cases:</p> <ul style="list-style-type: none">(i) ECO allows supply of goods or services or both through its e-commerce website by an unregistered person.(ii) ECO 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(iii) ECO fails to furnish the correct details in GSTR 8 of any outward supply made through it by a person exempted from obtaining registration.

DECRIMINALISATION, COMPOUNDING & CONCENT BASED SHARING OF INFORMATION

Fin Bill 2023 Section	CGST Act Section	Brief amendment
139	132(1)	Decriminalisation (i) The government has raised the minimum threshold of tax amount for launching prosecution under GST from Rs. One Crore to Rs. Two Crores, except for the offence of issuance of invoices without supply of goods or services or both. (ii) The following offences has been decriminalised: a) obstruction or preventing any officer in discharge of his duties. b) deliberate tempering of material evidence. c) failure to supply the information.
140	138(2)	To reduce the compounding amount from the present range of 50% to 150% of tax amount to the range of 25% to 100%
141	158A	Consent based sharing of information furnished by taxable person. - A new section 158A has been inserted, so as 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 E-way bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified.

SCOPE OF SUPPLY RELATED

Fin Bill 2023	CGST Act	Brief amendment
Section	Section	
142	Schedule III	<p>Schedule III of the CGST Act is being amended to give retrospective applicability to paras 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.</p> <ul style="list-style-type: none">➤ supplies of goods from a place outside the taxable territory to another place outside the taxable territory➤ high sea sales➤ supply of warehoused goods before their home clearance

IGST ACT AMENDMENTS

Fin Bill 2023 Sec	IGST Section	Act	Briefed amendment
143(a)	2(16)		Definition of NTOR “non-taxable online recipient” is amended by removing the condition of 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 Section 24(vi) shall be treated as unregistered person for the purpose of the said clause.
143(b)	2(17)		Definition of OIDAR services amended to remove the condition of rendering of the said supply as it is essentially automated and involves minimal human intervention.
144	12(8)		Proviso to clause 8 of Section 12 stating 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. This has been omitted, so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.



This report is prepared with an intention to give clarity on the proposed amendments in GST law vide Finance Bill 2023. This documentation shall not be construed as a substitute for the legal regulations/ notifications / Act. Any decision to be taken shall be made on obtaining professional advice.

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