

Decoding Budget_2024

Indirect Taxes_GST



CMA Anil Sharma

TIOL-Awardee (2021)

Cost Accountant in Practice

Mobile No :98720-73456

Mail Id: anil_sharma01us@yahoo.com

Extra Neutral Alcohol for alcoholic liquor outside GST levy

Sub-section (1) of Section 9 of the CGST Act, 2017, & Sub-section (1) of section 5 of IGST, Act 2017

Provision After Amendment:

Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-state supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption and **un-denatured extra neutral alcohol or rectified spirit** used for manufacture of alcoholic liquor, for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Services _Time of supply under RCM for registered / unregistered suppliers

Sub-section (3) of section 13 of the CGST Act, 2017 _supply of services

In case of supplies of services in respect of which tax is paid or liable to be paid on reverse charge basis, **the time of supply** shall be the earlier of the following dates, namely:-

- (a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof **by the supplier, in cases where invoice is required to be issued by the supplier**; or:
- (c) **the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient** (SUPPLIES BY UNREGISTERED PERSONS)

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or Clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

ITC availment extension for past periods and revocation cases

Insertion of a new sub-sections (5) and (6) of section 16 of the CGST Act, 2017

(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021.

(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under Section 39,--

(i) filed **up to thirtieth day of November** following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed **within thirty days from the date of order of revocation of cancellation of registration,**

whichever is later."

ITC not blocked for recipient if payment made by supplier in evasion cases

Section 17(5)

Provision after Amendment

(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:-

-

(i) any tax paid in accordance with the provisions of **section 74*, ~~129 and 130~~ in respect of any period up to Financial Year 2023-24.**

*** Section 74 is valid up to FY 2023-24 and after that Section 74A is operational**

Conditions for revocation of cancellation of registration

Sub-section (2) of section 30 of the CGST Act, 2017

Provision after Amendment

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.

(rules to be framed)

Time limit for self-invoice issuance and scope of unregistered persons

Sub-section (3) of section 31 of the CGST Act, 2017

(f) a registered person who is liable to pay tax under sub-section (3) or subsection (4) of section 9, **within the period as may be prescribed*** shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

(g) a registered person who is liable to pay tax under sub-section (3) or subsection (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.

‘Explanation. --For the purposes of clause (f), the expression “supplier who is not registered” shall include the supplier who is registered solely for the purpose of deduction of tax under section 51.’

**rules shall be drafted*

Mandatory furnishing of GSTR-7 for all applicable taxpayers.

Sub-section (3) of section 39 of the CGST Act, 2017

Provision after Amendment.

3) Every registered person required to deduct tax at source under section 51 shall electronically furnish a return for **every calendar month*** of the deductions made during the month **in such form and manner and within such time as may be prescribed***:

Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month."

**earlier it was with in ten days form the end of the month*

Restriction of refund removed on duty drawback for CGST portion

Sub-section (3) of section 54 of the CGST Act, 2017.

Amendment:

(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than-

(i) zero rated supplies made without payment of tax.

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

~~Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.~~

(* Drawback no longer applicable on CGST)

cond.....

Refund not allowed in case of export duty.....

Insertion of a new sub-section (15) of section 54 of the CGST Act, 2017.

Amendment.

(15) Notwithstanding anything contained in this section, no refund of unutilised input tax credit on account of 'zero rated supply of goods' or 'of integrated tax paid on account of zero rated supply of goods' shall be allowed where such zero rated supply of goods is subjected to export duty.

Attendance of summons by authorized representative at officer's discretion

Insertion of a new Sub-section (1A) in Section 70 of the CGST Act, 2017

Amendment

1A) All persons summoned under sub-section (1) shall be bound to attend, either in person or **by an authorised representative**, as such officer may direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required.

Removal of Demand u/s 73 & 74 prospectively for insertion of 74A

Insertion of a New Sub-section (12) in Section 73 of the CGST Act, 2017

Provision after Amendment

(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.

Removal of Demand u/s 74 prospectively for insertion of 74A: -

Insertion of a New Sub-section (12) in Section 74 of the CGST Act, 2017

Provision after Amendment.

(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.

New time limit and provisions for all demand notices and order cases

Insertion of new Section 74A of the CGST Act, 2017

A common section 74A has been inserted for all demand and recovery provisions in lieu of Section 73 and 74

- Common time limit for all evasion and non-evasion cases has been prescribed to be 42 months from the due date for furnishing of annual return for the relevant FY
- The time limit for passing of order would be 12 months from the date of issue of notice. Where the Commissioner or any officer not below the rank of JC records the reasons for delay in writing before the expiry, the said period can be extended by a further 6 months.
- The time limit for reduced penalty for all cases has been increased from 30 days of notice / order to 60 days of notice / order.

Cond...

New Section 74A.....

Penalty :

- **For non-fraud cases:** 10 percent of Tax amount or Rs 10, 000/- which ever is higher
- **For other cases:** equivalent to tax amount due
- This section is applicable from FY 2024-25 onwards

Effect of newly inserted Section 74A:

Insertion of Section 74A at various places in the Act namely:

- | | |
|--|---|
| <ul style="list-style-type: none">• Sub-Section of Section 10• Section 21• Sub-Section of Section 35• Sub-Section of Section 49• Sub-Section of Section 50• Sub-Section of Section 51• Sub-Section of Section 61• Sub-Section of Section 62 | <ul style="list-style-type: none">• Section 63• Sub-Section of Section 64• Sub-Section of Section 65• Sub-Section of Section 66• Sub-Section of Section 75• Sub-Section of Section 107• Section 127• |
|--|---|

Tribunal empowered to hear Anti Profiteering cases.

Section 109 of the CGST Act, 2017

The Appellate Tribunal have got the jurisdiction to also hear the cases of Anti Profiteering.

Such matters would be heard only by the Principal Bench

Further, the Government have got the power to prescribe certain cases or class of cases which can be heard by the Principal Bench only

Tribunal got empowered

Provision after Amendment

In section 112 of the Central Goods and Services Tax Act, --

- This empowers the Government to notify the date for filing appeal before the Appellate Tribunal and provide a revised time limit for filing appeals or application before the Appellate Tribunal. The said amendment is made effective from the **1st day of August, 2024**.
- This also enables the Appellate Tribunal to admit appeals filed by the department within three months after the expiry of the specified time limit of six months.
- The reduction of the maximum amount of pre-deposit for filing appeals before the Appellate Tribunal would be as follows: from the existing 20% to 10% of the tax in dispute and
- also reduce the maximum amount payable as pre-deposit from rupees Rs. 50 crores to Rs. 20 crores in CGST

Penalty only for e-commerce operators required to collect TCS

Sub-section (1B) of the Section 122 of the CGST Act, 2017

- From 1st October 2023, penalty had been prescribed for electronic commerce operators making contraventions of law
- It has been provided that this would be applicable for electronic commerce operators **who are required to collect TCS only**

New Amnesty scheme for waiver of interest / penalty upon full tax payment for 2017-18 to 2019-20 non-evasion cases

Affected Provision : New Insertion of Section 128A of the CGST Act, 2017

A New Amnesty scheme has been proposed for **certain tax periods** in respect of **non-evasion cases**. The waiver would cover the **entire interest and penalty** under the case.

The conditions for opting this scheme are as follows:

- The Demand should pertain to the period from **1st July 2017 to 31st March 2020**
- The demand falls under **any of the following categories** :
 - Notice has been issued u/s 73 but adjudication order not yet issued
 - Adjudication order issued u/s 73 but first appeal not yet filed
 - First appeal order issued but the order from Tribunal has not been issued
 - It would cover cases where notice was issued u/s 74 but was reclassified u/s 73 by Appellate Authority / Tribunal / Court

New Amnesty scheme for waiver of interest.....

- In case of Revision or Appeal by the Department before First Appellate Authority / Appellate Tribunal, the amnesty would be subject to the condition that the person pays the additional tax payable within 3 months of the order of Appellate Authority / Tribunal / Court / Revisional Authority
- The entire tax amount as per the relevant demand / notice has been discharged within the due date to be specified (likely to be 31st March 2025 as per the Council recommendations)
- Interest and penalty would stand waived
- **No refund would be granted for the interest and penalty already paid in the case**
- This would be only for **demand cases and not for erroneous refund**
- The Appeal or Writ Petition before the Appellate Authority / Tribunal / Court would be withdrawn within the specified due date
- Once the proceedings stand concluded upon payment, no appeal can be made against the relevant adjudication / appeal order

Transitional credit for ISD for invoices before appointed date

Effective Date

- Retrospectively from 1st July, 2017

Affected Provision

- Sub-section (7) of section 140 of the CGST Act, 2017

Section 140(7) is being 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 or after the appointed date**

Activities of insurance not considered as supply:

New insertion of activities or transaction in **Schedule III** to the CGST Act, 2017

Amendment:

9. 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, **subject to the condition that the lead insurer pays the Central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.**

10. Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, **subject to the condition that the Central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.**

No refund on export duty cases and class of supplies/ persons who can make export with payment of tax _IGST Act, 2017

Section 16 of the IGST Act, 2017 and new sub section (5) inserted

Provision after Amendment

(4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify-

(i) **a class of persons** who may make zero rated supply on payment of integrated tax and claim refund of the tax **so paid in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder;**

(ii) **a class of goods or services or both**, on zero rated supply of which, **the supplier may pay integrated tax and claim the refund of tax so paid, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder**

(5) **Notwithstanding anything contained in subsections (3) and (4), no refund of unutilised input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods are subjected to export duty.**

Learning is a continuous process.....
Thank you for patience listening