

**Goods and
Services Tax
Budget -2022**

Additional conditions for ITC availment

*Relevant Sections: 16 of CGST Act
Clause from Finance Bill: 99*

Insertion of new clause (ba) under section 16(2)

- Section 16 which provides the conditions for claiming ITC, apart from the 5 existing conditions an additional condition has been 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.
- Restriction is linked with suppliers defaults which is practically out of the Recipient control.
- Legal Validity of the provision shall be tested judicially

Omission of section 43A in clause (c) of section 16(2)

As the existing system of GSTR-1 & GSTR-3B is being continued, the provisions relating to alternative system of returns are omitted

Increase in Time Limit

The time limit for availment of ITC relating to the FY shall be 30 Nov of the next FY (earlier it was 20 Oct)

Cancellation of GST registration, issuance of credit notes

Relevant Sections: 29, 34 & of CGST Act

Clause from Finance Bill: 100, 101

Cancellation of GST registration:

Provision of section 29 for cancellation of GST registration are proposed to be amended to provide that registration of a person is liable for cancellation if

- A person paying tax under section 10 for a financial year has not furnished returns beyond three months from the due date of furnishing of the said return. (Clause (b) of sub-section(2) of section 29).
- A person, other than those paying tax under section 10, has not furnished returns for such continuous tax period as may be prescribed (Clause (c) of sub-section (2) of section 29)

Issuance of Credit Notes:

Section 34 (2) of GST Act which provides for time limit for issue of Credit notes is proposed to be amended to provide that credit notes in respect of any supply made in a financial year may be issued upto 30 November of the following FY or the date of furnishing of the relevant annual return, whichever is earlier

Amendment relating to reporting of details in GSTR 1

Relevant Sections: 37

Clause from Finance Bill: 102

Section 37 of the CGST Act is proposed to be amended so as to:

- provide for prescribing conditions and restrictions for furnishing the details of outward supply and for communication of the details of such outward supplies to concerned recipients
- do away with two-way communication process in return filing
- that any error in GSTR1 - return of outward supplies can be rectified upto 30 November of the following FY (earlier it was upto filing of sep return of next FY)
- provide a legal backing for the condition specified in Rule 59(6) that GSTR1 cannot be filed without filing of GSTR 3B of previous period
- provide that taxpayers cannot file GSTR 1 without filing GSTR 1 for the previous months (this restriction is already implemented in GST portal without any legal backing)

Amendment of the details transmitted in GSTR 2A/ 2B

Relevant Sections: 38

Clause from Finance Bill: 103

Section 38 of the CGST Act relating to Auto generated ITC Statement is proposed to be substituted for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.

The auto-generated statement would reflect the list of supplies eligible and ineligible for ITC availment. List of supplies which are said to be ineligible would consist of invoices uploaded by following suppliers:

- Supplier in the cooling period of taking new registration (period to be prescribed)
- Supplier who has defaulted the tax payment for continuous period as prescribed
- Suppliers who has paid lesser tax in GSTR 3B compared to the GSTR 1 liability
- Supplier who has availed ITC more than allowed limits under section 38(2)(a)
- Supplier who defaulted in complying mandatory payment of tax liability in cash (1% of tax liability)

Amendment relating to return filing

Relevant Sections: 39

Clause from Finance Bill: 104

Amendment in section 39 is being proposed to provide

- Due date for filing of returns by non-resident taxable person would be 13th of the following month instead of 20th.
- that any error in GSTR3 - return of outward supplies can be rectified upto 30 November of the following FY (earlier it was upto filing of sep return of next FY)
- GSTR3B cannot be filed without filing of GSTR-1
- an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an adhoc amount (presently, the small taxpayers under QRMP scheme are having this facility)

ITC availment & Omission of sections requiring matching of ITC

Relevant Sections: 41, 42, 43 & 43A

Clause from Finance Bill: 105 & 106

Section 41 is proposed to be substituted to revise the Input Tax Credit availment mechanism. The concept of “claim” of eligible input tax credit on a “provisional” basis and to provide for availment of self- assessed input tax credit.

It is further proposed to be provided in Section 41, that incase tax has not been paid by the supplier, ITC shall be reversed along with applicable interest. It is further proposed that credit can be re-availed once the said amount is paid by the supplier.

Sections 42, 43 and 43A of the CGST Act are proposed to be deleted to do away with two-way communication process in return filing. The concept of GSTR2 and GSTR3 which was not brought into effect since inception of GST has been done away with. As the existing system of GSTR-1 & GSTR-3B is being continued, the provisions relating to alternative system of returns are omitted.

Transfer of Balance in ECL within same PAN

Relevant Sections: 49 & Rule 86B

Clause from Finance Bill: 109

Changes proposed in Section 49 relating to Payment of tax, interest, penalty and other amounts which would allow the transfer of balance available in Electronic Cash ledger of the registered person to Electronic Credit ledger of the registered person. However, such transfer shall not be allowed if there is any unpaid liability in the electronic liability register of the registered person.

New clause is proposed to be inserted to provide the maximum proportion of output tax liability which may be discharged through the electronic credit ledger. This is basically brought in to give legal backing to Rule 86B. (1% of tax liability mandatory to be paid in cash by specified persons even though ITC is available).

No interest on ITC availed and not utilised

Relevant Sections: 50

Clause from Finance Bill: 110

- Retrospective amendment being proposed in Sub-section (3) of section 50 with effect from 1 July 2017, to provide for not levying interest on input tax credit wrongly availed and not utilized.
- Further, the rate of interest is clarified to be 18% for wrongly utilized ITC instead of 24%

Amendment to the details furnished in GSTR 8

Relevant Sections: 52

Clause from Finance Bill: 111

- As per section 52, every electronic commerce operator (ECO) who collects tax at source requires to furnish a statement in form GSTR 8 mentioning all the required details in it.
- Any errors reported in the TCS returns filed can be now amended upto 30 November of next FY (earlier it was upto filing of sep return of next FY)

Refund of ECL & extension of time limit for filing refund application

Relevant Sections: 54

Clause from Finance Bill: 112

- Section 54 is proposed to be amended to provide that refund claim of any balance in the electronic cash ledger shall be made in **such form** and manner as may be prescribed (earlier it was after **furnishing the return** furnished in section 39)
- The time limit for claiming refund of tax paid on inward supplies by a specialized agency of UNO or any other Multilateral Financial institution and Organization, Consulate or Embassy of foreign countries or any other class of persons notified under section 55 has been provided as to two years from the last date of the quarter in which such supply was received (earlier the time limit was 6 month from the last date of quarter)
- In respect of Zero-rated supply of goods or services to a SEZ developer or a SEZ unit, where a refund of tax paid is available in respect of such supplies themselves i.e., (Refund of tax on payment of tax without LUT), there was a confusion as to the relevant date from when the time limit of 2 years must be considered for filing of the refund application since there was no specific mention for the same. Vide this amendment, it is clarified that the relevant date would be the due date of furnishing of return under section 39

GST Exemption on waste generated in production of Fish meal

Clause from Finance Bill: 116, 119 & 122

- Retrospective amendment being proposed to exempt the levy of GST on unintended waste generated during production of fish meal (falling under heading 2301), except fish oil during the period commencing from 1 July 2017 and ending with the 30th day of September 2019.
- It is also proposed that no refund would be available of all such tax which has been collected, but which would not have been so collected in line with the above retrospective exemption.

Grant of alcoholic liquor license neither a supply of goods nor a service

Relevant Notifications: 25/2019- CT (R) dated 30.09.2019, notification No. 24/2019- IT (R) dated 30.09.2019

Clause from Finance Bill: 117, 120 & 123

- Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service vide notification No. 25/2019- Central Tax (R) dated 30.09.2019.
- With the proposed amendment these notifications have been given retrospective effect from 01.07.2017.

A person in a dark suit is reviewing documents. A laptop keyboard is visible in the lower-left corner. The person is wearing a watch on their left wrist. The documents contain charts and text. A large yellow circle is overlaid on the center of the image, containing the text 'Customs Proposals'.

Customs Proposals

Additional obligation on class of importers

Relevant Sections: 14 of Customs Act

Clause from Finance Bill: 88

In instances where the Board has reason to believe that the value of such goods may not be declared accurately, having regard to the trend of declared value of such goods or any other relevant criteria, then in such cases the importer would be required to undertake some additional obligations and certain additional checks to be exercised.

Imprisonment for publishing sensitive information

Relevant Sections: 135AA of Customs Act

Clause from Finance Bill: 94

New section is inserted to provide for data security of the details of imports, exports, quantities, classification, details of importers and exporters wherein any person who publishes such data which is not so required by the law, he shall be sentenced to imprisonment which may extend to 6 months or with fine which may extend to INR 50,000/- or both

Changes in provisions relating to AARs

Relevant Sections: 28H, 28I, 28J

Clause from Finance Bill: 89, 90, 91 & 92

- Vide this amendment the power to prescribe the fees is provided to board by way of rules (presently application fee of INR 10,000/- is to be paid along with the application)
- Application filed for advance ruling can be withdrawn any time before the ruling is pronounced (presently the time limit to withdraw the application is 30 days from the date of application)
- The advance ruling pronounced by the Authority can now be signed by any Proper officer like Secretary to Customs Authority
- Any advance ruling sought shall be valid for a maximum period of 3 years, subject to changes in the law or facts of the case (earlier, the advance ruling was binding on the assessee for life-time until there was change in law or change on facts)


Action subsequent to inquiry proceedings

Relevant Sections: 110AA

Clause from Finance Bill: 93

Where in pursuance of any proceeding, in accordance with Chapter XIIA or this Chapter, if an

- officer of customs has reasons to believe that—
 - (a) any duty has been short-levied, not levied, shortpaid or not paid in a case where assessment has already been made;
 - (b) any duty has been erroneously refunded;
 - (c) any drawback has been erroneously allowed; or
 - (d) any interest has been short-levied, not levied, short-paid or not paid, or erroneously refunded,
- then such officer of customs shall, after causing inquiry, investigation, or as the case may be, audit, transfer the relevant documents, along with a report in writing to the proper officer having jurisdiction



**Product Linked
Incentive Scheme
& SEZ Proposals**

Product Linked Incentive Scheme for Solar & Telecom sectors

- With the success in drawing investments under the PLI scheme extended for 14 sectors as a part of AtmaNirbhar Bharat vision, similar schemes are proposed to be extended to facilitate domestic manufacturing of 280 GW of installed solar capacity by 2030, an additional allocation of Rs. 19,500 crore for Production Linked Incentive for manufacture of high efficiency modules, with priority to fully integrated manufacturing units from polysilicon to solar PV modules.
- A scheme for design-led manufacturing to build a strong ecosystem for 5G as part of the Production Linked Incentive (PLI) Scheme

SEZ Proposals

- SEZ Act to be replaced by new legislation to enable states to become partners in 'Development of Enterprise and Service Hubs' with an objective to optimally utilize infrastructure and enhance export competitiveness
- Reforms proposed in Customs administration of SEZ entities to be implemented by 30 Sep 2022

Thank You

