

MONTHLY NEWSLETTER

GST TRACKER

ISSUE: FEBRUARY 2022

INDUSTRY

ECONOMY

MONEY

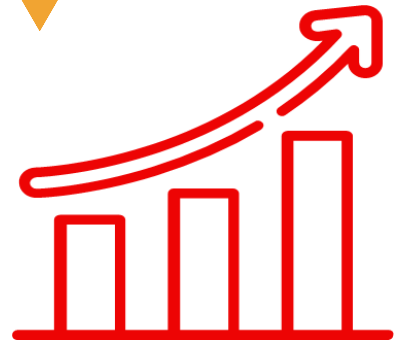
THE UNION BUDGET

2022

DATA



Business



INSIGHTS

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या देवी सर्वभूतेषु विद्यारूपेण संस्थिता नमस्तस्यै नमस्तस्यै नमस्तस्यै नमो नमः॥

Money matters with knowledge

The month of February marks the arrival of Basant in people's lives, wherein we pray to goddess of knowledge "Maa Saraswati" to guide us in our lives.

Another important event of February month is presentation of the Union budget which is linked with the money matters of all.

The concentration of wealth and knowledge we see around ourselves is because of our understanding and the way we handle our matters of money and knowledge.

We, therefore, pray to "Maa Saraswati" to guide us to manage our Money matters with Knowledge.

Pankaj Kataria

(Founder Pakkabil)

KEY UPDATES TO GST LAW VIDE FINANCE BILL 2022

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- Extension for time limit for GSTR 8
- Conditions and restrictions for filing GST returns
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- Section – 49 related amendments
- Provision for cancellation of registration
- Interest on reversal of ITC and reduction in rate of interest
- Refund of tax

Several amendments have been proposed in the GST Law in the Finance Bill, 2022 which is a part of Union Budget 2022-23. The amendments have been made in the provisions regarding filing of GST returns, availing of input tax credit, GST refund, payment of tax, issue of credit notes, levy of interest, and GST registration.

It may be noted that these amendments will become effective once these are incorporated in the respective GST legislations by the Centre and as well all the States after approval of the GST Council.

1. Amendment of Section 16 – Insertion of Additional condition for availment of ITC

Amendments proposed:

Clause 99 Seeks to amend section 16 of the Central Goods and Services Tax Act, 2017 by inserting a new clause (ba) in sub-section (2) thereof, to provide that input tax credit with respect to a supply may be availed only when such credit has not been restricted in the details communicated to the registered person under Section 38.

Synopsis: A new condition for availment of ITC is proposed to be inserted with a view to restrict the availment of ITC only to the extent of eligible credit mentioned in GSTR -2B as per newly proposed Section 38 thereby placing a wider responsibility on the shoulders of the recipient in making their suppliers GST compliant for availment of ITC. This amendment has put an end to a stand that was generally taken till now to avail ITC even when the supplier has defaulted the payment of tax.

2. Furnishing Details of Inward Supplies

Amendment proposed: Section 38 is an enabling provision to provide for auto drafted Input Tax Credit (ITC) Statement in Form GSTR-2B.

Section 38 of the CGST Act, 2017 is proposed to be substituted and Sub section (1) seeks to provide for prescribing such other supplies as well as the manner, time, 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.

Further Sub-section (2) seeks to provide for the details of inward supplies in respect of which input tax credit may be availed and the details of supplies on which input tax credit cannot be availed fully or partially by the recipient. The ITC cannot be availed in the following situations:

- Details of supplies furnished by the supplier within such period of taking registration as may be prescribed.(Supplies during his cooling period of taking new registration)
- Supplier has defaulted in payment of tax and such default has continued for the prescribed period.
- Output Tax payable as per GSTR-1 exceeds the output tax liability paid through GSTR-3B; and such difference exceeds the prescribed limit. (Limit to be prescribed)
- ITC availed by supplier exceeds the ITC available in his GSTR-2B; and such difference exceeds prescribed limit. (Limit allowed U/S 38(2)(a))
- Supplier has defaulted in discharging his tax liability in accordance with Section 49(12) i.e., ITC can be utilized upto a specified limit for discharging output tax liability.(1% of tax liability)
- Such other class of person as may be prescribed.

Synopsis: The newly proposed Section 38 restricts the availment of ITC only to the extent eligible in GSTR-2B and mentions the situations based on which ineligibility of an ITC will be mentioned by the statement. This amendment seems to be draconian as it proposes to inter alia deny the credit to recipient in cases his supplier has availed the input tax credit in contradiction to the input tax credit reflected in his GSTR-2B and when he commits any default in payment of tax. Further the provision also seems to contradict the message conveyed by Section 41. One can expect a lot of litigations in this regard and the conditions prescribed are to be judicially tested.

3. Two-way Communication process in return filing done away with:

Sections 42, 43 and 43A of the CGST Act are being omitted so as to do away with two-way communication process in return filing.

Synopsis:Section 42, 43 & 43A relating to Matching, reversal and reclaim of input tax credit omitted – since the mechanism of matching ITC is prescribed through Sec 41 and all other relevant provisions of the Act.

4. Provisional claim of input tax credit proposed to be abolished:

Amendment proposed: In sub-section 1 of Section 41, the words “on the provisional basis “have been removed and sub-section 2 has been inserted as follows;

- “41. Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.
- The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.”.

Synopsis: 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.

5. Extension in Time limit of availing Input Tax Credit

Amendment proposed: Sub-section (4) of Section 16 of the CGST Act is being amended so as to provide for an extended time for availment of input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year upto 30th (thirtieth) day of November of the following financial year. [Clause 99 of Finance Bill, 2022].

Synopsis: 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.

It may be noted that currently, the time limit of availing of ITC is due date of furnishing of GSTR-3B for the month of September 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. Thus we can say that 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.

6. Extension of Time limit of issue of credit notes:

Amendment proposed: Sub-section (2) of section 34 of the CGST Act, 2017 is proposed to be amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year up to 30th November of the following financial year, instead of current time limit of September following the end of the financial year.

Synopsis: Credit Notes in respect of supply made in a financial year can be issued by 30th November of next financial year (currently allowed till 30th September).

7. Amendment in provisions regarding GST returns

Amendment in GSTR-1

Section 37 of the CGST Act, 2017 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;
- provide for an extended time upto 30th of November of the following financial year for rectification of errors in GSTR-1 (Current time limit is due date of furnishing GSTR-3B of September month of next financial year).
- provide for tax period-wise sequential filing of GSTR-1.

Amendment in GSTR-3B provisions:

Section 39 of the CGST Act, 2017 is proposed to be amended so as to:

- provide that the non-resident taxable person shall furnish the return for a month by 20th day by 13th day of the following month;
- provide an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an amount that may be prescribed;
- provide for an extended time upto 30th of November of the following financial year, for rectification of errors in the GSTR-3B return. Current time limit is upto due date of furnishing GSTR-3B of September month of next financial year
- provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing GSTR-3B return.

Synopsis:

1. Any rectification of error in GSTR-1/ GSTR-3B is permitted till 30th November of next financial year (currently allowed till due date of returns for the month of September)
2. Due date for filing returns by non-resident taxable person revised from 20th to 13th

8. Extended time limit for rectification of GSTR-8

Sub-section (6) of section 52 of the CGST Act is being amended so as to provide for an extended time upto 30th November of the following financial year for rectification of errors in the statement furnished under sub-section (4) viz GSTR-8 by the Electronic Commerce Operator in respect of tax collection at source. (currently allowed till due date of returns for the month of September).

9. Conditions and Restrictions for filing GSTR -1

Amendment proposed: In sub-section 1 of Section 37, in place of words “shall furnish electronically” – subject to such conditions and restrictions

- Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically*subject to such conditions and restrictions*, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

Synopsis: Rule 59(6) condition has been proposed to be incorporated in the Act to back the condition that GSTR1 cannot be filed without filing GSTR1 for previous periods – Exceptions as notified by Government.

10. Conditions and Restrictions for filing GSTR 3B

Amendment proposed: In sub-section 10 of Section 39, the words “ has not been furnished by him shall be replaced as mentioned below”

“(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.Or the details of outward supplies under sub-section (1) of section 37 for the said period has not been furnished by him.”

Synopsis: GSTR3B cannot be filed without filing GSTR1 – Exceptions as notified by Government.

11. Late fee shall be levied in case of non filing of GSTR-8 by the due date

Amendment proposed:Section 47 of the CGST Act is being amended so as to provide for levy of late fee for delayed filing of return under section 52 by electronic commerce operator in Form GSTR-8. Further, reference to section 38 and the words “ or inward” in the said section is being removed consequent to the amendment in section 38 of the CGST Act.

1. Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 or *section 52* by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.”

Synopsis: Levy of late fee to be made applicable for delayed filing of TCS returns.

12.Section 49 - transfer of amount available in electronic cash ledger to the electronic cash ledger of a distinct person and Insertion of Sec 49(12) – Restriction on Quantum of usage of Electronic Credit ledger for output tax liability

Amendments proposed: Sub-section (10) of the section 49 is to be substituted as below and sub-section(12) has been inserted

- Substituted sub-section(10)-“A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for, – (a) integrated tax, central tax, State tax, Union territory tax or cess; or (b) integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, subsection (5) of section 25, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act: Provided that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.”;
- Insertion of Sec 49(12) – “Restriction on Quantum of usage of Electronic Credit ledger for output tax liability – “(12) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.”

Synopsis: The taxpayer can now transfer the balance of credit in cash ledger to any other distinct person (i.e any other GST registration) under the same PAN subject to a condition that there is no unpaid liability in the electronic liability ledger. Also the new sub-section 12 has been proposed to formally incorporate the Rule 86B into the act (mandatory payment of 1% of tax liability by specified persons even when there is sufficient ITC balance).

13. Provisions of Cancellation of GST Registration

Amendment proposed:

Clause (b) and (c) of sub-section (2) of section 29 of the CGST Act are proposed to be amended so as to provide that the registration of a person is liable for cancellation, where –

- a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing of the said return. Current provision mandates for cancellation for not furnishing returns for three consecutive tax periods.
- a person, other than those paying tax under section 10, has not furnished returns for such continuous tax period as may be prescribed. Current provision mandates for cancellation, for not furnishing returns for a continuous period of six months.

Synopsis: Composition scheme taxpayer's registration can be cancelled suo-moto if GSTR-4 return is not filed beyond 3 months from the due date.

14. Interest on reversal of ITC only if same has been utilized:

Amendment proposed :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, and to provide for prescribing manner of calculation of interest in such cases.

Synopsis: Currently, Section 50(3) provides for interest liability on the reversal of excess or undue input tax credit under Section 42 and 43. The department has been imposing interest under Section 50(3) on every reversal of input tax credit. Due to this amendment, the interest shall be payable on every reversal of wrongly availed input tax credit only if such credit was utilized by the taxpayer. Further, 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.

15. Reduction in rate of interest u/s 50(3)

Amendment proposed: Notification No. 13/2017 - Central Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under sub-section (3) of section 50 of the CGST Act as 18%. Similar Notifications have been issued under IGST Act / UTGST Act.

Synopsis: Rate of Interest u/s 50(3) is being prescribed as 18% in all cases, 24% rate of interest scrapped retrospectively.

16. Refund of Tax U/S 54

Amendment proposed :

Section 54 of the CGST Act is being amended so as to:

- explicitly provide that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed;
- provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 (for UIN Holders) as two years from the last day of the quarter in which the said supply was received (Earlier the period to claim refund was before the expiry of six months from the last day of the quarter in which such supply was received);
- extend the scope of withholding of or recovery from refunds in respect of all types of refund;
- provide clarity 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.

The Explanation, in clause (2), after sub-clause (b), the following sub-clause shall be inserted, namely –

“(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;”.

Synopsis: In the case of UNO, Consulate, Embassy, etc. as notified under section 55, Time limit to apply for refund is revised from 6 months to 2 years.

Note – Amendments carried out in the Finance Bill, 2022 will come into effect from the date when the same will be notified, as far as possible, concurrently with the corresponding amendments to the similar Acts passed by the States and Union territories with Legislature

GSTN Updates January 2022

Date of Issue	Subject
03/01/2022	Implementation of Rule-59(6), as amended, on GST Portal
04/01/2022	Reporting of supplies notified under section 9(5) / 5(5) by E-commerce Operator in GSTR-3B
5/01/2022	Module wise new functionalities deployed on the GST Portal for taxpayers
6/01/2022	Advisory on Revamped Search HSN Code Functionality
8/01/2022	Upcoming functionality - Interest Calculator in GSTR-3B
26/01/2022	Deployment of Interest Calculator in GSTR-3B

Source: www.gst.gov.in

Notifications/Circulars/Orders issued in the month of January 2022

Central Tax Notifications January 2022

No Central Tax Notification was issued in the month of January 2022

Central Tax (Rate) Notification January 2022

No Central Tax (Rate) Notification was issued in the month of January 2022

Integrated Tax Notification January 2022

No Integrated Tax Notification was issued in the month of January 2022

Integrated Tax (Rate) Notification January 2022

No Integrated Tax (Rate) Notification was issued in the month of January 2022

Circular issued in the month of January 2022

No Circular was issued in the month of January 2022

Orders

No order was issued in the month of January 2022

Removal of Difficulty Orders January 2022

No order was issued in the month of January 2022

Source: www.cbic.gov.in

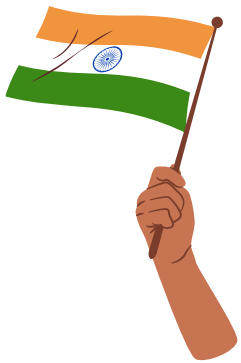
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