

ANALYSIS OF FINANCE (NO. 2) ACT, 2019 AMENDMENTS



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Brief About The Amendments and Finance (No. 2) Act, 2019

- Finance Bill Presented by Hon'ble Finance Minister Nirmala Sitaraman in UPA-2 on 05/07/2019 and enacted on 01/08/2019 after getting consent of President of India
- Important to note that no clause was enacted with effect from 01/08/2019 as all the clauses will be applicable from the date to be notified except clause 113 & 115.
- Amendments has been made through 22 clauses from 92 to 104 of Finance Act, 2019.
- It covers amendments related with Composition Levy, Registration, Facility of digital payment to recipient, Furnishing of returns, Annual return, Payment of tax etc., Interest on delayed payment, Collection of tax at source, Refund of tax, ADVANCE RULING etc.



1. BUDGET CLAUSE 92 AMENDS SECTION 2(4) OF CGST ACT.

Amendment

The definition of “**adjudicating authority**” in section 2(4) of CGST Act has been amended so as to **exclude “the National Appellate Authority for Advance Ruling”** from the definition of “adjudicating authority”.

Analysis

The definition of “adjudicating authority” in clause (4) of section 2 of the CGST Act has been amended so as to exclude “the National Appellate Authority for Advance Ruling” (which is being created by various amendments in Chapter XVII of the CGST Act) from the definition of “adjudicating authority”.

This has been done as Govt. decided to Constitute “**The National Appellate Authority for Advance Ruling**” to provide for procedures to be followed for hearing **appeals against conflicting advance rulings pronounced on the same question by the Appellate Authorities of two or more States** or Union territories **in case of distinct persons.**

Applicable WEF

Date To Be Notified

2. BUDGET CLAUSE 93 AMENDS SECTION 10 (COMPOSITION LEVY) OF CGST ACT.

Amendment & Analysis

A new sub-section 2A has been inserted in section 10 of the CGST Act to bring in an **alternative composition scheme for supplier of services or mixed suppliers** (not eligible for the earlier composition scheme) **having an annual turnover in preceding financial year upto Rs 50 lakhs**. Further, explanation is being added to section 10 to clarify that:

1. **For computing the aggregate turnover to determine eligibility for the composition scheme**, value of exempt supplies 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; and
2. For determining the value of turnover in a State or Union territory **to calculate tax payable**,
 - a. **value of exempt supplies 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**; and
 - b. **value of the first supplies** from 1st of April till the date when the taxpayer becomes liable for registration **shall not be taken into account**.

Applicable WEF

01/01/2020

3. BUDGET CLAUSE 94 AMENDS SECTION 22 (REGISTRATION) OF CGST ACT.

Amendment & Analysis

Second proviso and an explanation have been inserted in section 22 of the CGST Act so as to **provide for higher threshold exemption limit from Rs. 20 lakhs to such amount not exceeding Rs. 40 lakhs in case of supplier who is engaged in exclusive supply of goods.**

Earlier Section 23(2) Power was exercised by NN 10/2019 dated 07/03/2019 for giving above higher threshold exemption benefit which was applicable wef 01/04/2019.

Now it has been incorporated in CGST Act itself.

Applicable WEF

01/01/2020

4. BUDGET CLAUSE 95 AMENDS SECTION 25 (PROCEDURE FOR REG.) OF CGST ACT.

Amendment

In section 25, sub section (6A) to (6D) inserted.

(6A)

Every registered person shall **undergo authentication or furnish proof of possession of Aadhaar number** (if aadhaar no not assigned, offered alternate and viable means of identification). If failed then registration shall be deemed invalid.

(6B)

For individual, for eligible for registration, aadhaar authentication (if aadhaar no not assigned, offered alternate and viable means of identification) is must.

(6C)

Other than individual, for eligible for registration, their karta, partner etc, aadhaar authentication (if aadhaar no not assigned, offered alternate and viable means of identification) is must.

(6D)

Above provision shall not apply to specified person or class of person.

Analysis

New sub-sections are being inserted in section 25 of the CGST Act to make Aadhaar authentication mandatory for specified class of new taxpayers and to prescribe the manner in which certain class of registered taxpayers are required to undergo Aadhaar authentication.

Detailed rules in this regard yet to be notified.

Applicable WEF

01/01/2020

5. BUDGET CLAUSE 96 INSERTS NEW SECTION 31A (FACILITY OF DIGITAL PAYMENT TO RECIPIENT) OF CGST ACT.

Amendment

Section 31A has been inserted which requires to provide **facility of digital payment to recipient** by specified suppliers.

Analysis

A new section 31A has been inserted in the CGST Act so that specified suppliers shall have to mandatorily give the option of specified modes of electronic payment to their recipients.

Detailed rules in this regard yet to be notified.

Applicable WEF

01/01/2020

6. BUDGET CLAUSE 97 AMENDS SECTION 39 (FURNISHING OF RETURNS) OF CGST ACT.

Amendment (Option to Quartely filing Return and Payment of Taxes)

Sub-sections (1) (2) and (7) has been substituted. In sub section (1) and its proviso, only language reorganized with single change i.e. in proviso for the word “return “ a return has been substituted.

By substituting sub section (2), composition taxpayers has been allowed to furnish annual return along with quarterly payment of taxes.

By substituting sub section (7), now options shall be given to normal tax payers filing returns quarterly basis and to composition dealers to pay taxes on quarterly basis.

Analysis

Section 39 of the CGST Act has been amended so as to **allow the composition taxpayers to furnish annual return** along with **quarterly payment of taxes**; and other specified taxpayers may be **given the option for quarterly or monthly furnishing of returns** and payment of taxes under the proposed new return system.

Detailed rules in this regard yet to be notified.

Applicable WEF

Date To Be Notified

7. BUDGET CLAUSE 98 AMENDS SECTION 44 (ANNUAL RETURN) OF CGST ACT.

Amendment (Commissioner May Extend Due Date)

Proviso 1 & 2 inserted in section 44(1) as to give powers to commissioner to extend due date for furnishing annual return.

Earlier it was done by the Government on the recommendation of GST council.

Now the Commissioner may, on the recommendations of the Council, **extend the time limit for furnishing the annual return** for such class of registered persons as may be specified therein

Analysis

New provisos have been inserted in sub-section (1) of section 44 of the CGST Act so as to empower the Commissioner to extend the due date for furnishing Annual return (prescribed FORM GSTR-9/9A) and reconciliation statement (prescribed FORM GSTR-9C).

Applicable WEF

01/01/2020

8. BUDGET CLAUSE 99 AMENDS SECTION 49 (PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS) OF CGST ACT.

Amendment (Allowing Transfer of Amount in E-Cash Ledger from One Head to Another)

One of the most needed and welcome amendment.

Sub section 10 & 11 inserted in section 49 **allowing registered person to transfer of balance in electronic cash ledger from one head to another and it shall be deemed to be refund.**

Here new section 53A inserted in CGST Act and 17A in IGST Act allowing Govt. to transfer amount equal to amount transferred from one head to another head.

Analysis

New sub-sections are being inserted in section 49 of the CGST Act to provide a facility to the registered person to transfer an amount from one (major or minor) head to another (major or minor) head in the electronic cash ledger.

Detailed rules in this regard yet to be notified.

Applicable WEF

01/01/2020

9. BUDGET CLAUSE 100 AMENDS SECTION 50 (INTEREST ON DELAYED PAYMENT OF TAX.) OF CGST ACT.

Amendment (Payment of Interest On Net Cash Liability)

In section 50(1), a proviso has been inserted and **now interest payable on net cash liability in case return has been filed after due date under section 39** except in those cases where returns are filed subsequent to initiation of any proceedings under section 73 or 74 of the CGST Act.

Analysis

New proviso in sub-sections (1) has been inserted in section 50 of the CGST Act so as to provide for charging interest only on the net cash tax liability, except in those cases where returns are filed subsequent to initiation of any proceedings under section 73 or 74 of the CGST Act.

Applicable WEF

Date To Be Notified

10. BUDGET CLAUSE 101 AMENDS SECTION 52 (COLLECTION OF TAX AT SOURCE) OF CGST ACT.

Amendment (Commissioner May Extend Due Date)

In section 52(4) & 52(5), provisos have been inserted as to give powers to commissioner to extend due date for furnishing statement (tax collection return by ECO).

Earlier it was done by the Government on the recommendation of GST council.

Now the Commissioner may, on the recommendations of the Council, **extend the time limit for furnishing the statement** for such class of registered persons as may be specified therein.

Analysis

New provisos are being inserted in sub-sections (4) and (5) of section 52 of the CGST Act so as to empower the Commissioner to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

Applicable WEF

01/01/2020

11. BUDGET CLAUSE 102 INSERTS NEW SECTION 53A (TRANSFER OF CERTAIN AMOUNTS) OF CGST ACT.

Amendment

New section 53A inserted allowing Govt. to transfer amount equal to amount transferred from CGST cash ledger to SGST cash ledger and vice versa.

Analysis

A new section 53A is being inserted in the CGST Act so as to provide for transfer of amount between Centre and States **consequential to amendment in section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.**

Detailed rules in this regard yet to be notified.

Applicable WEF

01/01/2020

12. BUDGET CLAUSE 103 AMENDS SECTION 54 (REFUND OF TAX) OF CGST ACT.

Amendment (Now CG May Disburse Refund of State Taxes As Well & Vice Versa)

Sub Section 8A inserted.

Most needed and welcome amendment. Now Central Govt. may disburse refund amount to the taxpayers in respect of refund of State taxes as well and vice versa.

Analysis

New sub-section (8A) is being inserted in section 54 of the CGST Act so as to provide that the Central Government may disburse refund amount to the taxpayers in respect of refund of State taxes as well.

Detailed rules in this regard yet to be notified.

Applicable WEF

Date To Be Notified

13. BUDGET CLAUSE 104 AMENDS SECTION 95 (ADVANCE RULING) OF CGST ACT.

Amendment

New clause (f) inserted to define the “National Appellate Authority for Advance Ruling”.

NAA shall hear **appeals against conflicting advance rulings pronounced on the same question by the Appellate Authorities of two or more States or Union territories in case of distinct persons.**

Analysis

New clause (f) is being inserted in section 95 of the CGST Act to define the “National Appellate Authority for Advance Ruling”.

Applicable WEF

Date To Be Notified

14. BUDGET CLAUSE 105 INSERTS SECTION 101A TO 101C (CONSTITUTION OF NATIONAL APPELLATE AUTHORITY FOR ADVANCE RULING) OF CGST ACT.

Amendment & Analysis

New sections 101A, 101B and 101C have been inserted in the CGST Act so as **to provide for constitution**, qualification, appointment, tenure, conditions of services of the **National Appellate Authority** for Advance Ruling;

to **provide for procedures** to be followed for **hearing appeals against conflicting advance rulings pronounced on the same question by the Appellate Authorities of two or more States or Union territories in case of distinct persons**; and

to provide that the National Appellate Authority shall **pass order within a period of ninety days** from the date of filing of the appeal respectively.

Detailed rules in this regard yet to be notified.

Applicable WEF

Date To Be Notified

15. BUDGET CLAUSE 105 AMENDS SECTION 102 (RECTIFICATION OF ADVANCE RULING) OF CGST ACT.

Amendment

Allow the National Appellate Authority to **amend any order passed by it.**

Analysis

Section 102 of the CGST Act has been amended so as to allow the National Appellate Authority to amend any order passed by it so as to rectify any error apparent on the face of the record, within a period of six months from the date of the order, except under certain specified circumstances.

Applicable WEF

Date To Be Notified

16. BUDGET CLAUSE 107 AMENDS SECTION 103 (APPLICABILITY OF ADVANCE RULING) OF CGST ACT.

Amendment

Sub section 1(A) inserted to provide that advance ruling pronounced by the National Appellate Authority **shall be binding on the applicants.**

Analysis

Section 103 of the CGST Act is being amended so as to provide that the advance ruling pronounced by the National Appellate Authority shall be binding, unless there is a change in law or facts, **on the applicants, being**

distinct person and all registered persons having the same

Permanent Account Number and

on the concerned officers or the jurisdictional officers in respect of

the said applicants and the registered persons having the same

Permanent Account Number.

Applicable WEF

Date To Be Notified

17. BUDGET CLAUSE 108 AMENDS SECTION 104 (ADVANCE RULING TO BE VOID IN CERTAIN CIRCUMSTANCES) OF CGST ACT.

Amendment

Analysis

Section 104 of the CGST Act is being amended so as to provide that advance ruling pronounced by the National Appellate Authority shall be void where the ruling has been obtained by fraud or suppression of material facts or misrepresentation of facts.

Applicable WEF

Date To Be Notified

18. BUDGET CLAUSE 109 AMENDS SECTION 105 (POWERS OF AUTHORITY AND APPELLATE AUTHORITY) OF CGST ACT.

Amendment

Analysis

Section 105 of the CGST Act is being amended so as to provide that the National Appellate Authority **shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of exercising its powers under the Act.**

Applicable WEF

Date To Be Notified

19. BUDGET CLAUSE 110 AMENDS SECTION 106 (PROCEDURE OF AUTHORITY AND APPELLATE AUTHORITY) OF CGST ACT.

Amendment

Analysis

Section 106 of the CGST Act is being amended so as to provide that the National Appellate Authority **shall have power to regulate its own procedure.**

Applicable WEF

Date To Be Notified

20. BUDGET CLAUSE 111 AMENDS SECTION 168 (POWERS TO ISSUE INSTRUCTIONS AND DIRECTIONS) OF CGST ACT.

Amendment

Section 44(1) (Annual Return) and section 52(4) & (5) (Tax Collection Statement) have been inserted to allow commissioner to exercise power to extend due dates on the recommendations on GST council **with the approval of the Board.**

Analysis

Consequent to the amendments in section 44 and section 52 of the CGST Act, section 168 is being amended so as to specify that in respect of sub-section (1) of section 44 and subsections (4) and (5) of section 52, **Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.**

Applicable WEF

01/01/2020

21. BUDGET CLAUSE 112 AMENDS SECTION 171 (ANTI-PROFITEERING MEASURE) OF CGST ACT.

Amendment

Sub section 3A has been inserted so as to empower the National Anti profiteering Authority to **impose penalty equivalent to 10% of the profiteered amount.**

No penalty if profiteered amount deposited within 30 days of the date of passing the order.

Analysis

Section 171 of the CGST Act is being amended so as to empower the National Anti profiteering Authority (under sub-section (2) of section 171 of the Act) to impose penalty equivalent to 10% of the profiteered amount.

Applicable WEF

01/01/2020

22. BUDGET CLAUSE 114 INSERTS SECTION 17A (TRANSFER OF CERTAIN AMOUNTS) OF IGST ACT.

Amendment

New section 17A inserted in line with section 53A in CGST Act, allowing Govt. to transfer amount equal to amount transferred from IGST cash ledger to SGST cash ledger and vice versa.

Analysis

A new section 17A is being inserted in the IGST Act so as to bring into the Act, provisions for transfer of amount between Centre and States consequential to amendment in section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.

Applicable WEF

01/01/2020

DISCLAIMER

The above write up has been compiled from various provisions of CGST Act 2017, IGST Act 2017 and rules and notifications issued there under. The compilation may not be entirely correct for reader to reader due to different interpretations by different readers. The readers are advised to take into the consideration the prevailing legal position before acting on any of the comments in this write up. Readers are also requested to convey the correct position as per their interpretation of the provisions of CGST Act 2017, IGST Act 2017 and rules and notifications issued there under which shall be most welcome for correcting this write up.

Thank You.....



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