

ANALYSIS OF FINANCE BILL, 2022 AMENDMENTS IN INDIRECT TAXES



BRIEF OF AMENDMENTS MADE BY FINANCE BILL 2022.

- The Finance Bill 2022 (Bill No.18 of 2022) Presented by Hon'ble Finance Minister Smt. Nirmala Sitaraman in UPA-2 on 01/02/2022 and will be enacted after getting consent of President of India.
- In CGST Act, amendments has been made in clauses from 99 to 117 of the Finance Bill 2022. As per clause 2(b) of The Bill, clauses 99 to 113 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. Clauses 114 to 117 has been amended retrospectively as per clause itself.
- In IGST Act and UTGST Act, amendments has been made in clauses from 118 to 123 of the Finance Bill 2022 and amended retrospectively as per clause itself.
- It covers amendments related with ITC, Cancellation of registration, issuance of CN, Communication of ITC etc.

AMENDMENTS IN CENTRAL GOODS AND SERVICES TAX ACT, 2017



1. BUDGET CLAUSE 99 AMENDS SECTION 16 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

In section 16, —(i) clause (ba) to sub-section (2) has been inserted:—

“(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;”;

(ii) in clause (c), the words, figures and letter “or section 43A” shall be omitted;

(b) in sub-section (4), for the words and figures “due date of furnishing of the return under section 39 for the month of September”, the words “thirtieth day of November” shall be substituted.

Analysis

Section 16 (2) provides conditions for availing ITC by registered person. By inserting above clause one more condition has been imposed for claiming ITC and it provides that ITC with respect to a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer u/s 38.

Further, section 16(4) 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 13th day of November of the following financial year.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

2. BUDGET CLAUSE 100 AMENDS SECTION 29 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

In section 29 of the Central Goods and Services Tax Act, in sub-section (2), —

(a) in clause (b), for the words “returns for three consecutive tax periods”, the words “the return for a financial year beyond three months from the due date of furnishing the said return” shall be substituted;

(b) in clause (c), for the words “a continuous period of six months”, the words “such continuous tax period as may be prescribed” shall be substituted.

Analysis

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

(i) 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;

(ii) a person, other than those paying tax under section 10, has not furnished returns for such continuous tax period as may be prescribed.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

3. BUDGET CLAUSE 101 AMENDS SECTION 34 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

In section 34 of the Central Goods and Services Tax Act, in sub-section (2), for the word “September”, the words “the thirtieth day of November” shall be substituted.

Analysis

Sub-section (2) of section 34 of the CGST Act is being amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year upto thirtieth day of November of the following financial year.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

4. BUDGET CLAUSE 102 AMENDS SECTION 37 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

Analysis

Section 37 of the CGST Act is being amended so as to: (i) 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; (ii) do away with two-way communication process in return filing; (iii) provide for an extended time upto thirtieth day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1); (iv) provide for tax period-wise sequential filing of details of outward supplies under sub-section (1).

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

5. BUDGET CLAUSE 103 AMENDS SECTION 38 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

Section 38 has been substituted.

Analysis

Section 38 of the CGST Act is being 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.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

6. BUDGET CLAUSE 104 AMENDS SECTION 39 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

Analysis

Section 39 of the CGST Act is being amended so as to:

- (i) provide that the non-resident taxable person shall furnish the return for a month by thirteenth day of the following month;
- (ii) 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;
- (iii) provide for an extended time upto thirtieth day of November of the following financial year, for rectification of errors in the return furnished under section 39;
- (iv) provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing the return under section 39 for the said tax period.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

7. BUDGET CLAUSE 105 AMENDS SECTION 41 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

Section 41 has been substituted.

Analysis

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.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

8. BUDGET CLAUSE 106 OMITTED SECTION 42, 43, AND 43A OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

Sections 42, 43 and 43A of the Central Goods and Services Tax Act shall be omitted.

Analysis

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.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

9. BUDGET CLAUSE 107 OMITTED SECTION 47 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

In section 47 of the Central Goods and Services Tax Act, in sub-section (1), —

- (a) the words “or inward” shall be omitted;
- (b) the words and figures “or section 38” shall be omitted;
- (c) after the words and figures “section 39 or section 45 the words and figures “or section 52” shall be inserted.

Analysis

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. Further, reference to section 38 is being removed consequent to the amendment in section 38 of the CGST Act.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

10. BUDGET CLAUSE 108 AMENDS SECTION 48 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

In section 48 of the Central Goods and Services Tax Act, in sub-section (2), the words and figures “, the details of inward supplies under section 38” shall be omitted.

Analysis

Consequent to the amendment in section 38 of the CGST Act, sub-section (2) of section 48 of the CGST Act is being amended so as to remove reference to section 38 therefrom.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

11. BUDGET CLAUSE 109 AMENDS SECTION 49 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

Analysis

Section 49 of the CGST Act is being amended so as to: (i) provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger; (ii) allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person; (iii) provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

12. BUDGET CLAUSE 110 AMENDS SECTION 50 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

In section 50, sub-section (3), has been substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

“(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”.

Analysis

Sub-section (3) of section 50 of the CGST Act is being 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.

Applicable WEF

01.07.2017

13. BUDGET CLAUSE 111 AMENDS SECTION 52 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

In section 52(6), in the proviso, for the words “due date for furnishing of statement for the month of September”, the words “thirtieth day of November” shall be substituted.

Analysis

Sub-section (6) of section 52 of the CGST Act is being amended so as to provide for an extended time upto thirtieth day of November of the following financial year for rectification of errors in the statement furnished under subsection (4).

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

14. BUDGET CLAUSE 112 AMENDS SECTION 54 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

In section 54 —(a) in sub-section (1), in the proviso, for the words and figures “the return furnished under section 39 in such”, the words “such form and” shall be substituted;

(b) in sub-section (2), for the words “six months”, the words “two years” shall be substituted;

(c) in sub-section (10), the words, brackets and figure “under sub-section (3)” shall be omitted;

(d) in 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;”.

To Be Continued

14. BUDGET CLAUSE 112 AMENDS SECTION 54 OF GOODS AND SERVICES TAX ACT, 2017.

Analysis

Section 54 of the CGST Act is being amended so as to: (i) 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;

(ii) provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 as two years from the last day of the quarter in which the said supply was received;

(iii) extend the scope of withholding of or recovery from refunds in respect of all types of refund;

(iv) 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.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

15. BUDGET CLAUSE 113 AMENDS SECTION 168 OF GOODS AND SERVICES TAX ACT, 2017.

Amendment

In section 168 of the Central Goods and Services Tax Act, in sub-section (2), the words, brackets and figures “subsection (2) of section 38,” shall be omitted.

Analysis

Consequent to the amendment in section 38 of the CGST Act, sub-section (2) of section 168 of the CGST Act is being amended so as to remove reference to section 38 therefrom.

Applicable WEF

From the Date to be appointed by CG by notification in the Official Gazette.

16. BUDGET CLAUSE 114 AMENDS Notification No. 9/2018 – Central Tax dated the 23rd January 2018 issued under SECTION 146 OF CGST ACT READ WITH SECTION 20 OF IGST ACT

Amendment

The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R.58(E), dated the 23rd January, 2018, issued by the Central Government on the recommendations of the Council, under section 146 of the Central Goods and Services Tax Act, 2017 read with section 20 of the Integrated Goods and Services Tax Act, 2017, shall stand **amended** and shall be deemed to have been **amended retrospectively**, in the manner specified in column (2) of the Fifth Schedule, on and from the date specified in column (3) of that Schedule.

Analysis

Notification No. 9/2018 – Central Tax, dated the 23rd January, 2018, is being amended so as to notify retrospectively, with effect from **22nd June, 2017**, as the Common Goods and Services Tax Electronic Portal, for all functions provided under Central Goods and Services Tax Rules, 2017, other than those provided for e-way bill and for generation of invoices under sub-rule (4) of rule 48 of the CGST Rules.

Applicable WEF

Applicable Retrospectively w.e.f 22.06.2017

17. BUDGET CLAUSE 115 AMENDS Notification No. 13/2017 – Central Tax dated the 28th June 2017 issued under SECTION 146 OF CGST ACT READ WITH SECTION 20 OF IGST ACT

Amendment

The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R.661(E), dated the 28th June, 2017, under subsections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Sixth Schedule, on and from the date specified in column (3) of that Schedule.

Analysis

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%.

Old Law – Interest was applicable @24%

New Law – Interest applicable @18%

Applicable WEF

Applicable Retrospectively w.e.f 01.07.2017

18. BUDGET CLAUSE 116, 119 & 122 AMENDS SECTION 9(1) OF CGST ACT, SECTION 5(1) OF IGST ACT & SECTION 7(1) OF UTGST ACT

Amendment

Notwithstanding anything contained in the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 673(E), dated the 28th June, 2017 issued by the Central Government, on the recommendations of the Council, in exercise of the powers under sub-section (1) of **section 9 of the Central Goods and Services Tax Act, 2017,**

G.S.R. 666(E), dated the 28th June, 2017 issued by the Central Government, on the recommendations of the Council, in exercise of the powers under sub-section (1) of **section 5 of the Integrated Goods and Services Tax Act, 2017**

G.S.R. 710(E), dated the 28th June, 2017 issued by the Central Government, on the recommendations of the Council, in exercise of the powers under sub-section (1) of **section 7 of the Union Territory Goods and Services Tax Act, 2017,**

No central tax, integrated tax, union territory tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling

18. BUDGET CLAUSE 116, 119 & 122 AMENDS SECTION 9(1) OF CGST ACT, SECTION 5(1) OF IGST ACT & SECTION 7(1) OF UTGST ACT

under heading 2301), except for fish oil, during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive).

Analysis

Central Tax, Union Territory Tax and Integrated Tax on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, is being exempted during the period commencing from the 1st day of July, 2017, and ending with the 30th day of September, 2019 (both days inclusive), subject to the condition that if said tax has been collected, the same would not be eligible for refund.

Applicable WEF

Applicable Retrospectively from 01.07.2017 to 30.09.2017.

19. BUDGET CLAUSE 117, 120 & 123 AMENDS SECTION 7(2) OF CGST ACT, SECTION 20 OF IGST ACT & SECTION 21 OF UTGST ACT

Amendment

Subject to the provisions of sub-section (2), the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 746(E), dated the 30th September, 2019 issued by the Central Government, on the recommendations of the Council, in exercise of the powers under sub-section (2) of **section 7 of the Central Goods and Services Tax Act, 2017,**

G.S.R. 745(E), dated the 30th September, 2019 issued by the Central Government on the recommendations of the Council, in exercise of the powers under clause (i) of **section 20 of the Integrated Goods and Services Tax Act, 2017, read with sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017,**

G.S.R. 747(E), dated the 30th September, 2019 issued by the Central Government, on the recommendations of the Council, in exercise of the powers under clause (i) of **section 21 of the Union Territory Goods and Services Tax Act, 2017, read with sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017,**

shall be deemed to have, and always to have, for all purposes, come into force on and from the 1st day of July, 2017.

To be Continued

19. BUDGET CLAUSE 117, 120 & 123 AMENDS SECTION 7(2) OF CGST ACT, SECTION 20 OF IGST ACT & SECTION 21 OF UTGST ACT

Analysis

Service by way of **grant of alcoholic liquor license**, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments, 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, notification No. 24/2019- Integrated Tax (R) dated 30.09.2019 and notification No. 25/2019- Union Territory Tax (R) dated 30.09.2019. These notifications have been given retrospective effect from 01.07.2017.

However, **no refund** shall be made of tax which has been collected, but which would not have been so collected, had the said notifications been in force at all material times.

Applicable WEF

Applicable Retrospectively from 01.07.2017

20. BUDGET CLAUSE 118 AMENDS SECTION 20 OF IGST ACT READ WITH SECTION 50(3)(1), 54(12) & 56 OF CGST ACT

Amendment

The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 698 (E), dated the 28th June, 2017, issued by the Central Government on the recommendations of the Council, under section 20 of the Integrated Goods and Services Tax Act, 2017 read with subsections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017, shall stand **amended** and shall be deemed to have been **amended retrospectively**, in the manner specified in column (2) of the Seventh Schedule, on and from the date specified in column (3) of that Schedule.

Analysis

Notification No. 6/2017 – Integrated 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 subsection (3) of section 50 of the CGST Act as 18%.

Old Law – Interest was applicable @24%

New Law – Interest applicable @18%

Applicable WEF

Applicable Retrospectively from 01.07.2017

21. BUDGET CLAUSE 121 AMENDS SECTION 20 OF UTGST ACT READ WITH SECTION 50(3)(1), 54(12) & 56 OF CGST ACT

Amendment

The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 747 (E), dated the 30th June, 2017, issued by the Central Government on the recommendations of the Council, under section 21 of the Union Territory Goods and Services Tax Act, 2017 read with subsections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Eighth Schedule, on and from the date specified in column (3) of that Schedule.

Analysis

Notification number 10/2017 – Union Territory Tax, dated the 30th 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%.

Old Law – Interest was applicable @24%

New Law – Interest applicable @18%

Applicable WEF

Applicable Retrospectively from 01.07.2017