



Union Budget 2022

GST Proposals — 1<sup>st</sup> February, 2022

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# 1. Background

- *It is rightly said – “The devil is in the details”* - The amendments in CGST and IGST Act span out from clauses 99 to 123 of Finance Bill, 2022. In all, there are 17 changes in CGST Act and 1 change in IGST Act and UTGST Act each.
- Amendments carried out in the Finance Bill, 2022, vide clause 99 to 113 will come into effect from a date to be notified, as far as possible, concurrently with the corresponding amendments to the similar Acts passed by the States & Union territories with legislature. Amendments carried out in the Finance Bill, 2022, vide clause 114 to 123 will come into effect on the date of its enactment. Few amendments will be effective retrospectively from 1st July 2017.
- Let's decode the key amendments.

## 2. Additional condition for claiming ITC

- A new clause (ba) to sub-section (2) of section 16 of the CGST Act is being 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.
- *[Clause 99 of Finance Bill, 2022]*

# 3. Time limit to avail ITC extended

- 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 the 30<sup>th</sup> day of November of the following financial year.
- This is a positive amendment as all taxpayers will get a few more days to reconcile and claim ITC.
- *[Clause 99 of Finance Bill, 2022]*

# 4. Power to restrict ITC utilization

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.

*[Clause 109 of Finance Bill, 2022]*

# 4. Power to restrict ITC utilization

- 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.
- 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.

*[Clauses 105 and 106 of Finance Bill, 2022]*

# 5. Refund related amendments

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.

*[Clause 112 of Finance Bill, 2022]*

# 6. Credit note issuance – time limit extended

- 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 30<sup>th</sup> day of November of the following financial year.

*[Clause 101 of Finance Bill, 2022]*

# 7. GST return process revamped

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).

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.

*[Clauses 102 and 103 of Finance Bill, 2022]*

# 8. Levy of interest – Solidifying legal position

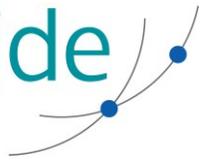
- Sub-section (3) of section 50 of the CGST Act is being substituted retrospectively, with effect from the 1st July, 2017, so as to provide for levy of interest on input tax credit wrongly availed and utilized.
- Notifications in CGST/IGST/UTGST Acts are being amended retrospectively, with effect from the 1<sup>st</sup> day of July, 2017, so as to notify rate of interest under subsection (3) of section 50 of the GST Act as 18%.

*[Clauses 110, 115, 118 and 121 of Finance Bill, 2022]*

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Thank You!