

BUDGET HIGHLIGHTS - INDIRECT TAXES

Goods and Services Tax

Amendments proposed in the CGST Act, 2017

To be effective from a date to be notified after the enactment of the Finance Bill, 2023

- **Amendments in Section 10**

Clause (d) of sub-section (2) and clause (c) of sub-section (2A) in section 10 of the CGST Act is proposed to be amended so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy.

- **Amendment in Section 16**

2nd and 3rd provisos to sub-section (2) of section 16 of the CGST Act are proposed to be amended to align the said sub-section with the return filing system provided in the said Act.

- **Amendment in Section 17**

Explanation to sub-section (3) of section 17 of the CGST Act is proposed to be amended so as to restrict availment of input tax credit in respect of certain transactions specified in para 8(a) of Schedule III of the said Act, as may be prescribed, by including the value of such transactions in the value of exempt supply.

Further, sub-section (5) of said section is also proposed to be amended so as to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013.

- **Amendments in Section 23**

Sub-sections (1) and sub-section (2) of section 23 of the CGST Act are proposed to be amended, with retrospective effect from 01st July, 2017, so as to provide that persons for compulsory registration in terms of sub section (1) of section and section 22 of the Act need not register if exempt under sub section (1) of section 23.

- **Amendment in Sections 37, 39, 44 and 52**

New sub-sections (5), (11), (2) and (52) in sections 37, 39, 44 and 52 of the CGST Act respectively are proposed to be inserted so as to provide a time limit upto which the details of outward supplies under section 37 or return for a tax period furnished by a registered person under section 39 or the annual return under sub-section (1) of section 44 for a financial year can be furnished by a registered person or the statement under sub-section (4) of section 52 for a month can be furnished by an electronic commerce operator.

Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.

- **Amendments in Section 54**

Sub-section (6) of section 54 of the CGST Act is proposed to be amended so as to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availment of self-assessed input tax credit as per sub-section (1) of section 41 of the said Act.

- **Amendments in Section 56**

Section 56 of the CGST Act is proposed to be amended so as to provide for an enabling provision to prescribe manner of computation of period of delay for calculation of interest on delayed refunds.

- **Amendment in Section 122**

A new sub-section (1B) in section 122 of the CGST Act is proposed to be inserted so as to provide for penal provisions applicable to Electronic Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers.

- **Amendment in Section 132**

Sub-section (1) of section 132 of the CGST Act is proposed to be amended so as to decriminalize offences specified in clause (g), (j) and (k) of the said sub-section and to increase the monetary threshold for launching prosecution for the offences under the said Act from one hundred lakh rupees to two hundred lakh rupees, except for the offences related to issuance of invoices without supply of goods or services or both.

- **Amendment in Section 138**

First proviso to sub-section (1) of section 138 of the CGST Act is proposed to be amended so as to simplify the language of clause (a), to omit clause (b) and to substitute clause (c) of said proviso so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act. It further seeks to amend sub-section (2) so as to rationalize the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.

- **Amendment in Section 158A**

A new section 158A in the CGST Act is proposed to be inserted so as to provide for prescribing manner and conditions for sharing of the information furnished by the registered person in his return or in his application of registration or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified.

- **Amendment in Schedule III**

Schedule III of the CGST Act is proposed to be amended to give retrospective applicability to Para 7, 8 (a) and 8 (b) of the said Schedule, with effect from 01st July, 2017, so as to treat the activities/ transactions mentioned in the said paragraphs as neither supply of goods nor supply of services. It is also being clarified that where the tax has already been paid in respect of such transactions/ activities during the period from 01st July, 2017 to 31st January, 2019, no refund of such tax paid shall be available.

<u>Amendments proposed in the IGST Act, 2017</u>

- Clause (16) of section 2 of the IGST Act is proposed to be amended so as to revise the definition of "non-taxable online recipient" by removing the condition of receipt of online information and database access or retrieval services (OIDAR) for purposes other than commerce, industry or any other business or profession so as to provide for taxability of OIDAR service provided by any person located in non-taxable territory to an unregistered person receiving the said services and located in the taxable

territory. Further, it also seeks to clarify that the persons registered solely in terms of clause (vi) of Section 24 of CGST Act shall be treated as unregistered person for the purpose of the said clause.

Also, clause (17) of the said section is being amended to revise the definition of "online information and database access or retrieval services" to remove the condition of rendering of the said supply being essentially automated and involving minimal human intervention.

- Proviso to sub-section (8) of section 12 of the IGST Act is proposed to be omitted so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.

Customs

Amendments proposed in the Customs Act, 1962

Effective from the date of enactment of the Finance Bill, unless otherwise specified

- Section 25(4A) of the Customs Act is proposed to be amended to insert a Proviso to the effect that the validity period of two years shall not apply to exemption notifications issued in relation to multilateral or bilateral trade agreements; obligations under international agreements, treaties, conventions including with respect to UN agencies, diplomats, international organizations; privileges of constitutional authorities; schemes under Foreign Trade Policy; Central Government schemes having a validity of more than two years; re-imports, temporary imports, goods imported as gifts or personal baggage; any duty of customs under any law for the time being in force including integrated tax leviable under sub-section (7) of Section 3 of the Customs Tariff Act, 1975, other than duty of customs leviable under section 12.
- A new sub section (8A) to section 127C is proposed to be inserted so as to specify a time limit of 9 months from the date of application, for disposal of the application filed before the Settlement Commission.