

**Highlights of amendments proposed
by the Finance Bill, 2022**

Clause by clause analysis of proposed amendments

PROPOSED AMENDMENTS IN THE CGST ACT, 2017

1. Clause 99 of the Finance Bill, 2022
Section 16(2). Eligibility and conditions for taking input tax credit
(a) (i) Proposed amendment - Insertion of new clause (ba) to Section 16(2) (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;
Author's comments on proposed amendment The proposed amendment seeks to provide that input tax credit (ITC) with respect to a supply can be availed only if such credit has not been restricted in the auto-generated statement communicated to the recipient under section 38. Section 38 has been substituted to provide for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement (like existing GSTR-2B). The statement shall consist of details of inward supplies in respect of which credit may be available and detail of supplies in respect of which such credit cannot be availed. Existing GSTR-2B comprises of details of inward supplies in respect of which credit may be available and detail of supplies in respect of which such credit cannot be availed. The amendment provides statutory support to the GSTR-2B framework already in place on the GSTN portal.
(a) (ii) Clause (c) of Section 16(2)
Existing provision (c) subject to the provisions of section 41 or section 43A, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and
Proposed amendment (c) subject to the provisions of section 41 or section 43A , the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and
Author's comments on proposed amendment The proposed amendment is in consonance with omission of Section 43A under Clause 106.
(b) Section 16(4)
Existing provision A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note

pertains or furnishing of the relevant annual return, whichever is earlier
<p>Proposed amendment</p> <p>A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.</p>
<p>Author's comments on proposed amendment</p> <p>The amendment seeks to increase the time limit for availment of ITC in respect of any invoice or debit note pertaining to a financial year. Earlier, the cut-off date for claim of credit was the due date of furnishing the GSTR-3B return for the month of September following the end of the financial year to which such invoice or debit note pertains or furnishing of the annual return, whichever is earlier. Now it is proposed to be 30th November of the following financial year or the date of furnishing of the annual return, whichever is earlier. To illustrate: ITC in respect of invoice dated 15th March 2023 (F/Y 2022-23) will not be available for availment after 30th November 2023.</p> <p>Note: There is no time limit on utilisation of ITC against output tax, once availed within time.</p>

2. Clause 100 of the Finance Bill, 2022
Section 29(2). Cancellation or suspension of registration
<p>Existing Provision</p> <p>(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where, —</p> <p>(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or</p> <p>(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or</p> <p>(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or</p> <p>(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or</p> <p>(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:</p>
<p>Proposed amendment</p> <p>Substitution of words in clause (b) and (c)</p> <p>(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where, —</p> <p>(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods the return for a financial year beyond three months from the due date of furnishing the said return; or</p> <p>(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months such continuous tax period as may be prescribed; or</p>
Author's comments on proposed amendment

The proposed amendment in clause (b) provides that the registration of a person opting to pay tax under composition scheme may be liable for cancellation if he does not furnish return (Form GSTR-4) for a financial year beyond three months from the due date of furnishing the said return which is 30th April presently.

The amendment proposed in clause (c) provides that registration of a person other than the person opting to pay tax under composition scheme may be liable for cancellation if he does not furnish returns for such continuous tax period as may be prescribed. The amendment has given the power to the Government to prescribe the continuous tax period by way of Rules beyond which registration shall be liable for cancellation. The Government may now prescribe a shorter period than 6 months in the Rules.

3. Clause 101 of the Finance Bill, 2022

Section 34(2): Credit and debit notes

Existing Provision

(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Proposed amendment

(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than ~~September~~ **the thirtieth day of November** following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Author's comments on proposed amendment

The amendment provides extended time for issuance of credit note in respect of any supply made in a financial year upto 30th November of the following financial year or the date of furnishing of the relevant annual return, whichever is earlier.

4. Clause 102 of the Finance Bill, 2022

Section 37. Furnishing details of outward supplies

Existing provision

(1) 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, 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:

Provided that the registered person shall not be allowed to furnish the details of outward

supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:

Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided also that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.

(3) Any registered person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Provided further that the rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September, 2018 till the due date for furnishing the details under sub-section (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019.

Explanation. —For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

Proposed amendment

(1) 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** and 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~~ **shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies:**

~~Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:~~

~~Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may~~

be specified therein:

Provided ~~also~~ further that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

~~(2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.~~

3) Any registered person, who has furnished the details under sub-section (1) for any tax period ~~and which have remained unmatched under section 42 or section 43~~, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after ~~furnishing of the return under section 39 for the month of September~~ **the thirtieth day of November** following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods.

Explanation. —For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

Author's comments on proposed amendment

The amendment provides for the following:

- 1) The government may prescribe conditions and restrictions for furnishing the details of outward supply in Form GSTR-1.
- 2) The government may also prescribe conditions and restrictions for communication of the details of such outward supplies to concerned recipients.
- 3) The restriction from furnishing detail of outward supplies in Form GSTR-1 between 11th and 15th day of the following month has been done away with by deletion of first proviso to Section 37(1).
- 4) The amendment does away with two-way communication process between supplier and recipient.
- 5) Extension of time limit for rectification of error or omission in statement of outward supplies (GSTR-1) upto 30th November following the end of the financial year or the date of furnishing of the relevant annual return, whichever is earlier.

6) Tax-period wise sequential filing of statement of outward supplies (GSTR-1).

5. Clause 103 of the Finance Bill, 2022
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Section 38. Furnishing details of inward supplies
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Existing provision

Substituted with new provision as reproduced below.

Proposed amendment

Substitution of Section 38

(1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an auto generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.
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(2) The auto-generated statement under sub-section (1) shall consist of—
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(a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and

(b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37, —
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i. by any registered person within such period of taking registration as may be prescribed; or
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ii. by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or

iii. by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or

iv. by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or
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v. by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or
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vi. by such other class of persons as may be prescribed.”.
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Author's comments on proposed amendment
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The proposed amendment provides for substitution of Section 38 to prescribe 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. The auto-generated statement shall consist of details of inward supplies in respect of which credit may be available and detail of supplies in respect of which such credit cannot be availed on account of default on part of supplier in payment of tax, including non-payment, short-

payment, erroneous payment, etc.

6. Clause 104 of the Finance Bill, 2022

(a) Section 39(5)

Existing provision

Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

Proposed amendment

(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within ~~twenty~~ **thirteen** days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

Author's comments on proposed amendment

The amendment provides for change in due date of furnishing of return by non-resident taxable person in Form GSTR-5 from 20th to 13th day following the end of the calendar month.

(b) Proviso to Section 39(7)

Existing provision

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:

Proposed amendment

~~Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:~~

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed, —

(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or

(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.”

Author's comments on proposed amendment

The amendment provides statutory support to the “Quarterly Return Monthly Payment” (QRMP) scheme which is already in place and eligible taxpayers are taking benefit thereof. The amendment seeks to provide an option to the taxpayers furnishing quarterly returns under Proviso to Section

<p>37(1), to either pay the self-assessed tax or an amount as may be prescribed. Fixed sum method has been prescribed under the scheme wherein taxpayer may opt to pay 35% of the tax liability paid for the previous quarter as notional amount of tax. Final tax liability is assessed at the end of the quarter. Interest is not payable on short-payment of tax, if any, on fixed sum basis within the quarter.</p>
<p>(c) Section 39(9) and Proviso thereto</p>
<p>Existing provision</p> <p>Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in such form and manner as may be prescribed, subject to payment of interest under this Act:</p> <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier.</p>
<p>Proposed amendment</p> <p>Subject to the provisions of sections 37 and 38, if Where any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in such form and manner as may be prescribed, subject to payment of interest under this Act:</p> <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter the thirtieth day of November following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier.</p>
<p>Author's comments on proposed amendment</p> <p>The amendment provides extension of time limit for rectification of error or omission in return (GSTR-3B) upto 30th November following the end of the financial year or the date of furnishing of the relevant annual return, whichever is earlier.</p>
<p>(d) Section 39(10)</p>
<p>Existing provision</p> <p>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</p>
<p>Proposed amendment</p> <p>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 tax period has not been furnished by him:</p> <p>Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein,</p>

allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not

Author's comments on proposed amendment

The existing provision restricts a registered person from furnishing GSTR-3B return of a tax period if the said return for any of the previous tax periods has not been furnished. The amendment seeks to provide additional restriction from furnishing GSTR-3B return for a tax period if the statement of outward supplies (GSTR-1) for the said tax period has not been furnished prior thereto. The proviso inserted provides power to the Government to allow on recommendation of GST Council to allow a person or such class of persons to furnish GSTR-3B of a tax period even if such person has not furnished GSTR-3B for one or more previous tax periods.

7. Clause 105 of the Finance Bill, 2022

Section 41. Claim of input tax credit and provisional acceptance thereof.

Existing Provision

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take 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.

(2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.

Proposed amendment

This Section has been substituted with new section

(1) 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 to his electronic credit ledger.

(2) 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.

Author's comments on proposed amendment

The proposed amendment has done 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.

Further, the proposed amendment has once again reiterated (in addition to Section 16(2)(c)), the registered person can avail the ITC only when its supplier has paid the tax to the Government otherwise it shall be required to reverse the availed ITC along with interest.

Further, if the said supplier pays the tax in the future, then the registered person can re-avail such ITC.

8. Clause 106 of the Finance Bill, 2022

Existing Provision

Section 42. Matching, reversal and reclaim of input tax credit.

Section 43. Matching, reversal and reclaim of reduction in output tax liability.

Section 43A. Procedure for furnishing return and availing input tax credit.

Proposed amendment

The above sections have been omitted.

Author's comments on proposed amendment

The two-way communication process between the supplier and recipient has been done away with the omission of above said sections as these were not relevant since the inception of GST. It is also relevant to note that section 38 has also been substituted.

9. Clause 107 of the Finance Bill, 2022

Section 47. Levy of late fee.

Existing Provision

Sub-section (1) of Section 47

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 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.

Proposed amendment

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.

Author's comments on proposed amendment

There was no relevance of levying late fee on delayed filing of returns under Section 38 as GSTR-2 was never made applicable. Now, the registered person shall also be required to pay late fee on delayed filing of return under Section 52. Earlier such registered person was subject to general penalty under section 125 only. Now in addition to the penalty such registered person shall be liable to pay late fee also.

10. Clause 108 of the Finance Bill, 2022

Section 48. Goods and services tax practitioners.
Existing provision
Sub-section (2) of Section 48
A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 and to perform such other functions in such manner as may be prescribed.
Proposed amendment
A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 and to perform such other functions in such manner as may be prescribed.
Author's comments on proposed amendment
Now that it is clear, GSTR-2 under Section 38 will never be made applicable, the reference of said Section has been removed from various provisions of the Act.

11. Clause 109 of the Finance Bill, 2022
Section 49. Payment of tax, interest, penalty and other amounts.
(a) Sub-section (2) of Section 49
Existing provision
(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41 or section 43A, to be maintained in such manner as may be prescribed.
Proposed amendment
(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41 or section 43A , to be maintained in such manner as may be prescribed.
Author's comments on proposed amendment
Since, Section 43A has been omitted, the reference of the same has been removed from various provisions of the Act.
(b) Sub-section (4) of Section 49
Existing provision
(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.
Proposed amendment
(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and

subject to such conditions and restrictions and within such time as may be prescribed.
<p>Author's comments on proposed amendment</p> <p>The proposed amendment has been made to empower the Government to also prescribe the restrictions for utilising the amount available in the electronic credit ledger.</p>
(c) Sub-section (10) of Section 49
<p>Existing provision</p> <p>(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 integrated tax, central tax, State tax, Union territory tax or cess, 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.</p>
<p>Proposed amendment - Sub-section 10 has been substituted as below:</p> <p>(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,—</p> <p>(a) integrated tax, central tax, State tax, Union territory tax or cess; or</p> <p>(b) integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25,</p> <p>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:</p> <p>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.</p>
<p>Author's comments on proposed amendment</p> <p>The proposed amendment has given relief to the taxpayers by allowing to transfer the amount available in their electronic cash ledger from one GSTIN to another GSTIN of the same PAN.</p> <p>However, such amount cannot be transferred if there is any unpaid liability in the electronic liability register of the transferor.</p>
(d) Sub-section (12) of Section 49
<p>Proposed amendment</p> <p>Sub-section 12 has been newly inserted as below:</p> <p>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.</p>
<p>Author's comments on proposed amendment</p> <p>Vide the proposed amendment, Rule 86B has been given the support of the enabling provision under the Act.</p>

12. Clause 110 of the Finance Bill, 2022
Section 50. Interest on delayed payment of tax.
Sub-Section 3 of Section 50
<p>Existing provision</p> <p>A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.</p>
<p>Proposed amendment</p> <p>Sub-section 3 of Section 50 has been <u>substituted</u> with retrospective effect from 01.07.2017</p> <p>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.</p>
<p>Author's comments on proposed amendment</p> <p>With the proposed amendment, the recommendation of the 45th GST council meeting has been enacted by the Government with retrospective effect from 01.07.2017, to provide that interest shall be leviable only when the ITC has been wrongly availed and utilised by the registered person. No interest shall be leviable if ITC has been wrongly availed but not utilised.</p>

13. Clause 111 of the Finance Bill, 2022
Proviso to Section 52(6)
<p>Existing Provision</p> <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.</p>
<p>Proposed amendment</p> <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September thirtieth day of November following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.</p>
<p>Author's comments on proposed amendment</p> <p>The due date of rectification of any omission or incorrect particulars in return filed under Section 52 has been extended to 30th November.</p>

14. Clause 112 of the Finance Bill, 2022
Existing Provision
Proviso to Section 54(1)
Provided that a registered person, claiming refund of any balance in the electronic cash ledger in

accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.

Section 54(2)

A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.

Section 54(10)

Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may-

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Proposed amendment

Proviso to Section 54(1)

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such **form and** manner as may be prescribed.

Section 54(2)

A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of ~~six months~~ **two years** from the last day of the quarter in which such supply was received.

Section 54(10)

(10) Where any refund is due ~~under sub-section (3)~~ to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may-

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Inserted

Explanation

(2) “relevant date” means-

“(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;”.

Author’s comments on proposed amendment

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.

15. Clause 113 of the Finance Bill, 2022

Section 168(2)

Existing Provision

(2) The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, section 44, sub-sections (4) and (5) of section 52, sub-section (1) of section 143, except the second proviso thereof, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

Proposed amendment

The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, ~~sub-section (2) of section 38~~, sub-section (6) of section 39, section 44, sub-sections (4) and (5) of section 52, sub-section (1) of section 143, except the second proviso thereof, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

Author’s comments on proposed amendment

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.

16. Clause 114 of the Finance Bill, 2022

Notification No. 9/2018 – Central Tax dated 23.01.2018

Proposed amendment

Amendment of notification issued under section 146 of Central Goods and Services Tax Act,

<p>retrospectively from 22.06.2017.</p> <p>(1) 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.</p> <p>(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification 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, retrospectively, at all material times.</p>
<p>Author's comments on proposed amendment</p> <p>This amendment has been made effective with effect from 22.06.2017 and not 01.07.2017 as some provisions regarding migration were made applicable with 22.06.2017. Amendment is to notify www.gst.gov.in, 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.</p> <p>Prior to the amendment, the rate as notified in the notification no. 10/2017-Union Territory Tax dated 30.06.2017 was 24%. The proposed amendment clarifies that the rate of interest under section 50(3) in respect of undue or excess claim of input tax credit, or on such undue or excess reduction, shall be eighteen percent (18%) and not twenty four percent (24%) and the same shall have a retrospective effect w.e.f. 01.07.2017. Further, for the purposes of subsection (1), the Central Government shall have and deemed to have the power to amend the notification at all times.</p>

<p>17. Clause 115 of the Finance Bill, 2022</p>
<p>Notification No. 13/2017 – Central Tax dated 28.06.2017</p>
<p>Proposed amendment</p> <p>(1) 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, issued by the Central Government on the recommendations of the Council, 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.</p> <p>(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017, retrospectively, at all material times.</p>
<p>Author's comments on proposed amendment</p>

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 subsection (3) of section 50 of the CGST Act as 18%.

18. Clause 116 of the Finance Bill, 2022

Notification 1/2017- CGST(Rate) dated 28.06.2017

Proposed amendment

(1) 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 subsection (1) of section 9 of the Central Goods and Services Tax Act, 2017, no central tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling 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).

(2) No refund shall be made of all such tax which has been collected, but which would not have been so collected, had subsection (1) been in force at all material times.

Author's comments on proposed amendment

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 of the CGST Act as 18% from 01.07.2017.

19. Clause 117 of the Finance Bill, 2022

Notification No. 25/2019-Central Tax (Rate) dated 30.09.2017

Proposed amendment

(1) 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 subsection (1) of section 9 of the Central Goods and Services Tax Act, 2017, no central tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling 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).

(2) No refund shall be made of all such tax which has been collected, but which would not have been so collected, had subsection (1) been in force at all material times.

Author's comments on proposed amendment

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. 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

20. Clause 118 of the Finance Bill, 2022

Notification no. 6/2017-Integrated Tax dated 28.06.2017

Proposed amendment

Amendment of notification issued under section 20 of 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 Central Goods and Services Tax Act, retrospectively.

- (1) 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.
- (2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017, retrospectively, at all material times.

Author's comments on proposed amendment

Prior to the amendment, the rate as notified in the notification no. 6/2017-Integrated Tax dated 28.06.2017 was ~~twenty four percent (24%)~~. The proposed amendment clarifies that the rate of interest under section 50 (3) of CGST Act, 2017 in respect of undue or excess claim of input tax credit, or on such undue or excess reduction, shall be **eighteen percent (18%)** and the same shall have a retrospective effect w.e.f. 01.07.2017. Further, for the purposes of subsection (1), the Central Government shall have and deemed to have the power to amend the notification at all times.

21. Clause 119 of the Finance Bill, 2022

Section 5(1) of the Integrated Goods and Services Tax Act, 2017 read with notification no. 1/2017 – Integrated Tax (Rate) dated 28.06.2017

Proposed amendment

Retrospective exemption from, or levy or collection of, integrated tax in certain cases.

- (1) Notwithstanding anything contained in the notification of the Government of India in the Ministry of Finance (Department of Revenue) number 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,

no integrated tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling 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).

- (2) No refund shall be made of all such tax which has been collected, but which would not have been so collected, had subsection (1) been in force at all material times.

Author's comments on proposed amendment

This clause seeks to provide retrospective exemption from, or levy or collection of, integrated taxes in respect of the supply of unintended waste generated during the production of fish meal (under heading 2301, except for fish oil, for the period 01.07.2017 to 30.09.2019 (inclusive). However, it further provides that if any tax has been collected on the abovementioned supply, then no refund shall be made of such tax so collected.

22. Clause 120 of the Finance Bill, 2022

Notification No. 24/2019- Integrated Tax (R) dated 30.09.2019

Proposed amendment

Retrospective effect to notification issued under clause (i) of section 20 if Integrated Goods and Services Tax Act read with sub-section (2) of section 7 of Central Goods and Services Tax Act.

- (1) 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. 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, shall be deemed to have, and always to have, for all purposes, come into force on and from the 1st day of July, 2017.
- (2) No refund shall be made of all such integrated tax which has been collected, but which would not have been so collected, had the notification referred to in sub-section (1) been in force at all material times.

Author's comments on proposed amendment

The proposed amendment seeks to clarify that the notification issued clause (i) of section 20 if Integrated Goods and Services Tax Act read with sub-section (2) of section 7 of Central Goods and Services Tax Act in respect of the 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. 24/2019- Integrated 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.

23. Clause 121 of the Finance Bill, 2022
Notification no. 10/2017-Union Territory Tax dated 30.06.2017
<p>Proposed amendment</p> <p>Amendment of notification issued under section 21 of 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 Central Goods and Services Tax Act, retrospectively.</p> <p>(3) 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.</p> <p>(4) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification 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, retrospectively, at all material times.</p>
<p>Author's comments on proposed amendment</p> <p>Prior to the amendment, the rate as notified in the notification no. 10/2017-Union Territory Tax dated 30.06.2017 was twenty four percent (24%). The proposed amendment clarifies that the rate of interest under section 50(3) in respect of undue or excess claim of input tax credit, or on such undue or excess reduction, shall be eighteen percent (18%) and the same shall have a retrospective effect w.e.f. 01.07.2017. Further, for the purposes of subsection (1), the Central Government shall have and deemed to have the power to amend the notification at all times.</p>

24. Clause 122 of the Finance Bill, 2022
Section 7(1) of the Union Territory Goods and Services Tax Act, 2017 read with Notification no. 1/2017 – Union Territory Tax (Rate) dated 28.06.2017
<p>Proposed amendment</p> <p>Retrospective exemption from, or levy or collection of, Union Territory tax in certain cases.</p> <p>(1) Notwithstanding anything contained in the notification of the Government of India in the Ministry of Finance (Department of Revenue) number 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 Union territory tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling 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).</p> <p>(2) No refund shall be made of all such tax which has been collected, but which would not have</p>

been so collected, had subsection (1) been in force at all material times.

Author's comments on proposed amendment

This clause seeks to provide retrospective exemption from, or levy or collection of, union territory taxes in respect of the supply of unintended waste generated during the production of fish meal (under heading 2301, except for fish oil, for the period 01.07.2017 to 30.09.2019 (inclusive)). However, it further provides that if any tax has been collected on the abovementioned supply, then no refund shall be made of such tax so collected.

25. Clause 123 of the Finance Bill, 2022

Notification No. 25/2019- Union Territory Tax (R) dated 30.09.2019

Proposed amendment

Retrospective effect to notification issued under clause (i) of section 21 if Integrated Goods and Services Tax Act read with sub-section (2) of section 7 of Central Goods and Services Tax Act.

- (1) 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. 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.
- (2) No refund shall be made of all such Union Territory tax which has been collected, but which would not have been so collected, had the notification referred to in sub-section (1) been in force at all material times.

Author's comments on proposed amendment

The proposed amendment seeks to clarify that the notification issued clause (i) of section 21 if Union Territory Goods and Services Tax Act read with sub-section (2) of section 7 of Central Goods and Services Tax Act in respect of the 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- 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.
