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CLAUSE BY CLAUSE ANALYSIS OF THE PROPOSED AMENDMENTS TO THE CENTRAL GOODS AND SERVICES TAX ACT, 2017, BY THE FINANCE BILL, 2026

PROPOSED AMENDMENTS IN THE CGST ACT, 2017

Clause no.	Section	Existing provision	Proposed amendment	Effective from	Author's comments
137	15(3)(b)	**15(3) The value of the supply shall not include any discount which is given—** (a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and **(b) after the supply has been effected**, if– (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.	**Substitution of clause (b)** "(b) **after the supply has been effected**, if for such discount, a credit note has been issued by the supplier and input tax credit as is attributable to such discount has been reversed by the recipient of the supply, in accordance with the provisions of section 34.".	Date to be notified	The proposed amendment to Section 15(3)(b) of the CGST Act changes the way post-sale discounts are treated for valuation under GST. At present, a discount given after supply can be excluded from the taxable value only if it was **agreed upon** before or at the time of supply and is **specifically linked to the relevant invoices**, apart from the condition of reversal of proportionate input tax credit. The amendment removes these conditions altogether. Under the revised provision, a post-sale discount will be excluded from the value of supply simply if the supplier issues a credit note for such discount and the recipient reverses the related ITC, in accordance with Section 34 of the Act. This amendment substantially liberalises the law relating to post-sale discounts. It allows suppliers to grant discounts even after the sale, without any pre-agreed terms or the need to link the discount to specific invoices. In practical terms, this validates common commercial practices such as year-end discounts, performance incentives, or ad-hoc rebates, which were earlier questioned by the department for not meeting the strict statutory conditions. By detaching the discount from contractual and invoice-linkage requirements, the amendment widens the scope of permissible discounts and facilitates their exclusion from

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					the taxable value, provided the credit note and ITC reversal mechanism is followed. However, this liberalisation also raises certain concerns. Since no condition now exists requiring discounts to be pre-agreed or invoice-specific, there is a possibility of misuse by artificially reducing the taxable value through post-facto credit notes. Further, Section 34 prescribes specific time limits for issuance of credit notes. In cases of regular or continuous supplies between the same supplier and buyer, it may become difficult to practically regulate or verify compliance with these time limits when discounts are not linked to particular invoices.

Clause no.	Section	Existing provision	Proposed amendment	Effective from	Author's comments
138	**34(1)**	34. (1) Where one or more tax invoices have] been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient [2][one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.	34. (1) Where one or more tax invoices have] been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, **"or where a discount referred to in clause (b) of sub-section (3) of section 15 is given"** the registered person, who has supplied such goods or services or both, may issue to the recipient [one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.	Date to be notified	The proposed amendment to Section 34(1) of the CGST Act expressly adds a new ground for issuance of a credit note, namely, **where a discount referred to in Section 15(3)(b) is given**. Under the existing provision, credit notes could be issued only in limited situations such as excess taxable value or tax charged, return of goods, or deficiency in goods or services. The amendment now clearly recognises post-supply discounts as an independent and valid reason for issuing a credit note, by directly linking Section 34 with the amended Section 15(3)(b). From a practical standpoint, the industry was already issuing credit notes under Section 34 for post-supply discounts, particularly where such discounts were pre-agreed and satisfied the conditions of the existing Section 15(3)(b).

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Clause no.	Section	Existing provision	Proposed amendment	Effective from	Author's comments
139	54(6)	(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, [9][****] in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.	(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both **"or of unutilised input tax credit allowed under clause (ii) of the first proviso to sub-section (3)"** made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, [9][****] in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.	Date to be notified	The scope of provisional refund under Section 56(6) has been expressly expanded to include refunds of unutilised input tax credit arising under clause (ii) of the first proviso to Section 54(3), i.e., accumulated ITC on account of an inverted duty structure. Prior to this amendment, the statutory facility of provisional refund of 90% was confined only to refund claims relating to zero-rated supplies. However, in practice, provisional refunds have seldom been granted even in cases of zero-rated supplies, despite the clear legislative mandate. This persistent reluctance at the field level has substantially diluted the intended benefit of Section 56(6). Recognising this gap between law and implementation, the Government recently issued **Instruction No. 06/2025-GST dated 03.10.2025**, operationalising the mechanism for grant of provisional refunds, including in cases of refunds arising from inverted duty structures, w.e.f. 01.10.2025. **The effectiveness of the present amendment will therefore depend not merely on its statutory expansion, but on its faithful and consistent implementation by the departmental authorities.**
	54(14)	(14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.	(14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6), **"other than cases where refund of tax is claimed on account of goods exported out of India with payment of tax,"** shall be paid to an	Date to be notified	This amendment is clearly export-facilitative in nature. Export of goods on payment of tax is a zero-rated supply, and denial of refund merely because the amount is small runs contrary to the core GST principle that exports should be tax-free. In practice, exporters—especially small exporters or those making frequent low-value

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			applicant, if the amount is less than one thousand rupees.		shipments—often face situations where IGST refunds fall below the ₹1,000 threshold, resulting in denial of refund despite tax having been validly paid. The amendment corrects this anomaly by recognising that **even small amounts of tax paid on exports should not be retained by the Government**, as such retention would amount to exporting taxes. At the same time, the amendment consciously limits this relaxation only to **exports of goods with payment of tax** (which are automatically processed from Customs), and not to other refund categories such as exports under LUT or inverted duty structure.

Clause no.	Section	Existing provision	Proposed amendment	Effective from	Author's comments
140	**101A**	101A. (1) The Government shall, on the recommendations of the Council, by notification, constitute, with effect from such date as may be specified therein, an Authority known as the National Appellate Authority for Advance Ruling for hearing appeals made under section 101B.	**101A.** (1) The Government shall, on the recommendations of the Council, by notification, constitute, with effect from such date as may be specified therein, an Authority known as the National Appellate Authority for Advance Ruling for hearing appeals made under section 101B. **(1A) Notwithstanding anything contained in sub-section (1), till the National Appellate Authority is constituted under that sub-section, the Government, may on the recommendations of the Council, by notification, empower any existing Authority constituted under any law for the time being in force to hear appeals made under section 101B and in such case,—**	01.04.2026	The proposed amendment inserts sub-section (1A) to Section 101A of the CGST Act to introduce a **transitional and enabling mechanism** for disposal of appeals under Section 101B in situations where the National Appellate Authority for Advance Ruling (NAAAR) has not yet been constituted. Although the statutory framework for a national-level appellate authority has existed for several years, the continued non-constitution of the NAAAR has resulted in a legal vacuum, leaving taxpayers without an effective appellate remedy against conflicting advance rulings pronounced by different State Authorities. **At the same time, it is relevant to note that the practical reliance on the advance ruling mechanism has been**

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			(a) the provisions of sub-sections (2) to (13) shall not apply; and **(b) any reference to the National Appellate Authority under this Chapter shall be construed as a reference to such Authority.** **Explanation.— For the purposes of this sub-section, the expression "existing Authority" shall include a Tribunal.".**		**steadily declining over the years** of GST implementation. Taxpayers have increasingly recognised that the AAR and AAAR, being quasi-adjudicatory bodies operating within the tax administration framework, have tended to adopt a revenue-oriented approach, often resulting in rulings that favour the department rather than providing neutral tax certainty to the applicant. In this backdrop, while the present amendment remedies a structural lacuna in the appellate framework, its real impact may remain limited unless the advance ruling mechanism as a whole evolves into a more balanced and taxpayer-trustworthy forum.

		IGST ACT, 2017			
Clause no.	**Section**	**Existing provision**	**Proposed amendment**	**Effective from**	**Author's comments**
141	**13(8)(b)**	**(8) The place of supply of the following services shall be the location of the supplier of services, namely:—** (a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders; **(b) intermediary services;** (c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month…..	**(8) The place of supply of the following services shall be the location of the supplier of services, namely:–** (a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders; ~~**(b) intermediary services;**~~*****omitted***** (c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month….	Date to be notified	The omission of clause (b) of sub-section (8) of Section 13 of the IGST Act brings to an end a long-standing and contentious special place of supply rule applicable to intermediary services. Ever since the Service Tax regime under the Place of Provision of Services Rules, 2012, intermediary services were subjected to a deeming fiction whereby the place of supply was fixed as the location of the supplier. This treatment continued under GST and resulted in persistent litigation, particularly on the threshold issue of whether a service provider qualified as an "intermediary" or as a principal service provider. Numerous writ petitions were also filed before various High Courts challenging the constitutional validity of this deeming provision on the ground that it discriminated

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					against intermediary service providers by denying them the status of export of services, despite the services being consumed outside India. **By omitting this clause, the amendment removes the discriminatory deeming fiction that treated intermediary services differently from other cross-border services**. Intermediary services will now be governed by the general place of supply rule based on the location of the recipient. Consequently, where such services are provided by an Indian intermediary to a foreign recipient and the other conditions of export of services are satisfied, they will qualify as exports and become eligible for zero-rated supply benefits under the IGST Act. **At the same time, the amendment has an important reciprocal consequence**. Foreign intermediaries providing services to Indian recipients will now be treated as supplying services with the place of supply in India, thereby qualifying as import of services. In such cases, the Indian recipient will be liable to discharge IGST under the reverse charge mechanism. Thus, while the amendment grants long-denied export benefits to Indian intermediaries, it simultaneously ensures tax neutrality by subjecting inbound intermediary services to tax in India in line with the destination-based principle.