

Amendments in CGST act 2017 by union finance act 2022

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Sections 100 to 114 of the Union Finance Act 2022 (*hereafter mentioned as FA22*) depict the amendments in the Central Goods and Services Tax Act 2017 (*hereafter mentioned as CGST*). These amendments though passed by the parliament and received the assent of the President of India shall come into force only on such date as the Central Government may by notification in the official Gazette appoint. All the amendments of CGST made in the FA22 were proposed, discussed and recommended by the constitutional body - GST council. As GST is dual in nature, simultaneous amendments are to be made in State Goods and Services Tax Act 2017(*hereafter mentioned as CGST*) in the respective state's legislature through the State Finance Act 2022.

The CGST amendments are made in the areas of input tax credit, registration, debit and credit notes, outward supplies and inward supply, levy of late fee, interest, penalty and refund of Tax. This article focuses on the tax officials, officials of state governments and local self-government, tax and legal professionals, taxpayers and students by familiarising them with the *latest amendments in CGST with supporting notes*.

1. Section 16 - Eligibility and conditions for taking input tax credit **(Section 100 of the FA22)**

Amendment

In the Central Goods and Services Tax Act, 2017 in section 16,

(a) in sub-section (2)

(i) after clause (b), the following clause shall be inserted, namely:

“(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.

Note

(a) (i) 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** (*Furnishing details of inward supply*).

(ii) Section 43A (Procedure for furnishing return and availing input tax credit) which was inserted as per section 8 of CGST (Amendment) Act 2018 but not yet notified is omitted by the amendment

(b) Sub-section (4) of section 16 of the CGST Act is being amended so as to provide for an extended time for availing input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year up to thirtieth day of November of the following financial year.

2. Section 29 Cancellation or suspension of Registration (Section 101 of the FA22)

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.

Note

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 (Composition dealer) 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.

3. Section 34 Credit and Debit Notes (Section 102 of the FA22)**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.

Note

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 up to thirtieth day of November of the following financial year

4. Section 37 – Furnishing details of outward supplies (Section 103 of the FA22)**Amendment**

In section 37 of the Central Goods and Services Tax Act,

(a) in sub-section (1),

- (i) after the words **“shall furnish, electronically,”**, the words **“subject to such conditions and restrictions and”** shall be inserted;
- (ii) for the words **“shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed”**, the words **“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”** shall be substituted;

- (iii) the first proviso shall be omitted;
 - (iv) in the second proviso, for the words “Provided further that”, the words “Provided that” shall be substituted;
 - (v) in the third proviso, for the words “**Provided also that**”, the words “**Provided further that**” shall be substituted;
- (b) sub-section (2) shall be omitted;
- (c) in sub-section (3), —
- (i) the words and figures “and which have remained unmatched under section 42 or section 43” shall be omitted;
 - (ii) in the first proviso, for the words and figures “furnishing of the return under section 39 for the month of September”, the words “the thirtieth day of November” shall be substituted;
- (d) after sub-section (3), the following sub-section shall be inserted, namely: -

“(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”.

Note

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 between supplier and recipient 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;
- (iv) provide for tax period-wise sequential filing of details of outward supplies.

5. Section 38 – Furnishing details of inward supply (Section 104 of the FA22)

Amendment

For section 38 of the Central Goods and Services Tax Act, the following section shall be substituted, namely:

“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.

(2) The auto-generated statement under sub-section (1) shall consist of—

(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, —

- (i) by any registered person within such period of taking registration as may be prescribed; or**
- (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
- (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
- (vi) by such other class of persons as may be prescribed.’

Note

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.

6. Section 39 – Furnishing of Returns (Section 105 of the FA22)

Amendment

In section 39 of the Central Goods and Services Tax Act, -

- (a) in sub-section (5), for the word “**twenty**”, the word “**thirteen**” shall be substituted;
- (b) in sub-section (7), for the first proviso, the following proviso shall be substituted, namely:

—

“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”;

(c) in sub-section (9), —

- (i) for the words and figures **“Subject to the provisions of sections 37 and 38, if”**, the word **“Where”** shall be substituted;
- (ii) in the proviso, for the words **“the due date for furnishing of return for the month of September or second quarter”**, the words **“the thirtieth day of November”** shall be substituted;

(d) in sub-section (10), for the words **“has not been furnished by him”**, the following shall be substituted, namely: —

“Or the details of outward supplies under sub-section (1) of section 37 for the said tax period 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 return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period.”.

Note

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 up to 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.

7. Section 41 – Claim of Input tax credit and provisional acceptance therefore

(Section 106 of the FA22)

Amendment

For section 41 of the Central Goods and Services Tax Act, the following section shall be substituted, namely: —

“41. (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.”.

Note

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.

8. 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 (Section 107 of the FA22)

Amendment

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

Note

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.

9. Section 47 Levy of late fee (Section 108 of the FA22)**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.

Note

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 (Collection of Tax at Source). Further, reference to section 38 is being removed consequent to the amendment in section 38 of the CGST Act

10. Section 48 – Goods and Services Tax Practitioners (Section 109 of the FA22)**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.

Note

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

11. Section 49 – Payment of tax, interest, penalty and other amounts**(Section 110 of the FA22)****Amendment**

In section 49 of the Central Goods and Services Tax Act, —

- (a) in sub-section (2), the words, figures and letter “**or section 43A**” shall be omitted;

(b) in sub-section (4), after the words “**subject to such conditions**”, the words “**and restrictions**” shall be inserted;

(c) for sub-section (10), the following sub-section shall be substituted, namely: -

“(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, -

(a) integrated tax, central tax, State tax, Union territory tax or cess; or

(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, 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:

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.”;

(d) after sub-section (11), the following sub-section shall be inserted, namely: —

“(12) 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.”.

Note

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

12. Section 50 – Interest on delayed payment of tax (Section 111 of the FA22)

Amendment

In **section 50** of the Central Goods and Services Tax Act, for sub-section (3), the following sub-section shall be 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.”.

Note

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

13. Section 52 – Collection of Tax at Source (Section 112 of the FA22)

Amendment

In **section 52** of the Central Goods and Services Tax Act, in sub-section (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.

Note

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

14. Section 54 – Refund of Tax (Section 113 of the FA22)

Amendment

In **section 54** of the Central Goods and Services Tax Act, —

(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;”.

Note

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. Section 168 - Power to issue instructions and directions (Section 114 of the FA22)

Amendment

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

Note

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.

References

Union Finance Act 2022

Central Goods & Service Tax Act 2017