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## **FINANCE BUDGET 2023-24 UPDATES RELATING TO GOODS AND SERVICES TAX**

Amendments carried out in the Finance Bill, 2023 except those in clause 142 will come into effect from the date when the same will be notified concurrently, as far as possible, with the corresponding amendments to the similar Acts passed by the States & Union territories with legislature. Amendments carried out in the Finance Bill, 2023, vide clause 142 will come into effect retrospectively from 1st July, 2017.

### **I. AMENDMENTS IN THE CGST ACT, 2017:**

<b>Sr. No.</b>	<b>Amendment</b>	<b>Clause of the Finance Bill, 2023</b>	<b>Remarks</b>
1.	Clause (d) of sub-section (2) and Clause (c) of sub-section (2A) in section 10 of the CGST Act is being amended so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy.	[128]	An restriction imposed on registered person engaged in supplying goods through electronic commerce operator from opting to pay tax under composition levy is removed. A welcome decision for small taxpayer who wish to do their business on electronic commerce operator platform.
2.	Second and third provisos to sub-section (2) of section 16 of the CGST Act are being amended to align the said sub-section with the return filing system provided in the said Act.	[129]	The amount towards value of supply shall be paid to vendor alongwith tax within one hundred and eighty days from the date of issue of invoice. In case of default, such Input tax

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			credit (ITC) was added to his output liability and interest thereon. Now, the same is amended and such ITC shall be <b>paid by him</b> alongwith interest payable under section 50 of CGST Act, 2017.
3.	<p>Explanation to sub-section (3) of section 17 of the CGST Act is being amended so as to restrict availment of input tax credit in respect of certain transactions specified in para 8(a) of Schedule III of the said Act, as may be prescribed, by including the value of such transactions in the value of exempt supply.</p> <p>Further, sub-section (5) of said section is also being amended so as to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013.</p>	[130]	<p>The value of exempt supply shall include the sale of land and construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The ambiguity about Input tax credit availed on goods and services received by a registered person, which are used for providing CSR activity is removed and such ITC mandatorily needs to be reversed under blocked credit under section 17(5) of CGST Act, 2017.</p>
4.	Sub-section (1) and sub-section (2) of section 23 of the CGST Act are being amended, with retrospective effect from 1 <sup>st</sup> July, 2017, so as to provide that persons for compulsory registration in terms of sub section (1) of section and section 22 of the Act need not register if exempt under sub section (1) of section 23.	[131]	<p>The Government has amended the clause for determine the specified category of persons whom they can exempt from obtaining registration under this act.</p> <p>The revised clause is as follows: <i>The Government may, on the recommendations of the Council, by notification, subject to such</i></p>

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			<i>conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.</i>
5.	A new sub-section (5) in section 37 of the CGST Act is being inserted so as to provide a time limit upto which the details of outward supplies under sub-section (1) of the said section for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.	[132]	The common portal would no longer allow entering the outward supplies after the expiry of a period of three years from the due date of furnishing the said details. The said decision is taken to streamline the process of availing Input tax credit vide Form GSTR-2B.
6.	A new sub-section (11) in section 39 of the CGST Act is being inserted so as to provide a time limit upto which the return for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.	[133]	The common portal would no longer allow furnishing the return for a tax period after the expiry of a period of three years from the due date of furnishing the said return.
7.	A new sub-section (2) in section 44 of the CGST Act is being inserted so as to provide a time limit upto which the annual return under sub-section (1) of the said section for a financial year can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.	[134]	The common portal would no longer allow furnishing the annual return for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return.

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8.	A new sub-section (15) in section 52 of the CGST Act is being inserted so as to provide a time limit upto which the statement under sub-section (4) of the said section for a month can be furnished by an electronic commerce operator. Further, it seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for an electronic commerce operator or a class of electronic commerce operators.	[135]	The common portal would no longer allow furnishing a statement under sub-section (4) of Section 52 of CGST Act, 2017 after the expiry of a period of three years from the due date of furnishing the said annual return.
9.	Sub-section (6) of section 54 of the CGST Act is being amended so as to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availment of selfassessed input tax credit as per sub-section (1) of section 41 of the said Act.	[136]	The GST officers can demand back the provisional sanction refund if they feel that refund is not admissible which is already provisionally sanctioned. This amendment is basically to align with the present scheme of availment of self assessed input tax credit.
10.	Section 56 of the CGST Act is being amended so as to provide for an enabling provision to prescribe manner of computation of period of delay for calculation of interest on delayed refunds.	[137]	The manner and procedures for calculating the interest on delayed refund shall be prescribed in the coming days to protect the government revenue.
11.	A new sub-section (1B) in section 122 of the CGST Act is being inserted so as to provide for penal provisions applicable to Electronic Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers.	[138]	A penal provision is added for Electronic Commerce Operators who contravene provisions relating to suppliers of goods made through them by unregistered person or composition taxpayers.

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12.	Sub-section (1) of section 132 of the CGST Act is being amended so as to decriminalize offences specified in clause (g), (j) and (k) of the said sub-section and to increase the monetary threshold for launching prosecution for the offences under the said Act from one hundred lakh rupees to two hundred lakh rupees, except for the offences related to issuance of invoices without supply of goods or services or both.	[139]	<p>This amendment decriminalizes the following offences:</p> <p>(g) obstructs or prevents any officer in the discharge of his duties under this Act;</p> <p>(j) tampers with or destroys any material evidence or documents;</p> <p>(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;</p> <p>In addition, the monetary threshold for launching prosecution for the offences under the said Act is increased to two hundred lakh rupees.</p>
13.	First proviso to sub-section (1) of section 138 of the CGST Act is being amended so as to simplify the language of clause (a), to omit clause (b) and to substitute the clause (c) of said proviso so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act. It further seeks to amend sub-section (2) so as to rationalize the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.	[140]	<p>Various clauses are amended to simplify the languages of the said section and ist also rationalize the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.</p> <p>The revised amount for compounding is “twenty-five per cent of the tax involved and the maximum amount not being more than one hundred per cent of the tax involved”.</p>

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14.	A new section 158A in the CGST Act is being inserted so as to provide for prescribing manner and conditions for sharing of the information furnished by the registered person in his return or in his application of registration or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or Eway bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified.	[141]	<p>A new section is inserted to share the information/ documents furnished by the registered person with such other systems, as may be notified.</p> <p>The purpose for the introduction of said section is to compare the data and information furnished by the registered person across different laws to identify the accuracy.</p>
15.	Schedule III of the CGST Act is being amended to give retrospective applicability to Para 7, 8 (a) and 8 (b) of the said Schedule, with effect from 1 <sup>st</sup> July, 2017, so as to treat the activities/ transactions mentioned in the said paragraphs as neither supply of goods nor supply of services. It is also being clarified that where the tax has already been paid in respect of such transactions/ activities during the period from 1 <sup>st</sup> July, 2017 to 31 <sup>st</sup> January, 2019, no refund of such tax paid shall be available.	[142]	<p>The changes as provided vide section 32 of Act 31 of 2018) have been notified with effect from 1<sup>st</sup> July, 2017.</p> <p>Further, no refund of such tax paid shall be available.</p>

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## II. AMENDMENTS IN THE IGST ACT, 2017:

Sr. No.	Amendment	Clause of the Finance Bill, 2023	Remarks
1.	<p>Clause (16) of section 2 of the IGST Act is being amended so as to revise the definition of “non-taxable online recipient” by removing the condition of receipt of online information and database access or retrieval services (OIDAR) for purposes other than commerce, industry or any other business or profession so as to provide for taxability of OIDAR service provided by any person located in nontaxable territory to an unregistered person receiving the said services and located in the taxable territory. Further, it also seeks to clarify that the persons registered solely in terms of clause (vi) of Section 24 of CGST Act shall be treated as unregistered person for the purpose of the said clause.</p> <p>Also, clause (17) of the said section is being amended to revise the definition of “online information and database access or retrieval services” to remove the condition of rendering of the said supply being essentially automated and involving minimal human intervention.</p>	[143]	The revised definition of “non-taxable online recipient is provided by this amendment so as to provide for taxability of OIDAR service provided by any person located in non-taxable territory to an unregistered person receiving the said services and located in the taxable territory
2.	Proviso to sub-section (8) of section 12 of the IGST Act is being omitted so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.	[144]	The proviso is omitted.

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