

UNION BUDGET 2023-24

GST PROPOSALS

Article No. : JS07/2022-2023 dated 02.02.2023



SERVICES | SOLUTIONS | SIMPLIFIED

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Subject matter	Significant Points				
Amendments proposed to be effective from the date to be notified					
Supplier of goods through E-commerce operator can now opt for Composition Scheme [Section 10(2)]	Composition tax payer can		Existing Provision	Proposed Provision	
	Supply goods through E-Commerce Operator		No	Yes	
	Supply services through E-Commerce Operator		No	No	
Reversal of ITC for non-payment in 180 days [2 nd Proviso to Section 16(2)]	Applicability			Where recipient fails to pay to supplier within 180 days	
	Particulars	Existing Provision		Proposed Provision	
	Relevant text of 2 nd proviso to Section 16(2)	An amount equal to the ITC availed by the recipient shall be added to his output tax liability, along with interest thereon		An amount equal to the ITC availed by the recipient shall be paid by him along with interest payable u/s 50	
	Consequence	<ul style="list-style-type: none">Reversal of ITC was required to be reported under ITC reversal in GST returns, however the provision was instructing to report the same as output tax liability.Now, provision is amended to align the same with return filing system.Benefit of interest u/s 50(3) when ITC availed but not utilised can be taken			
Amendment in Value of exempt supply for purpose of <u>Section 17(2)</u>	Value of Exempt Supply includes			Existing Provision	Proposed Provision
	Supplies on which the recipient is liable to pay tax on reverse charge basis			Yes	Yes
	Transactions in securities			Yes	Yes
	Entries of Schedule III	Sale of Land		Yes	Yes
		After BU sale of Building		Yes	Yes
		Supply of warehoused goods before clearance for home consumption		No	Yes
		Other Entries of Schedule III		No	No
Consequences: ITC pertaining to supply of warehoused goods before clearance for home consumption is now restricted and required to be reversed as per Rule 42 and Rule 43 of CGST Rules, 2017					

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ITC of CSR activities ineligible [Section 17(5)]	Existing Provision		Proposed Provision			
	○ CSR activities was not in the list of ineligible ITC ○ ITC of CSR activities was debatable and in lots of dilemma		ITC of goods or services or both used or intended to be used for corporate social responsibility activities [CSR activities] is ineligible			
Restriction in filing of GSTR-1, GSTR-3B, GSTR-8 and GSTR-9, 9A and 9B after 3 years from due date [Section 37, 39, 44 and 52]	Subject	Existing Provision	Proposed Provision			
	Time limit for late filing of GSTR-1, GSTR-3B, GSTR-8 and GSTR-9, 9A and 9B	No such restriction	GSTR-1, GSTR-3B, GSTR-9, GSTR-8 for a tax period <u>cannot be filed after 3 years</u> from respective due dates of returns			
	Example	-				
			Return	Period	Due date	Late filing allowed till
			GSTR-1	December, 2022	11.01.2023	10.01.2026
		GSTR-3B	20.01.2023		19.01.2026	
		GSTR-8		10.01.2023	09.01.2026	
		GSTR-9	2021-22	31.12.2022	30.12.2025	
Inserts penalty for offences by E-commerce Operator (ECO) [Section 122(1B)]	Offence					Penalty
	By E-commerce Operator who	Allows supply through it by an unregistered person who was required to be registered				Higher of: ₹ 10,000 + ₹ 10,000 [C+S] OR Amount of tax involved
		Allows inter-state supply through it by a person who is not eligible to make inter-state supply				
		Fails to furnish correct details in TCS return u/s 52(4) in relation to unregistered person				
Consequences: ECO is now required to be more cautious because penalty on account of default from supplier is now vested on ECO						
Amendment in punishment & prosecution for certain offences [Section 132]	Threshold limit of tax evasion for prosecution		Existing Provision		Proposed Provision	
	For fake invoice offences		1 Crore		1 Crore	
	Other offences		1 Crore		2 Crore	
Consequences: Except for fake invoices transactions, prosecution will be attracted for the amount evaded above Rs. 2 Crore in place of Rs. 1 Crore						

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Amendment in compounding of offences provision

[Section 138]

No.	Cases where compounding not possible		
	Existing provision		Proposed Provision
1	Person who has been allowed to compound once for following offences:		Person who has been allowed to compound once for following offences:
	a	Supplies without invoice or with incorrect / false invoice	a Supplies without invoice or with incorrect / false invoice
	b	Issues invoice without making any supply	b Issues invoice without making any supply
	c	Avails ITC without actual receipt of goods or services	c Avails ITC without actual receipt of goods or services
	d	Collects tax but fails to pay to Govt. beyond 3 months from due date of payment	d Collects tax but fails to pay to Govt. beyond 3 months from due date of payment
	e	Fraudulently obtains refund of tax	e Fraudulently obtains refund of tax
	f	Falsifies financial records or produces false information with intend to evade tax	f Falsifies financial records or produces false information with intend to evade tax
	l	attempts to commit, or abets any of the offences mentioned above	h Supplies, transport or stores goods which are liable for confiscation
			i Involved in supply in contravention of this Act
			l attempts to commit, or abets any of the offences mentioned above
2	Person who has been allowed to compound once for offence other than clause 1 above, in respect of supplies of value exceeding 1 crore		Person who has been allowed to compound once for offence other than clause 1 above, in respect of supplies of value exceeding 1 crore
3	Person accused of committing following offence:		Person accused of committing following offence:
	g	Obstructs any officer in discharge of his duties	g Obstructs any officer in discharge of his duties
	j	Tampers or destroys any material evidence/document	j Tampers or destroys any material evidence/document
	k	Fails to furnish or furnishes false information/document	k Fails to furnish or furnishes false information/document

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	Amount for Compounding	Existing Provision	Proposed Provision
	Minimum Limit	Higher of: 50% of tax involved; OR ₹ 10,000 + ₹ 10,000 [C+S]	25% of tax involved
	Maximum Limit	Higher of: 150% of tax involved; OR ₹ 30,000 + ₹ 30,000 [C+S]	100% of tax involved
Amendment in insertion of Entry 7, 8a and 8b [Schedule III]	Supply of	Existing Provisions	Proposed Provisions
	7. Goods from non-taxable territory to another non-taxable territory without such goods entering into India	Applicable w.e.f. 01.02.2019	Applicable w.e.f. 01.07.2017 retrospectively
	8a. Warehoused goods before clearance for home consumption		
	8b. Goods as High sea sale		
Clarification: No refund shall be available where tax has already been paid in respect of such transactions during the period 01.07.2017 to 31.01.2019			
Definition of non-taxable online recipient amended [Section 2(16) of IGST]	Particulars	Existing Provisions	Proposed Provisions
	Non-taxable online recipient means	Any Govt., local authority, governmental authority, an individual or any other person not registered and receiving online information & database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory	Any unregistered person receiving online information and database access or retrieval services located in taxable territory in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory [Meaning thereby, condition for receiving OIDAR for purpose other than business is removed so as to increase the scope of definition]
	Addition in Explanation	-	Unregistered person includes person registered solely for TDS u/s 51

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Amendment in POS of services of transportation of goods [Section 12(8) of IGST]	Nature of Supply			POS as per Existing Provision	POS as per Proposed Provision
	Services of transportation of goods incl. by courier to a place	In India	B2B	Location of Reg. person	Location of Reg. person
			B2C	Location of handing over of goods	Location of handing over of goods
		Outside India	B2B	Location of destination of goods	Location of Reg. person
			B2C	[w.e.f. 01.02.2019]	Location of handing over of goods



THANK YOU

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