



# Union Budget 2022

Curation by Mimansa Law Offices

Amendments carried out through the Finance Bill'2022 will come into effect on the date of its enactment i.e. assent by Hon'ble President (unless otherwise specified herein), concurrently with the corresponding amendments to the Acts passed by the States & Union territories with legislature.

## Proposed Amendments in the CGST Act, 2017

### A. Amendment in Section 16 (Eligibility & conditions for taking ITC)

- New restriction inserted for availing ITC through Section 16(2) (ba) - Entitlement to ITC subject to conditions inserted in Section 38. *[details discussed below]*
- Section 16(4) – Limitation to avail input tax credit in respect of any invoice/debit note pertaining to a financial year extended upto due date of filing return for 30<sup>th</sup> November of the following Financial Year from earlier 30<sup>th</sup> September.

## **B. Amendment in Section 29 (Cancellation of Registration)**

- Cancellation of registration now subject to prescribed time period to be set out through rules. (Earlier the aforesaid time period was fixed at 6 months).

## **C. Amendment in Section 34 (Credit Notes)**

- Limitation for issuing credit note in respect of supply made in a FY extended upto due date of filing return for 30<sup>th</sup> November of the Following Financial Year.

## **D Amendment in Section 37 (Outward Supplies – GSTR - 1)**

- Scheme of declaration of outward supplies amended wherein: -
  - (i) Declaration of outward supplies subject to conditions and restrictions to be prescribed through rules which may govern the manner and content of declarations;
  - (ii) Declarations through GSTR – 1 to be only communicated to recipients. Process of Acceptance of invoices revoked;
  - (iii) Limitation for rectification of errors extended upto due date of filing return for 30<sup>th</sup> November of the following financial year.
  - (iv) Tax Period wise sequential filing made mandatory. GSTR – 1 cannot be filed for a month if not filed for previous month.

## **E Amendment in Section 38 (Inward Supplies)**

- Restriction on entitlement of ITC imposed.

- Available credit to be informed to recipients through an Auto Generated Statement.
- Auto Generated Statement also to contain details of unavailable ITC restricted in following scenarios:-
  - a. Supplier not furnishing GSTR – 1 within prescribed time
  - b. Supplier has defaulted in making payment of tax for continuous period to be prescribed through Rules.
  - c. Supplier defaulted in paying tax equal to declaration in GSTR – 1.
  - d. Supplier availed excess ITC beyond prescribed limit in comparison to amount of ITC available to supplier.
  - e. Supplier has utilized wrongly availed credit to discharge his tax liability.

#### **F Amendment in Section 39 (Furnishing of Return – GSTR – 3B)**

- Provides an option to the persons furnishing return Quarterly, to pay either the self-assessed tax or an amount that may be prescribed.
- Limitation for rectification of errors in a return to be rectified in subsequent returns extended upto due date of filing return for 30<sup>th</sup> November of the following financial year,
- Filing of GSTR – 1 now mandatory for filing GSTR – 3B.

## **G Amendment in Section 41 (Availment of ITC) -**

- Provisional claim to ITC done away with. ITC to be claimed subject to Section 16 and Section 38 on self-assessment bases.
- Enforces reversal of ITC along with interest, if tax not paid by supplier.
- Reversed ITC can be reclaimed if tax subsequently paid by supplier.

## **H Omission of Section 42, 43 & 43A**

- Concept of Matching through GSTR – 2A and GSTR – 2B done away with.

## **I Amendment in Section 49 (Payment of Tax)**

- Empowers introduction of restrictions for utilizing ITC. Restrictions to be introduced through rules.
- Allows transfer of any amount available in electronic cash ledger to the electronic cash ledger of another unit in different GSTN.
- Proposes restriction on maximum proportion of output tax liability to be discharged through ITC. Restriction to be prescribed through Rules.

## **J Amendment in Section 50 (Interest)**

- Section 50(3) amended retrospectively w.e.f. 1st of July, 2017, to impose interest only when ITC wrongly availed & utilized. No interest on mere wrong availment.

*Disclaimer: The contents of this update are of general nature and should not be considered as legal advice.*