



GST Budget Analysis (2022-23)

Clause 99

Section 16(2) (ba)

Additional condition for availing ITC: The nature of ITC w.r.t. the said supply, as communicated to the registered person under section 38, has not been restricted (In nutshell, ITC is not allowed on invoices which are marked as restricted/ineligible in GSTR-2B).

Clause 100

Section 29 Cancellation of Registration

Taxpayers opting for composition scheme are required to file Return on annual basis for a complete financial year and as per the proposed amendment, **where such dealer hasn't filed the return within 3 months of due date, the department may proceed to cancel the registration** (what if the due date is extended then such extension of 3 months to be taken from which date??)

For taxpayers paying tax under the Regular Scheme, as per the current provisions, where the return has not been furnished for a continuous period of 6 months, the department has power to cancel registration. Now as per the proposed amendment, **the department may proceed to cancel the registration if the dealer has not file returns for a continuous period of time, which will be specified. (continuous period not defined)**

Clause 101

Section 34(2) has been proposed to be amended to increase the time limit for issuance of Credit Notes to 30th November of the subsequent financial year.

Clause 102

Section 37(3) has been proposed to be amended to increase the time limit for rectifying any error or omission in GSTR-1 to 30th November of the subsequent financial year.

New subsection has been inserted after sub section (3) whereby 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

Clause 103

Amendment to section 38

Section 38 of CGST Act 2017 has Been substituted whereby certain situations in which ITC shall be restricted are enumerated. A brief description of the same is given hereunder: -

- The supplier has made the supply within a specified period after obtaining registration;
- The supplier has defaulted in payment of tax for a specified period and such default has continued for specified period;
- The tax liability as per the details of outward supplies disclosed in the GSTR 1 by the Supplier exceeds the tax actually paid by him by a specified limit;

- The supplier has availed ITC in excess of what is available to him as per his GSTR 2B above a specified limit;
- The supplier has defaulted in paying tax in the proportion of ITC to cash prescribed under Section 49 (12);
- The supplier is amongst the class of persons specified.

Clause 104

Amendment to section 39(5) has been proposed whereby every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

Amendment to section 39(10) has also been proposed whereby a registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him (If GSTR-3B of a month is not filed then GSTR-3B of subsequent month shall not be allowed)

Clause 105

Section 41(1) has been proposed to be amended to delete the words on “a provisional basis” (ITC reflecting in GSTR-2B to be availed now-onwards)

Major amendment has been proposed in section 41(2) whereby the ITC availed by a registered person shall be reversed along with applicable interest if the tax payable thereon has not been paid by the supplier.

(Recipient's credit to be blocked if the supplier has defaulted in payment of the taxes)

Clause 106

Sections 42, 43 and 43A of the CGST Act has been omitted

Clause 107

Section 47 has been amended to include late fees for delay in filing TCS returns

Clause 109

Amendment to section 49

Transfer of balance in Electronic Cash Ledger to distinct person with the same PAN: A registered person may now transfer the balance available in Electronic Cash ledger of one GSTIN to any other GSTIN of distinct person provided there is no unpaid liability in the electronic liability ledger.

Restriction on utilization of ITC: New sub section (12) has been inserted wherein the Govt on the recommendations of the Council can specify such maximum portion of output tax liability under this Act or under the IGST Act which may be discharged through the electronic credit ledger by a registered person. (Rule 86B)

Clause 110

Retrospective Amendment in section 50 (w.e.f. 1/7/2017)

Where the Input Tax Credit has been wrongly availed **and** utilized the Govt has slashed the rate to 18% from the previous rate of 24%.

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