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Hon'ble Finance Minister Mrs Nirmal Sitharaman proposed many changes in the Central Goods & Service Tax Law vide Finance Bill 2022. The following important changes have been proposed vide Finance Bill 2022 which shall come into force with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

1. Changes in Goods & Service Tax Act with effect from date to be notified later after enactment of Finance Act 2022

1.1 Additional Condition for claiming ITC

- Section 16(2) of CGST Act 2017 has been proposed to be amended to provide that taxpayer will be eligible to claim ITC on supplier's invoices or debit notes only if credit in respect of such supply has not been restricted under section 38 of CGST Act 2017.
- In view of the above, section 38 of CGST Act 2017 has been proposed to be amended to provide that auto generated statement of input tax credit available to a registered person may provide auto restriction (wholly or partly) on claiming input tax credit in respect of any of following inward supply: -
 - Supply by any registered person whose details are not shown within such period of taking registration as may be prescribed; or
 - Supply 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
 - Supply any registered person, the output tax payable by whom in accordance with the GSTR-1 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
 - Supply 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) of section 38(2) of CGST Act 2017, by such limit as may be prescribed; or
 - Supply by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of section 49(12) subject to such conditions and restrictions as may be prescribed; or
 - Supply by such other class of persons as may be prescribed.
- In view of the above changes, it appears that merely reflecting credit in GSTR-2B is not sufficient for claiming input tax credit. Taxpayer also needs to ensure that input tax credit is not restricted in GSTR-2B in terms of above criteria.

1.2 Removal of concept of Provisional ITC

- Upto 31 December 2021, unmatched Input Tax Credit to the extent of 5% of matched credit in GSTR-2A/GSTR-2B can be claimed in GSTR-3B. Hence concept of provisional ITC has relevance.
- From 1 Jan 2022, credit can be availed in GSTR-3B only when the details of same is communicated to recipient in form GSTR-2B. Thus, w.e.f. 1 Jan 2022, concept of provisional ITC has not relevance.
- In view of the above, changes have been proposed in section 41 to remove the concept of provisional ITC since whatever credit which will be claimed in GSTR-3B will be final.
- Further section 41 of CGST Act 2017 is proposed to be amended to provide that input tax availed by a registered person 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. The said situation may arise when supplier furnishes the GSTR-1 but does not pay taxes through GSTR-3B.
- It is further proposed that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the recipient may re-avail the amount of credit reversed by him in such manner as may be prescribed. However there is no clarity about interest paid by recipient on ITC reversal if the tax along with interest has been paid by supplier.

1.3 Increase in time limit for availing Input Tax Credit

- Currently the last due date of availing credit in respect of an invoice or debit note pertaining to a financial year is earliest of following: -
 - Due date of filing of GSTR-3B return for the month of September of next Financial Year which is generally 20 October
 - Furnishing of relevant Annual Return
- Changes have been proposed to provide that last date of availing credit in respect of an invoice or debit note pertaining to a financial year is earliest of following: -
 - 30th November
 - Furnishing of relevant Annual Return
- As we know that input tax credit can be availed only through GSTR-3B. Hence practically it is October month GSTR-3B or any other GSTR-3B filed upto 30 November of next Financial in which we can avail credit in respect of an invoice or debit note pertaining to a financial year.

1.4 Interest only when Input Tax Credit wrongly availed and utilised

- Section 50(3) of CGST Act 2017 is proposed to be amended with retrospective effect to provide that interest will be applicable only when the input tax credit has been **wrongly availed and utilised**. Thus, if a credit has been wrongly availed but not utilised then no interest will be applicable.
- Notification No. 13/2017 – Central Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under

section 50(3) of the CGST Act as 18% from 24%. Thus, interest on wrong ITC availed and utilised will be 18% instead of 24%.

- Thus if any interest has been paid @ 24% then differential 6% can be claimed as refund.

1.5 Increase in time limit for showing Credit Notes issued by a Supplier

- Currently the benefit of Credit note issued in a particular Financial Year is allowed only when the same is shown upto GSTR-1 of September month of next Financial Year.
- Changes have been proposed to provide that benefit of credit note issued during a Financial year will be allowed if the details of the same is shown upto 30 November of next Financial year.
- Comments: - As per existing provisions, there is no specific date for showing credit note except GSTR-1 of September month of next Financial year. For e.g. as per existing provisions, credit note issued in 2022-23 can be shown upto GSTR-1 of September 2023 whether GSTR-1 of September filed upto 11 October or thereafter. As per proposed changes, specific date has been prescribed for declaring details of credit note issued during a Financial year i.e. 30 November of next Financial Year. After 30 November, GST portal will not allow to incorporate the details of credit note issued in the previous Financial year.

1.6 Increase in time limit for amending details of outward supply

- Currently the outward details of previous Financial year can be amended by earliest of following: -
 - Date of filing of GSTR-3B return for the month of September of next Financial Year which is generally 20 October
 - Furnishing of relevant Annual Return
- Changes have been proposed to provide that outward details of previous financial year can be amended by earliest of following: -
 - 30th November
 - Furnishing of relevant Annual Return

1.7 Non filing of GSTR-1 for a Tax Period if not filed for the previous tax period

- Changes have been proposed to provide that registered person shall not be allowed to furnish the details of outward supplies for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.
- Change have been proposed to provide that Government on the recommendations of 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, even if he has not furnished the details of outward supplies for one or more previous tax periods.

1.8 Increase in time limit for amending details in GSTR-3B

- As per existing provisions, any correction in GSTR-3B pertaining to previous financial year can be done by earliest of following: -

- Date of filing of GSTR-3B return for the month of September of next Financial Year which is generally 20 October
- Furnishing of relevant Annual Return
- As per proposed changes, any correction in GSTR-3B pertaining to previous financial year can be done by earliest of following: -
 - 30 November
 - Furnishing of relevant Annual Return

1.9 Increase in time limit for amending details in GSTR-8 i.e. TCS Return

- As per existing provisions, any correction in GSTR-8 pertaining to previous financial year can be done upto GSTR-8 filed for September of next Financial Year.
- As per proposed changes, any correction in GSTR-8 pertaining to previous financial year can be done by 30 November.

1.10 Change in due date of filing of GSTR-5 i.e. return for non-resident taxable person

- As per existing provisions, due date of filing GSTR-5 is earliest of following: -
 - 20 days after the end of a calendar month or
 - Seven days after the last day of the period of registration specified under section 27(1)
- As per proposed changes, due date of filing GSTR-5 is earliest of following: -
 - 13 days after the end of a calendar month or
 - Seven days after the last day of the period of registration specified under section 27(1)

1.11 Transfer of balance of Electronic Cash Ledger between distinct person

- Changes have been proposed to provide that balance in Electronic Cash Ledger pertaining to Integrated Tax or Central Tax can be transferred between distinct person i.e. different GSTIN under same PAN subject to such conditions and restrictions as may be prescribed.
- It is further proposed that no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

1.12 Increase in time limit for claiming refund by specialised agency of the United Nations etc.

- As per existing provisions i.e. section 54(2) of CGST Act 2017, specialised agency of the United Nations etc or any other person or class of persons, as notified under section 55, can make application for refund before the expiry of six months from the last day of the quarter in which such supply was received.
- Changes have been proposed to increase the time limit from six months to two years.

1.13 Increase in power of withhold of refund or deduction from refund

- As per existing provisions, proper officer can withhold refund or can make deduction from refund only if refund is due under section 54(3) i.e. refund of accumulated ITC on account of zero rated supply or inverted duty structure. Changes have been proposed to provide that proper officer can withhold refund or can make deduction from any amount which is due as refund.

1.14 Relevant date for filing refund in case of Zero-rated supply pertaining to supply made to SEZ unit or SEZ developer

- Changes have been made to provide clarity that relevant date for filing refund in case of zero-rated supply of goods or services or both to a SEZ developer/unit will be due date of furnishing GSTR-3B. This refund may be on account of accumulated ITC due to supply made under LUT or supply to SEZ developer/unit on payment of IGST.

1.15 Changes in condition of cancellation of registration by Proper Officer

- Section 29(2)(b) of CGST Act provides that a registered person, who has opted for composition scheme, if he does not file returns for three consecutive tax periods then proper officer may cancel his registration.
- The above provision has become redundant since as per existing law, composition tax payer needs to file annual return only.
- Changes have been proposed to provide that proper officer can cancel the registration if composition person fails to file annual return beyond three months from the due date of furnishing annual return i.e. 30th April of next Financial Year.
- Further as per section 29(2)(c) of CGST Act, proper officer can cancel the registration of a registered person (other than registered person who has opted for composition scheme) if he has not furnished the return for a continuous period of 6 months. Changes have been proposed to provide the said time limit separately through rules.

2. Changes in Goods & Service Tax Act with effect from the date of enactment of Finance Act 2022 i.e. date when Finance Bill 2022 receives the assent of President

- Central Tax, Union Territory Tax and Integrated Tax on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, is being exempted during the period commencing from the 1st day of July, 2017, and ending with the 30th day of September, 2019 (both days inclusive), subject to the condition that if said tax has been collected, the same would not be eligible for refund.
- Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments, has been declared as an activity or transaction which shall be treated neither as a supply of goods nor

a supply of service vide notification No. 25/2019- Central Tax (R) dated 30.09.2019, notification No. 24/2019- Integrated Tax (R) dated 30.09.2019 and notification No. 25/2019- Union Territory Tax (R) dated 30.09.2019. These notifications have been given retrospective effect from 01.07.2017. However, no refund shall be made of tax which has been collected, but which would not have been so collected, had the said notifications been in force at all material times.

- Notification No. 13/2017 – Central Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under section 50(3) of the CGST Act as 18% from 24%. Thus, interest on wrong ITC availed and utilised will be 18% instead of 24%.

Should you need any further clarifications, we will be glad to provide the assistance.

Ashish Bajaj

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