



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## GST & INDIRECT TAXES COMMITTEE

### Webinar on Budget 2022- GST & Indirect Taxes

Topic: Proposed Changes in GST by Union Budget 2022

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- ▶ 1<sup>st</sup> time Digital presentation of Budget.
- ▶ Digital Currency.
- ▶ GST 2.0 with Digital ITC.





- Amendments carried out in the Finance Bill, 2022, vide clause 99 to 113 will come into effect from a date to be notified, as far as possible, concurrently with the corresponding amendments to the similar Acts passed by the States & Union territories with legislature.
- Major amendments under CGST Act are discussed in this PPT.



# Insertion of Section 16(2)(ba) : Eligibility and Conditions for taking Input tax credit

4

Proposed Provision :-	Comment
Section 16(2)(ba) : “the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted”;	<p>Further restrictions for the availment of Input Tax Credit incorporated by inserting this section, so as to provide that input tax credit with respect to a supply may be availed only when such credit <b><u>has not been restricted in the details communicated to the registered person under section 38.</u></b></p> <p>Combined reading with Section 16(2)(aa) applicable w.e.f. 01-01-2022 gives the total effect of new restrictions on ITC: <i>(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37.</i></p>



# Omission in section 16(2)(c)

## Eligibility and Conditions for taking Input tax credit

5

Old Provision :-	Proposed Provision :-	Comment :-
<p>Subject to such provision of section 41 or <del>section 43A</del> the tax charged in respect of such supply has been actually paid to government either in cash or through utilisation of input tax credit admissible in respect of said supply and</p> <p><del>(Section 43A: Procedure for furnishing return and availing input tax credit)</del></p>	<p>Subject to such provision of section 41 the tax charged in respect of such supply has been actually paid to government either in cash or through utilisation of input tax credit admissible in respect of said supply and</p>	<p>The OLD return filling mechanism proposed while implementation of GST that is GSTR 1 before 11<sup>th</sup> , reflecting in GSTR 2A, etc before 15<sup>th</sup> has not been successful practically.</p> <p>Now due to implementation of GSTR 3B correlation with GSTR 1 and GSTR 2B mechanism, the above word deleted.</p>





# Substitution of section 16(4) Eligibility and conditions for taking input tax credit.

6

Old Provision :-	Proposed Provision :-	Comment :-
16(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the <del>due date of furnishing of the return under section 39 for the month of September following the end of financial year</del> to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier	16(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the <u>thirtieth day of November following the end of financial year</u> to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier:	Now the taxpayer would be allowed to claim input tax credit upto 30 <sup>th</sup> November of the following year instead of due date for furnishing the return for the September month i.e. 20 <sup>th</sup> Oct.  i.e. Additional period of 40 days for claiming input tax credit has been provided.



# Substitution of section 29(2)(b) Cancellation of registration

7

Old Provision :-	Proposed Provision :-	Comment :-
(b) a person paying tax under section 10 has not furnished <del>returns for three consecutive tax periods</del> ; Or	(b) a person paying tax under section 10 has not furnished <u>the return for a financial year beyond three months from the due date of furnishing the said return</u> ; or	Registration of person paying tax under composition scheme is liable to be cancelled by officer, if return for the financial year <b>i.e. GSTR 4</b> is not filled for the period three month from due date <b>i.e. 30<sup>th</sup> April of Subsequent year</b> of filling return <b>i.e. 31<sup>st</sup> July of subsequent year</b> . whereas earlier registration can be cancelled if not furnished return for three consecutive tax period.



# Substitution of section 29(2)(c) Cancellation of registration

8

Old Provision :-	Proposed Provision :-	Comment :-
c) any registered person, other than a person specified in clause (b), has not furnished returns for <del>a continuous period of six months</del> ; or	(c) any registered person, other than a person specified in clause (b), has not furnished returns for <u>such continuous tax period as may be prescribed</u> ; or	<p>The proposed substitution is incorporated to do away with the condition of non-filing of return for continuous period of six months. This means that now even non-filing of returns for a lesser period can lead to invocation of cancellation power by the Proper officer.</p> <p>Further it is expected that prescribed period will be incorporated by way of CGST rules.</p>





# Substitution of section 34(2) : Credit and Debit Note

9

Old Provision :-	Proposed Provision :-	Comment :-
(2) Any registered person who issues a <b>credit note</b> in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than <b><i>September</i></b> following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:	(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than the <b><i><u>thirtieth day of November</u></i></b> following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:	The proposed substitution is incorporated for considering inspite of the September month of subsequent year for issuance of Credit Note, 30th November of the subsequent year.



# Substitution of section 37(1) Furnishing details of outward supplies- GSTR1

10

Old Provision :-	Proposed Provision :-	Comment :-
<p>(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, <del>shall furnish, electronically</del>, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details <del>shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed.</del></p>	<p>(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, <u>subject to such conditions and restrictions</u> and, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details <u>shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies.</u></p>	<p>Mere filling of GSTR 1 may not be the condition to reflect it in GSTR 2B.</p> <p><b>Further may impose more conditions and restrictions through CGST rule.</b></p> <p><b>GSTR1 is the most important document now in GST.</b></p>



# Omission of Proviso to section 37(1) Furnishing details of outward supplies

11

Old Provision :-	Proposed Provision :-	Comment :-
<del>Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period.</del>	Omitted.	<p>In absence of the old (Matching, Mismatching etc.) return filling system, these provisions were anyways redundant, hence proposed to omitted.</p> <p><b>GSTR 1 filled before 11<sup>th</sup> may be reflected in GSTR 2B of the same month. Thereafter filled may be reflected in GSTR 2B of subsequent month.</b></p>



# Substitution of Proviso to section 37(1) Furnishing details of outward supplies

12

Old Provision :-	Proposed Provision :-	Comment :-
<p><b><del>Provided further that</del></b> the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein.</p>	<p><b><u>Provided that</u></b> the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:</p>	<p>Second Proviso is now made as First Proviso.</p>



# Substitution of Proviso to section 37(1) Furnishing details of outward supplies

13

Old Provision :-	Proposed Provision :-	Comment :-
<b><del>Provided also that</del></b> any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.	<b><u>Provided further that</u></b> any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.	Third Proviso is now made as Second Proviso.



# Omission of section 37(2) Furnishing details of outward supplies

14

Old Provision :-	Proposed Provision :-	Comment :-
<p><del>(2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.</del></p>	<p>Omitted.</p>	<p>In absence of the old (Matching, Mismatching etc.) return filling system, these provisions were anyways redundant, hence proposed to be omitted.</p>





# Substitution of section 37(3) Furnishing details of outward supplies

15

Old Provision :-	Proposed Provision :-	Comment :-
(3) Any registered person, who has furnished the details under sub-section (1) for any tax period and <del>which have remained unmatched under section 42 or section 43</del> , shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:	Any registered person, who has furnished the details under sub-section (1) for any tax period shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:	In absence of the old (Matching, Mismatching etc.) return filling system, these provisions were anyways redundant, <i>hence proposed to be omitted matching.</i>



# Substitution of section 37(3) Furnishing details of outward supplies

16

Old Provision :-	Proposed Provision :-	Comment :-
(3) Provided that no rectification of error or omission in respect of the details furnished under sub section (1) shall be allowed after <del><i>furnishing of the return under section 39 for the month of September</i></del> following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.	(3) Provided that no rectification of error or omission in respect of the details furnished under sub section (1) shall be allowed after the <u><i>thirtieth day of November</i></u> following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.	Now any rectification of error or omission in GSTR 1 will be allowed till 30 <sup>th</sup> November of the subsequent year.



# Insertion of section 37(4) Furnishing details of outward supplies

17

Old Provision :-	Proposed Provision :-	Comment :-
NA.	<p>“(4) A registered person shall not be allowed to furnish the details of outward supplies under <u>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:</u></p> <p>Provided that the Government may, on the recommendations of the 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 under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods.”</p>	<p>Insertion of sub-section (4) clarifies that any non submission of statement of outward supply for a tax period will restrict the filling of said statement for subsequent period except where it is notified by the government on the recommendation of council.</p>



# Substitution of section 38

## Communication of details of inward supplies & input tax credit

18

Old Provision :-	Proposed Provision :-	Comment :-
<p>Entire section has been substituted.</p> <p><b><i><del>Furnishing details of inward supplies</del></i></b></p>	<p>38(1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an auto generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.</p>	<ul style="list-style-type: none"><li>• The heading of this section has been changed from “Furnishing details of inward supplies” to “Communication of details of inward supplies and input tax credit” i.e. now the department has done away with the requirement of filing of statement of inward supplies.</li><li>• The substituted provision provides for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.</li><li>• Rules for the same are awaited.</li></ul>



# Substitution of section 38

## Communication of details of inward supplies & input tax credit

19

Old Provision :-	Proposed Provision :-	Comment :-
Entire section has been substituted.	<p>38(2) The auto-generated statement under sub-section (1) shall <b>consist of</b>—</p> <p>(a) details of inward supplies in respect of which credit of <b>input tax may be available</b> to the recipient; and</p> <p>(b) details of supplies in respect of which such credit <b>cannot be availed</b>, whether wholly or partly, by the recipient, <b>on account</b> of the details of the said supplies being furnished under sub-section (1) of section 37,—</p> <p>(i) by any registered person <b>within such period of taking registration</b> as may be prescribed; or</p> <p>(ii) by any registered person, who has <b>defaulted in payment of tax and where such default has continued for such period</b> as may be prescribed; or</p>	<p>Section 38(2) as proposed to substituted it appears that it is to restrict the ITC availment to the recipient through the auto generated statement which will contain the details of:</p> <p>(i) inward supplies – ITC available to recipient,</p> <p>(ii) inward supplies – ITC not available, wholly or partially, on account of the circumstances/ situations.</p> <p>Further it appears that this auto generated statement will become the main document (GSTR 2B) relied upon by the tax officers for allowing or disallowing the ITC.</p>



# Substitution of section 38

## Communication of details of inward supplies & input tax credit

20

Old Provision :-	Proposed Provision :-	Comment :-
Entire section has been substituted.	<p>(iii) by any registered person, the <b>output tax payable</b> by whom in accordance with the <b>statement of outward supplies furnished</b> by him under the said subsection during such period, as may be prescribed, <b>exceeds the output tax paid</b> by him during the said period by such limit as may be prescribed; or</p> <p>(iv) by any registered person who, during such period as may be prescribed, has <b>availed credit of input tax</b> of an amount that <b>exceeds the credit</b> that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or</p> <p>(v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or</p> <p>(vi) by such other class of persons as may be prescribed.”</p>	This is going to be a very tough for the recipient as no machinery is provided to him in case of default by the supplier.





# Substitution of section 39(5) Furnishing of returns- GSTR 3B

21

Old Provision :-	Proposed Provision :-	Comment :-
(5) Every registered <b>non-resident taxable person</b> shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within <del>twenty</del> 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.	((5) 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 <u>thirteen</u> 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.	The proposed substitution is for considering inspite of the twenty, thirteen as due date for filling return by non resident taxable person.



# Substitution of Proviso to Section 39(7) Furnishing of return- GSTR 3B

22

Old Provision :-	Proposed Provision :-	Comment :-
(7) Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:	(7) Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed, (a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or <u><i>(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be Prescribed.</i></u>	The proposed substitution is for providing the option to pay the tax by the regular taxpayer on :  1) Self assessment basis or 2) Amount as may be prescribed.



# Substitution of section 39(9) Furnishing of return

23

Old Provision :-	Proposed Provision :-	Comment :-
(9) <del>Subject to the provisions of sections 37 and 38</del> , if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in such form and manner as may be prescribed, subject to payment of interest under this Act:	(9) <u>Where</u> any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in such form and manner as may be prescribed, subject to payment of interest under this Act:	By the proposed substitution there is no requirement to consider the provisions of Section 37 and 38 for any rectification to be done by the registered person.



# Substitution of proviso to section 39(9) Furnishing of return : GSTR 3B

24

Old Provision :-	Proposed Provision :-	Comment :-
Provided that no such rectification of any omission or incorrect particulars shall be allowed after the <del><i>due date for furnishing of return for the month of September or second quarter</i></del> following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier.	Provided that no such rectification of any omission or incorrect particulars shall be allowed after <u><i>the thirtieth day of November</i></u> following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier.	The proposed substitution is for increasing the time limit for rectifying the any error or omission in the return from due date for furnishing of return for the month of September or second quarter following the end of the financial year to the thirtieth day of November.



# Substitution of section 39(10)

## Furnishing of return

25

Old Provision :-	Proposed Provision :-	Comment :-
(10) 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 <del>has not been furnished by him.</del>	(10) 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 <u>or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him:</u> <u>Provided that the Government may, on the recommendations of the 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 return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under subsection (1) of section 37 for the said tax period.</u>	Outward supply return i.e. GSTR 1 as the most important compliance, they have proposed to amend Section 39(10) in a way that now even non-filing of statement of outward supplies for the concerned tax period i.e. GSTR 1 can act as an restriction in furnishing the return under Section 39 i.e. GSTR 3B except where the relaxation is given by way of Notification.



# Substitution of Section 41 Availment of Input Tax Credit

26

Old Provision :-	Proposed Provision :-	Comment :-
<p>(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.</p> <p><del>(2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said subsection.</del></p>	<p>(1) <u>No change.</u></p> <p>(2) <u><b>The credit of input tax availed by a registered person under sub-section (1) 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:</b></u> <u><b>Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.</b></u></p>	<ul style="list-style-type: none"><li>• Change in heading from “Claim of Input Tax Credit and Provisional Acceptance thereof” to “Availment of Input Tax Credit” i.e. ITC which was taken on provisional basis now will be considered as final ITC.</li><li>• Further Section 41(2) requires the taxpayer to identify (as per GSTR 2B) and the reverse the ITC for which outward tax not paid by the supplier along with the interest.</li><li>• Provided such reversed ITC can be reavailed by the recipient on the payment of the same by the supplier.</li><li>• <b>This is continues process to be done while filling monthly returns. Previous month ITC availment and reversal reconciliation will be key.</b></li></ul>





# Omission of section 42/43/43A

27

Old Provision :-	Proposed Provision :-	Comment :-
<p><del>Entire section has been Omitted.</del></p> <p><del>Section 42: Matching, reversal and reclaim of input tax credit</del></p> <p><del>Section 43: Matching, reversal and reclaim of reduction in output tax liability</del></p> <p><del>Section 43A: Procedure for furnishing return and availing input tax credit</del></p>	Omitted.	<p>Since the mechanism of filling return bought originally in July 2017 is redundant, the relevant section also proposed to be omitted from the act.</p> <p>Section are being omitted so as to do away with two-way communication process in return filing.</p> <p>New section 16(2)(aa), 16(2)(ba), 37, 38, 39 41 are the new mechanism of return filling.</p>



# Amendment of section 47(1)

## Levy of late fee

28

Old Provision :-	Proposed Provision :-	Comment :-
(1) Any registered person who fails to furnish the details of outward or <i>inward</i> supplies required under section 37 <del>or section 38</del> or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees	(1) Any registered person who fails to furnish the details of outward supplies required under section 37 or returns required under section 39 or section 45 or <u>section 52</u> by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.	<p>Section 47 is being proposed to be amended so as to provide for <b>levy of late fee for delayed filing of return under section 52 i.e. Tax collected at source.</b></p> <p>Further reference to Section 38 is excluded for levy of late fee consequent to amendment in section 38 as heading for the same</p>



# Amendment to section 48(2)

## Goods and services tax practitioners

29

Old Provision : -	Proposed Provision :-	Comment :-
(2) A Registered person may authorize an approved goods and service tax practitioner to furnish details of outward supply under section 37 and details of inward supply under <del>section 38</del> or section 44 and section 45 and to perform such other function in such other function as may be prescribed.	(2) A Registered person may authorize an approved goods and service tax practitioner to furnish details of outward supply under section 37 and details of inward supply under or section 44 and section 45 and to perform such other function in such other function as may be prescribed.	By virtue of this amendment, government has omitted the words – <b>“the details of inward supplies</b> under section 38” which is quite obvious as now the possibility of GSTR-2 is ruled out.



# Amendment of section 49(2)

## Payment of tax, interest, penalty and other amounts

30

Old Provision :-	Proposed Provision :-	Comment :-
2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41 <del>or section 43A</del> , to be maintained in such manner as may be prescribed.	(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.	Section 49(2) is being proposed to be amended so as to remove reference to Section 43A consequent to omission of section 43A.



# Substitution of section 49(10)

## Payment of tax, interest, penalty and other amounts

31

Old Provision :-	Proposed Provision :-	Comment :-
<p>(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.</p>	<p>(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for,</p> <p>(a) integrated tax, central tax, State tax, Union territory tax or cess; or</p> <p>(b) <b><u>integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, subsection (5) of section 25,</u></b></p> <p>in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act: <b><u>Provided that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.</u></b></p>	<p>Before the proposed amendment transfer of balance in electronic cash ledger from one head to another head allowed but now transfer of balance is allowed in even in case of distinct person in case of section 25(4)/25(5).</p> <p>Such transfer shall be treated as refund of balance available in cash ledger.</p> <p>However, taxpayer willing to transfer amount will not be allowed if he has unpaid liability in his electronic credit ledger.</p>



# Insertion of section 49(12) Payment of tax, interest, penalty and other amounts

32

Old Provision :-	Proposed Provision :-	Comment :-
NA	12) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such <u><i>maximum proportion of output tax liability</i></u> under this Act or under the Integrated Goods and Services Tax Act, 2017 which <u><i>may be discharged through the electronic credit ledger</i></u> by a registered person or a class of registered persons, as may be prescribed.	<p>Proposed insertion is to provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.</p> <p><b>Rules are awaited.</b></p> <p><b>Question arises here is how a valid and a eligible ITC lying in Electronic Credit Ledger can be stopped from being utilised for discharging the output tax liability ?</b></p>





# Substitution of section 50(3) Interest on delayed payment

33

Old Provision :-	Proposed Provision :-	Comment :-
<p>(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent, as may be notified by the Government on the recommendations of the Council.</p>	<p>3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay <u>interest</u> on such <u>input tax credit wrongly availed and utilised</u>, at such <u>rate not exceeding twenty-four per cent</u>, as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed</p>	<p>Section 50(3) is proposed to be substituted <b>retrospectively, with effect from the 1st July 2017.</b></p> <p>It provide for levy of interest at <b>24%</b> on input tax credit <u>only</u> in case of wrongly availed <u>and</u> utilized.</p>



# Substitution of section 52(6) Collection of tax at source

34

Old Provision :-	Proposed Provision :-	Comment :-
<p>(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub section (1) of section 50:</p> <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the <b><u>due date for furnishing of statement for the month of September</u></b> following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.</p>	<p>6) No Change</p> <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the <b><u>thirtieth day of November</u></b> following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.</p>	<p><b>The proposed amendment is to provide that if any error or omission has been identified in the return furnished under section 52 .i.e. TCS can be rectified till 30<sup>th</sup> November of subsequent year instead of due date for furnishing return for the month of September.</b></p>



# Substitution of section 54(1)

## Refund of tax

35

Old Provision :-	Proposed Provision :-	Comment :-
<p>(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:</p> <p>Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in <u><b>the return furnished under section 39 in such</b></u> manner as may be prescribed.</p>	<p>(1) No change</p> <p>Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in <u><b>such form and manner</b></u> as may be prescribed.</p>	<p>Since there is no coloum or heading in GSTR 3B where for claiming refund of balance available in GSTR 3B the words return u/s 39 proposed to be substituted.</p> <p><b>Balance available in cash ledger can be claimed in form and manner specified i.e. RFD-01.</b></p>



# Substitution of section 54(2)

## Refund of tax

36

Old Provision :-	Proposed Provision :-	Comment :-
(2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of <del>six months</del> from the last day of the quarter in which such supply was received.	(2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of <u>two years</u> from the last day of the quarter in which such supply was received.	<b>Time limit has been proposed to be changed from Six months to Two years for claiming refund of tax paid on inward supplies in case of UNO, foreign embassy etc.</b>



# Amendment of section 54(10)

## Refund of tax

37

Old Provision :-	Proposed Provision :-	Comment :-
(10) Where any refund is <u><b>due under sub section (3)</b></u> to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may.	(10) Where any refund is <u><b>due to</b></u> a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may.	Proposed amendment by way of deletion of the word u/s 54(3) i.e. <b>refund of utilised tax credit</b> extended the power of officer <b>to hold the refund in all the cases instead of earlier only in case of sub section (3).</b>



# Insertion of Explanation to section 54

## Refund of tax

38

Old Provision :-	Proposed Provision :-	Comment :-
NA	(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies	Proposed to be inserted for providing <b>clarification that due date for furnishing return under section 39 will be considered as the relevant date for claim of refund in case of SEZ unit / Developer.</b>





# Amendment to section 168

## Power to issue instruction or directions

39

Old Provision :-	Proposed Provision :-	Comment :-
(2) The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, <u><del>sub-section (2) of section 38</del></u> , sub-section (6) of section 39, section 44, sub-sections (4) and (5) of section 52, sub-section (1) of section 143, except the second proviso thereof, clause (1) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.	(2) The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub section (6) of section 39, section 44, sub-sections (4) and (5) of section 52, sub-section (1) of section 143, except the second proviso thereof], clause (1) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.	Proposed to remove reference to section 38(2) as entire section has been substituted by Finance act, 2022.



# Summary : Journey of ITC

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Date	Section	Comments
01-07-2017	Section 16	Seamless ITC
01-10-2019	Rule 36(4)	120% of GSTR 2A.
01-01-2020	Rule 36(4)	110% of GSTR 2A
01-01-2021	Rule 36(4)	105% of GSTR 2B
01-01-2022	Section 16(2)(aa)	As per GSTR 2B
Proposed date	Section 16(2)(ba) r.w. Section 38 & 41	As per GSTR 2B with restrictions and conditions.

# Thank You



**For any Clarification, Please Contact**

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