

All India Chartered Accountants Society (AICAS)

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India International Centre

CA Profession: Opportunities & Challenges

**Union Budget 2023**

**Indirect Tax & Other Proposals**

Presented By

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# Composition Levy

- Supplier supplying goods through Electronic Commerce Operators, who is required to collect tax at source under section 52, can now opt for Composition Levy.
- Section 10(2)(d) and 10(2A)(c) amended to remove the words “goods or”.
- Restriction on supplier of service is still applicable

# Payment ITC & interest on non-payment within 180Days

- ITC availed on Inward Supplies for which Invoice value is not paid within 180 day by the recipient shall be paid along with interest payable u/s 50 of the CGST Act, 2017.
- 2<sup>nd</sup> & 3<sup>rd</sup> Provisos to Section 16(2) amended
- Earlier it was required to be added to the output tax liability, but the GSTR-3B was not inline with the provision, now the provision has been made in line with GSTR-3B.

# Exempt Supply

- Value of High Seas Sales is now included in ‘Exempt Supply’, for the purpose of reversal of ITC u/s 17(2) read with Rule 42 & 43
- Explanation to Section 17(3) amended
- Now, “Value of Exempt supply” shall not include the value of activities and transaction specified under Schedule III except:
  - Para 5 : Sale of Land & Completed Building
  - Para 8(a): High Seas Sales

# ITC on CSR Expenditure

- ITC paid on CSR Expenses not allowed
- New Clause (fa) inserted in Section 17(5) as under;

*“(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013”*

# Persons not liable for Registration

- Section 23 is now applicable notwithstanding anything contrary contained in Section 22(1) or 24
- New Section 23 substituted w. e. f. 01.07.2017
- Person engaged exclusively in making supplies 'not liable to tax' or 'wholly exempt' is not required to take registration.

# Time Limit for GSTR-1

- New sub-section (5) inserted in section 37:  
*“A registered person shall not be allowed to furnish the details of outward supplies under sub-section (10 for a tax period after the expiry of a period of 3 years from the due date of furnishing the said details.”*
- Whether the GSTR-1 can be amended to provide additional supply up to 3 years or the provision is only for furnishing GSTR-1 up to 3 years if not filed earlier.
- Extension can be provided subject to certain conditions and restrictions.

# Time Limit for GSTR-3B

- New sub-section (11) inserted in section 39:  
*“A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of 3 years from the due date of furnishing the said return.”*
- Extension can be provided subject to certain conditions and restrictions.



# Time Limit for GSTR-9

- New sub-section (2) inserted in section 44:  
*“A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of 3 years from the due date of furnishing the said annual return.”*
- Extension can be provided subject to certain conditions and restrictions.

# Time Limit for TCS Statement

- New sub-section (15) inserted in section 52:  
*“The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of 3 years from the due date of furnishing the said statement.”*
- Extension can be provided subject to certain conditions and restrictions.

# Refund under section 54

- Refund ITC against Zero Rated Supplies under section 54(6) is allowed for ITC availed on self assessment basis.
- The word “excluding the amount of input tax credit provisionally accepted” is removed from section 54(6)
- Eligible ITC was allowed on self assessment basis after Section 41 was substituted w. e. f. 01.10.2022

# Interest on Delayed Payment of Refund

- Interest on tax ordered to be refunded will be allowed for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax.
- Section 56 of CGST Act, 2017 amended accordingly.

# Penalty provisions for E-Commerce Operators

- New Sub-Section (1B) inserted in Section 122
  - An E-Commerce Operator who-
    - Allows supply by unregistered person excepted where ever permitted
    - Allows inter-State supplies by a person who is not eligible
    - Fails to furnish correct TCS Statement u/s 52(4)
- Penalty Rs. 10,000/- or amount equal to tax, whichever is higher.

# Decriminalization of Offences u/s 132

- Following offence clauses omitted:
  - (g) obstructs or prevents any officer in the discharge of his duties under this Act,
  - (j) tampers with or destroys any material evidence or documents
  - (k) fails to supply any information which he is required to supply under this Act or the rules made there under or ... supplies false information.
- Clause (g), (j) & (k) also omitted from clause (l) which presently state as under:
  - *(l) attempts to commit or abets the commission of the offences under (a) to (k)*

# Decriminalization of Offences u/s 132

- Imprisonment and fine for tax evasion exceeding Rs. 1 Crore to Rs. 2 Crore under Clause (iii) is not applicable except for offence under 132(1)(b), i.e.
- *“132(1)(b) issue any invoice or bill without supply of goods or services or both in violation of the provision Act or rules made there under leading to wrongful availment or utilisation of input tax credit or refund of tax.”*
- *So, except for clause 132(1)(b) no imprisonment for tax evasion up to Rs. 2 Crore.*

# No Compounding for issuance of Bogus Invoices

- Clause (c) of Section 138(1) substituted and other clauses rationalised.
- Now, person relating to offences relating to issuance of invoices without supply of goods or services or both from option of compounding.



# New Compounding Amount

- Minimum 25% of the Tax involved, and
- The maximum amount not being more than 100% of the Tax involved
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# Sharing of Information

- New Section 158A empower the Common Portal to share the following information to other systems notified by the Govt.:
    - Registration Particulars
    - GSTR-3B and GSTR-9 particulars
    - GSTR-1, Invoices and E-way Bill particulars
    - Other Particulars as may be prescribed
- Consent of supplier and recipient to be obtained in prescribed manner.

# Para 7, 8(a) & (b) of Schedule III

- Para 7, 8(a) & (b) of Schedule III made effective from 01.07.2017
- 7. Supply of goods from a place in the non-taxable territory to another place the non-taxable territory without such goods entering into India.
- 8(a). Supply of warehouse goods to any person before clearance for home consumption – High Sea Sales
- 8(b). High Sea Sales by Endorsement of documents.
- No refund if tax already paid.

# Non-Taxable Online Recipient

- Definition of “non-taxable online recipient” (NTOR) u/s 2(16) of IGST Act, 2017 amended to provide for taxability of OIDAR Services provided by any person located in non-taxable territory to an unregistered person receiving the said services and located in the taxable territory.
- Now supplier of OIDAR services to NTOR is liable to pay tax.
- Person who are required to deduct tax under section 51 and registered for this purpose only are included in above definition.

# Proviso to Section 12(8) of IGST Act Deleted

(8) The place of supply of services by way of transportation of goods, including by mail or courier to,—

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation:<sup>24</sup>

***[Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.]***

# Thanks

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