

## Amendments to the GST legislation effective October 01, 2022

The CBIC has notified<sup>1</sup> October 01, 2022 as the date for bringing into effect numerous amendments made to the Central Goods and Services Act, 2017 ('the Act') vide Finance Act, 2022. Consequential amendments to the Central Goods and Services Tax Rules, 2017 ('the Rules') have also been notified<sup>2</sup> and made effective from October 01, 2022. The key amendments are summarised below:

### Extension of Timelines

The following statutory timelines have been extended from the due date for filing returns for September of the following year to 30<sup>th</sup> November of the following fiscal year:

- Availment of Input Tax Credit ('ITC') (under section 16(4) of the Act).
- Disclosing details of credit notes (under section 34(2) of the Act).
- Rectification of errors and omissions disclosed in the GST returns filed in Form GSTR – 1, Form GSTR 3B and TCS returns filed (first proviso to section 37(3) of the Act, first proviso to section 39(9) of the Act and first proviso to section 52(6) of the Act respectively).

<sup>1</sup> Notification No. 18/2022–Central Tax dated September 28, 2022

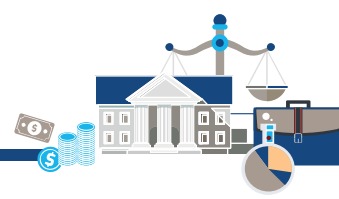
<sup>2</sup> Notification No. 19/2022–Central Tax dated September 28, 2022

### Return Obligation

- A taxpayer will not be able to furnish the details of outward supplies and Form GSTR-3B for a tax period, if Form GSTR-1 for any of the previous tax periods has not been filed. Certain registered persons may be exempt from this restriction as may be notified (under section 37(4) of the Act).
- Non-resident taxable persons are required to furnish their monthly returns by 13<sup>th</sup> of the subsequent month.
- Quarterly return filers will now have the option to either pay self-assessed tax or an amount determined in the manner prescribed (u/s 39(1) and (7) of the Act).
- E-commerce operators will be liable to pay late fee for delayed filing of returns for TCS.

### Input Tax Credit

- In accordance with the new condition, ITC cannot be availed if it is restricted in Form GSTR 2A/2B (under section 16(2)(ba) of the Act).
- A statement in Form GSTR-2B will be automatically generated. The auto-generated statement will



include the details of inward supplies including information on various criteria for availment of ITC and will communicate whether ITC can be availed by the recipient. Based on this report the recipient will be able to avail ITC (under section 38 of the Act).

- The provision stating that credit shall be utilised only for payment of self-assessed output tax as per the return has also been done away with.
- Where the supplier has not paid the tax, the recipient is required to reverse the ITC with applicable interest. The ITC availed can be re-availed as and when the supplier of goods/ services pays the tax due (under section 41 of the Act).
- New rules have been introduced to empower the Government to prescribe restrictions with respect to utilisation of electronic credit ledger and impose limits for utilisation of ITC to discharge output tax liability (under rule 86A and 86B of the Rules).
- The initial concept of availment of ITC on the matching concept, based on cross verification of data disclosed in Form GSTR - 1, 2 and 3 is deleted (under section 41 of the Act).
- The provision for reversal of credit has been amended to make registered persons pay an amount equal to ITC availed in the case value of supply and tax (invoice value) is not paid to the vendor (under section 41 of the Act).

## Cancellation of Registration

In the following scenarios where the registered person fails to file their returns, the registration becomes liable to be cancelled:

- Registered persons under the composition scheme who has not filed their returns for three months beyond the due date (u/s 29(2)(b) of the Act).
- Registered persons not under the composition scheme, where: (under section 29(2)(b) of the Act read with rule 21(g) of the Rules)
  - Monthly returns are not filed for six months
  - Quarterly returns are not filed for two quarters

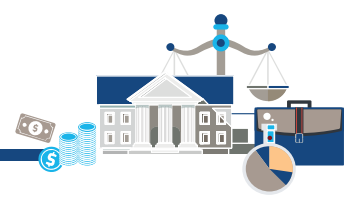
## Refund

- Now, a refund application for balance in electronic cash ledger can be filed through Form GST-RFD-01, instead of through the Form GSTR -3B return.
- The time limit for filling for a refund of GST paid on inward supplies by a specialised agency of the United Nations Organisation, Consulate, Embassy of foreign countries etc. is increased from 18 months to two years from the last day of the quarter in which such supply was received (under section 55 of the Act).
- The relevant date for filing a refund claim in respect of supplies made to Special Economic Zone (SEZ) units/developers shall be the due date of filing Form GSTR-3B for such supplies.
- Restrictions with respect to withholding of refund or adjustment of unpaid tax from refunds due for all types of refund claims, currently applicable only to refund claims on accounts of zero-rated supplies and inverted duty structure, can now be extended to refunds in other scenarios as well (under section 54(10) of Act).
- The “relevant date” for filing a refund claim with respect to supplies made to SEZ units/developers shall be the due date of filing Form GSTR-3B for such supplies.

## Dhruva Comments:

The amendments have been made to ensure smoother compliances and should facilitate the overall process.

Few questions like applicability to FY 2021-22 for the timeline extensions, when the ITC is re-credited will the corresponding interest also be re-credited or will it be imposed for the period of default etc. needs deliberation.





## ADDRESSES

### Mumbai

1101, One World Centre,  
11th floor, Tower 2B, 841,  
Senapati Bapat Marg,  
Elphinstone Road (West),  
Mumbai 400013  
Tel: +91 22 6108 1000 / 1900

### Ahmedabad

B3, 3rd Floor, Safal Profitaire,  
Near Auda Garden,  
Prahlanagar, Corporate Road,  
Ahmedabad - 380015  
Tel: +91-79-6134 3434

### Bengaluru

Prestige Terraces, 2nd Floor  
Union Street, Infantry Road,  
Bengaluru 560001  
Tel: +91-80-4660 2500

### Delhi / NCR

101 & 102, 1st Floor, Tower 4B  
DLF Corporate Park  
M G Road, Gurgaon  
Haryana - 122002  
Tel: +91-124-668 7000

### Pune

305, Pride Gateway, Near D-Mart, Baner,  
Pune - 411045  
Tel: +91-20-6730 1000

### Kolkata

4th Floor, Unit No 403, Camac Square,  
24 Camac Street, Kolkata  
West Bengal – 700016  
Tel: +91-33-66371000

### Singapore

Dhruva Advisors (Singapore) Pte. Ltd.  
20 Collyer Quay, #11-05  
Singapore 049319  
Tel: +65 9105 3645

### Dubai

WTS Dhruva Consultants  
U-Bora Tower 2, 11th Floor, Office 1101  
Business Bay P.O. Box 127165  
Dubai, UAE  
Tel: + 971 56 900 5849

## KEY CONTACTS

### Dinesh Kanabar

Chief Executive Officer  
dinesh.kanabar@dhruvaadvisors.com

### Niraj Bagri

niraj.bagri@dhruvaadvisors.com

### Ranjeet Mahtani

ranjeet.mahtani@dhruvaadvisors.com

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