



A2Z TAXCORP LLP

Tax and Law Practitioners

Key Highlights of Union Budget 2023

Changes under GST



GST

GST has been a landmark reform of Independent India showcasing the spirit of Cooperative Federalism. While aspirations were high, there were huge challenges too. These challenges were overcome deftly and painstakingly under the guidance and oversight of the GST Council. The right balance between facilitation and enforcement has engendered significantly better compliance.

There are certain changes proposed in the CGST Act & IGST Act in the Finance Bill, 2023, on the basis of recommendations made by the GST Council. These changes broadly relate to facilitation/simplification and improving compliances. These changes include raising the minimum threshold of tax amount for launching prosecution under GST from Rs. 1 crore to Rs. 2 crores, except for the offence of issuance of invoices without the supply of goods or services or both. The compounding amount has been reduced from the present range of 50% to 150% of the tax amount to the range of 25% to 100%. Moreover, certain offences are decriminalized under clauses (g), (j) and (k) of sub-section (1) of section 132 of the CGST Act, 2017. Amendments have also been proposed in Sections 37, 39, 44, and 52 of the CGST Act, 2017 to restrict the filing of returns viz. GSTR1, GSTR 3B, GSTR 9/9C and GSTR 8 to a maximum period of three years from the due date of filing of the relevant return.

Following amendments proposed in the Finance Bill, 2023, vide Clause 128 to 144 except clause no. 142, will come into effect from a date to be notified, as far as possible, concurrently with the corresponding amendments to the similar GST Acts passed by the State(s) & Union territories with the legislature. Further, amendments proposed in Clause no. 142 of the Finance Bill, 2023 will come into effect retrospectively from July 1, 2017.

Proposed amendments in the CGST Act, 2017		
Current provisions	Proposed provisions	Effect
Clause 128 – Section 10 – Composition Levy		
Section 10(2)(d): <i>(d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;</i>	Section 10(2)(d): <i>(d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;</i>	Seeks to remove the restriction imposed on the registered persons engaged in supplying goods through Electronic Commerce Operators (“ECOs”) from opting to pay tax under the Composition Levy and to enable unregistered suppliers and composition taxpayers to make intra-state supply of goods
Section 10(2A)(c):	Section 10(2A)(c):	

<i>(c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;</i>	<i>(c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;</i>	through ECOs, subject to certain conditions.
Clause 129 – Section 16 – Eligibility and conditions for taking input tax credit.		
Second Proviso to Section 16(2): <i>Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—</i> <i>.....</i> <i>Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:</i>	Second Proviso to Section 16(2): <i>Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—</i> <i>.....</i> <i>Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be paid by him along with interest payable under section 50, in such manner as may be prescribed:</i>	Seeks to amend second and third provisos of Section 16(2) of the CGST Act to align with the return filing system provided in the CGST Act. Further, where a recipient fails to pay to the supplier the amount towards the value of supply along with tax, within a period of 180 days from the date of issue of invoice, an amount equal to the ITC availed by the recipient, shall be paid by the recipient along with interest payable under Section 50 of the CGST Act. Further, the recipient would be entitled to re-avail the ITC on payment made by him to the supplier of the amount towards the value of supply of goods or services or both along with tax payable thereon.
Third Proviso to Section 16(2):	Third Proviso to Section 16(2):	

<i>Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.</i>	<i>Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him to the supplier of the amount towards the value of supply of goods or services or both along with tax payable thereon.</i>	
Clause 130 – Section 17 – Apportionment of credit and blocked credits		
Section 17(3): <i>The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.</i> <i>Explanation.-For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.</i>	Section 17(3): <i>The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.</i> <i>Explanation.-For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except,—</i> <i>(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and</i> <i>(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.</i>	Seeks to restrict availment of ITC in respect of certain transactions specified in para 8(a) of Schedule III of the CGST Act i.e., “Supply of warehoused goods to any person before clearance for home consumption”, by including the value of such transactions in the value of exempt supply.
After Section 17(5)(f):	After Section 17(5)(f):	Seeks to provide that ITC shall not be available on

	<i>(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;</i>	good/services received by taxable person, which are used or intended to be used for activities relating to his obligations under Corporate Social Responsibility (“CSR”) activities referred to in Section 135 of the Companies Act, 2013
Clause 131 – Section 23 – Persons not liable for registration		
<i>(1) The following persons shall not be liable to registration, namely:—</i> <i>(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;</i> <i>(b) an agriculturist, to the extent of supply of produce out of cultivation of land.</i> <i>(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.</i>	<i>Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24,—</i> <i>(a) the following persons shall not be liable to registration, namely:—</i> <i>(i) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, 2017;</i> <i>(ii) an agriculturist, to the extent of supply of produce out of cultivation of land;</i> <i>(b) the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may</i>	Seeks to provide overriding effect to the Section 23 of the CGST Act retrospectively from July 01, 2017 over Section 22(1) or Section 24 of the CGST Act. It means that persons required to take registration in GST as per Section 22(1) of the CGST Act and compulsory registration required under Section 24 of the CGST Act, <u>need not to register themselves</u> if they are not liable for registration and/or exempted under Section 23(1) of the CGST Act. It means that following persons need not required to take registration at all in GST: 1. Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt

	<i>be exempted from obtaining registration under this Act.</i>	from tax under the CGST Act or IGST Act; 2. An agriculturist, to the extent of supply of produce out of cultivation of land; 3. Any person, who are exempted by way of notification from obtaining registration in the GST.
Clause 132 – Section 37 – Furnishing details of outward supplies		
After Section 37(4):	After Section 37(4): <i>(5) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:</i> <i>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 for a tax period under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said details.</i>	Seeks to insert new sub-section (5) in Section 37 of the CGST Act so as to provide a maximum time limit of 3 years upto which the details of outward supplies in Form GSTR-1 can be furnished by a registered person, from the due date of filing of such statement. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.
Clause 133 – Section 39 – Furnishing of returns		
After Section 39(10):	After Section 39(10):	Seeks to insert new sub-section (11) in Section 39 of the CGST Act so as to

	<i>(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:</i> <i>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 for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return.</i>	provide a time limit of 3 years upto which the return in Form GSTR-3B can be furnished by a registered person, from the due date of filing of such return. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.
Clause 134 – Section 44 – Annual return		
<i>Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:</i> <i>Provided that the Commissioner may, on the recommendations of the</i>	<i>(1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:</i> <i>Provided that the Commissioner may, on the</i>	Seeks to insert new sub-section (2) in section 44 of the CGST Act, so as to provide a time limit of 3 years, upto which the annual return in Form GSTR-9, Form GSTR-9A and Form GSTR-9B can be furnished by a registered person, from the due date of filing of such return. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.

<i>Council, by notification, exempt any class of registered persons from filing annual return under this section:</i> <i>Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.</i>	<i>recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:</i> <i>Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.</i> <i>(2) 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 three years from the due date of furnishing the said annual return:</i> <i>Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three years from the due date</i>	
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	<i>of furnishing the said annual return.</i>	
Clause 135 – Section 52 – Collection of tax at source.		
After Section 52(14):	<i>After Section 52(14):</i> <i>(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:</i> <i>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 an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement.</i>	Seeks to insert new sub-section (15) in Section 52 of the CGST Act, so as to provide a time limit of 3 years upto which the statement in Form GSTR-8 can be furnished by an ECO, from the due date of filing of such statement. Further, it seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for an ECO or a class of ECOs.
Clause 136 – Section 54 – Refund of tax		
Section 54(6):	Section 54(6):	
<i>Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed,</i>	<i>Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so</i>	Seeks to remove the reference to the provisionally accepted ITC to align the same with the present scheme of availment of self-assessed ITC as per Section 41(1) of the CGST Act.

excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.	claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.	
Clause 137 – Section 56 – Interest on delayed refunds		
If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under subsection (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax: Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate	If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under subsection (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed: Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same	Seeks to prescribe such manner and subject to such conditions and restrictions as may be prescribed for computation of period of delay beyond 60 days from the date of receipt of refund application till the date of refund, for the purpose of calculation of interest on delayed refunds.

not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund. <i>Explanation.—For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).</i>	is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund. <i>Explanation.—For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).</i>	
Clause 138 – Section 122 – Penalty for certain offences.		
After Section 122(1A):	After Section 122(1A): <i>(1B) Any electronic commerce operator who—</i> <i>(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;</i>	Seeks to insert new sub-section (1B) in Section 122 of the CGST Act so as to provide for penal provisions applicable to ECO in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers.

	(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or (iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act, shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher.	
Clause 139 – Section 132 – Punishment for certain offences		
Section 132(1): Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely:- (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;	Section 132(1): Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely:- (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;	Seeks to amend Sub-section (1) of section 132 of the CGST Act, so as to decriminalize offences specified in clauses (g), (j) and (k) of the said sub-section as prescribed below - • obstructs or prevents any officer in the discharge of his duties under this Act; • tampers with or destroys any material evidence or documents; • fails to supply any information which he is required to supply under

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or	(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or	the CGST Act or the CGST rules made thereunder or supplies false information; or
(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section, shall be punishable— (i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine; (ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with	(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (f) and clauses (h) and (i) of this section, shall be punishable— (i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine; (ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with	Further, clause (iii) of Section 132(1) of the CGST Act has been amended to reduce the monetary threshold from one crore to two crore for launching prosecution, except for “an offence specified in clause (b) of Section 132(1) of the CGST Act ” i.e. issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax; Thus, for fake invoices, the prosecution will continue as for threshold amount of Rs. 1 Crore.

imprisonment for a term which may extend to three years and with fine; (iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine; (iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.	imprisonment for a term which may extend to three years and with fine; (iii) in the case of an offence specified in clause (b) where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine; (iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.	
Clause 140 – Section 138 – Compounding of offences		
Section 138(1): Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by	Section 138(1): Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by	Seeks to amend to sub-section (1) of section 138 of the CGST Act , so as to: Exclude the persons involved in offence

the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed: Provided that nothing contained in this section shall apply to- (a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section; (b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees; (c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force; (d) a person who has been convicted for an offence under this Act by a court;	the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed: Provided that nothing contained in this section shall apply to- (a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132; (b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees; (c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132; (d) a person who has been convicted for an offence under this Act by a court; (e) a person who has been accused of committing an	relating to the issuance of invoices without the supply of goods or services or both from the option of compounding of the offences. • Reduce the amount for compounding of various offences except offence of fake invoice, by reducing the minimum and maximum amount for compounding. Now the minimum amount prescribed is 25% to 100% of the tax amount involved from 50% to 150% of tax amount involved at present.
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(e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and (f) any other class of persons or offences as may be prescribed: Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law: Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.	offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and (f) any other class of persons or offences as may be prescribed: Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law: Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.	
Section 138(2): The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.	Section 138(2): The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than twenty-five per cent. of the tax involved and the maximum amount not being more than one hundred per cent of the tax involved.	
Clause 141 – Section 158A – Consent based sharing of information furnished by taxable person		
Section 158A	Section 158A: (1) Notwithstanding anything contained in sections 133, 152 and 158, the following details	A new section 158A in the CGST Act is being inserted so as to provide for prescribing manner and conditions for sharing of the information

	<i>furnished by a registered person may, subject to the provisions of subsection (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—</i> <i>(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;</i> <i>(b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;</i> <i>(c) such other details as may be prescribed.</i> <i>(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of —</i> <i>(a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and</i>	furnished by the registered person: - in his return or - in his application of registration or - in his statement of outward supplies, or - the details uploaded by him for generation of electronic invoice or - E- way bill or - any other details, as may be prescribed, on the common portal with such other systems, as may be notified.
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	<i>(b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient, in such form and manner as may be prescribed.</i> <i>(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return."</i>	
Retrospective Changes in Schedule III (Para 7, 8(a) and 8(b) and Explanation 2		
Clause 142 of the Finance Bill, 2023:		
Schedule III of the CGST Act is being amended to give retrospective applicability to Para 7, 8 (a) and 8 (b) of the said Schedule, with effect from July 01, 2017, so as to treat the activities/ transactions mentioned in the said paragraphs as neither supply of goods nor supply of services. It is also being clarified that where the tax has already been paid in respect of such transactions/ activities during the period from July 01, 2017 to January 31, 2019, no refund of such tax paid shall be available. Note: Paragraphs 7 and 8 (a) and 8 (b) was inserted to keep certain transactions/ activities, such as supplies of goods from a place outside the taxable territory to another place outside the taxable territory, high sea sales and supply of warehoused goods before their home clearance.		

However, it has been proposed that, no refund of tax paid shall be available in cases where any tax has already been paid in respect of such transactions/ activities during the period July 01, 2017 to January 31, 2019.

Further, as per proposed changes in Section 17(3) of the CGST Act it restricts the ITC which needs to be reversed in para 8(a) of Schedule III of the CGST Act i.e., “Supply of warehoused goods to any person before clearance for home consumption,” by including the value of such transactions in the value of exempt supply.

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Proposed amendments in the IGST Act, 2017		
Current provisions	Proposed provisions	Effect
Clause 143 – Section 2 – Definitions		
Section 2(16): <i>“non-taxable online recipient” means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.</i> <i>Explanation.—For the purposes of this clause, the expression “governmental authority” means an authority or a board or any other body,—</i> <i>(i) set up by an Act of Parliament or a State Legislature; or</i> <i>(ii) established by any Government,</i> <i>with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution;</i>	Section 2(16): <i>“non-taxable online recipient” means any unregistered person receiving online information and database access or retrieval services located in taxable territory.</i> <i>Explanation.—For the purposes of this clause, the expression “unregistered person” includes a person registered solely in terms of clause (vi) of section 24 of the Central Goods and Services Tax Act, 2017</i>	Clause (16) of Section 2 of the IGST Act is being amended so as to amend the definition of “non-taxable online recipient” by removing the condition of receipt of online information and database access or retrieval services (OIDAR) for purposes other than commerce, industry or any other business or profession so as to provide for taxability of OIDAR service provided by any person located in non-taxable territory to an unregistered person receiving the said services and located in the taxable territory. Further, it also seeks to clarify that the persons registered solely in terms of clause (vi) of Section 24 of CGST Act shall be treated as unregistered person for the purpose of the said clause.
Section 2(17):	Section 2(17):	Seeks to amend clause (17) of the said section is being

<i>“online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—</i> (i) advertising on the internet; (ii) providing cloud services; (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet; (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network; (v) online supplies of digital content (movies, television shows, music and the like); (vi) digital data storage; and”	<i>“online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—</i> (i) advertising on the internet; (ii) providing cloud services; (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet; (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network; (v) online supplies of digital content (movies, television shows, music and the like);	amended to amend the definition of “online information and database access or retrieval services” to remove the condition of rendering of the said supply as it is essentially automated and involves minimal human intervention.
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(vii) online gaming;	(vi) digital data storage; and	
Clause 144 – Section 12 - Place of supply of services where location of supplier and recipient is in India		
Section 12(8): <i>(8) The place of supply of services by way of transportation of goods, including by mail or courier to,—</i> <i>(a) a registered person, shall be the location of such person;</i> <i>(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.</i> <i>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.</i>	Section 12(8): <i>(8) The place of supply of services by way of transportation of goods, including by mail or courier to,—</i> <i>(a) a registered person, shall be the location of such person;</i> <i>(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.</i> <i>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.</i>	Proviso to sub-section (8) of section 12 of the IGST Act is being omitted so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.

- CGST Act means Central Goods and Services Tax Act, 2017
- IGST Act means Integrated Goods and Services Tax Act, 2017
- UTGST Act means Union Territory Goods and Services Tax Act, 2017

Hope the information will assist you in your Professional endeavours. In case of any query/information, please do not hesitate to write back to us.

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Thank You

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About us:

A2Z Taxcorp LLP is a boutique Indirect Tax firm having its offices at New Delhi and Guwahati specializing in GST, Central Excise, Custom, Service Tax, VAT, DGFT, Foreign Trade Policy, SEZ, EOU, Export – Import Laws, Free Trade Policy, etc. It is a professionally managed firm having a team of experienced and distinguished Chartered Accountants, Company Secretary, Lawyers, Corporate Financial Advisors and Tax consultants to provide various services like litigation and representation, transaction advisory, diagnostic reviews/ health checks, audit defense & protection, retainership & compliance, configuration of tax efficient business model etc. Its clientele consists mainly of Foreign MNC, large/mid-sized Indian companies which includes exporters, FMCG, consumer durables, automobiles, aerated beverages, ceramic tiles, real-estate, hospitality, etc.

Thanks & Best Regards,

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