UNION BUDGET 2021

AMARJEET SINGH & ASSOCIATES

Short title and commencement.

1. (1) This Act may be called the Finance Act, 2021.

(2) Save as otherwise provided in this Act,—

(a) sections 2 to 79 shall come into force on the 1st day of April, 2021; (i.e. All income tax amendments will applicable w.e.f. 01.04.21 i.e. AY 2021-22)

(b) sections 99 to 114 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (i.e. GST amendment will be applicable as and when notified, now need to see whether S.35 omission will made applicable on which date)

AMENDMENTS IN THE CGST ACT, 2017

Clause No.	Amendment in Section	Reason for Amendmenrt	Page NO.
99	7-	Services by unincorporated body to it's members become part of supply and relevant entry omitted from schedule II	
100	16.	**Declaration of Invoices now Made Mandatory through Act to Strengthen the recent Rule 36(4) for ITC restriction**	
101	35	**S. 35(5) of GST Audit has been omitted and Made Every assessee required to File Self Certified Reconciliation Statement alongwith Annual Return by Amending S. 44 of The Act.**	
102	Substitution of New S.44.		
103	50.	Relaxation of S. 50 allowed retrospectively	
104	74	Separate proceeding for Detention & confiscation of goods	
105	75.	SELF assessment shall also include Value Declared In GSTR 1 but not included in 3B	
106	83.	To Define Provisions Attachement Validity Period	
107	107.	25% of Penalty pre deposit is pre requiste for filing Appeal u/s 129	
108	129	To delink 129 proceeding from S. 130	
109	130		
110	Substitution of New S.151		
111	152		

AMENDMENTS IN THE CGST ACT, 2017

1. Amendment of SECTION 7

Explanation in Memo:-

A new clause (aa) in sub-section (1) of Section 7 of the CGST Act is being inserted, retrospectively with effect from the 1st July, 2017, so as to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or *vice-versa*, for cash, deferred payment or other valuable consideration.

Clause of the Finance Bill, 2021:-

Clause No. - 99

In the Central Goods and Services Tax Act, 2017 (hereinafter referred as the Central Goods and Services Tax Act), in section 7, in sub-section (1), after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017, namely:—

"(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration.

Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another".

2. Amendment of SECTION 16

Explanation in Memo:-

A new clause (aa) to sub-section (2) of the section 16 of the CGST Act is being inserted to provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note have 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.

Clause of the Finance Bill, 2021:-

Clause No. - 100

In section 16 of the Central Goods and Services Tax Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

"(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;".

3. Amendment of SECTION 35

Explanation in Memo:-

Sub-section (5) of section 35 of the CGST Act is being omitted so as to remove the mandatory requirement of getting annual accounts audited and reconciliation statement submitted by specified professional.

Clause of the Finance Bill, 2021:-

Clause No. - 101

In section 35 of the Central Goods and Services Tax Act,sub-section (5) shall be omitted.

4. Substitution of new section for SECTION 44 (Annual Return)

<u>Explanation in Memo:-</u>

Section 44 of the CGST Act is being substituted so as to remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self certification basis. It further provides for the Commissioner to exempt a class of taxpayers from the requirement of filing the annual return.

<u>Clause of the Finance Bill, 2021:-</u>

Clause No. - 102

For section 44 of the Central Goods and Services Tax Act, the following section shall be substituted, namely:—

“44. 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:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

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.’’

5. Amendment of SECTION 50

Explanation in Memo:-

Section 50 of the CGST Act is being amended, retrospectively, to substitute the proviso to sub-section (1) so as to charge interest on net cash liability with effect from the 1st July, 2017.

Clause of the Finance Bill, 2021:-

Clause No. – 103

In section 50 of the Central Goods and Services Tax Act, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

"Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.".

6. Amendment of SECTION 74

Explanation in Memo:-

Section 74 of the CGST Act is being amended so as make seizure and confiscation of goods and conveyances in transit a separate proceeding from recovery of tax.

Clause of the Finance Bill, 2021:-

Clause No. – 104

In section 74 of the Central Goods and Services Tax Act, in Explanation 1, in clause (ii), for the words and figures "sections 122, 125, 129 and 130", the words and figures "sections122 and 125" shall be substituted.

7. Amendment of SECTION 75

Explanation in Memo:-

An explanation to sub-section (12) of section 75 of the CGST Act is being inserted to clarify that “self-assessed tax” shall include the tax payable in respect of outward supplies, the details of which have been furnished under section 37, but not included in the return furnished under section 39.

Clause of the Finance Bill, 2021:-

Clause No. - 105

In section 75 of the Central Goods and Services Tax Act, in sub-section (12), the following Explanation shall be inserted, namely:—

‘Explanation.—For the purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.’.

8. Amendment of SECTION 83

<u>**Explanation in Memo:-**</u>

Section 83 of the CGST Act is being amended so as to provide that provisional attachment shall remain valid for the entire period starting from the <u>initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV till the expiry of a period of one year from the date of order made thereunder.</u>

<u>**Clause of the Finance Bill, 2021:-**</u>

Clause No. - 106

In section 83 of the Central Goods and Services Tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.”.

9. Amendment of SECTION 107

Explanation in Memo:-

A proviso to sub-section (6) of section 107 of the CGST Act is being inserted to provide that no appeal shall be filed against an order made under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of penalty has been paid by the appellant.

Clause of the Finance Bill, 2021:-

Clause No. - 107

In section 107 of the Central Goods and Services Tax Act, in sub-section (6), the following proviso shall be inserted, namely:—

"Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to 25% of the penalty has been paid by the appellant.".

10. Amendment of SECTION 129

Explanation in Memo:-

Section 129 of the CGST Act is being amended to delink the proceedings under that section relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty.

Clause of the Finance Bill, 2021:-

Clause No. - 108

In section 129 of the Central Goods and Services Tax Act, —

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

(b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;";

Contd….. Amendment of SECTION 129

(ii) sub-section (2) shall be omitted;
(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).";

(iv) in sub-section (4), for the words "No tax, interest or penalty", the words "No penalty" shall be substituted;

(v) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):
Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:
Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.".

11. Amendment of SECTION 130

Explanation in Memo:-

Section 130 of the CGST Act is being amended to delink the proceedings under that section relating to confiscation of goods or conveyances and levy of penalty from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit.

Clause of the Finance Bill, 2021:-

Clause No. - 109

In section 130 of the Central Goods and Services Tax Act,—

(a) in sub-section (1), for the words "Notwithstanding anything contained in this Act, if ", the word "Where" shall be substituted;

(b) in sub-section (2), in the second proviso, for the words, brackets and figures "amount of penalty leviable under sub-section (1) of section 129", the words "penalty equal to hundred per cent. of the tax payable on such goods" shall be substituted;

(c) sub-section (3) shall be omitted.

12. Substitution of new section for SECTION 151 Power to call for information..

<u>Explanation in Memo</u>:-

Section 151 of the CGST Act is being substituted to empower the jurisdictional commissioner to call for information from any person relating to any matter dealt with in connection with the Act..

<u>Clause of the Finance Bill, 2021</u>:-

Clause No. – 110

For section 151 of the Central Goods and Services Tax Act, the following section shall be substituted, namely: —

"151. The Commissioner or an officer authorized by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.".

13. Amendment of **SECTION 152**.

Explanation in Memo:-

Section 152 of the CGST Act is being amended so as to provide that no information obtained under sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned..

Clause of the Finance Bill, 2021:-

Clause No. – 111

In section 152 of the Central Goods and Services Tax Act,—

(a) In sub-section (1),—

(i) the words "of any individual return or part thereof" shall be omitted;
(ii) after the words "any proceedings under this Act", the words "without giving an opportunity of being heard to the person concerned" shall be inserted;

(b) sub-section (2) shall be omitted.

14. Amendment of **SECTION 168**.

Explanation in Memo:-

Section 168 of the CGST Act is being amended to enable the jurisdictional commissioner to exercise powers under section 151 to call for information.

Clause of the Finance Bill, 2021:-

Clause No. – 112

In section 168 of the Central Goods and Services Tax Act, in sub-section (2),—

(i) for the words, brackets and figures "sub-section (1) of section 44", the word and figures "section 44" shall be substituted;

(ii) the words, brackets and figures "sub-section (1) of section 151," shall be omitted.

15. Amendment of **Schedule II**.

Explanation in Memo:-

Consequent to the amendment in section 7 of the CGST Act paragraph 7 of Schedule II to the CGST Act is being omitted retrospectively, with effect from the 1st July, 2017.

Clause of the Finance Bill, 2021:-

Clause No. – 113

In Schedule II of the Central Goods and Services Tax Act, paragraph 7 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017

AMENDMENTS IN THE IGST ACT, 2017

16. Amendment of **SECTION 16**.

Explanation in Memo:-

Section 16 of the IGST Act is being amended so as to:

(i) zero rate the supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit only when the said supply is for authorised operations;

(ii) restrict the zero-rated supply on payment of integrated tax only to a notified class of taxpayers or notified supplies of goods or services; and

(iii) link the foreign exchange remittance in case of export of goods with refund..

Contd... Amendment of **SECTION 16**.

<u>Clause of the Finance Bill, 2021</u>:-

Clause No. – 114

In the Integrated Goods and Services Tax Act, 2017, in section 16, —13 of 2017.

(a) in sub-section (1), in clause (b), after the words "supply of goods or services or both", <u>the words "for authorized operations" shall be inserted</u>;

(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) A registered person making zero rated supply shall be eligible to claim refund of unutilised input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:

REALISATION SHOULD BE WITH IN TIME SPECIFIED IN FEMA

Provided that the registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed. 42 of 1999.

<u>Clause of the Finance Bill, 2021</u>:-

Clause No. – 114

CLASS OF PERSONS AND GOODS/SERVICES SHALL BE NOTIFIED

(4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify—

(i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;

(ii) a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.”.