

Amendments to CGST Act 2017 as brought in by Finance Bill 2020

All the amendments mentioned below are effective from the date to be notified.

1. Insertion in Section 2(114) of CGST Act 2017: Definition of Union Territory

“Union territory” means the territory of—

- a. the Andaman and Nicobar Islands;
- b. Lakshadweep;
- c. Dadra & Nagar Haveli and Daman & Diu
- d. Ladakh
- e. Chandigarh; and
- f. Other territory.

Effect of amendment: The definition of Union Territory now includes ‘Ladakh’ as a separate Union Territory in the CGST Act 2017. ‘Dadra and Nagar Haveli and Daman and Diu’ have been combined in the definition of Union Territory.

Similar changes have been notified in section 1(2) and section 2(8) of UTCGST Act 2017.

2. Section 10(2) of CGST Act 2017- Restriction for composition dealer

Old provision	The registered person shall be eligible to opt under sub- section (1),if: (a) Save as provided in sub section (1), he is not engaged in the supply of services. (b) he is not engaged in making any supply of goods which are not leviable to tax under this Act; (c) he is not engaged in making any inter-State outward supplies of goods (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52;and
New provision	The registered person shall be eligible to opt under sub- section (1),if: (a) Save as provided in sub section (1), he is not engaged in the supply of services. (b) he is not engaged in making any supply of goods “or services” which are not leviable to tax under this Act (c) he is not engaged in making any inter-State outward supplies of goods “or services”; (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;and

Effect of Amendment: section 10(2) amended to provide that dealer in goods will not be entitled to composition scheme, if he undertake the following supplies:

- (i) Services not leviable to GST
- (ii) Inter-state supply of services
- (iii) Supply of services through electronic commerce operator

3. Amendment in Section 16(4) of the CGST Act 2017- Time limit for availing credit based on debit notes

Old provision	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 due date of furnishing of the return under section 39 for the month of September following the of financial year to which such invoice <u>or invoice relating to such debit note</u> pertains or furnishing of the relevant annual return, whichever is earlier.
New Provision	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 due date of furnishing of the return under section 39 for the month of September following the of financial year to which such invoice pertains or furnishing of the relevant annual return, whichever is earlier.

Effect of Amendment:

Section 16(4) of the CGST Act 2017 restricts the ITC beyond due date of filing return for the month of September of the corresponding financial Year. In this restriction credit pertaining to debit note is linked with date of invoice against which debit note is issued. Now it is proposed to delink the debit note with date of invoice to avail ITC.

Now last date of taking the input tax credit will be the due date of the September return of the subsequent financial year to which the debit note pertains and it will not be linked with date of Invoice.

4. Amendment in Section 29(1) of the CGST Act- Cancellation of registration

Old Provision	The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,— (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity,
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	demerged or otherwise disposed of; or (b) there is any change in the constitution of the business; or (c) The taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.
New Provision	(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of section 25:”.

Effect of Amendment: Section 29(1) of the CGST Act provides the power to cancel the registration either on own motion or application by the registered person. Clause c of the section 29(1) excludes the person registered under section 25(3) i.e. voluntary registration. The provision of clause c of section 29(1) has now been modified to allow those cases wherein a person had obtained their registration voluntarily.

5. Substitution of proviso to section 30(1) of CGST Act 2017- Revocation of cancellation of registration

Old provision	(1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order. Provided that the registered person who was served notice under sub-section (2) of section 29 in the manner as provided in clause (c) or clause (d) of sub-section (1) of section 169 and who could not reply to the said notice, thereby resulting in cancellation of his registration certificate and is hence unable to file application for revocation of cancellation of registration under sub-section (1) of section 30 of the Act, against such order passed up to 31.03.2019, shall be allowed to file application for revocation of cancellation of the registration not later than 22.07.2019.
New proviso	Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended, – (a) By the Additional Commissioner or the Joint Commissioner, as the case maybe, for a period not exceeding thirty days; (b) By the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).

Effect of amendment: Section 30 of the CGST Act provides to file application to revoke the cancellation of registration by proper officer. Such application can be made within 30 days from

the date of service of cancellation order.

Now these 30 days can be further extended for a period up to 30 days by AC/JC and further 30 days by commissioner. Such extension can be done only on sufficient cause being shown and reason to be recorded in writing.

6. Substitution to proviso to Section 31(2)- Tax invoice

Old Provision	A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax Invoice, showing the description, value, tax charged thereon, and such other particulars as may be prescribed: Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which— a) Any other document issued in relation to the supply shall be deemed to be a tax invoice; or b) Tax invoice may not be issued.
New Provision	Provided that the Government may, on the recommendations of the Council, by notification,— a) Specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed; b) subject to the condition mentioned therein, specify the categories of services in respect of which— i) Any other document issued in relation to the supply shall be deemed to be a tax invoice; or ii) Tax invoice may not be issued.

Effect of amendment:

Presently tax invoice for supply of services is to be raised within 30 days or 45 days from date of supply containing specified details. Proviso to section 31(2) empowers the Government on the recommendation of the council to specify the categories of services where either the other document to be deemed as tax invoice or tax invoice need not be issued. Now proviso to section 31(2) has been substituted to empower the Government to specify time limit also for specified categories of services.

7. Amendment in Section 51(3) and omission of Section 51(4) of CGST Act 2017- TDS Certificate

Old Provision	(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the
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	<p>Government and such other particulars in such manner as may be prescribed</p> <p>4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amounts o deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.</p>
New Provision	<p>(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.</p> <p>(4) Omitted</p>

Effect of Amendment: Now section 51(3) has been substituted with new clause where no specific requirement has been mentioned and TDS certificate to be issued in such form and manner as may be prescribed.

Section 51(4) prescribing late fees for not issuing the TDS certificate within specified time period, omitted.

8. Retrospective effect to notification issued under clause (ii) of proviso to sub section (3) of section 54 of Central Goods and Services Tax Act.

The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 708(E), dated the 30th September, 2019, issued by the Central Government, on the recommendations of the Council, in exercise of the powers under clause (ii) of the proviso to sub- section(3)ofsection54oftheCentralGoodsandServicesTax Act, 2017, read with sub-section (2) of section 9 of the Goods and Services Tax (Compensation to States)Act,2017,shallbe deemed to have, and always to have, for all purposes, come into force on and from the 1stday ofJuly,2017.

Effect of amendment: The refund of accumulated credit of compensation cess on tobacco products arising out of inverted duty structure in Compensation Cess is disallowed w.e.f. October 1, 2019 vide Notification No. 3/2019- Compensation Cess (Rate) dt. September 30, 2019. Clause 131 of the Bill seeks to give retrospective effect to the above notification w.e.f. July 1, 2017 onwards. Accordingly, no refund on account of inverted duty structure would be admissible on any tobacco products w.e.f. 1stJuly 2017.

Similar Changes notified vide Clause 133(2) of IGST Act, Clause 137(2) of UTGST Act.

9. Section 109(6) of CGST Act , 2017- Constitution of Appellate Tribunal

Government is now empowered to constitute a bench of Appellate Tribunal for State of Jammu and Kashmir along with other states.

10. Insertion of Section 122(1A)- Penalty for certain offences

Newly inserted	Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax
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Section 122(1) of the CGST Act contains clauses (I to xxi) to provide penalty for certain offences. Clause (i), (ii), (vii) and (ix) of Section 122(1) levy of penalty on 'taxable person' for following offences:

- (i) Making supply without invoice or on false or incorrect invoice
- (ii) Issuing invoice without supply
- (iii) Taking or utilizing ITC without actual receipt of supply
- (iv) Taking or distributing ITC in contravention of ISD provisions.

Effect of new insertion: Section 122 of the CGST Act is being amended by inserting a new sub-section to make the **beneficiary of the transactions** of passing on or availing fraudulent Input Tax Credit liable for penalty similar to the penalty leviable on the person who commits such specified offences.

11. Amendment in Section 132- Punishment for certain offences

Old provision	(1) Whoever commits any of the following offences , namely:— (a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made there under, with the intention to evade tax; (b) 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; (c) avails input tax credit using such invoice or bill referred to in clause (b); (d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due; (e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
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New Provision	<p>(1) Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely:—</p> <p>(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made there under, with the intention to evade tax;</p> <p>(b) 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;</p> <p>(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;</p> <p>(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;</p> <p>(e) evades tax or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);</p>
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Effect of Amendment: Section 132 of the CGST Act is being amended to make the offence of fraudulent availment of input tax credit without an invoice or bill a cognizable and non-bailable offence; and to make any person who commits, or causes the commission, or retains the benefit of transactions arising out of specified offences liable for punishment.

12. Section 140 of CGST Act 2017-Retrospective amendments/ additions in transitional provisions:

Section	Old Provision	New Provision
140(1)	A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed	A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law "within such time and" in such manner as may be prescribed
140(2)	A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return,	A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a

	furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed	return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day “within such time and” in such manner as may be prescribed
140(3)	A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012 Service Tax, dated the 20th June,2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to “goods held in stock on the appointed day subject to” the following conditions, namely:	A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012 Service Tax, dated the 20th June,2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to “goods held in stock on the appointed day within such time and in such manner as may be prescribed, subject to” the following conditions, namely:
140(5)	A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law subject to the condition that the invoice or any other duty or taxpaying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:	A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law existing law, within such time and in such manner as may be prescribed, subject to the condition that the invoice or any other duty or taxpaying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:

140(6)	A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to goods held in stock on the appointed day subject to the following conditions, namely:–	A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to the following conditions, namely:–
140(7)	Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.	Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if credit under this Act, within such time and in such manner as may be prescribed, even if the invoices relating to such services are received on or after the appointed day.
140(8)	Where a registered person having centralized registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:	Where a registered person having centralized registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner within such time and in such manner as may be prescribed:
140(9)	Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-	Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to

	<p>payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.</p>	<p>non-payment of the consideration within a period of three months, such credit can be reclaimed within such time and in such manner as may be prescribed, subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.</p>
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Effect of amendment: Section 140 of the CGST Act is being amended with effect from 01.07.17 to prescribe the manner and time limit for taking transitional credit.

13. Section 168(2) of CGST Act 2017- Power to issue instructions or directions

<p>Old Provision</p>	<p>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(2) of section 38, sub-section (6) of section 39, sub- section (5) of section 66, sub-section (1) of section 143,sub-section (1) of section 151,clause (l) 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.</p>
<p>New Provision</p>	<p>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(2) of section 38, sub-section (6) of section 39, sub-section(1)of section143,except the second proviso thereof sub-section (1) of section 151,clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.</p>

Effect of amendment: Section 168 of the CGST Act is being amended to make provisions for enabling the jurisdictional commissioner to exercise powers under sub-section (5) of section 66 and second proviso to sub-section (1) of section 143.

14. Amendment of section172- Removal of difficulties

<p>Old Provision</p>	<p>If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient</p>
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	<p>for the purpose of removing the said difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this act.</p>
New Provision	<p>If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of this act.</p>

Similar changes are notified in Section 25(1) of IGST Act & Section 26(1) of UTCGST Act 2017

15. Retrospective amendment to Schedule II of CGST Act 2017

Old Provision	<p>4. Transfer of business assets;</p> <p>(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;</p> <p>(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;</p>
New Provision	<p>4. Transfer of business /assets;</p> <p>(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets such transfer or disposal is a supply of goods by the person;</p> <p>(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, the usage or making available of such goods is a supply of services;</p>

Effect of amendment: The retrospective amendment w.e.f 01.07.2017 is brought to be in line with Amendment made by CGST Amendment Act, 2018 which inserted after section 7(1A) after Section 7 (1), stating that Schedule II does not specify whether the Activity is supply or not, but once it is held as Supply by Section 7(1), be classified into SUPPLY OF GOODS OR SUPPLY OF SERVICES.

16. Retrospective exemption in Notification no. 12/2017 dated 28.06.2017

GST rate notifications : Retrospective exemption from, or levy or collection of, central tax in respect of supply of Fish Meal (2301) during the period from 01.07.2017 to 30.09.2019, with no refund of already collected taxes.

Similar changes are notified in IGST Act and UTCGST Act.

GST rate notifications : Retrospective levy of Central Tax @6% shall be levied or collected in respect of supply of Pulley, Wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436) from 01.07.2017 to 31.12.2018, with no refund of already excess collected taxes.

Similar changes are notified in IGST Act and UTCGST Act.