

Indirect Tax (GST) proposals in The Finance Bill, 2020

Sl. No	Clause No. of Finance Bill 2020	Section of CGST Act, 2017	Changes proposed	Brief analysis	Proposed to be effective from in Finance Bill
1	116	2 (114)	(c) Dadra and Nagar Haveli and Daman and Diu (d) Ladakh	Merger of Dadra and Nagar Haveli and Daman and Diu, and inclusion of 'Ladakh' as union territory, both, proposed to be included in the definition of union territory.	Will be effective from a date to be notified.
SKS note:					
Amendment in the definition of "Union Territory" in section 2(114) of the CGST Act, 2017 necessitated with enactment of The Jammu and Kashmir Reorganisation Act, 2019 from October 31, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019 came into effect on 26 th January, 2020.					
2	117	10(2)	In clause (b), (c) and (d) after the words 'of goods', the words "or services" shall be inserted	Amendment is proposed to enhance the restriction to supplier of services which are not leviable to tax under this Act. Earlier the restriction was for supplier of goods.	Will be effective from a date to be notified.

SKS note:

Once the amendment is made effective, composition scheme will be restricted for registered person if he is engaged in supplies **not leviable** to tax under GST laws, makes **inter-State outward supplies** or **supplies** through **e-com operator** on which TCS is applicable.

3	118	16 (4)	The word "invoice relating to such" shall be omitted.	Input tax credit has been allowed to be claimed from the date of debit note instead of corresponding date of tax invoice.	Will be effective from a date to be notified.
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SKS note:

Sub-section (4) of section 16 of the CGST Act, 2017 stipulates that 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 end of financial year **to which such invoice or invoice relating to such debit note** pertains or furnishing of the relevant annual return, whichever is earlier.

Input tax credit in respect of debit note will no longer be required to be related to corresponding tax invoice. Thus, the tax invoice has been proposed to be delinked from debit note.

Example:

Debit note issued, say, in FY 2019-20 in relation to a tax invoice issued, say, in FY 2018-19. Input tax credit in respect of the debit note can now be claimed till September, 2021 instead of September, 2020.

4	119	29(1)(c)	This clause shall be substituted as "(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	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, who	Will be effective from a date to be notified.
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				has obtained voluntary registration under section 25(3).	
5	120	30(1)	Proviso shall be substituted as “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 may be, 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).”	Empowering the jurisdictional tax authorities to extend the date for application of revocation or cancellation of registration in deserving cases.	Will be effective from a date to be notified.
SKS note:					
Amendment has been proposed to make a provision to condone the delay in deserving cases.					
6	121	31(2)	Proviso shall be substituted as “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	provide enabling provision to prescribe the manner of issuance of tax invoice in case of supply of specific categories of services or supplies by the Government.	Will be effective from a date to be notified.

			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.”.		
SKS note:					
Proposed amendment has empowered the Government to notify the categories of services or supplies. E-invoicing is one such upcoming reforms which has necessitated the proposal.					
7	122	51(3)	This section shall be substituted as “A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”	Manner and issuance of TDS certificate by the deductor to be notified later.	Will be effective from a date to be notified.
		51(4)	This section has been omitted.	Omission of corresponding provision of late fees for delay in issuance of TDS certificate.	Will be effective from a date to be notified.
8	123	109(6)	the words “except for the State of Jammu and Kashmir” shall be omitted; the first proviso shall be omitted.	This section has been proposed to be amended to bring the provision for Appellate Tribunal under the CGST Act in the State of Jammu and Kashmir and in the Union territory of Ladakh.	Will be effective from a date to be notified.
9	124	122	After sub section (1), new sub	This section is	Will be

			section (1A) shall be inserted, “(1A) 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 credit availed of or passed on.”	inserted 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.	effective from a date to be notified.
SKS note:					
Amendment in section 122 of the Act is proposed by inserting a new sub-section (1A) to make the beneficiary of the transactions of passing or availing fraudulent input tax credit liable for penalty equivalent to the tax evaded or input tax credit availed of or passed on.					
10	125	132(1)	(i)for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted; (ii) for clause (c), the following clause shall be substituted, namely:— “(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	This section is 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	Will be effective from a date to be notified.

			bill;"; 20 (iii) in sub-clause (e), the words ", fraudulently avails input tax credit" shall be omitted.	offences liable for punishment.	
SKS note:					
Provision of imprisonment for the persons who commits the offence, as stated above, is available in the law. Now, the amendment is proposed to cover all such persons who " causes to commit " or who " retains the benefit " also for imprisonment.					
11	126	140(1)	after the words "existing law", the words "within such time and" shall be inserted and shall be deemed to have been inserted.	This section is proposed to be amended with effect from 01.07.2017, to prescribe the manner and time limit for taking transitional credit.	01.07.2017
		140(2)	after the words "appointed day", the words "within such time and" shall be inserted		
		140(3)& (6)	for the words "goods held in stock on the appointed day subject to", the words "goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to"		
		140(5)	for the words "existing law", the words "existing law, within such time and in such manner as may be prescribed"		
		140(7)	for the words "credit under this Act even if", the words "credit under this Act, within such time and in such manner as may be		

			prescribed, even if”		
		140(8)	for the words “in such manner”, the words “within such time and in such manner” shall be substituted		
		140(9)	for the words “credit can be reclaimed subject to”, the words “credit can be reclaimed within such time and in such manner as may be prescribed, subject to”		

SKS note:

Retrospective amendment has been proposed to specify “time limit” in case of transitional credit which appears to have done in view of different court cases. Validity of Rule 117 of the CGST Rules, 2017 was challenged. Court has held that input tax credit is a property of the taxable person.

12	127	168(2)	for the words, brackets and figures “sub-section (5) of section 66, sub-section (1) of section 143”, the words, brackets and figures “sub-section (1) of section 143, except the second proviso thereof” shall be substituted.	This section has been 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	Will be effective from a date to be notified.
13	128	172(1)	in sub-section (1), in the proviso, for the words “three years”, the words “five years”	This section is amended to provision for enabling issuance	Will be effective from a date to be

			shall be substituted.	of removal of difficulties order for another 2 years, i.e. till five years from the date of commencement of the said Act.	notified.
<p>SKS note:</p> <p>The time limit is proposed to be extended to 5(five) years. Thus, with this amendment RoD Orders can be issued till 30th June, 2022, i.e, 5(five) years from 1st July, 2017 when GST law was promulgated.</p>					
14	129	Schedule II	in paragraph 4, the words “whether or not for a consideration,” at both the places where they occur, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017	omission of supplies relating to transfer of business assets made without any consideration from said schedule	01.07.2017
<p>SKS note:</p> <p>This amendment has been proposed with a retrospective effect for removal of doubt that a transaction without consideration would not attract tax (GST).</p>					
15	130		no central tax shall be levied or collected in respect of supply of fishmeal (falling under heading 2301). central tax at the rate of six per cent. shall be levied or collected in respect of supply of pulley, wheels and other	Retrospective exemption from, or levy or collection of, central tax in certain cases.	01.07.2017 to 30.09.2019 01.07.2017 to 31.12.2018

			<p>parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436), during the period commencing from the 1st day of July, 2017 and ending with the 31st day of December, 2018 (both days inclusive)</p> <p>No refund shall be made of all such tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times</p>		
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