

CGST ACT 2017

BUDGET ANALYSIS 2020-21

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CGST Act 2017:

Finance Bill Clause	Section	Amendment	Bizsol Analysis
116	Section 2 (114)	<u>Definition of Union Territory</u> “(c) Dadra and Nagar Haveli and Daman and Diu; (d) Ladakh;”.	The definition of UT has been amended to add newly added UT i.e. Ladakh and give effect merger of Dadra & Nagar Haveli and Daman & Diu.
117	Section 10	<u>Composition Levy</u> In section 10 of the Central Goods and Services Tax Act, in sub-section (2), in clauses (b), (c) and (d), after the words “of goods”, the words “or services” shall be inserted.	The service providers except restaurant will not be eligible for composition levy who are providing services which are, <ul style="list-style-type: none"> ➤ Not subjected to tax under GST law. ➤ Providing interstate supply of services. ➤ Making supply of services through E Commerce operator.
118	Section 16(4)	<u>The clause deals with time limit for availing input tax credit:</u> The words “ <i>Invoice relating to such</i> ” debit note pertains is proposed to be removed.	This is the welcome provision. The time limit of availing credit in case of debit notes was linked to the invoices to which debit note pertains. This linkage to invoice date instead of debit note date is unreasonable and was leading to unnecessary disallowance of credit by linking to invoice date. By this proposed amendment, the debit note date will be relevant for availing the input tax credit instead of date on invoice to which the debit note pertains.
119	Section 29 (1)	<u>Cancellation or suspension of registration:</u> <u>Substitution of clause c of Section 29 (1) of the CGST Act as under,</u> “(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the	Authority for cancellation of voluntary registration has been granted. Section 29 empowers the authority to cancel the GST registration under the Act. The current provision do not

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		registration voluntarily made under sub-section (3) of section 25:	provide for cancellation of the registration which is obtained by the taxpayer voluntarily under Section 25 (3). This technical issue has been proposed to be corrected by inserting Section 25 (3) in the cancellation clause thereby authorizing the empowered GST authorities to cancel registrations which are obtained voluntarily.
120	Section 30	<p><u>Revocation of cancellation of registration</u> <u>Proviso has been inserted to Section 30 (1) provide timeline for GST authorities for revocation of cancellation</u> 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).</p>	<p>This is a welcome provision for providing timeline for revocation of cancellation of registration.</p> <p>As on date, the GST law do not provide time limit for allowing revocation of cancellation of registration. Now with proposed amendment even after initial period of 30 days, the Additional Commissioner or the Joint Commissioner is authorized to revoke the cancellation order if the taxpayer applied within 30 days after initial period of 30 days. Further the Commissioner of GST is further allowed to extend the period upto 60 days for making application for revocation after lapse of 30 days from the date of cancellation order. This proposed amendment will formalize the revocation process and will give time upto 90 days from the date of cancellation order to apply for the revocation of the cancellation order subject to the taxpayer has justified reasons for delay.</p>
121	Section 31	<u>Time limit for issuance of the invoice for the services.</u>	With this proposed amendment, the Government will be empowered to specify the time limit for issuing the invoice in case of specified category of the services.

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		(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;	Such timeline was provided in the CGST Rules in absence of provision in the specific sections.
122	Section 51	<p><u>Tax Deduction at Source</u></p> <ul style="list-style-type: none"> ➤ “(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”. ➤ (b) sub-section (4) shall be omitted.”. 	<p>As per the current provision, the Act was providing for details to be mentioned in the TDS certificate like Contract Value, rate of deduction, amount to be deducted, amount paid to the Government and such other particular as may be prescribed. The proposed amendment intends to remove “<u>Contract Value, rate of deduction, amount to be deducted, amount paid to the Government</u>” from the provision of the Act. This will simplify the TDS certificate format.</p> <p>The current provision provides for fees to be paid for delay in issuance of the TDS certificate which is Rs 100 per day. The clause related to fees payable in case of delay in issuance of the TDS certificate is proposed to be removed. In other words, it is proposed that there will not be fees for delayed issuance of TDS certificate by the deductor.</p> <p>Govt officials have been given relaxation for issuing TDS certificate by deleting late fees clause. It may add further delay / corruption.</p>
123	Sec 109	<u>Constitution of Appellate Tribunal and Benches thereof</u>	After abrogation of Article 370 and bifurcation of erstwhile J&K State, the proposed amendment in the

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		(a) the words “except for the State of Jammu and Kashmir” shall be omitted; (b) the first proviso shall be omitted.	CGST Act, 2017 will empower the Government to constitute Appellate Tribunal and Benches. As per the current provision, the State Government of J&K is required to send request to Central Government for setting of the benches.
124 & 125	Sec 122 & 132	<u>Penalty for certain offences (122) and Punishment for certain offences</u> “(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.”.	This is a welcome provision to curb invalid ITC by issuing fake invoices for taking undue benefits. With this proposed amendment, the CGST Law empowers to authority to levy penalty and punishes for offences to the “persons who retains the benefit of a transactions” like: <ul style="list-style-type: none"> ➤ Supply without tax invoice ➤ Issue invoice & bill without supply ➤ Avails ITC without actual receipt of goods or services ➤ Takes or distributes ITC as ISD in contravention to prescribed provisions.
126	Sec 140	<u>Transitional arrangement for input tax credit</u> <u>the words “within such time and” shall be inserted and shall be deemed to have been inserted</u>	Govt realized their mistake in drafting Section 140 and now corrected retrospectively. The authority to define the time limit within which the taxpayer will be entitled to carry forward the input tax credit under the earlier was missing the current provision. With this proposed amendment, the Government intends to correct that error which lead to

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			<p>multiple disputes leading to decision against the Government specified time limit.</p> <p>The proposed amendment will give Government right to define the time limit for availing the credit pertaining to earlier period taxes. Further this amendment will be deemed to inserted since inception of the law i.e. 1st July 2017.</p>
127	Section 168	<p><u>Powers to Issue instructions or directions.</u> In section 168 of the Central Goods and Services Tax Act, in sub-section (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.</p>	<p>The proposed amendment intends to remove duplication of powers to Commissioner under Section 66 (5) or Second proviso to Section 143 (1). Under these sections, the Commissioner has authority to take action and again including such section 168 was leading to duplication of the work. In order to remove this duplication, the proposed amendment intends to remove these sections from Section 168 which deals with power to issue instruction or direction.</p>
128	Section 172	<p><u>Removal of Difficulties</u> In section 172 of the Central Goods and Services Tax Act, in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted.</p>	<p>The proposed amendment intends to increase the period of 3 years to 5 years from 1st July 2017 for issuing directives to remove difficulties faced by the taxpayers.</p> <p>Under this provision the Central Government had issued directives to extend the due dates or returns and other matters. In other way, one can say that the Government except further period 2 years to stabilize the GST.</p>

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129	Schedule II	<p>4. Transfer of business assets (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>	<p>Earlier, if there was transfer of business assets without consideration was also treated as Supply of Goods or Services.</p> <p>After proposed amendment, if the transfer of Business assets is with consideration will only be subjected to GST.</p>
130	NA	<p>(i) Under the power of Section 9(1), the central government has given the retrospective exemption from levy or collection of CGST for supply of fishmeal (falling under heading 2301) from 1st July 2017 to 30th September 2019.</p> <p>(ii) Also, under the power of Section 9(1), the central government has levied the tax rate 6% retrospectively 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 1st July 2017 to 31st December 2018.</p> <p>(iii) No refund shall be made to those who has already paid the taxes on the above such items.</p>	<ul style="list-style-type: none"> ➤ Exemption is provided for supply of Fishmeal w.e.f. 1st July 2017 to 30th Sep 2019 and ➤ Tax rate of 12% (CGST + SGST / UTGST or IGST) is proposed for pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436) from 1st July 2017 to 31st December 2018. ➤ No refund will be granted for taxes paid earlier on above mentioned transactions.

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131	54(3)(ii)	<p>Provided that no refund of unutilised input tax credit shall be allowed in cases other than—</p> <p>(i) zero rated supplies made without payment of tax;</p> <p>(ii) <i>where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council..'</i></p>	<p>The Central Government has issued notification specifying the goods (i.e. Tobacco and manufactured tobacco substitutes) in respect of which no refund of unutilised input tax credit of compensation cess shall be allowed, where the credit has accumulated on account of rate of compensation cess on inputs being higher than the rate of compensation cess on the output supplies of such goods (other than nil rated or fully exempt supplies).</p> <p>Now, this notification will be applicable retrospectively from 1st July 2017.</p>

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IGST ACT 2017

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Finance Bill Clause	Section	Amendment	Bizsol Analysis
132	25(1)	<p><u>Removal of Difficulties</u></p> <p>In section 25 of the Integrated Goods and Services Tax Act, in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted.</p>	<p>The proposed amendment intends to increase the period of 3 years to 5 years from 1st July 2017 for issuing directives to remove difficulties faced by the taxpayers.</p> <p>Under this provision the Central Government had issued directives to extend the due dates or returns and other matters. In other way, one can say that the Government except further period 2 years to stabilize the GST.</p>
133	NA	<p>(i) Under the power of Section 5(1), the central government has given the retrospective exemption from levy or collection of IGST for supply of fishmeal (falling under heading 2301) from 1st July 2017 to 30th September 2019.</p> <p>(ii) Also, under the power of Section 5(1), the central government has levied the tax rate 12% retrospectively 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 1st July 2017 to 31st December 2018.</p> <p>No refund shall be made to those who has already paid the taxes on the above such items.</p>	<ul style="list-style-type: none"> ➤ Exemption is provided for supply of Fishmeal w.e.f. 1st July 2017 to 30th Sep 2019 and ➤ Tax rate of 12% (CGST + SGST / UTGST or IGST) is proposed for pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436) from 1st July 2017 to 31st December 2018. ➤ No refund will be granted for taxes paid earlier on above mentioned transactions. ➤

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UTGST ACT 2017

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Finance Bill Clause	Section	Amendment	Bizsol Analysis
134	1(2)	It extends to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Ladakh , Chandigarh and other territory.	Now the UTGST Act will be applicable to Ladakh as it has been newly added as UT.
135	2(8)	Definition of Union Territory “(c) Dadra and Nagar Haveli and Daman and Diu; (d) Ladakh;”.	The definition of UT has been amended to add newly added UT i.e. Ladakh and give effect merger of Dadra & Nagar Haveli and Daman & Diu.
136	26(1) Proviso	Removal of Difficulties In section 26 of the UT Goods and Services Tax Act, in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted.	The proposed amendment intends to increase the period of 3 years to 5 years from 1 st July 2017 for issuing directives to remove difficulties faced by the taxpayers. Under this provision the Central Government had issued directives to extend the due dates or returns and other matters. In other way, one can say that the Government except further period 2 years to stabilize the GST.
137	NA	(i) Under the power of Section 7(1), the central government has given the retrospective exemption from levy or collection of UTGST for supply of fishmeal (falling under heading 2301) from 1 st July 2017 to 30 th September 2019. (ii) Also, under the power of Section 7(1), the central government has levied the tax rate 6% retrospectively 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 1 st July 2017 to 31 st December 2018. No refund shall be made to those who has already paid the taxes on the above such items.	<ul style="list-style-type: none"> ➤ Exemption is provided for supply of Fishmeal w.e.f. 1st July 2017 to 30th Sep 2019 and ➤ Tax rate of 12% (CGST + SGST / UTGST or IGST) is proposed for pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436) from 1st July 2017 to 31st December 2018. ➤ No refund will be granted for taxes paid earlier on above mentioned transactions.

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THE GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017

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Finance Bill Clause	Section	Amendment	Bizsol Analysis
138	14(1)	<p><u>Removal of Difficulties</u></p> <p>In section 14 of the Act, in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted.</p>	<p>The definition of UT has been amended to add newly added UT i.e. Ladakh and give effect merger of Dadra & Nagar Haveli and Daman & Diu.</p> <p>The proposed amendment intends to increase the period of 3 years to 5 years from 1st July 2017 for issuing directives to remove difficulties faced by the taxpayers.</p> <p>Under this provision the Central Government had issued directives to extend the due dates or returns and other matters. In other way, one can say that the Government except further period 2 years to stabilize the GST.</p>

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