

CGST ACT 2017

BUDGET ANALYSIS 2021-22

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CGST Act 2017:

Finance Bill Clause	Section	Existing	Amendment	Bizsol Analysis
99	7(1)aa		<p>“(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.</p> <p>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”</p>	<p>This is the retrospective amendment w.e.f. 1st July 2017 mainly with the object to cover merger / amalgamation, admission retirement, division etc. as the transactions between two different persons.</p> <p>This will have the major tax implications due to retrospective amendment.</p> <p>Further, schedule II to Section 7, Sr. No. 7 has been omitted and included in this provision.</p>
100	16(2)aa)		<p>(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</p>	<p>Now, ITC will be allowed only on the matched invoices. In other words, only when outward supplies and relevant details have been communicated to the recipient of such invoice / debit notes.</p>

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101	35(5)	(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed: [Provided that nothing contained in this sub-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.]58	Omitted	Reconciliation of Annual Return with financial accounts in the Form GSTR-9C will be on self-certification basis and not needed to be certified by CA / CMAs. Govt should have appreciated additional collection in Dec & Jan was received only on account of finalizing GSTR-9C, where short duty was noticed and paid by the taxpayer. Professional scrutinized the financial accounts properly and reconciles the GST returns and advise to the clients and to pay the duties not paid by taxpayer. Now, when such short payment may be noticed by the department, mandatory payment of penalty and interest on duties will be the additional liability on the taxpayer.
102	44	44. Annual Return - (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person	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	Now, Annual return to be filed only after reconciliation with financial accounts on self-certification basis.

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		<p>and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year:</p> <p>[Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:</p> <p>Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the 2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish,</p>	<p>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:</p> <p>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:</p> <p>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.</p>	<p>Further, Commissioner have been empowered to exempt any class of registered person to file Annual Return.</p>

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		electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed. [Explanation.- For the purposes of this section, it is hereby declared that the annual return for the period from the 1st July, 2017 to the 31st March, 2018 shall be furnished on or before the [31st January, 2020]63 and the annual return for the period from the 1st April, 2018 to the 31st March, 2019 shall be furnished on or before the 31st March, 2020.]64		
103	50	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	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	Interest will have to be paid only when net tax liability arises. However, such provision will not be applicable when duty is payable on the gross liability, when it is noticed by the department and recovery proceedings initiated.

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		return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.	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.	
104	74	(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.	(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122 & 125 are deemed to be concluded.	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful- misstatement or suppression of facts will not be required in case Detention, seizure and release of goods and conveyances in transit and Confiscation of goods or conveyances and levy of penalty.
105	75		Explanation- For the purposes of this subsection, 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.' .	It is welcome provision. Errors and omission when corrected on own by the taxpayers, will be also considered as a self-assess tax.
106	83(1)	(1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section	(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 provisional attachment can be made even after initiation of any proceedings rather than pendency pf any proceedings.

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		74, 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 in such manner as may be prescribed.	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.”	This provision has been brought to negate the Gujarat High Court.
107	107(6)		Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.	For filing the appeal in the case of Detention, seizure and release of goods and conveyances in transit, min 25% of penalty levied to be deposited.
108	129(1) (a) & (b)	(a) on payment of the applicable tax and penalty equal to one 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 tax and penalty;	(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;	Penalty on Detention, seizure and release of goods and conveyances in transit has been enhanced to 200% from 100% of the duty amount in case of taxable goods when owner is present for release of the goods.

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		(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon 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 tax and 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.	Penalty can be 50% of value of goods or 200% of duty amount for taxable goods, whichever is higher, in case of Detention, seizure and release of goods and conveyances in transit, when owner is not present for release of the goods.
108	129(2)	(2) The provisions of sub-section (6) of section 67 shall, <i>mutatis mutandis</i> , apply for detention and seizure of goods and conveyances.	Omitted	Provisional release of the goods against the bank guarantee will not be allowed henceforth in case of Detention, seizure and release of goods and conveyances in transit.
	129(3)	(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).	(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).” ;	Specified timeline has been given for issuing the notice within 7 days from the date of Detention, seizure and release of goods and conveyances in transit and needs to specify the penalty amount in the notice, then only order can be issued.

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108	129(4)	(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.	(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.	No personal hearing will be required before finalizing the order of penalty in the case of Detention, seizure and release of goods and conveyances in transit
108	129(6)	(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within [fourteen days] ⁹⁰ of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130: Provided 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 [fourteen days] ⁹¹ may be reduced by the proper officer.	(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,	Since there will be no tax impose, penalty amount will have to be paid within 15 days otherwise goods can be disposed off recover the penalty. In case of vehicle, vehicle can be released by payment of penalty or Rs. 1 Lac whichever is lower. However, commissioner has been authorised to reduce the time of issuance of notice in case of perishable or hazardous goods.

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			the said period of fifteen days may be reduced by the proper officer.” .	
109	130(1)	(1) Notwithstanding anything contained in this Act, if any person— (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (ii) does not account for any goods on which he is liable to pay tax under this Act; or (iii) supplies any goods liable to tax under this Act without having applied for registration; or (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves	(1) Where any person— (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (ii) does not account for any goods on which he is liable to pay tax under this Act; or (iii) supplies any goods liable to tax under this Act without having applied for registration; or (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation	Earlier provision to Section 130(1) was exclusive irrespective of any provision mentioned earlier, but now Confiscation of goods or conveyances and levy of penalty in specific circumstances has given in the provision.

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		that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.	and the person shall be liable to penalty under section 122.	
109	130(2)	Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:	Provided further that the aggregate of such fine and penalty leviable shall not be less than the penalty equal to hundred per cent. of the tax payable on such goods:	Penalty amount in case of Confiscation of goods or conveyances and levy of penalty will be at least equal to the 100% of tax payable on such goods.
109	130(3)	(3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.	Omitted	This provision is become redundant and hence omitted, since only penalty amount is payable and not the tax., which is covered in the earlier provisions.

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110	151	<p>151. Power to collect statistics.— (1) The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.</p> <p>(2) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected .</p>	<p>151. Power to call for information. The Commissioner or an officer authorised 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.” .</p>	<p>Statistics have been changed with any information. It means CGST Officers can now call any information from any person and such person will have to furnish information in time, form and any manner as specified by the commissioner.</p>
111	152(1)	<p>152. Bar on disclosure of information.— (1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his</p>	<p>152. Bar on disclosure of information.— (1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to</p>	<p>Any information w.r.t. of any matter cannot be published without giving any opportunity of being heard to the person concern.</p>

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		authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.	be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act without giving an opportunity of being heard to the person concerned	
111	152(2)	(2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerization thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.	Omitted	This clause has been omitted for ease of doing business.
112	168(2)	Power to issue instructions or directions.— (2) 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	Power to issue instructions or directions.— (2) 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	Section 44 has been included and Section 151(1) has been omitted w.r.t. power to issue instructions or directions.

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		35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, [sub-section (1) of section 44, sub-sections (4) and (5) of section 52] ¹⁰⁵ , [sub-section (1) of section 143, except the second proviso thereof] ¹⁰⁶ , sub-section (1) of section 151, clause (1) 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.	(2) of section 38, sub-section (6) of section 39, section 44 , sub-sections (4) and (5) of section 52], [sub-section (1) of section 143, except the second proviso thereof], sub-section (1) of section 151 , clause (1) 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.	
113	Schedule II	7. Supply of Goods The following shall be treated as supply of goods, namely: Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.		This has been removed retrospectively since this has been added in the Section 7 itself considering as supply.

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114	16(1) & (3)(4)	<p>16. Zero rated supply.— (1) —zero rated supply means any of the following supplies of goods or services or both, namely:—</p> <p>(a) export of goods or services or both; or</p> <p>(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.</p> <p>-</p> <p>-</p> <p>-</p> <p>(3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:—</p> <p>(a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or</p>	<p>16. Zero rated supply.— (1) —zero rated supply means any of the following supplies of goods or services or both, namely:—</p> <p>(a) export of goods or services or both; or</p> <p>(b) supply of goods or services or both for authorised Operations to a Special Economic Zone developer or a Special Economic Zone unit.</p> <p>-</p> <p>-</p> <p>(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,</p> <p>Subject to such conditions, safeguards and procedure as may be prescribed:</p> <p>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</p>	<p>Supply to Developer & unit only for authorised operations will be considered as zero-rated supply.</p> <p>Refund only can be given for exports when it is linked with foreign exchange.</p>

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		<p>(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.</p>	<p>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.</p> <p>(4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify</p> <p>(i) a class of persons, who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;</p> <p>(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.</p>	
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