

CBIC has notified 1st October 2022 as the date from which various amendments passed by Finance Act, 2022 would be effective. A gist of the important amendments effective from 1st October 2022 has been summarised herein below.

Section 16(4) of the CGST Act - Extension of due date for availment of Input Tax Credit ("ITC") upto 30th November.

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 *thirtieth day of November* following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

CNK Comment:

- The due date for availment of ITC for any financial year was earlier provided as the due date of furnishing of GSTR-3B return for the month of September i.e. 20th October in case of monthly return filers and 22nd / 24th October in case of quarterly return filers. The said due date has been extended up to 30th November.
- ITC in respect of invoices or debit notes dated F.Y 2021-22 can be claimed in any GSTR-3B filed up to 30th November 2022. If any GSTR-3B is filed post 30th November 2022 then ITC of invoices or debit notes dated F.Y 2021-22 would not be eligible.
- It is imperative that the ITC reconciliation with GSTR-2B and follow-up with vendors in case of mismatches is completed at the earliest so that any amendments required to be done by vendors are executed prior to generation of GSTR-2B for the month of October 2022.

Section 16 – Restriction on availment of ITC

A new condition has been implemented to restrict the ITC to the extent available and communicated under Section 38 of the CGST Act in the form of auto-generated statement (i.e., GSTR 2B).

CNK Comment:

- An auto generated statement will be made available comprising of 'restricted section' as well as 'claimable section'. Therefore, taxpayer will not be entitled to take ITC in respect of inward supplies covered under restricted section of GSTR-2B.
- The restricted section of GSTR-2B would include credits in respect of inward supplies procured from vendors who have defaulted in payment of GST, vendors who have availed ITC more than ITC available in their GSTR-2B, etc.

Section 29/ Rule 21 - Cancellation of registration

Registered person who is required to file return U/S 39(1) on monthly/quarterly basis, fails to furnish the same for a continuous period of six months/two tax periods respectively then as per Rule 21(h) and Rule 21(i) registration will get cancelled.

CNK Comment:

- If a composition taxable person fails to file an annual return for three months beyond the due date of 30th April of the following year, his registration can get cancelled.
- If a regular taxable person fails to furnish returns (GSTR3B) for continuous period of six months, his registration can get cancelled.

Section 34(2) of the CGST Act – Due date for issuance of credit notes upto 30th November

Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than **the thirtieth day of November** following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

CNK Comment:

- Prior to the amendment, the suppliers were allowed to issue credit notes upto 30th September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier.
- The amended provision lacks clarity as to whether credit notes can be issued upto 30th November and to be reported in GSTR-1 of November or credit notes can be issued at any date, but it should be reported latest by 30th November.
- In our view, the intent of the amendment is to restrict the reporting of credit notes upto 30th November following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier.
- Accordingly, it is recommended that the credit notes for F.Y 2021-22 should be issued latest upto 31st October 2022 and the same should be reported in GSTR-1 to be filed latest by 30th November 2022.

Section 37(3) of the CGST Act – Rectification in GSTR-1 Return

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after **“the thirtieth day of November”** following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

CNK Comment:

- The time limit for rectification of error or omission in GSTR-1 has been extended to 30th November following the end of the financial year to which such document pertains.
- Accordingly, the taxpayers can amend the transactions of F.Y 2021-22 reported in GSTR-1 in any GSTR-1 return to be filed by 30th November 2022.

Section 39(9) of the CGST Act – Rectification in GSTR-3B Return

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the **“thirtieth day of November”** following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier.

CNK Comment:

- The time limit for rectification of error or omission in GSTR-3B has been extended to 30th November following the end of the financial year to which such error pertains.
- Accordingly, the taxpayers can pay/adjust the taxes of F.Y 2021-22 reported in GSTR-3B in any GSTR-3B return to be filed by 30th November 2022.

Section 41 – Reversal of ITC

The amended provision requires reversal of ITC along with applicable interest in respect of such inward supplies, the tax payable whereon has not been paid by the supplier.

CNK Comment:

- Tax-payers would be required to keep a track of timely compliances by its vendors and reversal of ITC along with interest in case of default in payment of GST by its vendors.
- The tax-payer can re-avail the reversed credit if its vendor deposits the GST in respect of such supplies.

Omission of Section 42/43/43A - Sections 42, 43 and 43A of the CGST Act are being omitted so as to do away with two-way communication process in return filing.

Section 47 – Levy of late fee

Provisions for late fees made applicable to E-Commerce operator under section 52.

Section 49 – Payment of tax, interest, penalty and other amounts

A new sub-section 12 is inserted which empowers the Government to specify a maximum limit of output tax that can be paid using balances in the electronic credit ledger.

CNK Comment:

- This insertion gives Rule 86B legal backing. As per Rule 86B, applicable taxpayers with aggregate outward taxable supply (i.e., excluding exempt and zero-rated supplies) greater than Rs. 50 lakhs can utilise ITC up to 99% of their output tax liability, subject to exceptions.

Section 50 – Interest on delayed payment of tax.

Sub-section (3) to Section 50 has been substituted whereby if ITC is wrongly availed and utilised then interest would be applicable.

CNK Comment:

- Now the interest would be leviable only when ITC has been utilised and not merely availed.
- Applicable retrospectively w.e.f. 1st July 2017.

Section 52 – Collection of tax at source

Last date for rectification of error or omission in respect of any supplies reported by E-commerce operator (i.e., GSTR 8) can be carried out till **thirtieth day of November** following the end of the FY to which such supply pertains or the date of filing annual return whichever is earlier.

Section 54/ Rule 89 – Refund of tax

Form RFD-01 prescribed for refund of excess amount in Electronic Cash Ledger. Further, power to withhold the refund by proper officer extended to all kinds of refund under the GST law instead of refund under sub-section (3) to Section 54. Also, relevant date in case of zero-rated supply of goods or services to SEZ developer or unit has been notified.

CNK Comment:

Power to withhold the refund by proper officer extended to all kinds of refund under the GST law.

Rule 37 – Reversal of input tax credit in the case of non-payment of consideration

Form GSTR-3B notified as relevant form for reversal of ITC in case of non-payment of consideration to the supplier within the time-limit prescribed. Further, the said rule is not applicable to the supplies on which tax is payable on reverse charge basis.

CNK Comment:

Reversal of ITC under Rule 37 (payment to the supplier beyond 180 days) is to be done through Form GSTR-3B.

Rule 38 – Claim of credit by a banking company or a financial institution

As per Rule 38(c) a banking company or a financial institution, including a non-banking financial company, which chooses not to comply with the provision of Section 17(2), the 50% of the remaining amount shall be admissible ITC which shall be furnished in FORM GSTR-3B.

GST exemption on Transportation of Goods by Air/Vessel from India to Outside India discontinued

Entry No.20A/20B of Notification No. 9/2017 - Integrated Tax (Rate) dated 28.06.2017 exempted services by way of transportation of goods by an aircraft/vessel from customs station of clearance in India to a place outside India from the levy of GST. Such exemption was valid upto 30th September 2022. No further extension has been granted and therefore, such services would now become taxable w.e.f. 1st October 2022.

The following Rules have been omitted

Rule 69 - Matching of claim of ITC

Rule 70 - Final acceptance of input tax credit and communication thereof

Rule 71 - Communication and rectification of discrepancy in claim of ITC and reversal of claim of ITC

Rule 72 - Claim of ITC on the same invoice more than once

Rule 73 - Matching of claim of reduction in the output tax liability

Rule 74 - Final acceptance of reduction in output tax liability and communication thereof

Rule 75 - Communication & rectification of discrepancy in reduction in output tax liability and reversal claim of reduction

Rule 76 - Claim of reduction in output tax liability more than once

Rule 77 - Refund of interest paid on reclaim of reversals

Rule 79 - Communication and rectification of discrepancy in details furnished by the e-commerce operator and the supplier

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