



Newsflash:
**Central Government brings into force the
changes notified under CGST Act 2017 vide
Finance Act 2022 with effect from 1 October 2022**



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1.0 Background:

The Central Board of Indirect Taxes and Customs (CBIC) vide **Central Tax Notification No. 18/2022 – C.T. dated 28 September 2022** seeks to bring into effect the changes made under the CGST Act 2017 through the Finance Act, 2022 and to be made effective from 1 October 2022. The summary of said changes is encapsulated as under:

2.0 Changes in relation to input tax credit:

1. Clause (ba) inserted under Section 16(2) of the CGST Act has been notified w.e.f. 01 October 2022. This provision states that details of eligible input tax credit appearing in auto-generated GSTR 2B report as per the supplier filings should not be restricted from availment u/s 38. Therefore, making appearance in GSTR 2B report as one of the mandatory conditions to be fulfilled by the recipient to become entitled to input tax credit.
2. The substituted timelines for availment of ITC pertaining to a invoices or debit notes of a financial year up to the earlier of 30th day of November of the subsequent financial year or the date of filing the relevant annual return has been notified w.e.f. 01 October 2022. It may be noted that earlier the last date for availment of ITC in relation to a financial year was till the earlier of the due date of filing GSTR 3B for the month of September following the financial year or furnishing of the relevant annual return.
3. Substituted Section 41 of the CGST Act that seeks to provide for availment of self-assessed input tax credit subject to prescribed conditions and restrictions thereby eliminating the concept of ITC claim on a 'provisional' basis has been made effective from 01 October 2022.

3.0 Changes in timelines for reporting additions or amendments:

1. The amendment in timelines to rectify any error or omissions in GSTR 1 in relation to previous financial year up to 30th of November of the succeeding financial year or the filing of the relevant annual return has been made effective from 01 October 2022. It may be noted that earlier the last date for reporting such changes or amendments in relation to a financial year was till the earlier of filing GSTR 3B for the month of September following the financial year or furnishing of the relevant annual return.
2. The revised timelines for reporting of credit notes in relation to original invoices pertaining to previous financial year up to the earlier of 30th November of the next financial year or the date of filing the relevant annual return has been notified w.e.f. 1 October 2022. It is pertinent to note that the earlier provision under Section 34(2) of CGST Act 2017 allowed to report any credit notes in relation to original invoices of earlier financial year till the earlier of the month of September following the end of such financial year or the date of furnishing the relevant annual

return.

3. Revision in timelines to make any rectifications of omissions or incorrect particulars furnished in GSTR 3B return pertaining to transactions of a financial year till 30th of November of the succeeding financial year or the date of filing the relevant annual return is made effective w.e.f. 01 October 2022. It is noteworthy that earlier the said timelines were earlier of the due-date for furnishing of return for the month of September from the end of financial year or the date of furnishing the relevant annual return.
4. Amendment to Section 52(6) of CGST Act 2017 is made effective from 1 October 2022 thereby bringing into effect the substituted timelines to make any rectifications in GSTR 8 filed by e-commerce operators collecting tax at source in relation to details of previous financial year till the earlier of 30th November of succeeding financial year or the date of filing the relevant annual statement.

4.0 Substitution of Section 38 i.e. Statement of Inward supplies

The substituted Section 38 of the CGST Act 2017 has been notified w.e.f. 1 October 2022 which seeks to prescribe the manner as well as conditions for communication of details of ITC to the recipients by way of auto-generated report in Form GSTR 2B, thereby eliminating two-way communication process in return filing. The existing Section 38 which related to filing of return in Form GSTR 2 i.e. statement of inward supplies is now omitted and completely replaced by the fresh set of provisions introduced vide the Finance Act 2022. As per the amended Section 38 of CGST Act 2017, the auto-generated GSTR 2B shall restrict the input tax credit on the below grounds amongst others:

- Details reported by the suppliers who defaulted in payment of tax and such default continued for the prescribed period
- In cases where the output tax payable as per GSTR 1 return of the supplier exceeds the payment made by him through corresponding GSTR 3B return
- In cases where the supplier has availed input tax credit in excess of that available to him as per the auto-generated GSTR 2B report
- In cases where the supplier has defaulted in discharging liability in accordance with Section 49(12) of the Act i.e. the maximum limit of output tax that can be paid through utilization of input tax credit.

5.0 Sequential filing of GSTR 1 and GSTR 3B returns:

Mandatory filing of GSTR 1 for a return period for being able to file GSTR 3B for that particular period has been made effective. Similarly, mandatory filing of GSTR 1 in sequence has also been made mandatory i.e. GSTR 1 for a period cannot be filed until GSTR 1 for any of the preceding periods remains unfiled. Until now, the sequential filing of GSTR 3B was already in force, but after the introduced change, entire filing process of GSTR 1 and GSTR 3B in series after the other would become enforced on the GSTN.

6.0 Cancellation or suspension of GST Registration:

Section 29(2) of the CGST Act provides for cancellation of registration of a taxpayer by the proper officer on occurring of the prescribed defaults. In this regard,

- The existing clause (b) of Section 29(2) provides for cancellation of GST registration of composition taxpayers on not furnishing GSTR 4 returns for three consecutive tax periods. The amended clause (b) is notified which seeks to provide for cancellation of registration of composition taxpayers on non-furnishing of the GSTR 4 beyond three months from the due date of furnishing of the said return.
- The existing clause (c) of Section 29(2) provides for cancellation of regular return filers on non-furnishing of GST returns for a continuous period of six months. The amended clause (c) is notified which seeks to provide for cancellation of registration of regular return filers for 'such continuous tax period as may be prescribed'. The CGST Rules 2017 would correspondingly prescribe the applicable period in accordance with amended Section 29(2)(c) of CGST Act 2017.

7.0 Other Changes:

- Sections 42, 43 and 43A of the CGST Act are omitted so as to do away with two-way communication process in return filing.
- Change in due-date for filing of GSTR 5 by Non-resident taxable persons from 20th of the subsequent month (earlier) to 13th of the subsequent month (now).
- The relevant date for filing refund claim in respect of zero-rated supplies made to SEZ units/developers shall be the due-date for furnishing of return under Section 39 in respect of such supplies.
- Amendment under Section 47 of the CGST Act 2017 to provide for levy of late fees in relation to belated filing of returns in Form GSTR 8 i.e. returns filed by e-commerce operators liable to collect tax at source
- Sub-section (12) inserted after Section 49(11) of CGST Act 2017 has been notified w.e.f. 01 October 2022. The said sub-section empowers the government to specify the maximum proportion of output tax liability which may be discharged through electronic credit ledger.
- Amendment of Section 54 of CGST Act 2017 seeking to extend the scope of withholding of or recovery from refunds in respect of all types of refund is made effective from 01 October 2022.
- Several amendments in Section 37 of CGST Act 2017 have been made to align it with the amended Section 38 and 39 of CGST Act 2017. For instance; omission of sub-section (2) that dealt with communication of details by the supplier and acceptance or rejection of the same by the recipient.

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This Newsflash summarizes on the changes notified under CGST Act 2017 vide Finance Act 2022 with effect from 01 October 2022. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said judgement and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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