



Union Budget 2022 - GST proposals

Our Hon'ble Finance Minister Nirmala Sitharaman presented the budget on 1st February 2022. The Finance Bill 2022 has introduced amendments in the CGST Act to streamline the flow of input tax credits, plug the revenue leakages and strengthen the powers available to tax officers to enforce compliance – with umpteen conditions yet 'to be prescribed'. The rules will need to travel right in the middle of the path of the provision in the Act to stay away from the Court's ire.

Amidst this melee, it is clear that 'determined and unapologetic' seems to be the approach. And if something needs to be done to move things along, it will be done. One may disagree with the wisdom behind it, but the resolve is unmistakable - and this confirms the aggressive steps in the administration that have started to show.

The key changes proposed by the Finance Bill 2022 are summarized below. The amendments shall come into effect from that date to be notified.

1. Restrictions on the claim of input tax credits in terms of Section 16(2) (ba) read with Section 38

Clause (ba) has been inserted in Section 16(2) to allow the claim of input tax credit only to the extent it has not been restricted or withheld under Section 38 due to either of the following reasons:

- Outward supplies made by the vendor within the specified time of obtaining registration,
- The vendor has defaulted in payment of tax, and such default has continued for a specified period,
- Short payment of tax or excess avilment of input tax credits exceeding the specified threshold by the vendors compared to the liability declared in their GSTR-1 or input tax credits available in their GSTR-2B,
- The vendor has paid output tax liability by utilizing input tax credits in excess of the maximum proportion as may be specified.

Thus, the avilment of credit has been reduced to what is deemed to be 'admissible'. That's so far from where this journey began but this, in some part, is on trade and its own misadventures. Supplier's defaults will not only deny credit to recipient but also taint the recipient's onward supplies (and credit flows).



2. Extension in the time limit for [claiming input tax credits](#)

The time limit for availing input tax credits on invoice and debit notes under Section 16(4) shall be extended from September to the 30th day of the month of November, subsequent to the financial year in which they were issued (or filing of annual return for the year).

3. Suo-moto cancellation of the registration

Section 29 shall be amended to allow the tax officials to cancel the registration if the returns have not been filed for the specified period (instead of a continuous period of six months for regular registrations) or the return for the financial year has not been filed beyond three months from the due date by composition dealer.

4. Extension of the time limit for issuing credit notes

The time limit for issuance of credit notes in respect of a supply made during the year shall be extended from September to the 30th day of November of the following Financial year.

5. Sequential filing of returns of outward supplies

Section 37 shall be amended to enable prescribing conditions and restrictions for furnishing the details of outward supplies, including restriction of filing the return if previous returns have not been filed and conditions for communication of the details of such supplies to the recipients.

Further, the time limit for rectification of errors and omissions in respect of details of outward supplies (GSTR-1) shall be extended from September to the 30th day of November of the subsequent Financial year.

6. Return of outward supplies to be pre-condition for filing return u/s 39

Furnishing the details of outward supplies for a tax period has been made a pre-condition for furnishing the return under Section 39. The amendments will also extend the time for rectification of errors in the return furnished under Section 39 (GSTR-3B) till the 30th day of November of the following financial year.

Further, the taxpayers opting for filing quarterly returns shall have an option to pay self-assessed tax or an amount determined under such conditions as may be prescribed.



7. The provisional claim of input tax credits replaced with self-assessment

The concept of a provisional claim of input tax credits under Section 41 has been substituted with the claim based on self-assessment, subject to such conditions and restrictions as may be prescribed.

The input tax credits so availed shall be required to be reversed (along with interest, if utilized) if the tax thereon has not been paid by the supplier, and credit can be subsequently re-availed on payment of tax by the [vendor](#).

In the case of D. Y. Beathel Enterprises, the Madras High Court was pleased to interpret the obligation to ensure the tax has been paid to the Government as a secondary obligation and insisted that the Department should first proceed against the supplier and exhaust the remedy of recovery before demanding reversal of input tax credit from the recipient.

8. Two-way communication process omitted

The provisions pertaining to matching, reversal, and reclaim of input tax credits contained in Sections 42, 43, and 43A shall be omitted to do away with the two-way communication process in return filing.

9. Transfer of unutilized cash balance in the ledger and restriction on utilization of input tax credits

The amount available in the electronic cash ledger can be transferred between tax, ledger, interest, penalty, fee, or any other amount within the same registration. Balance in electronic cash ledger for IGST/CGST can be transferred to another registration within/outside the State (distinct person) as IGST/CGST, subject to the condition that there is no unpaid tax liability.

Further, the utilization of the balance in the electronic credit ledger may be restricted by prescribing the maximum proportion of output tax liability that may be discharged through such balance. Violation of this condition can lead to blockage of the input tax credit for the recipient u/s 38.

10. Interest to be levied only on excess utilization of input tax credits

Section 50(3) has been amended retrospectively with effect from 1st July 2017 to provide for levy of interest on the excess availment of input tax credits only to the extent they have been utilized.



11. Clarifications on refund related issues and power to withhold/adjust liabilities against refund

The refund-related concerns for balance in electronic cash ledger and date for filing refund claim regarding supplies made to SEZ have been explicitly clarified by way of amendments in Section 54.

Further, the scope of recovery of amount dues by withholding or adjusting refunds has been extended from the refund of unutilized input tax credits to all types of refunds.

The time limit to claim a refund of tax paid on inwards supplies by any specialized agency of the United Nations, any multilateral financial institution, consulate, embassy, etc. has been extended to two years from the last day of the quarter in which the supply.