

BUDGET 2024 GST

At PPC, we are committed to provide legal advisory related to Goods and Services Tax (GST) with our in depth research. We are happy to share our legal updates on final Budget 2024 presented by Hon'ble Minister of Finance on 23rd July, 24. Please feel free to discuss with us on your GST related issues. It will be our opportunity to learn.

01

Levy & Exemption

- Section 9 of the CGST Act, 2017 and Section 5 of the IGST Act, 2017 are being amended to exclude un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor for human consumption from levy of GST. At present, it is subject to GST and widely being used for production of alcoholic liquor for human consumption which is not subject to GST and thus resulting into double taxation.
- Government will get power under new Section 11A of the CGST Act, 2017 and Section 6A of the IGST Act, 2017 to exempt payment of any tax which was payable or payable at higher rate but which is not paid due to prevailing practice. Under this power, Government, on recommendation of GST Council, will be able to give relief to cases where tax is found to be payable but not paid by many in the same industry due to prevailing practice.

Time limit for taking ITC is provided under Section 16(4). One time benefit of extension of time limit till 30th November, 2021 for the ITC pertaining to period 2017-18 to 2020-21 is proposed. This will solve many cases where demand is raised due to delayed filing of returns and entire ITC is proposed to be disallowed. No refund of any tax will be available if such amount is already paid, or ITC is already reversed. [New proposed Section 16(5)]

If registration is cancelled and such cancellation is revoked after due date of availing ITC as provided under Section 16(4) i.e. 30th November of next year, such time limit will not be applicable for the ITC pertaining to period between date of cancellation and order of revocation of cancellation of registration. Such benefit is available only if GSTR 3Bis filed within 30 days from the date of order of revocation of cancellation of registration. [Proposed Section 16(6)]

If tax is paid under Section 74 i.e. under charge of suppression, ITC to the recipient is not available as provided under Section 17(5)(i) at present. It is proposed that such limitation will be limited upto financial year 2023-24 only and there is no proposal for disallowing such ITC for financial year 2024-25 onwards even for the cases involving suppression. [Section 17(5)(i)]

SCN NEW MECHANISM

- New common section 74A is being introduced to have common time limit for issuance of notices and orders instead of present different provisions for cases involving suppression (Section 74) and other cases not involving suppression (Section 73).
- For determination of tax pertaining to the period upto financial year 2023-24, present mechanism of Section 73 & 74 shall continue and for the financial year 2024-25 onwards, new mechanism under Section 74A will be applicable.
- Instead of current different time limits for cases involving suppression and cases not involving suppression, common time limit of 42 months from the due date for furnishing of annual return.
- Orders are proposed to be passed within 12 months from the date of issuance of Show Cause Notice. Said period of 12 months may be extended further by a maximum of six months by the proper officer not below the rank of Joint Commissioner after recording reason for delay in writing.
- It is proposed that no notice shall be issued if demand of tax is less than Rs. 1000.
- In cases involving suppression, reduced penalty of 25% is payable if tax, interest and penalty is paid within 30 days of issuance of notice/50% if tax, interest and such penalty is paid within 30 days of date of communication of order. Both such limits are proposed to be increased to 60 days. For cases not involving suppression, no penalty imposable if tax and interest is paid before or within 30 days of notice at present. This limit is being increased to 60 days.

- Maximum amount of pre-deposit for appeal before Appellate Authority (Commissioner- Appeals) and Appellate Tribunal (GSTAT) is reduced from Rs. 25Cr to Rs. 20Cr. and Rs. 50 Cr to Rs. 20Cr respectively. Further, limit of additional 20% pre-deposit for appeal before GSTAT is proposed to be reduced to 10%. [Section 107 & 112]
- At present, there is no mechanism to file appeal against orders passed by the National Anti-profiteering Authority. It is proposed that such orders will be appealable before Principal Bench of the GSTAT at New Delhi. [Section 109]
- It is proposed that Government may, on recommendations of GST Council, notify cases or class of cases which shall be heard only by the Principal Bench of GSTAT at New Delhi. [Section 109].
- In absence of GSTAT, appeals before GSTAT are yet to be filed and time limit of three months is already over. It is proposed that pending appeals are to be filed within 3 months from the date of order or date to be notified by the Government, whichever is later. [Section 112]

05

AMNESTY SCHEME FOR WAIVER OF INTEREST AND PENALTY

- Scheme will be applicable in following cases only
 - Show Cause Notice is issued under Section 73 but order is not yet issued.
 - Order is issued under Section 73(11) but appeal order is not passed under Section 107(11) by the Appellate Authority (Com. Appeals).
 - Order under Section 107(11) by the Appellate Authority (Com. Appeals) is passed but order by the GSTAT is not passed.

- Benefit of scheme is applicable only for the amount pertaining to period 1st July, 2017 to 31st March, 2020 or part thereof.

- The scheme is applicable only if full amount of tax payable as per notice is paid.

- Such amount is to be paid on or before the date as may be notified.

- If amount of tax so paid, no interest under Section 50 and no penalty shall be payable and all the proceedings shall be deemed to be concluded.

- Such benefit will be subject to such conditions as may be prescribed.

- If charge of suppression doesn't survive under section 74, such demand may be concluded under Section 73 as provided under Section 75(2). This scheme will also be available to such cases.

05

AMNESTY SCHEME FOR WAIVER OF INTEREST AND PENALTY

- If department has preferred appeal and tax payers takes benefit of the scheme, he will have to pay additional tax within three months of the order of the appellate authority/GSTAT which may increase the liability in future. If interest or penalty is already paid, no refund thereof shall be granted.
 - No benefit in respect of any amount payable by the person on account of erroneous refund.
 - If appeal before Appellate Authority (Com. Appeals) is pending, same is required to be withdrawn on or before date as notified for payment of amount under the scheme.
- 12.No appeal is preferable once benefit of the scheme is availed.

06

SUMMONS

- At present, if a summon is issued under Section 70(1), a person who is summoned is required to attend personally only. New, sub-section (1A) to Section 70 of the CGST Act, 2017 is being introduced to provide that if officer allows, attendance may be through authorized representative also. Further, it is also proposed that person appearing shall state the truth during examination. [Section 70]

07

NO IGST REFUNDS IF EXPORT IS SUBJECT TO EXPORT DUTY

- Accumulated ITC on Zero Rated supply of goods is not eligible for a refund at present if export goods are subject to Export Duty. Sub-section (15) to Section 54 of CGST Act, 2017 is inserted to provide that similar restrictions will also be applicable to refunds of IGST paid on export of such goods. Similar restriction is also placed in proposed new sub-section (5) of Section 16 of the IGST Act, 2017. [Section 54 of the CGST and Section 16 of IGST Act]

08

ANTI-PROFITEERING SUNSET CLAUSE AND APPEAL

- Government is being made entitled to notify last date for making application for anti-profiteering application. [Section 171]
- At present, there is no mechanism to file appeal against orders passed by the National Anti-profiteering Authority. It is proposed that such orders will be appealable before Principal Bench of the GSTAT at New Delhi. [Section 109]

09


TDS

- At present, return of TDS is required to be filed only if there is deduction of tax during the respective month. However, it is proposed that TDS return under Section 39(3) is required to be filed compulsorily even if there is no deduction during the month. [Section 39(3)]



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