

SKKA IDT ALERT

2023-2024/27

Following are the amendments Effective from October 1st, 2023, Under the Goods and Services Tax (GST) Framework: -

- ❖ **Extension of Composition Levy to Goods Suppliers in E-commerce Model (Section 10 of CGST Act):** The advantage of the composition scheme, previously inaccessible to registered individuals engaged in the supply of goods through an Ecommerce operator, will now be extended to them. Nevertheless, the constraint will continue to be applicable to registered individuals involved in the provision of services through an Ecommerce operator.
- ❖ **Clarificatory amendment concerning payment to supplier within 180 days: (Section 16 of CGST Act):** It is now stipulated that if the recipient doesn't pay the tax amount within 180 days of the tax invoice issuance under section 16(4), they must reverse an equivalent amount of Input Tax Credit (ITC) claimed, along with interest under section 50 of the CGST Act, 2017.

Previously, ITC was added to the recipient's output tax liability, but post-amendment, it involves either payment or reversal of ITC. Furthermore, interest on such reversals will be determined according to Section 50(3) instead of 50(1) of the CGST Act.
- ❖ **ITC Reversal on supply of warehoused goods before home clearance: (Section 17(3) of CGST Act):** As mentioned in SL No. 8 of Schedule III -Supply of warehoused goods to any person before clearance for home consumption shall be taken as exempt supply value for the purposes of reversal of common ITC under section 17(2) of the Act read with Rule 42/43 of the CGST Rules, 2017.
- ❖ **ITC blocked on CSR activities: (Section 17(5)(fa) of CGST Act):** Input Tax Credit (ITC) will not be eligible for goods or services received by a taxable person, when these goods or services are used or intended for use in activities associated with the fulfilment of Corporate Social Responsibility (CSR) obligations.
- ❖ **Compulsory registration under section 22(1) and 24(1) not require if exempt under section 23(1): (Section 23(2) of CGST Act):** A retrospective amendment, effective from July 1, 2017, clarifies that individuals exempted from mandatory registration based on a notification under Section 23(2) of the CGST Act are not required to obtain registration, regardless of the provisions under Section 22 (threshold limit cases) or Section 24 (mandatory cases).
- ❖ **Time limit on application for revocation of cancelled registration: (Section 30 of CGST Act):** The previous time limit of 30 days specified under Section 30 for filing an application to revoke the cancellation of GST registration has been removed. Instead, the timeframe is now governed by Rule 23, which extends the period to 90 days from the date of the cancellation order. Additionally, the Commissioner may, at their discretion, allow a further extension not exceeding 180 days.

- ❖ **Limitation of 3 years on filing of returns: (Section 37, 39, 44, 52 of CGST Act):** A registered individual is prohibited from submitting returns for GSTR-1, GSTR-3B, GSTR-9, GSTR-9C, and GSTR-8 after a period of three years from the due date for furnishing the respective return.
- ❖ **Interest on delayed refunds: (Section 56 of CGST Act):** In case of interest owed under section 56, the proper officer shall issue an order with payment details in FORM GST RFD-05, specifying the delayed refund amount, the duration of the delay, and the interest due. This interest will be electronically credited to the applicant's registered bank account as provided in their application for refund. *Delays beyond 15 days in responding to notices or validating bank account details are not included in the delay period.*
- ❖ **Retrospective applicability of Para 7, 8(a) and 8(c) of Schedule III: (Schedule III CGST Act):** The CGST Amendment Act of 2018, dated February 1, 2019, introduced changes to the CGST Act. These changes included categorizing certain activities as non-taxable. These activities include the supply of goods from a location outside the taxable territory to another place outside the taxable territory, high sea sales, and the supply of warehoused goods before their clearance for home consumption.

Also, to resolve ongoing and potential legal disputes where taxpayers didn't pay tax on such supplies, it is proposed that these supplies be made non-taxable retrospectively from July 1, 2017. *However, there will be no refund of tax paid for these transactions/activities if tax was already paid between July 1, 2017, and January 31, 2019.*

- ❖ **Place of Supply i.r.o. Transportation of Goods: (Section 12(8) of IGST Act):** An amendment is proposed to Section 12(8) of the IGST Act regarding the place of supply for transportation of goods, including mail or courier services. The amendment suggests removing the proviso in Section 12(8) to specify the place of supply regardless of the destination of the goods when both the service provider and recipient are located in India.

Under this change, the place of supply will be the location of the recipient of the service if the recipient is a registered person. As a result, half of the tax will be allocated to the State where the recipient is registered, instead of the previous arrangement where the entire tax was allocated to the Union when goods were destined outside India.

- ❖ **Place of Supply i.r.o. Transportation of Goods: (Section 13(9) of IGST Act):** An amendment is proposed to Section 13(9) of the IGST Act regarding the place of supply for transportation of goods, other than by mail or courier services. The amendment suggests removing Section 13(9) and directs that the place of supply for services related to the transportation of goods (except for mail or courier) will be determined by the default provision outlined in Section 13(2) of the IGST Act.

Under this modification, the place of supply for these services, in cases where either the service provider or the recipient is located outside India, will be the location of the recipient of services. Consequently, services provided to recipients outside India will be classified as exports, and services received from providers outside India will be classified as imports of services, regardless of the destination of the goods being transported.

- ❖ **Zero-rated supplies to SEZ for authorised operations: (Section 16(1)(b) of IGST Act):** Only supplies made to SEZ unit/developer for “**AUTHORIZED OPERATIONS**” shall qualify as Zero Rated supplies under the

IGST Act 2017. Any supplies which made otherwise shall be treated as domestic supplies and benefit of export shall not be available on the same.

- ❖ **Section 16(4) of IGST Act 2017 notified** – The latest notification, No.01/2023-IGST, allows for the payment of taxes on all exports of goods and services, with the exception of specific items such as cigarettes, pan-masala, and other tobacco-related products. Thus, one may export with payment of IGST and claim refund of taxes paid for all goods/services except tobacco and related products.



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