

PROPOSAL OF FINANCE BILL 2022-2023



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Change in Time Limits

Finance Budget 2022, Proposes to change the timelines for rectifying the errors/omission of last financial year:

Time Limit for	Existing Provisions	Proposed amendment
Claiming of ITC	Due date of September return or Annual return whichever is earlier	30 th November
Issuance of Credit Note	30 th September	30 th November
Rectification of Error in GST Return	30 th September	30 th November

CGCA Comments:

This would give additional time to the Assessee to reconcile its books with the GST returns.

Conditions for taking Input Tax Credit (ITC)

Existing Provisions:

Presently, Sec 16(2) provides the following conditions which must be satisfied by the registered person to claim ITC:

- a) The registered person is in possession of tax invoice or debit note;
- b) He has received the goods or services or both;
- c) The tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply;
- d) He has furnished the GSTR 3B; and
- e) Details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies (GSTR- 1) and such details have been communicated to the recipient of such invoice or debit note.

Proposed Amendment:

In addition to the above, Finance Bill proposes to insert one more condition -

- a) ITC can be availed only if the same is reflecting in **GSTR-2B**.

CGCA Comments

This implies that only those transactions which have been reported by the Supplier in GST Returns (GSTR 2B) can be availed as ITC by the registered person.

Cancellation of GST Registration

Existing Provisions:

Presently, as per Sec 29(2)(b) the registration can be cancelled suo-moto if Composition tax payer has not furnished returns for three consecutive tax periods.

Proposed Amendment:

Finance Bill proposes to substitute Section 29(2)(b) as - The registration can be cancelled suo-moto if the Composition tax payer has not filed GSTR-4 beyond 3 months from the due date of 30th April of the following relevant financial year.

Removal of Two way communication for ITC mismatches

Existing Provisions:

Presently, the GST law had prescribed for two-way communication process between Supplier & Recipient through various GSTR Forms

Proposed Amendment:

Finance Bill proposes to remove such two way communication process as it was never been brought into force by the Government.

Change in Due Date of filing return by NRTP

Existing Provision

Presently as per Section 39(5), the Due date for filing return by non-resident taxable person (NRTP) is earlier of:

- a) 20th Day of the next month; or
b) Within 7 days after the last day of registration period

Proposed Amendment

The Due date for filing return by non-resident taxable person shall be 13th Day of the following relevant month

Change in conditions for claiming ITC

Existing Provisions

Presently as per Section 41 -

Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger and such credit shall be utilized only for payment of self-assessed output tax as per the return.

Proposed Amendment

Finance Bill proposes to substitute Sec 41 -

Every registered person shall be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger and if such credit of input tax availed by a registered person, has not been paid by the supplier, then the shall be reversed along with applicable interest.

However, when the supplier makes payment of the tax, than such credit can be re-availed by the registered person which was earlier reversed.

Levy of late fees for failure to furnish Returns

Existing Provisions

Presently, the late fee is levied if:

- a) Any registered person who fails to furnish the details of outward or inward supplies required under respective GST Returns by the due date shall pay a late fee of Rs. 100 per day subject to a maximum amount of Rs. 5,000/-
- b) Any registered person who fails to furnish the Annual return by the due date shall be liable to pay a late fee of Rs. 100 per day subject to a maximum of an amount calculated at a 0.25% of his turnover in the State or Union territory.

Proposed Amendment

Finance Bill proposes to amend Sec 47 -

- a) Any registered person who fails to furnish the details of outward supplies required under respective GST Returns or **GSTR-8**(return for e-commerce operators required to collect TCS) by the due date shall pay a late fee of Rs. 100 per day subject to a maximum amount of Rs. 5,000/-
- b) Any registered person who fails to furnish the Annual return by the due date shall be liable to pay a late fee of Rs. 100 per day subject to a maximum of an amount calculated at a 0.25% of his turnover in the State or Union territory.

Utilization of balance in Electronic Credit Ledger

Existing Provisions:

Presently, as per Sec 49(4) -

The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.

Proposed Amendment

Finance Bill proposes to amend Sec 49(4) -

The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions **and restrictions** and within such time as may be prescribed.

Utilization of balance in Electronic Cash Ledger

Existing Provisions:

Presently, as per Sec 49(10) -

A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

Proposed Amendment:

Finance Bill proposes to amend Sec 49(10) by stating that any balance amount of cash ledger can now be transferred within various branches of an entity having separate GSTIN but the same PAN(i.e. to distinct persons).

CGCA Comments:

The proposed amendment in respect of transfer of balances of electronic cash ledger between distinct persons will reduce the hassles for taxpayer to claim refund of balance in Electronic Cash Ledger and can easily transfer the same to sister concerns.

Addition to Sec 49

Proposed Section:

Finance Bill proposes to amend Sec 49 by adding sub-section 12, -

Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.”.

Interest on wrong utilization of ITC

Existing Provision:

Presently as per Sec 50(3) -

A taxable person who makes an undue or excess claim of input tax credit under subsection (10) of section 42 or undue or excess reduction in output tax liability under subsection (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding 24%.

Proposed Amendment:

Finance Bill proposes to substitute Sec 50(3) and will have retrospective effect from 1st day of July, 2017-

Where the input tax credit has been wrongly availed and utilized, the registered person shall pay interest on such input tax credit wrongly availed and utilized, at such rate not exceeding 18%.

Refund of Balance:

Finance Bill proposes that refund of any balance in electronic cash ledger cannot be claimed in GSTR-3B. The said refund shall be claimed in such form and manner as would be prescribed.