



GIST OF THE LEGISLATIVE AMENDMENTS COMING INTO FORCE FROM 1 OCTOBER 2023

Amendments coming into force from 1 October 2023 under the Integrated Goods and Services Tax Act, 2017 (IGST Act), the Central Goods and Services Tax Act, 2017 (CGST Act) and the Central Goods and Services Tax Rules, 2017 (CGST Rules)

AMENDMENTS UNDER THE CGST ACT AND THE CGST RULES

Amendments proposed by the Finance Act, 2023 (FA, 2023) to amend the CGST Act:

- Section 137 of the FA, 2023 - Section 10 of the CGST Act:
A registered person supplying goods through an Electronic Commerce Operator (ECO) is eligible to opt for and pay tax under the composition scheme.
 - To facilitate the above, a special procedure in respect of the supply of goods through ECO by composition taxpayers and persons exempted from registration was prescribed by Notification no: 36 & 37/2023-Central Tax dated 4 August 2023 which would be made effective from 1 October 2023¹.
- Section 138 of the FA, 2023 - Section 16 of the CGST Act:
 - The second proviso to Section 16 (2) has been rephrased to make it amply clear that non-payment of consideration for supply along with GST within 180 days, results in liability to pay tax along with applicable interest (phraseology 'adding to his output tax liability' substituted).
 - Recipient is also entitled to avail Input Tax Credit (ITC) back upon making payment 'to the supplier'.
- Section 139 of the FA, 2023 - Section 17 of the CGST Act:
 - The value of exempt supply for reversal of ITC to include activities or transactions as may be

prescribed in respect of Entry 8(a) to Schedule III of the CGST Act. For ease, the relevant entry is reproduced below:

'Supply of warehoused goods to any person before clearance for home consumption'

In this regard, effective 1 October 2023, supply of goods from Duty-Free Shops at arrival terminals in international airports to incoming passengers has been prescribed under Explanation to Rule 43 of the CGST Rules (as discussed in ensuing paragraphs).

- ITC is restricted on goods or services, or both used or intended to be used for meeting Corporate Social Responsibility obligations under the Companies Act, 2013.
- Section 140 of the FA, 2023 - Section 23 of the CGST Act:
 - Provisions concerning persons not liable to obtain GST registration have been amended with retrospective effect from 1 July 2017 to provide that the Government, subject to conditions and restrictions, can specify the category of persons who are exempted from obtaining registration.
 - To facilitate the above, Notification no: 34/2023-Central Tax dated 31 July 2023 has exempted persons making supplies of goods through an ECO (who is required to collect tax at source under Section 52 of the CGST Act) and having an aggregate turnover in the preceding and current financial year not exceeding the threshold limit for obtaining GST registration, from the requirement of obtaining GST registration.

- Section 141 of the FA, 2023 - Section 30 of the CGST Act:
 - The existing 30-day time limit for filing an application for revocation of cancellation of GST registration has been done away with and the amended Section 30 of the CGST Act provides that the time limit shall be prescribed under the CGST Rules.
 - Consequently, Rule 23 of the CGST Rules has been amended to prescribe the revised time limit of 90 days (as discussed in the ensuing paragraphs).
 - Sections 142-145 of the FA, 2023 - Sections 37, 39, 44 and 52 of the CGST Act:

Returns in Form GSTR-1, GSTR-3B, GSTR-4, GSTR-5, GSTR-6, GSTR-8, GSTR-9 and GSTR-9C cannot be filed after the expiry of 3 years from the due date, except when allowed by the Government.
 - Section 146 of the FA, 2023 - Section 54 of the CGST Act:

Restriction on 'ITC provisionally accepted' has been deleted from the purview of 90% refund on a provisional basis on zero-rated supplies. This change is only a consequential change as the provisional acceptance of ITC was never made effective and the concept was removed from the CGST Act.
 - Section 147 of the FA, 2023 - Section 56 of the CGST Act:

The Government will prescribe a mechanism for computation, manner, and restrictions for payment of interest on delayed refunds beyond 60 days.

 - Accordingly, Rule 94 of the CGST Rules has been amended to provide that for the computation of delay (to determine the interest payable on delayed refunds), certain periods would be excluded (as discussed in the ensuing paragraphs).
 - Section 148 of the FA, 2023 - Section 62 of the CGST Act:

Section 62(2) of the CGST Act prescribes that a registered person who fails to file periodical GST returns may furnish these returns within 30 days from the date of receipt of the assessment order under Section 62(1) of the CGST Act. The aforesaid time limit has been increased to 60 days.
 - Section 155 of the FA, 2023 - Section 122 of the CGST Act:

ECO would be liable to pay a penalty of INR 10,000 or equivalent to the tax involved (whichever is higher) in cases where supplies are effected through it by an unregistered person (other than who are specifically allowed), a person not permitted to make interstate supply, or furnishing incorrect details in Form GSTR-8.
 - Sections 156 and 157 of the FA, 2023 - Sections 132 and 138 of the CGST Act:
 - The offences of obstructing or preventing any officer in the discharge of his duties, tampering with, or destroying any material evidence or documents, or failing to supply any information or supplying false information are being decriminalised.
 - The monetary limit for initiating prosecution has been increased from INR 10 Mn to INR 20 Mn, except for offences relating to the issue of tax invoices without supply leading to wrongful availment or utilisation of ITC or refund of tax.
 - Section 158 of the FA, 2023 - Section 158A of the CGST Act:

A new provision has been inserted for sharing of information furnished by the taxpayers (viz. particulars in the registration application, returns or e-invoice or e-Waybill or any other as may be prescribed) on the GST Common portal, with other systems, basis taxpayer's consent.

 - Accordingly, vide Notification no: 33/2023-Central Tax dated 31 July 2023², with effect from 1 October 2023, 'Account Aggregator' has been notified as the systems with which information may be shared by the common portal based on consent under Section 158A of the CGST Act.
 - Section 159 of the FA, 2023 - Schedule III of the CGST Act:

Following entries in Schedule III (non-supplies) deemed to have been inserted with effect from 1 July 2017:

 - Supply of goods from a place in non-taxable territory to another place in non-taxable territory without such goods entering India;
 - Supply of warehoused goods to any person before clearance for home consumption;
 - Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

However, no refund shall be allowed in respect of tax which has been collected despite the fact that the same was not leviable in terms of the aforesaid amendment.

[Notification no: 28/2023-Central Tax dated 31 July 2023¹]
- Amendments to the CGST Rules:**
- Registration (Rule 23 - Revocation of cancellation of registration)
 - Application for revocation of cancellation of registration can be made within 90 days from the date of service of the order of cancellation of registration (as against the earlier time limit of 30 days).
 - The aforesaid time limit can be extended by the Commissioner, or any officer authorised by him (not below the rank of Additional/Joint Commissioner) for a further period, not exceeding 180 days.
 - Input tax credit (Rule 43 - Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases):
 - Explanation 3 to Rule 43 to be inserted which provides that for the purpose of Rules 42 and 43 of the CGST Rules, the value of supply of goods from Duty-Free Shops at arrival terminals in international airports to the incoming passengers shall be included in the value of exempt supplies.

²Our summary of the Notification can be accessed [here](#).

- Returns (Rules 64 and 67):
 - Rule 64 - Form and manner of submission of return by persons providing Online Information and Data Access or Retrieval (OIDAR) services:
The suppliers engaged in providing OIDAR services to a non-taxable online recipient and to registered persons are required to file return in Form GSTR-5A. Consequential modifications have been made to Form GSTR-5A.
 - Rule 67 - Form and manner of submission of statement of supplies through an e-commerce operator:
Rule 67 of the CGST Rules has been amended to clarify that the details furnished by an e-commerce operator shall be made available to each of the registered suppliers on the GST Portal for availing ITC. Consequential modifications have also been made in Form GSTR-8 (i.e., Statement of tax collection at source).
- Refund (Rule 94 - Order sanctioning interest on delayed refunds):
In computing the period for which period of delay (in respect of which, interest on delayed refunds would be payable), the following periods shall be excluded:
 - Any period beyond 15 days of receipt of notice in Form GST RFD-08 that the applicant takes to furnish a reply in Form GST RFD-09 or to submit additional documents/reply; and
 - Any period taken by the applicant for furnishing correct bank account details to which the refund is to be credited or for validating the details of the bank account so furnished, where the refund could not be credited to the applicant's bank account.
- Offences and Penalties:
 - Rule 162 - Procedure for compounding of offences:
 - The compounding amounts for the specified offences have been notified.
 - Where the offence committed by a person falls under more than one category, the compounding amount shall be the higher of the compounding amounts.
 - Rule 163 - Consent-based sharing of information:
This is a new provision which inter alia enables a registered person to opt to share specified information furnished in FORM GST REG-01, FORM GSTR-3B (for certain tax periods) and FORM GSTR-1 (for certain tax periods, pertaining to invoices, debit notes and credit notes). The aforesaid consent is to be provided only after obtaining consent of all the recipients to whom the taxpayer has issued invoices, credit notes and debit notes during the said tax periods.
- The option for making zero-rated supplies on payment of IGST (and subsequently claim a refund of such IGST) would not be available for a specified class of persons or specified class of goods/services.
 - In this regard, CBIC has issued Notification no: 01/2023 - Integrated Tax dated 31 July 2023² notifying a negative list of goods (such as pan masala, other tobacco products and specified essential oils) in respect of which, the option of making zero-rated supplies on payment of IGST shall not be available.

[Notification no: 27/2023-Central Tax dated 31 July 2023¹]

Amendments proposed by the FA, 2023 to amend the IGST Act:

- Section 160 of the FA, 2023 - Section 2 of the IGST Act:
 - The definition of 'non-taxable online recipient' is amended to define the non-taxable online recipient as an unregistered person located in taxable territory in India receiving said services. Further, it clarifies that the person who is required to deduct tax at source and mandatorily obtain registration under section 24(vi) of the CGST Act 2017 shall be treated as an unregistered person for this definition.
 - The definition of OIDAR services was amended to remove the condition of rendering of the said supply being 'essentially automated and involving minimal human intervention'.
- Section 161 of the FA, 2023 - Section 12 of the IGST Act:
The place of supply for transportation of goods has been delinked from the place of destination of goods, where the supplier and recipient of service are in India. Accordingly, the place of supply of such services would be determined under the general rule i.e., under Section 12(2) of the IGST Act which provides that the place of supply of service shall be the location of the recipient of services (in case of the registered recipient or where the address of the recipient is available with the supplier) and the location of supplier of service (in other cases).
- Section 162 of the FA, 2023 - Section 13 of the IGST Act:
The provision stipulating the place of supply of services of transportation of goods shall be the place of destination of goods to be deleted. Accordingly, the place of supply of such services would be determined under the default rule i.e., under Section 13(2) of the IGST Act which provides that the place of supply of service shall be the location of the recipient of services in all cases except where the location of the recipient of services is not available, in which case, the place of supply shall be the location of supplier of service.
 - Amendments have also been made in Notifications nos: 8,9&10/2017-Integrated Tax (Rate) dated 28 June 2017³ as under:
 - Notification no: 10/2017 - Integrated Tax (Rate) dated 28 June 2017, inter alia providing for the services on which IGST is liable to be paid under the reverse charge mechanism has been amended. Till 30 September 2023, 'Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India upto the

[Notification no:38/2023-Central Tax dated 4 August 2023¹]

AMENDMENTS UNDER THE IGST ACT

Amendments made by the Finance Act, 2021 (FA, 2021):

- Section 123 of the FA, 2021 - Section 16 of the IGST Act:
 - Supplies to SEZ developer / SEZ unit would be treated as 'zero-rated supply' only if they are 'for authorised operations'.

²Our summary of the Notification can be accessed [here](#).

³Amendments have been made vide Notification nos:11,12&13/2023 - Integrated Tax (Rate) dated 26 September 2023

customs station of clearance in India' was leviable to GST and the 'importer' was liable to discharge GST under the reverse charge mechanism (though the Supreme Court in case of Mohit Minerals had struck off this levy). Effective 1 October 2023, the aforesaid entry will be deleted.

- Notification no: 9/2017 - Integrated Tax (Rate) dated 28 June 2017 inter alia providing for exemption from IGST for specified services provided by a person located in non-taxable territory to a person located in non-taxable territory has been amended. Effective 1 October 2023, the exemption has now been extended in respect of services received from a provider of service located in non-taxable territory by a person located in a non-taxable territory in

respect of services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.

- Notification no: 8/2017 - Integrated Tax (Rate) dated 28 June 2017 inter alia provides the applicable rate of IGST on services. In the aforesaid notification, the entry pertaining to the transportation of goods in a vessel has been amended whereby the express inclusion of 'services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India' has been omitted.

[Notification no: 28/2023-Central Tax dated 31 July 2023¹]

Amendments pertaining to the 'casino' and 'online gaming' industry which are intended to be implemented from 1 October 2023⁴

AMENDMENTS UNDER THE CGST ACT AND THE CGST RULES

Amendments to the CGST Act proposed by the Central Goods and Services Tax (Amendment) Act, 2023 (CGST Amendment Act):

- Section 2 of the CGST Act:
The definitions of the terms 'online gaming', 'online money gaming', 'specified actionable claim' and 'virtual digital asset' (VDA) have been introduced and the definition of 'supplier' has been amended.
- Section 24 of the CGST Act has been amended to mandate a supplier of online money gaming from a place outside India to a person in India to obtain GST registration.
- Entry 6 to Schedule III of the CGST Act has been amended to stipulate that 'Actionable claims, other than specified actionable claims' will neither be treated as a supply of goods nor a supply of services.
- It is also provided that the aforementioned amendments shall be without prejudice to the other legal provisions prohibiting/restricting/regulating betting, casino, gambling, horse racing, lottery, or online gaming.

[CGST Amendment Act⁵]

Amendments to the CGST Rules:

- Value of supply in case of 'online gaming', including actionable claims involved in 'online money gaming' (Rule 31B of the CGST Rules):
 - Value of supply shall be the total amount paid/payable to or deposited with the supplier, by way of money or money's worth, including virtual digital assets (VDA), by or on behalf of the player.
 - The amounts returned or refunded by the supplier to the player (including for reasons that the player did not use the amount for participating in the event) shall not be deducted from the value of the supply of 'online money gaming'.

- Value of supply of actionable claims in case of casino (Rule 31C of the CGST Rules):
 - Value of supply shall be the total amount paid/payable by or on behalf of the player for-
 - Purchase of tokens, chips, coins, or tickets, by whatever name called, for use in the casino; or
 - Participating in any event, game, scheme, competition, or any other activity or process, in the casino, where tokens, chips, coins, or tickets, by whatever name called, are not required.
 - The amounts refunded by the casino to the player on return of tokens, coins, chips, or tickets, as the case may be, or otherwise, shall not be deducted from the value of the supply of actionable claims in the casino.

- An Explanation has also been inserted which provides that the value of supply in both the above cases (under Rules 31B and 31C of the CGST Rules) shall not include any amount received by the player by winning any event, including game, scheme, competition, or any other activity, which is used for playing in a further event without withdrawing.

[Notification no: 45/2023 - Central Tax dated 6 September 2023⁶]

AMENDMENTS UNDER THE IGST ACT

Amendments to the IGST Act proposed by the Integrated Goods and Services Tax (Amendment) Act, 2023 (IGST Amendment Act):

- Section 2 of the IGST Act:
The definition of 'Online Information and Data Access or Retrieval services' has been amended to exclude 'online money gaming'.
- Proviso to Section 5(1) of the IGST Act is amended to exclude goods as notified by the Government, on

⁴While the effective date for implementing the amendments to the IGST Act and the CGST Act have not been notified yet, as indicated in the Press Conference pursuant to the 51st GST Council meeting, these provisions are likely to be implemented with effect from 1 October 2023. However, the final notification, which notifies the effective date on which these amendments would come into effect has not been issued at the time of preparing this alert. Similarly, the amendment to the CGST Rules which provides the valuation mechanism in respect of actionable claims involved in 'online gaming' and 'casino' is likely to be in sync with the aforesaid amendments to the IGST Act and CGST Act and hence, it is anticipated that these amendments would also be implemented with effect from 1 October 2023.

⁵Our summary of the amendments made via the Amendment Acts can be accessed [here](#).

⁶Our summary of the Notification can be accessed [here](#).

which, IGST may not be required to be levied in terms of Section 3 of the Customs Tariff Act, 1975 read with Section 12 of the Customs Act.

- Section 10(1) of the IGST Act is amended to provide that in case of supply of goods made to an unregistered person, the place of supply shall be the location as per the address of such recipient recorded in the invoice issued. Further, in cases where the address of the recipient is not recorded in the invoice, the place of supply shall be the location of the supplier.
- Section 14A of the IGST Act is inserted to provide for the collection of GST on -
 - ‘Online money gaming’ supplied by a person located outside the taxable territory to a person located in India and for the compliance obligation of such supplier, including the requirement of taking a single

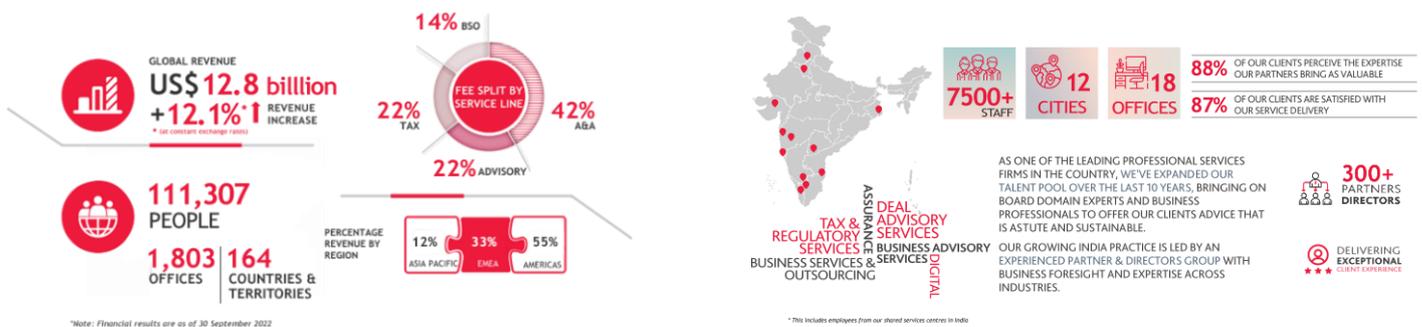
registration under the Simplified Registration Scheme and the provisions dealing with payment of tax on such supplies.

- In case of failure to adhere to the aforesaid provision for obtaining registration and payment of tax, access to the platform shall be blocked for access by the public in the manner provided under the Information Technology Act, 2000.

[IGST Amendment Act⁵]

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