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GST UPDATE

Budget 2020

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YEAR 2020

GST Updates

Budget 2020

This presentation contains all the recent amendments proposed in Finance Bill 2020. The provisions of this Finance Bill 2020 will be made applicable only when Bill is passed by the both the houses of the Parliament it is assented by the president of India. Each proposal in finance bill might have different effective date of its applicability which is mentioned in the finance bill itself. Here most of the proposal of changes in GST shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

This presentation has been prepared topic wise and references of relevant clauses of Finance Bill 2020 have been given at the end of each topic.

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1. Union Territory Dadra and Nagar Haveli and Daman and Diu merged and new Union Territory Ladakh

A. Union Territory of Dadra and Nagar Haveli and Union Territory of Daman and Diu merged

- Section 2(114) of CGST Act, 2017 and Section 2(8) of UTGST Act is being now amended to align the definition of "Union Territory" in the line with Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019
- So now in definition of "Union Territory" as mentioned in sub Section 114 of Section 2 of CGST Act, 2019 and in Clause 8 of Section 2 of UGST Act, **Union Territory Dadra and Nagar haveli and Union Territory Diu and Daman will be a single (merged) Union Territory.**
- Section 1(2) of the Union Territory Goods and Services Tax Act is being amended so as to give effect to the change in the status of Union territory of Dadra and Nagar Haveli and Union territory of Daman and Diu

Our Analysis

- The Dadra and Nagar Haveli and Daman and Diu (merger of Union Territories) Act, 2019 enacted on 09.12.2019. This act made amendment in Article 240 of Constitution of India and by that amendment, Union Territory Dadra and Nagar Haveli and Union Territory Daman and Diu merged and become a **single Union Territory named Dadra and Nagar Haveli and Daman and Diu Union Territory.**
- Accordingly changes required in GST Also
- Therefore The Union Territory of Dadra and Nagar Haveli and Daman and Diu **GST** (Amendment) Regulations, 2020 issued dated 24.01.2020 and same came into force from 26.01.2020.
- This regulation has already amended Section 1(2) and 2(8) of UTGST Act and Section 2(114) of CGST Act w.e.f 26.01.2020.
- By this regulations, in GST, the union territory was merged with, Daman and Diu to form new union territory of Dadra and Nagar Haveli and Daman and Diu on 26 January 2020.
- Now again Finance Bill 2020 is going to amend same sections.
- Accordingly Section 2 of CGST Act, 2017 and Section 1 of UTGST Act is being amended.

[Section 2 (114) of CGST Act is being amended by clause 116, Section 1(2) of UTGST Act is being amended by clause 134, Section 2(8) of UTGST Act is being amended by clause 117 Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

B. New Union Territory Ladakh

- Section 2(114) of CGST Act, 2017 and Section 2(8) of UTGST Act is being now amended to align the definition of "Union Territory" in the line with Jammu and Kashmir Reorganization Act 2019

- So now in definition of “Union Territory” as mentioned in sub Section 114 of Section 2 of CGST Act, 2019 and in clause 8 of Section 2 of UTGST Act the word “Ladakh” is being added.
- Section 1(2) of the Union Territory Goods and Services Tax Act is also being amended so to make UTGST Act applicable to Ladakh also

Our Analysis

- The Jammu and Kashmir Reorganization Act 2019 enacted on 09.08.2019
- The act reorganizes the state into two union territories, namely the union territory of Jammu and Kashmir, and that of Ladakh.
- From 01.10.2019, new Union territory comes into existence known as the Union territory of Ladakh comprising the “Kargil and Leh districts” of the earlier State of Jammu and Kashmir, and thereupon said territories ceased to form part of the earlier State of Jammu and Kashmir.
- From 01.10.2019 new Union territory comes into existence known as the Union territory of Jammu and Kashmir comprising the territories of the earlier State of Jammu and Kashmir other than Ladakh
- From 01.10.2019 the administration of the Jammu and Kashmir is as per [Article 239A](#) of the Indian constitution. Article 239A, originally formulated for the union territory of [Puduchery](#) (Pondicherry)
- There is Legislative Assembly for the Union territory of Jammu and Kashmir.
- As there is no legislative assembly for Union Territory of Ladakh, it will be covered in definition of Union Territories in GST
- Therefore there is need to make amendment in GST Act
- Accordingly Section 2 of CGST Act, 2017 is being now amended to align the definition of “Union Territory” in the line with Jammu and Kashmir Reorganization Act 2019
- As well as Section 1 of the Union Territory Goods and Services Tax Act is also being amended so to make UTGST Act applicable to Ladakh also

[Section 2(114) of CGST Act is being amended by Clause 116, Section 1(2) of UTGST Act is being amended by Clause 134 and Section 2(8) of UTGST Act is being amended by Clause 135 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

2. Harmonization of conditions of both Composition Schemes

- In order to harmonies the conditions of compositions scheme under Section 10(1) and 10(2A) of CGST Act, Section 10(2) of CGST Act is being amended.
- There are two types of composition schemes in GST Act
- One composition scheme is as per Section 10(1) of CGST Act @ 2%, 5% and 1% for manufacturer, restaurants and trader of goods. This composition scheme is not applicable to service providers. However services can be provided to some extent as mentioned in proviso of this section
- Another composition scheme is as per Section 10(2A) of CGST Act @ 6%. This scheme is not applicable if tax payer is falling in Scheme under Section 10(1). That means this scheme is applicable to all kind of supplier of services other than Restaurants. This scheme is effective from 01.01.2020 by Section 93 of as per Finance Act 2019
This scheme was introduced by Notification 02/2019 Central Tax (Rate) dated 07/03/2019 w.e.f 01.04.2019. So this scheme was in operation in 2019-20 by this notification. Same will be operational now as per Section 10(2A) of CGST Act 2017 from the year 2020-21.
- Now following changes are being made in conditions **for composition scheme as mentioned in section 10(1)**

Clause under Section 10(2)	Existing	After Amendment
b	he is not engaged in making any supply of goods which are not leviable to tax under this Act;	he is not engaged in making any supply of goods <u>or services</u> which are not leviable to tax under this Act;
c	he is not engaged in making any inter-State outward supplies of goods;	he is not engaged in making any inter-State outward supplies of goods <u>or services</u>
d	he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52	he is not engaged in making any supply of goods <u>or services</u> through an electronic commerce operator who is required to collect tax at source under section 52
	<p><u>Our Analysis</u></p> <p><u>Supply of services which is not leviable under CGST Act</u></p> <ul style="list-style-type: none"> Now if person is supplying any service which is not leviable under CGST Act, he will not be permitted to go for composition scheme under Section 10(1) of CGST Act This restriction was already given in conditions for composition scheme under Section 10(2A) as well in Notification 02/2019 Central Tax (Rate) . So if person supplies any service which is not leviable to CGST Act was at least permitted to go for composition scheme under Section 10(1) of CGST Act provided such services is to the extent specified in proviso of Section 10(1) of CGST Act. Now from the day to be notified , if any person supplies any service which is not leviable to 	

CGST Act, then such person shall neither be permitted for composition scheme under Section 10(1) of CGST Act, nor under Section 10(2A) of CGST Act.

- Is there any service which is not leviable to GST? This is question.

Inter state outward supply of services

- Interstate outward supply of services was permitted for composition scheme under Section 10(1) of CGST Act provided such services is to the extend specified in proviso of Section 10(1) of CGST Act.
- But the same was restricted by conditions for composition scheme under Section 10(2A) as well in Notification 02/2019 Central Tax (Rate) .
- Now from the day to be notified , if any person supplies any outward Inter State Supply of service, then such person shall neither be permitted for composition scheme under Section 10(1) of CGST Act, nor under Section 10(2A) of CGST Act.

Supply of services through ECO

- Supply of services by ECO was permitted for composition scheme under Section 10(1) of CGST Act provided such services is to the extend specified in proviso of Section 10(1) of CGST Act.
- But the same was restricted by conditions for composition scheme under Section 10(2A) as well in Notification 02/2019 Central Tax (Rate) .
- Now from the day to be notified , if any person supplies any service by ECO then such person shall neither be permitted for composition scheme under Section 10(1) of CGST Act, nor under Section 10(2A) of CGST Act.

Note:- ECO stands for Electronic Commerce Operator

[Section 10(2) of CGST Act is being amended by Clause 117 of Finance Bill 2020 , Effective from such date as the Central Government may, by Notification in the Official Gazatte, appoint]

3. ITC of Debit Notes

- *Section 16 of CGST is for Eligibility and conditions for taking input tax credit.*
- *Following change is being made in Sub Section 4 of Section 16*

Sub-Section of Section 16	Existing	After Amendment
4	A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.	A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier
	<p><u>Our Analysis</u></p> <ul style="list-style-type: none"> • From the reading as above we can say the word “invoice in relation to such” is being omitted from the date to be notified • Lets understand the impact of this change • At present due to this word “invoice in relation to such”, registered person is not entitled to take credit of debit notes issued after end September following the year in which relevant was issued. • For example Invoice was raised on 15/09/2018. Debit note in relation to this invoice is raised in 05/10/2019. In this case recipient shall not be entitled to take credit of ITC of Debit Note issued on 25/10/2019 even in the year 2019-20 as due date of return of September 2019 is 20/10/2019. This is because debit note has been linked with invoice in Section 16(4). • Section 34 of CGST Act is for credit and debit notes • There is not time limit given to issue debit note in Section 34 of CGST Act • In spite of that Debit Not has to be issued within end of September following the year in which relevant invoice is issued. Otherwise recipient will not be eligible to take credit of the same. • Now after removing the word “Invoice in relation to such”, credit not will be delinked with invoice. Therefore recipient will be able to take credit of ITC of such debit note even if such debit notes are issued after the end of September following the year in which relevant invoice was issued. 	

[Section 16(4) of CGST ACT is being amended by Clause 118 of Finance Bill 2020 . Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

4. Changes in relation to cancellation of Voluntary Registration

- **Section 29 of CGST Act is for Cancellation or suspension of registration.**
- As per Section 29(1) the proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances mentioned in a, b and c in the said section.
- *Clause 119* of the Bill seeks to amend clause (c) of subsection (1) of section 29 of the Central Goods and Services Tax Act so as to provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25.
- Here change is being made in clause “c” as of said section as under

Section	Existing	After Amendment
29(1)(c)	the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.	the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of section 25
<p><u>Our Analysis</u></p> <ul style="list-style-type: none"> If aggregate turnover of any person exceeds the limit specified in Section 22 of CGST Act, the such person is liable to be registered under Section 22 of CGST Act If person is compulsory liable for registration under Section 24 of CGST Act, the he will take registration under this section If such registered person is no longer liable for registration under the section 22 or Section 24 of the said act as the case may be, he can apply for cancellation under Section 29(1) of CGSTG Act But what to do in the case a person has voluntary taken registration and now wants to cancel the registration? Therefore now as per this amendment, voluntarily registered person can apply for cancellation of registration under Section 29(1) of CGST Act. 		

[Section 29(1) of CGST ACT is being amended by clause 119 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

5. Changes in relation to revocation of cancellation of registration

- *Clause 120* of the Bill seeks to substitute the proviso to sub-section (1) of section 30 of the Central Goods and Services Tax Act so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration
- Section 30 of CGST Act is for **Revocation of cancellation of registration**.
- As per sub section 1 of the said section, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.
- Now the proviso to this sub section is being added and based on that Additional Commissioner or Joint Commissioner as the case may be can extend such period not exceeding 30 days on sufficient cause being shown.
- Base on the new proviso, commissioner also can extend such period not exceeding 60 days on sufficient cause being shown.

[Section 30(1) of CGST Act is being amended by Clause 120 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

6. Changes in relation to issue of Tax Invoice for certain services

- *Clause 121* of the Bill seeks to amend section 31 of the Central Goods and Services Tax Act so as to empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance.
- *Section 31 of CGST Act is for Tax Invoice, credit notes and debit notes.*
- *Sub-Section 2 of Section 31 of the said act is in relation to issue of tax invoice for supply of services*
- *As per the said section* A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:
- *Proviso given to this section is being substituted.*
- *As per amended proviso, Government on recommendations of the council by notification specify the categories of services of suppliers in respect of which tax invoice shall be issued within such time and in such manner as may be prescribed.*

Our Analysis.

- Notification may be issued by government specifying separate time limit to issue tax invoice for specific types of services or supplies
- Here word services or supplies are mentioned. Word only supply can be for goods or service. Whereas this sub section is only for supply of services. So this needs more clarity in notification whenever is issued as per our opinion.

[Section 31(2) of CGST Act is being amended by Clause 121 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

7. Changes in relation to issue of TDS certificate

- Clause 122 of the Bill seeks to amend section 51 of the Central Goods and Services Tax Act so as to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.
- Section 51 of CGST Act 2017 is for Tax deduction at source.
- Persons specified in sub-section 1 of the said section are required to deduct TDS @ 2% (CGST+SGST) where the total value of such supply exceeds Rs 2,50,000
- As per Sub section 3 of Section 51 The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.
- Sub Section 4 of Section 51 is in relation to penalty if such deductor could not issued such certificate of TDS within time prescribed in sub section 3 of Section 51 of said act.
- **Now sub-section 4 is being omitted and sub section 3 is being substituted in the way that TDS certificate now will be issued in such form and in such manner as may be prescribed.**

Our comment

- Government may come with issue of rules for prescribed form and manner for issue of TDS certificate

[Section 51(3) of CGST Act is being amended by clause 122 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

8. Provisions of Appellate Tribunal and Benches in J&K and Ladakh

- Clause 123 of the Bill seeks to amend sub-section (6) of section 109 of the Central Goods and Services Tax Act so as to make the provisions for Appellate Tribunal and its benches thereof applicable in the Union territories of Jammu and Kashmir and Ladakh
- **Section 109 of CGST Act is for Constitution of Appellate Tribunal and Benches thereof.**

[Section 109(6) of CGST Act is being amended by Clause 123 of Finance Bill 202. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

9. Beneficiary of certain offences will also now liable for penalty

- *Clause 124 of the Bill seeks to insert a new sub-section (1A) in section 122 of the Central Goods and Services Tax Act so as to make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty.*
- *Section 122 of CGST Act is for penalty for certain offences*
- *Sub Section 1 of said section talks offenses such as supply without issue on invoice, issue of invoice without supply etc.*
- *Now new sub section 1A is being inserted in Section 122, and as per this new section any person who retains the benefit of **following transactions and at whose instance such transaction is conducted** (as mentioned in sub-section 1 of Section 122), shall also be liable for penalty.*
 - *supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;*
 - *issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made there under;*
 - *Takes or utilizes input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made there under;*
 - *takes or distributes input tax credit in contravention of section 20, or the rules made there under;*

Our comment.

- **New Section 1A is being inserted in section 122. Important word used is “whose instance such transactions is conducted” . Means government wants to initiate penal provisions over the persons who are not registered but they have played role for such offenses.**
- **Recently many cases of issue of fake invoices and taking ITC based on fake invoices have been noticed and government even conducted many search operations in large extent and based on that government has made recovery with penalty also.**
- **But the provision of recovery of the fraudulent activities can be exercised only over such registered persons as above four types of transactions can be conducted only by registered persons.**

- But what will be situation if any person is involved in offenses mentioned in Section 122(1) but he is not registered or registered but no offense found in his registration number?
- In many cases, such offenses are being conducted based on KYC documents of other persons. But the persons who are actually doing offense are not getting registration or such fraudulent activities are not found in the registration of such person. And therefore, government is helpless to initiate any penal provisions to such person, even government is having proof of involvement of such persons in such offenses
- Therefore this new sub section 1A is being inserted in Section 122 of CGST Act, so that government can initiate penal provisions over actual beneficiaries of such fraudulent activities also.
- This is very welcome move of the government.

[New Sub Section (1A) is being inserted in Section 122 of CGST Act is by Clause 124 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

10. Beneficiary of certain offences will also now liable for punishment

- *Clause 125 of the Bill seeks to amend section 132 of the Central Goods and Services Tax Act so as to any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment*
- *Section 132 of CGST Act is for punishment of certain offences*
- *Offenses mentioned in Sub-Section 1 of Section 132 of said act is applicable at only to persons who commits any offense.*
- *Sub Section 1 of said section is being substituted in such a way that now even any person who causes to commit and retain the benefits arising out of offenses mentioned in said section shall also be liable for punishment of imprisonment as mentioned in sub section (2) and (3) of Section 132.*

Our comment.

- Section 122 of CGST Act is for penalty of offenses mentioned in sub section 1 of said section
- Section 132 of CGST Act is for punishment of offenses mentioned in sub section 1 of said section
- Offenses mentioned in both Section 122(1) and 132(1) are same.
- For the reasons mentioned in earlier point no 9 in our comment, government has decided to initiate punishment provisions also over the persons who causes to *commit and retain the benefits arising out of offenses mentioned in said section*

[Section 132(1) of CGST Act is being amended by Clause 125 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

11. Availment of ITC without any invoice or bill is now offense cognizable and non-bailable

- *Clause 125 of the Bill seeks to amend section 132 of the Central Goods and Services Tax Act so as to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable under sub-section (1) of section 69*
- *Section 132 of CGST Act is for punishment of certain offences*
- *In clause (c) of sub section (1) of Section 132 of CGST Act talks about only offense of availing ITC based on invoice or bill issued without supply*
- *Clause (e) of Section 132(1) talks r offense of fraudulently availment of ITC also..*
- *Now clause (c) of Section 132(1) is being amended and if any person takes ITC without invoice or bill, then such offense shall be cognizable and non-bailable as per sub section 5*

[Section 132(1) of CGST Act is being amended by Clause 125 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

12. Provision of prescribing manner and time limit for ITC on transitional credit

- *Clause 126 of the Bill seeks to amend section 140 of the Central Goods and Services Tax Act relating to transitional arrangements for input tax credit, so as to prescribe the time limit and the manner for availing input tax credit against certain unavalimed credit under the existing law*
- *Section 140 is for Transitional arrangements for input tax credit.*

Inserting the words “within such time” in Section 140(1) and 140(2) by retrospective effect from 01.07.2017

- *For taking credit of existing law (means laws existed before GST) in electronic credit ledger under GST, provision to prescribe the manner of taking such credit was given in Section 140(1) and 140(2), but provision for taking credit **within prescribed time limit was not given.***
- *Based on this Section 140 of CGST Act, Rule 117 of CGST Rules 2017 introduced, this rule has prescribed the time limit 90 days from the appointed date.*

- *But there was no such provision in Section 140 (1) and 140(2) to prescribe the time limit. So we can say that, prescribing time limit in rule 117 of taking such ITC in electronic credit ledger was without any power from statute.*
- *Therefore now in both Section 140(1) and 140(2), **provision to prescribe the time limit** for taking ITC of existing law (means laws existed before GST) is inserted with retrospective effect from 01/07/2017, and it is specifically mentioned in clause 126 of Finance Bill that it shall be deemed to have been inserted.*

Inserting the words “within such time and in such manner as may be prescribed” in Section 140(3), 140(5), 140(6), 140(7), 140(8), and 140(9) by retrospective effect from 01.07.2017

- *For taking credit of existing law (means laws existed before GST) in electronic credit ledger under GST, neither the provision for prescribing the manner of taking such ITC nor the provision for prescribing of time limit for taking such ITC was given in Section 140(3), 140(5), 140(6), 140(7), 140(8) and 140(9).*
- *Based on this Section 140 of CGST Act, Rule 117 of CGST Rules 2017 introduced, this rule has prescribed the time limit 90 days from the appointed date and even prescribed the manner of taking such ITC in electronic credit ledger.*
- *But there was no such provision in Section 140 (3), 140(5), 140(6), 140(7), 140(8) and 140(9). So we can say that, prescribing time limit and manner of taking such ITC in electronic credit ledger in rule 117 was without any power from statute.*
- *Therefore now in Section 140(3), 140(5), 140(6), 140(7) , 140(8) and 140(9) **provision for prescribing manner and time limit of taking** ITC of existing law (means laws existed before GST) is inserted with retrospective effect from 01/07/2017, and it is specifically mentioned in clause 126 of Finance Bill that it shall be deemed to have been inserted.*

Note: No such word is required to be inserted in Section 140(4) of CGST Act as provision of taking ITC of existing law (means laws existed before GST) in this section is linked with Section 140(1) and 140(3) of CGST Act.

[Section 140 of CGST Act is being amended by Clause 126 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

13. Power of commissioner for determining expense of special audit

No approval of board will be required

- *Clause 127 of the Bill seeks to amend section 168 of the Central Goods and Services Tax Act so as to make provisions for enabling the jurisdictional Commissioners to exercise powers under sub-section (5) of section 66.*
- *Section 168 of CGST Act is for power to issue instructions or directions*
- *Commissioners specified in sub section 2 of Section 168 shall exercise their powers only with approval of Board as such commissioners mean commissioner or joint secretary posted in Board.*
- *Section 66 of CGST Act is for Special Audit*
- *Commissioner specified in 66(5) is also mentioned in Section 168(2).*
- *Commissioner specified in Section 66(5) is having power to determine expense of examination and audit records for special audit including remuneration of CA or cost accountant for special audit. However at present this power can be exercised by commissioner only with approval of Board*
- *Now as reference of Section 66(5) is being omitted from Section 168(2), we can say the commissioner specified in Section 66(5) can exercise their power to determine expense of examination and audit records for special audit including remuneration of CA or cost accountant for special audit without any approval from Board.*

[Section 168(2) of CGST Act is being amended by Clause 127 of Finance Bill 2020 dated 01.02.2020, Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

14. Power of commissioner for to extend the period for 1 or 3 years for Job work

No approval of board will be required

- *Clause 127 of the Bill seeks to amend section 168 of the Central Goods and Services Tax Act so as to make provisions for enabling the jurisdictional Commissioners to exercise powers under Second proviso to sub-section (1) of section 143.*
- *Section 143 of CGST Act is for Job work procedure*
- *Second proviso of section 143 of CGST Act gives power to commissioner to extend the time limit for bringing back or supply directly from premises of Job work input or capital goods for further period not exceeding 1 year or 3 years as the case may be.*
- *Section 168 of CGST Act is for power to issue instructions or directions*
- *Commissioners specified in sub section 2 of Section 168 shall exercise their powers only with approval of Board as such commissioners mean commissioner of joint secretary posted in Board.*
- *Commissioner specified in second provision of Section 143(1) is also mentioned in Section 168(2).*
- *Therefore at present commissioner can extent time limit for job work process as above mentioned only with approval of board.*

- Now as reference of Second provision of Section 143(1) is being omitted from Section 168(2), we can say the commissioner specified in second proviso of Section 143(1) can exercise their power to *extend the time limit for bringing back or supply directly from premises of Job work input or capital goods for further period not exceeding 1 year or 3 years as the case may be without any approval from Board*

[Clause 127 of Finance Bill 2020 dated 01.02.2020, Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

15. Orders for removal of difficulties can be made now up to 5 years from Commencement of GST

- Clause 128 of the Bill seeks to amend section 172 of the Central Goods and Services Tax Act so as to extend the time limit provided for removal of difficulties there under from three years to five years, with effect from the date of commencement of the said Act.
- Section 172 of CGST Act is for Removal of difficulties
- At present in the case of difficulty arising giving effect to any provisions of this CGST Act, and IGST Act, Government can issue order. But such orders will have to be issued within three years from the date of commencement of this Act
- Therefore now Section 172 of CGST Act is being amended and now government will be able to issue order within 5 years from the commencement of the Act
- **Similar amendment is being made in Section 25 of IGST Act, Section 26 of UTGST Act also and in Section 14 of GST (Compensation to States) Act Also.**

Our comment

- In July of this year 2020, three years are going to be completed of GST in India. Still there are many difficulties for giving effect to provisions of GST. Therefore government still need time to issue order for removal of difficulties and this period is extended from 3 years to 5 years.

[Section 172 of CGST is being amended by Clause 128, Section 25 of IGST Act is being amended by Clause 132, Section 26 of UTGST Act is being amended by Clause 136 and Section 14 of GST (Compensation to States) Act is being amended by Clause 138 of Finance Bill 2020. Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

16. Some clarity in Schedule II of CGST Act

- Clause 129 of the Bill seeks to amend paragraph 4 of Schedule II to the Central Goods and Services Tax Act so as to omit the words “whether or not for consideration” so as to give clarity to the meaning of the entries (a) and (b) of said paragraph. This amendment shall take effect retrospectively from the 1st day of July, 2017.
- *Scheduled –II of CGST Act is for Activities or transactions to be treated as supply of goods or supply of services.*
- *Clause a and b of para 4 of the said Scheduled is being amended as under*

Schedule –II para 4	Existing	After Amendment
Clause (a)	where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, <u>whether or not for a consideration,</u> such transfer or disposal is a supply of goods by the person;	where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, such transfer or disposal is a supply of goods by the person;
Clause (b)	where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, <u>whether or not for a consideration,</u> the usage or making available of such goods is a supply of services;	where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, the usage or making available of such goods is a supply of services;
	<p><u>Analysis</u></p> <ul style="list-style-type: none"> • The word “whether of not for a consideration” is being omitted from both the above clauses. • In fact the objective of this schedule is to prescribe that whether supply is of goods or services. • So in our opinion, these words in the provision do not make any impact and therefore in order to avoid in ambiguity, these words are being omitted for clarification purpose. 	

[Clause 128 of Finance Bill 2020 dated 01.02.2020, Effective from such date as the Central Government may, by Notification in the Official Gazette, appoint]

17. Retrospective exemption in the case of supply of fishmeal and retrospective reduced rate for some other items

- *Clause 130* of the Bill seeks to provide retrospective exemption from central tax on supply of fishmeal, during the period from the 1st day of July, 2017 up to 30th day of September, 2019 (both days inclusive).
- It further seeks to retrospectively levy central tax at the reduced rate of six per cent. on supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery of headings 8432, 8433 and 8436
- *Exemptions given to following goods*

HSN code	Description of items	Current Rate	Rate after amendment	Exemption period or reduced rate period
2301	Fishmeal	5%	NIL	01.07.2017 to 30.09.2019
8483	Pulley, wheels, and other parts used as parts of agricultural machinery (falling under heading 8432, 8433 and 8436)	18%	12%	01.07.2017 to 31.12.2018

Note: if tax is already collected @ current rate, then no refund shall be made.

- **Similar changes are being made in IGST Act, and UTGST Act also**

[Clause 130, clause 133 and clause 137 of Finance Bill 2020. Effective from 01.07.2017]

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