

ANALYSIS OF FINANCE BILL, 2023

The background features several abstract, overlapping geometric shapes in various shades of blue. These shapes are primarily triangles and trapezoids, some with rounded corners, creating a modern and dynamic visual effect. The colors range from a very light, almost white blue to a deep, dark blue. The shapes are positioned around the central text, with some extending towards the edges of the frame.

INDIRECT TAXATION

The background features several abstract, layered blue shapes. In the top left, a light blue parallelogram points towards the center. In the top right, a dark blue shape with a white border curves downwards. In the bottom left, a large dark blue trapezoid is partially covered by a lighter blue parallelogram. In the bottom right, two light blue parallelograms are stacked diagonally.

CUSTOMS

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LEGISLATIVE CHANGES IN THE CUSTOMS ACT, 1962

Exemption of duty related

[Clause 123]

Amendment to Section 25 (4A) of the Customs Act:

A new provisio is added to exclude certain categories of conditional customs duty exemptions from the validity period of two years, such as –

- any multilateral or bilateral trade agreement;
- obligations under international agreements, treaties, conventions or such other obligations including with respect to United Nations agencies, diplomats and international organisations;
- privileges of constitutional authorities;
- schemes under the Foreign Trade Policy;
- the Central Government schemes having validity of more than two years;
- re-imports, temporary imports, goods imported as gifts or personal baggage;
- any duty of customs under any law for the time being in force, including integrated tax leviable under sub-section (7) of section 3 of the Customs Tariff Act, 1975, other than duty of customs leviable under section 12.

Settlement of cases related

[Clause 124]

Amendment to Section 127(C) of the Customs Act:

- The insertion of sub section 8A has provided a time limit of 9 months from the date of application, within which an order shall be passed by the Settlement Commission.
- The period can be extended by the Settlement Commission for further period not exceeding three months.
- Further, if no order is passed within the said period, the settlement proceedings shall abate and the adjudicating authority before whom the proceeding at the time of making the application was pending shall dispose of the application in accordance with the provisions of this Act

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LEGISLATIVE CHANGES IN THE CUSTOMS TARIFF ACT, 1975

Tariff related changes

[Clause 125]

Amendment to Section 9, 9A, 9B of the Customs Tariff Act (application with retrospective effect from 1st January, 1995): The provisions relating to Anti-Dumping Duty (ADD), Countervailing Duty (CVD), and Safeguard Measures are being amended to remove ambiguity and to clarify the intent in the manner prescribed by the rules under the Customs Tariff Act

[Clause 126 and 127]

Changes in two tranches:

- Changes with effect from 02.02.2023; and
- Changes with effect from 01.05.2023 with a view to harmonise certain entries with Harmonised System of Nomenclature to create new tariff lines in respect of certain entries and to revise the rates in respect of certain tariff items

Important change:

1. New tariff lines for telecom products, synthetic diamonds;

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EXCISE

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LEGISLATIVE CHANGES IN THE CENTRAL EXCISE ACT, 1944

Excise related changes

[Clause153]

Changes:

- Changes with effect from 02.02.2023 to Seventh Schedule of Finance Bill, 2001

Important change:

1. Notification No. 05/2023-Central Excise dated 01.02.2023 is being issued to exempt excise duty on blended Compressed Natural Gas (CNG) from so much of the amount as is equal to GST paid on biogas /compressed bio gas contained in such blended CNG subject to the specified conditions.

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CENTRAL GOODS AND SERVICES TAX ACT, 2017

Legislative Changes

[Clause 128]

Sections.10(2)(d) and 10(2A)(c) being amended to remove restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under composition levy

[Clause 129]

Second proviso to section 16(2) being re-worded to from ‘added to his output tax liability, along with interest thereon’ to “paid by him along with interest payable under sec. 50”

Further, third proviso being amended to clarify that recipient is entitled to re-avail ITC on making of payment towards value of supply along with tax payable to supplier

Legislative Changes

[Clause 130]

Explanation to section 17(3) being amended to further include transaction value of supply of warehoused goods before clearance for home consumption within the ambit of exempt supply

Clause (fa) proposed to be inserted u/s. 17(5) to restrict input tax credit in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to obligations under CSR referred to in section 135 of Companies Act, 2013

[Clause 131]

Section 23 being amended retrospectively to override section 22(1) and section 24
(w.r.e.f. 01.07.2017)

Legislative Changes

[Clause 132, 133, 134 and 135]

Sub-section (5) proposed to be inserted u/s. 37 to restrict a registered person from filing return in Form GSTR-1 u/s. 37 after the expiry of period of 3 yrs. from due date.

Further, enabling provision sought to be provided for extension of said time limit by govt., subject to certain conditions and restrictions, for a registered person or a class of registered persons

Similar amendments are being proposed for GSTR-3B, GSTR-9 and GSTR-7.

Legislative Changes

[Clause 136]

Section 54(6) being amended to provide that refund on provisional basis shall be calculated at 90% of amount of refund claimed. The amendment proposes to omit words “excluding the amount of input tax credit claimed on provisional basis”

[Clause 137]

Section 56 being amended to substitute the words “from the date immediately after the expiry of sixty days from the date of receipt of application under the said subsection till the date of refund of such tax”, by the words “for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed”

Legislative Changes

[Clause 138]

Section 122(1B) being inserted to provide for penal provisions applicable to Electronic Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers

The quantum of penalty prescribed is Rs. 10,000 or amount equivalent to the amount of tax involved on said supply by a registered person, other than composition dealer, whichever is higher

Legislative Changes

[Clause 139]

Section 132(1) being amended to decriminalize offences specified in clauses (g), (j) and (k) of said sub-section and to increase the monetary threshold for launching prosecution for the offences under the Act from INR 1 crore to INR 2 crores, except for offences related to issuance of invoices without supply of goods or services or both

Glimpse of clauses proposed to be omitted u/s. 132(1):

- (g) obstructs or prevents any officer in the discharge of his duties under this Act;
- (j) tampers with or destroys any material evidence or documents;
- (k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;

Legislative Changes

[Clause 140]

First proviso to section 138(1) being amended to provide corresponding effect of decriminalization of offences by compounding of the offences. Further, amount for compounding of the offence is also proposed to be reduced

Glimpse of proposed reduction of amount towards compounding of offence:-

Earlier, the amount for compounding the offences was not less than INR 10,000 or 50% of tax amount, whichever is higher and maximum amount not less than INR 30,000 or 150% of tax involved, whichever is higher. Proposal seeks to reduce the amount for compounding of offences to minimum of 25% of taxes and maximum of not less than 100% of the taxes

Legislative Changes

[Clause 141]

Section 158A being proposed to inserted to provide for prescribing manner and conditions for sharing of the information furnished by the registered person in his return or in his application of registration or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified.

[Clause 142]

(w.r.e.f. 01.07.2017)

Paras 7, 8(a) and 8(b) of Schedule III of CGST Act being amended retrospectively so as to treat activities/ transactions mentioned therein as neither supply of goods nor supply of services.

No refund shall be available where tax has been paid in respect of such transactions/ activities during the period 01.07.2017 to 31.01.2019

The background features several overlapping, semi-transparent blue geometric shapes, primarily triangles and trapezoids, in various shades of blue, creating a modern, abstract design.

INTEGRATED GOODS AND SERVICES TAX ACT, 2017

Legislative Changes

[Clause 143]

Section 2(16) being amended to revise the definition of “non-taxable online recipient” by removing condition w.r.t. receipt of online information and database access or retrieval services (OIDAR) for purposes other than commerce, industry or any other business or profession, so as to provide for taxability of OIDAR service provided by any person located in non taxable territory to an unregistered person receiving said services and located in taxable territory. Further, it clarifies that persons registered solely in terms of Section 24(vi) shall also be treated as unregistered person for the purpose of said clause

Section 2(17) being amended to revise definition of “online information and database access or retrieval services” to remove the condition of rendering of said supply being essentially automated and involving minimal human intervention

Legislative Changes

[Clause 144]

Proviso to section 12(8) being omitted to specify place of supply, irrespective of destination of goods, in cases where supplier of services and recipient of services are located in India