

Decoding GST proposals vide Union Budget 2021-22 & recent radical GST Amendments

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CA Deepali Mehta



Heartfelt gratitude to essential suppliers, health workers, Annadatas, Police and armed forces for working relentlessly in the crucial months with the sword of virus hanging over their lives.

Finance Budget 2021



“Transformational leadership of Finance Minister Nirmala Sitharaman begets Path Breaking Union Budget 2021.

“For the MSME segment, the Atmanirbhar Bharat programme has opened up much needed room for the financial institutions to lend easily

“The first “paperless” union budget underlines our government’s focus on three key areas, including innovation, skill development, and digital governance.

Extracts from Budget

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- ✓ *The Atmanirbhar Bharat Budget 2021-22 based on 6 pillars:*
- ✓ *Health and well – being.*
- ✓ *Physical and financial capital & Infrastructure.*
- ✓ *Inclusive development for Aspirational India.*
- ✓ *Reinvigorating Human Capital.*
- ✓ *Innovation and R & D.*
- ✓ *Minimum Government & Maximum Governance.*



Extracts from Budget

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Declared as Historic Budget as first ever “Digital budget”

“As Chairperson of the Council, I want to assure the House that we shall take every possible measure to smoothen the GST further, and remove anomalies such as the inverted duty structure”.

Before I come to my Indirect Tax proposals, I would like to appraise the House on GST. The GST is now four years old, and we have taken several measures to further simplify it. Some of the measures include:

- i. Nil return through SMS,
- ii. Quarterly return and monthly payment for small taxpayers,
- iii. Electronic invoice system,
- iv. Validated input tax statement,
- v. Pre-filled editable GST return, and
- vi. Staggering of returns filing.

The capacity of GSTN system has also been enhanced. We have also deployed deep analytics and Artificial Intelligence to identify tax evaders and fake billers and launched special drives against them.

Happy/Sad Moments

- ✓ Interest on delayed payment of GST on net tax liability.....Retrospectively
 - ✓ Removal of GST Audit , reduction in compliance cost.
 - ✓ Self – Certified Annual Return by assessee
- ✓ Supply of goods/ services by Societies, clubs etc. to members treated as “SUPPLY” and made liable to GST.....retrospectively
 - ✓ Availment of ITC only after it appears in GSTR 2A
 - ✓ Penalties enhanced and appeal filing made more costlier in certain cases.



Changes effective from date to be Notified:

The amendments relating to CGST are provided under clause 99 to 113.

The provisions relating to IGST are covered under clause 114.

Therefore, amendments to GST provisions are covered under clause 99 to 114 of the Financial Bill, 2021

Clause 99

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The above amendment is to neutralise the Supreme Court decision in the case of State of West Bengal vs. Calcutta Club Limited (2019) 29 G.S.T.L. 545 (S.C.) where the Court held that if the doctrine of agency, trust and mutuality is to be applied qua members' clubs, there has to be an activity carried out by one person for another for consideration.

Sec 7(1) (aa) introduced retrospectively from 1st July 2017:

(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable

Consideration.

Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any

Judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another.

The judgement was for levy of service tax, but by inserting the explanation in the section, the same is annulled.

Clause 113

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Para 7 of Schedule II

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, Deferred payment or other valuable consideration

This Para shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017

Since section 7 is amended as in clause 99, the said para 7 of Schedule-II is Omitted

Clause 100

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Section 16(2) (aa) has been inserted

Earlier section 16(1) stated that ITC is available subject to conditions and restrictions prescribed. The conditions were prescribed by way of Rule 36. And thus Rule 36(4) was introduced to restrict the ITC to 105% of what is reflected in GSTR2A.

(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37

Now by introducing clause (aa) in 16(2), the availability of ITC is restricted to what is reflected in GSTR2A. Thus now Rule 36(4) will become redundant and might be Omitted.

Clause 101

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Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed

Section 35(5) of CGST Act

Section 35(5) has been Omitted. Tweet was shared that 35(5) is applicable for FY 2019-20.

Business Opportunity Lost?????---

After the omission of 35(5), compulsory audit by CA has been done away with, but the reconciliation statement still needs to be filed and it now has to be certified by the Registered Persons himself. Section 44 is amended accordingly.

Clause 102

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This section is completely substituted and now the RP has to furnish not only the Annual return but also the reconciliation statement which needs to be self-certified and which reconciles the value as declared in Annual return and values as declared in Financial Statement.

The same also needs to be submitted electronically

Section 44 of CGST Act is amended

Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

No application of this section to Governments whose books are subjected to CAG or any audit under any law for the time being in force.

Clause 103

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The proviso was inserted vide Finance Bill 2020 with effective from 25/08/2020 vide notification No. 63/2020. But the same was prospective in nature.

This proviso is completely substituted. Earlier the words were Interest shall be levied.

It means that initially some proceedings needs to be initiated to levy the interest.

Section 50 is amended with effect from 1st July 2017

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.

Now the responsibility is on the tax payer that the interest is payable immediately if the tax is paid late.

Clause 104

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Earlier penalty under sections 122,125, 129 & 130 were deemed to be concluded.



Clause (ii) of Explanation II of section 74

Where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122 and 125 are deemed to be concluded.

E.g. supply made by assessee without invoice & transporter carries the said consignment.... Intercepted in transit by department officers.....issued notice to both for tax, interest & penalty.....the assessee paid tax, interest & penalty.....the proceeding against GTA??

Now the penalty proceedings of seizure, detention & confiscation of goods are separated from recovery of tax proceedings.

Clause 105

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This explanation proposed to be inserted clarifies that self-assessed tax will not only include the tax payable as per return u/s. 39 [GSTR3B] but it will also include the outward supplies shown as per the statement of outward supplies u/s. 37 [GSTR1].

Explanation is inserted in section 75(12)

Explanation.—For the purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.



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Clause 106

Earlier separate sections were mentioned and hence provisional attachment was restricted to section 62 or section 63 or section 64 or section 67 or section 73 or section 74.

Sec 62: Assessment of Non-filers of returns

Sec 63: Assessment of URP

Sec 64: Summary assessment in certain cases

Sec 67: Power of Inspection, Search & Seizure

Section 83(1) is substituted

Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed

Now the powers of authority are widened. The section now widely covers: Chapter XII [Assessment], Chapter XIV [Inspection, Search, Seizure & Arrest] Chapter V [Demands & Recovery]

Clause 107

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Earlier appeal was linked to section 74. and now since 129 is delinked from section 74, separate appeal provisions for 129 are inserted.

New proviso is inserted in section 107(6)

Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant

Clause 110

This amendment gives wide power to collect information as compared to earlier where notification was to be issued.

Section 151 is substituted

The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein

Clause 111

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The section is amended to bring in line with 151.

A welcome gesture of giving opportunity f bring heard before using the information for any proceedings under the Act.

Section 152 is amended

152(1) No information with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act without giving any opportunity of being heard to the person concerned.

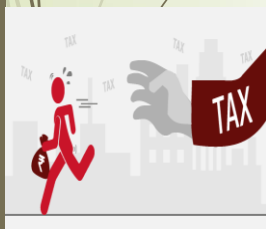
Section 152(2) is omitted

Clause 112- Section 168 which is for issuance of directions or instructions is amended to bring in line with above amendments

Clause 108

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Section 129 is amended



No	Scenario	Existing penalty	Proposed Penalty
1	The owner of the goods comes forward for payment of such tax and penalty	Exempted goods: 2% of value of goods or Rs.25,000 whichever is less Other Goods: Tax and penalty equal to 100% of tax payable on such goods	Exempted goods: 2% of value of goods or Rs. 25,000 whichever is less Other Goods: penalty equal to 200% of tax payable on such goods
2	The owner of the goods does not come forward for payment of tax and penalty	Exempted goods: 5% of value of goods or Rs.25,000 whichever is less Other Goods: Tax and penalty equal to 50% of value of goods reduced by tax paid thereon	Exempted goods: 5% of value of goods or Rs. 25,000 whichever is less Other Goods: Penalty equal to 50% of the value of goods or 200% of tax payable on such goods

Clause 108

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Section 129 is amended

PENALTY!

Section 129 (4), Tax & interest words are removed and as the section is related to penalty only.

Section 129(2) is omitted. Subsection (6) of section 67 states that goods can be released provisionally upon execution of a bond or furnishing of security. The same is now done away with. And thus for release of goods only recourse available is to pay penalty in cash

Section 129 (3) Specify the duration of 7 days for issuing notice for detention & seizure and for passing an order thereafter.

Section 129(6) ... power to authority to dispose/ sale the seized goods/conveyance where penalty is not paid within 15 days from receipt of order. If transporter pays penalty or Rs.1 lakh , whichever is lower , then conveyance to be released.

Clause 109

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Section 130 is amended

Section 130(3) is omitted

Section 130(1) The non-obstante clause is no more there which means section 130 is now not having any overriding impact

Section 130(2) Provided further that the aggregate of such fine and penalty leviable shall not be less than the penalty equal to hundred per cent. of the tax payable on such goods:

The section is amended to delink the proceedings under that section relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty.

Clause 113- IGST Amendments

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Section 16 (1)(b) is amended

supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit.

The section is now in line with section 54 and rule 89 relating to refund.

Amendment is done in Zero rated supply definition in case of supply to SEZ. Post this amendment, supply to SEZ for Authorized operations only will be considered as Zero Rated Supply.

Such authorized operations must be as per the SEZ Act, Rules and other relevant notifications

Clause 113- IGST Amendments

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Section 16 (3) is substituted

Registered person making Zero rated supply of goods not be receiving the foreign remittances will not be entitled to get the refund.

Section is brought to give chargeability to Rule 96B

A registered person making zero rated supply shall be eligible to claim refund of unutilised input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder

Provided that the registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.

Clause 113- IGST Amendments

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Section 16 (4) is inserted

Now, only notified class of Persons will be allowed to make Zero rated Supply with payment of IGST and claim refund of the same.

Also only notified class of Goods & Service will be allowed to make exports with payment of IGST and claim refund of the same.

(4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify—

(i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;

(ii) a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid

Recent GST Amendments

QRMP Scheme

Eligibility / In-eligibility – N. No. 84/2020 – CT

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❖ Persons eligible to opt under the Scheme:

- ✓ Person should be registered (RP);
- ✓ He / She is required to furnish return pursuant to S. 39 i.e. Form GSTR – 3B ;
- ✓ Aggregate turnover **up to** INR 5.00 Crores in the preceding FY.
- ✓ RP must have furnished **last return**, as due on the date of exercising option.

❖ Persons not eligible to opt under the Scheme:

- ✓ Un-registered person (URP);
- ✓ Persons opted to discharge tax liability under Section 10 – Composition;
- ✓ RP whose aggregate turnover is **more than INR 5.00 Crores** in the preceding FY or if aggregate turnover exceeds INR 5.00 Crores during **any quarter in CFY**;
- ✓ Non resident or Input Service Distributor or TDS & TCS

Default Migration

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Further facility of correction / grievances in case of any discrepancy in auto-populated amount of turnover is provided by GSTIN

- ❖ GSTIN will determine the aggregate turnover of all the registered tax payers based **on the returns filed by them for FY 2019 – 2020.**
- ❖ If the aggregate turnover is **up to INR 5.00 Crores** and tax payers have filed their return i.e. GSTR-3B for the month of October 2020 by 30th November, 2020, **GSTIN will automatically put such tax payers under the scheme - QRMP.**
- ❖ If tax payers wishes to **remain in the scheme**, then he should not take any action and file his returns by the due date.
- ❖ But if **he do not wishes to be in the scheme**, he can opt out / exit the scheme from **5th December 2020 to 31st January 2021.**

Login - > Services - > Returns - > Opt in for quarterly return

Default Migration

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Sr. No.	Class of Registered Person	Default Option
1.	Registered persons having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on quarterly basis in the current financial year.	Quarterly Return
2.	Registered persons having aggregate turnover of up to 1.5 crore rupees who have furnished FORM GSTR-1 on monthly basis in the current financial year.	Monthly Return
3.	Registered persons having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in the preceding financial year.	Quarterly return

Any tax payer whose aggregate turnover has exceeded INR 5 Crores in the FY 2019 – 2020, shall opt out of the Scheme.

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How to opt-in for the Scheme

- ❖ Eligible registered person having an **annual aggregate turnover up to INR 5.00 Crores** in previous financial year can opt in for the Scheme from **1st January, 2021; or**
- ❖ Any time **during any quarter** of the current financial year, **from the first day of second month of preceding quarter to the last day of the first month of the quarter.** [Rule 61A]

Quarter	Between
Q 1 (QE June)	1 st February to 30 th April
Q 2 (QE September)	1 st May to 31 st July
Q 3 (QE December)	1 st August to 31 st October
Q 4 (QE March)	1 st November to 31 st January

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How to opt-in for the Scheme

- ❖ Registered Persons are **not required to exercise the option every quarter.**
- ❖ If option has been exercised once, they shall continue to furnish the returns as per selected option for future tax period, **unless they revise the said option.**
- ❖ Facility to avail the Scheme on the common portal would be available **through out the year.**
- ❖ Persons who have **obtained registration** or **opted out of the composition scheme** [S. 10] **during any quarter** shall be able to opt for the Scheme for the quarter for which the opting facility is available on the date of exercising option as mentioned in previous para. 



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How to opt-out of the Scheme

- ❖ Tax payers whose aggregate turnover **exceeds 5 Crores during any quarter** in the **current financial year**, such person shall **not be eligible** for the Scheme from the **next quarter**.
- ❖ **Such tax payers have to file their periodic returns (GSTR-1 & GSTR-3B) under monthly periodicity.**
- ❖ Facility for **opting out of the Scheme** for a quarter will be available from the first day of the second month of preceding quarter to the last day of the first month of the quarter. ←
- ❖ RP may **opt out of the Scheme** any time during the year from the Scheme provided **last return due** on the date of exercising option of opt out has been furnished. [Proviso to Rule 61A]

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Turnover limit – PAN or GSTIN

- ❖ It is clarified that the option to avail the QRMP Scheme is **GSTIN wise** and therefore, distinct persons as defined in Section 25 of the CGST Act (different GSTINs on same PAN) have the option to avail the QRMP Scheme for one or more GSTINs. In other words, **some GSTINs for that PAN can opt for the QRMP Scheme and remaining GSTINs may not opt for the Scheme.**

Paramount Logistics is having multiple branches on pan India basis and has accordingly obtained multiple States GSTIN on same PAN. Their turnover for the FY 2019 – 2020 was **less than INR 5.00 Crores.**

They may opt for filing of returns under the Scheme for some of its GSTIN's and may file monthly returns for the remaining GSTIN's.

Filing of Returns under the scheme

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GSTR1 to be filed Quarterly before 13th of next month after the end of quarter.

Further option has also been granted to submit the details of outward supplies on monthly basis under "Invoice Furnishing Facility" (IFF).

Features of the "Invoice Furnishing Facility" (IFF)

- ✓ Details of outwards supplies for first two months of a quarter can be filed in IFF by a tax payer;
- ✓ Such details have to be furnished from 1st day of the succeeding month to the 13th day of the succeeding month.
- ✓ After 13th of the month, facility for furnishing details in IFF will not be available;

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GSTR3B also needs to be filed Quarterly before 22nd or 24th of the next month after the end of Quarter. But payment needs to be made Monthly as described in slides ahead.

- ✓ If any invoice remaining to be filed, it may be filed using IFF of the subsequent month or in the quarterly GSTR-1;
- ✓ Details of only B2B (inter-State & intra-State) & Debit and Credit Notes have to be furnished in IFF. In other words, details of B2C transactions have to be reported in quarterly return GSTR-1; [Rule 59 (5)]
- ✓ Amendment, if any, in the invoices or DN & CN issued to RP, can also be carried out through IFF – Table 9A & 9C ;
- ✓ Details of such outward supplies shall not exceeds value of INR 50 Lakhs in each month;
- ✓ When details are furnished through IFF, such supplies would duly reflected in the Form GSTR-2A and GSTR-2B of the concerned recipient of supplies.
- ✓ Details which are submitted through IFF, are not again required to furnished in Form GSTR-1

Methods of Payment of Taxes

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Monthly tax payment through this method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month.

Complete tax period means a period during which taxpayer is registered from first day till the last day of the tax period.

Fixed Sum Method:

A facility is being made available on the portal for generating a **pre-filled challan** in FORM GST PMT-06 for an amount **equal to 35% of the tax paid in cash** in the **preceding quarter** where the **return was furnished quarterly**; or equal to the **tax paid in cash in the last month** of the immediately preceding quarter where the return was furnished **monthly**.

Category	Tax paid in Cash in QE March 2021	Tax required to be paid in Cash in April & May 2021	Tax paid in Cash in the month of March 2021	Tax required to be paid in Cash in April & May 2021
CGST	1,000	350	1,000	1,000
SGST	1,000	350	1,000	1,000
IGST	500	157	500	500

Tax payers who are not eligible under this payment option have to discharge Tax liability under Self Assessment method.

Methods of Payment of Taxes

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Fixed sum Method is not available to – (i) New Tax payers; (ii) Tax payers who have opted out of the composition scheme; and (iii) Tax payers who have not filed their last return in Form GSTR-3B.

Self-Assessment Method:

The said persons, in any case, can pay the tax due by considering the tax liability on inward and outward supplies and the input tax credit available, in FORM GST PMT-06. In order to facilitate ascertainment of the ITC available for the month, an auto-drafted input tax credit statement has been made available in FORM GSTR-2B, for every month.

❖ **The said registered person is free to avail either of the two tax payment method above in any of the two months of the quarter.**



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Payment of Taxes



- ❖ Tax payers **need not have to pay any tax** either under Fixed sum method or Self Assessment Tax, if –
 - ✓ Aggregate balance in Electronic Credit Ledger or Electronic Cash Ledger is **adequate or greater** than the liability for that month or cumulative tax due for the first & second month of the quarter; or
 - ✓ There is no turnover or NIL liability for that month.
- ❖ **Tax deposited under any of the method cannot be used by the tax payers for any other purpose till the filing of return for the quarter.**

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Applicability of Interest



For registered person making payment of tax by opting Fixed Sum Method

- i. **No interest** would be payable in case the tax due is paid in the first two months of the quarter by way of depositing **auto-calculated fixed sum of amount, generated by the system, by the due date** i.e. 25th day of the next month;
- ii. In case such payment of tax by depositing the system calculated amount in FORM GST PMT-06 **is not done by due date**, interest would be payable at the applicable rate, **from the due date of furnishing FORM GST PMT-06 till the date of making such payment;**
- ii. In case **FORM GSTR-3B** for the quarter is **furnished beyond the due date**, interest would be payable as per the provisions of Section 50 of the CGST Act for the tax liability **net of ITC.**

GST Audit for 2019 - 2020

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- ❖ Due date for submission of GST Annual Return in Form GSTR-9 and GST Audit Report in Form GSTR – 9C for the financial year 2019 – 2020 was 31st December, 2020. [S. 44 & Rule 80]
- ❖ Due date has been extended to **28th February 2021** vide **N. No. 95/2020 – CT, dated 30th December, 2020**
- ❖ GST Audit would be applicable if **aggregate turnover exceeds INR 5.00 Crores** in the financial year 2019 – 2020 [**N. No. 79/2020 – CT, dated 15th October, 2020**]
- ❖ **Option of not submitting** of annual return in Form GSTR-9, if **ATO is less than INR 2.00 Crores** is also available for F.Y. 2019 – 2020 as was available for FY 2017 – 2018 and FY 2018 – 2019. [**N. No. 77/2020 – CT, dated 15th October, 2020**]

GST Audit for 2019 - 2020

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- ❖ Certain Tables in Annual Return GSTR-9 were optional viz. Table 4I, 4J to 4L, Table 5D to 5K, Table 6B to 6E, etc. **are still optional. [N. No. 79/2020 – CT, dated 15-10-2020]**
- ❖ **In Table 6B to 6E**, person shall report the breakup of input tax credit **as capital goods** and have an **option** to either report the breakup of the remaining amount as inputs and input services **or** report the entire remaining amount under the **“inputs” row only.**;
- ❖ In Table 8A, details from GSTR-2A would generated **as on 1st November, 2020**

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Restriction on availing of ITC – Rule 36 (4)

- ❖ Rule 36(4) was introduced to restrict the availment of credit on invoices and debit notes uploaded by the supplier in GSTR 1 **up to 10%** [20% for period 01.10.2019 – 31.12.2019] of the eligible credit available on invoices and debit notes details of which have been uploaded by the suppliers in GSTR 1.

Following are the amendment made to this provision w.e.f. 1st January 2021:

- Recipient could avail the eligible credit on invoices and debit notes **uploaded in GSTR-1** which has been **furnished by the supplier**. Earlier only uploading the details in GSTR-1 but GSTR 1 not furnished would suffice the compliance of such provision. **However, now filing of GSTR 1 by the supplier has been mandated to avail the credit by the recipient.**
- Restriction on availment of ITC has been **reduced from 10% to 5%**. Recipient can take the credit **up to 105% of the eligible credit** available on invoices and debit notes which have been furnished by the supplier in GSTR-1.

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Restriction on payment of taxes through ITC – 86B

- ❖ Businesses with **monthly turnover of over INR 50 lakh** will have to **mandatorily pay at least 1 % of their GST liability in cash**, the finance ministry said as it moved to curb evasion by fake invoicing.
- ❖ The Government by way of **Notification No. 94/2020 – CT dated 22nd December 2020** placed absurd restriction that payment of taxes through utilization of balance from electronic credit ledger **cannot exceed 99% of such tax liability** in case where the value of taxable supply in a month **exceeds 50 Lakhs rupees** [other than exempt supply and zero-rated supply] w.e.f. 1st January 2021.

Restriction on payment of taxes through ITC – 86B

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Commissioner or an officer authorized by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

[Discretionary powers]

Restriction is not applicable to the following where tax payer –

- (i) Paid Income Tax of 1 lakh or more **in each of last two FYs** by person or the proprietor or Karta or the MD or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees
- (ii) Claimed refund of ITC on zero-rated supplies of 1 lakh or more in the **preceding FY**
- (iii) Claimed refund of ITC on Inverted duty structure of 1 lakh or more in the **preceding FY**
- iv) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, up to the said month in the current financial year; or
- (v) the registered person is Government Department; or a Public Sector Undertaking; or a local authority; or a statutory body.

Restriction on filing of return – Rule 59 (5)

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Tax payers are restricted to file their details of outward supplies in Form GSTR-1 or Invoice Furnishing Facility (IFF), under following circumstances –

- ❖ Taxpayer has not filed GSTR 3B for **preceding two months**.
- ❖ Taxpayer required to furnish GSTR 3B **for every quarter**, has not filed GSTR 3B for **preceding tax period**.
- ❖ Taxpayer who is **restricted from using** the amount available in electronic credit ledger to discharge his liability towards tax in excess of 99% of such tax liability under rule 86B, has not filed GSTR 3B **for preceding tax period**.

Amendment in E-way Bill provisions

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Validity of E-Way Bill: Earlier **1 day was permitted** for transportation of goods under cover of E way bill for **100 km**. Now the same has been **increased to 200 km w.e.f. 1st January 2021**. This would be very difficult for the transporter to ensure that this time limit is met for compliance for validity of E way Bill.

Blocking of E-way Bill:

It is important to note that no person shall be allowed to furnish E way bill in case such person has **not furnished returns for a consecutive period of two months**. Such provision has been amendment to restrict generation of E way bill **in case returns have not been furnished for two tax periods. [w.e.f. 22-12-2020]**

Cancellation of registration – Rule 21

CA Deepali
Mehta

The registration granted to a person is liable to be cancelled, if the said person,-

- (a) **does not conduct any business** from the declared place of business; or
- (b) issues invoice or bill **without supply of goods or services** in violation of the provisions of this Act, or the rules made thereunder; or
- (c) violates the provisions of section 171 (Anti-profiteering); or
- (d) violates the provision of rule 10A; – Furnishing of bank account details

Three (3) additional clause has been inserted for reasons for cancellation of Registration w.e.f. 22-12-2020

- i. Availment of **ITC in violation of Sec 16** of CGST Act, 2017 or Rules thereunder;
- ii. Furnishes the details in FORM GSTR-1 for **one or more tax periods** which is in excess of the outward supplies declared by him in his valid return in Form GSTR 3B for the **said tax periods**;
- iii. **Violates the provision of rule 86B** – Restriction on use of ITC in Credit Ledger in excess of 99% (details in preceding para's)

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Aap
convince ho
gaye ya
main aur
bolu!



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