

GOODS & SERVICES TAX / IDT UPDATE-173

Amendments proposed in the Finance Bill, 2023 by the Lok Sabha

On 24.03.2023, the Lok Sabha passed the Finance Bill, 2023 with the following amendments in the CGST Act, 2017, the IGST Act, 2017 and the Goods and Services Tax (Compensation to States) Act, 2017:

1. Amendment in Section 23 of CGST Act - Persons not liable for registration

The Finance Bill, 2023 had introduced a *non-obstante* clause, “*Notwithstanding anything to the contrary contained in sub-section (1) of 22 or section 24*” in section 23 retrospectively w.e.f. 1.7.2017, which applied to the entire section 23. Through the amendments proposed in Lok Sabha, the said *non-obstante* clause has been made applicable to sub-section (2) of section 23.

Hence, the category of persons who have been notified by the Government as exempt from obtaining registration under sub-section (2) of section 23, need not register if they are otherwise liable to register under section 22(1) or section 24.

2. Amendment in Section 30 of CGST Act - Revocation of cancellation of registration

The period of 30 days as provided in section 30 for applying for revocation of cancellation of registration, is proposed to be removed. It is now being proposed that cancellation shall be revoked in such manner, within such time and subject to such conditions and restrictions as may be prescribed. The corresponding proviso to sub-section (1) providing for the extension of such 30 days is also proposed to be removed.

3. Amendment in Section 62 of CGST Act - Assessment of non-filers of returns

Section 62 is proposed to be amended to extend the period, available to a non-filer of returns, for furnishing a valid return from 30 days to 60 days from the service of the assessment order. Further, it is also proposed that where the registered person fails to furnish a valid return within 60 days, he may furnish the same within a further period of 60 days on payment of an additional late fee of Rs. 100 for each day of delay beyond 60 days. If the registered person furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn but the liability to pay interest under section 50(1) and late fee under section 47 shall continue.

4. Amendments relating to constitution of GST Appellate Tribunal and Benches thereof

Pursuant to the GST Council accepting the Report of a Panel of State Ministers on Appellate Tribunals with some modifications at its 49th meeting held last month, the Lok Sabha has paved the way for constitution of GST Appellate Tribunals by

proposing amendments in the CGST Act, 2017.

Sections 109 (Constitution of Appellate Tribunal and Benches thereof), 110 (President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.) and 114 (Financial and administrative powers of the President) are being proposed to be substituted to provide for constitution of GST Appellate Tribunal. Consequential amendments have been proposed in sections 117 (Appeal to High Court), 118 (Appeal to Supreme Court) and 119 (Sums due to be paid notwithstanding appeal, etc.)

The GST Appellate Tribunal shall have a Principal Bench and the State Benches. There will be a Principal Bench in New Delhi, consisting of the President, a Judicial Member, a Technical Member (Centre) and a Technical Member (State). The State Benches will consist of two Judicial Members, a Technical Member (Centre) and a Technical Member (State).

The President of the Tribunal will either be a former Supreme Court judge or a former/present Chief Justice of a High Court.

The President, a Judicial Member a Technical Member (Centre) and a Technical Member (State) shall be appointed by the Government on the recommendations of Search-cum-Selection Committee.

The President of the Principal Bench will distribute cases amongst the State Benches and refer case to other members if there is a difference in opinion within the same bench.

Matters related to place of supply shall be heard by the Principal Bench.

A single member bench, with the approval of the President, will hear cases where the tax or input tax credit involved or the amount of fine, fee or penalty determined in any order is upto Rs. 50 lakhs, and no question of law is involved.

5. Amendment in section 13 of the IGST Act - Place of supply of services where location of supplier or location of recipient is outside India

Clause (9) of section 13 provides that the place of supply of services of transportation of goods other than by way of a mail or courier, where location of supplier or location of recipient is outside India, is the destination of such goods. Such clause is proposed to be omitted from section 13. Resultantly, the place of supply of such services will be determined through the default rule under section 13(2) and thus, the same will be the location of recipient of such services.

6. Amendments have been proposed in the Schedule to the Goods and Services Tax (Compensation to States) Act, 2017. The maximum rate at which GST Compensation Cess may be collected for items such as pan masala, tobacco and manufactured tobacco substitutes, including tobacco products have been revised and linked with retail sale price. Accordingly, a new explanation defining the scope of 'retail sale price' is also proposed to be inserted therein.

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