

# DA TAX UPDATE INDIRECT TAX

An E-Tax update from  
**Darda Advisors LLP**

Union Budget 2023 – Key Indirect Tax  
Proposals  
Issue -46

**Goods and Service Tax**

**Customs and Others**

## Goods and Service Tax

<b>ITC on CSR activities not eligible</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p>In section 17 of the Central Goods and Services Tax Act,—</p> <p>(a) in sub-section (3), in the Explanation, for the words and figure “except those specified in paragraph 5 of the said Schedule”, the following shall be substituted, namely:— “except,—</p> <p>(i) The value of activities or transactions specified in paragraph 5 of the said Schedule; and</p> <p>(ii) The value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule”;</p> <p>(b) in sub-section (5), after clause (f), the following clause shall be inserted, namely:—</p> <p>“(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;”.</p>
<b>DA Insights</b>	<ol style="list-style-type: none"> <li>1) ITC shall not be available 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 his obligations under corporate social responsibility (CSR) referred to in section 135 of the Companies Act, 2013.</li> <li>2) Explanation to sub-section (3) of section 17 of the CGST Act is being amended so as to restrict availment of ITC in respect of certain transactions specified in para 8(a) of Schedule III [(a) Supply of warehoused goods to any person before clearance for home consumption], as may be prescribed, by including the value of such transactions in the value of exempt supply.</li> </ol>

## Goods and Service Tax

<b>Compounding of offences related</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>In section 138 of the Central Goods and Services Tax Act,—</i></p> <p><i>(a) in sub-section (1), in the first proviso,—</i></p> <p><i>(i) for clause (a), the following clause shall be substituted, namely:—</i></p> <p><i>“(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;”;</i></p> <p><i>(ii) clause (b) shall be omitted;</i></p> <p><i>(iii) for clause (c), the following clause shall be substituted, namely:—</i></p> <p><i>“(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132;”;</i></p> <p><i>(iv) clause (e) shall be omitted;</i></p> <p><i>(b) in sub-section (2), for the words “ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher”, the words “twenty-five per cent. of the tax involved and the maximum amount not being more than one hundred per cent. of the tax involved” shall be substituted.</i></p>
<b>DA Insights</b>	<p>First proviso to sub-section (1) of section 138 of the CGST Act is being amended so as to simplify the language of clause (a), to omit clause (b) and to substitute the clause (c) of said proviso so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act. It further seeks to amend sub-section (2) so as to rationalize the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.</p>

## Goods and Service Tax

<b>Consent based sharing of information furnished by taxable person.</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>“158A.</i></p> <p><i>(1) Notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of subsection</i></p> <p><i>(2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:-</i></p> <p><i>(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;</i></p> <p><i>(b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies.....</i></p>
<b>DA Insights</b>	<p>A new section 158A in the CGST Act is being inserted so as 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.</p>

## Goods and Service Tax

<b>New provisions for GST registration w.e.f 1 July 2017</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p>For section 23 of the Central Goods and Services Tax Act, the following section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—</p> <p>“23. Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24,—</p> <p>(a) the following persons shall not be liable to registration, namely:—</p> <p>(i) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, 2017; 13 of 2017.</p> <p>(ii) an agriculturist, to the extent of supply of produce out of cultivation of land;</p> <p>(b) the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.”.</p>
<b>DA Insights</b>	<p>Sub-section (1) and sub-section (2) of section 23 of the CGST Act are being amended, with retrospective effect from 01st July, 2017, so as to provide overriding effect to the said section over sub-section (1) of section 22 and section 24 of the said Act.</p>

## Goods and Service Tax

<b>Furnishing of returns including Annual Return beyond 3 years or as prescribed not allowed</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<i>Relevant amendments made by adding new subsection in section 37 (5), 39 (11) 44(2), 52 (15) [Electronic Commerce Operator]</i>
<b>DA Insights</b>	A new sub-sections inserted in relevant sections so as to provide a time limit up-to which the details for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.

<b>Enabling provision of computation of period of delay for calculation of interest on delayed refunds.</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<i>In section 56 of the Central Goods and Services Tax Act, for 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”, 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” shall be substituted.</i>
<b>DA Insights</b>	Section 56 of the CGST Act is being amended so as to provide for an enabling provision to prescribe manner of computation of period of delay for calculation of interest on delayed refunds.

## Goods and Service Tax

<b>Relief on Composition Levy Scheme</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>Section 10 of CGST Act, 2017</i></p> <p><i>(a) in sub-section (2), in clause (d), the words “goods or” shall be omitted;</i></p> <p><i>(b) in sub-section (2A), in clause (c), the words “goods or” shall be omitted.</i></p>
<b>DA Insights</b>	<p>People engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source can also apply for composition levy scheme</p>

<b>Alignment of ITC provisions with Return filing system</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>In section 16 of the Central Goods and Services Tax Act, in sub-section (2),—</i></p> <p><i>(i) in the second proviso, for the words “added to his output tax liability, along with interest thereon”, the words and figures “paid by him along with interest payable under section 50” shall be substituted;</i></p> <p><i>(ii) in the third proviso, after the words “made by him”, the words “to the supplier” shall be inserted.</i></p>
<b>DA Insights</b>	<p>Second and third provisos to sub-section (2) of section 16 of the CGST Act are being amended to align the said sub-section with the return filing system provided in the said Act</p>

## Goods and Service Tax

<b>Provisional ITC replaced with self-assessment ITC</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<i>In section 54 of the Central Goods and Services Tax Act, in sub-section (6), the words “excluding the amount of input tax credit provisionally accepted,” shall be omitted.</i>
<b>DA Insights</b>	Sub-section (6) of section 54 of the CGST Act is being amended so as to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availment of self-assessed input tax credit as per sub-section (1) of section 41 of the said Act.

<b>Penal Provisions on Electronic Commerce Operator</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>138. In section 122 of the Central Goods and Services Tax Act, after sub-section (1A), the following sub-section shall be inserted, namely:—</i></p> <p><i>“(1B) Any electronic commerce operator who—</i></p> <p><i>(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;</i></p> <p><i>(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or</i></p> <p><i>(iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act, shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a</i></p>
<b>DA Insights</b>	A new sub-section (1B) in section 122 of the CGST Act is being inserted so as 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.



## Goods and Service Tax

<b>Decriminalisation of certain offences and increase in monetary limit for launching prosecution</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>In section 132 of the Central Goods and Services Tax Act, in sub-section (1),—</i></p> <p><i>(a) clauses (g), (j) and (k) shall be omitted;</i></p> <p><i>(b) in clause (l), for the words, brackets and letters “clauses (a) to (k)”, the words, brackets and letters “clauses (a) to (f) and clauses (h) and (i)” shall be substituted;</i></p> <p><i>(c) in clause (iii), for the words “any other offence”, the words, brackets and letter “an offence specified in clause (b),” shall be substituted;</i></p> <p><i>(d) in clause (iv), the words, brackets and letters “or clause (g) or clause (j)” shall be omitted.</i></p>
<b>DA Insights</b>	<p>Sub-section (1) of section 132 of the CGST Act is being amended so as to decriminalize offences specified in clause:</p> <p>(g) obstructs or prevents any officer in the discharge of his duties under this Act;</p> <p>(j) tampers with or destroys any material evidence or documents; and</p> <p>(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; or</p> <p>of the said sub-section and to increase the monetary threshold for launching prosecution for the offences under the said Act from one hundred lakh rupees to two hundred lakh rupees, except for the offences related to issuance of invoices without supply of goods or services or both.</p>

## Goods and Service Tax

<b>Retrospective exemption to HSS, SICOI and non-taxable territory transactions in Schedule III w.e.f 1 July 2017</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>(1) In Schedule III to the Central Goods and Services Tax Act, paragraphs 7 and 8 and the Explanation 2 thereof (as inserted vide section 32 of Act 31 of 2018) shall be deemed to have been inserted therein with effect from the 1st day of July, 2017. 12 of 2017.</i></p> <p><i>(2) No refund shall be made of all the tax which has been collected, but which would not have been so collected, had subsection (1) been in force at all material times.</i></p>
<b>DA Insights</b>	<p>Schedule III of the CGST Act is being amended to give retrospective applicability to paras 7, 8 (a) and 8(b) of the said Schedule, with effect from 01st July, 2017 i.e.</p> <p>7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.</p> <p>8. (a) Supply of warehoused goods to any person before clearance for home consumption;</p> <p>(b) 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.</p> <p>so as to treat the activities/ transactions mentioned in the said paragraphs as neither supply of goods nor supply of services.</p> <p>It is also being clarified that where the tax has already been paid in respect of such transactions/ activities during the period from 01st July, 2017 to 31<sup>st</sup> January, 2019, no refund of such tax paid shall be available.</p>

## Goods and Service Tax

<b>New definition of ‘non-taxable online recipient’ for OIDAR Services</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>In the IGST Act, 2017 for section 2(16), the following clause shall be substituted, namely:—</i></p> <p><i>‘(16) “non-taxable online recipient” means any unregistered person receiving online information and database access or retrieval services located in taxable territory.</i></p> <p><i>Explanation.—For the purposes of this clause, the expression “unregistered person” includes a person registered solely in terms of clause (vi) of section 24 of the Central Goods and Services Tax Act, 2017; 12 of 2017.</i></p> <p><i>(b) in clause (17), the words “essentially automated and involving minimal human intervention and” shall be omitted.</i></p>
<b>DA Insights</b>	<p>Clause (16) of section 2 of the IGST Act is being amended so as to amend the definition of “non-taxable online recipient” by removing the condition of 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 the said services and located in the taxable territory. Further, it also seeks to clarify that the persons registered solely in terms of clause (vi) of Section 24 of CGST Act shall be treated as unregistered person for the purpose of the said clause.</p> <p>Further, clause (17) of the said section is being amended to amend the definition of “online information and database access or retrieval services” to remove the condition of rendering of the said supply as it is essentially automated and involves minimal human intervention.</p>

<b>Place of Supply for transportation of goods modified</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>In section 12 of the Integrated Goods and Services Tax Act, in sub-section (8), the proviso shall be omitted.</i></p>
<b>DA Insights</b>	<p>Proviso to sub-section (8) of section 12 of the IGST Act is being omitted so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.</p>

## Customs & Others

<b>Customs – Certain Exemption Notifications will have validity for more than 2 years</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p><i>In the Customs Act, 1962 , in section 25, in sub-section (4A), after the proviso, the following proviso shall be inserted, namely:— 52 of 1962.</i></p> <p><i>“Provided further that nothing contained in this subsection shall apply to any such exemption granted to, or in relation to,—</i></p> <p><i>(a) any multilateral or bilateral trade agreement;</i></p> <p><i>(b) obligations under international agreements, treaties, conventions or such other obligations including with respect to United Nations agencies, diplomats and international organisations;.....</i></p>
<b>DA Insights</b>	<p>Section 25 of the Customs Act is being amended to insert a Proviso to subsection (4A) to provide that the validity of two years shall not apply to exemption notifications issued in relation to multilateral or bilateral trade agreements; obligations under international agreements, treaties, conventions; UN agencies, diplomats, international organizations; privileges of constitutional authorities; schemes under Foreign Trade Policy or other Central Government schemes having a validity of more than two years; re-imports, temporary imports, goods imported as gifts or personal baggage; any duty of customs imposed under any law in force including integrated tax leviable under sub-section 7 of Section 3 of the Customs Tariff Act, 1975, other than under Section 12 of the Customs Act;</p>

## Customs & Others

<b>Settlement Commission to dispose applications within 9 months</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Section and relevant provisions</b>	<p>124. In the Customs Act, in section 127C, after sub-section (8), the following sub-section shall be inserted, namely: —</p> <p>“(8A) The order under sub-section (5) shall be passed within a period of nine months from the last day of the month in which the application under section 127B is made, and 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 as if no application under the said section had been made:</p> <p>Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months:</p> <p>Provided further that in respect of any application pending under sub-section (5) as on the date on which the Finance Bill, 2023 receives the assent of the President, the said period of nine months shall be reckoned from the date on which the said Finance Bill receives the assent of the President.”.</p>
<b>DA Insights</b>	<p>Section 127 C of the Customs Act is being amended to insert sub section (6) to specify a time limit of 9 months from the date of application, for disposal of the application filed before the Settlement Commission</p>

## Customs & Others

<b>Amendment in Customs Tariff Act, 1975</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>Key sections</b>	Sections 9, 9A, 9 C of the Customs Tariff Act are being amended to clearly amplify the intent and scope of these provisions. They are also being validated retrospectively with effect from 1st January 1995.
<b>Key sections</b>	<p>The First Schedule to the Customs Tariff Act, 1975 is being amended to introduce new tariff lines or modify existing tariff lines. The proposed changes are in chapter 3, chapter 4, chapter 9, chapter 10, chapter 12, chapter 13, chapter 19, chapter 27, chapter 29, chapter 31, chapter 38, chapter 39, chapter 48, chapter 52, chapter 54, chapter 57, chapter 61, chapter 62, chapter 63, chapter 69, chapter 71, chapter 84, chapter 85, and chapter 87.</p> <p>Changes which does not involve change in rate of duty would come into effect from 1.5.2023.</p> <p>The First Schedule to the Customs Tariff Act, 1975 is also being amended to modify the tariff rates on certain tariff items as part of rationalization of customs duty rate structure.</p> <p>Wherever there are increase in duty rates, they would come into effect from 2.2.2023 and the others would come into effect from the date of assent of the Bill.</p>
<b>General Rules for interpretation of the Schedule</b>	The General explanatory note to the General Rules for interpretation of the Schedule is being amended to carry out some changes which inter alia, include changes to align the abbreviations and the tariff with complementary amendments to the HS 22. These changes would come into effect from 1.5.2023.
<b>Second Schedule</b>	The Second Schedule is being amended to align the entries under heading 1202 with that of the First Schedule. These changes would come into effect from 1.5.2023.

## Customs & Others

<b>Amendment in Central Sales Tax Act, 1956</b>	
<b>Particulars</b>	<b>Proposed Change</b>
<b>CESTAT for CST matters</b>	<p>Section 19 of CST Act, 1956 substituted to allow CESTAT as the authority to settle inter-State disputes falling under sections 6A and 9</p> <p>Also, all advance ruling matters also would be transferred to CESTAT. [Section 25 amended and Section 24 omitted]</p>



# Indirect Tax Proposals



## Green Mobility:

- To exempt excise duty on GST-paid compressed bio gas

## Electronics:

- To provide relief in customs duty on import of certain parts of mobile phones
- To reduce basic customs duty on parts of open cells of TV panels to 2.5%

## Electricals:

- To increase basic customs duty on electric kitchen chimney from 7.5% to 15%
- To reduce basic customs duty on chimney heat coils from 20% to 15%

## Chemicals and Petrochemicals:

- To exempt basic customs duty on chemicals and petrochemicals
- To reduce basic customs duty on acid grade fluorspar and crude glycerine to 2.5%

1/2





# Indirect Tax Proposals



**UNION  
BUDGET**  
2023-24

- ✔ **Marine products:**
  - To reduce duty on key inputs for domestic manufacture of shrimp feed
- ✔ **Lab Grown Diamonds:**
  - To reduce basic customs duty on seeds used in their manufacturing
- ✔ **Precious Metals:**
  - To increase customs duties on articles made from gold and platinum
  - To increase import duty on silver dore, bars and articles
- ✔ **Compounded Rubber:**
  - To increase basic customs duty rate on compounded rubber from 10% to 25%
- ✔ **Cigarettes:**
  - National Calamity Contingent Duty (NCCD) on specified cigarettes to be revised upwards by about 16%

2/2



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