

BUDGET 2024 - AMENDMENTS PROPOSED FROM GST PERSPECTIVE

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Amendments proposed in Budget 2024

The Finance Bill 2024 proposes amendments to approximately 37 sections of the CGST Act. Among these, 3 amendments as prescribed below are specified to apply retrospectively from 1st July 2017:

- Clause 114 of the Bill seeks to amend Section 16 of the CGST to insert subsection (5), so as to carve out an exception to the existing sub-section (4) and to provide that in respect of an invoice or debit note for the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.
- Clause 114 proposes to insert a new sub-section (6) in the section 16 so as to allow the availment of input tax credit (ITC) in respect of an invoice or debit note in a return filed for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, filed within thirty days of the date of order of revocation of cancellation of registration.

- Clause 143 of the Bill seeks to amend sub-section (7) of section 140 of the CGST Act, so as to enable availment of the transitional credit of eligible CENVAT credit on account of input services received by an Input Services Distributor prior to the appointed day, for which invoices were also received prior to the appointed date.

Additionally, another amendment specified in the Bill will become applicable from 1st October 2023:

- Clause 140 of the Bill seeks to amend sub-section (1B) of section 122 of the CGST Act, so as to restrict the applicability of the said sub-section to electronic commerce operators, who are required to collect tax at source under section 52 of the said Act.

Further, amendment specified below is specified to become effective from 1st day August, 2024

- Clause 139 of the Bill seeks to amend sub-sections (1) and (3) of section 112 of the Central Goods and Services Tax Act, so as to empower the Government to notify the date for filing appeal before the Appellate Tribunal and provide a revised time limit for filing appeals or application before the Appellate Tribunal

The applicability dates of all other amendments will be notified separately.

Further, it is pertinent to note that a separate Clause 146 of the Bill seeks to provide that no refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed had the said section 114 been in force at all material times.

For a detailed analysis of the proposed amendments in Budget 2024, please refer to the following clauses and Comments thereon.

<u>Clause of</u>	<u>Section of</u>	<u>At Present</u>	<u>Proposed</u>
<u>FB, 2024</u>	<u>CGST Act</u>		
<u>Amendments applicable from the date to be Notified</u>			
Clause	Amended	<i>Section 9. Levy and collection.-</i>	<i>Section 9. Levy and collection.-</i>
110	Section 9 (1)	<i>(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may</i>	<i>(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption "and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption , on the value determined under</i>

		<i>be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</i>	<i>section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</i>
<u>Our Comment/ Remark/Impact</u>			
<u>No Levy of GST on un-denatured extra neutral alcohol or rectified spirit</u>			
<p>Clause 110 of the Bill seeks to amend Section 9 of the CGST so as to not to levy central tax on un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor for human consumption.</p> <p>Litigation has arisen regarding the imposition of central or state taxes on undenatured extra neutral alcohol or rectified spirit used in the Manufacture of alcoholic. Therefore, it is proposed to amend the regulations to exclude undenatured extra neutral alcohol or rectified spirit intended for the manufacture of alcoholic liquor for human consumption from the purview of GST levy.</p>			
Clause 112	Insertion of Section 11A	-	<i>“11A. - Power not to recover Goods and Services Tax not levied or short-levied as a result of general practice.</i>

			<p><i>Notwithstanding anything contained in this Act, if the Government is satisfied that --</i></p> <p><i>(a) a practice was, or is, generally prevalent regarding levy of central tax (including non-levy thereof) on any supply of goods or services or both; and</i></p> <p><i>(b) such supplies were, or are, liable to, –</i></p> <p><i>(i) central tax, in cases where according to the said practice, central tax was not, or is not being, levied, or</i></p> <p><i>(ii) a higher amount of central tax than what was, or is being, levied, in accordance with the said practice,</i></p> <p><i>the Government may, on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the central tax payable on such supplies, or, as the case may be, the central tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the central tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice.”.</i></p>
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Our Comment/ Remark/Impact

Power not to recover Goods and Services Tax not levied or short-levied as a result of general practice.

Clause 112 of the Bill seeks to insert a new section 11A in the CGST Act, so as to empower the Government to regularise non-levy or short levy of central tax where it is satisfied that such non-levy or short levy was a result of general practice.

This section is proposed to insert so that to give powers to the Government, on the recommendations of the 53 GST Council meeting, so that to allow regularization of non-levy or short levy of GST, where tax was being short paid or not paid due to common trade practices.

<p>Clause 113</p>	<p>Amendment in Section 13 (3) of the CGST Act</p>	<p><i>(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:-</i></p> <p><i>(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or</i></p> <p><i>(b) the date immediately following sixty days from the date of issue of invoice</i></p>	<p><i>(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:-</i></p> <p><i>(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or</i></p> <p><i>(b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu</i></p>
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		<p>or any other document, by whatever name called, in lieu thereof by the supplier.</p> <p>Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply.</p> <p>Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.</p>	<p>thereof by the supplier. by the supplier, in cases where invoice is required to be issued by the supplier; or”</p> <p>“(c) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient.”;</p> <p>Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.</p> <p>Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.</p>
<p><u>Our Comment/ Remark/Impact</u></p>			
<p><u>Time of Supply Prescribed for the GST Payable under RCM on the basis of self-Invoice</u></p>			

Clause 113 of the Bill seeks to amend section 13 (3) of the CGST Act, so as to specify the time of supply of services in cases where the invoice is required to be issued by the recipient of services in reverse charge supplies.

Accordingly, the amendment stipulates that the time of supply under Reverse Charge Mechanism (RCM), where the recipient is obligated to issue a Self-Invoice, shall now be determined as the earlier of the following dates:

- a) The date of payment
- b) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient:";

However, clarity regarding the applicability of this amendment for the retrospective period is still pending.

<p>Clause 114</p>	<p>Inserted Subsection 5 and 6 under Section 16 (4)</p>	<p><i>(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 <u>section 39</u> for the month of September¹ thirtieth day of November following the end of financial year to which such invoice or invoice relating to such debit note pertains or</i></p>	<p><i>(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 September² thirtieth day of November following the end of financial year to which such invoice or invoice relating to such</i></p>
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¹ [NT-18/2022-CT](#)- Finance Act 2022 provisions made effective 01-10-2022

² [NT-18/2022-CT](#)- Finance Act 2022 provisions made effective 01-10-2022

	<p>– Retrospectively</p>	<p><i>furnishing of the relevant annual return, whichever is earlier</i></p>	<p><i>debit note pertains or furnishing of the relevant annual return, whichever is earlier</i></p> <p><i>“(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017- 18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.</i></p> <p><i>(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,--</i></p>
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			<p><i>(i) filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or</i></p> <p><i>(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration,</i></p> <p><i>whichever is later.”.</i></p>
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Our Comment/ Remark/Impact

Time limit to avail ITC for past period deemed to be 30.11.2021

Clause 114 of the Bill seeks to amend Section 16 of the CGST to insert subsection (5), so as to carve out an exception to the existing sub-section (4) and to provide that in respect of an invoice or debit note for the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.

Thus amendment proposed with respect to time limit to avail ITC w.r.t. any invoice or debit note, through any GSTR 3B return filed up to 30.11.2021 for FY 2017-18, 2018-19, 2019-20 and 2020-21. Thus, for said year last date for availment of ITC may be deemed to be 30.11.2021.

This amendment proposed to be made effective from the 1st day of July, 2017. Further it is proposed that where the tax has been paid or the input tax credit has been reversed, no refund of the same shall be admissible.

However, there are certain issues given below which remain unanswered:

- Does the same eligibility apply if ITC was not availed at all until that time and delayed filing of GST return?
- Whether refund can be claimed in the scenario where ITC already been reversed even after specific proposal that no refund for tax already paid?
- What is the procedure for previous matter pending in appeal?
- Is ITC eligible in case there is a delay in filing GSTR-1 by the supplier?

Our Comment/ Remark/Impact

ITC Pertaining period of cancellation of GST registration

Clause 114 of the Bill seeks to amend Section 16 of the CGST Act to insert a new sub-section (6) so as to allow the availment of ITC in respect of an invoice or debit note in a return filed for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, filed within thirty days of the date of order of revocation of cancellation of registration, subject to the condition that the time-limit for availment of credit in respect of the said invoice or debit note should not have already expired under sub-section (4) of the said section on the date of order of cancellation of registration.

The Section amended to provide eligibility of the ITC for past period post revocation of cancellation of registration. However, such taxpayers are required to file GST return within 30 days of revocation Order.

This amendment proposed to be made effective from the 1st day of July, 2017. Further it is proposed that where the tax has been paid or the input tax credit has been reversed, no refund of the same shall be admissible.

<p>Clause 115</p>	<p>Amendment to Section 17 (5)</p>	<p>(5)Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:</p> <p>(a)</p> <p>(b)</p>	<p>(5)Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:</p> <p>(a)</p> <p>(b)</p> <p>(c)</p>
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		<p>(c)</p> <p>(d)</p> <p>(e)</p> <p>(f)</p> <p>(g)</p> <p>(h)</p> <p>(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.</p>	<p>(d)</p> <p>(e)</p> <p>(f)</p> <p>(g)</p> <p>(h)</p> <p>(i) any tax paid in accordance with the provisions of sections 74, 129 and 130 section 74 in respect of any period upto Financial Year 2023-24,</p>
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Our Comment/ Remark/Impact

Non- availability of ITC in respect of tax paid under section 74 of the Act only for demands upto FY 2023-24.

Clause 115 of the Bill seeks to amend sub-section (5) of section 17 of the Central Goods and Services Tax Act, so as to restrict the non-availability of input tax credit in respect of tax paid under section 74 of the said Act only for demands up to Financial Year 2023-24.

It also proposes to remove reference to sections 129 and 130 in the said sub-section.

Clause 117	Amendment to Section 30 (2) of the CSGT Act	<p>*Section 30. Revocation of cancellation of registration.-</p> <p>(1).....</p> <p>(2) The proper officer may, in such manner and within such period as may be <u>prescribed</u>, by order, either revoke cancellation of the registration or reject the application:</p> <p>Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.</p>	<p>*Section 30. Revocation of cancellation of registration.-</p> <p>(1).....</p> <p>(2) The proper officer may, in such manner and within such period as may be <u>prescribed</u>, by order, either revoke cancellation of the registration or reject the application:</p> <p>Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.</p> <p><i>Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed."</i></p>
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>Empower to prescribe conditions and restrictions for revocation of cancellation of registration</u></p> <p>Clause 117 of the Bill seeks to insert a new proviso in sub-section (2) of section 30 of the CGST Act, so as to empower the Central Government to prescribe conditions and restrictions for revocation of cancellation of registration by rules.</p>			

Clause	Amendment to	*Section 31. Tax invoice.-	Section 31. Tax invoice.-
118	Section 31 (3) of the CSGT Act	<p>(1)...</p> <p>(2)...</p> <p>(3) Notwithstanding anything contained in sub-sections (1) and (2)-</p> <p>(a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;</p> <p>(b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;</p> <p>(c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply</p>	<p>(1)...</p> <p>(2)...</p> <p>(3) Notwithstanding anything contained in sub-sections (1) and (2)-</p> <p>(a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;</p> <p>(b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;</p> <p>(c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:</p>

		<p>containing such particulars and in such manner as may be prescribed:</p> <p>Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;</p> <p>(d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;</p> <p>(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;</p> <p>(f) a registered person who is liable to pay tax under sub-section (3) or subsection (4) of section 9 shall issue an invoice in respect of goods or services or both received by him</p>	<p>Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;</p> <p>(d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;</p> <p>(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;</p> <p>(f) a registered person who is liable to pay tax under sub-section (3) or subsection (4) of section 9 within the period as may be prescribed," shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;</p>
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		<p>from the supplier who is not registered on the date of receipt of goods or services or both;</p> <p>(g) a registered person who is liable to pay tax under sub-section (3) or subsection (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.</p>	<p>(g) a registered person who is liable to pay tax under sub-section (3) or subsection (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.</p> <p><i>‘Explanation.--For the purposes of clause (f), the expression “supplier who is not registered” shall include the supplier who is registered solely for the purpose of deduction of tax under section 51.’</i></p>
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>Amendment with respect to Tax Invoice</u></p> <p>Clause 118 of the Bill seeks to amend clause (f) of sub-section (3) of section 31 of the CGST Act, so as to empower the Central Government to prescribe the time period for issuance of invoice by the recipient in case of reverse charge mechanism supplies by rules.</p> <p>It is also proposes to insert an Explanation in sub-section (3) of the said section so as to specify that a supplier registered solely for the purposes of tax deduction at source under section 51 of the said Act shall not be considered as a registered person for the purpose of clause (f) of sub-section (3) of section 31 of the said Act. [I.e. For the purpose of issue of Invoice for the RCM]</p>			

Clause	Amendment to	Section 39. Furnishing of returns.-	
120	Section 39	<p><i>[(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed.</i></p> <p>Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.</p> <p>(2) A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and</p>	<p><i>[(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed.</i></p> <p>Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.</p> <p>(2) A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.]</p> <p>(3) Every registered person required to deduct tax at source under the provisions of section 51 shall</p>

		<p>manner, and within such time, <u>as may be prescribed.</u>]</p> <p>(3) Every registered person required to deduct tax at source under the provisions of <u>section 51</u> shall furnish, in such form and manner <u>as may be prescribed</u>, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.</p> <p>(4).....</p>	<p>furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.</p> <p>“(3) Every registered person required to deduct tax at source under section 51 shall electronically furnish a return for every calendar month of the deductions made during the month in such form and manner and within such time as may be prescribed:</p> <p>Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month.”.</p> <p>(4).....</p>
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Our Comment/ Remark/Impact

GSTR-7 proposed to be mandatory even for Nil transactions

Clause 120 of the Bill seeks to substitute sub-section (3) of section 39 of the CGST Act, so as to mandate the electronic furnishing of return for each month by the registered person required to deduct tax at source, irrespective of whether any deduction has been made in the said month or not.

It also empowers the Government to prescribe by rules, the form, manner and the time within which such return shall be filed.

Thus, as per amendment proposed Form GSTR-7 is to be filed every month irrespective of whether any tax has been deducted during the said month or not.

<p>Clause 124</p>	<p>Inserted new sub-section (15) in section 54</p>	<p>*Section 54. Refund of tax.- **</p> <p>(1).....</p> <p>(2).....</p> <p>(3) <i>Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:</i></p> <p>Provided that no refund of unutilised input tax credit shall be allowed in cases other than-</p> <p>(i) zero rated supplies made without payment of tax;</p> <p>(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other</p>	<p>*Section 54. Refund of tax.- **</p> <p>(1).....</p> <p>(2).....</p> <p>(3) <i>Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:</i></p> <p>Provided that no refund of unutilised input tax credit shall be allowed in cases other than-</p> <p>(i) zero rated supplies made without payment of tax;</p> <p>(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or</p>
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		<p>than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:</p> <p>Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty.</p> <p>Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.</p> <p>(4),,,,,,</p> <p>(5).....</p> <p>(6),,,,</p> <p>(7),,,,,</p> <p>(8).....</p> <p>(9),,,,</p> <p>(10),,,,</p>	<p>services or both as may be notified by the Government on the recommendations of the Council:</p> <p>Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:</p> <p>Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.</p> <p>(4),,,,,,</p> <p>(5).....</p> <p>(6),,,,</p> <p>(7),,,,,</p> <p>(8).....</p> <p>(9),,,,</p> <p>(10),,,,</p> <p>(11),,,</p>
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		<p>(11),,,</p> <p>(12).....</p> <p>(13),,,</p> <p>(14) Notwithstanding anything contained in this section, no refund under subsection (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.</p> <p>Explanation.- For the purposes of this section,-</p> <p>.....</p>	<p>(12).....</p> <p>(13),,,</p> <p>(14) Notwithstanding anything contained in this section, no refund under subsection (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.</p> <p><i>“(15) Notwithstanding anything contained in this section, no refund of unutilised input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods is subjected to export duty.”.</i></p> <p>Explanation.- For the purposes of this section,-</p> <p>.....</p>
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>No refund of unutilized ITC for in case of zero-rated supply where goods are subjected to export duty</u></p>			

<p>Clause 124 of the Bill seeks to insert a new sub-section (15) in section 54 of the CGST Act, so as to omit the second proviso to sub-section (3) and to provide that no refund of unutilised input tax credit or of integrated tax shall be allowed in cases of zero rated supply of goods where such goods are subjected to export duty.</p>			
<p>Clause 131</p>	<p>Amendment to Section 70 to insert subsection 1A</p>	<p>Section 70. Power to summon persons to give evidence and produce documents.-</p> <p><i>(1) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).</i></p> <p><i>(2) Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceedings" within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).</i></p>	<p>Section 70. Power to summon persons to give evidence and produce documents.-</p> <p><i>(1) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).</i></p> <p><i>(1A) All persons summoned under sub-section (1) shall be bound to attend, either in person or by an authorised representative, as such officer may direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required."</i></p> <p><i>(2) Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceedings"</i></p>

			within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).
<u>Our Comment/ Remark/Impact</u>			
<u>Authorized representative can appear on behalf of the Summoned Person</u>			
<p>Clause 131 of the Bill seeks to insert a new sub-section (1A) in section 70 of the Central Goods and Services Tax Act, so as to enable an authorised representative to appear on behalf of the summoned person before the proper officer in compliance of summons issued by the said officer.</p>			
Clause 132	Amendment to Section 73	<p>Section 73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful-misstatement or suppression of facts.-</p> <p><i>(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on</i></p>	<p>Section 73. Determination of tax <i>pertaining to the period upto Financial Year 2023-24</i>, not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful-misstatement or suppression of facts.-</p> <p><i>(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve</i></p>

		<p><i>the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.</i></p> <p><i>(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.</i></p> <p><i>(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.</i></p> <p><i>(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for</i></p>	<p><i>notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.</i></p> <p><i>(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.</i></p> <p><i>(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.</i></p> <p><i>(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.</i></p>
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		<p>such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.</p> <p>(5) The person chargeable with tax may, before service of notice under subsection (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.</p> <p>(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.</p> <p>(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.</p>	<p>(5) The person chargeable with tax may, before service of notice under subsection (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.</p> <p>(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.</p> <p>(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.</p> <p>(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.</p>
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		<p>(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.</p> <p>(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.</p> <p>** (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.</p> <p>(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or</p>	<p>(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.</p> <p>** (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.</p> <p>(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.</p> <p>“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period upto Financial Year 2023-24.”.</p>
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		any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.	
Clause 133	Amendment to Section 74 of CGST Act	<p>'Section 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful- misstatement or suppression of facts.-</p> <p>(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.</p> <p>(2) The proper officer shall issue the notice under sub-section (1) at least six months</p>	<p>'Section 74. Determination of tax <i>pertaining to the period upto Financial Year 2023-24</i> not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful- misstatement or suppression of facts.-</p> <p>(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.</p> <p>(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time</p>

		<p>prior to the time limit specified in sub-section (10) for issuance of order.</p> <p>(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.</p> <p>(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice.</p> <p>(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such</p>	<p>limit specified in sub-section (10) for issuance of order.</p> <p>(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.</p> <p>(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice.</p> <p>(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.</p>
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		<p>tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.</p> <p>(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.</p> <p>(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.</p> <p>(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.</p> <p>(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the</p>	<p>(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.</p> <p>(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.</p> <p>(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.</p> <p>(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.</p> <p>(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid</p>
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		<p>amount of tax, interest and penalty due from such person and issue an order.</p> <p>(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.</p> <p>(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.</p> <p>Explanation 1.- For the purposes of section 73 and this section,-</p> <p>(i) the expression "all proceedings in respect of the said notice" shall not include proceedings under section 132;</p> <p>(ii) where the notice under the same proceedings is issued to the main person</p>	<p>or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.</p> <p>(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.</p> <p>“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period upto Financial Year 2023-24.”.</p> <p>Explanation 1.- For the purposes of section 73 and this section,-</p> <p>(i) the expression "all proceedings in respect of the said notice" shall not include proceedings under section 132;</p> <p>(ii) 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</p>
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		<p>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.</p> <p>Explanation 2.- For the purposes of this Act, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.</p>	<p>under '[sections 122 and 125]' are deemed to be concluded.</p> <p>Explanation 2.- For the purposes of this Act, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.</p>
Clause 134	Insertion of new section 74A.		<p>"74A. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onwards.</p> <p>(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to</p>

			<p><i>whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.</i></p> <p><i>Provided that no notice shall be issued, if the tax which has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised in a financial year is less than one thousand rupees.</i></p> <p><i>(2) The proper officer shall issue the notice under subsection (1) within forty-two months from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within forty-two months from the date of erroneous refund.</i></p> <p><i>(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid</i></p>
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			<p><i>or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under subsection (1), on the person chargeable with tax.</i></p> <p><i>(4) The service of such statement shall be deemed to be service of notice on such person under subsection (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.</i></p> <p><i>(5) The penalty in case where any tax which has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised,--</i></p> <ul style="list-style-type: none"><i>i. for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, shall be equivalent to ten per cent. of tax due from such person or ten thousand rupees, whichever is higher;</i><i>ii. for the reason of fraud or any wilful-misstatement or suppression of facts to evade tax shall be equivalent to the tax due from such person.</i>
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			<p>(6) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.</p> <p>(7) The proper officer shall issue the order under subsection (6) within twelve months from the date of issuance of notice specified in sub-section (2): Provided that where the proper officer is not able to issue the order within the specified period, the Commissioner, or an officer authorised by the Commissioner senior in rank to the proper officer but not below the rank of Joint Commissioner of Central Tax, may, having regard to the reasons for delay in issuance of the order under sub-section (6), to be recorded in writing, before the expiry of the specified period, extend the said period further by a maximum of six months.</p> <p>(8) The person chargeable with tax where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, may, --</p>
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			<p><i>I. before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information shall not serve any notice under sub-section (1) or the statement under sub-section (3), as the case may be, in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;</i></p> <p><i>II. (ii) pay the said tax along with interest payable under section 50 within sixty days of issue of show cause notice, and on doing so, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.</i></p> <p><i>(9) The person chargeable with tax, where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, may,--</i></p> <p><i>i. before service of notice under sub-section (1), pay the amount of tax along with</i></p>
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			<p><i>interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;</i></p> <p><i>ii. pay the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within sixty days of issue of the notice, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded; (iii) pay the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within sixty days of communication of the order, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded.</i></p> <p><i>(10) Where the proper officer is of the opinion that the amount paid under clause (i) of sub-section (8) or clause (i) of sub-section (9) falls short of the amount actually payable, he shall proceed to</i></p>
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			<p><i>issue the notice as provided for in subsection (1) in respect of such amount which falls short of the amount actually payable.</i></p> <p><i>(11) Notwithstanding anything contained in clause (i) or clause (ii) of sub-section (8), penalty under clause (i) of subsection (5) shall be payable where any amount of self assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.</i></p> <p><i>(12) The provisions of this section shall be applicable for determination of tax pertaining to the Financial Year 2024- 25 onwards.</i></p> <p><i>Explanation 1.--</i> <i>For the purposes of this section,--</i></p> <p><i>(i) the expression "all proceedings in respect of the said notice" shall not include proceedings under section 132;</i></p> <p><i>(ii) 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 this section, the proceedings against all the persons liable to pay penalty under sections 122 and 125 are deemed to be concluded.</i></p>
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			<p><i>Explanation 2.-- For the purposes of this Act, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.</i></p>
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>Insertion of New Section 74A to replace Section 73 and Section 74 of the CGST Act from FY 2024-25 onwards</u></p> <p>Clause 132 and Clause 133 of the Bill seeks to insert a new sub-section (12) in section 73 and Section 74 of the CGST Act respectively, so as to restrict the applicability of the said section for determination of tax pertaining to the period upto Financial Year 2023-24.</p> <p>It also proposes to amend the marginal heading of the said sections accordingly.</p> <p>Additionally, Clause 134 of the Bill seeks to insert a new section 74A in the CGST Act for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to the Financial Year 2024-25 onwards</p>			

Below are the key Provisions with respect to Section 74A

- Section 74A provide common time limit for issuance of Demand Notices for fraudulent as well as Non-Fraudulent cases. The time limit for issuance of notice prescribed is within **forty-two months** from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within forty-two months from the date of erroneous refund.
- This proposed amendment provides 12 months for issuance of OIO which can be further extended maximum by the 6 Month.
- It has been proposed to extend the time limit for taxpayers to avail the benefit of reduced penalty (25%) by paying the tax demanded along with interest, from 30 days (Prescribed earlier under Section 74 of the CGST Act) to 60 days.
- The expression “suppression” for the said section has now been defined

Further, on account of insertion of New Section 74A from Financial Year 2024-25 onwards below Clauses of Finance Bill proposed to amend Sections, **so as to incorporate a reference to the proposed new section 74A.**

<u>Clause of FB</u>	<u>Section of CGST Act</u>
Clause 111	Amendments in sub-section (5) of section 10 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.
Clause 116	Amendment in section 21 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.
Clause 119	Amendment in sub-section (6) of section 35 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.
Clause 121	Amendments in sub-section (8) of section 49 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.
Clause 122	Amendments in sub-section (1) of section 50 in the CGST Act, so as to incorporate a reference to the proposed new section 74A.
Clause 123	Amendments in sub-section (7) of section 51 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.

Clause 125	Amendments in sub-section (3) of section 61 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.
Clause 126	Amendments in sub-section (1) of section 62 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.
Clause 127	Amendments in section 63 of the CGST Act, so as to incorporate a reference to the proposed new section 74A
Clause 128	Amendments in sub-section (2) of section 64 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.
Clause 129	Amendments in sub-section (7) of section 65 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.
Clause 130	Amendments in sub-section (6) of section 66 of the CGST Act, so as to incorporate a reference to the proposed new section 74A.

Clause 135		Amendments in section 75 of the said Act, so as to incorporate a reference to the proposed section 74A or the relevant sub-sections thereof	
Clause 136		Amendments in sub-section (1) of section 104 of the CGST Act, so as to incorporate a reference to sub-sections (2) and (7) of the proposed new section 74A.	
Clause 141		Amendments in section 127 of the CSGT Act, so as to incorporate a reference to the proposed new section 74A.	
Clause 135	Amendment to Section 75	<p>Section 75. General provisions relating to determination of tax.-</p> <p>(1) Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74, as the case may be.</p>	<p>Section 75. General provisions relating to determination of tax.-</p> <p>(1) Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74, or sub-sections (2) and (7) of section 74A as the case may be.</p>

	<p>(2) Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.</p> <p>(3) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.</p> <p>(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.</p> <p>(5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax,</p>	<p>(2) Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.</p> <p>(2A) Where any Appellate Authority or Appellate Tribunal or court concludes that the penalty under clause (ii) of sub-section (5) of section 74A is not sustainable for the reason that the charges of fraud or any wilful misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the penalty shall be payable by such person, under clause (i) of sub-section (5) of section 74A.”;</p> <p>(3) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.</p> <p>(4) An opportunity of hearing shall be granted where a request is received in writing from the</p>
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		<p><i>grant time to the said person and adjourn the hearing for reasons to be recorded in writing:</i></p> <p>Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.</p> <p>(6) <i>The proper officer, in his order, shall set out the relevant facts and the basis of his decision.</i></p> <p>(7) <i>The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.</i></p> <p>(8) <i>Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.</i></p> <p>(9) <i>The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.</i></p>	<p><i>person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.</i></p> <p>(5) <i>The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:</i></p> <p>Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.</p> <p>(6) <i>The proper officer, in his order, shall set out the relevant facts and the basis of his decision.</i></p> <p>(7) <i>The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.</i></p> <p>(8) <i>Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.</i></p>
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		<p>(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section (10) of section 73 or within five years as provided for in sub-section (10) of section 74.</p> <p>(11) An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in subsection (10) of section 73 or sub-section (10) of section 74 where proceedings are initiated by way of issue of a show cause notice under the said sections.</p>	<p>(9) The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.</p> <p>(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section (10) of section 73 or within five years as provided for in sub-section (10) of section 74.</p> <p>(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within the period specified in sub-section (10) of section 73 or in sub-section (10) of section 74 or in sub-section (7) of section 74A.”;</p> <p>(11) An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in</p>
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		<p>(12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.</p> <p><i>[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.]</i></p> <p>(13) Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.</p>	<p>computing the period referred to in subsection (10) of section 73 or sub-section (10) of section 74 or sub-section (7) of section 74A" where proceedings are initiated by way of issue of a show cause notice under the said sections.</p> <p>(12) Notwithstanding anything contained in section 73 or section 74 or section 74A, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.</p> <p><i>[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.]</i></p> <p>(13) Where any penalty is imposed under section 73 or section 74, or section 74A no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.</p>
<p><u>Our Comment/ Remark/Impact</u></p>			

Redetermination of penalty demanded in a notice

Clause 135 of the Bill seeks to insert a new sub-section (2A) in section 75 of the CGST Act, so as to provide for redetermination of penalty demanded in a notice invoking penal provisions under clause (ii) of sub-section (5) of the proposed section 74A of the said Act to re-determine the penalty as per clause (i) of the sub-section (5) of the said section, in cases where the charges of fraud, wilful misstatement, or suppression of facts are not established.

<p>Clause 137</p>	<p>Amendment to Section 107</p>	<p>Section 107. Appeals to Appellate Authority.-</p> <p>(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.</p> <p>(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings</p>	<p>Section 107. Appeals to Appellate Authority.-</p> <p>(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.</p> <p>(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services</p>
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		<p>or six months, as the case may be, allow it to be presented within a further period of one month.</p> <p>(5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.</p> <p>(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-</p> <p>(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and</p> <p>(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, ¹[subject to a maximum of twenty-five crore rupees], in relation to which the appeal has been filed.</p> <p>²[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.]</p>	<p>(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-</p> <p>(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and</p> <p>(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, ¹[subject to a maximum of twenty-five twenty crore rupees], in relation to which the appeal has been filed.</p> <p>²[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.]</p> <p>(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.</p> <p>(8) The Appellate Authority shall give an opportunity to the appellant of being heard.</p> <p>(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the</p>
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	<p>(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.</p> <p>(8) The Appellate Authority shall give an opportunity to the appellant of being heard.</p> <p>(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:</p> <p>Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.</p> <p>(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.</p> <p>(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed</p>	<p>hearing of the appeal for reasons to be recorded in writing:</p> <p>Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.</p> <p>(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.</p> <p>(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order.</p> <p>Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order.</p>
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		<p>against but shall not refer the case back to the adjudicating authority that passed the said decision or order.</p> <p>Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order.</p> <p>Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.</p> <p>(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination,</p>	<p>Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74 or section 74 A.</p> <p>(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.</p> <p>(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:</p> <p>Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.</p> <p>(14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it</p>
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		<p>the decision thereon and the reasons for such decision.</p> <p>(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:</p> <p>Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.</p> <p>(14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.</p> <p>(15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.</p> <p>(16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.</p>	<p>to the appellant, respondent and to the adjudicating authority.</p> <p>(15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.</p> <p>(16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.</p>
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<u>Our Comment/ Remark/Impact</u>			
<u>Reduction of the amount of pre-deposit for filing of appeals</u>			
<p>Clause 137 of the Bill seeks to amend sub-section (6) of section 107 of the CSGT Act, so as to reduce the maximum amount of pre-deposit for filing appeal before the Appellate Authority from rupees twenty-five crores to rupees twenty crores in central tax.</p> <p>It also proposes to make consequential amendments in sub-section (11) of the said section to incorporate a reference to the proposed new section 74A.</p>			
Clause 138	Amendment to Section 109	<p><i>[Section 109. Constitution of Appellate Tribunal and Benches thereof.-</i></p> <p><i>(1) The Government shall, on the recommendations of the Council, by notification, establish with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the</i></p>	<p><i>[Section 109. Constitution of Appellate Tribunal and Benches thereof.-</i></p> <p><i>(1) The Government shall, on the recommendations of the Council, by notification, establish with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority or for conducting an examination or adjudicating the</i></p>

		<p>Appellate Authority or the Revisional Authority.</p> <p>(2) The jurisdiction, powers and authority conferred on the Appellate Tribunal shall be exercised by the Principal Bench and the State Benches constituted under sub-section (3) and sub-section (4).</p> <p>(3) The Government shall, by notification, constitute a Principal Bench of the Appellate Tribunal at New Delhi which shall consist of the President, a Judicial Member, a Technical Member (Centre) and a Technical Member (State).</p> <p>(4) On the request of the State, the Government may, by notification, constitute such number of State Benches at such places and with such jurisdiction as may be recommended by the Council, which shall consist of two Judicial Members, a Technical Member (Centre) and a Technical Member (State).</p> <p>(5) The Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority.</p>	<p><i>cases referred to in sub-section (2) of section 171, if so notified under the said section".</i></p> <p>(2) The jurisdiction, powers and authority conferred on the Appellate Tribunal shall be exercised by the Principal Bench and the State Benches constituted under sub-section (3) and sub-section (4).</p> <p>(3) The Government shall, by notification, constitute a Principal Bench of the Appellate Tribunal at New Delhi which shall consist of the President, a Judicial Member, a Technical Member (Centre) and a Technical Member (State).</p> <p>(4) On the request of the State, the Government may, by notification, constitute such number of State Benches at such places and with such jurisdiction as may be recommended by the Council, which shall consist of two Judicial Members, a Technical Member (Centre) and a Technical Member (State).</p> <p>(5) The Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority.</p> <p>Provided that the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.</p>
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		<p>Provided that the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.</p> <p>(6) The President shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.</p> <p>(7) The senior-most Judicial Member within the State Benches, as may be notified, shall act as the Vice-President for such State Benches and shall exercise such powers of the President as may be prescribed, but for all other purposes be considered as a Member.</p> <p>(8) Appeals, where the tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed fifty lakh rupees and which does not involve any question of law may, with the approval of the President, and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a single Member, and in all other cases, shall be heard together by</p>	<p>Provided further that the matters referred to in subsection (2) of section 171 shall be examined or adjudicated only by the Principal Bench:</p> <p>Provided also that the Government may, on the recommendations of the Council, notify other cases or class of cases which shall be heard only by the Principal Bench.”;</p> <p>(6) The President Subject to the provisions of subsection (5), the President” shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.</p> <p>(7) The senior-most Judicial Member within the State Benches, as may be notified, shall act as the Vice-President for such State Benches and shall exercise such powers of the President as may be prescribed, but for all other purposes be considered as a Member.</p> <p>(8) Appeals, where the tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed fifty lakh rupees and which does not involve any question of law may, with the approval of the President, and subject to such conditions as may be prescribed on the recommendations of the</p>
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		<p><i>one Judicial Member and one Technical Member</i></p> <p><i>(9) If, after hearing the case, the Members differ in their opinion on any point or points, such Member shall state the point or points on which they differ, and the President shall refer such case for hearing,—</i></p> <p><i>(a) where the appeal was originally heard by Members of a State Bench, to another Member of a State Bench within the State or, where no such other State Bench is available within the State, to a Member of a State Bench in another State;</i></p> <p><i>(b) where the appeal was originally heard by Members of the Principal Bench, to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench,</i></p> <p><i>and such point or points shall be decided according to the majority opinion including the opinion of the Members who first heard the case.</i></p>	<p><i>Council, be heard by a single Member, and in all other cases, shall be heard together by one Judicial Member and one Technical Member</i></p> <p><i>(9) If, after hearing the case, the Members differ in their opinion on any point or points, such Member shall state the point or points on which they differ, and the President shall refer such case for hearing,—</i></p> <p><i>(a) where the appeal was originally heard by Members of a State Bench, to another Member of a State Bench within the State or, where no such other State Bench is available within the State, to a Member of a State Bench in another State;</i></p> <p><i>(b) where the appeal was originally heard by Members of the Principal Bench, to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench,</i></p> <p><i>and such point or points shall be decided according to the majority opinion including the opinion of the Members who first heard the case.</i></p>
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		<p><i>(10) The Government may, in consultation with the President, for the administrative efficiency, transfer Members from one Bench to another Bench:</i></p> <p>Provided that a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.</p> <p><i>(11) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.]</i></p>	<p><i>(10) The Government may, in consultation with the President, for the administrative efficiency, transfer Members from one Bench to another Bench:</i></p> <p>Provided that a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.</p> <p><i>(11) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.]</i></p>
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Our Comment/ Remark/Impact

Empower to Appellate Tribunal to examine specified matters

Clause 138 of the Bill seeks to amend section 109 of the CGST, so as to empower the Appellate Tribunal to examine the matters or adjudicate the cases referred to in sub-section (2) of section 171, if so notified under the said section.

Such matters are proposed to be examined or adjudicated only by the Principal Bench.

It also empowers the Government to notify types of cases that shall be heard only by the Principal Bench of the Appellate Tribunal.			
Clause	Amendment of	Section 112. Appeals to Appellate Tribunal.-	Section 112. Appeals to Appellate Tribunal.-
139	Section 112.	<p>(1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.</p> <p>(2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.</p> <p>(3) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the</p>	<p>(1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal or the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal before the Appellate Tribunal under this Act, whichever is later..</p> <p>(2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.</p> <p>(3) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and</p>

		<p>record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within ²six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.</p> <p>(4) Where in pursuance of an order under sub-section (3) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107 or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).</p> <p>(5) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred</p>	<p>examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within ²six months from the date on which the said order has been passed or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later," for determination of such points arising out of the said order as may be specified by the Commissioner in his order.</p> <p>(4) Where in pursuance of an order under sub-section (3) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107 or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).</p>
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		<p>may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (1).</p> <p>(6) The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (1), or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period.</p> <p>(7) An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.</p> <p>(8) No appeal shall be filed under sub-section (1), unless the appellant has paid-</p> <p style="padding-left: 40px;">(a) in full, such part of the amount of tax, interest, fine, fee and penalty</p>	<p>(5) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (1).</p> <p>(6) The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (1) or permit the filing of an 98 application within three months after the expiry of the period referred to in sub-section (3)”, or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period.</p> <p>(7) An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.</p>
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		<p>arising from the impugned order, as is admitted by him, and</p> <p>(b) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, ³[subject to a maximum of fifty crore rupees] , in relation to which the appeal has been filed.</p> <p>(9) Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.</p> <p>(10) Every application made before the Appellate Tribunal,-</p> <p>(a) in an appeal for rectification of error or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application, shall be accompanied by such fees as may be prescribed.</p>	<p>(8) No appeal shall be filed under sub-section (1), unless the appellant has paid-</p> <p>(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and</p> <p>(b) a sum equal to twenty per cent ten per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, ³[subject to a maximum of fifty crore rupees twenty crore rupees] , in relation to which the appeal has been filed.</p> <p>(9) Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.</p> <p>(10) Every application made before the Appellate Tribunal,-</p> <p>(a) in an appeal for rectification of error or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application, shall be accompanied by such fees as may be prescribed.</p>
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<u>Our Comment/ Remark/Impact</u>			
Reduction of the amount of pre-deposit for filing of appeals			
<p>Clause 139 of the Bill seeks to amend sub-sections (1) and (3) of section 112 of the CGST Act, so as to empower the Government to notify the date for filing appeal before the Appellate Tribunal and provide a revised time limit for filing appeals or application before the Appellate Tribunal.</p>			
<p>It is proposed to make the said amendments effective from the 1st day August, 2024.</p>			
<p>It also seeks to amend sub-section (6) of the said section so as to enable the Appellate Tribunal to admit appeals filed by the department within three months after the expiry of the specified time limit of six months.</p>			
<p>Further, it seeks to amend sub-section (8) of the said section to reduce the maximum amount of pre-deposit for filing appeals before the Appellate Tribunal from the existing twenty percent to ten percent of the tax in dispute and also</p>			

reduce the maximum amount payable as pre-deposit from rupees fifty crores to rupees twenty crores in central tax.

<p>Pre-deposit for Appeal GST Appellate Tribunal - At Present</p>
<ul style="list-style-type: none"> • 20% with a maximum amount of Rs. 50 crores CGST and Rs. 50 crores SGST to

<p>Appeal GST Appellate Tribunal – Proposed</p>
<ul style="list-style-type: none"> • 10 % with a maximum of Rs. 20 crores CGST and Rs. 20 crores SGST

Even with the aforementioned reduction, the revised maximum pre-deposit prescribed is higher compared to the pre-GST regime. Therefore, a substantial amount of funds will still be blocked due to the pre-deposit.

Clause	Amendment of	Section 122. Penalty for certain offences.-	Section 122. Penalty for certain offences.-
140	section 122	<p>(1B) Any electronic commerce operator who—</p> <p>(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;</p> <p>(ii) allows an inter-State supply of goods or services or both through it by a person</p>	<p>(1B) Any electronic commerce operator who Any electronic commerce operator, who is liable to collect tax at source under section 52—</p> <p>(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;</p>

		<p><i>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,</i></p> <p><i>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 person paying tax under section 10, whichever is higher]</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,</i></p> <p><i>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 person paying tax under section 10, whichever is higher]</i></p>
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>Applicability of penalty only for those e-commerce operators, who are required to collect tax under Section 52 of CGST Act</u></p>			

Clause 140 of the Bill seeks to amend sub-section (1B) of section 122 of the CGST Act, so as to restrict the applicability of the said sub-section to electronic commerce operators, who are required to collect tax at source under section 52 of the said Act.

The said amendment is proposed to be made effective from the **1st day of October, 2023 when the said sub-section had come into force.**

Section 1B has inserted w.e.f. 1st October, 2023 vide Notification No. 28/2023 - CT dated 31st July, 2023.) by S. 155 of

The Finance Act 2023 (No. 8 of 2023). However as per said section penalty was seems to be applicable to all e-commerce operators. Thus, now section 122(1B) of CGST Act proposed to be amended retrospectively w.e.f.

01.10.2023, so as to clarify that penal provision is applicable only for those e-commerce operators, who are required to collect tax under Section 52 of CGST Act, and not for other e-commerce operators

Clause 142	Insertion of Section 128A in CSGT Act	<i>128A. Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods.</i> <i>(1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is</i>
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			<p><i>payable by a person chargeable with tax in accordance with,--</i></p> <p><i>(a) a notice issued under sub-section (1) of section 73 or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued; or</i></p> <p><i>(b) an order passed under sub-section (9) of section 73, and where no order under sub-section (11) of section 107 or sub-section (1) of section 108 has been passed; or</i></p> <p><i>(c) an order passed under sub-section (11) of section 107 or sub-section (1) of section 108, and where no order under sub-section (1) of section 113 has been passed,</i></p> <p><i>pertaining to the period from 1st July, 2017 to 31st March, 2020, or a part thereof, and the said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under section 50 and</i></p>
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			<p><i>penalty under this Act, shall be payable and all the proceedings in respect of the said notice or order or statement, as the case may be, shall be deemed to be concluded, subject to such conditions as may be prescribed:</i></p> <p><i>Provided that where a notice has been issued under sub-section (1) of section 74, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of section 75, the said notice or order shall be considered to be a notice or order, as the case may be, referred to in clause (a) or clause (b) of this sub-section:</i></p> <p><i>Provided further that the conclusion of the proceedings under this sub-section, in cases where an application is filed under sub-section (3) of section 107 or under sub-section (3) of section 112 or an appeal is filed by an officer of central tax under sub-section (1) of section 117 or under sub-section (1) of section 118 or where any proceedings are initiated under sub-section (1) of section 108, against an order referred to in clause (b) or clause</i></p>
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			<p><i>(c) or against the directions of the Appellate Authority or the Appellate Tribunal or the court referred to in the first proviso, shall be subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order.</i></p> <p><i>Provided also that where such interest and penalty has already been paid, no refund of the same shall be available.</i></p> <p><i>(2) Nothing contained in sub-section (1) shall be applicable in respect of any amount payable by the person on account of erroneous refund.</i></p> <p><i>(3) Nothing contained in sub-section (1) shall be applicable in respect of cases where an appeal or writ petition filed by the said person is pending before Appellate Authority or Appellate Tribunal or a court, as the case may be, and has not been withdrawn by the said person on or before the date notified under sub-section (1).</i></p>
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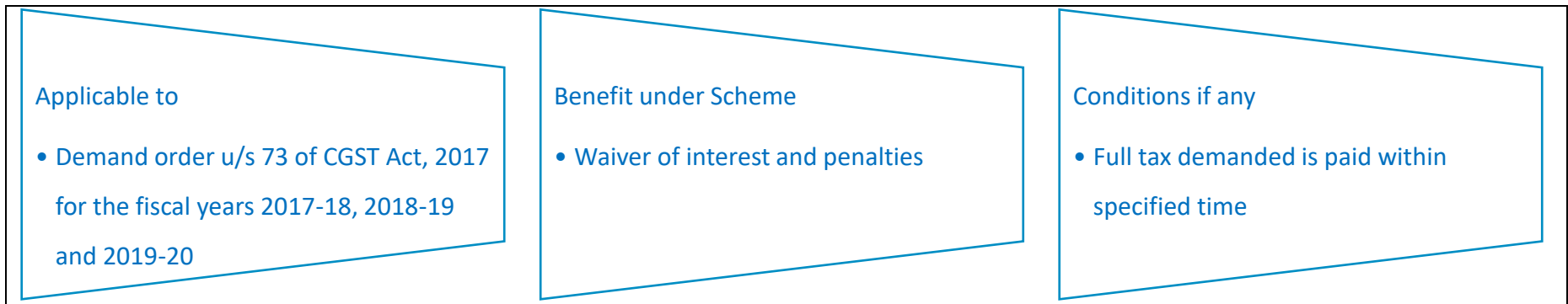
			<p><i>(4) Notwithstanding anything contained in this Act, where any amount specified under sub-section (1) has been paid and the proceedings are deemed to be concluded under the said sub-section, no appeal under sub-section (1) of section 107 or sub-section (1) of section 112 shall lie against an order referred to in clause (b) or clause (c) of sub-section (1), as the case may be."</i></p>
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Our Comment/ Remark/Impact

Conditional waiver of interest or penalty or both

Clause 142 of the Bill seeks to insert a new section 128A in the CGST, so as to provide for conditional waiver of interest and penalty in respect of demand notices issued under section 73 of the said Act for the Financial Years 2017-18, 2018-19 and 2019-20, except the demand notices in respect of erroneous refund.

Further, it is proposed that in cases where **interest and penalty have already been paid in respect of any demand for the said financial years, no refund shall be admissible for the same.**



As per the recommendation of the 53rd GST council meeting the conditional waiver of interest and penalty proposed to be prescribed. Further, as per press release the last date for payment of tax prescribed was 31.03.2025.

However, there are certain issues given below which remain unanswered:

- What happens when a single Order-in-Original (OIO) addresses multiple issues, including interpretational matter?
- What if OIO issued under both section 74 and section 73 of the CGST Act for the same issue or subject matter?
- What happens if interest and/or penalties have already been paid?

Clause 143	Amendment of section 140 (7)	Section 140. Transitional arrangements for input tax credit.- <i>(7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on</i>	Section 140. Transitional arrangements for input tax credit.- <i>(7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on</i>
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		<p><i>account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as ⁷[credit under this Act, within such time and in such manner as may be prescribed, even if] the invoices relating to such services are received on or after the appointed day.</i></p>	<p><i>account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as 7[credit under this Act, within such time and in such manner as may be prescribed, even if] the invoices relating to such services are received on or after the appointed day whether the invoices relating to such services are received prior to, on or after, the appointed day" shall be substituted.</i></p>
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Our Comment/ Remark/Impact

Enable availment of the transitional credit received by ISD

Clause 143 of the Bill seeks to amend sub-section (7) of section 140 of the CGST Act, so as to enable availment of the transitional credit of eligible CENVAT credit on account of input services received by an Input Services Distributor prior to the appointed day, for which invoices were also received prior to the appointed date.

The said amendment is proposed to be **made effective from 1st day of July, 2017.**

Clause	Amendment of	Section 171. Antiprofitereing measure.- **	Section 171. Antiprofitereing measure.- **
144	section 171.	<p>(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.</p> <p>(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.</p> <p>(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.</p> <p>i[(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty</p>	<p>(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.</p> <p>(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.</p> <p><i>Provided that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.</i></p> <p><i>Explanation.--For the purposes of this sub-section, "request for examination" shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed</i></p>

		<p>equivalent to ten per cent. of the amount so profiteered:</p> <p>Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.</p> <p>Explanation.-For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both]</p>	<p><i>by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.';</i></p> <p>(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.</p> <p>[(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:</p> <p>Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.</p> <p>Explanation 1.-For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both]</p>
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			<i>Explanation 2.--For the purposes of this section, the expression "Authority" shall include the "Appellate Tribunal".</i>
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>Sunset clause for anti -profiteering</u></p> <p>Clause 144 of the Bill seeks to amend sub-section (2) of section 171 of the CGST Act, so as to empower the Government to notify the date from which the Authority under the said section shall not accept any application for anti-profiteering cases.</p> <p>An Explanation is also proposed to be inserted so as to include the reference of "Appellate Tribunal" in the expression "Authority" under the said section to enable the Government to notify the Appellate Tribunal to act as an Authority to handle anti-profiteering cases.</p> <p>A sunset clause for anti-profiteering provisions is proposed to provide for handling of anti-profiteering cases by Principal bench of GST Appellate Tribunal (GSTAT).</p> <p>Additionally, as per the 53rd GST council meeting said sun-set date of 01.04.2025 was recommended for receipt of any new application regarding anti-profiteering.</p>			

<p>Clause 145</p>	<p>Amendment of Schedule III so that to insert Sr. 9 and Sr. 10</p>		<p><i>9. Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in coinsurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.</i></p> <p><i>10. Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.</i></p>
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Our Comment/ Remark/Impact**Certain Supply related to insurance Company proposed to insert under Schedule III**

Clause 145 of the Bill seeks to amend Schedule III to the CGST Act, so as to provide that the activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in coinsurance agreements shall be treated as neither supply of goods nor supply of services, provided that the lead insurer pays the tax liability on the entire amount of premium paid by the insured.

It also proposes to provide that the services by the insurer to the re-insurer, for which the ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, shall be treated as neither supply of goods nor supply of services, provided that tax liability on the gross reinsurance premium inclusive of reinsurance commission or the ceding commission is paid by the reinsurer.

Proposed to declare as no supply under Schedule III

- Co-insurance premium apportioned by lead insurer to the co-insurer for the supply of insurance service by lead and co-insurer to the insured in co-insurance agreements
- Transaction of ceding commission/re-insurance commission

The Finance Bill 2024 (FB Bill, 2024) has proposed Amendments in 4 Sections of the IGST Act. The brief synopsis of the same is as under

<u>Clause of</u> <u>FB, 2024</u>	<u>Section of</u> <u>IGST Act</u>	<u>Proposed Amendments to the Section</u>	<u>Our Comment/ Remark/Impact</u>
Clause 147	Amendment of section 5.	<p>Section 5. Levy and collection.-</p> <p>(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:</p> <p>Provided that the integrated tax on goods ²[other than the goods as may be notified by the Government on the recommendations of the Council] imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.</p>	<p>Section 5. Levy and collection.-</p> <p>(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:</p> <p>Provided that the integrated tax on goods ²[other than the goods as may be notified by the Government on the recommendations of the Council] imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as</p>

			determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>No Levy of GST Extra Neutral Alcohol (ENA)</u></p> <p>Clause 147 of the Bill seeks to amend sub-section (1) of section 5 of the IGST Act, so as to not levy integrated tax on extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor for human consumption.</p>			
Clause 147	Insertion of Section 6A		<p>6A. Notwithstanding anything contained in this Act, if the Government is satisfied that--</p> <p>(a) a practice was, or is, generally prevalent regarding levy of integrated tax (including non-levy thereof) on any supply of goods or services or both; and</p> <p>(b) such supplies were, or are, liable to --</p> <p>i. integrated tax, in cases where according to the said practice,</p>

			<p><i>integrated tax was not, or is not being, levied; or</i></p> <p><i>ii. a higher amount of integrated tax than what was, or is being, levied, in accordance with the said practice,</i></p> <p><i>the Government may, on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the integrated tax payable on such supplies, or, as the case may be, the integrated tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the integrated tax was not, or is not being, levied, or was, or is being, shortlevied, in accordance with the said practice.”.</i></p>
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Our Comment/ Remark/Impact

Empower the Government to regularise non-levy or short levy of IGST

Clause 148 of the Bill seeks to insert a new section 6A in the Integrated Goods and Services Tax Act, so as to empower the Government to regularise non-levy or short levy of integrated tax where it is satisfied that such non-levy or short levy was a result of general practice.

Clause	Amendment	Section 16. Zero rated supply.-	Section 16. Zero rated supply.-
149	of section 16.	<p>(1) "zero rated supply" means any of the following supplies of goods or services or both, namely: -</p> <p>(a) export of goods or services or both; or</p> <p>(b) supply of goods or services or both ¹[for authorised operations] to a Special Economic Zone developer or a Special Economic Zone unit.</p> <p>(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.</p> <p>²[(3) 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</p>	<p>(1) "zero rated supply" means any of the following supplies of goods or services or both, namely: -</p> <p>(a) export of goods or services or both; or</p> <p>(b) supply of goods or services or both ¹[for authorised operations] to a Special Economic Zone developer or a Special Economic Zone unit.</p> <p>(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.</p> <p>²[(3) 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</p>

	<p>Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:</p> <p>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 (42 of 1999.) for receipt of foreign exchange remittances, in such manner as may be prescribed.</p> <p>(4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify-</p> <p>(i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;</p> <p>(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.]</p>	<p>Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:</p> <p>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 (42 of 1999.) for receipt of foreign exchange remittances, in such manner as may be prescribed.</p> <p>(4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify-</p> <p>(i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid in accordance with the provisions of section 54 of the Central Goods</p>
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			<p><i>and Services Tax Act or the rules made thereunder;</i></p> <p><i>(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 "or both, on zero rated supply of which, the supplier may pay integrated tax and claim the refund of tax so paid, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder"</i></p> <p><i>"(5) Notwithstanding anything contained in sub sections (3) and (4), no refund of unutilised input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods are subjected to export duty."</i></p>
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Our Comment/ Remark/Impact

Refund of IGST

Clause 149 of the Bill seeks to amend sub-section (4) of section 16 of the IGST Act, 2017, so as to empower the

Government to notify the class of persons who may make zero rated supplies of goods or services or both or the class of

goods or services which may be supplied on zero rated basis, and in respect of which refund of integrated tax can be claimed under section 54 of the Central Goods and Services Tax Act, subject to such conditions, safeguards and procedures as may be provided by rules. Further, it proposes to insert a new sub-section (5) in the said section to provide that no refund of unutilised input tax credit or of integrated tax paid on account of zero rated supply of goods shall be allowed in cases where the zero rated supply of goods is subjected to export duty.

Clause	Amendment	Section 20. Application of provisions of Central Goods and Services Tax Act. -	Section 20. Application of provisions of Central Goods and Services Tax Act. -
150	of section 20	<p><i>Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act relating to,-</i></p> <p><i>(i) scope of supply;</i></p> <p><i>(ii) composite supply and mixed supply;</i></p> <p><i>(iii) time and value of supply;</i></p> <p><i>(iv) input tax credit;</i></p> <p><i>(v) registration;</i></p> <p><i>(vi) tax invoice, credit and debit notes;</i></p>	<p><i>Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act relating to,-</i></p> <p><i>(i) scope of supply;</i></p> <p><i>(ii) composite supply and mixed supply;</i></p> <p><i>(iii) time and value of supply;</i></p> <p><i>(iv) input tax credit;</i></p> <p><i>(v) registration;</i></p> <p><i>(vi) tax invoice, credit and debit notes;</i></p>

	<p><i>(vii) accounts and records;</i></p> <p><i>(viii) returns, other than late fee;</i></p> <p><i>(ix) payment of tax;</i></p> <p><i>(x) tax deduction at source;</i></p> <p><i>(xi) collection of tax at source;</i></p> <p><i>(xii) assessment;</i></p> <p><i>(xiii) refunds;</i></p> <p><i>(xiv) audit;</i></p> <p><i>(xv) inspection, search, seizure and arrest;</i></p> <p><i>(xvi) demands and recovery;</i></p> <p><i>(xvii) liability to pay in certain cases;</i></p> <p><i>(xviii) advance ruling;</i></p> <p><i>(xix) appeals and revision;</i></p> <p><i>(xx) presumption as to documents;</i></p> <p><i>(xxi) offences and penalties;</i></p>	<p><i>(vii) accounts and records;</i></p> <p><i>(viii) returns, other than late fee;</i></p> <p><i>(ix) payment of tax;</i></p> <p><i>(x) tax deduction at source;</i></p> <p><i>(xi) collection of tax at source;</i></p> <p><i>(xii) assessment;</i></p> <p><i>(xiii) refunds;</i></p> <p><i>(xiv) audit;</i></p> <p><i>(xv) inspection, search, seizure and arrest;</i></p> <p><i>(xvi) demands and recovery;</i></p> <p><i>(xvii) liability to pay in certain cases;</i></p> <p><i>(xviii) advance ruling;</i></p> <p><i>(xix) appeals and revision;</i></p> <p><i>(xx) presumption as to documents;</i></p> <p><i>(xxi) offences and penalties;</i></p>
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		<p>(xxii) job work;</p> <p>(xxiii) electronic commerce;</p> <p>(xxiv) transitional provisions; and</p> <p>(xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,</p> <p>shall, mutatis mutandis, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act.</p> <p>Provided that in the case of tax deducted at source, the deductor shall deduct tax at the rate of two per cent. from the payment made or credited to the supplier.</p> <p>Provided further that in the case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on there commendations of the Council, of the net value of taxable supplies:</p> <p>Provided also that for the purposes of this Act, the value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, and the</p>	<p>(xxii) job work;</p> <p>(xxiii) electronic commerce;</p> <p>(xxiv) transitional provisions; and</p> <p>(xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,</p> <p>shall, mutatis mutandis, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act.</p> <p>Provided that in the case of tax deducted at source, the deductor shall deduct tax at the rate of two per cent. from the payment made or credited to the supplier.</p> <p>Provided further that in the case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on there commendations of the Council, of the net value of taxable supplies:</p> <p>Provided also that for the purposes of this Act, the value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than</p>
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		<p><i>Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier.</i></p> <p>Provided also that in cases where the penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties.</p> <p>Provided also that where the appeal is to be filed before the Appellate Authority or the Appellate Tribunal, the maximum amount payable shall be fifty crore rupees and one hundred crore rupees respectively.]</p>	<p><i>this Act, and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier.</i></p> <p>Provided also that in cases where the penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties.</p> <p>Provided also that where the appeal is to be filed before the Appellate Authority or the Appellate Tribunal, the maximum amount payable shall be fifty crore rupees and one hundred crore rupees respectively.]</p> <p><i>“Provided also that a maximum amount of forty crore rupees shall be payable for each appeal to be filed before the Appellate Authority or the Appellate Tribunal.”.</i></p>
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>Reduction in Pre-Deposit</u></p> <p>Clause 150 of the Bill seeks to amend section 20 of the IGST Act, so as to reduce the maximum amount of pre-deposit payable for filing appeal before the Appellate Authority from rupees fifty crores to rupees forty crores of integrated tax.</p>			

Further, it proposes to reduce the maximum amount payable as pre-deposit for filing appeal before the Appellate Tribunal from rupees hundred crores to rupees forty crores of integrated tax.

The Finance Bill 2024 (FB Bill, 2024) has proposed two Amendments in the UTGST Act. The brief synopsis of the same is as under

<u>Clause of FB, 2024</u>	<u>Section of UTGST Act</u>	<u>Proposed Amendments to the Section</u>	<u>Our Comment/ Remark/Impact</u>
Clause 151	Amendment of section 7	<p>Section 7. Levy and collection.</p> <p><i>(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the Union territory tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding twenty percent, as may be notified by the Central Government on the recommendations of the</i></p>	<p>Section 7. Levy and collection.</p> <p><i>(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the Union territory tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, “and un-denatured extra neutral alcohol or rectified spirit which is used for manufacture of alcoholic liquor, for human consumption” shall be inserted. on the value determined under section 15 of the Central Goods and</i></p>

		<i>Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</i>	<i>Services Tax Act and at such rates, not exceeding twenty percent., as may be notified by the Central Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</i>
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>No Levy of GST Extra Neutral Alcohol (ENA)</u></p> <p>Clause 151 of the Bill seeks to amend sub-section (1) of section 7 of the Union Territory Goods and Services Tax Act, so as to not to levy Union territory tax on extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor for human consumption.</p>			
Clause 152	Insertion of new section 8A.		<p><i>“8A. Notwithstanding anything contained in this Act, if the Government is satisfied that--</i></p> <p><i>(a) a practice was, or is, generally prevalent regarding levy of Union territory tax (including non-levy thereof) on any supply of goods or services or both; and</i></p> <p><i>(b) such supplies were, or are, liable to--</i></p>

			<p><i>(i) Union territory tax, in cases where according to the said practice, Union territory tax was not, or is not being, levied; or</i></p> <p><i>(ii) a higher amount of Union territory tax than what was, or is being, levied, in accordance with the said practice,</i></p> <p><i>the Government may, on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the Union territory tax payable on such supplies, or, as the case may be, the Union territory tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the Union territory tax was not, or is not being, levied, or was, or is being, short-levied, in accordance with the said practice.”.</i></p>
<p><u>Our Comment/ Remark/Impact</u></p> <p><u>Empower the Government to regularise non-levy or short levy of UTGST</u></p>			

Clause 152 of the Bill seeks to insert a new section 8A in the Union Territory Goods and Services Tax Act, so as to empower the Government to regularise non-levy or short levy of Union territory tax where it is satisfied that such non-levy or short levy was a result of general practice.

The Finance Bill 2024 (FB Bill, 2024) has proposed one amendments in the Goods and Services Tax (Compensation to States) Act,.

The brief synopsis of the same is as under

Date : 23-07-2024

<u>Clause of</u> <u>FB, 2024</u>	<u>Section of GST</u> <u>(Compensation to States) Act</u>	<u>Proposed Amendments to the Section</u>	<u>Our Comment/ Remark/Impact</u>
Clause 153	Insertion of new section 8A.		<p>8A. Power not to recover cess not levied or short levied as a result of general practice.</p> <p><i>Notwithstanding anything contained in this Act, if the Government is satisfied that-- (a) a practice was, or is, generally prevalent regarding levy of cess (including non-levy thereof) on any supply of goods or services or both; and (b) such supplies were, or are, liable to, -</i></p> <p><i>(i) cess, in cases where according to the said practice, cess was not, or is not being, levied; or (ii) a higher amount of cess than what was, or is being, levied, in accordance with the said practice, the Government may, on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the cess payable on such supplies, or, as the case may be, the cess in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the</i></p>

			<i>cess was not, or is not being, levied, or was, or is being, short-levied, in accordance with the said practice.”.</i>
<u>Our Comment/ Remark/Impact</u>			
<u>Empower the Government to regularise non-levy or short levy of IGST</u>			
Clause 153 of the Bill seeks to insert a new section 8A in the Goods and Services Tax (Compensation to States) Act, so as to empower the Government to regularise non-levy or short levy of cess where it is satisfied that such non-levy or short levy was a result of general practice.			

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Date : 23-07-2024