Union Budget 2020

GST - Key Amendments You Must Know!

[2nd February 2020]

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GST – Background

GST Council

- Changes being made on a real time basis

Union Budget

- In continuation, key changes proposed in CGST Act

GST - Key changes – An overview

Time limit for debit note rationalised

‘Beneficiaries’ of fake invoicing liable for penal consequences

Power to issue RoD extended till 30th June 2022

Transitional provision tweaked to prescribe ‘time’

Provisions related to tax invoicing, TDS etc tweaked

In Income Tax Act, penal provisions proposed for fake invoicing

In Income Tax, VVS Scheme launched on lines of SVLDRS

GST - Key Changes

Analysis

Amendment in Section 16

[Eligibility and conditions for taking input tax credit]

Time limit for debit note rationalised

1. Linking of date to debit note than invoice

Existing provision	Amendment proposed
Section 16 (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 September following the end of financial year to which such invoice or **invoice relating to such debit note pertains** or furnishing of the relevant annual return, whichever is earlier	Section 16 (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 September following the end of financial year to which such invoice or ~~**invoice relating to such**~~ **debit note pertains** or furnishing of the relevant annual return, whichever is earlier

1. Linking of date to debit note than invoice

After this amendment, credit will be available for Debit Note (DN) say raised in FY 20-21 till September 2021 return.

However, what if DN pertaining to FY 2017-18 is raised in FY 2019-20 then whether credit is available?

Applicability for the period prior to amendment?

Amendment in Section 31

[Tax invoice]

Amendment in view of approaching reforms

2. Amendment in Tax invoice related provisions

Existing provision	Amendment proposed
SECTION 31. Tax invoice. — (1)… (2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed :	**SECTION 31. Tax invoice. —** (1)… (2) A registered person supplying taxable services shall, before or after the provision of **service** but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed :

2. Amendment in Tax invoice related provisions

Existing provision	Amendment proposed
~~**Provided** that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of **services** in respect of which —~~ ~~(a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or~~ ~~(b) tax invoice may not be issued.~~	Provided that the Government may, on the recommendations of the Council, by notification,— (a) specify the categories of **services or supplies** in respect of which a tax invoice shall be issued, within **such time and in such manner** as may be prescribed; (b) subject to the condition mentioned therein, specify the categories of services in respect of which— (i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or (ii) tax invoice may not be issued *Proviso substituted

2. Amendment in Tax invoice related provisions

Specify categories of ‘services or ‘supplies’

Time and manner

Specify the categories of **‘services’** for which **any other document can be** issued or **tax invoice may not be issued**

Alternate document to ‘Tax invoice’

Amendment in Section 51

[Tax deduction at Source]

Relaxation in issuance of TDS certificate

3. TDS certificates - Relaxation

Existing provision	Amendment proposed
~~(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.~~ ~~(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.~~	(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed. * Section 51 (3) is substituted as aforesaid and 51 (4) is omitted

3. TDS certificates - Relaxation

Relaxation for requirement of issuance of TDS certificate

Also corresponding provision of late fees omitted

Amendment in Section 122

[Penalty for certain offences]

‘Beneficiaries’ of fake invoicing liable for penal consequences

4. Penalty provisions – Beneficiaries made liable

Existing provision	Amendment proposed
Section 122 Penalty for certain offences (1) Where a taxable **person who** — **(i)** **supplies** any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply; **(ii)** **issues** any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;… (vii) **takes or utilises** input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder; (ix) **takes or distributes** input tax credit in contravention of section 20, or the rules made thereunder;	**Section 122 Penalty for certain offences** … (1A) Any **person who retains the benefit** of a transaction covered under clauses **(i), (ii), (vii)** or clause **(ix)** of sub-section (1) **and at whose instance** such transaction is conducted, shall be liable to a penalty of an amount **equivalent to the tax evaded or input tax credit availed of or passed on**. *In addition to the existing provision section 122 (1), a new sub-clause (1A) is proposed to be inserted

4. Penalty provisions – Beneficiaries made liable

Any **person who retains the benefit** of fake or bogus invoicing **and at whose instance** such transaction is conducted

Penalty **equivalent to tax** evaded **or** input tax **credit** availed of or passed on

Section 132

[Punishment for certain offences]

Ambit of offense widened

5. Offences – Ambit enlarged

Existing provision	Amendment proposed
SECTION 132. Punishment for certain offences (1) Whoever commits any of the following offences, namely :— (a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax; (b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;	**SECTION 132. Punishment for certain offences** ~~(1) Whoever commits any of the following offences~~, Whoever **commits, or causes to commit and retain** the benefits arising out of, any of the following offences, namely :— (a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax; (b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to **wrongful** availment or utilisation of input tax credit or refund of tax;

5. Offences – Ambit enlarged

Existing provision	Amendment proposed
… (c) avails input tax credit using such invoice or bill referred to in clause (b); (d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due; (e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d); … shall be punishable —	**SECTION 132. Punishment for certain offences** … (c) ~~avails input tax credit using such invoice or bill referred to in clause (b);~~ avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill (d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due; (e) evades tax~~, fraudulently avails input tax credit~~ or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d); … shall be punishable —

5. Offences – Ambit enlarged

Any person who **commits**, or **causes** the commission **and retains the benefit** of transactions arising out of specified offences

Fraudulently avails input tax credit **without** any invoice or bill

Section 140

[Transitional arrangements for input tax credit]

Prescribing ‘time’

6. Transitional provisions – ‘Time’ specified

Existing provision	Amendment proposed
Section 140 Transitional arrangements for input tax credit (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit [of eligible duties] carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed :	**Section 140 Transitional arrangements for input tax credit** (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit [of eligible duties] carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law within such time and in such manner as may be prescribed : *Amended introduced retrospectively with effect from the 1st July, 2017

6. Transitional provisions – 'Time' specified

140 (2)

- "within such **time** and"

140 (3)

- "goods held in stock on the appointed day, within such **time** and in such manner as may be prescribed, subject to"

140 (5)

- "existing law, within such **time** and in such manner as may be prescribed"

140 (6)

- "goods held in stock on the appointed day, within such **time** and in such manner as may be prescribed, subject to"

140 (7)

- "credit under this Act, within such **time** and in such manner as may be prescribed, even if"

140 (8)

- "within such **time** and in such manner"

140 (9)

- "credit can be reclaimed within such **time** and in such manner as may be prescribed, subject to"

6. Transitional provisions – 'Time' specified

Section 140 (1) to (3) and 140 (5) to (9) amended for specifying 'time'

Retrospective amendment w.e.f. 1st July 2017

Section 172

[Removal of difficulties]

Extended till 30th June 2022

7. Time limit to issue RoD extended

Existing provision	Amendment proposed
Section 172 Removal of difficulties (1) If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty: Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.	**Section 172 Removal of difficulties** (1) If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty: **Provided** that no such order shall be made after the expiry of a period of ~~three years~~ five years from the date of commencement of this Act.

7. Time limit to issue RoD extended

It means RoD Orders can be issued till 30th June 2022!

One of the example of RoD is restriction of credit on carpet area basis through RoD No. 4 dated 29th March 2019!

Amendment in Schedule II

[ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES]

Clarificatory amendment

8. Clarificatory amendment in Schedule II

Existing provision	Amendment proposed
Schedule II 4. Transfer of business assets (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person; (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;	**Schedule II** 4. Transfer of business assets (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, ~~whether or not for a consideration,~~ such transfer or disposal is a supply of goods by the person; (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, ~~whether or not for a consideration,~~ the usage or making available of such goods is a supply of services;

8. Clarificatory amendment in Schedule II

A retrospective amendment in Schedule II

Retrospective amendment w.e.f. 1st July 2017

Income Tax Act

Specific provision for fake invoicing introduced!

9. IT Act – Specific provision for fake invoicing

New provision
Section 271AAD is being inserted in Income Tax Act **(from 1st April 2020)** (1) Without prejudice to any other provisions of this Act, if during any proceeding under this Act, it is found that in the books of account maintained by any person there is— (i) a false entry; or (ii) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability, the Assessing Officer may direct that such person shall pay by way of **penalty** a sum **equal** to the aggregate **amount** of such false or omitted entry. (2) Without prejudice to the provisions of sub-section (1), the Assessing Officer may direct that any other person, who causes the person referred to in sub-section (1) in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section, shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.

9. IT Act – Specific provision for fake invoicing

False invoice or bogus entry to attract penalty

Penalty **equal to** the **amount of such entry!**

Vivad Se Vishwas Scheme (VVS) Launched

(Notification awaited)

Likely to resemble SVLDRS!

10. Your date with VVS!

Relief for

- Cases pending at
  - Commissioner (A)
  - ITAT
  - HC
  - SC

Relief in

- Tax
  - Nil relief in tax amount
- Interest
  - Entire
- Penalty
  - Entire

10. Your date with VVS!

Till 31.03.2020

- Pay tax in full
- Get waiver of interest, penalty etc

Till 30.06.2020

- Pay tax in full
- Pay certain additional amount
- Get waiver of interest, penalty etc

Effective date of amendments

FB, 2020 - Effective date of amendment

As per Clause 1 (2) (b) of Finance Bill, 2020 the amendments will be effective from a date to be notified

Earlier, the amendments in CGST Act were made effective:

- W.e.f. 1.02.2019
- W.e.f. 1.01.2020

Retrospective amendment – w.e.f. 1st July 2017!

Section 140	Schedule II (sr. no. 4)

CGST Act – Provisions yet to be effective!

Section 43A

Proviso to Section 50

Legislative Lifecycle!

Chronology - Legislative Lifecycle!

Finance Bill, 2020

Presidential Assent

Finance Act, 2020

- Any further amendment vis-à-vis Finance Bill, 2020

Date Notified

- Refer clause 1 (2) (b) of Finance Bill, 2020

State Governments to make changes in SGST Act

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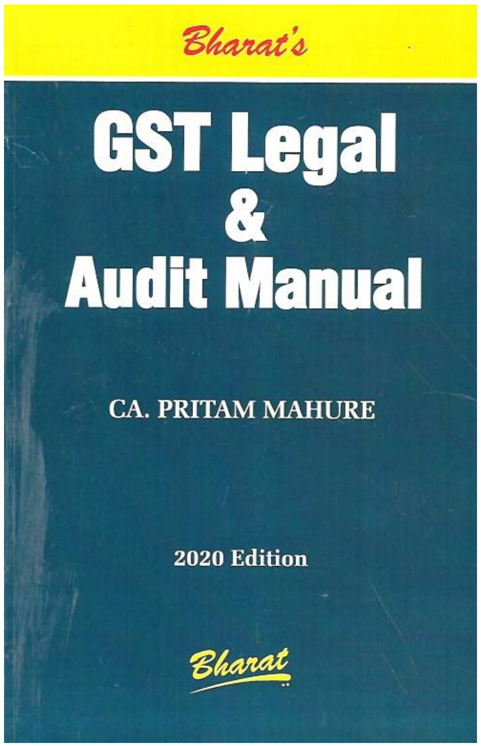

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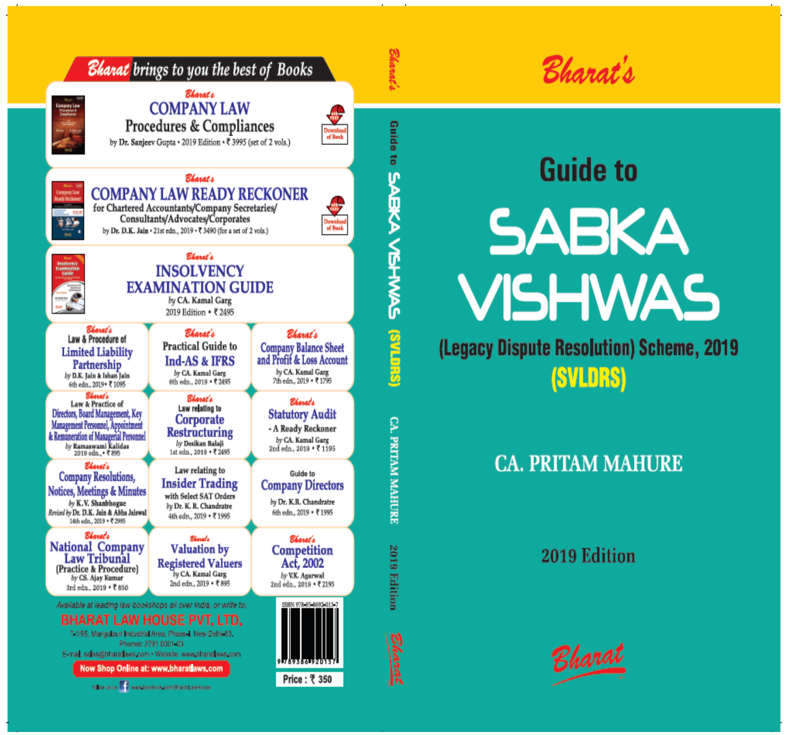

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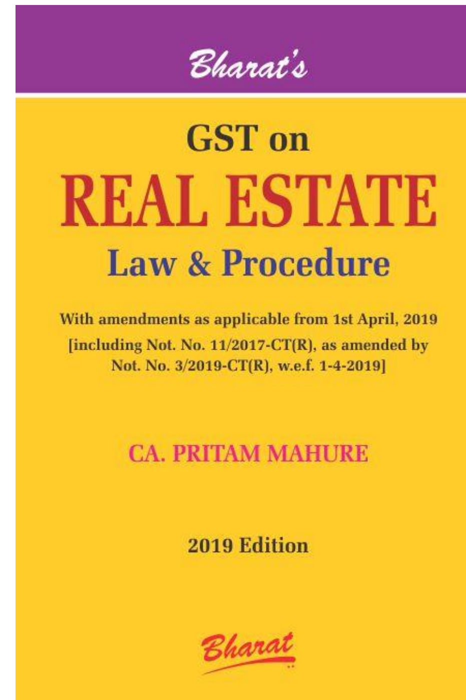

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CA Pritam Mahure and Associates

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