

***Important changes incorporated
by Budget (to be passed in
parliament)
23/07/2024***



CA Shaifaly Girdharwal
GST Litigation
9953077844

Things covered in this write up-

Sl. no.	Clause	Section Amended
1.	110	<u>Amendment of Section 9</u>
2.	111	<u>Amendment of Section 10</u>
3.	112	<u>Insertion of new Section 11A</u>
4.	113	<u>Amendment of Section 13</u>
5.	114	<u>Amendment of Section 16</u>
6.	115	<u>Amendment of Section 17</u>
7.	116	<u>Amendment of Section 21</u>

8.	117	<u>Amendment of Section 30</u>
9.	118	<u>Amendment of Section 31</u>
10.	119	<u>Amendment of Section 35</u>
11.	120	<u>Amendment of Section 39</u>
12.	121	<u>Amendment of Section 49</u>
13.	122	<u>Amendment of Section 50</u>
14.	123	<u>Amendment of Section 51</u>
15.	124	<u>Amendment of Section 54</u>
16.	125	<u>Amendment of Section 61</u>
17.	126	<u>Amendment of Section 62</u>

18.	127	<u>Amendment of Section 63</u>
19.	128	<u>Amendment of Section 64</u>
20.	129	<u>Amendment of Section 65</u>
21.	130	<u>Amendment of Section 66</u>
22.	131	<u>Amendment of Section 70</u>
23.	132	<u>Amendment of Section 73</u>
24.	133	<u>Amendment of Section 74</u>
25.	134	<u>Insertion of new Section 74A</u>
26.	135	<u>Amendment of Section 75</u>
27.	136	<u>Amendment of Section 104</u>

28.	137	<u>Amendment of Section 107</u>	
29.	138	<u>Amendment of Section 109</u>	
30.	139	<u>Amendment of Section 112</u>	
31.	140	<u>Amendment of Section 122</u>	
32.	141	<u>Amendment of Section 127</u>	
33.	142	<u>Insertion of Section 128A</u>	
34.	143	<u>Amendment of Section 140</u>	
35.	144	<u>Amendment of Section 171</u>	
36.	145	<u>Amendment of Schedule iii</u>	
37.	146	<u>No refund of tax paid or input tax credit reversed</u>	

Clause 110:

- Amendment: Sub-section (1) of section 9 of the Central Goods and Services Tax Act.

Section 9. Levy and collection.-

(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 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.

Comment- un denatured alcohol excluded from levy of GST.

Clause 111:

- Amendment: Sub-section (5) of section 10 of the Central Goods and Services Tax Act.

Section 10 Composition levy.-

(5) If the proper officer has reasons to believe that a taxable person has paid tax under sub section (1) or sub-section (2A), as the case may be,] despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 or section 74A shall, mutatis mutandis , apply for determination of tax and penalty.

Comment- Section 74A made applicable to Composition dealer.

Clause 112:

- Insertion: **New section 11A** in the Central Goods and Services Tax Act.

“11A. Notwithstanding anything contained in this Act, if the Government is satisfied that –

(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

(b) such supplies were, or are, liable to, –

(i) central tax, in cases where according to the said practice, central tax was not, or is not being, levied, or

(ii) a higher amount of central tax than what was, or is being, levied, in accordance with the said practice,

(next page)...

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.”.

Comment- Empowers the Government to regularise non-levy or short levy of central tax if such non-levy or short levy was a result of general practice.

Clause 113:

- Amendment: Sub-section (3) of section 13 of the Central Goods and Services Tax Act.

Section 13. Time of Supply of Services.-

(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:-

(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

(b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof ~~by the supplier~~ by the supplier, in cases where invoice is required to be issued by the supplier; or

(c) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient

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:

Comment- Time of supply amended to include the time of supply in case the invoice is required to be issued by the recipient, it will be the date of issuance of invoice.

Clause 114:

- Insertion: New sub-section (5) in section 16 of the Central Goods and Services Tax Act.

New Sub section in section 16-

(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.

Comment- Grants input tax credit for invoices/debit notes for Financial Years 2017-18 to 2020-21 if returns are filed by 30th November 2021.

(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) 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

(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,

whichever is later.”.

Comment-The ITC of period during which a registration was in cancelled position (which was revoked later on by appeal or tribunal) can be taken if a return is filed within 30 days. or if time limit of sec 16(4) is still not lapsed, the later or two.

Clause 115:

- Amendment: Sub-section (5) of section 17 of the Central Goods and Services Tax Act.
- Details: Restricts applicability of section 17(5) for any period up to Financial Year 2023-24.

Section 17 Apportionment of credit and blocked credits.-

sub-section (5)

clause - (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.

Comment- No more relevance as sec 129 and 130 dont haave any tax now and 74 will be substituted by sec 74A.

Clause 116:

- Amendment: Section 21 of the Central Goods and Services Tax Act.

Section 21. Manner of recovery of credit distributed in excess.-

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74 or section 74A as the case may be, shall, mutatis mutandis , apply for determination of amount to be recovered.

Comment- Incorporates a reference to the new section 74A.

Clause 117:

- Insertion: New proviso in sub-section (2) of section 30 of the Central Goods and Services Tax Act.

Section 30. Revocation of cancellation of registration.-

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:
Following proviso is added-

“Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.”.

Comment- The government is authorised to prescribe the conditions and restrictions for cancellation of registration.

Clause 118:

- Amendment: Clause (f) of sub-section (3) of section 31 of the Central Goods and Services Tax Act.

Section 31. Tax Invoice.-

Sub-section (3)

Clause (f) - a registered person who is liable to pay tax under sub-section (3) or subsection (4) of section 9 shall within the period as may be prescribed, 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;

Explanation at the end of section-

'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.’.

Comment-Right is given to prescribe the time limit by the govt.

Clause 119:

- *Amendment: Sub-section (6) of section 35 of the Central Goods and Services Tax Act.*

Section 35. Accounts and other records.-

(6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74 or section 74A as the case may be, shall, mutatis mutandis, apply for determination of such tax.

Comment- Incorporates a reference to the new section 74A.

Clause 120:

- Substitution: Sub-section (3) of section 39 of the Central Goods and Services Tax Act.

Section 39. Furnishing of returns.-

~~(3) Every registered person required to deduct tax at source under the provisions of section 51 shall 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.~~

“(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:

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.”.

Comment- Right to prescribe given to govt. Now ECO is required to file return even if no amount is deducted.

Clause 121:

- Amendment: Sub-section (8) of section 49 of the Central Goods and Services Tax Act.

Section 49. Payment of tax, interest, penalty and other amounts.-

Sub-section 8-

Clause(c) - any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74 or section 74A.

Comment- Incorporates a reference to the new section 74A.

Clause 122:

- *Amendment: Sub-section (1) of section 50 of the Central Goods and Services Tax Act.*

Section 50. Interest on delayed payment of tax.-

Sub-section 1 -

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

Comment- Incorporates a reference to the new section 74A.

Clause 123:

- *Amendment: Sub-section (7) of section 51 of the Central Goods and Services Tax Act.*

Section 51. Tax deduction at source.-

(7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74 or section 74A.

Comment- Incorporates a reference to the new section 74A.

Clause 124:

- *Insertion: New sub-section (15) in section 54 of the Central Goods and Services Tax Act.*

Section 54. Refund of tax.-

Sub-section (3)

Second Proviso - omitted

~~*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:-*~~

New Sub - section inserted -

“(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.”.

Comment- Omits second proviso to sub-section (3) and restricts refund of unutilised input tax credit or integrated tax for zero rated supply of goods subject to export duty.

Clause 125:

- *Amendment: Sub-section (3) of section 61 of the Central Goods and Services Tax Act.*
- *Details:*

Section 61. Scrutiny of returns.-

(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74 or [section 74A](#).

Comment- Incorporates a reference to the new section 74A

Clause 126:

- Amendment: Sub-section (1) of section 62 of the Central Goods and Services Tax Act.

Section 62. Assessment of non-filers of returns.-

(1) Notwithstanding anything to the contrary contained in section 73 or section 74 or section 74A where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

Comment- Incorporates a reference to the new section 74A

Clause 127:

- *Amendment: Section 63 of the Central Goods and Services Tax Act.*

Section 63. Assessment of unregistered persons.-

Notwithstanding anything to the contrary contained in section 73 or section 74 or section 74A where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:

Comment- Incorporates a reference to the new section 74A

Clause 128:

- *Amendment: Sub-section (2) of section 64 of the Central Goods and Services Tax Act.*

Section 64. Summary assessment in certain special cases. -

(2) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74 or section 74A.

Comment- Incorporates a reference to the new section 74A

Clause 129:

- *Amendment: Sub-section (7) of section 65 of the Central Goods and Services Tax Act.*

Section 65. Audit by tax authorities.-

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74 or section 74A.

Comment- Incorporates a reference to the new section 74A

Clause 13○:

- Amendment: Sub-section (6) of section 66 of the Central Goods and Services Tax Act.

Section 66. Special audit.-

(6) Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74 or section 74A.

Comment- Incorporates a reference to the new section 74A

Clause 131:

- Insertion: New sub-section (1A) in section 70 of the Central Goods and Services Tax Act.

Section 70. Power to summon persons to give evidence and produce documents.-

New Sub-section -

“(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.”.

Comment- Allows an authorised representative to appear on behalf of the summoned person.

Clause 132:

- Insertion: New sub-section (12) in section 73 of the Central Goods and Services Tax Act.

Section 73.

in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period upto Financial Year 2023-24,” shall be inserted;

New Sub-section -

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period upto Financial Year 2023-24.”.

Comment- Limits applicability of section 73 to the period up to Financial Year 2023-24.

Clause 133:

- *Insertion: New sub-section (12) in section 73 of the Central Goods and Services Tax Act.*

Section 74.

in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period upto Financial Year 2023-24,” shall be inserted;

New Sub-section -

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period upto Financial Year 2023-24.”;

Comment- Limits applicability of section 73 to the period up to Financial Year 2023-24.

Omitted-

~~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.~~

Comment- Explanation omitted

Clause 134:

- *Insertion: New section 74A in the Central Goods and Services Tax Act.*

See coming pages

Determines tax not paid, short paid, erroneously refunded, or input tax credit wrongly availed/utilised from Financial Year 2024-25 onwards.

New Section 74A -

(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 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:

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.

(2) The proper officer shall issue the notice under sub section (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.

(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.

(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.

(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) 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;

(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.

(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.

(7) The proper officer shall issue the order under sub section (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 thereasons 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.

(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, —

(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;

(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.

(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) 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, 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;

(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.

(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 issue the notice as provided for in sub section (1) in respect of such amount which falls short of the amount actually payable.

(11) Notwithstanding anything contained in clause (i) or clause (ii) of sub-section (8), penalty under clause (i) of sub section (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.

(12) The provisions of this section shall be applicable for determination of tax pertaining to the Financial Year 2024 25 onwards.

Explanation 1.—For the purposes of this section,—

(i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;

(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.

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.

Clause 135:

- *Insertion: Reference to new section 74A incorporated.*

Section 75. General provisions relating to determination of tax.-

(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 section 74A as the case may be.

Comment- Incorporates a reference to the new section 74A

New Sub-section inserted after sub sec 2 of sec 75-

“(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.”;

~~(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.~~

Clause 136:

- Amendment: Sub-section (1) of section 104 of the Central Goods and Services Tax Act.

Section 104. Advance ruling to be void in certain circumstances. -

Explanation.-

The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74 or section 74A.

Comment- Incorporates a reference to the new section 74A

Clause 137:

- Amendment: Sub-section (6) of section 107 of the Central Goods and Services Tax Act.

Section 107. Appeals to Appellate Authority.

Sub-section (6)

Clause -

(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.

Comment- Reduces the maximum amount of pre-deposit for appeal from rupees twenty-five crores to rupees twenty crores in central tax.

Sub-section (11)

Second Proviso

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 74A.

Comment- Incorporates a reference to the new section 74A

Clause 138:

- *Amendment: Section 109 of the Central Goods and Services Tax Act.*

Section 109. Constitution of Appellate Tribunal and Benches thereof.-

(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 cases referred to in sub-section (2) of section 171, if so notified under the said section

Comment-Empowers the Appellate Tribunal to examine matters or adjudicate cases referred to in sub-section (2) of section 171.

Sub-section (5)

New Proviso

“Provided further that the matters referred to in sub section (2) of section 171 shall be examined or adjudicated only by the Principal Bench

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.”;

Sub-section (6)

~~The President~~ Subject to the provisions of sub-section (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.

Clause 139:

- Amendment: Sub-sections (1) and (3) of section 112 of the Central Goods and Services Tax Act.

Section 112. Appeals to Appellate Tribunal.-

(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

Comment- Allows the Government to notify the date for filing appeals before the Appellate Tribunal.

Sub-section (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 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 six 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.

Comment- Allows the Government to notify the date for filing appeals before the Appellate Tribunal w.e.f 01/08/2024.

Sub-section (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 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.

Sub-section (8)

Clause (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, 8 [subject to a maximum of ~~fifty crore~~ Twenty Crore rupees], in relation to which the appeal has been filed.

Clause 14○:

- Amendment: Sub-section (1B) of section 122 of the Central Goods and Services Tax Act.
- Details: Limits applicability to electronic commerce operators required to collect tax at source.

Section 122. Penalty for certain offences.-

Sub-section (1B)-

“Any electronic commerce operator, who is liable to collect tax at source under section 52,”
wef 1st October 2023.

Clause 141:

- *Amendment: Section 127 of the Central Goods and Services Tax Act.*
- *Details: Incorporates a reference to the new section 74A.*

Section 127. Power to impose penalty in certain cases.-

Where the proper officer is of the view that a person is liable to a penalty and the same is not covered under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 "or section 74A" or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person.

Clause 142:

- *Insertion: New section 128A in the Central Goods and Services Tax Act.*
- *Details: Provides conditional waiver of interest and penalty for demand notices issued under section 73 for Financial Years 2017-18, 2018-19, and 2019-20.*

New Section 128(A)-

(1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with,— (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

(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

(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,

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 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:

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:

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 (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:

Provided also that where such interest and penalty has already been paid, no refund of the same shall be available.

(2) Nothing contained in sub-section (1) shall be applicable in respect of any amount payable by the person on account of erroneous refund.

(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).

(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.”.

Clause 143:

- *Amendment: Sub-section (7) of section 14O of the Central Goods and Services Tax Act.*
- *Details: Substitutes “even if the invoices relating to such services are received on or after the appointed day” with “whether the invoices relating to such services are received prior to, on or after, the appointed day”.*

Section 14O. Transitional arrangements for input tax credit.-

(7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act, within such time and in such manner as may be prescribed, “whether the invoices relating to such services are received prior to, on or after, the appointed day”

Clause 144:

- Amendment: Section 171 of the Central Goods and Services Tax Act.*
- Details: Adds proviso and Explanation in sub-section (2).*

New Proviso and Explanation inserted in Sub-section(2)-

'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.

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 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.’;

‘Explanation 2.—For the purposes of this section, the expression “Authority” shall include the “Appellate Tribunal”.’.

Clause 145: New entries in Schedule III

New Paragraphs inserted -

“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.

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.”.

Clause 146:

- Amendment: Sub-section (3) of section 143 of the Central Goods and Services Tax Act.*
- Details: Specifies periods to be excluded from the limitation period for assessment or reassessment.*

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 section 114 been in force at all material times.

Integrated Goods and Services Tax

Clause 147:

The Integrated Goods and Services Tax Act, 2017, section 5(1) now includes "undenatured extra neutral alcohol or rectified spirit used for the manufacture of alcoholic liquor for human consumption" along with "alcoholic liquor for human consumption".

Section 5. Levy and collection.-

(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:

Clause 148:

A new section {Section 6A} will be inserted after section 6 of the Integrated Goods and Services Tax Act.

New Section (6A) -

Notwithstanding anything contained in this Act, if the Government is satisfied that—

(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

(b) such supplies were, or are, liable to — (i) integrated tax, in cases where according to the said practice, integrated tax was not, or is not being, levied; or

(ii) a higher amount of integrated tax 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 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, short levied, in accordance with the said practice.”.

Clause 149:

Amendment: Section (16) , Sub-section (4) in Clause (i) or (ii) After Sub-section (4) A new section (5) inserted

Section (16)-

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

(i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid **“in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder”**

(ii) a class of goods or services “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”

New Sub-section -

“(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.”.

Clause 15○:

Amendment: Section (2○) , 5th Proviso substituted

Section (2○)

5th proviso - “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.”