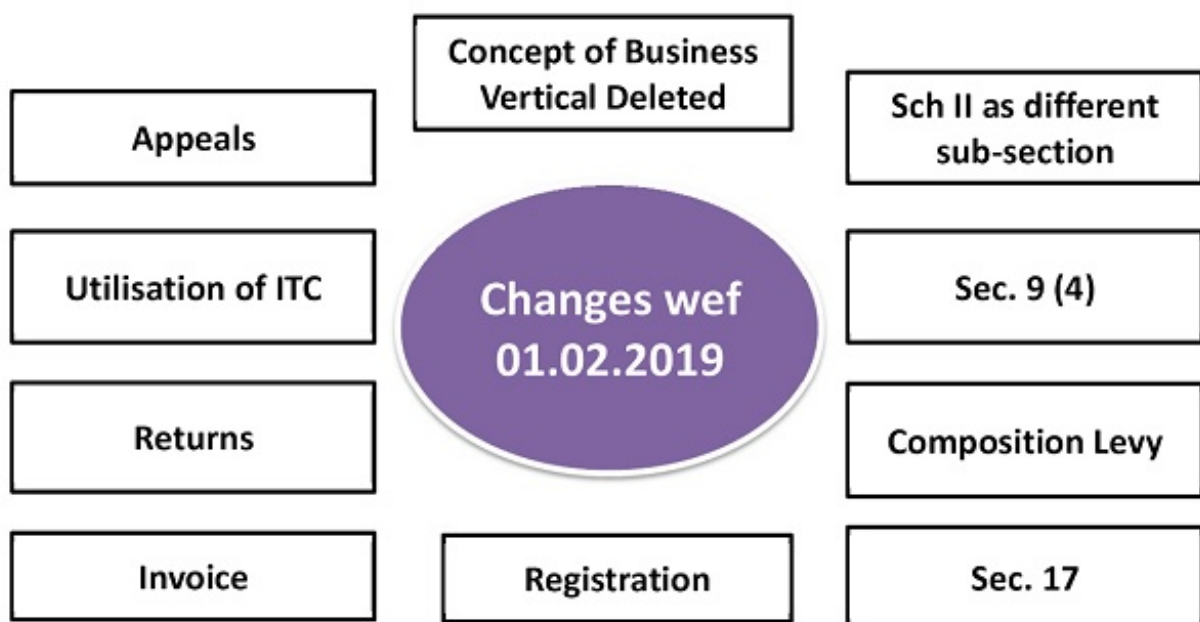


Changes in CGST Act wef 01.02.2019

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The Central Goods and Services Tax (Amendment) Act, 2018 received assent of The President of India on August 29, 2018 but some of the provisions are made effective from 01.02.2019 vide vide various notifications. This Article discusses the major changes in GST wef 01.2.2019.



I. Concept of Business Vertical deleted – GST allows multiple registrations in the same state when there are business verticals even in same PAN. The concept of ‘business vertical’ is deleted vide the CGST Amendment Act, 2018. Instead of concept of business vertical, registration is allowed for multiple business premises.

II. Schedule II as different sub-section – CGST Amendment Act, 2018 deleted Sec. 7(1)(d) of CGST Act, 2017 and new sub-section 7(1A) has been added. Now, Once an activity/transaction is a ‘Supply’, then one can refer Schedule II of CGST Act, 2017 to determine whether it is supply of good or supply of service.

7.(1) For the purposes of this Act, the expression “supply” includes---

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II

7 (1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

III. Section 9(4) – Reverse Charge Mechanism (RCM) under GST created lot of confusion and compliance burden on many assesses because of 9(3) RCM and 9(4) RCM. Tax to be paid under RCM by a registered person when supplies are received from an unregistered supplier is 9(4) RCM. The same was applicable from 01.07.2017 to 12.10.2017 and later suspended till 30.09.2019. Now, CGST Amendment Act, 2018 amended Section 9(4) giving power to central government to issue a notification specifying certain class of suppliers to pay tax under RCM when specified category of goods/services are supplied by an unregistered person. It is not applicable to ALL suppliers and NOT on all categories of goods/services. So, 9(4) is back from 01.02.2019 but the specified class of suppliers or specified category of goods/services are not yet notified by the Central Government. New Section 9(4) reads as follows:-

*"9(4) The Government may, on the recommendations of the Council, by notification, **specify a class of registered persons** who shall, in respect of **supply of specified categories of goods or services or both** received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both."*

IV. Composition Levy – Following are some of the changes made in composition levy through CGST Amendment Act, 2018.

1. Proviso to Sec. 10(1) of CGST Act, 2017 was amended giving power to central government to enhance limit of Composition levy enhanced to Rs. 1.5 Crores from Rs. 1 Crore. The same is not yet notified and proposed to be notified w.e.f. 01.04.2019

2. There is a restriction in composition levy that the person opting for composition levy should not provide any services. This created difficulties to persons who earn rental income/interest income which are otherwise exempt but since they are included in aggregate turnover, the person becomes ineligible for composition levy. To remove such difficulties, sec. 10 has been amended to allow the person opting for composition levy to supply services to a limit of higher of 10% of aggregate turnover in a state in preceding financial year or Rs. 500,000. The new proviso added reads as follows:-

"Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher."

V. Apportionment of Credit and Ineligible Credits (Sec. 17) – One clarification and redrafting of section 17 of CGST Act 2017 took place by CGST Amendment Act, 2018. The details are as follows.

A. There are many queries in minds of many assesses regarding whether entries in Schedule III should be included in calculating value of 'Exempt Supplies' for purpose of reversing the common input tax credit when both taxable and exempt goods/services are supplied by the assessee. The definition as per sec. 17(3) of CGST Act, 2017 created more confusion since it included only sale of land or building subject to schedule III

entry and remained silent about other entries in Schedule III. CGST Amendment Act, 2018 cleared the confusion by including an explanation to section 17(3) clarifying that Only entry 5 (Sale of land and , subject to clause (b) of paragraph 5 of schedule II, Sale of building)of Schedule III needs to be included in the calculation of 'Exempt Supplies' and not other entries in Schedule III. The text of explanation added to section 17(3) is as follows:-

"Explanation.—For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule."

B. Regarding Blocked Credits as per section 17(5) of CGST Act, 2017; the changes are as follows.

a. Clause (a) is replaced and new clauses (aa) and (ab) added and clause (b) has been rephrased.

b. The contentious words 'Motor Vehicles and Other Conveyances' was replaced with 'Motor Vehicles for transportation of persons' and this put an end to discussion of what are other conveyances. The queries like "Will cranes, tippers, bulldozers, etc. are also considered to be other conveyances and is ITC on the same are restricted" are now answered though the same are clarified vide circulars too.

"(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—

(A) further supply of such motor vehicles; or

(B) transportation of passengers; or

(C) imparting training on driving such motor vehicles"

c. New Clause (aa) deals with ITC on aircrafts and vessels which reads as follows

"(aa) vessels and aircraft except when they are used--

(i) for making the following taxable supplies, namely:—

(A) further supply of such vessels or aircraft; or

(B) transportation of passengers; or

(C) imparting training on navigating such vessels; or

(D) imparting training on flying such aircraft;

(ii) for transportation of goods"

d. There were many doubts whether GST paid on repairs & maintenance, insurance of the motor vehicles on which ITC is restricted can be availed as ITC or not. Putting an end to the multiple opinions on the same, new clause (ab) has been introduced

wherein it clearly states that services of general insurance, repairs & maintenance of motor vehicles on which ITC is restricted is also restricted.

“(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa)

Provided that the input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged—

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him”

But now it created one more doubt that since the express provision is inserted wef 01.02.2019, does that mean the ITC on the same is available upto 31.01.2019?

e. Rephrased Clause (b) is

“(b) the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”

The term ‘Rent-a-cab’ replaced with ‘leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa)’.

VI. Registration –

A. Some states voluntarily came forward to surrender their special status under GST and hence amendment is made in explanation (iii) to Section 22 to exclude ‘States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand’

from the definition of 'Special Category States' for purposes of CGST Act, 2017.

B. Amendment in Section 25 of CGST Act, 2017 to clarify that an unit in SEZ and its another unit in DTA should be registered separately though they are in the same state.

"Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory."

C. Proviso added to section 26(2) to enable registration for multiple places of business instead of business verticals.

"Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed."

D. Suspension of registration pending cancellation – To enable relief of compliance during period between submission of application for cancellation of registration and date of order of cancellation, the concept of suspension of registration has been introduced which gives a relief to the person who applied for cancellation of registration. After submitting the application for cancellation of registration till date of order of cancellation, the registration stands suspended and the returns need not be filed during that period.

"Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed."

VII. Debit notes and Credit notes – Though the concept of financial credit/debit notes and GST credit/Debit notes still prevail, however the burden of one-to-one Credit/debit note to invoice burden has been simplified by the CGST Amendment Act, 2018. Till 31.01.2019, a credit/debit note has to be issued giving reference to corresponding invoice and 1 invoice-1 credit/debit note formula is prevalent. From 01.02.2019, a single credit/debit note can be issued for the full financial year or various periods, as per the wish of the supplier. However, reference numbers of all invoices for which the credit/debit notes pertain has to be given on the face of credit/debit note.

VIII. Returns – New Section 43A has been inserted in CGST Act, 2017 vide CGST (Amendment) Act, 2018. With this section, a so called 'simplified procedure' of filing of returns is proposed to be introduced.

- Every registered person shall verify, validate, modify or delete the details of supplies furnished by the suppliers in their return filed under sec. 39(1)
- Procedure for availing ITC by the recipient and verification may be prescribed
- Procedure for furnishing details of outward supplies by the supplier for purposes of availing ITC by the recipient shall be prescribed

- Procedure for availing ITC will be prescribed and maximum ITC that can be claimed which are not appearing in GSTR 2A is fixed at
- % of ITC available
- Supplier & recipient made jointly and severally liable for pay tax or to pay ITC availed if the supplier fails to file GSTR 1 but the recipient avails ITC.

IX. Utilisation of ITC –

Upto 31.01.2019

Particulars	IGST	CGST	SGST
Output Liability	50	100	100
ITC available	150	50	50
Set Off	50 IGST	50 CGST 50 IGST	50 SGST 50 IGST
Payable/(ITC)	0	0	0

From 01.02.2019

Particulars	IGST	CGST	SGST
Output Liability	50	100	100
ITC available	150	50	50
Set Off	50 IGST	100 IGST	50 SGST
Payable/(ITC)	0	(50)	50

X. Appeals – The maximum limits for pre-deposits have been prescribed by the CGST Amendment Act, 2018. The maximum limits are as follows:

Amount to be paid	Stage of Appellate Authority	Stage of Appellate Tribunal
Amount Admitted	100%	100%
Tax in Dispute	10% Max of Rs.25 Crore	+ 20% Max of Rs. 50 Crore

While most of the provisions of CGST (Amendment) Act, 2018 are yet to be notified with effect from 01.02.2019, some provisions of CGST (Amendment) Act, 2018 are not yet notified. This article summarises the amendments made to CGST Act, 2017 that were made effective from 01.02.2019.

Author Bio

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