



CGA Legal GST Webinar October 2022

**Analysis of Changes made effective
from 1st October 2022**

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By

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Recent Changes in GST – A Snapshot

Amendment to CGST Act vide Finance Act, 2022 made effective from 01-10-2022

Amendment to CGST Rules consequent to amendments in CGST Act made effective from 01-10-2022

Other Changes in CGST Rules

Opening of GST Portal for filing TRAN-1 and TRAN-2 from 01-10-2022 to 30-11-2022

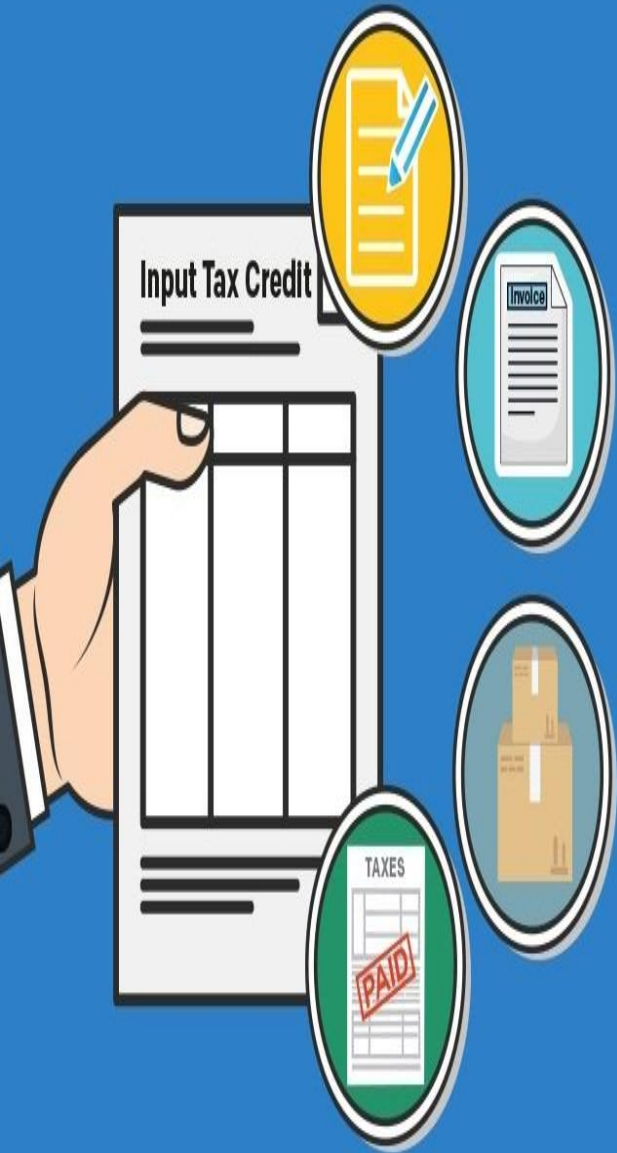
Reduction in monetary limit for issuing E-Invoice in GST w.e.f. 01-10-2022

GST Exemption on Export Freight Services has not been continued post 30.09.2022

We will be discussing.....

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- Amendments in Provisions relating to Payment of Tax
- Changes made in Refund Provisions
- Changes made in Provisions relating to Cancellation of Registration
- Opening of GST Common Portal for filing transitional credit
- Reduction in monetary limit for issuing E-Invoice in GST w.e.f. 1st Oct 2022
- GST Exemption on Export Freight Services has not been continued post 30.09.2022



Input Tax Credit under GST

Changes made in Provisions
relating to Input Tax Credit

One more condition added for eligibility of ITC as per Section 16(2)

(a): Credit of input tax allowed only if invoice or debit note or other documents are in possession

(b): ITC is available on receipt of services or goods

(c): Supplier has paid the tax to Government

(d): Return under section 39 is filed by recipient

(aa): The details of the invoice/ Debit note is furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient – w.e.f. 01-01-2022

Post 1st
Oct 2022

Apart from these five conditions, below mentioned condition has been added under Section 16(2) of CGST Act, 2017

(ba): The details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted

Amended vide Finance Act, 2022 applicable w.e.f. 01-10-2022 vide Notification No. 18/2022-CT dated 28-09-2022

Revamping of Section 38 of CGST Act

Details of Outward Supplies u/s 37(1)

Such Other Supplies as may be prescribed

GSTR-2B
[Auto-Generated]

**Amended vide Finance Act, 2022
applicable w.e.f. 01-10-2022 vide
Notification No. 18/2022-CT dated
28-09-2022**

Inward supplies on which ITC is
available to recipient

Inward supplies where ITC is **wholly
or partially restricted** to the recipient
on account of -

1. Details of supplies furnished by the registered person within such period of taking registration as may be prescribed.

2. Supplier has defaulted in payment of tax and such default has continued for the prescribed period

3. Output Tax payable as per GSTR-1 exceeds the output tax liability paid through GSTR-3B and such difference exceeds the prescribed limit

4. ITC availed by supplier exceeds the ITC available in his GSTR-2B and such difference exceeds the prescribed limit

5. Supplier has defaulted in discharging his tax liability in accordance with Section 49(12) i.e. minimum payment by cash

6. Such other class of person as may be prescribed

Revamping of Section 38 of CGST Act



- Availment of ITC basis GSTR-2B on Monthly basis
- Stringent Vendor agreements
 - Provision to claim tax along with interest in case of any loss of ITC due to restrictions imposed in the future.
- Aligning of payment of vendor's only after the inward supply details are reflected in GSTR-2B.

Claim of ITC in GSTR-3B- Final & NOT Provisional

Earlier

41 - (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to **take** the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a **provisional basis** to his electronic credit ledger.

(2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.

Amended

41 - (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to **avail** the credit of eligible input tax, as self-assessed, in his return and **such amount shall be credited to his electronic credit ledger.**

Amended vide Finance Act, 2022 applicable w.e.f. 01-10-2022 vide Notification No. 18/2022-CT dated 28-09-2022


Claim of ITC in GSTR-3B- Final & NOT Provisional

Amended

41 - (2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

CGA Legal Comments

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- The concept of provisional ITC is removed and ITC availed in monthly returns would be considered as final.
 - ITC may have to be reversed along with interest (ITC is utilized), if not paid by supplier.
 - ITC can be re-availed once the supplier pays the tax.

Amended vide Finance Act, 2022 applicable w.e.f. 01-10-2022 vide Notification No. 18/2022-CT dated 28-09-2022



Two Way Matching Concept / New GST Returns Scrapped



Consequential Amendments post Scrapping of two way matching concept

Section/ Rule	Amendment	Notification	Remarks
Section 16(2)(c) of CGST Act	Removal of reference to Section 43A	18/2022-CT dated 28-09-2022	Removal of reference to Section 43A under Section 16(2)(c) of CGST Act, which provides that the tax charged in respect of such supply has been actually paid to the Government for the purpose of taking ITC.
Rule 36(2) of CGST Rules	Removal of reference to Form GSTR-2.	19/2022-CT dated 28-09-2022	As the concept of GSTR-2 has been done away with, reference to Form GSTR-2 has been removed from Rule 36(2) of CGST Rules, which provides that ITC shall be availed only if all the applicable particulars as specified in the provisions of Chapter VI are fulfilled.
Rule 37(1) of CGST Rules	Removal of reference to Form GSTR-2.	19/2022-CT dated 28-09-2022	Earlier in Rule 37(1), value of supplies not paid within 180 days were required to be proportionately added to Output tax liability . Now the reference of GSTR-2 has been removed and reference of GSTR-3B has been added.

Consequential amendments post Scrapping of two way matching concept

Section/ Rule	Amendment	Notification	Remarks
Section 37(2) of CGST Act	Amendment in provisions relating to furnishing the details of outward supplies post scrapping of GSTR-2	Notification No. 18/2022-CT dated 28-09-2022	As the provisions are relating to GSTR-2 and GSTR-3 are omitted, the changes have been made in section 37 to make in line with law.
Section 39(9) of CGST Act	Removal of reference to Section 37 and Section 38 and substitution of the word " <i>Where</i> "	Notification No. 18/2022-CT dated 28-09-2022	As the concept of GSTR-1 and GSTR-2 has been done away with, reference to Section 37 and Section 38 has been removed under Section 39(9) which provides the time limit for making rectification in Form GSTR-3B.

Consequential amendments post Scrapping of two way matching concept

Section/ Rule	Amendment	Notification	Remarks
Rule 69 to Rule 77 and Rule 79 of CGST Rules	Omission of such Rules providing Matching Procedure for claim of ITC	Notification 19/2022-CT dated 28-09-2022	<p>Since the concept of matching of ITC and provisions relating to filing of GSTR-1, GSTR-2 and GSTR-3 has been done away with, such CGST Rules have been omitted.</p> <p>However, It may be noted that Rule 78 which provides for matching of details in GSTR-8 with details provided by the suppliers in GSTR-1 remains in operation.</p>
Section 48(2) of CGST Act	Removal of reference to Section 38 for GST Practitioners	Notification No. 18/2022-CT dated 28-09-2022	<p>In the provisions for GST practitioners, the reference to GSTR-2 (Section 38) has been removed and consequently Rule 83(8)(a) has been amended to provide that a GST practitioner cannot undertake to furnish the details inward supplies (GSTR-2) on behalf of a registered person. Consequential changes has been made in Form GST PCT-05.</p>

Consequential amendments post Scrapping of two way matching concept

Section/ Rule	Amendment	Notification	Remarks
Section 49(2) of CGST Act	Removal of reference to Section 43A	Notification 18/2022-CT dated 28-09-2022	<p>The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41 only. The reference to Section 43A has been done away with after the omitting of Section 43A.</p> <p>Further, legal backing of Rule 86B (1% of tax liability mandatory to be paid in cash by specified persons even though ITC is available) has been provided in Section 49(4) of CGST Act.</p>
Rule 85 of CGST Rules	Removal of reference to Section 42 and 43	Notification 19/2022-CT dated 28-09-2022	<p>Since the concept of matching has been done away with, the debit of electronic liability register with the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50 of CGST Act, has been removed.</p>

Consequential amendments post Scrapping of two way matching concept

Section/ Rule	Amendment	Notification	Remarks
Section 47(1) of CGST Act	Removal of reference to Section 38	Notification 18/2022-CT dated 28-09-2022	As Section 38 of CGST Act has been revamped and concept of GSTR-2 has been done away with, the provisions for late fees for GSTR-2 has been removed.
Rule 96 of CGST Rules	Removal of the reference of Form GSTR-3	Notification 19/2022-CT dated 28-09-2022	Since the concept of GSTR-3 has been done away with, the processing of the claim for refund of IGST on export of goods shall be mapped with the details mentioned in GSTR-3B.
Section 168(2) of CGST Act	Removal of reference to Section 38	Notification 18/2022-CT dated 28-09-2022	Section 38 itself is now fully amended, this is a consequential deletion of the reference from section 168 which provides the power to issue instructions and directions by the Board.



Change in Time Limits



Increase in Time Limits

Particulars	Relevant Section	Earlier Time Limit	Revised Time Limit
Availment of ITC	Section 16(4)	Due date of furnishing GSTR-3B of September month of next financial year or furnishing of the relevant annual return, whichever is earlier	30th November of next financial year
Issuing of Credit Notes	Section 34(2)		
Amendment in GSTR-1	First proviso of Section 37(3)		
Amendment in GSTR-3B	Proviso of Section 39(9)		
Amendment in GSTR-8	Section 52(6)	Due date of furnishing GSTR-8 of September month of next financial year or actual date of furnishing of the relevant annual statement, whichever is earlier.	

Amended vide Finance Act, 2022 applicable w.e.f. 01-10-2022 vide Notification No. 18/2022-CT dated 28-09-2022

CGA Legal Comments

- Aligning the date with finalization of Financial Statement under Cos Act
- Taxpayers provided with additional 1 month to amend return or avail ITC
- ITC can be availed upto filing of GSTR-3B of October of next financial year provided it is filed before 30th November of the next financial year.
- Credit notes can be issued till 30th Nov of the next FY and will be reported in GSTR-1 of Nov to be filed till 11th Dec.
- As per **CBIC Press Release dated 04-10-2022**, it is clarified that all the extended timelines are applicable to the compliances for FY 2021-22 onwards.



Issues still pertain



- Will the benefit of extended time limit for availing ITC be available to those taxpayers who have opted for **QRMP Scheme**?
- Amended time limit does not take into account the reversal of ITC made under **Rule 42 and Rule 43 of CGST Rules** which is still need to be done till the return of September of next FY.



**Stringent provisions in
filing of GSTR-1, GSTR-3B,
GSTR-5 and GSTR-8**



Stringent provisions in filing of GSTR-1, GSTR-3B, GSTR-5 and GSTR-8

Amendments relating to GSTR-1			
Particulars	Relevant Section	Notification	Remarks
Conditions & Restrictions in filing GSTR-1	Section 37(1)	8/2022-CT dated 28-09-2022	Imposition of conditions and restriction in filing GSTR-1 which shall be prescribed through CGST Rules.
Restriction in filing GSTR-1 for subsequent period if the GSTR-1 of previous period is not filed	Section 37(4)	18/2022-CT dated 28-09-2022	A registered person shall not be allowed to furnish the details of outward supplies for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.

Stringent provisions in filing of GSTR-1, GSTR-3B, GSTR-5 and GSTR-8

Amendments relating to GSTR-3B			
Particulars	Relevant Section	Notification	Remarks
GSTR-3B can not be filed if: (a) GSTR-1 current period or (b) GSTR-3B of previous period not filed	Section 39(10)	Notification 18/2022-CT dated 28-09-2022	A registered person shall not be allowed to furnish GSTR-3B for a tax period if the return for any of the previous tax periods or the details of outward supplies in Form GSTR-1 for the said tax period has not been furnished by him

Stringent provisions in filing of GSTR-1, GSTR-3B, GSTR-5 and GSTR-8

Amendments relating to GSTR-5 and GSTR-8			
Particulars	Relevant Section	Notification	Remarks
Amendment in due date of furnishing GSTR-5	Section 39(5)	Notification 18/2022-CT dated 28-09-2022	The due date of filing GSTR-5 would now be 13th rather than 20th of the next month.
Levy of Late fees on GSTR-8	Section 47(1)	Notification 18/2022-CT dated 28-09-2022	The late fees have been prescribed for GSTR-8 (return for e-commerce operators required to collect TCS). INR 200/ day subject to INR 10,000

Amendments in Provisions relating to Payment of Tax



Existing - Proviso to section 39(7)

Provided that every registered person furnishing return under the proviso to sub-section (1) [QRMP Scheme] shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed

Option to pay self-assessed tax or amount prescribed under the GST rules

Amended - Proviso to section 39(7)

Provided that every registered person furnishing return under the proviso to sub-section (1) [QRMP Scheme] shall pay to the Government, in such form and manner, and within such time, as may be prescribed,—

- a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or*
- b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.”*



CGA Legal Comments

Statutory Backing to NTN 85/2020-CT dated 10.11.2020 read with CBIC Circular no 143/13/2020-GST dated 10.11.2020

Amended vide Finance Act, 2022 applicable w.e.f. 01-10-2022 vide Notification No. 18/2022-CT dated 28-09-2022



Changes made in Refund Provisions



Changes made in Refund Provisions

Refund of balance of Electronic Cash Ledger

- As per the provisions, refund of any balance in electronic cash ledger has to be claimed in GSTR-3, which has not been implemented.
- Now, in this regard, Rule 89(1) has been amended to provide that Refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 shall now be claimed through Form RFD-01.

Extension of the scope of withholding of tax in all kinds of refund

- Where any refund is due to a registered person who has defaulted in furnishing of any return or has not paid the GST liability, the refund due is liable to be withheld or deductible from the tax due. This clause was applicable only for refund of unutilized input tax credit.
- Now, it is being extended to all kinds of refunds if there is any pending liability of the applicant.

Amended vide Finance Act, 2022 applicable w.e.f. 01-10-2022 vide Notification No. 18/2022-CT dated 28-09-2022

Changes made in Refund Provisions

Relevant date for refund against tax paid on supplies made to SEZ units and SEZ developers

- Earlier, there was no specific provision in the law in respect of time limit of claim of refund of tax paid on supplies made to SEZ
- Now, the relevant date has been defined as the due date for furnishing of return under section 39 in respect of such supplies

Extension of Limitation period for Refund by UN bodies till 2 years

- Section 54(2) has been amended to extend the time limit for making an application for refund by notified agencies to two years from the last date of the quarter in which the supply was received instead of six months as was provided earlier.
- Consequentially, Notification No. 20/2018-Central Tax dated 28-03-2018 has also been rescinded vide Notification No. 20/2022-Central Tax dated 28-09-2022.

Amended vide Finance Act, 2022 applicable w.e.f. 01-10-2022 vide Notification No. 18/2022-CT dated 28-09-2022



GST REGISTRATION CANCELLATION

**Changes made in Provisions
relating to Cancellation of
Registration**

Change in Provisions relating to cancellation of registration due to non-filing of returns

Existing

29(2) - The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where, -

(b) a person paying tax under section 10 [composition] has not furnished returns for three consecutive tax periods; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months;

Amended

29(2) - The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where, -

(b) a person paying tax under section 10 has not furnished **the return for a financial year beyond three months from the due date of furnishing the said return** or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for **such continuous tax period as may be prescribed.**

Amended vide Finance Act, 2022 applicable w.e.f. 01-10-2022 vide Notification No. 18/2022-CT dated 28-09-2022



Opening of GST Common Portal for filing transitional credit



Opening of GST Common Portal for filing transitional credit

Opening of GST Common Portal for filing transitional credit through Tran 1 and Tran 2 from 01/10/2022 to 30/11/2022 (2 months)

- In case of **UOI versus Filco Trade Centre Pvt Ltd** bearing SLP (C) nos. 32709-32710/2018, Honorable Supreme Court directed GSTN to open the GST common Portal for availing Transitional Credit through TRAN-1 and TRAN-2.
- In order to comply with the Order of Supreme Court, GSTN has opened the common portal for filing transitional credit through TRAN-1 and TRAN-2 w.e.f. 01/10/2022 to 30/11/2022.
- CBIC vide **Circular No. 180/12/2022-GST dated 09-09-2022** clarified that the applicant may file declaration in FORM GST TRAN-1/TRAN-2 or revise earlier filed TRAN-1/TRAN-2 duly signed or verified through electronic verification code on the common portal. In cases where the applicant is filing a revised TRAN-1/TRAN-2, a facility for downloading the TRAN-1/TRAN-2 furnished earlier by him will be made available on the common portal.
- Once the applicant files TRAN-1/TRAN-2 or revises the said forms filed earlier on the common portal, no further opportunity to again file or revise TRAN-1/TRAN-2, either during this period or subsequently, will be available to him.
- GSTN has also issued an advisory on Filing TRAN-1/2 Forms to claim Transitional Credit



Reduction in monetary limit for issuing E-Invoice in GST w.e.f. 1st Oct 2022



E-Invoice

The taxpayers having aggregate turnover exceeding Rs. 10 crores are required to generate E-Invoice w.e.f. 1st of October 2022.

Earlier the turnover limit for issuing E-Invoice for the taxpayers was 20 crores which have been amended vide **Notification 17/2022 – Central Tax dated 01-08-2022**.

Thus, all the taxpayers having aggregate turnover exceeding 10 crores in any of the preceding FY beginning from 2017-18 to FY 2021-22 is required to issue e-invoice.



**GST Exemption on Export
Freight Services has not been
continued post 30.09.2022**



GST Exemption on Export Freight Services has not been continued post 30.09.2022

Entry No. 19A and 19B of Notification No. 12/2017-CT(R) provided exemption on following services upto 30th day of September 2022.

- Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.
- Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.

Exemption on the services for transportation of goods by vessel or aircraft from any Indian Port/ Airport to any foreign port/ airport, which was extended from time to time has not been extended after 30.09.2022.

GST Exemption on Export Freight Services has not been continued post 30.09.2022

Sale of Export Freight to Customer

Sale of Export Freight to Customer	Location of Recipient	Place of Supply	Export of Service	GST to be charged
Shipping Line / Airline in India	Indian Exporter	Earlier this was exempted.		
		Other territory [ITC Not available to the Recipient]	No	<ul style="list-style-type: none"> Sea Freight - 5% with limited ITC on services Air Freight-18%
Shipping Line/ Airline Outside India	Indian Exporter	Other territory	No	Not within the scope of GST



Thank you!!!

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