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Key Highlights of GST Budget 2024

1) Amendment of Section 9 of CGST and Section 5 of IGST:

- Section 9 of the Central Goods and Services Tax (CGST) Act, 2017, deals with the levy and collection of the central goods and services tax. Specifically, sub-section (1) outlines the applicability of CGST on various goods and services except for certain excluded categories.
- **Before the amendment, the text of Section 9(1) was:**
“Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty percent, as may be notified by the Government on the recommendations of the Council and

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collected in such manner as may be prescribed and shall be paid by the taxable person.”

This provision excludes "alcoholic liquor for human consumption" from the purview of CGST.

- **Amendment to Section 9(1) of CGST Act, 2017**
 - **The amendment introduces an additional exclusion within sub-section (1) by inserting the words “and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption” immediately after “alcoholic liquor for human consumption”.**

2) Insertion of New Section 11A in CGST and 6A in IGST:

- **Section 11A** - Section 11A of the CGST Act, 2017, grants the Government the authority to exempt the recovery of GST that was not levied or short-levied due to a generally prevalent practice. This power is exercised through a notification issued on the GST Council's recommendation, providing relief to taxpayers who acted based on common practices. The provision promotes transparency, fairness, and legal certainty, ensuring that businesses are not unduly penalized for following widely accepted practices that may have changed over time.

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3) Amendment of Section 13:

Section 13 of the CGST Act is about determining the date when a service is considered to have been supplied.

Existing Clause (b)- Clause (b) says that the date of supply is the date on which the invoice is issued by the supplier of the service. The new amendment clarifies that Clause (b) only applies when the supplier is required to issue the invoice. So, the updated clause will read:

- “the date on which the invoice is issued by the supplier, but only if the supplier is required to issue it; or”

New Clause (c) Added- This new clause introduces a new scenario where the recipient (the person receiving the service) is required to issue the invoice. In such cases, the date of supply will be the date on which the recipient issues the invoice. The new clause will read:

- “the date on which the invoice is issued by the recipient, if the recipient is required to issue it:”

These amendments clarify the responsibilities of invoice issuance between the supplier and the recipient under different circumstances.

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4) Amendment of Section 16:

- Extension of Timeline to Claim Input Tax Credit (ITC):

- Sub section 5 of Section 16 has been inserted: *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 take input tax credit in any return under section 39 which is filed *up to the 30th day of November, 2021*.

- ITC Revocation of Registration:

- If your GST registration was cancelled but later revoked, you can still claim input tax credit for invoices or debit notes as long as:
 - I. The input tax credit was not restricted at the time of cancellation.
 - II. You file the return by 30th November of the subsequent financial year to the financial year which the invoice pertains, or with the annual return, whichever is earlier.
 - III. Alternatively, you can claim credit for the period from the cancellation to the revocation date, provided you file the return within 30 days from the revocation order.

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5) Amendment of Section 30

- **Section 30(2):** This section provides the rules and conditions under which the cancellation of GST registration can be revoked. It outlines the process for taxpayers to apply for the revocation of their cancelled GST registration.
- **Current Proviso:**
 - The existing proviso may outline the basic conditions and procedures for revoking the cancellation of GST registration.
- **Addition of New Proviso:**
 - The new proviso introduces an additional layer of conditions and restrictions that must be met for the revocation of cancellation of GST registration.

6) Amendment of Section 31

- **Section 31:** This section deals with the issuance of tax invoices, credit notes, and debit notes, and provides rules regarding the timing and compliance of these documents. The amendments to Section 31 of the CGST Act introduce a specified timeframe for compliance with the rules related to tax invoices and related documents, as defined by future regulations. **Additionally, a new Explanation**

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clarifies that the term “supplier who is not registered” also includes those suppliers who are registered solely for the purpose of tax deduction under Section 51. These changes aim to enhance clarity and enforce timely compliance in the tax documentation process.

7) Amendment of Section 39

- This section deals with the filing of returns by registered persons. Specifically, it outlines the requirements for those who are required to deduct tax at source under Section 51.
- **Current Sub-section (3):** The existing provision specifies the obligations for registered persons required to deduct tax at source
- **Proposed New Sub-section (3):**
Every registered person required to deduct tax at source under section 51 shall electronically furnish a return in FORM GSTR-7 monthly, even if no tax has been deducted.

8) Amendment of Section 54-

- In Section 54 of the Central Goods and Services Tax Act, the second proviso in sub-section (3) has been omitted.
- **Additionally, a new sub-section (15) has been added,** which states that refunds for unused input tax credit or integrated tax on zero-rated supplies of goods will not be granted if the goods are subject to export duty.

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9) Amendment of Section 70- New Sub-section (1A) which states that:-

- Individuals summoned under sub-section (1) must attend in person or via an authorized representative as directed. They are required to provide truthful statements and produce requested documents or items during the examination.

10) Amendment of Section 73 and Section 74

- Now section 73 and 74 applies for tax determination for periods up to the Financial Year 2023-24.
- Explanation 2 to section 74 of the CGST Act, 2017 has been omitted.

11) Newly Inserted Section 74A

- **Applicability:** Section 74A deals with tax issues for the period starting from the Financial Year 2024-25 onwards. It covers situations where tax has not been paid, has been underpaid, was refunded by mistake, or where input tax credit (ITC) has been wrongly claimed or used.
- **Scope:** Applies to tax determination for FY 2024-25 onwards, covering unpaid, short paid, erroneously refunded tax, or wrongly availed/utilized input tax credit (ITC).

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- **Notice Issuance:** Proper officer serves notice if any tax has not been paid, short paid, erroneously refunded, or ITC wrongly availed/utilized, requiring the taxpayer to show cause.
- **Threshold for Notice:** No notice issued if tax discrepancy is less than ₹1,000 in a financial year.
- **Deadline for Notice:** Notice must be issued within 42 months from the due date for the annual return or the date of erroneous refund.
- **Subsequent Statements:** Officer may issue additional statements for other periods not covered in the initial notice, which are deemed as part of the original notice.
- **Penalties:**
 - General: 10% of the tax due or ₹10,000, whichever is higher.
 - Fraud: Equal to the tax due.
- **Order Issuance:** Officer determines the tax, interest, and penalty, and issues an order within 12 months from the notice date, extendable by 6 months by a senior officer if justified.
- **Voluntary Payment (Non-Fraud):**

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- **Before Notice:** Taxpayer can pay tax and interest before notice issuance and inform the officer, avoiding penalties.
- **After Notice:** Taxpayer can pay tax and interest within 60 days of notice issuance to avoid penalties and conclude proceedings.

- **Voluntary Payment (Fraud):**
 - **Before Notice:** Taxpayer can pay tax, interest, and 15% penalty before notice issuance.
 - **After Notice:** Taxpayer can pay tax, interest, and 25% penalty within 60 days of notice issuance to conclude proceedings.
 - **After Order:** Taxpayer can pay tax, interest, and 50% penalty within 60 days of the order to conclude proceedings.

- **Shortfall in Payment:** Officer may issue a notice for any shortfall in the voluntarily paid amount.

- **Self-Assessed Tax:** Penalty applies if self-assessed tax or collected tax is not paid within 30 days of the due date.

- **Proceedings Conclusion:** Proceedings against the main taxpayer, once concluded, also conclude proceedings against others liable for penalties under Sections 122 and 125.

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- **Exclusion from Section 132:** Conclusion of proceedings under Section 74A does not include Section 132 proceedings.
- **Definition of Suppression:** Non-declaration of required facts/information in returns or failure to provide information when requested by the proper officer.

12) Amendment of Section 107:

- **Appeal to Appellate Authority** – Any person aggrieved by a decision or order passed by an adjudicating authority can appeal to the Appellate Authority within three months from the date of communication of the decision or order.
- **Deposit Requirement:**
 - No appeal shall be entertained unless the appellant has deposited 10% of the disputed tax amount.
- **Further Deposit:**
 - For further appeals, an additional deposit of 25% of the remaining disputed tax amount is required.
- **Amended Provision:**
 - The word “twenty-five” has been substituted with “twenty”.
- **Amendment in Sub-section (11), Second Proviso:**

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- **Previous Provision:**

- The second proviso of sub-section (11) mentioned the applicability of certain sections (specifically sections 73 and 74) concerning the time limits for concluding the appeal process.

- **Amended Provision:**

- **After the words and figures “section 73 or section 74”, the words, figures, and letter “or section 74A” have been inserted.**

13) **Amendment of Section 112:**

- Time for filing appeals in GST Appellate Tribunal, to allow 3 months period for filing appeals before GSTAT **to start from a date to be notified by the Government in respect of appeals/ revision orders passed.** This would have effect from 01.08.2024. Also, reducing the amount of pre-deposit required to be paid for filing the GSTAT appeals.

14) **Amendment of Section 122:**

- From October 1, 2023, the term “Any electronic commerce operator who” is **replaced with “Any electronic commerce operator, who is liable to collect tax at source under section 52.”** The amendment clarifies that penalties and compliance measures apply specifically to electronic commerce operators who

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are responsible for collecting tax at source. This narrows the scope of the provision to those operators who have this tax collection responsibility.

15) Insertion in New Section 128A after Section 128- Waiver of Interest or Penalty

Waiver Provision:

Amendment: Section 128A

(1) General Provisions:

- **Applicability:** This section applies to tax payable by individuals as per:
 - Notice issued under Section 73(1) or statement under Section 73(3) without an order under Section 73(9).
 - Order under Section 73(9) without further orders under Section 107(11) or Section 108(1).
 - Order under Section 107(11) or Section 108(1) without an order under Section 113(1).

- **Tax Period:** Pertains to the period from July 1, 2017, to March 31, 2020.

- **Condition:** If the full tax amount is paid as per the notice, statement, or order by the date notified by the Government, no interest under Section 50 or penalty is payable, and proceedings are deemed concluded, subject to prescribed conditions.

(2) Specific Provisions:

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- **Notice under Section 74:** A notice under Section 74(1) with an order required by the Appellate Authority or court under Section 75(2) will be considered under clause (a) or (b).
- **Pending Applications/Appeals:** If an application under Section 107(3) or 112(3), or an appeal by a central tax officer under Section 117(1) or 118(1), or proceedings under Section 108(1) are pending, the person must pay any additional tax within three months of the order for the waiver to apply.
- **No Refund:** If interest or penalty has already been paid, no refund is available.

(3) Non-Applicability:

- **Erroneous Refund:** The waiver does not apply to amounts payable due to an erroneous refund.
- **Pending Appeals/Writs:** The waiver does not apply if the appeal or writ petition is pending before any authority or court and has not been withdrawn by the notified date.

(4) Appeal Restrictions:

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- **Concluded Proceedings:** Once the specified amount is paid and proceedings are deemed concluded, no appeal can be filed under Section 107(1) or Section 112(1) against the orders specified in clauses (b) or (c) of subsection (1).

16) Amendment of Section 140:

- To allow transitional credit for service invoices received by the IGST before the appointed date. Amendment would have an retrospective effect from 01.07.2017.

17) Amendment of Section 171

- The Government can decide, based on the Council's advice, to set a date after which they won't accept requests to check if input tax credits or tax rate reductions have led to a lower price for goods or services.
- A "request for examination" means a written application asking if the tax credits or rate reductions have actually lowered the price of the goods or services provided. The term "Authority" now includes the "Appellate Tribunal" as well.

18) Amendment of Schedule III-

- When a lead insurer shares part of the insurance premium with co-insurers for joint insurance services, this is included as an activity. However, the lead insurer must pay all taxes (central, state, Union territory, and integrated tax) on the full premium amount paid by the insured.

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- When an insurer pays a reinsurer, and the reinsurer deducts a commission from the reinsurance premium, this is included as a service. The reinsurer must pay all taxes (central, state, Union territory, and integrated tax) on the total reinsurance premium, including the commission deducted.

19) 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.

20) Amendment of Section-20 of IGST-

Previous Provision:

- Fifth Proviso: The previous provision under Section 20 did not specify a cap on the maximum amount payable for appeals to the Appellate Authority or the Appellate Tribunal. This meant that there was no upper limit set on the amount of tax disputes that could be contested in such appeals.

Amended Provision (Finance Budget 2024):

- New Fifth 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.”

Note: - Amendment of Section-49,50,51,61,62,63,64,65,66,104,127 of CGST Act

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- The inclusion of section 74A ensures that the provisions and implications of this new section are integrated throughout the relevant sections of the CGST Act, enhancing compliance and enforcement measures. In below mentioned sections a new entry of Section 74A has also been added
 - Section 49: Payment of Tax, Interest, Penalty, and Other Amounts.
 - Section 50: Interest on Delayed Payment of Tax.
 - Section 51: Tax Deducted at Source (TDS).
 - Section 61: Scrutiny of Returns.
 - Section 62: Assessment of Non-filers of Returns.
 - Section 63: Assessment of Unregistered Persons.
 - Section 64: Summary Assessment in Certain Special Cases.
 - Section 65: Audit by Tax Authorities.
 - Section 66: Special Audit.
 - Section 104: Advance Ruling to be Void in Certain Circumstances.
 - Section 127: Power to Impose Penalty in Certain Cases.
 - Section 10(5): Ineligibility for Composition Levy.
 - Section 21: Manner of recovery of credit distributed in excess.

[Note: For ease of reference, wherever possible, we have referred to the provisions of the Central Goods and Service Tax Act 2017 and allied rules/Notifications/Circulars as amended from time to time up to the date of issue of this note; consequentially, the views taken be considered as covered under the relevant provisions of Integrated Goods and Service Tax Act 2017 and relevant State Goods and Service Tax Act 2017 and allied rules/ Notifications/Circulars as amended from time to time up to the time of issue this

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note. Moreover, following relevant judgments have referred in relation to the earlier in order support our contention]

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