



SECTIONWISE ANALYSIS – GST AMENDMENTS (FINANCE BILL 2019)

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GST AMENDMENTS – HIGHLIGHTS AT A GLANCE

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1. Adjudicating authority to exclude National Appellate Authority for Advance Ruling

Source

Clause 91 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 2(4) of the CGST Act, 2017.

Provision before amendment

2(4) "adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Indirect Taxes and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171;

Provision after Amendment

"adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Indirect Taxes and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the National Appellate Authority for Advance Ruling, the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171;

Effect of the Amendment

1. The Government shall constitute an Authority 'The National Appellate Authority for Advance Ruling (NAAAR)' for hearing appeals against conflicting Advance rulings pronounced on the same question by the Appellate Authority for Advance Ruling.
2. The newly inserted sections 101A, 101B and 101C of the CGST Act covers the constitution and other aspects of NAAAR (To be discussed later).
3. The amended definition of Adjudicating Authority shall exclude "the National Appellate Authority for Advance Ruling" from its ambit.

2. Amendment in the composition scheme

Source

Clause 92 (a) of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 10 (1) & (2) of the CGST Act, 2017.

Amendment

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.

Explanation— For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.

In Sub-Section (2) of section 10, new clause has been added:

(f) he is neither a casual taxable person nor a non-resident taxable person

After sub -section (2), new section has been inserted:

(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent. of the turnover in State or turnover in Union territory, if he is not—

(a) engaged in making any supply of goods or services which are not leviable to tax under this Act,

(b) engaged in making any inter-State outward supplies of goods or services;

(c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;

(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

(e) a casual taxable person or a non-resident taxable person

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.

Section 10(3)

The option availed of by a registered person under sub-section (1) or sub-section (2A), as the case may be shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1) or sub-section (2A), as the case may be.

Section 10(4)

A taxable person to whom the provisions of sub-section (1) or as the case may be, sub-section (2A) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

Section 10(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 shall, mutatis mutandis, apply for determination of tax and penalty

Explanation 1.— For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year upto the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2— For the purposes of determining the tax payable by a person under this section, the expression “turnover in State or turnover in Union territory” shall not include the value of following supplies, namely-

- (i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and
- (ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Amendment

The provision marked in green has been newly inserted.

Effect of the Amendment

1. Many composition dealers were facing hardship as their turnover was exceeding the prescribed limit on account of income from interest or discount earned from extending deposits, loans or advances. This kind of income did not arise from the dealers' regular course of activity and are general investment activities. The government keeping this in mind has given relief to all composition dealers (including under section 10(2A) of the CSGT Act to be discussed next) to exclude such income in their calculation of aggregate turnover.
2. Earlier composition scheme only encompassed within itself manufacturers and traders of goods. A margin however was given to traders that they could have service income not exceeding 10% of turnover or five lakhs whichever is higher. Service providers (except restaurant being an exception) and mixed suppliers (goods and services) were not covered. The newly inserted section 10(2A) of the CSGT Act provides to include such suppliers having turnover in the preceding financial year upto Rs. 50,00,000. The rate of tax shall be prescribed not exceeding 6% (CGST+SGST/ IGST). The section along with its explanations also states other conditions and restrictions to be fulfilled which are similar to the earlier composition scheme. Earlier the amendment brought through Notification no. 2/2019-Central Tax (rate) dated 7th March 2019 now has been correctly put in the GST Acts.

3 . Aggregate turnover of Rs. 40 lakhs for exclusive supplier of goods**Source**

Clause 93 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 22 of the CGST Act, 2017

Amendment

Provided also that the Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of

services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Effect of the Amendment

The government can now increase the threshold limit for obtaining registration from Rs 20,00,000 to Rs. 40,00,000 for supplier engaged in exclusive supply of goods. Aggregate turnover for the same shall not include interest or discount earned from extending loans, deposits or advances

4. Furnish Aadhaar card in case of registration

Source

Clause 94 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 25(6) of the CGST Act, 2017

New section 25(6A) has been inserted

Provision before amendment

26(6) Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 (43 of 1961) in order to be eligible for grant of registration:

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

Provision after amendment

“(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendation of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

Amendment

The provision marked in green is newly inserted

Effect of the Amendment

1. New sub-sections (6A), (6B) and (6C) in section 25 of the CGST Act have been inserted to provide for Aadhar or such other alternative means (in case of non availability of Aadhar) of authentication under GST registration. The government may specify certain category of persons who shall be kept out of such compliance.
2. 25(6A)- Existing Registered person- All existing registered person shall have to start the process of Aadhar verification or other alternative means from dates prescribed. In case of failure to undergo such authentication registration allotted to such person shall be deemed to be invalid.
3. 25(6B)- For individual applying for registration-(same as 25(6A))
4. 25(6C)- For persons other than individuals authentication of Aadhar will be of Karta/Managing Director/WTD/ partners or such class of persons as may be specified in notification.

5. Requirement of the facility of digital payment to recipient**Source**

Clause 95 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

New Section

Section 31A of the CGST Act, 2017

Provision

The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.

Effect of the Amendment

1. The government wants to encourage digital payments. In order to do so it may prescribe a class of registered persons who shall have to mandatorily give the option of specified mode of electronic payment to their recipients.

6. Amendment in return filing provisions

Source

Clause 96 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 39 of the CGST Act, 2017

Provision before Amendment

39(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, [~~in such form, manner and within such time as may be prescribed~~], a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed

Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and ~~safeguards~~ as may be specified therein.

39(2) A registered person paying tax under the provisions of section 10 shall, for ~~each quarter~~ or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid ~~within eighteen days after the end of such quarter.~~

39(7) Every registered person, who is required to furnish a return under sub-section (1) ~~or sub-section (2)~~ or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

~~Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.~~

Provision after Amendment

39(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

39(2) A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.

39(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.

Provided that every registered person furnishing return under the proviso to sub-section (1) 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:

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.

Effect of the Amendment

1. Composition taxpayers were till now making quarterly payments and filing quarterly returns. Along with this they also have to file Annual Return (GSTR-9A) as well. Relief from some compliance has been given by doing away with quarterly filing of return from dates to be prescribed. It is important to note here that composition taxpayers will still have to make quarterly payment of taxes in manner to be prescribed. Other specified taxpayers may be given the option for quarterly or monthly furnishing of returns and payments of taxes under the proposed new return system.
2. Further, the last date of payment of taxes has been delinked from the due date of filing of return. The payment of taxes may be required at an earlier date than the date of return filing

7. Power of the extension of time limit of annual return by the commissioner

Source

Clause 97 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 44 of the CGST Act, 2017

Amendment

The provision marked in green has been inserted newly

Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

Effect of the Amendment

1. The commissioner has now been empowered to extend the due date for furnishing Annual Return prescribed (FORM GSTR9/9A) and reconciliation statement (FORM GSTR-9C)

8. Transfer of any amount of tax, interest, penalty, fees between various heads**Source**

Clause 98 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 49 of the CGST Act, 2017

Amendment

The portion marked in green has been newly inserted :

49(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

49(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).

Effect of the Amendment

Major heads (CGST/SGST/IGST/UTGST/Cess)

Minor heads (Tax, Fees, Interest, penalty, others)

Certain tax payers had erroneously interchanged major head with minor head or made interchanges among the heads at the time of making payment in their electronic cash ledger. Due to this their money was stuck in the electronic cash ledger. Now a registered has the facility to transfer any amount from one head to another or make transfers within the heads.

9 . Interest to be charged on net tax liability subject to exceptions

Source

Clause 99 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 50 of the CGST Act,2017

Amendment

The following provision marked in green has been inserted:

Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent, as may be notified by the Government on the recommendations of the Council.

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 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

Effect of the Amendments

1. There was a lot of confusion among taxpayers whether interest on late payment of tax should be calculated on gross tax liability or net cash liability (gross liability less credit available).
2. The government has now provided that interest shall be charged only on net cash liability. This is in lines with several decisions under the erstwhile Central excise and ST law that when there is sufficient credit, the interest for delayed payment of Duty/tax can be computed and paid net of Cenvat credit. However, there is one exception to this rule wherein interest shall be levied on gross tax liability. Where returns are filed subsequent to initiation of any proceedings as per Section 73 or 74 under GST regime, the interest shall be levied on the gross tax liability.

10. Extension of time limit for furnishing the statement for Tax Collected at Source

Source

Clause 100 (a) of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 52 of the CGST Act, 2017

Amendment

The Provision marked in green has been newly inserted.

52(4). Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein;

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

52(5). Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.

Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein: Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

Effect of the Amendment

Every E-commerce operator who are required to deduct TCS under GST need to file GSTR-8 (monthly return) and GSTR 9B (Annual return). The provisos are inserted so as to empower the commissioner to extend the due date for furnishing of monthly and Annual statement by the person collecting tax at source.

11. Effect of the transfer of amounts from CGST to SGST in electronic cash ledger

Source

Clause 101 & Clause 113 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

New Section

Section 53A of the CGST Act, 2017

Section 17A of IGST Act, 2017

Provision

Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the State Goods and Services Tax Act or the Union territory Goods and Services Tax Act, the Government shall, transfer to the State tax account or the Union territory tax account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.

Effect of the Amendment

1. If any person transfers any amount from CGST to SGST electronic cash ledger, the government shall at its end transfer to the State tax account, an amount equal to the amount transferred from the electronic cash ledger. This is a procedural process to be followed by the Department
2. New section 17A is being inserted in the IGST Act so as to bring into the Act, provisions for transfer of amount between Centre and States consequential to amendment in section 49 of the CGST Act (Point 8) allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person

12. Disbursement of refund by Central Government for State Taxes**Source**

Clause 102 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 54 of the CGST Act, 2017

Amendment

The following Portion marked in green has been inserted after sub-section 8 of Section 54

The Government may disburse the refund of the State tax in such manner as may be prescribed.

Effect of the Amendment

Central Government may now disburse refund amount to the taxpayer in respect of the refund of state taxes as well.

13. Definition of Appellate Authority to include National Appellate Authority**Source**

Clause 103 of the Finance Bill, 2019

Effective Date

Date to be notified by the government.

Affected Provision

Section 95 of the CGST Act, 2017

Amendment

(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority or the National Appellate authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100 or of Section 101C , in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

The portion marked in green has been newly inserted.

(f) "National Appellate Authority" means the National Appellate Authority for Advance Ruling referred to in section 101A

Effect of the Amendment

New clause (f) in section 95 of the CGST Act is being inserted to define the "National Appellate Authority". National Appellate Authority for Advance Ruling has been created to resolve conflicting judgements of Appellate Advance Ruling authorities.

14. Constitution of National Appellate Authority for Advance Ruling**Source**

Clause 104 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

New Section

Section 101A, 101B, 101C of the CGST Act, 2017

Provision

The provision marked in green has been inserted.

Section 101A

(1) The Government shall, on the recommendations of the Council, by notification, constitute, with effect from such date as may be specified therein, an Authority known as the National Appellate Authority for Advance Ruling for hearing appeals made under section 101B.

2) The National Appellate Authority shall consist of—

- (i) the President, who has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years;
- ii) a Technical Member (Centre) who is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;
- (iii) a Technical Member (State) who is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the Additional Commissioner of State tax with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.

(3) The President of the National Appellate Authority shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:

Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Appellate Authority shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Appellate Authority shall discharge the functions of the President until the date on which the President resumes his duties.

(4) The Technical Member (Centre) and Technical Member (State) of the National Appellate Authority shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.

(5) No appointment of the Members of the National Appellate Authority shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.

(6) Before appointing any person as the President or Members of the National Appellate Authority, the Government shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.

(7) The salary, allowances and other terms and conditions of service of the President and the Members of the National Appellate Authority shall be such as may be prescribed:

Provided that neither salary and allowances nor other terms and conditions of service of the President or Members of the National Appellate Authority shall be varied to their disadvantage after their appointment.

(8) The President of the National Appellate Authority shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall also be eligible for reappointment.

(9) The Technical Member (Centre) or Technical Member (State) of the National Appellate Authority shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall also be eligible for reappointment.

(10) The President or any Member may, by notice in writing under his hand addressed to the Government, resign from his office:

Provided that the President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Government, or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(11) The Government may, after consultation with the Chief Justice of India, remove from the office such President or Member, who—

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such President or Member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President or Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.

(12) Without prejudice to the provisions of sub-section (11), the President and Technical Members of the National Appellate Authority shall not be removed from their office except by an order made by the Government on the ground of proven misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Government and such President or Member had been given an opportunity of being heard.

(13) The Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or Technical Members of the National Appellate Authority in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (12).

(14) Subject to the provisions of article 220 of the Constitution, the President or Members of the National Appellate Authority, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Appellate Authority where he was the President or, as the case may be, a Member.

Section 101B

(1) Where, in respect of the questions referred to in sub-section (2) of section 97, conflicting advance rulings are given by the Appellate Authorities of two or more

States or Union territories or both under sub-section (1) or sub-section (3) of section 101, any officer authorised by the Commissioner or an applicant, being distinct person referred to in section 25 aggrieved by such advance ruling, may prefer an appeal to National Appellate Authority:

Provided that the officer shall be from the States in which such advance rulings have been given.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicants, concerned officers and jurisdictional officers:

Provided that the officer authorised by the Commissioner may file appeal within a period of ninety days from the date on which the ruling sought to be appealed against is communicated to the concerned officer or the jurisdictional officer:

Provided further that the National Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, or as the case may be, ninety days, allow such appeal to be presented within a further period not exceeding thirty days.

Explanation.— For removal of doubts, it is clarified that the period of thirty days or as the case may be, ninety days shall be counted from the date of communication of the last of the conflicting rulings sought to be appealed against.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

Section 101C

1) The National Appellate Authority may, after giving an opportunity of being heard to the applicant, the officer authorised by the Commissioner, all Principal Chief Commissioners, Chief Commissioners of Central tax and Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories, pass such order as it thinks fit, confirming or modifying the rulings appealed against.

2) If the members of the National Appellate Authority differ in opinion on any point, it shall be decided according to the opinion of the majority.

(3) The order referred to in sub-section (1) shall be passed as far as possible within a period of ninety days from the date of filing of the appeal under section 101B.

(4) A copy of the advance ruling pronounced by the National Appellate Authority shall be duly signed by the Members and certified in such manner as may be prescribed and shall be sent to the applicant, the officer authorised by the Commissioner, the Board, the Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories and to the Authority or Appellate Authority, as the case may be, after such pronouncement.

Effect of the Amendment

1. New sections 101A, 101B and 101C are being inserted in the CGST Act so as to provide for constitution, qualification, appointment, tenure, conditions of services of the National Appellate Authority for Advance Ruling; to provide for procedures to be followed for hearing appeals against conflicting advance rulings pronounced on the same question by the Appellate Authorities of two or more States or Union territories in case of distinct persons; and to provide that the National Appellate Authority shall pass order within a period of ninety days from the date of filing of the appeal respectively

15. Rectification of advance ruling by the National Appellate Authority**Source**

Clause 105 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 102 of the CGST Act, 2017

Amendment

The portion marked as green has been newly inserted:

The Authority or the Appellate Authority or the National Appellate Authority may amend any order passed by it under section 98 or section 101 or Section 101C respectively, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority or the National Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant, appellant, the Authority or the Appellate Authority within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

Effect of the amendment

In consequent to the formation of the National Appellate Authority for Advance ruling , the powers to pass rectification order has been to NAAAR along with the earlier Authority/Appellate Authority. Thus, the NAAR can rectify any error apparent on the face of the record, within a period of six months from the date of the order, except under certain specified circumstances.

16. Binding of Advance Ruling pronounced by National Appellate Authority

Source

Clause 106 of the Finance bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 103 of the CGST Act, 1962

Amendment

The portion marked in green has been newly inserted:

(1A) The advance ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—

(a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of section 101B and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961;

(b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961.

(2) The advance ruling referred to in sub-section (1) and sub-section (1A) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

Effects of the amendment

In consequent to the formation of the National Appellate Authority for Advance ruling , section 103 has included NAAAR along with Authority / Appellate Authority to provide that the advance ruling pronounced by the NAAAR shall be binding, unless there is a change in law or facts, on the applicants, being distinct person and all registered persons having the same Permanent Account Number and on the concerned officers or the jurisdictional officers in respect of the said applicants and the registered persons having the same Permanent Account Number

17. Advance ruling to be void in certain cases

Source

Clause 107 of the Finance bill,2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 104 of the CGST Act 2017.

Amendment:

The proviso marked in green has been newly inserted:

1) Where the Authority or the Appellate Authority or the National Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 or under section 101C has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made: Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant

Effects of the amendment

In consequent to the formation of the National Appellate Authority for Advance ruling , section 104 has included NAAAR along with Authority / Appellate Authority to provide that advance ruling pronounced by the National Appellate Authority shall be void where the ruling has been obtained by fraud or suppression of material facts or misrepresentation of facts.

18. Powers of Authority and Appellate Authority and National Appellate Authority

Source

Clause 108 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 105 of the CGST Act 2017

Amendment

The portion marked as green has been newly inserted:

Marginal heading has been changed to-

Powers of Authority, Appellate Authority and National Appellate Authority

The Authority or the Appellate Authority or the National Appellate Authority shall, for the purpose of exercising its powers regarding—

- a) discovery and inspection;
- b) enforcing the attendance of any person and examining him on oath;
- c) issuing commissions and compelling production of books of account and other records,

have all the powers of a civil court under the Code of Civil Procedure, 1908.

(2) The Authority or the Appellate Authority or the National Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

Effects of the amendment

1. In consequent to the formation of the National Appellate Authority for Advance ruling, section 105 has included NAAAR along with Authority / Appellate Authority to provide that the National Appellate Authority shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of exercising its powers under the Act.

19. Power to regulate Procedure of National Appellate Authority

Clause 109 of the Finance Bill, 2019

Effective Date

Date to be notified by the government.

Affected Provision

Section 106 of the CGST Act 2017

Amendment

The portion marked in green has been newly inserted:

Marginal heading has been changed to-
Procedure of Authority, Appellate Authority and National Appellate Authority

The Authority or the Appellate Authority or the National Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure.

Effects of the amendment

1. In consequent to the formation of the National Appellate Authority for Advance ruling, section 106 has included NAAAR along with Authority / Appellate Authority to provide that the National Appellate Authority shall have power to regulate its own procedure

20. Powers of extension of due dates by Commissioner or Joint Secretary

Source

Clause 110 of the Finance Bill,2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 168 of the CGST Act 2017

Amendment

The portion marked in green has been newly inserted:

The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, sub-section (1) of section 44, sub-sections (4) and (5) of section 52, sub-section (5) of section 66, sub-section (1) of section 143, sub-section (1) of section 151, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

Effects of the amendment

In consequent of point 7 and 10 it is specified that Commissioner or Joint Secretary shall exercise the powers of extension of due dates with the approval of the Board.

21. Penalty under Anti Profiteering**Source**

Clause 111 of the Finance Bill, 2019.

Effective Date

Date to be notified by the government.

Affected Provision

Section 171 of the CGST Act, 2017
(3A) -New section has been inserted

Provision after amendment

The below mentioned provision has been newly inserted:

“(3A) Where the Authority referred to in sub-section (2) after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation.— For the purposes of this section, the expression “profiteered” shall mean the amount determined on account of not passing the benefit of reduction in

rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.

Effects of the amendments

1. The government has formed a National Anti-profiteering Authority (NAA) that will ensure that entities pass on the benefit of reduced tax rates under GST to the consumers. Big companies like TATA, Starbucks and Maggie have also come in its loop.
2. Sub section (3A) has been inserted in section 171 which empower the National Antiprofitereing Authority (under sub-section (2) of section 171 of the Act) to impose penalty equivalent to 10% of the profiteered amount.
3. However, no penalty shall be levied if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority

22. Retrospective Exemption of Uranium Ore Concentrate

Notification No. 2/2017-Central Tax (Rate) dated the 28th June, 2017, Notification No. 2/2017-Integrated Tax (Rate) dated the 28th June, 2017 and Notification No. 2/2017-Union Territory Tax (Rate) dated the 28th June, 2017 is being amended retrospectively so as to exempt "Uranium Ore Concentrate" from the levy of Central Tax from 1st July, 2017 to 14th November, 2017

This publication contains information for general guidance only. It is not intended to address the circumstances of any particular individual or entity. Although the best of endeavour has been made to provide the provisions in a simpler and accurate form, there is no substitute to detailed research with regard to the specific situation of a particular individual or entity. S. Khaitan & Associates or any of its officials do not accept any responsibility for loss incurred by any person for acting or refraining to act as a result of any matter in this publication



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