

# RVA INSIGHTS

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## **UNION BUDGET 2024- AMAENDMENT PROPOSED UNDER GST LAWS:**

The amendments proposed in CGST Act, 2017, IGST Act, 2017, UTGST Act, 2017 and the GST (Compensation to States) Act, 2017 (GST Laws) mainly showcase the recommendations made in the 53<sup>rd</sup> meeting of the GST Council.

The amendments in the GST provisions may be divided based on the objectives with which the same are brought in by the Finance (No.2) Bill 2024. The proposed amendments are categorized in three parts, viz; “Legal and Administrative Streamlining” “Trade Facilitation” and “Better Compliance Mechanisms”.

### ➤ **Legal and Administrative Streamlining**

#### **i) Insertion of Section 74A**

- A new section 74A is proposed to be inserted in the CGST Act, 2017 to provide for determination of tax not paid/ short paid/ erroneously refunded or ITC wrongly availed/ utilized for both fraudulent and non-fraudulent reasons pertaining to the Financial Year 2024-25 onwards.
- It provides a common time limit for issuing demand notices and orders in respect of demands from the Financial Year 2024-25 onwards, irrespective of whether the charges of fraud, willful misstatement, or suppression of facts are invoked or not, while keeping a higher penalty, for cases involving fraud, willful misstatement, or suppression of facts.

- Under the new section, the notice can be issued up to 42 months from the due date of filing the annual return of the relevant financial year or up to 42 months from the date of erroneous refund. Further, no notice will be issued if the amount in question for a financial year is less than Rs. 1,000. Furthermore, the time limit for issuing of order is being proposed as 12 months from the date of issue of notice, which can be extended maximum by 6 months.
- The amount of penalty for fraud and non-fraud cases is being kept the same as provided under sections 73 and 74 of the CGST Act, 2017 respectively. However, the time limit for the taxpayers to avail the benefit of nil/reduced penalty, by paying the tax demanded along with interest, is being increased from 30 days to 60 days.
- Consequential amendments in Sections 73 and 74 are proposed to bring into effect the applicability of the proposed section 74A for demand notices pertaining to FY 2024-25 onwards. Sub-section (12) is proposed to be inserted in sections 73 and 74 to restrict the applicability of these sections for the determination of tax pertaining to the period up to FY 2023-24.
- Additionally, consequential amendments are also proposed in sections 10, 21, 35, 49, 50, 51, 61, 62, 63, 64, 65, 66, 75, 104, 107, and 127 of the CGST Act, 2017 to incorporate a reference to the proposed new section 74A.
- The introduction of section 74A and the amendments in sections 73 and 74 are expected to have a significant impact on both taxpayers and the tax department. For taxpayers, this means

a clearer and more predictable timeline for tax assessments and demands, reducing uncertainty and potential litigation. The higher penalties for fraud and wilful misstatement serve as a deterrent against tax evasion, promoting greater compliance. For the tax department, these changes simplify the legal process, streamline administrative procedures, and help focus enforcement efforts on more serious cases of non-compliance.

## **ii) Refund to Exporters**

- A new section 74A is proposed to be inserted in the CGST Act, 2017 to provide for determination of tax not paid/ short paid/ erroneously refunded or ITC wrongly availed/ utilized for both fraudulent and non-fraudulent reasons pertaining to the Financial Year 2024-25 onwards.
- Amendments have been proposed in the refund provisions under the CGST Act, 2017 and IGST Act, 2017 particularly affecting zero-rated supplies
- Omission of the second proviso to sub-section (3) and insertion of sub-section (15) in section 54 the CGST Act, 2017 explicitly provide that no refund of unutilized ITC or Integrated Tax (IGST) shall be allowed in case of zero-rated supply of goods where such goods are subjected to export duty.
- Simultaneously a new sub-section (5) is proposed to be inserted in section 16 of the IGST Act, 2017. This provision will ensure that no refund of unutilized ITC or IGST paid on zero-rated supplies of goods will be allowed if these goods are subjected to export duty.

- Furthermore, sub-section (4) of section 16 of the IGST Act, 2017 is proposed to be amended to empower the Government to notify specific class of persons who may make zero rated supplies of goods and/or services or class of goods or services which may be supplied on zero rated basis, and refund of IGST in respect of which can be claimed, in accordance with the provisions of section 54 of the CGST Act, 2017, subject to such conditions, safeguards and procedures as may be prescribed.
- Exporters of goods subjected to export duty will no longer be able to claim refunds of unutilized ITC or IGST. This change may affect the cash flow for such exporters. Exporters must carefully evaluate their supply chains to align with the new provisions.

### **iii) Ant-Profiteering Cases**

- Section 171 is proposed to be amended to empower the Government to notify the cut-off date for accepting anti-profiteering applications. The Government will notify a specific date from which the Authority under this section will not accept any new applications for anti-profiteering cases
- Further, it is being provided that Appellate Tribunal may be notified as the Authority of Anti-Profiteering. The explanation proposed in section 171 includes a reference to the Appellate Tribunal within the Authority under this section. This inclusion allows the government to notify the Appellate Tribunal to act as the Authority for anti-profiteering cases.

## ➤ **Trade Facilitation**

### **i) Allowing Authorised Representative to appear on behalf of Summoned Person**

- Section 70 of the CGST Act, 2017 is proposed to be amended by inserting a new sub-section (1A) to permit an authorised representative to appear on behalf of the summoned person before the proper officer. This provision will facilitate the summoned person to fulfil his obligations by attending in person or through an authorised representative, thereby fostering a more effective representation of the matter, because in number of cases the matter is not related to the management of the organization but related to tax compliance.

### **ii) Amnesty for Taxpayers for Interest & Penalty**

- A new section 128A is proposed to be inserted in the CGST Act, 2017 to provide for a conditional waiver of interest and penalty in respect of notices/orders issued under section 73(1), statements issued under section 73(3), orders issued under section 73(9), or even in the case of orders issued by the Appellate Authority or Revisional Authority for the Financial Years 2017-18, 2018-19 and 2019-20.
- This waiver would be available if the person pays the full amount of tax payable as per the notice, statement, or order, as the case may be, on or before a date notified by the Government on the recommendations of the Council (as of now 53<sup>rd</sup> GST Council has recommended 31<sup>st</sup> March 2025), except for demand notices in respect of erroneous refunds. In cases where interest and penalty have already been paid in respect of any demand for the said financial

years, no refund shall be admissible for the same.

- This section aims to reduce the burden on taxpayers for past liabilities and encourage compliance by offering relief for certain periods. However, like any other amnesty scheme, the compliant taxpayer who has settled his dues will feel the pinch as he will not be eligible for refunds.

#### **iv) Reduction in the amount of Pre-Deposit for filing Appeals**

- Section 107 of the CGST Act, 2017 is proposed to be amended to reduce the maximum amount of pre- deposit for filing appeal before the Appellate Authority from Rs. 25 crores to Rs. 20 crores in CGST. Section 112 of the CGST Act, 2017 is also proposed to be amended to reduce the maximum amount of pre-deposit for filing appeals before the Appellate Tribunal from the existing 20% to 10% of the tax in dispute and also reduce the maximum amount payable as pre-deposit from Rs. 50 crores to Rs. 20 crores in CGST

#### **iii) Time limit for filing Appeals before GSTAT**

- Section 112 of the CGST Act, 2017 is proposed to be amended to empower the Government to notify the date for filing appeal/application before the Appellate Tribunal and also enable the Appellate Tribunal to admit Departmental appeals filed within 3 months after the expiry of the specified time limit of 6 months.



#### **iv) Activity of Apportionment of Co-Insurance Premium**

- The proposed amendment in Schedule III to CGST Act, 2017 seeks to classify the activity where the lead insurer apportions the co-insurance premium to the co-insurer in co-insurance agreements as neither a supply of goods nor supply of services. This is however subject to the condition that the lead insurer pays the tax liability on the entire premium paid by the insured.
- Similarly, the services provided by the insurer to the re-insurer, where the ceding commission or reinsurance commission is deducted from the reinsurance premium, are also proposed to be treated as neither a supply of goods nor supply of services. This is contingent on the reinsurer paying the tax liability on the gross reinsurance premium inclusive of the commission

#### **v) Extra Neutral Alcohol (ENA) used in Alcoholic Beverages**

- Exclusion of “un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor for human consumption” from the levy of GST in Section 9(1) aligns with the current exclusion of alcoholic liquor for human consumption. Similar amendments are also proposed in IGST Act and UTGST Act

#### **vi) Empowering the Government for Regularization**

- Section 11A in the CGST Act, 2017 inserted empowering the Government to regularize non-levy or short levy or higher levy of central tax due to any general practice prevalent in trade. This provision

acknowledges the practical difficulties and trade practices that might have led to non-compliance and provides a legal framework to address such issues retrospectively.

- Similar powers are proposed for the IGST Act, 2017, UTGST Act, 2017 and GST (Compensation to States) Act, 2017 as well.

### ➤ **Better Compliance Mechanisms**

#### **i) Electronic Filing of TDS Returns**

- Section 39 of the CGST Act, 2017 is proposed to be amended to mandate electronic submission of TDS returns every month even if no tax is deducted during the month, i.e. the amendment provides for filing of nil TDS returns. This amendment is aimed at ensuring that all taxable transactions are reported promptly and accurately, which enhances the overall tax compliance framework.

#### **ii) Determination of Time of Supply**

- For transactions under the reverse charge mechanism, a new clause (c) is proposed to be inserted in section 13(3) of the CGST Act, 2017. This clause specifies that the time of supply shall be the date of issue of the invoice by the recipient when the recipient is required to issue an invoice and payment has not been made until then for that supply. This change provides clarity on the time of supply, ensuring timely tax payments and reporting.

- An enabling provision is proposed in clause (f) of section 31(3) of the CGST Act, 2017 to prescribe a time limit for issuing invoices under the reverse charge mechanism, especially when the supplier is not registered

### **UNION BUDGET 2024- KEY HIGHLIGHTS RELATED TO CUSTOMS**

- Custom duty rates are rationalized to further support the “Make In India” initiative.
- For claiming preferential duty benefit, importer can also submit a declaration for the purpose of proof of origin.
- Government can notify class of goods which shall not be permitted for manufacturing processes and other operations in a warehouse.
- Central Board of Indirect Taxes and Customs can prescribe separate procedure or documentation for categories of goods or modes of transportation of goods for any other person also, in addition to importers or exporters.
- The power of Central Government to levy protective duties on certain imported goods shall be omitted
- GST Compensation Cess on imports by SEZ units/ developers for authorized operation will be exempt retrospectively from 1 July 2017

# Direct Tax Updates

## Highlights of Finance (No 2) Act, 2024

1. Finance (No 2) Act, 2024 (the Act) keeps the tax rates unchanged for domestic companies for financial year (FY) 2024-25.

a. Tax rates for domestic companies for FY 24-25

Particulars	Maximum effective tax rate	Effective MAT rates
i) Concessional tax regime		
a. Domestic companies opting for concessional tax rates as per section 115BAA	25.17%	NA
b. New domestic companies with manufacturing activity opting for concessional tax rates as per section 115BAB	17.16%	NA
ii) Other than concessional tax regime		
a. Total turnover in FY 2022-23 is up to Rs 4 billion	29.12%	17.472%
b. Total turnover in FY 2022-23 exceeds Rs 4 billion	34.94%	17.472%

b. Tax rates for foreign companies reduced from 40% to 35% for FY 24-25

Total Income	Effective tax rate
Up to Rs 10 million	36.40%
Between Rs 10 million to Rs 100 million	37.13%
Above Rs 100 million	38.22%

c. Tax rates for partnership firm & LLP for FY 24-25

Total Income	Effective tax rate
Up to Rs 10 million	31.20%
Above Rs 10 million	34.94%

The Act amended section 40(b)(v) to increase the remuneration limit to working partners in partnership firm, which is allowed as deduction, as under:

1	On the first Rs.6 lakh of the book-profit or in case of a loss	Rs 3 Lakh or 90% of the book profit, whichever is higher
2	On the balance book-profit	At the rate of 60%

The amendment will take effect from 01 April 2025 and will apply in relation to Assessment Year 2025-26 and subsequent years.

d. Tax rates for individuals for FY 24-25:

i) The Act reduced the tax slab rate in the new personal tax regime as follows:

Total Income	Slab rate
Till Rs 300,000	Nil
Rs 300,001 to Rs 700,000	5%
Rs 700,001 to Rs 1,000,000	10%
Rs 1,000,001 to Rs 1,200,000	15%
Rs 1,200,001 to Rs 1,500,000	20%
Above Rs 1,500,000	30%

ii) The standard deduction available for salaried taxpayers increased from Rs 50,000 to 75,000 in case of new tax regime.

iii) Increase in Deduction Limit of Employers' Contribution to NPS: The deduction available under section 80CCD(2)(b), in respect of private sector employer's contribution to National Pension Scheme (NPS) has been

proposed to be increased from the present 10% of salary to 14% of the salary of the concerned employees, who have opted for new tax regime.

iv) No change in tax slab rate in the old tax regime and hence existing slab rates continues, which is as follows:

Total Income	Slab rate
Till Rs 250,000	Nil
Rs 250,001 to Rs 500,000	5%
Rs 500,001 to Rs 1,000,000	20%
Above Rs 1,000,000	30%

e. Surcharge rate on individuals – FY 24-25

Total Income	Surcharge
Rs 5 million to Rs 10 million	10%
Rs 10 million to Rs 20 million	15%
Rs 20 million to Rs 50 million	25%
Above Rs 50 million	37%

Note: Maximum rate of surcharge is Rs 15% in case of dividend income (for residents), long term capital gains and short-term capital gains (under section 111A). Maximum surcharge rate under new regime is 25%.

## 2. Capital gains amendments

### a) Changes in long-term holding period of asset

The Act amended long-term holding period for different categories of assets as follows:

Particulars	Existing holding period for treating it as long term	Amended holding period for treating it as long term
Listed Equity Securities	12 months	12 months
Listed Business Trusts/REITs/ InVITs	36 months	12 months
Bonds, debentures, gold	36 months	24 months
Unlisted shares and immovable properties	24 months	24 months



b) Changes in capital gains rate (applicable from 23 July 2024 with immediate effect)

Particulars	Existing rate	Proposed rate
Short-term capital gain under section 111A for equity shares, equity mutual funds.	15%	20%
Short term capital gain for all other assets.	At applicable rate	At applicable rate
Long-term capital gain under section 112A for equity shares, equity mutual funds.	10% (subject to exemption of Rs 1 lakh)	12.5% (subject to exemption of Rs 1.25 lakh)
Long-term capital gains for unlisted shares and immovable property under section 112.	20% with indexation	12.5% without indexation

However, the grand fathering provision (amendment to Section 112) allows the resident individuals and HUFs to compute tax liability on sale of land, buildings acquired before 23 July 2024 on lower of the New LTCG (i.e. 12.5% without indexation) or Old LTCG (i.e. 20% with indexation benefits). No indexation benefit is available under second proviso to section 48 for any long-term capital asset acquired after 23 July 2024.

### 3. TDS amendments

a) The TDS rates are rationalised by the Act are as under:

TDS Section	Present TDS rate	Proposed TDS rate	With effect from
194D - Payment of insurance commission (in case of person other than company)	5%	2%	1 April 2025
194DA - Payment in respect of life insurance policy	5%	2%	1 October 2024
194G – Commission on sale of lottery tickets	5%	2%	1 October 2024
194-IB - Payment of rent by certain individuals or HUF	5%	2%	1 October 2024
194M - Payment of certain sums by certain individuals or HUF	5%	2%	1 October 2024
194-O - Payment of certain sums by e-commerce operator to e-commerce participant	1%	0.1%	1 October 2024

b) The Act has introduced new TDS on payment of salary, remuneration, interest, bonus or commission by partnership firms to its partners for aggregate amounts more than Rs 20,000 in the financial year. Applicable TDS rate is 10%. The provisions of section 194T of the Act will take effect from the 01 April 2025.

#### **4. Abolition of Angel Tax**

The Act inserted a sunset clause in share issue valuation norm in section 56(2)(viib), to provide that the provisions of this clause shall not apply from the assessment year 2025-26. This amendment is proposed to be made effective from the 01 April 2025, and shall accordingly apply from assessment year 2025-26.

#### **5. Abolition of equalisation levy on e-commerce supply or services by non-resident e-commerce operator.**

The Act provides that equalisation levy at the rate of 2% shall not be applicable to consideration received or receivable for e-commerce supply or services on or after 1 August 2024.

#### **6. Tax on buyback of shares.**

Any sum received by shareholder on buyback of shares shall be treated as dividend income in the hands of shareholders and shall be taxable at applicable rates. No deduction for expenses shall be available against such dividend income. Further, the cost of acquisition of shares bought back will be treated as a capital loss and shall be available for set-off / carry forward against other capital gains income as applicable. The amendment shall be applicable with effect from 1 October 2024.

# Corporate Law Updates

## **Recent Amendment on Incorporation of Nidhi Company:**

MCA vide notification dated 16th July, 2024, has issued Nidhi Amendment Rules, 2024. The amendment mandates that a company shall not use the words “Nidhi Limited” in its name unless the Central Government officially declares a company as Nidhi in the Official Gazette under sub-section (1) of Section 406 of the Companies Act, 2013. MCA has also issued the Companies (Incorporation) Amendment Rules, 2024 thereby giving effect to this. It seems, post this amendment, only after getting approval under Section 406, Nidhi company can be incorporated.

## **MCA eases KYC updates throughout the year for directors:**

MCA vide notification dated 16th July, 2024, has made a significant amendment with respect to maintaining the contact information of company directors which comes into effect from 01st August, 2024.

Earlier, directors can update their contact information only during the annual KYC filing period. Whereas under the new provisions, directors will now have the flexibility to update their mobile number and email ID at any time during the financial year by filing e-form DIR-3 KYC on the payment of fees of Rs. 500/-.

## **Waiver of additional fees for filing IEPF forms:**

Pursuant to the transition of IEPF e-forms (IEPF-1, IEPF1A, IEPF-2, IEPF-4) from MCA V2 portal to MCA V3 portal effect from 15th July 2024, e- verification of claims filed in e-form IEPF-5 on or after 15th July 2024 which are beyond the

due date, is extended till 16th August, 2024 without additional filing fee for the benefit of stakeholders. Similarly, a one-time relaxation for filing verification report has been provided till 16th August, 2024. And further MCA notifies that for ease of doing compliances, MCA has merged Form IEPF-3 with Form IEPF-4 and Form IEPF7 with IEPF-1 in MCA Version 3. These forms will be made STP (Straight through process). The various amounts that are required to be transferred to IEPF Authority pursuant to rule 6 & rule 6A of Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 shall be transferred online through MCA 21 through “Pay Miscellaneous Fee” service after selecting the option “Investor Education and Protection Fund”. And further MCA notifies that for ease of doing compliances, MCA has merged Form IEPF-3 with Form IEPF-4 and Form IEPF7 with IEPF-1 in MCA Version 3. These forms will be made STP (Straight through process). The various amounts that are required to be transferred to IEPF Authority pursuant to rule 6 & rule 6A of Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 shall be transferred online through MCA 21 through “Pay Miscellaneous Fee” service after selecting the option “Investor Education and Protection Fund”.

**Amendment in form MSME-1 with enhanced disclosures for reporting payments pending over 45 days to Micro/Small Enterprises:**

MCA vide notification dated 15th July, 2024, has made certain amendments in the e-Form MSME-1 necessitating all companies to disclose detailed information regarding outstanding payments to Micro, Small, and Medium Enterprises

(MSMEs). This includes payments made within and beyond a 45-days period and outstanding amounts for 45 days or less and those outstanding for more than 45 days, along with reasons for any delays or outstanding amounts. Further according to the newly inserted proviso only those specified companies which are having payments pending to any micro or small enterprises for more than 45 days from the date of acceptance or the date of deemed acceptance of the goods or services under Section 9 of the Micro, Small and Medium Enterprises Development Act, 2006 shall furnish the information in MSME Form-1.

**Revised forms notified by MCA:**

Pursuant to the transition of E-form MGT-6 and Form BEN-2 from MCA V2 to V3 portal, MCA has notified the revised aforesaid forms available in V3 portal. With respect to Form MGT6, a new feature of PAN validation of shareholders and beneficial owners has been introduced. Whereas, in the new format of Form BEN-2, users are allowed to fill out a form to change an existing Significant Beneficial Ownership or update the particulars of existing Significant Beneficial Ownership under Section 90 of the Companies Act.

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