



# GIST OF CHANGES IN GST APPLICABLE FROM 01 OCTOBER 2022

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## RECENT AMENDMENTS

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**Recent changes introduced vide the Finance Act, 2022 and other in GST applicable from 1st October 2022**

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8.	Amendment in Section 54 of CGST Act, 2017

## 1. Changes in Eligibility and Conditions for taking ITC

### **Section 16(2)(ba) inserted vide Section 100 of Finance Act, 2022**

**16(2) of CGST:** Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,-

**(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.

### **For Section 38 of the CGST Act 2017, the following section has been substituted**

38(1) The details of outward supplies furnished by the registered persons under sub-section (1) of [section 37](#) and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

(2) The auto-generated statement under sub-section (1) shall consist of—

(a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and

(b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of [section 37](#),—

(i) by any registered person within ***such period of taking registration*** as may be prescribed; or

(ii) by any registered person, who has ***defaulted in payment of tax*** and where such default has continued ***for such period*** as may be prescribed; or

(iii) by any registered person, the ***output tax payable*** by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, ***exceeds the output tax paid*** by him during the said period by such limit as may be prescribed; or

(iv) by any registered person who, during such period as may be prescribed, ***has availed credit of input tax*** of an amount that ***exceeds the credit that can be availed*** by him in accordance with clause (a), by such limit as may be prescribed; or

(v) by any registered person, who has **defaulted in discharging his tax liability** in accordance with the provisions of sub-section (12) of [section 49](#) subject to such conditions and restrictions as may be prescribed; or

(vi) by such other class of persons as may be prescribed

**Analysis:** Based on above mentioned provisions, it can be concluded that government has made the availability of ITC more stringent by insertion of clause (ba) in Section 16(2) of CGST Act, 2017 as it would bar the ITC of the recipient for the defaults committed by the supplier.

The recipient of supply of goods & services has to ensure that its supplier is tax-compliant & fulfilling all the conditions as prescribed under section 38 of the CGST Act 2017 else ITC of recipient will be blocked.

In simple words, conditions of section 38(2)(b) are provided hereunder:

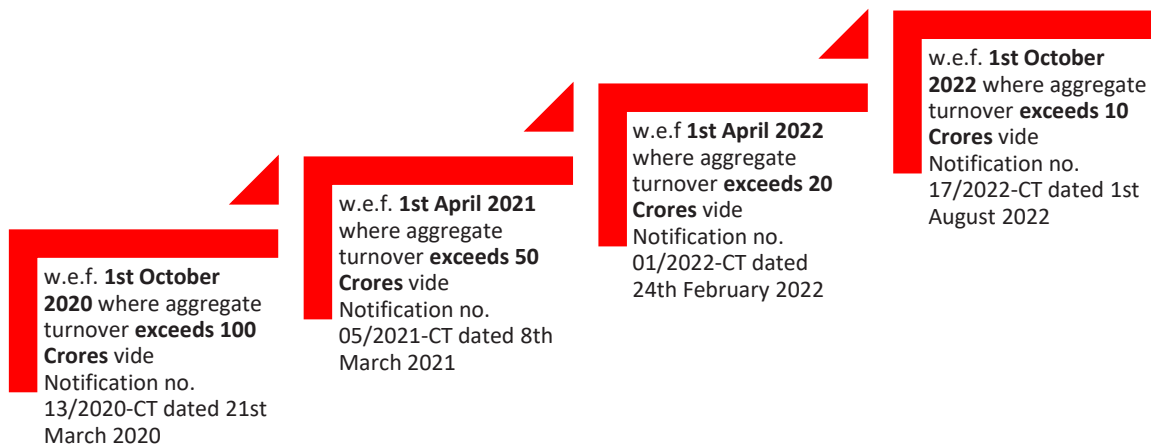
- Supplier is a newly registered business under GST
- Supplier has filed their GSTR-1 but not GSTR-3B
- Supplier's liability in the GSTR-1 is greater than in their GSTR-3B
- Supplier's ITC in GSTR-3B is greater than in their GSTR-2B
- Supplier has received demand notices and defaulted in the payment of taxes (and the default continues)
- Supplier has not fulfilled the conditions of Rule 86B (i.e. paid their entire liability in ITC instead of partly in cash as prescribed)

However, no mechanism has been made available on the GST portal to identify whether the supplier has made specified violations or not.

## 2. Applicability of E-Invoicing

The Central Government has mandatorily made applicable the requirement of E-Invoicing for registered persons **whose aggregate turnover in a financial year exceeds ten crore** rupees vide Notification no. 17/2022-CT dated 1st August 2022 by amending Notification no. 13/2020-CT dated 21st March 2020.

### **Phased Implementation of E-Invoicing requirement till date**



### 3. Extension of Time Limit for various compliances

The time limit for the following compliances in respect of particular financial year has been extended and fixed as 30th November of the next financial year, or furnishing of relevant annual return, whichever is earlier:

Provision of CGST Act	Corresponding compliance requirements
Section 16(4)	Claim of ITC in respect of any invoice or debit note in the return
Section 34(2)	Declaration of details of credit notes in the return
Proviso to Section 37(3)	Rectification of particulars in details of outward supplies
Proviso to Section 39(9)	Rectification of particulars furnished in a return
Proviso to Section 52(6)	Rectification of particulars in the statement furnished by a TCS operator

Government has clarified certain doubts by issuing a press release dated 4th October 2022 revolving around the above-mentioned issues by specifying:

- Extended timelines shall be applicable to the compliances for FY 2021-22 onwards.
- Above mentioned compliances in respect of a FY shall be carried out in relevant return or statement filed **upto 30th November 2022** instead of date of filing of return or statement **for the month of November 2022**.

### 4. Expiry of validity of exemption available on International Outbound Freight

CBIC vide Notification no. 02/2018-Integrated Tax (Rate) released on 25th January 2018 prescribed the exemptions till 30th September 2018 in relation to the following outbound international freight, which was further extended till 30th September 2022 as per the Notification no. 07/2021-Integrated Tax (Rate) dated 30th September 2021:

- a) Service by way of transportation of goods by aircraft from India to a place outside India.
- b) Service by way of transportation of goods by a vessel from India to a place outside India.

Subsequent to expiry of validity of said notification and with no further extension, i.e. 1st October 2022, the following transaction would be taxable under GST:

- a) Ocean export freight billed to customer in India to be charged at the GST rate of 5%.
- b) Air export freight billed to customer in India to be charged at the GST rate of 18%.

Additionally, in case of outbound shipments where both the parties i.e. the location of supplier and recipient is in India, the place of supply shall be determined as per section 12(8) of the IGST Act, 2017.

With effect from 1st February 2019, new proviso had been inserted in section 12(8) of the IGST Act that states, "Provided that where the transportation of goods is to be place outside India, the place of supply shall be the place of destination of such goods". So as per proviso of section 12(8) read with section 7(5) of IGST Act, the place of supply will be subject to IGST with place of supply as outside India.

## 5. Amendment in Section 29 of CGST Act, 2017

As per sec 29 of the CGST Act, the proper officer may cancel the registration of a person from such date, including retrospective date, as he may deem fit, if returns are not filed as:

Return Type	Earlier	Amended
Composition	Returns for three consecutive tax periods	The return for a FY beyond three months from the due date of furnishing the said return
Regular	Returns for three consecutive tax periods	Such continuous tax period as may be prescribed (for a continuous period of 6 months as per Rule 21 of CGST Rules)
QRMP	Continuous period of six months	Such continuous tax period as may be prescribed (for a

		continuous period of two tax periods as per Rule 21 of CGST Rules)
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## 6. Amendment in Section 37 of CGST Act, 2017

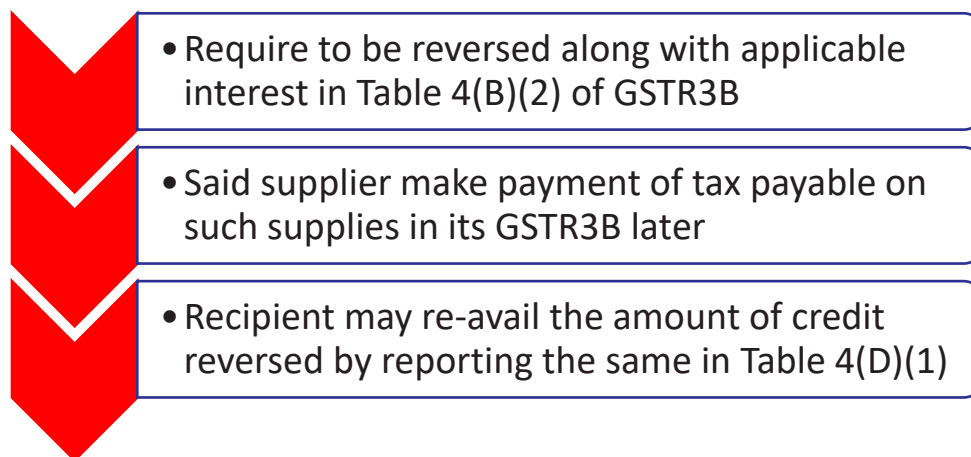
### Section 37(4) inserted vide Section 103 of Finance Act, 2022

A registered person shall not be allowed to furnish the GSTR1 if GSTR1 for any of the previous tax periods have not been furnished by him.

## 7. Substitution of Section 41 of CGST Act, 2017

### Section 41 substituted vide Section 106 of Finance Act, 2022

A registered person shall be entitled to avail credit of eligible input tax on **Self - Assessment** basis. **However**, ITC availed in respect of the supplies in respect of which tax payable thereon has not been paid by the supplier, the following process shall be followed:



## 8. Amendment in Section 54 of CGST Act, 2017

Time limit for making an application under section 54 by a specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, in respect of the inward supplies of goods or services or both to it, has been extended to **two years** from **six months currently**, from the last day of the quarter in which such supply was received.