UNION BUDGET 2025-26

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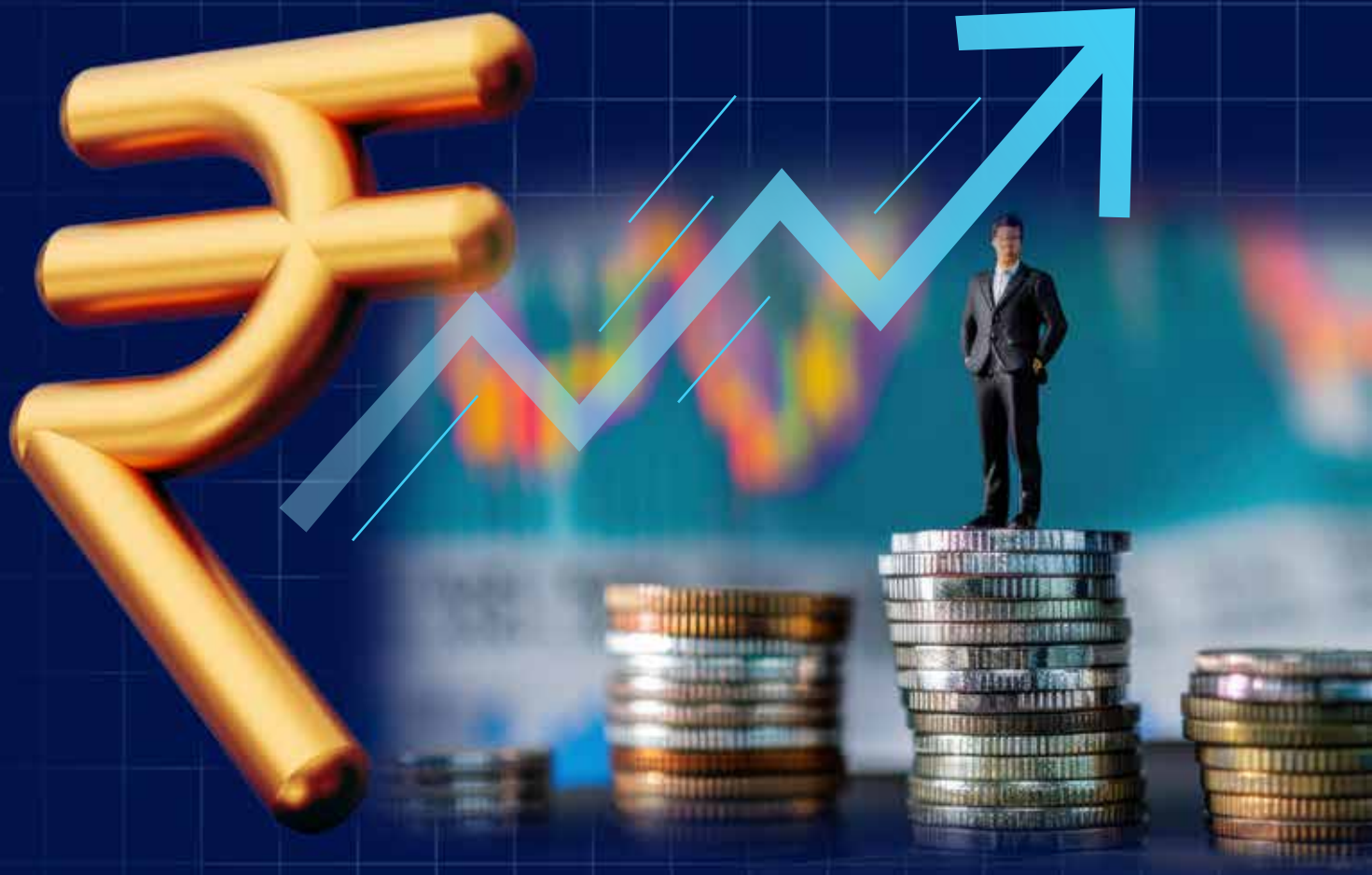

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Glimpse of Budget 2025

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A. Input Service Distributor:

- The definition of 'Input Service Distributor' as provided in sub-section (61) of Section 2 of CGST Act'2017 was substituted through the Finance Act'2024 to give effect to the fact that an ISD can distribute the credit of invoices in respect of services which are liable to tax under Reverse Charge Mechanism and accordingly reference of Section 9(3) and 9(4) of CGST Act'2017 was inserted.

  The definition of "Input Service Distributor" has been further proposed to be amended in order to include interstate Reverse Charge Mechanism (RCM) transactions under ISD by way of taking into consideration invoices issued under Section 5(3) and Section 5(4) of the IGST Act, 2017, as part of the ISD Mechanism.

  The substituted definition has been provided below:

  > *"(61) "Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9* ***of this Act or under subsection (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017****, for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20;".*

  The earlier definition read as follows:

  > *"(61) "Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20;".*

- **Amendment in Section 20 i.e. Manner of distribution of credit by Input Service Distributor**

  To explicitly incorporate interstate Reverse Charge Mechanism (RCM) transactions under ISD, references to supplies taxable under sections 5(3) and 5(4) of the IGST Act, 2017, will be included in the relevant provisions.

  Commentary: The Finance Bill 2025 seeks to explicitly include interstate Reverse Charge Mechanism (RCM) transactions under the ISD framework, ensuring clarity on the treatment of supplies taxable under Sections 5(3) and 5(4) of the IGST Act, 2017. A corresponding amendment is also proposed under Section 20 of the CGST Act, 2017, which governs the distribution of credit by the Input Service Distributor.

  (Clause 116(i) and 120 of Finance Bill'2025 applicable from 1st April 2025)

B. Taxability of Vouchers:

Taxability of voucher was subject matter of discussion since inception of GST. The Madras High Court in the case of ***Kalyan Jeweller vide Writ Petition No. 5130 of 2022 dated 27.11.2023***, has provided clarity on the levy of GST against gift vouchers. The High Court clarified that a 'gift voucher' is an 'actionable claim' (enforceable debt), not constituting a supply of goods or services under Schedule III. The High Court here, further disagreed with the stand taken by AAAR and rejected the notion that the 'time of supply' is exclusively the date on which the gift voucher was issued. Instead, it held that the tax liability is determined based on the inherent nature of the transaction. It clarified that in instances where the gift voucher pertains to identified goods, tax liability would arise at the time of issuance of the gift voucher, whereas in all other cases, the date of redemption of such voucher would be construed in terms of GST provisions.

Similar judgment was passed by the Karnataka High Court in the case of M/s PREMIER SALES PROMOTION PVT LIMITED v. THE UNION OF INDIA & ORS vide W.P No.5569 OF 2022 dated 16.01.2023.

Recently, CBIC vide Circular No. 243/37//2024-GST dated 31st December'2024 clarified various issued relating to the treatment of vouchers. In has been clarified through the said circular that voucher is just an instrument which creates an obligation on the supplier to accept it as consideration or part consideration and the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services.

Thus, to eliminate any ambiguity in the treatment of vouchers, the Finance Bill 2025 proposes the omission of Sections 12(4) and 13(4) of the CGST Act, 2017.

Commentary: In its 55th meeting, the GST Council recommended that transactions involving vouchers should not be treated as a supply of goods or services, as vouchers serve as a means of exchange and are not considered taxable supplies until redeemed for goods or services.

To eliminate any ambiguity regarding the taxability of vouchers, it is proposed to omit the provisions related to the time of supply of vouchers under Sections 12(4) and 13(4) of the CGST Act.

(Clause 117 and 118 of Finance Bill'2025 effective from the date yet to be notified)

C. Pre-Condition to reverse the Input Tax Credit by the registered recipient on issuance of Credit Note:

The Finance Bill 2025 proposes to amend the proviso to Section 34(2) of the CGST Act, 2017 to explicitly mandate the reversal of input tax credit (ITC) by the registered recipient, if availed, for a credit note to reduce the supplier's tax liability.

Additionally, it seeks to remove the condition requiring that the incidence of interest on the supply has not been passed on, for the purpose of reducing the supplier's tax liability in respect of the credit note.

Section 34(2) of CGST Act, post the amendment proposed by the Finance Bill'2025 reads as follows:

"34 (2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than [the thirtieth day of November][5] following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the––

(i) input tax credit as is attributable to such a credit note, if availed, has not been reversed by the recipient, where such recipient is a registered person; or

(ii) incidence of tax on such supply has been passed on to any other person, in other cases."

Before the amendment the Section 34(2) read as follows:

"Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than [the thirtieth day of November][5] following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person."

Commentary: The amendment introduced by the Finance Bill 2025 imposes two conditions for a supplier to avail the benefit of reduced output tax liability on issuing a credit note.

The supplier must ensure that the registered recipient has reversed the input tax credit (ITC) related to the credit note. Additionally, the supplier must confirm that the tax burden on the supply has not been passed on to another person.

(Clause 121 of Finance Bill'2025 effective from a date yet to be notified)

D. Track & Trace Mechanism:

- **Insertion of Section 148A**

A new Section 148A is proposed to be inserted to the CGST Act, 2017, introducing a "Track & Trace Mechanism."

This system mandates the use of a Unique Identification Marking (UIM) on specified goods or their packaging, allowing for end-to-end monitoring across the supply chain. The UIM will include key details such as the date and location of manufacture, production shift, machine used, product description, quantity, maximum retail price, and the intended market for sale. By scanning the UIM, authorities can trace the movement of goods from the point of manufacture to the end consumer, thereby reducing instances of tax evasion and ensuring compliance with GST regulations.

The relevant section has been produced below:

1) *The Government may, on the recommendations of the Council, by notification, specify, –*

   a) *the goods;*
   b) *persons or class of persons who are in possession or deal with such goods, to which the provisions of this section shall apply.*

2) *The Government may, in respect of the goods referred to in clause (a) of sub-section (1), ––*

   a) *provide a system for enabling affixation of unique identification marking and for electronic storage and access of information contained therein, through such persons, as may be prescribed; and*
   b) *prescribe the unique identification marking for such goods, including the information to be recorded therein.*

3) *The persons referred to in sub-section (1), shall, ––*

   a) *affix on the said goods or packages thereof, a unique identification marking, containing such information and in such manner;*
   b) *furnish such information and details within such time and maintain such records or documents, in such form and manner;*
   c) *furnish details of the machinery installed in the place of business of manufacture of such goods, including the identification, capacity, duration of operation and such other details or information, within such time and in such form and manner;*

d) *pay such amount in relation to the system referred to in sub-section (2), as may be prescribed.".*

- Furthermore, **Clause 116A** of the Finance Bill, 2025, defines "Unique Identification Marking" as:

  Unique identification marking" means the unique identification marking referred to in clause (b) of sub-section (2) of section 148A and includes a digital stamp, digital mark or any other similar marking, which is unique, secure and non-removable.

  Commentary: Earlier through 55th Council Meeting held on 21.12.2024, the Council has recommended for insertion of the provision for Track & Trace Mechanism. These systems ensure transparency in goods movement across the supply chain, helping to monitor and verify the origin, transit, and sale of products.

  The introduction of the Unique Identification Marking under the GST framework represents a significant step towards enhancing supply chain transparency and strengthening tax compliance in India.

- **Insertion of Section 122B**

  The proposed insertion of Section 122B into the Central Goods and Services Tax (CGST) Act, 2017, introduces specific penalties for non-compliance with the Track and Trace Mechanism. According to this provision, failure to adhere to the Track and Trace requirements for specified goods will result in a penalty of ₹1,00,000 or 10% of the tax payable, whichever is higher.

  The relevant section has been produced below:

  "122B. Notwithstanding anything contained in this Act, where any person referred to in clause (b) of sub-section (1) of section 148A acts in contravention of the provisions of the said section, he shall, in addition to any penalty under Chapter XV or the provisions of this Chapter, be liable to pay a penalty equal to an amount of one lakh rupees or ten percent of the tax payable on such goods, whichever is higher.".

  Commentary: This measure aims to enhance transparency and ensure accurate tax reporting throughout the supply chain. It's essential for businesses dealing with specified commodities to familiarize themselves with these requirements to avoid substantial penalties.

(Clause 116(iii), 126 and 127 of Finance Bill'2025 effective from a date yet to be notified)

E. Amendment in Schedule III with respect to activities or transactions which shall be treated neither as a supply of goods nor a supply of services:

The Finance Bill 2025 proposes to insert Clause (aa) in Paragraph 8 of Schedule III, effective retrospectively from July 1, 2017, clarifying that transactions involving goods warehoused in a Special Economic Zone (SEZ) or Free Trade Warehousing Zone (FTWZ) before their clearance for export or supply to the Domestic Tariff Area (DTA) will not be treated as a supply of goods or services under GST and will not attract GST.

Additionally, Explanation 3 has been inserted to specify that the terms "Special Economic Zone," "Free Trade Warehousing Zone," and "Domestic Tariff Area" will carry the same meanings as defined in Section 2 of the Special Economic Zones Act, 2005.

It is also specified that no refund will be issued for any tax already collected on such transactions, which would not have been collected had Clause (aa) been in force at all relevant times.

Commentary: This amendment aligns the treatment of goods warehoused in SEZs or FTWZs with the existing GST provisions for goods stored in customs bonded warehouses, ensuring uniformity in tax treatment.

Currently, Clause 8(a) of Schedule III states that the supply of warehoused goods to any person before clearance for home consumption is neither considered a supply of goods nor a supply of services. In this context, the supply of warehoused goods falls into two categories:

1. Clearance from bonded warehouses to vessels
2. Clearance from non-bonded warehouses to vessels

(Clause 128 of of Finance Bill'2025 effective from a date yet to be notified)

F. Amendment in Section 17(5) to replace phrase "plant or machinery" with "plant and machinery", retrospectively, with effect from 1 July 2017:

The Finance Bill 2025 proposes to replace the term "plant or machinery" with "plant and machinery" in Section 17(5) of the CGST Act, 2017.

In its 55th meeting, the GST Council identified the phrase "plant or machinery" as a drafting error and recommended its correction, with retrospective effect from July 1, 2017.

Rationale for the proposed amendment: The amendment aims to clarify the legislative intent behind Section 17(5)(d) of the CGST Act, which restricts Input Tax Credit (ITC) on certain items, including plant and machinery.

The original wording, "plant or machinery," created ambiguity about whether ITC applies to both plant and machinery together or only to one of them. To remove this confusion, the amendment replaces it with "plant and machinery," ensuring both are treated as a single unit.

Additionally, the explanation at the end of Section 17 of the CGST Act explicitly defines "plant and machinery" for legal purposes. This amendment aligns the language of Section 17(5)(d) with this definition, promoting consistency in interpretation across the Act.

- **Impact on the judgment passed by the Supreme Court in Safari Retreats Case**

  In the Safari Retreats case, the Supreme Court addressed the eligibility of Input Tax Credit (ITC) on immovable property under Section 17(5)(d) of the CGST Act, particularly commercial properties like shopping malls meant for leasing/renting. The Court rejected a narrow interpretation of the term "plant" as used in the bracketed portion of Section 17(5)(d), which typically excludes land, buildings, or civil structures. Instead, it extended the possibility that a building could qualify as a "plant" if it serves a functional purpose crucial to the business activity, such as renting or leasing. A building that functions as a plant can be excluded from the disallowance of ITC under Section 17(5)(d), as it would fall under the exception for plant or machinery. This judgment has huge implications for the real estate and construction sectors, particularly for builders who previously faced restrictions on claiming ITC for construction-related expenses.

  The amendment also seeks to insert an Explanation clarifying that it is made notwithstanding any judgment, decree, or order from any court or other

authority to the contrary. As a result, the impact of such judgments will be nullified based on this amendment.

(Clause 119 of Finance Bill'2025 effective from 1st July'2017)

G. Invoice Management System:

The Invoice Management System (IMS) is an optional facility introduced on the GST Portal from October 2024, which enables recipients to accept, reject, or keep invoices/records pending the invoices/records saved/furnished by the supplier in GSTR-1/1A/IFF. Based on the action taken by the recipient on the IMS, system will generate the GSTR 2B of the recipient on 14th of subsequent month.

The Taxpayer can accept/reject/keep pending the invoice/record on IMS after due verification from his accounts. The ITC for the rejected record will not be available to the recipient in the GSTR 2B. Further, input tax credit is being auto - populated in GSTR 3B of the taxpayer on the basis of portal-based input tax credit made available in his GSTR 2B.

Thus, only the accepted invoices by the recipients would become part of their GSTR-2B as their eligible ITC, due to this manual intervention by the taxpayer such a statement cannot be said to be auto generated statement as per section 38 thus the proposed amendment in the act.

Thus, the substitution in section 38 for the word "Auto Generated Statement" word "statement" is proposed to be substituted.

(Clause 122 of Finance Bill' 2025 effective from a date yet to be notified)

H. Pre-deposit for filing an appeal:

The Finance Bill'2025 has proposed pre-deposit for filing of appeals under GST for cases where the dispute is only regarding penalties and not the actual tax demand.

The proposed amendment is tabulated below:

Appellate Level	Current	Proposed
Appellate Authority	25% of the Penalty Amount under sub-section (3) of section 129.	10% of the Penalty Amount

	Pre-deposit not required, if penalty is imposed under other provision i.e. other than sub-section (3) of section 129.	
Appellate Tribunal	Law silent on the same	10% of the Penalty Amount

(Clause 124 and 125 of Finance Bill'2025 to be effective from a date yet to be notified)

I. Miscellaneous:

- **Amendment in Definition of "Local Authority":**

The GST Council has proposed the following changes to Section 2(69) of the CGST Act, 2017 to provide greater clarity regarding the terms Local Fund and Municipal Fund.

- Amendment to Clause (c) of Section 2(69) - Currently, Section 2(69) defines "local authority". In the said definition under clause (c) the word 'fund' shall be inserted after the word 'municipal'.
  The new definition reads as follows:

  "(69) "local authority" means–
  (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;
  (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;
  (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal ***fund*** *or local fund;*
  (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006 (41 of 2006);
  (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
  (f) a Development Board constituted under article 371 and article 371J of the Constitution; or
  (g) a Regional Council constituted under article 371A of the Constitution;"

- Insertion of Explanation - An Explanation will be added under clause (c) of Section 2(69) to define the terms Local Fund and Municipal Fund explicitly.
  Explanation. –– For the purposes of this sub-clause–
  (a) "local fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Panchayat area and vested by law with the powers

to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called;

(b) "municipal fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Metropolitan area or Municipal area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called.'

(Clause 116(ii) of Finance Bill' 2025 effective from a date to be notified)

- **Amendment in Section 39(1):**

The Finance Bill'2025 has proposed to amend sub-section (1) of Section 39 to prescribe certain conditions and restrictions adhering to which the return has to be filed by the registered person.

The relevant amendment reads as follows:

"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 and subject to such conditions and restrictions****, 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."

Commentary: The Finance Bill 2025 proposes to amend sub-section (1) of Section 39 to specify certain conditions and restrictions that must be followed by the registered person when filing the return.

(Clause 123 of Finance Bill'2025 effective from a date yet to be notified)

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