



PUBLIC MEETING ON UNION BUDGET-2021

Organized by

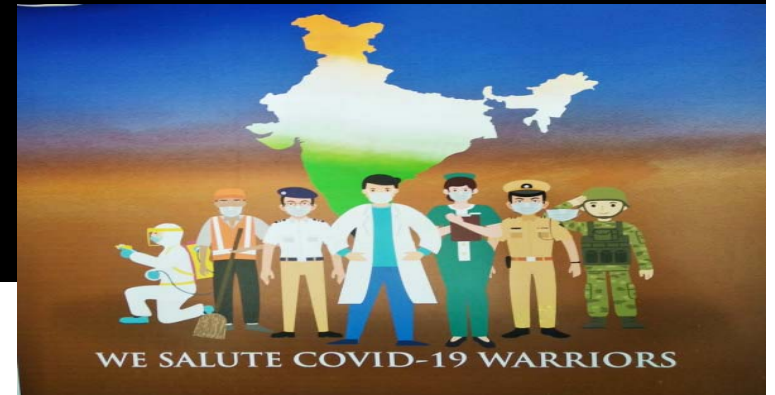
MULUND CA CPE STUDY CIRCLE OF WIRC

6th February, 2021



Presented by
RAJIV LUTHIA

GRATITUDE TO COVID WARRIORS



- India endured with COVID-19 through 2020 is “SUI GENERIS” (UNIQUE).
- PM announced Pradhan Mantri Garib Kalyan Yojna (PMGKY) within 48 hours of the 3- week lockdown to feed free grains to 800 million people.
- Heartfelt gratitude to essential suppliers, health workers, Annadatas, Police and armed forces for working relentlessly in the crucial months with the sword of virus hanging over their lives.

INDIA FIGHTS BACK TO RISE



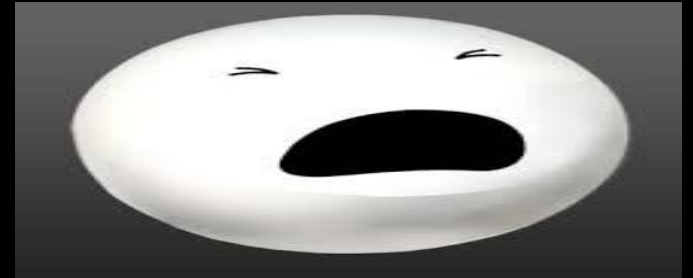
- ***“Faith is the bird that feels the light and sings when the dawn is still dark”.....Rabindranath Tagore***
- India registered currently lowest death rate with 2 vaccines in operation to safeguard citizens.
- The Atmanirbhar Bharat Budget 2021-22 based on 6 pillars:
 - Health and well – being.
 - Physical and financial capital & Infrastructure.
 - Inclusive development for Aspirational India.
 - Reinvigorating Human Capital.
 - Innovation and R & D.
 - Minimum Government & Maximum Governance.

YAYYYYYY!!!!.....



- Interest on delayed payment of GST on net tax liability.....**Retrospectively**
- Removal of GST Audit , reduction in compliance cost.
- Self – Certified Annual Return by assessee.

NAAAAAA.....



- Supply of goods/ services by Societies, clubs etc. to members treated as “SUPPLY” and made liable to GST.....retrospectively
- Availment of ITC only after it appears in GSTR 2A
- Penalties enhanced and appeal filing made more costlier in certain cases.
- Provisional attachment scope widened.
- Recovery of tax on basis of supply declared in GSTR1

**CHANGES EFFECTIVE FROM
DATE TO BE NOTIFIED
(SECTION 99 TO 114 OF BILL – GST
PROVISIONS)**

SCOPE OF “SUPPLY” WIDENED

- New clause (aa) along with explanation Inserted in Section 7(1) of The CGST Act, 2017....**retrospectively** from 1st July, 2017.
- Activity or transaction provided by a person, **other than an individual**, to its members/constituents or **vice versa**, for cash, deferred payment or other valuable consideration shall be included in the definition of “Supply”.
- Explanation proposes to clarify that “the person and its members/constituents shall be deemed to be separate persons/entity.”

SCOPE OF “SUPPLY” WIDENED

- Consequential amendment in Schedule II of section 7 Entry 7 omitted retrospectively.
 - Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.
- Transaction/activity between persons (other than individual) such as societies, clubs, association of persons etc. and its members **intended** to covered in the definition of “Supply”, and **made leviable to GST.**
- **Maintenance charges paid by member to society?**
- **Membership fees paid to club or association?**

SCOPE OF “SUPPLY” WIDENED

- Principle of Mutuality nullified as laid down in the following decisions-
- Hon’ble Supreme court in case of M/s Calcutta Club Ltd – SC (2019-VIL- 34-SC)
- Hon’ble Jharkhand High Court in case of Ranchi Club Ltd Vs. Chief Commissioner (2012) 26 STR 401

INPUT TAX CREDIT- RESTRICTION



- New clause (aa) inserted in Section 16(2) .
- Section 16(2) lays 4 conditions for eligibility to take ITC.
- **Additional condition**..... ITC can be availed only if the details have been furnished by the supplier in Form GSTR-1 and such details appear in GSTR-2A of the recipient.

INPUT TAX CREDIT-RESTRICTION

- Notification No. 49/2019 as amended..... CGST Rule 36(4) laid down the condition for availment of ITC, which is restricted to 5% where details of invoice do not appear in GSTR-2A of the recipient.
- The amendment proposes stringent conditions in ACT to avail ITC .
- Nullify the effect of Rule 36(4).
- Original scheme of filling returns GSTR 1,2,3 etc. not operationalised till date?..... Section 43A.
- Concept of provisional ITC in section 43 ??????

INPUT TAX CREDIT-RESTRICTION

- Doctrine of Impossibility
- Section 16(2)(aa) Vs. Section 16(4)....ITC to be availed within time limit of furnishing return under section 39 for end of financial year.

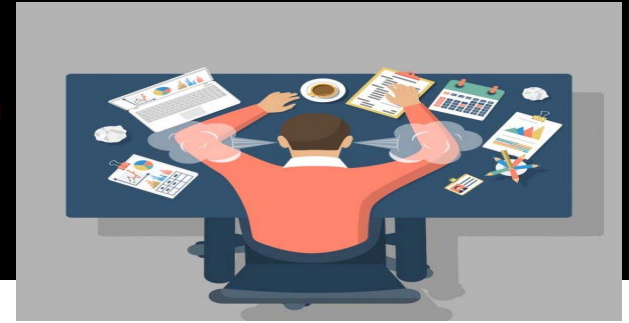


INPUT TAX CREDIT-RESTRICTION

- Govt on one hand recover interest on delayed payment of GST & late fees for delayed filling of GSTR1 & GSTR 3B from vendors....so compensated for delay
- On the other end the ITC not granted to assessee till appearing in GSTR 2A..... **in nutshell govt. recovering interest without any money blocked in taxes.**
- Working capital hardship for business community
- Business community to monitor the tax compliances of their every vendor for availing ITC claim..... **PAINFUL JOB AND MORE COMPLIANCE COST**

REMOVAL OF GST AUDIT....

BOON OR CURSE ???????



- Section 35(5)....Every registered person whose turnover exceeds the prescribed limit to get their accounts audited by CA/CMA and submit audited accounts with reconciliation statement as prescribed u/s 44(2) of the Act.
- The said section is proposed to be omitted
- The requirement to audit accounts by specific professional is proposed to be scrapped.

REMOVAL OF GST AUDIT... BOON OR CURSE ???????

- 39th GST council meeting discussion...
 - Negative feed back due to GST portal hiccups causing hardship in capturing data & filing annual return and reconciliation statement
 - Due-date for Annual return and Audit report for F.Y 2017-18 extended 7 times
 - Cost of compliance is very high for small taxpayers since process require hiring of professionals

■ Collection of additional taxes
In crores

Particulars	Tax in Cash	Interest
GSTR 9	2079 cr.	576 cr.
GSTR 9C	261 cr.	81 cr.

- **Audit for F.Y 2020-21???.....Clarification**



Bano

ANNUAL RETURN- “AATMANIRBHAR”?????



- Section 44 (1)..... every registered person (except ISD, Casual Taxable person, Non-resident taxable person or persons paying tax u/s 51 or 52) Furnish Annual Return for every FY before the prescribed date.
- Section 44(2) Registered person to get audited accounts as per section 35(5) to furnish annual return, audited accounts and reconciliation statement.... Certified by specified professional.
- Whole Section Substituted.... “registered person to file annual return with **SELF – CERTIFICATION**”.

ANNUAL RETURN- “ATMANIRBHAR”?????



- The registered person is required to file annual return, **which may include** self-certified reconciliation statement reconciling the value of supplies declared in return with **audited annual financial statement.**
- **In case accounts not liable for audit ??????**

INTEREST ON NET LIABILITY



- Section 50(1).... Interest on delayed payment of tax. Notification no. 63/2020- CT dated 25th August, 2020 proviso w.e.f. 1st September, 2020... **liability of interest on GST liability paid by cash only.**
- Proviso proposed to be retrospective w.e.f. 1st July,2017 ... **major relief to assessee.**
- Interest on delayed payment of tax On net liability i.e. payment by debiting CASH LEDGER ONLY.
- **However, this is not applicable if return filed after commencement of proceedings u/s 73 or 74.**

SEIZURE & CONFISCATION TO BE SEPARATE PROCEEDINGS



- Section 73 & 74 provide for issuance of SCN for demand and recovery of tax , erroneous refund or incorrect availment/utilization of ITC.
- Clause II of Explanation I Notice issued to multiple persons for same proceeding and such proceeding concluded against main person u/s 73 or 74, then proceeding against all other person liable for penalty u/s 122,125,129 & 130.... **Deemed to be concluded.**

SEIZURE & CONFISCATION TO BE SEPARATE PROCEEDINGS

- Reference of “Section 129 & 130” proposed to be omitted thereby making Seizure, detention & confiscation of goods and conveyance in transit a separate proceeding from recovery of taxes.
- E.g. supply made by assessee without invoice & transporter carries the said consignment.... Intercepted in transit by department officers.....issued notice to both for tax, interest & penalty.....the assessee paid tax, interest & penalty.....the proceeding against GTA ????

RECOVERY OF TAX

- Section 75 (12).....self-assessed tax according to return u/s 39unpaid in whole or part, shall be recovered u/s 79 as arrears of land revenue.
- Explanation inserted defining “Self – Assessed Tax”..... Includes tax payable on outward supplies as per GSTR-1 but not included in GSTR-3B.
- Consequently, authorities can initiate recovery even where the tax liability on outward supplies disclosed in GSTR-1 is more than GSTR-3B.



SCOPE OF PROVISIONAL ATTACHMENT INCREASED

- Section 83 provides for protecting the interest of revenue by order in writing to attach provisionally any property including bank account belonging to taxable person during pendency of proceeding u/s 62, 63, 64, 67, 73 & 74.
- Above section substituted to increase the scope by including the proceedings covered under chapter XII, XIV & XV:
 - Chapter XII – Assessment
 - Chapter XIV – Inspection, Search, Seizure & Arrest
 - Chapter XV – Demands & Recovery

Since initiation of enquiry proceedings

APPEALS



- Proviso to Section 107 (6) proposed to be inserted.
- An appeal against order u/s 129(3) can be filed only after payment of 25% (**earlier 10%**) of the penalty....

EASE OF DOING BUSINESS???

- Section 129 ...proposed to be amended provides for levy penalty on the person who transports or stores goods in transit in contravention of the provisions of the Act.....**TAX REMOVED**

INCREASE IN PENALTY FOR RELEASE OF DETAINED & SEIZED GOODS

- Section 129(1) proposed to be amended to **remove tax and increase the penalty.**
- If any person transports/stores goods in contravention of the provisions , such goods are liable to detention/seizure.
- Section 129(2)omitted...which provided for release of seized goods on provisional basis upon furnishing adequate security. Section 129(1) (C)still operative.....release of seized goods/conveyance on furnishing security equal to the amount payable.

INCREASE IN PENALTY FOR RELEASE OF DETAINED & SEIZED GOODS

No.	Scenario	Existing Penalty	Proposed Penalty
1.	The owner of the goods comes forward for payment of such tax and penalty .	<p>Exempted goods: 2% of value of goods or Rs.25,000 whichever is less</p> <p>Other Goods: Tax and penalty equal to 100% of tax payable on such goods</p>	<p>Exempted goods: 2% of value of goods or Rs. 25,000 whichever is less</p> <p>Other Goods: penalty equal to 200% of tax payable on such goods</p>
2.	The owner of the goods does not come forward for payment of tax and penalty	<p>Exempted Goods: 5% of Value of goods or Rs. 25,000 whichever is less</p> <p>Other Goods: Tax and penalty equal to 50% of the value of goods reduced by tax paid thereon</p>	<p>Exempted goods: 5% of value of goods or Rs. 25,000 whichever is less</p> <p>Other Goods: Penalty equal to 50% of the value of goods or 200% of tax payable on such goods</p>

INCREASE IN PENALTY FOR RELEASE OF DETAINED & SEIZED GOODS

- Section 129 (3) Specify the duration of 7 days for issuing notice for detention & seizure and for passing an order thereafter.
- Section 129(6) ... power to authority to dispose/ sale the seized goods/conveyance where penalty is not paid within 15 days from receipt of order. If transporter pays penalty or Rs.1 lakh , whichever is lower , then conveyance to be released.

DIFFERENTIATION OF DETENTION/SEIZURE FROM CONFISCATION PROCEEDINGS

- Section 130(1) ... delinking the provisions relating to confiscation of goods/conveyance and levy of penalty from the proceedings u/s 129 relating to detention, seizure and release of goods/conveyance in transit.

INCREASE IN POWER TO COLLECT STATISTICS

- Section 151.... Gives additional power to the Jurisdictional commissioner to call for **information** from any person for any matter in relation to the act.
- Before such amendment, the power to **collect statistics** was subject to issuance of notification.

BAR ON DISCLOSURE OF INFORMATION



- Section 152 No information obtained under section 150 (Information return) or 151 shall be used for purpose of any proceeding without giving oppournity of being heard to concern person.

DEFINITION OF ZERO RATED SUPPLY RESTRICTED

- Section 16 defines “Zero Rated Supply”.
- Supply of goods/services or both to unit of SEZ/SEZ developer is zero rated.
- Definition restricts ...only supply for authorised operations to be treated as zero rated supply.

DEFINITION OF ZERO RATED SUPPLY RESTRICTED

- Section 16(3)....refund claim by registered person making “Zero rated supply” for unutilized ITC or IGST paid on zero rated supplies.
- Restriction on **payment of IGST** on the Zero-rated supply only to notified class of taxpayer or notified supply of goods or services.
- FOREX remittance linked to export of goodsregistered person making zero rated supply of goods non-realization of sale proceed within the prescribed time liable to deposit the refund along with interest u/s 50.

DEFINITION OF ZERO RATED SUPPLY RESTRICTED

- What if Forex is received after time limit prescribed under FEMA??
- Govt. need to enact rules and clarify through circular

RECENT IMPORTANT AMENDMENTS

RULE 21A – SUSPENSION OF REGISTRATION

- New Sub-Rule 2A inserted

Where, a comparison of the returns furnished by a registered person under section 39 with

(a) the details of outward supplies furnished in **FORM GSTR-1**; or

(b) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their **FORM GSTR-1**,

or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in **FORM GST REG-31**

RULE 21A – SUSPENSION OF REGISTRATION

- Communication shall be send on E-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.
- Suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

RULE 59 (5) - Form & Manner of furnishing details of outward supplies

- *Notwithstanding anything contained in this rule*
 - *(a) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1**, if he has not furnished the return in **FORM GSTR-3B** for preceding two months*
 - *(b) a registered person, required to furnish return for every quarter under the proviso to 39(1), shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period*

RULE 59 (5) - Form & Manner of furnishing details of outward supplies

- *Notwithstanding anything contained in this rule*
 - *(c) a registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of 99% of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period.*

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

Notification 81, 82, 84 & 85/2020 – CT dated 10th Nov, 2020

Eligibility for the Scheme

- In terms of notification No. 84/2020- CT, dated 10.11.2020, a registered person who is required to furnish a return in FORM GSTR-3B, and who has an aggregate turnover of up to **5 crore rupees in the preceding financial year**, is eligible for the QRMP Scheme
- This new Scheme will be effective from 01st January, 2021
- In case the aggregate turnover exceeds Rs. 5 crore during any quarter in the current FY, the registered person shall not be eligible for the Scheme from the next quarter.

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

Exercising option for QRMP Scheme

- Facility to avail the Scheme on the common portal would be available throughout the year
- In terms of rule 61A of the CGST Rules, 2017, a registered person can opt in for any quarter from first day of second month of preceding quarter to the last day of the first month of the quarter.
- In order to exercise this option, the registered person must have furnished the last return, as due on the date of exercising such option

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

Exercising option for QRMP Scheme

- **For example**: A registered person intending to avail of the Scheme for the quarter 'July to September' can exercise his option during 1st of May to 31st of July.
- If he is exercising his option on 27th July for the quarter (July to September), in such case, he must have furnished the return for the month of June which was due on 22/24th July.
- Registered persons are not required to exercise the option every quarter. Where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the said option.

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

Monthly Payment of Tax

- The registered person under the QRMP Scheme would be required to pay the tax due in each of the first two months of the quarter by depositing the due amount in FORM GST PMT-06, by the 25th of the month succeeding such month.
- While generating the challan, taxpayers should select “Monthly payment for quarterly taxpayer” as reason for generating the challan.
- The said person can use any of the following two options provided below for monthly payment of tax during the first two month

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

■ Fixed Sum Method

- A facility is being made available on the portal for generating a pre-filled challan in FORM GST PMT-06 for an amount equal to 35% of the tax paid in cash in the preceding quarter where the return was furnished quarterly; or equal to the tax paid in cash in the last month of the immediately preceding quarter where the return was furnished monthly

For Example

- In case the last return filed was on quarterly basis for Quarter March, 2021

Tax paid in Cash in Quarter (January - March, 2021)		Tax required to be paid in each of the months – April and May, 2021	
CGST	100	CGST	35
SGST	100	SGST	35
IGST	500	IGST	175

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

For Example

- In case the last return filed was on monthly for tax period March, 2021

Tax paid in Cash in March, 2021		Tax required to be paid in each of the months – April and May, 2021	
CGST	50	CGST	50
SGST	5	SGST	50
IGST	80	IGST	80

Monthly tax payment through this method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month. A complete tax period means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

SELF ASSESSMENT METHOD

- In this method the registered person can pay the tax due by considering the tax liability on inward and outward supplies and the input tax credit available, in FORM GST PMT-o6.
- In order to facilitate ascertainment of the ITC available for the month, an auto-drafted input tax credit statement has been made available in FORM GSTR2B, for every month.
- The said registered person is free to avail either of the two tax payment method above in any of the two months of the quarter

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

SELF ASSESSMENT METHOD

- In case the balance in the electronic cash ledger and/or electronic credit ledger is adequate for the tax due for the first month of the quarter or where there is nil tax liability, the registered person may not deposit any amount for the said month
- Similarly, for the second month of the quarter, in case the balance in the electronic cash ledger and/or electronic credit ledger is adequate for the cumulative tax due for the first and the second month of the quarter or where there is nil tax liability, the registered person may not deposit any amount

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

SELF ASSESSMENT METHOD

- Any claim of refund in respect of the amount deposited for the first two months of a quarter for payment of tax shall be permitted only after the return in FORM GSTR-3B for the said quarter has been furnished. Further, this deposit cannot be used by the taxpayer for any other purpose till the filing of return for the quarter

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

- Quarterly filing of Form GSTR 3B
 - Registered persons would be required to furnish FORM GSTR-3B, for each quarter, on or before 22nd or 24th day of the month succeeding such quarter
 - In FORM GSTR-3B, they shall declare the supplies made during the quarter, ITC availed during the quarter and all other details required to be furnished therein.
 - The amount deposited by the registered person in the first two months shall be debited solely for the purposes of offsetting the liability furnished in that quarter's FORM GSTR-3B

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

- Quarterly filing of Form GSTR 3B
 - However, any amount left after filing of that quarter's FORM GSTR-3B may either be claimed as refund or may be used for any other purpose in subsequent quarters
 - In case of cancellation of registration of such person during any of the first two months of the quarter, he is still required to furnish return in FORM GSTR-3B for the relevant tax period

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

- Applicability of Interest

For registered person making payment of tax by opting Fixed Sum Method

- No interest would be payable in case the tax due is paid in the first two months of the quarter by way of depositing auto-calculated fixed sum amount above by the due date
- In other words, if while furnishing return in FORM GSTR-3B, it is found that in any or both of the first two months of the quarter, the tax liability net of available credit on the supplies made /received was higher than the amount paid in challan, then, no interest would be charged provided they deposit system calculated amount for each of the first two months and discharge their entire liability for the quarter in the FORM GSTR-3B of the quarter by the due date.

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

- Applicability of Interest

For registered person making payment of tax by opting Fixed Sum Method

- In case such payment of tax by depositing the system calculated amount in FORM GST PMT-06 is not done by due date, interest would be payable at the applicable rate, from the due date of furnishing FORM GST PMT-06 till the date of making such payment.
- In case FORM GSTR-3B for the quarter is furnished beyond the due date, interest would be payable as per the provisions of Section 50 of the CGST Act for the tax liability net of ITC.

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

- Applicability of Interest

For registered person making payment of tax by opting Self-Assessment Method

- Interest amount would be payable as per the provision of Section 50 of the CGST Act for tax or any part thereof (net of ITC) which remains unpaid / paid beyond the due date for the first two months of the quarter.

WITH KNOWLEDGE..... WE KNOW THE WORDS,
BUT WITH EXPERIENCE..... WE KNOW THE MEANING



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