

EY tax alert

Further amendments relating to Indirect taxes proposed in Finance Bill, 2023

Executive summary

This tax alert summarizes the amendments proposed in the Finance Bill 2023.

The Finance Bill, 2023 was presented by the Hon'ble Finance Minister Smt. Nirmala Sitharaman on 1 February 2023. While moving the Bill for approval in Lok Sabha, the FM introduced certain amendments to the said Bill.

The key changes are:

- ▶ The amendments relating to Customs and Goods and Services Tax (GST) shall come into effect from the date to be appointed by the Central Government through notification.
- ▶ The deferment of duties in respect of goods imported under Manufacture and Other Operations in Warehouse Regulations (MOOWR) is now being restricted to duties other than integrated tax (IGST) and compensation cess (Cess). In other words, IGST and Cess are payable on import of goods under MOOWR.
- ▶ Provisions of compulsory registration will not apply only where the person is exempted from obtaining registration through a notification issued under section 23(2) of Central Goods and Services Tax Act, 2017.
- ▶ Basis the recommendation of the GST Council,
 - ▶ the provisions relating to GST Appellate Tribunal (GSTAT) are being amended, and
 - ▶ provision for determining place of supply of services of transportation of goods, where the supplier or the recipient is located outside India, is being omitted.
- ▶ The rate of Compensation cess has been changed for pan masala and tobacco products.

Background

- The Finance Bill, 2023 was presented by the Hon'ble Finance Minister, Smt. Nirmala Sitharaman on 1 February 2023.
- While moving the Bill for approval by the Lok Sabha, the FM introduced certain amendments to the said Bill.

Effective date

- The amendments relating to Customs and GST shall come into force on such date as the Central Government may appoint by notification.

Customs

- At present, all customs duties on goods imported in a customs bonded warehouse under Manufacture and Other Operations in Warehouse Regulations (MOOWR) are deferred.

The deferment is now being restricted to duties other than integrated tax (IGST) and compensation cess (Cess). In other words, IGST and Cess are payable on import of goods under MOOWR.

The amendment will not apply in respect of goods deposited or permitted to be removed for deposit in the warehouse prior to the effective date of the provision.

- Basic customs duty rates are being amended for certain goods.

GST

- Earlier, it was proposed that the provisions of compulsory registration will not apply where the person is engaged exclusively in making exempt supplies or exempted from obtaining registration through a specific notification.

As per the revised provision, compulsory registration will not be required only in cases where the person is exempted from obtaining registration through a specific notification issued under section 23(2) of Central Goods and Services Tax Act, 2017.

- At present, the timelines for making application for revocation of registration is 30 days from the date of service of cancellation order.

The provision is being amended to empower the Central Government to prescribe the timelines.

Consequently, the proviso empowering the Commissioner and Additional/ Joint Commissioner to extend the time limit has been omitted.

- Currently, if the taxpayer furnishes a valid return within 30 days of passing of the best judgment

assessment order, the said order shall be deemed to be withdrawn.

The time period of 30 days is being extended to 60 days.

Also, a further extension of 60 days is now being made available to submit the valid return upon payment of late fees.

- Basis the recommendation of the GST Council, the provisions relating to GST Appellate Tribunal are being amended.

The Principal Bench at Delhi shall have a President, a Judicial member, a Technical Member (Centre) and a Technical Member (State).

The State Bench shall have two Judicial Members, a Technical Member (Centre) and a Technical Member (State).

The cases in appeal where any of the issues relate to place of supply, the same shall be heard by the Principal Bench only.

Where the disputed amount does not exceed INR 50 lakhs and the matter does not involve question of law, the appeal shall be heard by a single member.

In all other cases, appeal shall be heard together by one Judicial Member and one Technical Member.

- The provision for determining place of supply of service of transportation of goods, where the supplier or the recipient is located outside India, is being omitted.

- The rate of Compensation cess has been changed for the following goods:

- pan masala, and
- Tobacco and manufactured tobacco substitutes, including tobacco products.

Comments

Constitution of GSTAT is likely to provide a big relief to the businesses. This may also reduce the number of writ petitions being filed before the High Courts in absence of GSTAT.

Non-deferment of IGST and cess in case of import of goods under MOOWR may impact the working capital of the taxpayers.

The place of supply of transportation of service, where the supplier or the recipient are located outside India, will now be the location of the recipient. This may provide level playing field to the Indian shipping industry.

Our offices

Ahmedabad

22nd Floor, B Wing, Privilon
Ambli BRT Road, Behind Iskcon
Temple, Off SG Highway
Ahmedabad - 380 059
Tel: + 91 79 6608 3800

Bengaluru

12th & 13th floor
"UB City", Canberra Block
No. 24, Vittal Mallya Road
Bengaluru - 560 001
Tel: + 91 80 6727 5000

Ground Floor, 'A' wing

Divyasree Chambers
11, O'Shaughnessy Road
Langford Gardens
Bengaluru - 560 025
Tel: + 91 80 6727 5000

Chandigarh

Elante offices, Unit No. B-613 & 614
6th Floor, Plot No- 178-178A
Industrial & Business Park, Phase-I
Chandigarh - 160 002
Tel: + 91 172 6717800

Chennai

Tidel Park, 6th & 7th Floor
A Block, No.4, Rajiv Gandhi Salai
Taramani, Chennai - 600 113
Tel: + 91 44 6654 8100

Delhi NCR

Golf View Corporate Tower B
Sector 42, Sector Road
Gurugram - 122 002
Tel: + 91 124 443 4000

3rd & 6th Floor, Worldmark-1
IGI Airport Hospitality District
Aerocity, New Delhi - 110 037
Tel: + 91 11 4731 8000

4th & 5th Floor, Plot No 2B
Tower 2, Sector 126
Gautam Budh Nagar, U.P.
Noida - 201 304
Tel: + 91 120 671 7000

Hyderabad

THE SKYVIEW 10
18th Floor, "SOUTH LOBBY"
Survey No 83/1, Raidurgam
Hyderabad - 500 032
Tel: + 91 40 6736 2000

Jamshedpur

1st Floor, Shantiniketan Building,
Holding No. 1
SB Shop Area, Bistupur
Jamshedpur - 831 001
Tel: + 91 657 663 1000

Kochi

9th Floor, ABAD Nucleus
NH-49, Maradu PO
Kochi - 682 304
Tel: + 91 484 433 4000

Kolkata

22 Camac Street
3rd Floor, Block 'C'
Kolkata - 700 016
Tel: + 91 33 6615 3400

Mumbai

14th Floor, The Ruby
29 Senapati Bapat Marg
Dadar (W), Mumbai - 400 028
Tel: + 91 22 6192 0000

5th Floor, Block B-2
Nirlon Knowledge Park
Off. Western Express Highway
Goregaon (E)
Mumbai - 400 063
Tel: + 91 22 6192 0000

Pune

C-401, 4th floor
Panchshil Tech Park, Yerwada
(Near Don Bosco School)
Pune - 411 006
Tel: + 91 20 4912 6000

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