

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 31st March, 2023 / Chaitra 10, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 31st March, 2023 and is hereby published for general information:—

THE FINANCE ACT, 2023

No. 8 OF 2023

[31st March, 2023.]

**An Act to give effect to the financial proposals of the Central Government
for the financial year 2023-2024.**

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 2023.

Short title and
commencement.

(2) Save as otherwise provided in this Act,—

(a) sections 2 to 127 shall come into force on the 1st day of April, 2023;

(b) sections 128 to 163 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Central Goods and Services Tax

Amendment of
section 10.

137. In the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the Central Goods and Services Tax Act), in section 10,—

12 of 2017.

(a) in sub-section (2), in clause (d), the words "goods or" shall be omitted;

(b) in sub-section (2A), in clause (c), the words "goods or" shall be omitted.

Amendment of
section 16.

138. In section 16 of the Central Goods and Services Tax Act, in sub-section (2),—

(i) in the second proviso, for the words "added to his output tax liability, along with interest thereon", the words and figures "paid by him along with interest payable under section 50" shall be substituted;

(ii) in the third proviso, after the words "made by him", the words "to the supplier" shall be inserted.

139. In section 17 of the Central Goods and Services Tax Act,—

Amendment of
section 17.

(a) in sub-section (3), in the *Explanation*, for the words and figure "except those specified in paragraph 5 of the said Schedule", the following shall be substituted, namely:—

"except,—

(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and

(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.";

(b) in sub-section (5), after clause (f), the following clause shall be inserted, namely:—

"(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;"

18 of 2013.

140. In section 23 of the Central Goods and Services Tax Act, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

Amendment of
section 23.

"(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act."

141. In section 30 of the Central Goods and Services Tax Act, in sub-section (1),—

Amendment of
section 30.

(a) for the words "the prescribed manner within thirty days from the date of service of the cancellation order:", the words "such manner, within such time and subject to such conditions and restrictions, as may be prescribed." shall be substituted;

(b) the proviso shall be omitted.

142. In section 37 of the Central Goods and Services Tax Act, after sub-section (4), the following sub-section shall be inserted, namely:—

Amendment of
section 37.

"(5) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies for a tax period under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said details."

143. In section 39 of the Central Goods and Services Tax Act, after sub-section (10), the following sub-section shall be inserted, namely:—

Amendment of
section 39.

"(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return."

Amendment of
section 44.

144. Section 44 of the Central Goods and Services Tax Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:

Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said annual return."

Amendment of
section 52.

145. In section 52 of the Central Goods and Services Tax Act, after sub-section (14), the following sub-section shall be inserted, namely:—

"(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement."

Amendment of
section 54.

146. In section 54 of the Central Goods and Services Tax Act, in sub-section (6), the words "excluding the amount of input tax credit provisionally accepted," shall be omitted.

Amendment of
section 56.

147. In section 56 of the Central Goods and Services Tax Act, for the words "from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax", the words "for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed" shall be substituted.

Amendment of
section 62.

148. In section 62 of the Central Goods and Services Tax Act, in sub-section (2),—

(a) for the words "thirty days", the words "sixty days" shall be substituted;

(b) the following proviso shall be inserted, namely:—

"Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of section 50 or to pay late fee under section 47 shall continue."

Substitution of
section 109.

149. For section 109 of the Central Goods and Services Tax Act, the following section shall be substituted, namely:—

Constitution of
Appellate
Tribunal and
Benches
thereof.

"109. (1) The Government shall, on the recommendations of the Council, by notification, establish with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.

(2) The jurisdiction, powers and authority conferred on the Appellate Tribunal shall be exercised by the Principal Bench and the State Benches constituted under sub-section (3) and sub-section (4).

(3) The Government shall, by notification, constitute a Principal Bench of the Appellate Tribunal at New Delhi which shall consist of the President, a Judicial Member, a Technical Member (Centre) and a Technical Member (State).

(4) On the request of the State, the Government may, by notification, constitute such number of State Benches at such places and with such jurisdiction as may be recommended by the Council, which shall consist of two Judicial Members, a Technical Member (Centre) and a Technical Member (State).

(5) The Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority:

Provided that the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.

(6) The President shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.

(7) The senior-most Judicial Member within the State Benches, as may be notified, shall act as the Vice-President for such State Benches and shall exercise such powers of the President as may be prescribed, but for all other purposes be considered as a Member.

(8) Appeals, where the tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed fifty lakh rupees and which does not involve any question of law may, with the approval of the President, and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a single Member, and in all other cases, shall be heard together by one Judicial Member and one Technical Member.

(9) If, after hearing the case, the Members differ in their opinion on any point or points, such Member shall state the point or points on which they differ, and the President shall refer such case for hearing,—

(a) where the appeal was originally heard by Members of a State Bench, to another Member of a State Bench within the State or, where no such other State Bench is available within the State, to a Member of a State Bench in another State;

(b) where the appeal was originally heard by Members of the Principal Bench, to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench,

and such point or points shall be decided according to the majority opinion including the opinion of the Members who first heard the case.

(10) The Government may, in consultation with the President, for the administrative efficiency, transfer Members from one Bench to another Bench:

Provided that a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.

(11) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal."

150. For section 110 of the Central Goods and Services Tax Act, the following section shall be substituted, namely:—

"110. (1) A person shall not be qualified for appointment as—

(a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court;

(b) a Judicial Member, unless he—

(i) has been a Judge of the High Court; or

Substitution of new section for section 110. President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.

(ii) has, for a combined period of ten years, been a District Judge or an Additional District Judge;

(c) a Technical Member (Centre), unless he is or has been a member of the Indian Revenue (Customs and Indirect Taxes) Service, Group A, or of the All India Service with at least three years of experience in the administration of an existing law or goods and services tax in the Central Government, and has completed at least twenty-five years of service in Group A;

(d) a Technical Member (State), unless he is or has been an officer of the State Government or an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:

Provided that the State Government may, on the recommendations of the Council, by notification, relax the requirement of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification.

(2) The President, Judicial Member, Technical Member (Centre) and Technical Member (State) shall be appointed or re-appointed by the Government on the recommendations of a Search-cum-Selection Committee constituted under sub-section (4):

Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the Judicial Member or, in his absence, the senior-most Technical Member of the Principal Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the Judicial Member or, in his absence, the senior-most Technical Member of the Principal Bench, shall discharge the functions of the President until the date on which the President resumes his duties.

(3) While making selection for Technical Member (State) of a State Bench, first preference shall be given to officers who have worked in the State Government of the State to which the jurisdiction of the Bench extends.

(4) (a) The Search-cum-Selection Committee for Technical Member (State) of a State Bench shall consist of the following members, namely:—

(i) the Chief Justice of the High Court in whose jurisdiction the State Bench is located, to be the Chairperson of the Committee;

(ii) the senior-most Judicial Member in the State, and where no Judicial Member is available, a retired Judge of the High Court in whose jurisdiction the State Bench is located, as may be nominated by the Chief Justice of such High Court;

(iii) Chief Secretary of the State in which the State Bench is located;

(iv) one Additional Chief Secretary or Principal Secretary or Secretary of the State in which the State Bench is located, as may be nominated by such State Government, not in-charge of the Department responsible for administration of State tax; and

(v) Additional Chief Secretary or Principal Secretary or Secretary of the Department responsible for administration of State tax, of the State in which the State Bench is located — Member Secretary; and

(b) the Search-cum-Selection Committee for all other cases shall consist of the following members, namely:—

(i) the Chief Justice of India or a Judge of Supreme Court nominated by him, to be the Chairperson of the Committee;

(ii) Secretary of the Central Government nominated by the Cabinet Secretary — Member;

(iii) Chief Secretary of a State to be nominated by the Council — Member;

(iv) one Member, who—

(A) in case of appointment of a President of a Tribunal, shall be the outgoing President of the Tribunal; or

(B) in case of appointment of a Member of a Tribunal, shall be the sitting President of the Tribunal; or

(C) in case of the President of the Tribunal seeking re-appointment or where the outgoing President is unavailable or the removal of the President is being considered, shall be a retired Judge of the Supreme Court or a retired Chief Justice of a High Court nominated by the Chief Justice of India; and

(v) Secretary of the Department of Revenue in the Ministry of Finance of the Central Government — Member Secretary.

(5) The Chairperson shall have the casting vote and the Member Secretary shall not have a vote.

(6) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the Committee shall recommend a panel of two names for appointment or re-appointment to the post of the President or a Member, as the case may be.

(7) No appointment or re-appointment of the Members of the Appellate Tribunal shall be invalid merely by reason of any vacancy or defect in the constitution of the Search-cum-Selection Committee.

(8) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the salary of the President and the Members of the Appellate Tribunal shall be such as may be prescribed and their allowances and other terms and conditions of service shall be the same as applicable to Central Government officers carrying the same pay:

Provided that neither the salary and allowances nor other terms and conditions of service of the President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment:

Provided further that, if the President or Member takes a house on rent, he may be reimbursed a house rent higher than the house rent allowance as are admissible to a Central Government officer holding the post carrying the same pay, subject to such limitations and conditions as may be prescribed.

(9) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the President of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of sixty-seven years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years.

(10) Notwithstanding anything contained in any judgment, order, or decree of

any court or any law for the time being in force, the Judicial Member, Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years.

(11) The President or any Member may, by notice in writing under his hand addressed to the Government, resign from his office:

Provided that the President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(12) The Government may, on the recommendations of the Search-cum-Selection Committee, remove from the office President or a Member, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such President or Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President or Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.

(13) The Government, on the recommendations of the Search-cum-Selection Committee, may suspend from office, the President or a Judicial or Technical Member in respect of whom proceedings for removal have been initiated under sub-section (12).

(14) Subject to the provisions of article 220 of the Constitution, the President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the Principal Bench or the State Bench in which he was the President or, as the case may be, a Member.”.

Substitution of new section for section 114.

151. For section 114 of the Central Goods and Services Tax Act, the following section shall be substituted, namely:—

Financial and Administrative powers of President.

“114. The President shall exercise such financial and administrative powers over the Appellate Tribunal as may be prescribed.”.

Amendment of section 117.

152. In section 117 of the Central Goods and Services Tax Act,—

(a) in sub-section (1), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted;

(b) in sub-section (5), in clauses (a) and (b), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted.

Amendment of section 118.

153. In section 118 of the Central Goods and Services Tax Act, in sub-section (1), in clause (a), for the words “National Bench or Regional Bench”, the words “Principal Bench” shall be substituted.

Amendment of section 119.

154. In section 119 of the Central Goods and Services Tax Act,—

(a) for the words “National or Regional Benches”, the words “Principal Bench” shall be substituted;

(b) for the words "State Bench or Area Benches", the words "State Benches" shall be substituted.

155. In section 122 of the Central Goods and Services Tax Act, after sub-section (1A), the following sub-section shall be inserted, namely:— Amendment of section 122.

"(1B) Any electronic commerce operator who—

(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;

(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or

(iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher."

156. In section 132 of the Central Goods and Services Tax Act, in sub-section (1),— Amendment of section 132.

(a) clauses (g), (j) and (k) shall be omitted;

(b) in clause (l), for the words, brackets and letters "clauses (a) to (k)", the words, brackets and letters "clauses (a) to (f) and clauses (h) and (i)" shall be substituted;

(c) in clause (iii), for the words "any other offence", the words, brackets and letter "an offence specified in clause (b)," shall be substituted;

(d) in clause (iv), the words, brackets and letters "or clause (g) or clause (j)" shall be omitted.

157. In section 138 of the Central Goods and Services Tax Act,—

Amendment of section 138.

(a) in sub-section (1), in the first proviso,—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;"

(ii) clause (b) shall be omitted;

(iii) for clause (c), the following clause shall be substituted, namely:—

"(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132;"

(iv) clause (e) shall be omitted;

(b) in sub-section (2), for the words "ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher", the words "twenty-five per cent. of the tax involved and the maximum amount not being more than one hundred per cent. of the tax involved" shall be substituted.

158. After section 158 of the Central Goods and Services Tax Act, the following section shall be inserted, namely:—

Insertion of new section 158A.

"158A. (1) Notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of sub-section (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—

Consent based sharing of information furnished by taxable person.

(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;

(b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;

(c) such other details as may be prescribed.

(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of—

(a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and

(b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient,

in such form and manner as may be prescribed.

(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return."

Retrospective exemption to certain activities and transactions in Schedule III to the Central Goods and Services Tax Act.

159. (1) In Schedule III to the Central Goods and Services Tax Act, paragraphs 7 and 8 and the *Explanation* 2 thereof (as inserted *vide* section 32 of Act 31 of 2018) shall be deemed to have been inserted therein with effect from the 1st day of July, 2017.

(2) No refund shall be made of all the tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

Integrated Goods and Services Tax

Amendment of section 2.

160. In the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the Integrated Goods and Services Tax Act), in section 2,—

13 of 2017.

(a) for clause (16), the following clause shall be substituted, namely:—

'(16) "non-taxable online recipient" means any unregistered person receiving online information and database access or retrieval services located in taxable territory.

Explanation.—For the purposes of this clause, the expression "unregistered person" includes a person registered solely in terms of clause (vi) of section 24 of the Central Goods and Services Tax Act, 2017;'

12 of 2017.

(b) in clause (17), the words "essentially automated and involving minimal human intervention and" shall be omitted.

Amendment of section 12.

161. In section 12 of the Integrated Goods and Services Tax Act, in sub-section (8), the proviso shall be omitted.

Amendment of section 13.

162. In section 13 of the Integrated Goods and Services Tax Act, sub-section (9) shall be omitted.

Goods and Services Tax (Compensation to States) Act

Amendment of Schedule.

163. In the Schedule to the Goods and Services Tax (Compensation to States) Act, 2017,—

15 of 2017.

(a) in serial number 1, for the entry in column (4) occurring against tariff item 2106 90 20, the entry "fifty-one per cent. of retail sale price per unit" shall be substituted;

(b) in serial number 2, for the entry in column (4) occurring against Chapter 24, the entry "Four thousand one hundred and seventy rupees per thousand sticks or

two hundred and ninety per cent. *ad valorem* or a combination thereof, but not exceeding four thousand one hundred and seventy rupees per thousand sticks plus two hundred and ninety per cent. *ad valorem* or hundred per cent. of retail sale price per unit" shall be substituted;

(c) the following *Explanation* shall be inserted at the end, namely:—

'Explanation.—For the purposes of this Schedule,—

(i) "retail sale price" means the maximum price at which the concerned goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like and the price is the sole consideration for such sale:

1 of 2010.

Provided that where the provisions of the Legal Metrology Act, 2009 or the rules made thereunder or any other law for the time being in force require to declare on the package, the retail sale price excluding any taxes, local or otherwise, the retail sale price shall be construed accordingly;

(ii) where on the package of any concerned goods more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price;

(iii) where the retail sale price, declared on the package of any concerned goods at the time of its clearance from the place of manufacture, is altered to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price;

(iv) where different retail sale prices are declared on different packages for the sale of any concerned goods in packaged form in different areas, each such retail sale price shall be the retail sale prices for the purposes of determination of the rate of cess for the said goods intended to be sold in the area to which the retail sale price relates.'