

Desai Saksena & Associates
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Key highlights
of
Budget
2024-25

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Indirect Tax Proposals

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Customs Duties reductions and exemptions for critical goods

Particular	From	To
Mobile phone, Mobile Printed Circuit Board Assembly (PCBA) and chargers	20%	Basic customs duty reduced to 15%
Gold and silver	15%	Custom duty reduced to 6%
Platinum	15.4%	Customs duty reduced to 6.4%
Broodstock, polychaete worms, shrimp and fish feed	10%, 30% and 15% respectively	Basic customs duty reduced to 5%
Alkali or alkaline earth metals, 25 rare earth minerals (like lithium)	5%	Exempted from customs duty
Capital goods for manufacturing of solar panels	7.5%	Exempted from customs duty
Cancer drugs (Trastuzumab Deruxtecan, Osimertinib and Durvalumab)	10%	Exempted from customs duty
Ferro nickel and blister copper removed	2.5%	Nil basic custom duty
Ammonium nitrate	7.5%	10%
PVC flex banners	10%	25%
Printed Circuit Board Assembly (PCBA) of specific telecom equipment's	10%	15%
Oxygen Free Copper Strip	5%	Nil

Exclusion of Extra Neutral Alcohol from GST

Amendment of Section 9 of the CGST Act:

One of the notable changes is the amendment to Section 9, **which excludes un-denatured extra neutral alcohol or rectified spirit used for the manufacture of alcoholic liquor for human consumption from the purview of GST.** This aligns with similar amendments in the IGST and UTGST Acts, providing clarity and consistency across the GST framework.

New Section 11A: Non-Recovery of GST Based on General Practice

Insertion of Section 11A of the CGST Act:

A new section empowers the government to waive the recovery of GST not levied or short-levied due to a generally prevalent practice in trade. This provision aims to regularize past practices and provide relief to businesses that followed industry norms, even if those norms were not strictly compliant with the tax law.

Time of Supply for Reverse Charge

Amendment of Section 13 of the CGST Act:

Changes in Section 13 address the time of supply for services where the invoice is required to be issued by the recipient in reverse charge situations. **This amendment ensures clarity in cases of reverse charge mechanisms, specifying the date of issue of the invoice by the recipient as the relevant date.**

Input Tax Credit (ITC) for Past Financial Years

Amendment of Section 16 of the CGST Act:

The insertion of sub-sections (5) and (6) in Section 16 provides exceptions to the existing rules, allowing registered persons to avail ITC for past financial years (2017-18 to 2020-21) under specific conditions. **This retrospective amendment offers significant relief to businesses by extending the timeline for availing ITC.**

Conditional Waiver of Interest and Penalty

Insertion of Section 128A of the CGST Act:

A new section introduces a conditional waiver of interest and penalty for demands raised under Section 73 for the financial years 2017-18 to 2019-20, provided the taxpayer pays the full amount of tax due. This offers a significant opportunity for taxpayers to settle past disputes without additional financial burden.

Transitional Credit for Input Services

Amendment of Section 140 of the CGST Act:

The amendment allows for the availment of transitional credit for input services received by an Input Services Distributor before the appointed day, whether the invoices were received prior to, on, or after the appointed day. **This change, effective from July 1, 2017, addresses transitional credit issues that businesses faced during the GST rollout.**

Anti-Profiteering Measures

Amendment of Section 171 of the CGST Act:

The insertion of a proviso and explanation in Section 171 empowers the **government to specify the date from which the Authority will not accept applications for anti-profiteering cases.** It also includes the Appellate Tribunal within the Authority, streamlining the anti-profiteering measures.

New Schedule III Activities

Amendment of Schedule III:

New paragraphs in Schedule III clarify that the **activity of apportionment of co-insurance premium by the lead insurer to the co-insurer and services by the insurer to the reinsurer will be treated as neither supply of goods nor services, provided certain conditions are met**. This amendment ensures clarity in the insurance sector regarding tax liabilities.

A Detailed Look at Section 74A: A Game Changer

Introduction of Section 74A

Insertion of Section 74A:

One of the most significant changes is the introduction of Section 74A, which deals with the determination of tax not paid or short paid, erroneously refunded, or input tax credit (ITC) wrongly availed or utilized for any reason from the Financial Year 2024-25 onwards.

A Detailed Look at Section 74A: A Game Changer

Key Features of Section 74A

Aspect	Non Fraud Cases	Fraud Cases
Issuance of Notice (74A(1))	Issued if tax not paid, short paid, erroneously refunded, or ITC wrongly availed/utilized for reasons other than fraud.	Issued if tax not paid, short paid, erroneously refunded, or ITC wrongly availed/utilized due to fraud, willful misstatement, or suppression of facts.
Time Limit for Issuance of Notice (74A(2))	Issued within 42 months from the due date of filing the annual return or from the date of erroneous refund.	Issued within 42 months from the due date of filing the annual return or from the date of erroneous refund.
Issuance of Statement (74A(3))	The proper officer may serve a statement containing details of tax discrepancies for periods not covered under the original notice.	The proper officer may serve a statement containing details of tax discrepancies for periods not covered under the original notice.
Condition for Deemed Notice (74A(4))	Grounds for discrepancies in the statement must be the same as those in the original notice.	Grounds for discrepancies in the statement must be the same as those in the original notice.
Penalty (74A(5))	10% of the tax due or Rs. 10,000, whichever is higher.	Equivalent to the tax due from such person.
Issuance of Order (74A(6))	The proper officer, after considering the representation made by the person, shall determine the amount of tax, interest, and penalty due and issue an order.	The proper officer, after considering the representation made by the person, shall determine the amount of tax, interest, and penalty due and issue an order.
Time Limit for Issuance of Order (74A(7))	Issued within 12 months from the date of issuance of notice, extendable by 6 months with approval.	Issued within 12 months from the date of issuance of notice, extendable by 6 months with approval.
Voluntary Payment Before SCN (74A(8)(i))	No penalty if tax and interest are paid voluntarily before the issuance of SCN.	15% penalty if tax, interest, and a 15% penalty are paid before the issuance of SCN.

A Detailed Look at Section 74A: A Game Changer

Key Features of Section 74A

Aspect	Non Fraud Cases	Fraud Cases
Voluntary Payment After SCN (74A(8)(ii))	No penalty if tax and interest are paid within 60 days of the SCN.	25% penalty if tax, interest, and a 25% penalty are paid within 60 days of the SCN.
Payment After Order (74A(9)(iii))	Not explicitly covered.	50% penalty if tax, interest, and a 50% penalty are paid within 60 days of the order.
Shortfall in Payment (74A(10))	If the amount paid is short of the actual amount payable, the proper officer will issue a notice for the shortfall amount.	If the amount paid is short of the actual amount payable, the proper officer will issue a notice for the shortfall amount.
Self-Assessed Tax Penalty (74A(11))	Penalty will be levied if any self-assessed tax or collected tax is not paid within 30 days from the due date.	Penalty will be levied if any self-assessed tax or collected tax is not paid within 30 days from the due date.
Applicability (74A(12))	Applicable for determination of tax from the financial year 2024-25 onwards.	Applicable for determination of tax from the financial year 2024-25 onwards.
Explanation 1	"All proceedings in respect of the said notice" do not include proceedings under Section 132.	"All proceedings in respect of the said notice" do not include proceedings under Section 132.
Explanation 2	"Suppression" includes non-declaration of required information or failure to furnish information when asked by the proper officer.	"Suppression" includes non-declaration of required information or failure to furnish information when asked by the proper officer.

A Detailed Look at Section 74A: A Game Changer

Comparison with Sections 73 and 74

Non-Fraud Cases: Proposed Section 74A

Aspect	Detail (74A)	Comparison with Existing Law (Section 73)
Issuance of Notice (74A(1))	Issued if tax not paid, short paid, erroneously refunded, or ITC wrongly availed/utilized for reasons other than fraud. No notice if the amount involved is less than Rs. 1,000.	Similar to Section 73 but with a new threshold of Rs. 1,000 below which no notice will be issued.
Time Limit for Issuance of Notice (74A(2))	Issued within 42 months from the due date of filing the annual return or from the date of erroneous refund.	Current law allows issuance within 3 years from the due date of filing the annual return.
Issuance of Statement (74A(3))	The proper officer may serve a statement containing details of tax discrepancies for periods not covered under the original notice.	Similar provision exists in Section 73, where a statement can be served for other periods.
Condition for Deemed Notice (74A(4))	Grounds for discrepancies in the statement must be the same as those in the original notice.	Same as the current provision under Section 73.
Penalty (74A(5)(i))	10% of the tax due or Rs. 10,000, whichever is higher.	Penalty in Section 73 is 10% of tax or Rs. 10,000, whichever is higher, if payment is made after 30 days of the order.
Issuance of Order (74A(6))	The proper officer, after considering the representation made by the person, shall determine the amount of tax, interest, and penalty due and issue an order.	Similar to the current law under Section 73.
Time Limit for Issuance of Order (74A(7))	Issued within 12 months from the date of issuance of notice, extendable by 6 months with approval.	Current law under Section 73 requires the order to be issued within 3 years from the due date of the annual return.
Voluntary Payment Before SCN (74A(8)(i))	No penalty if tax and interest are paid voluntarily before the issuance of SCN.	Similar to Section 73 where no penalty is imposed if payment is made voluntarily before SCN.

A Detailed Look at Section 74A: A Game Changer

Comparison with Sections 73 and 74

Non-Fraud Cases: Proposed Section 74A

Aspect	Detail (74A)	Comparison with Existing Law (Section 73)
Voluntary Payment After SCN (74A(8)(ii))	No penalty if tax and interest are paid within 60 days of the SCN.	In Section 73, no penalty is imposed if payment is made within 30 days of the SCN.
Shortfall in Payment (74A(10))	If the amount paid is short of the actual amount payable, the proper officer will issue a notice for the shortfall amount.	Similar provision exists under Section 73.
Self-Assessed Tax Penalty (74A(11))	Penalty will be levied if any self-assessed tax or collected tax is not paid within 30 days from the due date.	Section 73 does not have a specific clause for self-assessed tax penalties, this is a new addition in Section 74A.
Applicability (74A(12))	Applicable for determination of tax from the financial year 2024-25 onwards.	Section 73 applies to all previous financial years.
Explanation 1	"All proceedings in respect of the said notice" do not include proceedings under Section 132.	Similar provision exists under Section 73.
Explanation 2	"Suppression" includes non-declaration of required information or failure to furnish information when asked by the proper officer.	Similar definition of "suppression" under Section 73.

A Detailed Look at Section 74A: A Game Changer

Fraud Cases: Proposed Section 74A

Aspect	Detail (74A)	Comparison with Existing Law (Section 74)
Issuance of Notice (74A(1))	Issued if tax not paid, short paid, erroneously refunded, or ITC wrongly availed/utilized for reasons other than fraud. No notice if the amount involved is less than Rs. 1,000.	Similar to Section 74 but with a new threshold of Rs. 1,000 below which no notice will be issued.
Time Limit for Issuance of Notice (74A(2))	Issued within 42 months from the due date of filing the annual return or from the date of erroneous refund.	Current law allows issuance within 5 years from the due date of filing the annual return.
Issuance of Statement (74A(3))	The proper officer may serve a statement containing details of tax discrepancies for periods not covered under the original notice.	Similar provision exists in Section 74, where a statement can be served for other periods.
Condition for Deemed Notice (74A(4))	Grounds for discrepancies in the statement must be the same as those in the original notice.	Same as the current provision under Section 74.
Penalty (74A(5)(ii))	10% of the tax due or Rs. 10,000, whichever is higher.	Penalty under Section 74 is equivalent to the tax due.
Issuance of Order (74A(6))	The proper officer, after considering the representation made by the person, shall determine the amount of tax, interest, and penalty due and issue an order.	Similar to the current law under Section 74.
Time Limit for Issuance of Order (74A(7))	Issued within 12 months from the date of issuance of notice, extendable by 6 months with approval.	Current law under Section 74 requires the order to be issued within 5 years from the due date of the annual return.
Voluntary Payment Before SCN (74A(9)(i))	15% penalty if tax, interest, and a 15% penalty are paid before the issuance of SCN.	Similar to Section 74 where a 15% penalty is imposed if payment is made before SCN.

A Detailed Look at Section 74A: A Game Changer

Fraud Cases: Proposed Section 74A

Aspect	Detail (74A)	Comparison with Existing Law (Section 74)
Voluntary Payment After SCN (74A(9)(ii))	25% penalty if tax, interest, and a 25% penalty are paid within 60 days of the SCN.	In Section 74, a 25% penalty is imposed if payment is made within 30 days of the SCN.
Payment After Order (74A(9)(iii))	50% penalty if tax, interest, and a 50% penalty are paid within 60 days of the order.	In Section 74, a 50% penalty is imposed if payment is made within 30 days of the order.
Shortfall in Payment (74A(10))	If the amount paid is short of the actual amount payable, the proper officer will issue a notice for the shortfall amount.	Similar provision exists under Section 74.
Self-Assessed Tax Penalty (74A(11))	Penalty will be levied if any self-assessed tax or collected tax is not paid within 30 days from the due date.	Section 74 does not have a specific clause for self-assessed tax penalties, this is a new addition in Section 74A.
Applicability (74A(12))	Applicable for determination of tax from the financial year 2024-25 onwards.	Section 74 applies to all previous financial years.
Explanation 1	"All proceedings in respect of the said notice" do not include proceedings under Section 132.	Similar provision exists under Section 74.
Explanation 2	"Suppression" includes non-declaration of required information or failure to furnish information when asked by the proper officer.	Similar definition of "suppression" under Section 74.

Thank you

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