

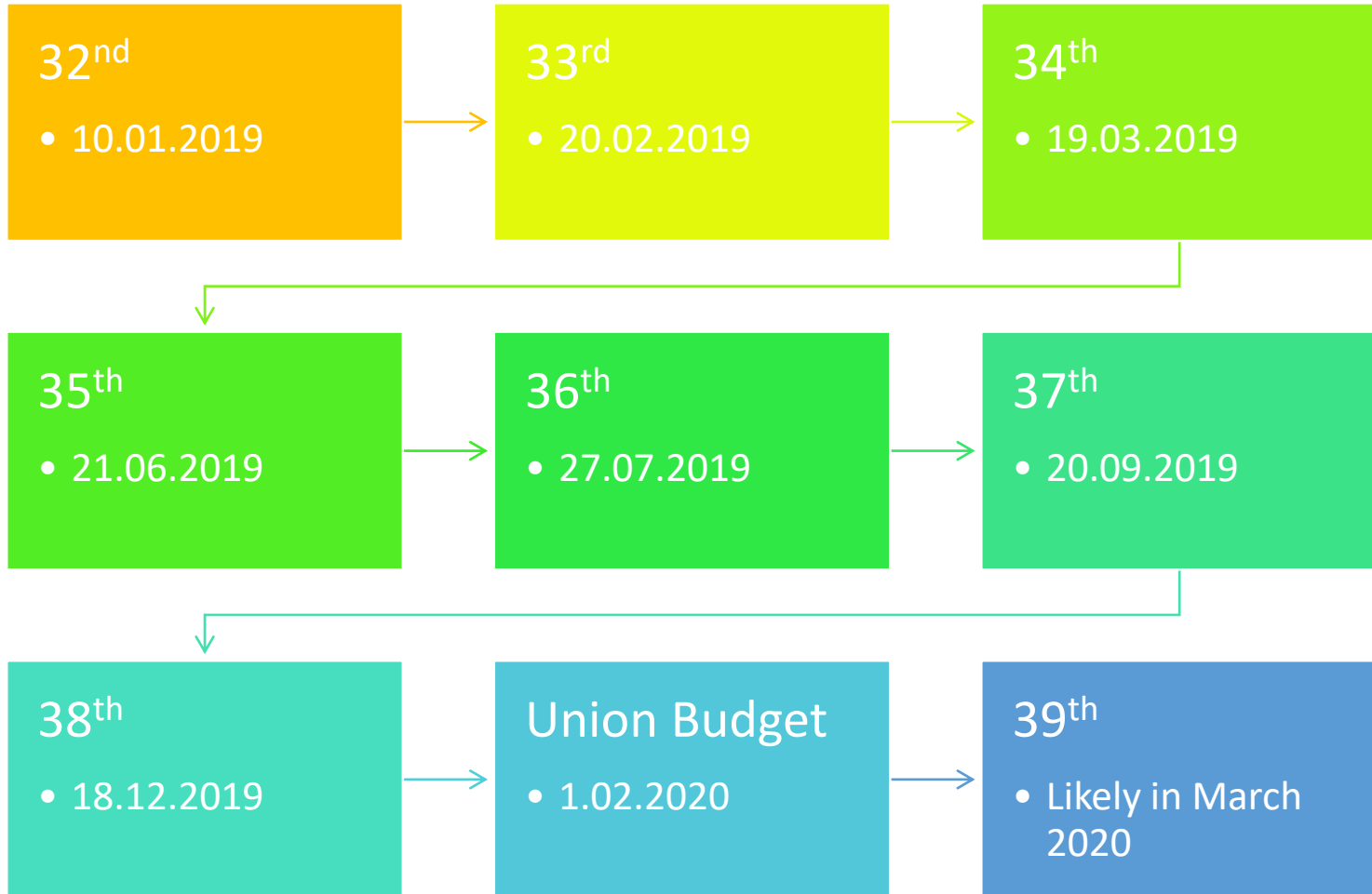
WMTPA

GST - Budget 2020!

15th February 2020

CA Pritam Mahure and Associates

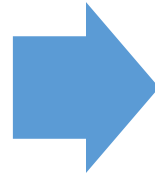
GST Council – 2019 Meetings



GST – Background

GST Council

- Changes being made on a real time basis



Union Budget

- In continuation, key changes proposed in CGST Act

Union Budget 2020

GST - Key Amendments You Must Know!

GST - Key changes – An overview

Time limit for debit note
rationalised

'Beneficiaries' of fake
invoicing liable for penal
consequences

Power to issue RoD
extended till 30th June
2022

Transitional provision
tweaked to prescribe
'time'

Provisions related to tax
invoicing, TDS etc
tweaked

In Income Tax Act, penal
provisions proposed for
fake invoicing

In Income Tax, VVS
Scheme launched on
lines of SVLDRS

GST - Key Changes

Analysis

Amendment in Section 16

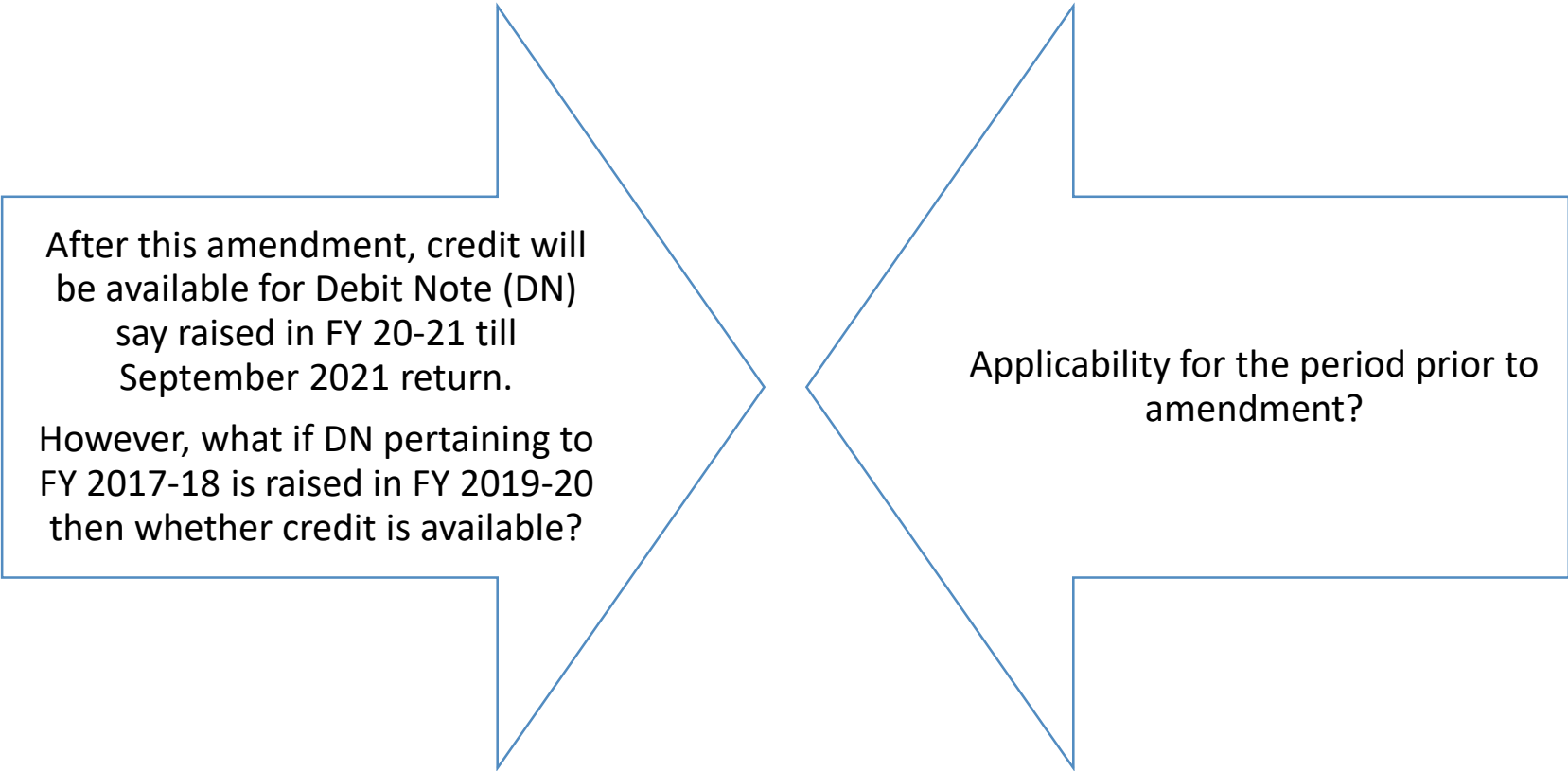
[Eligibility and conditions for taking input tax credit]

Time limit for debit note rationalised

1. Linking of date to debit note than invoice

Existing provision	Amendment proposed
<p>Section 16 (4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier</p>	<p>Section 16 (4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier</p>

1. Linking of date to debit note than invoice



After this amendment, credit will be available for Debit Note (DN) say raised in FY 20-21 till September 2021 return.

However, what if DN pertaining to FY 2017-18 is raised in FY 2019-20 then whether credit is available?

Applicability for the period prior to amendment?

1. Linking of date to debit note than invoice

Sr.	Date of invoice	Date of DN	Credit available?
1.	1.08.2017 (FY 1718)	1.08.2018 (FY 1819)	Yes (till March 2019 return)
2.	1.08.2017 (FY 1718)	1.01.2019 (FY 1819)	Yes (till March 2019 return)
3.	1.08.2017 (FY 1718)	1.08.2019 (FY 1920)	No (If DN raised after 1 April 2019 for invoices raised in FY 1718 – Credit not available?)
4.	1.08.2018 (FY 1819)	1.08.2019 (FY 1920)	Yes (Upto return of Sept. 2019)
5.	1.08.2018 (FY 1819)	1.10.2019 (FY 1920)	No (amendment retrospectively applicable?)

Amendment in Section 31

[Tax invoice]

**Amendment in view of approaching
reforms**

Services – Time limit to issue an invoice

CGST Act

- Sec. 31 (2) - A registered person supplying taxable services shall, before or after the provision of service but **within a prescribed period**, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed

CGST Rules

- Rule 47. Time limit for issuing tax invoice.- The invoice referred to in rule 46, in the case of the taxable supply of services, shall be issued within a period of **thirty days** from the date of the supply of service:

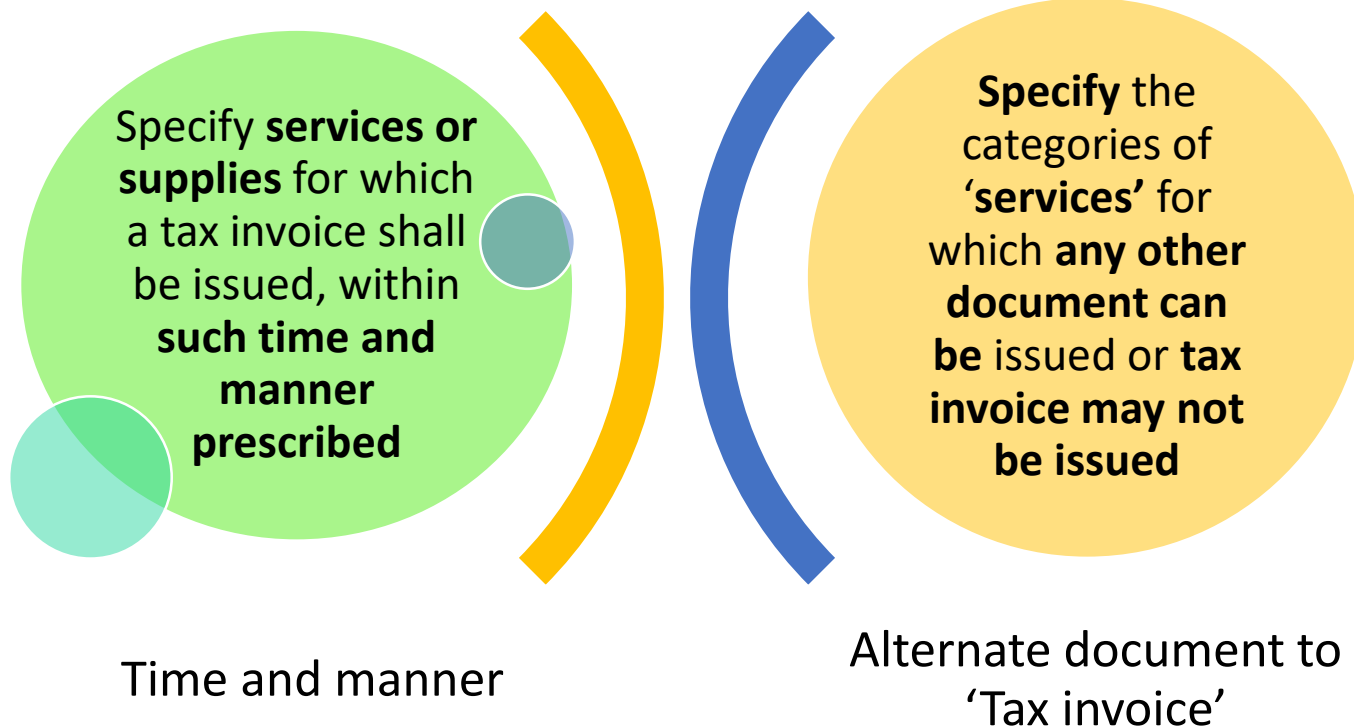
2. Amendment in Tax invoice related provisions

Existing provision	Amendment proposed
<p>SECTION 31. Tax invoice. —</p> <p>(1)...</p> <p>(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed :</p>	<p>SECTION 31. Tax invoice. —</p> <p>(1)...</p> <p>(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed :</p>

2. Amendment in Tax invoice related provisions

Existing provision	Amendment proposed
<p>Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—</p> <p>(a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or</p> <p>(b) tax invoice may not be issued.</p>	<p>Provided that the Government may, on the recommendations of the Council, by notification,—</p> <p>(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;</p> <p>(b) subject to the condition mentioned therein, specify the categories of services in respect of which—</p> <p>(i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or</p> <p>or</p> <p>(ii) tax invoice may not be issued</p> <p>*Proviso substituted</p>

2. Amendment in Tax invoice related provisions



Amendment in Section 51

[Tax deduction at Source]

Relaxation in issuance of TDS certificate

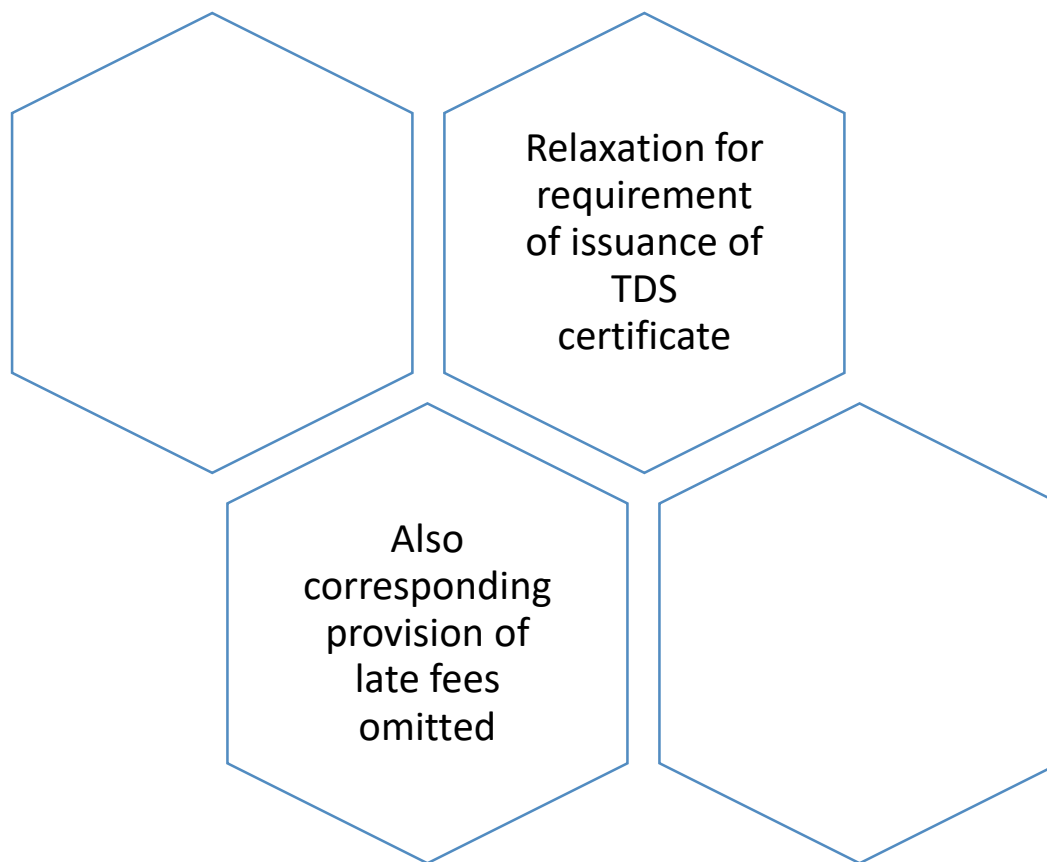
Section 51 - TDS

- (1) Notwithstanding anything to the contrary contained in this Act, the Government may **mandate,**
- (a) Department or establishment of the Central **Government** or State Government; or
 - (b) **Local authority**; or
 - (c) Governmental agencies; or
 - (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council, (hereafter in this section referred to as “the deductor”), **to deduct tax** at the rate of **one per cent.** from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, **exceeds two lakh and fifty thousand rupees :**

3. TDS certificates - Relaxation

Existing provision	Amendment proposed
<p>(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.</p> <p>(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.</p>	<p>(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.</p> <p>* Section 51 (3) is substituted as aforesaid and 51 (4) is omitted</p>

3. TDS certificates - Relaxation



Amendment in Section 122

[Penalty for certain offences]

**‘Beneficiaries’ of fake invoicing liable
for penal consequences**

4. Penalty provisions – Beneficiaries liable

Existing provision	Amendment proposed
<p>Section 122 Penalty for certain offences</p> <p>(1) Where a taxable person who —</p> <ul style="list-style-type: none">(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;(ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;...(vii) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder; ...	<p>Section 122 Penalty for certain offences</p> <p>...</p> <p><u>(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.</u></p> <p><u>*In addition to the existing provision section 122 (1), a new sub-clause (1A) is proposed to be inserted</u></p>

4. Penalty provisions – Beneficiaries liable

Any person who **retains**
the benefit of fake or
bogus invoicing **and at**
whose instance such
transaction is conducted

Penalty **equivalent to**
tax evaded or input tax
credit availed of or
passed on

Section 132

[Punishment for certain offences]

Ambit of offense widened

5. Offences – Ambit enlarged

Existing provision	Amendment proposed
<p>SECTION 132. Punishment for certain offences</p> <p>(1) Whoever commits any of the following offences, namely :—</p> <p>(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;</p> <p>(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;</p>	<p>SECTION 132. Punishment for certain offences</p> <p>(1) Whoever commits any of the following offences, Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely :—</p> <p>(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;</p> <p>(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;</p>

5. Offences – Ambit enlarged

Existing provision	Amendment proposed
<p>...</p> <p>(c) avails input tax credit using such invoice or bill referred to in clause (b);</p> <p>(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;</p> <p>(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);</p> <p>...</p> <p>shall be punishable —</p>	<p>SECTION 132. Punishment for certain offences</p> <p>...</p> <p>(c) avails input tax credit using such invoice or bill referred to in clause (b); avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill</p> <p>(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;</p> <p>(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);</p> <p>... shall be punishable —</p>

5. Offences – Ambit enlarged

Any person who **commits**,
or **causes** the commission
and retains the benefit of
transactions arising out of
specified offences

Fraudulently avails input
tax credit **without** any
invoice or bill

Section 140

[Transitional arrangements for input tax credit]

Prescribing 'time'

6. Transitional provisions – ‘Time’ specified

Existing provision	Amendment proposed
<p>Section 140 Transitional arrangements for input tax credit</p> <p>(1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit [of eligible duties] carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed :</p>	<p>Section 140 Transitional arrangements for input tax credit</p> <p>(1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit [of eligible duties] carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law <u>within such time and</u> in such manner as may be prescribed :</p> <p><i>*Amended introduced retrospectively with effect from the 1st July, 2017</i></p>

6. Transitional provisions – ‘Time’ specified

140 (2)

- “within such **time** and”

140 (3)

- “goods held in stock on the appointed day, within such **time** and in such manner as may be prescribed, subject to”

140 (5)

- “existing law, within such **time** and in such manner as may be prescribed”

140 (6)

- “goods held in stock on the appointed day, within such **time** and in such manner as may be prescribed, subject to”

140 (7)

- “credit under this Act, within such **time** and in such manner as may be prescribed, even if”

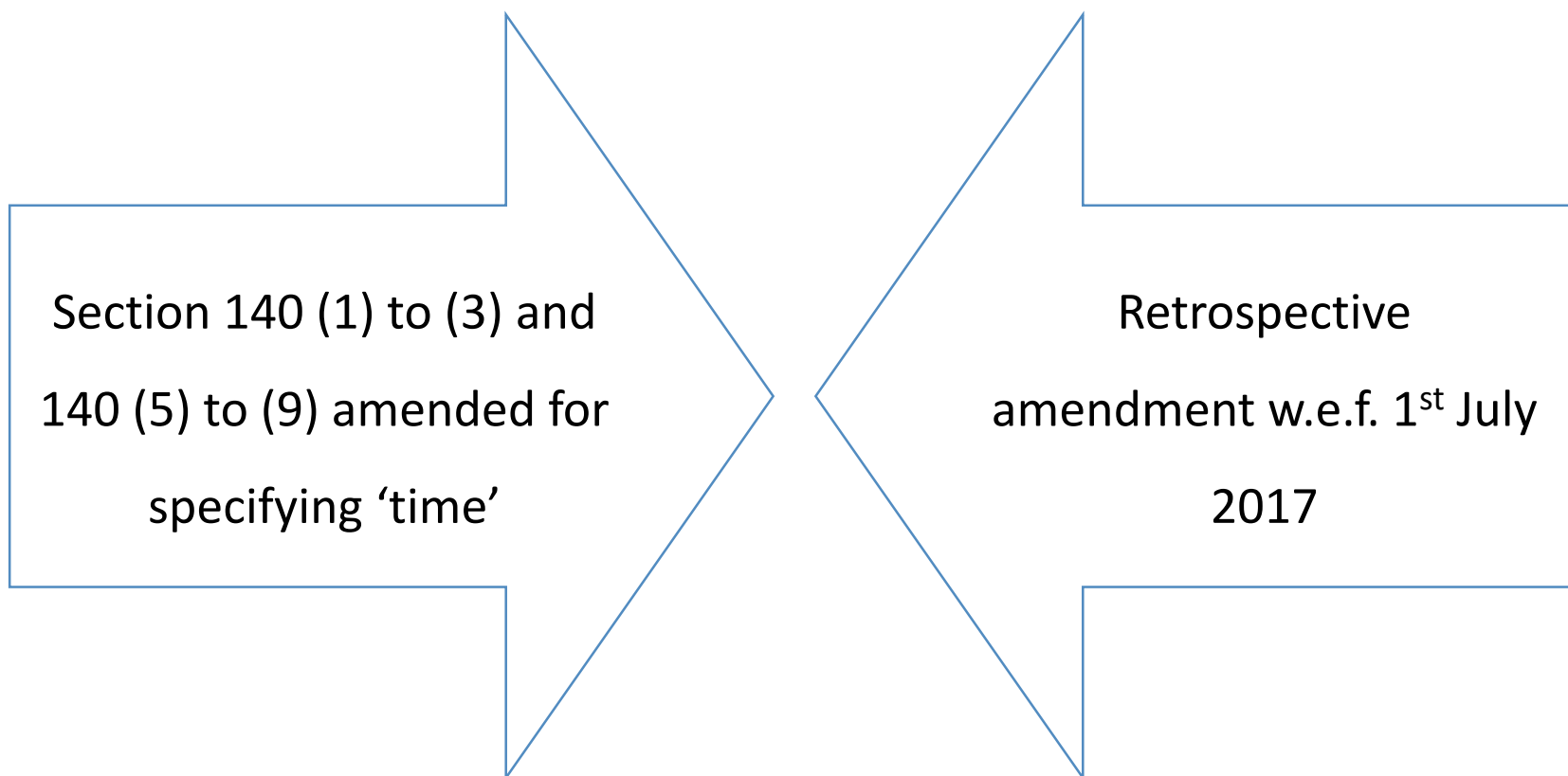
140 (8)

- “within such **time** and in such manner”

140 (9)

- “credit can be reclaimed within such **time** and in such manner as may be prescribed, subject to”

6. Transitional provisions – ‘Time’ specified

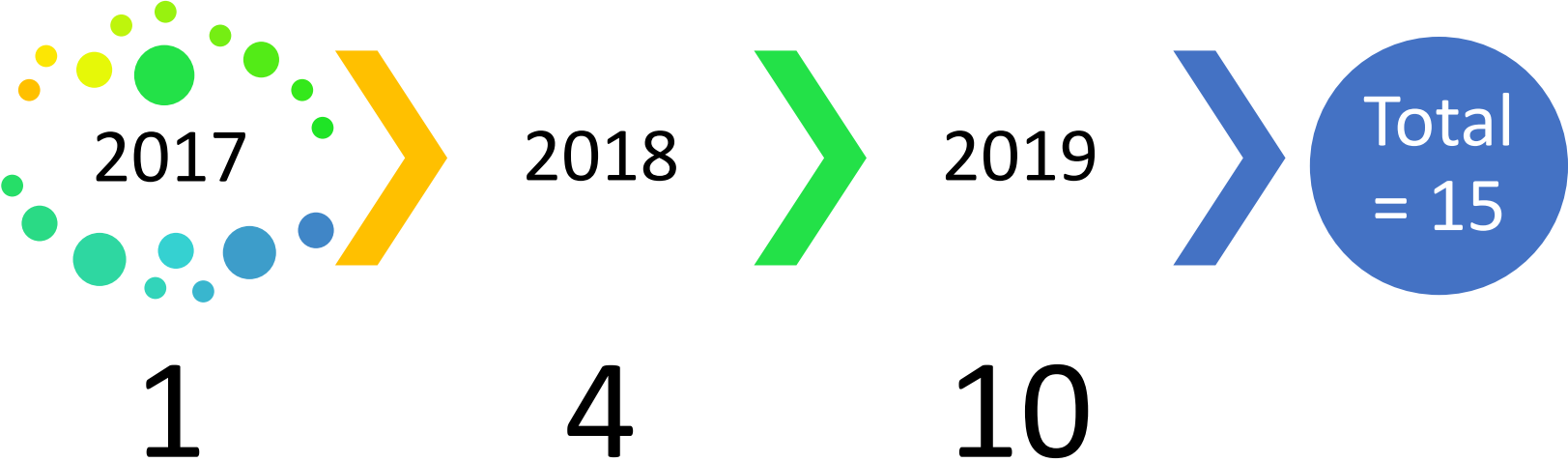


Section 172

[Removal of difficulties]

Extended till 30th June 2022

7. RoDs – Issued till now!



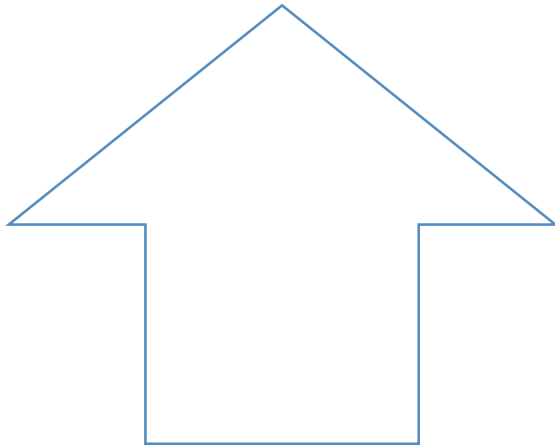
7. Key RoDs

Key RoDs	Particulars
2/2018	ITC can be availed for FY2017-18 till due date of return of March 2019 (even errors can be corrected)
4/2019	Reversal based on carpet area for Developers
1/2018, 3/2018, 6/2019, 7/2019, 8/2019, 10/2019	<ul style="list-style-type: none">- FY 1718 – Seven times due date of 9 / 9C extended (From 31st Dec. 2018 to 31st March 2019 to 30 June 2019 to 31st August 2019 to 30th November 2019 to 31st December 2019 to 31st January 2020)- For FY1819 – Due date extended to 31st March 2020

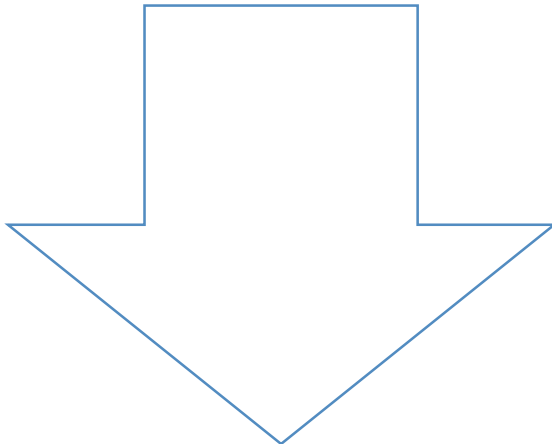
7. Time limit to issue RoD extended

Existing provision	Amendment proposed
<p>Section 172 Removal of difficulties</p> <p>(1) If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.</p>	<p>Section 172 Removal of difficulties</p> <p>(1) If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of three years <u>five years</u> from the date of commencement of this Act.</p>

7. Time limit to issue RoD extended



It means RoD Orders can be issued till
30th June 2022!



One of the example of RoD is restriction
of credit on carpet area basis through
RoD No. 4 dated 29th March 2019!

Amendment in Schedule II

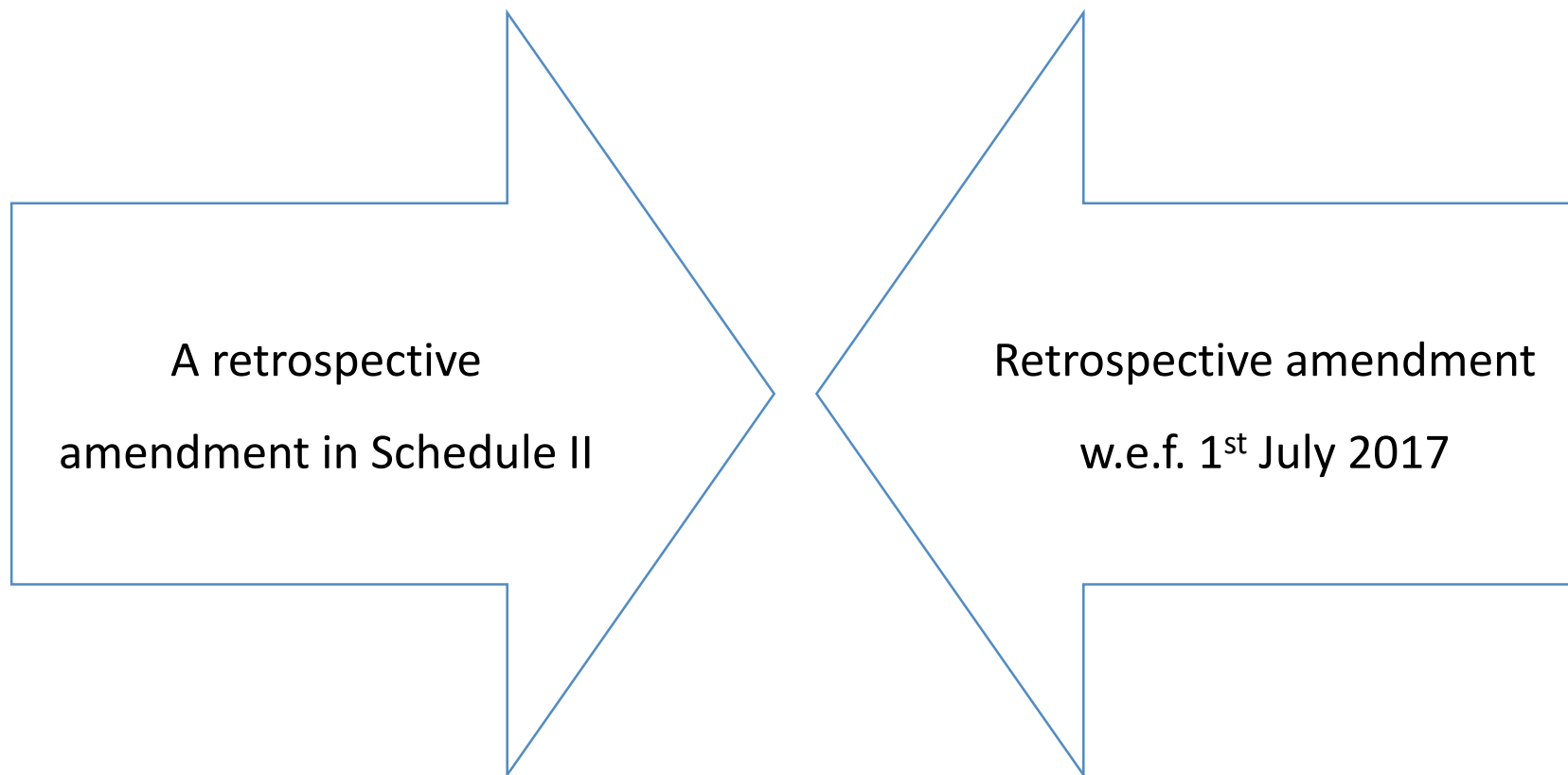
**[ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF
GOODS OR SUPPLY OF SERVICES]**

Clarificatory amendment

8. Clarificatory amendment in Schedule II

Existing provision	Amendment proposed
<p>Schedule II</p> <p>4. Transfer of business assets</p> <p>(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;</p> <p>(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, ...</p>	<p>Schedule II</p> <p>4. Transfer of business assets</p> <p>(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;</p> <p>(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, ...</p>

8. Clarificatory amendment in Schedule II



Income Tax Act

**Specific provision for fake
invoicing introduced!**

9. IT Act – Specific provision for fake invoicing

New provision

Section 271AAD is being inserted in Income Tax Act (**from 1st April 2020**)

(1) Without prejudice to any other provisions of this Act, if during any proceeding under this Act, it is found that in the books of account maintained by any person there is—

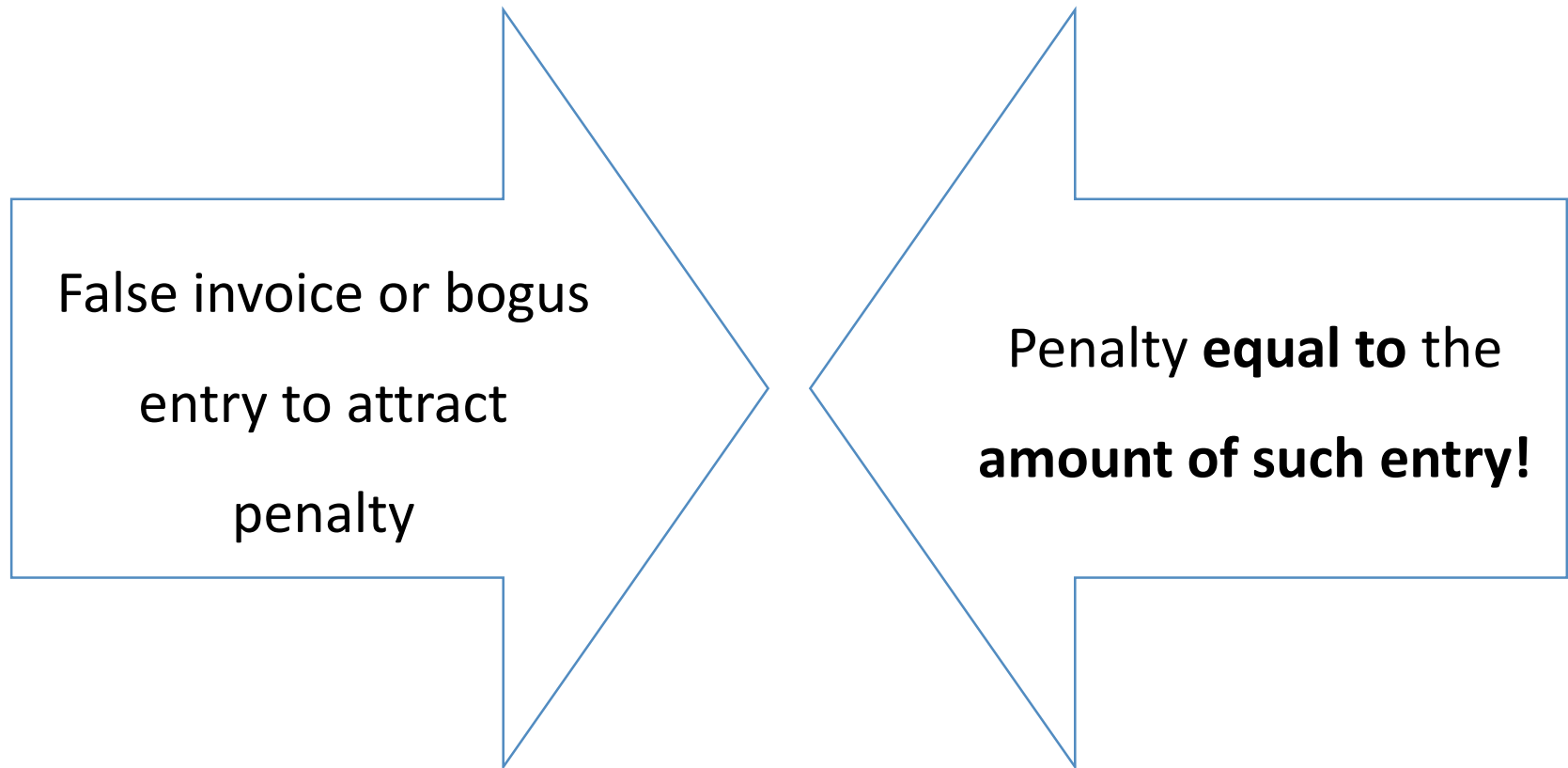
(i) a false entry; or

(ii) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability,

the Assessing Officer may direct that such person shall pay by way of **penalty** a sum **equal** to the aggregate **amount** of such false or omitted entry.

(2) Without prejudice to the provisions of sub-section (1), the Assessing Officer may direct that any other person, who causes the person referred to in sub-section (1) in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section, shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.

9. IT Act – Specific provision for fake invoicing



Effective date of amendments

FB, 2020 - Effective date of amendment

As per Clause 1 (2) (b) of Finance Bill, 2020 the amendments will be effective from a date to be notified

Earlier, the amendments in CGST Act were made effective:

- W.e.f. 1.02.2019
- W.e.f. 1.01.2020

Retrospective amendment – w.e.f. 1st July 2017!

Section 140

Schedule II (sr. no. 4)

CGST Act – Provisions yet to be effective!

Section 43A

Proviso to Section 50

An 'Interest'ing provision

SECTION 50. Interest on delayed payment of tax

- (1) *Every person who is **liable to pay tax** in accordance with the provisions of this Act or the rules made thereunder, but **fails to pay the tax** or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof **remains unpaid**, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.*

31st GST Council meeting

- Minutes Agenda - *Proposal for amendment of Section 50 of COST Act, 201 7 to allow payment of interest on **net cash liability***
- Press Release 22nd December 2018
 - The GST Council in its 31st meeting held today at New Delhi gave in principle approval to the following amendments in the GST Acts:
 - *“Amendment of section 50 of the CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit, i.e. interest would be leviable only **on the amount payable through the electronic cash ledger**”*

Interest – Gross or net

Gross liability	Net liability
<p data-bbox="156 496 942 539">Megha Engineering And Infrastructures</p> <p data-bbox="195 582 904 625"><u>2019-TIOL-893-HC-TELANGANA-GST</u></p> <p data-bbox="170 753 929 1139">Since ownership of such money is with the dealer till the time of actual payment, the Government becomes entitled to interest up to the date of their entitlement to appropriate it</p>	<p data-bbox="1122 496 1638 539">Octagon Communications</p> <p data-bbox="1097 582 1663 625"><u>2019-TIOL-909-HC-AHM-GST</u></p> <p data-bbox="987 753 1773 1139">If the petitioner is not able to file return in Form GSTR-3B by 20th April, 2019 the petitioner would be deprived of input tax credit – thus, manual return permissible</p>

Reflex Industries Ltd (Madras HC Order dated 6th January 2020)

12. ... In my considered view, the proper application of Section 50 is one where **interest is levied on a belated cash payment** but not on ITC available all the while with the Department to the credit of the assessee. The latter being available with the Department is, in my view, neither belated nor delayed.

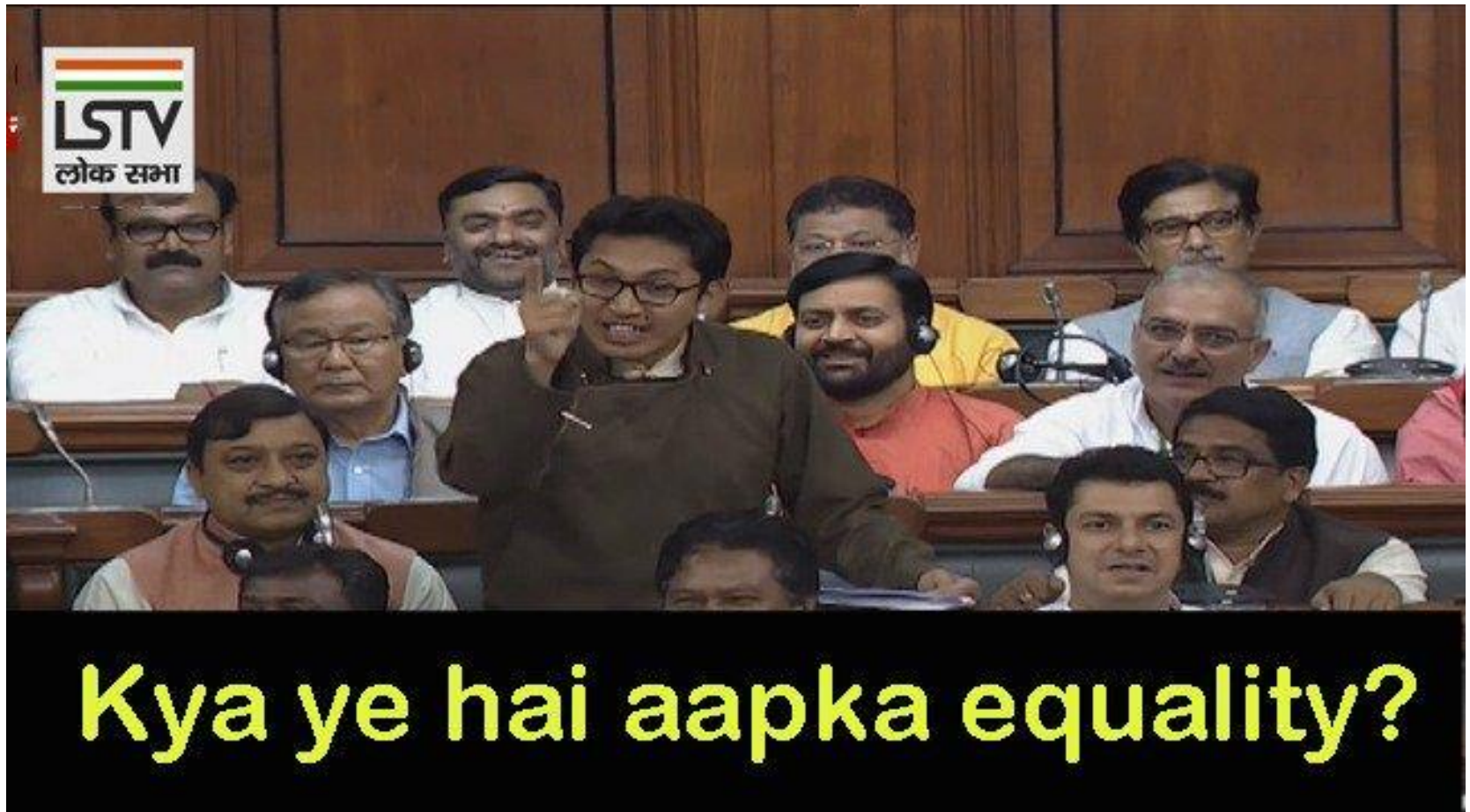
15. The above proviso, as per which interest shall be levied only on that part of the tax which is paid in cash, has been inserted with effect from 01.08.2019, but clearly **seeks to correct an anomaly** in the provision as it existed prior to such insertion. It should thus, in my view, be read as **clarificatory and operative retrospectively**.

16. ... Today, however, the amendment **stands incorporated** into the Statute and comes to the aid of the assessee.

Interest

CGST Act vs SGST Act

CGST and SGST!



CGST Act

- **Section 50 (1) – Amendment**

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger [Proviso as per FA, 2019]

Maharashtra GST Act, 2017

MAHARASHTRA ACT No. XXXI OF 2019.

(First published, after having received the assent of the Governor in the “*Maharashtra Government Gazette*”, on the 26th December 2019). An Act further to amend the Maharashtra Goods and Services Tax Act, 2017.

WHEREAS it is expedient further to amend the Maharashtra Goods and Services Tax Act, 2017, for the purposes hereinafter appearing; it is hereby enacted in the Seventieth Year of the Republic of India as follows :-

1. (1) This Act may be called the Maharashtra Goods and Services Tax (Amendment) Act, 2019.
2. (2) It shall come into force **on the 1st January 2020.**

Maharashtra GST Act, 2017

10. In section 50 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely :—

*“ Provided that, the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished **after the due date** in accordance with the provisions of section 39, except where such return is furnished **after commencement** of any **proceedings under section 73 or section 74** in respect of the said period, **shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.**”.*

Maharashtra GST Act, 2017

MAHARASHTRA ORDINANCE No. V OF 2020.

AN ORDINANCE to amend the Maharashtra Goods and Services Tax (Amendment) Act, 2019

- **2.** In section 1 of the Maharashtra Goods and Services Tax (Amendment) Act, 2019, for sub-section (2), the following sub-section shall be substituted and shall deemed to have been substituted with effect from the 26th December 2019, namely :—
“ (2) (a) section 3 to section 6, section 8, section 9, section 11, section 12 and section 21 shall come into force on the 1st January 2020 ;
(b) save as otherwise provided, remaining sections shall come into force on such date as the Government may, **by notification** in the *Official Gazette*, **appoint.**”.

Interest computation - Is it 'prescribed'?

SECTION 50. Interest on delayed payment of tax

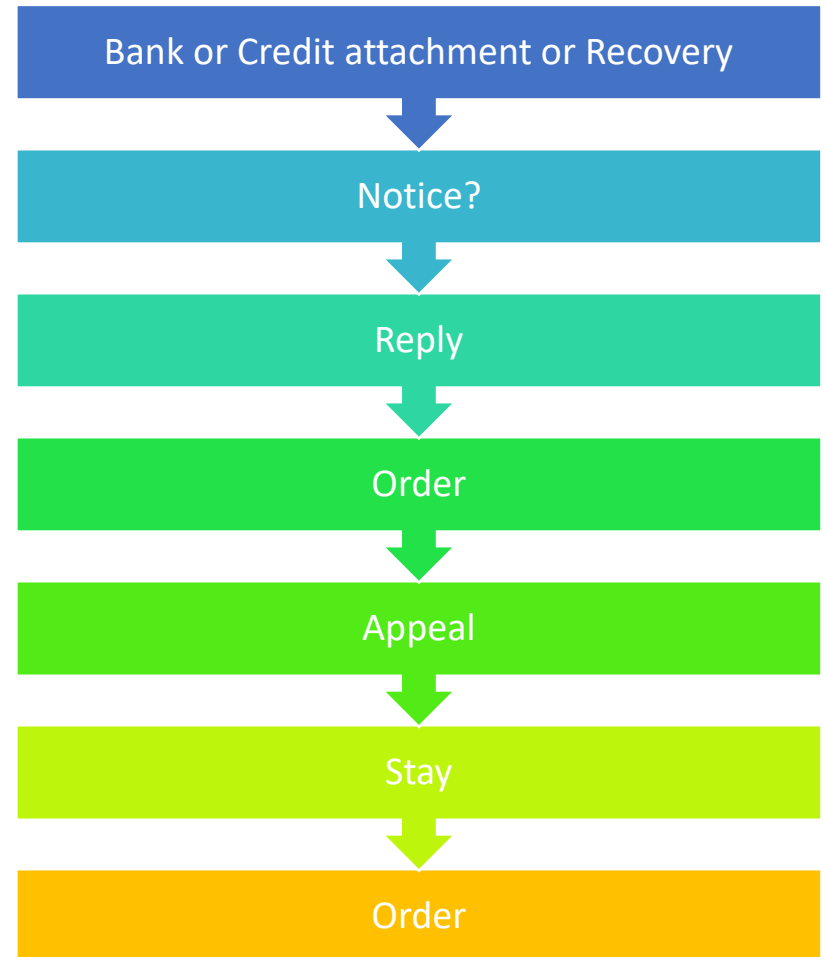
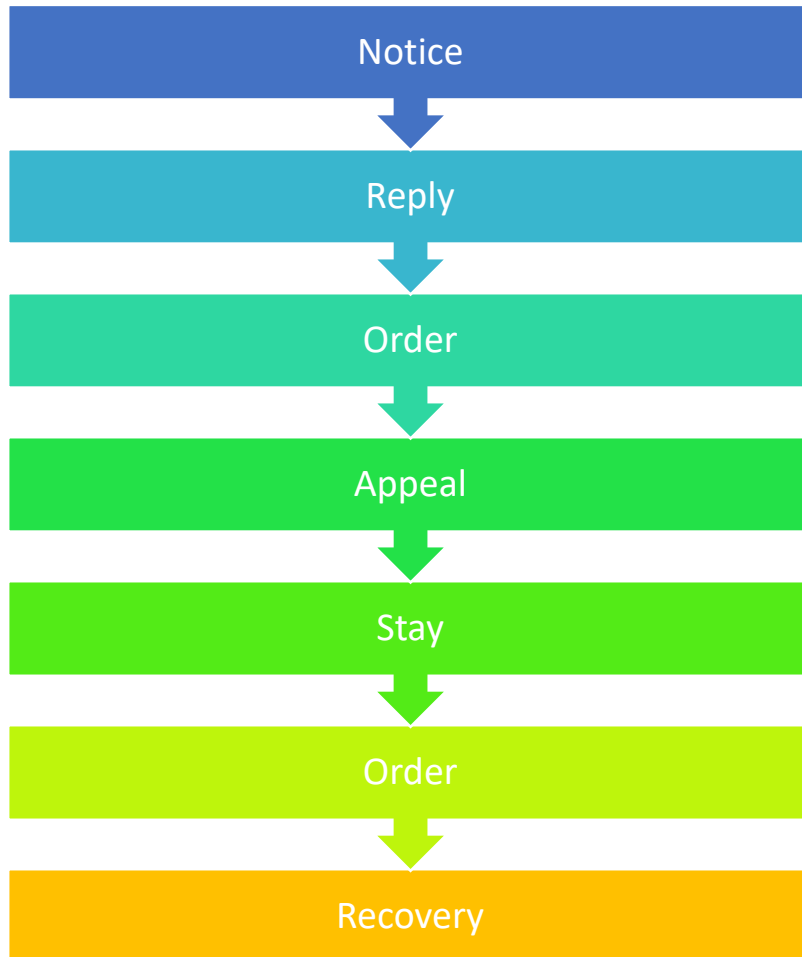
...

*(2) The interest under sub-section (1) shall be calculated, in such manner as may be **prescribed**, from the day succeeding the day on which such tax was due to be paid.*

Recovery

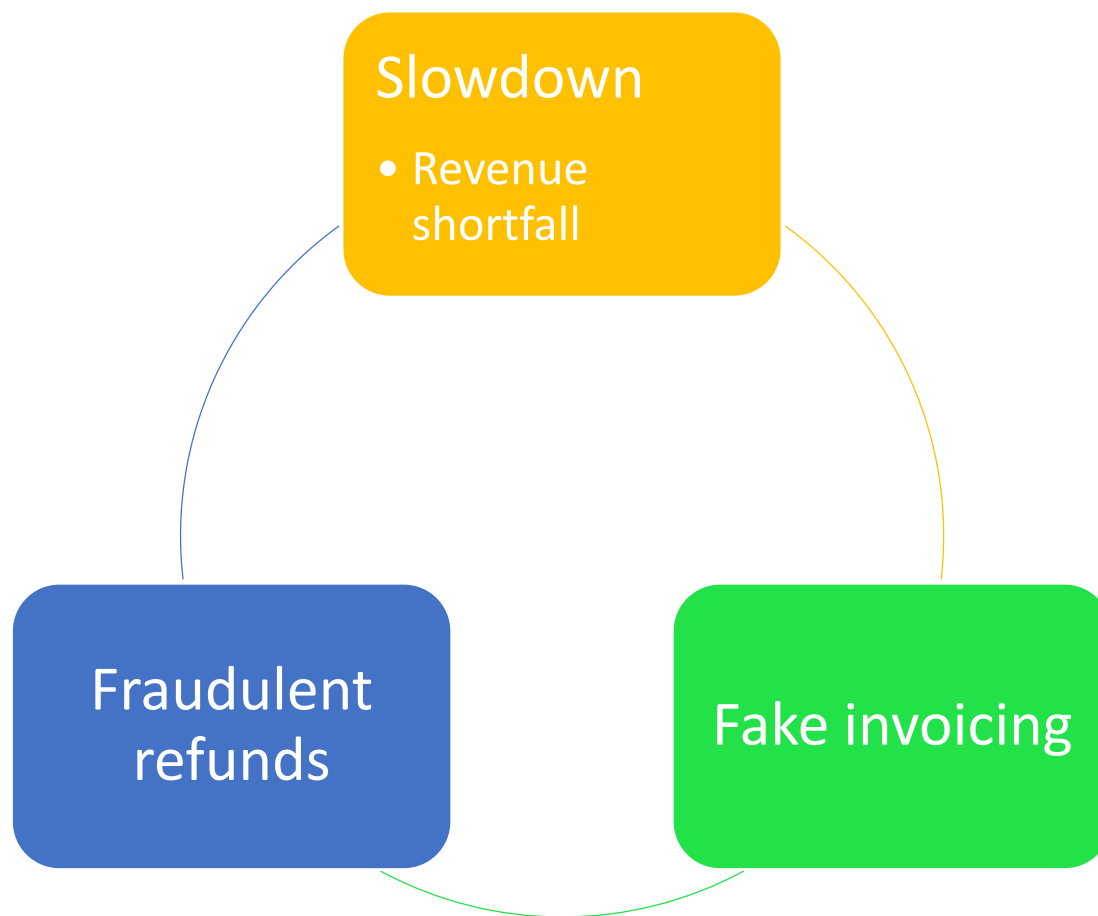
Where are we headed?

Pre-GST and Post-GST!

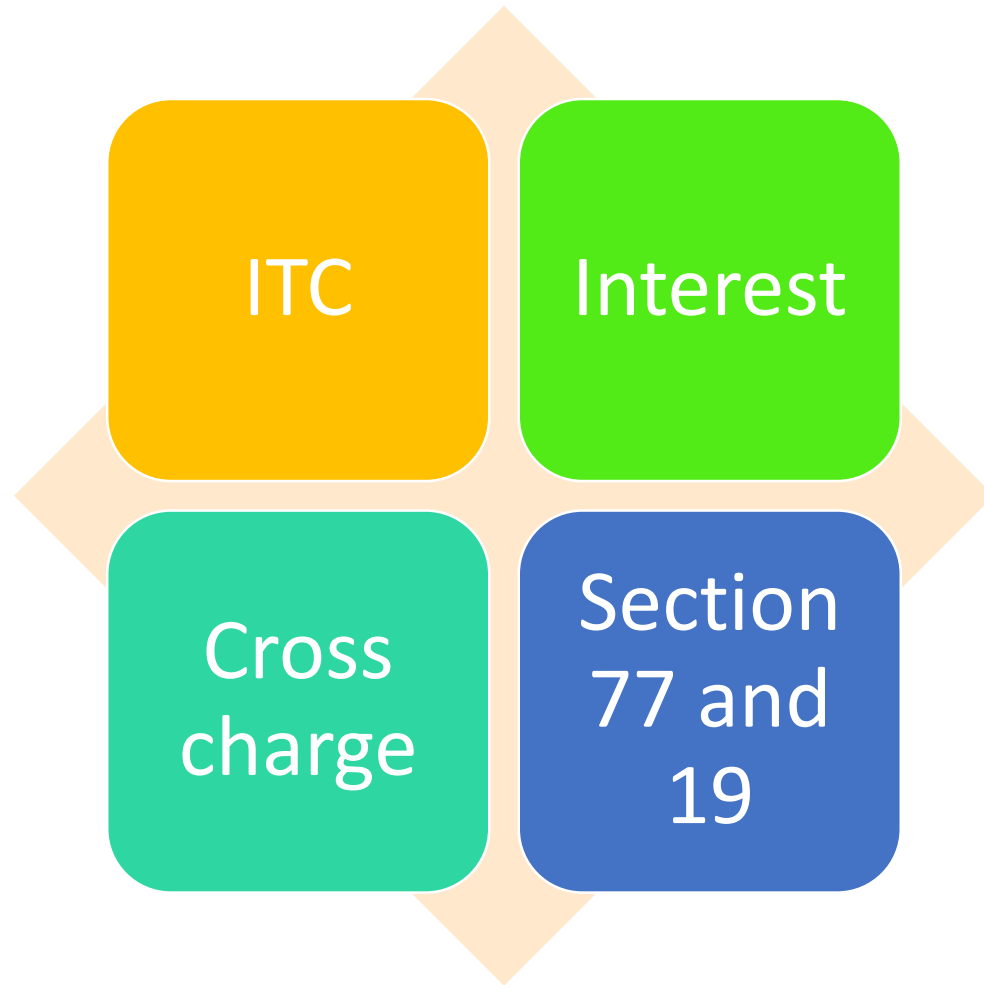


Future

What is driving changes?



Future!

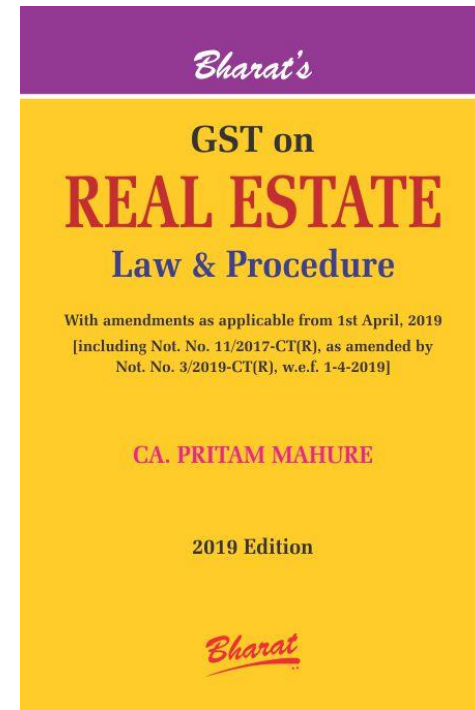
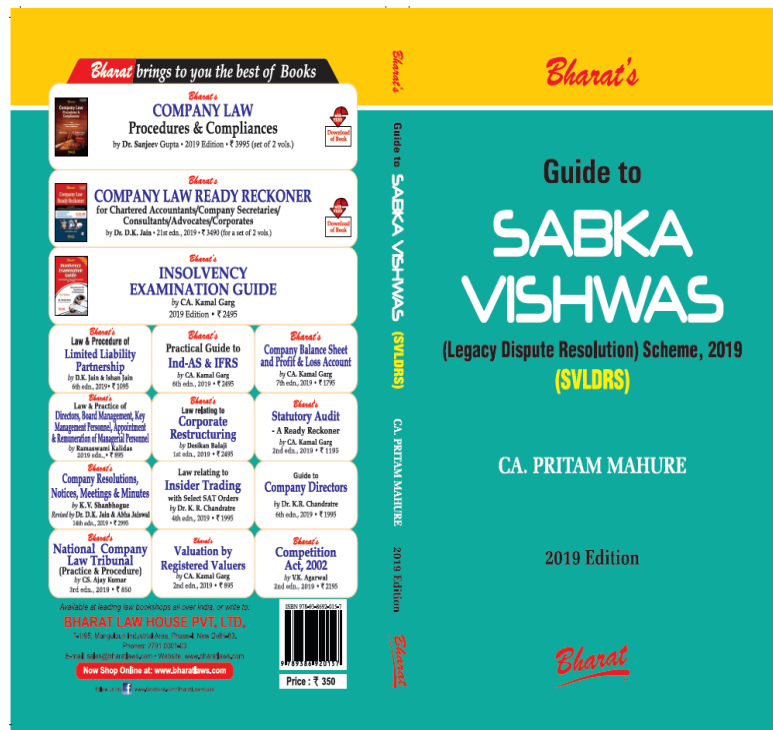
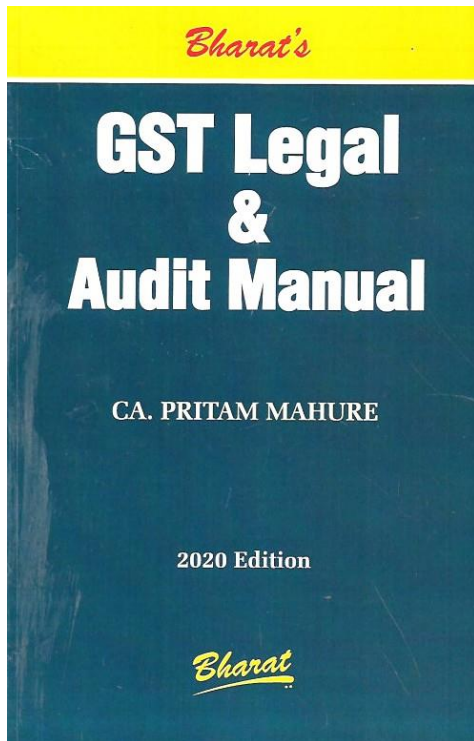


Finally!

GST



Our Books



Thank You!

CA Pritam Mahure and Associates

info@lawgical.in

pritam.Mahure@Lawgical.in / +91 9920644648

E-books on GST!

E-books on How to be Future Proof!

Smile please 😊