

A photograph of wooden blocks on a light-colored surface. The top block is stacked on another block, and the word "BUDGET" is printed in black on the top block. The number "2022" is printed in red on the block below it. Other wooden blocks are scattered in the background.

**BUDGET**

**2022**

## **ANALYSIS OF GST PROPOSALS**

**Organized by**

**NAVI MUMBAI BRANCH OF WIRC OF  
ICAI**

**- CA RAJIV LUTHIA**

# REACTION ON BUDGET



- It strengthens the economy; it's full of 'more infrastructure, more investment, more growth and more jobs'. There is also a new provision of green jobs; Budget ensures a bright future for youth----- **PM MODI**
- Modi Government's ZerO Sum Budget! Nothing for Salaried class, Middle class, The poor & deprived, Youth, Farmers, MSMEs ----- **MP Rahul Gandhi**
- The budget continues to strike a balance between the challenges posed by the recurring COVID-19 waves and the need to contain the economic damage due to pandemic. The budget achieves this delicate balance quite well. The emphasis going forward is on seven parallel tracks -- **Dinesh Khara, Chairman, SBI**
- A blueprint budget with a nice touch of green! A bold one with massive hike in public investment will be booster dose to restart corporate investments. The infrastructure allocation with focus on technology will generate employment & help transform tomorrow!----- **Prashant Ruia, Director, Essar Capital**

## CHEERS



- Extension of Time limit to avail ITC credit, Issuance of credit note & disclosure of outward supply
- Rate of Interest reduced to 18% on excess claim of ITC availed **and** utilised
- Transfer of balance of electronic cash ledger between distinct person

## TEARS



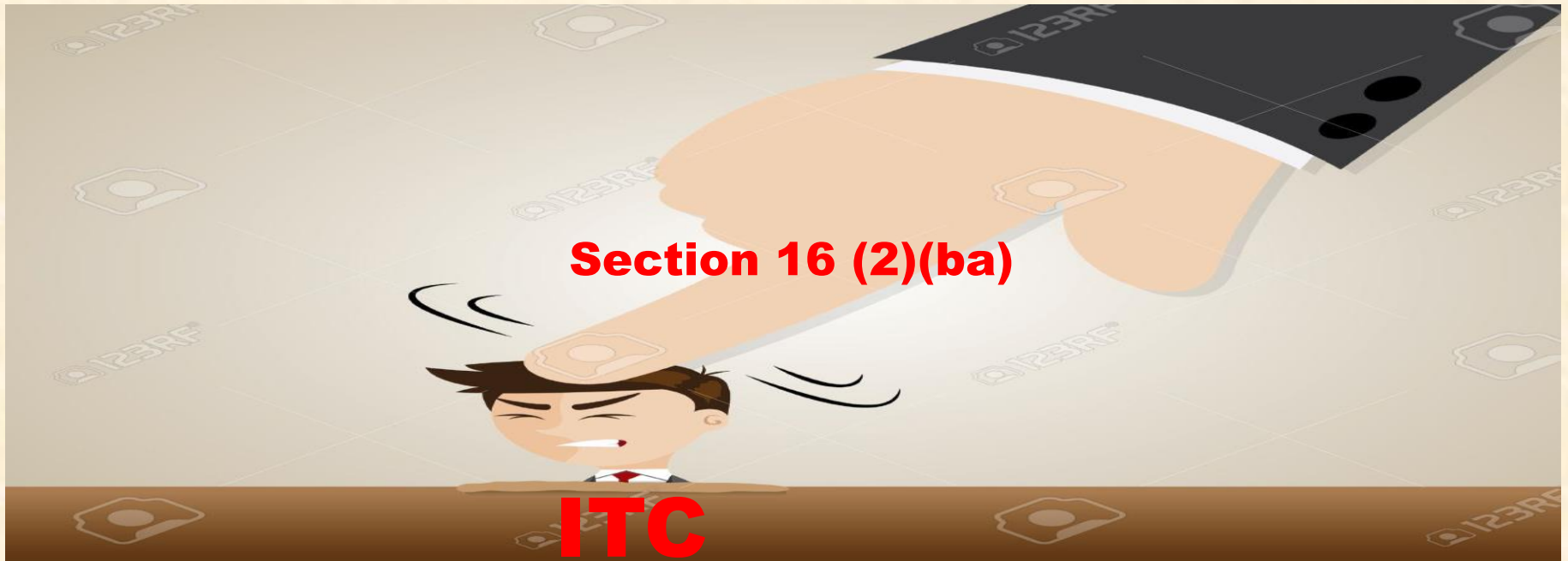
- Additional condition restricting the availment of ITC resulting into working capital crunch
- Restriction on utilisation of ITC for discharging Tax liability
- More stringent condition for cancellation/suspension of GST registration.
- Interest charged twice on same ITC amount for single default
- Late fees for delay in filing TCS return for ECO

# INPUT TAX CREDIT



#2042735

# **“SEAMLESS CREDIT”** TURNED OUT **“SEEMS LESS CREDIT”**



- Sub-clause (ba) inserted in Section 16(2).....**Additional Condition for taking ITC**
- *“The details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been **restricted**”*

# “SEAMLESS CREDIT” TURNUED OUT “SEEMS LESS CREDIT”

## SECTION 38 SUBSTITUTED..... COMMUNICATION OF DETAILS OF INWARD SUPPLIES & ITC

- The auto-generated statement (like GSTR 2B) shall be communicated **containing** details based on GSTR1 filled by vendors:
    - *Details of inward supplies for which ITC may be available to the recipient;*
- AND**
- *Details of supplies in respect of which such credit cannot be availed, whether wholly or partly, **on account of:***

# “SEAMLESS CREDIT” TURNUED OUT “SEEMS LESS CREDIT”

- *Within such period of taking registration by vendor as may be prescribed*
- *Default in payment of tax for prescribed period by vendor*
- *Where there is short fall in payment of tax by vendor by such limit & period as may be prescribed (i.e. Liability as per GSTR 1 > Liability as per GSTR 3B)*
- *Where vendor has availed ITC in excess of eligible credit as per section 38(2)(a) (auto-generated statement) by such limit*
- *Where vendor has committed default in discharging tax liability as per provisions of section 49 (12) ( i.e. maximum limit for utilising ITC)*
- *by such other class of persons as may be prescribed*

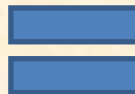
**TOTAL ITC REFLECTED IN GSTR 2B**



**RESTRICTIVE CREDIT AS PER SECTION 38**



**INELIGIBLE CREDIT**

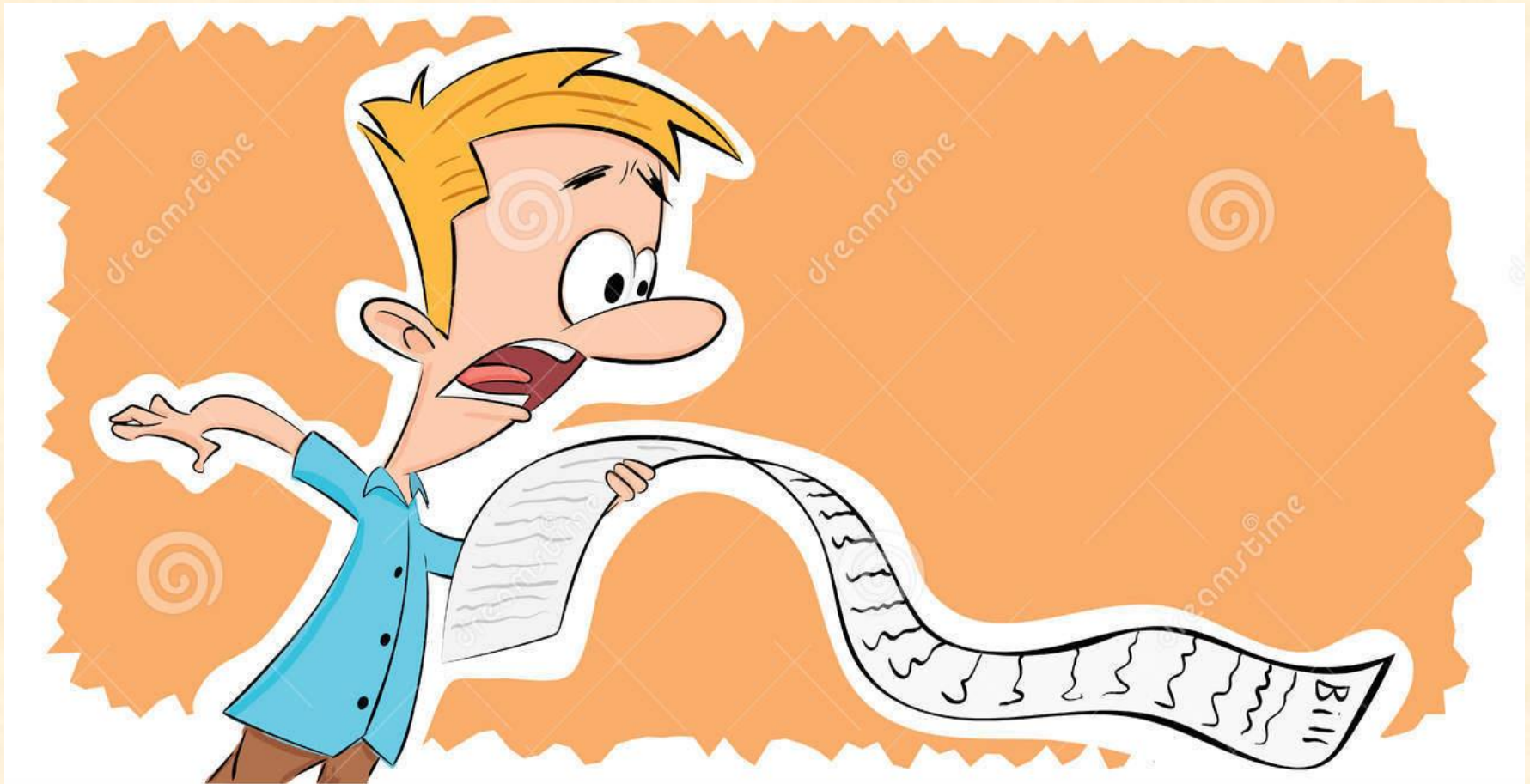


**ELIGIBLE CREDIT**



# “SEAMLESS CREDIT” TURNED OUT “SEEMS LESS CREDIT”

**SO MUCH DETAILS TO BE LOOKED INTO BEFORE TAKING CREDIT**



***Section 38(2)(b)(i) - Within such period of taking registration as may be prescribed***

Kapoor Ltd registered recently & Supplied goods/services to Reliance Ltd.

Reliance Ltd. cannot avail ITC for supply from Kapoor Ltd. for the initial months of new registration as may be prescribed.



**FLY BYE NIGHT COMPANIES**

# Section 38(2)(b)(ii) - Vendor defaulted in payment of tax for prescribed period



- RAJPAL YADAV supplied goods to JOHNY LEVER & disclosed in GSTR 1.
- LEVER claimed ITC as same appearing in GSTR 2B
- RAJPAL thereafter defaulted in paying the tax i.e. non-filing of GSTR 3B
- Such default continues over period
- LEVER will not be able to claim ITC once communicated in AUTO GENERATED STATEMENT

***Section 38(2)(b)(iii) – Output Tax payable as per GSTR 1 exceed output tax payable in GSTR 3B by such limit prescribed.***

- Ram supplied goods to Shyam for Rs.10,00,000/- and disclosed in its GSTR 1 for May, 2022
- Shyam has availed ITC of Rs. 1,80,000/- on said purchases from RAM since same was appearing in his GSTR 2B
- Ram disclosed taxable supplies to tune of Rs 5,00,000/- in GSTR 3B & paid Rs. 90,000/- as GST
- Thus, GSTR 2B for subsequent month of RAM will be restrict to tune of Rs. 90,000/-

***Section 38(2)(b)(iii) – Output Tax payable as per GSTR 1 exceed output tax payable in GSTR 3B by such limit prescribed.***

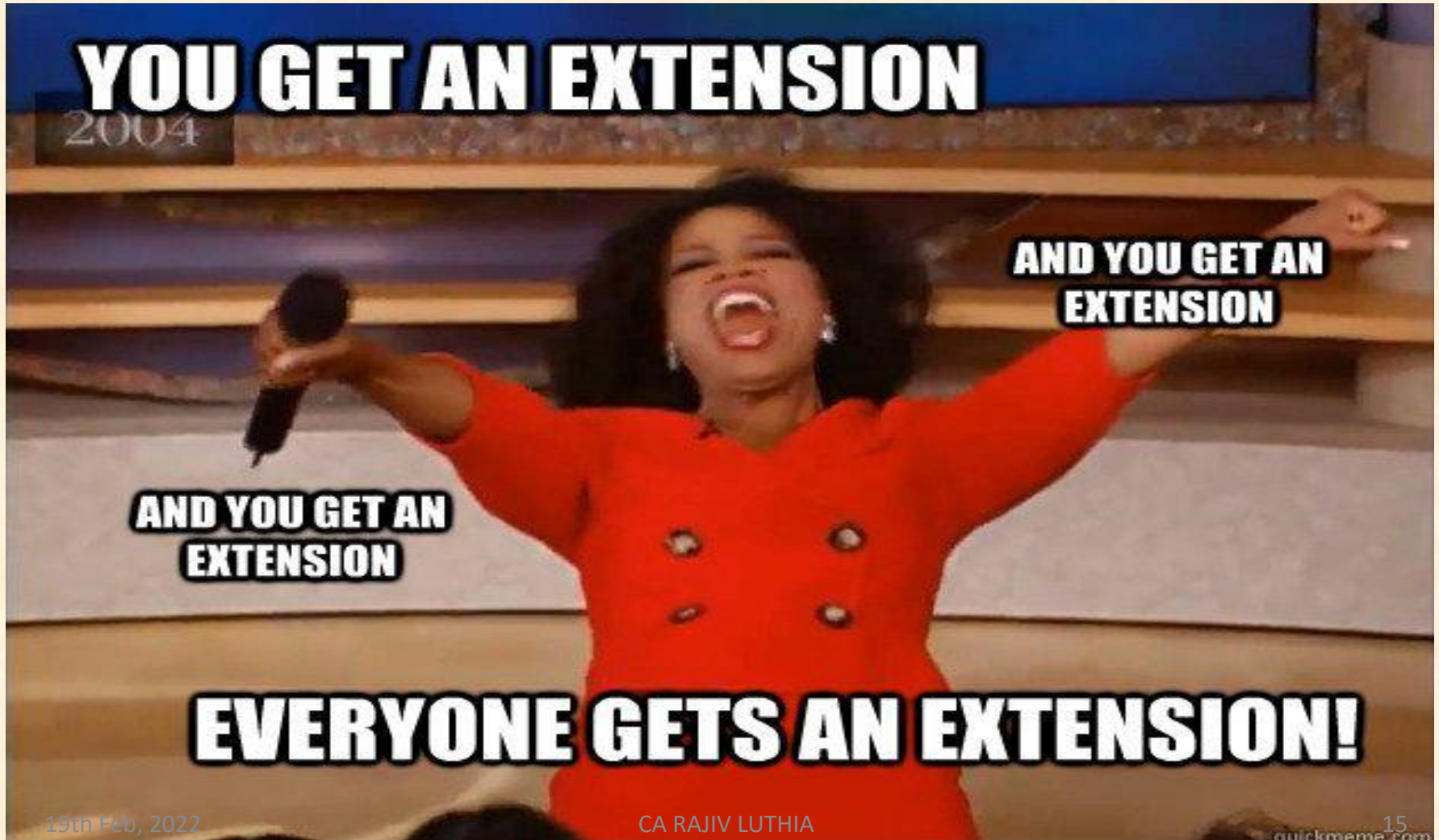
- Explanation to Section 75(12) provide that self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37 (GSTR 1), but not included in the return furnished under section 39 (GSTR 3B)
- The said Explanation was effective from 1<sup>st</sup> Jan, 2022
- Thus, Government has power to recovery Tax from supplier if there is mismatch of liability on account of outward supply between GSTR 1 & GSTR 3B.
- What about re-credit to assessee after recovery from supplier?



***Section 38(2)(b)(iv) - Where vendor has availed ITC in excess of eligible credit as per section 38(2)(a) (auto-generated statement) by such limit***

- Vendor A Ltd availed ITC Rs. Ten Lacs in GSTR- 3B of **May, 2022**
- ITC as per his GSTR 2B is Rs. Seven lacs for **May, 2022**
- XYZ Ltd has purchased goods from A Ltd amounting to Rs. 5,00,000/- in **June, 2022**
- Auto Generated statement for month of June, 2022 of XYZ Ltd will restrict the credit of XYZ Ltd proportionately to the extent of excess credit availed by A Ltd

# YOU GET AN EXTENSION!!!

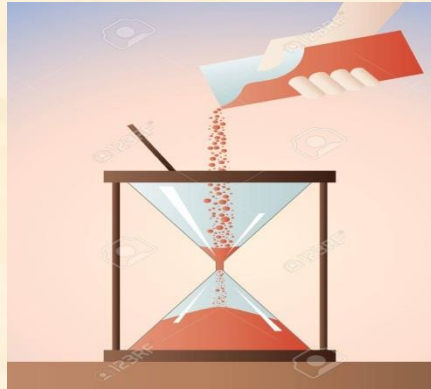


# Section 16(4) - EXTENSION OF TIME FOR AVAILMENT OF ITC

## CURRENT PROVISION

Time limit for availing ITC of invoice/debit-note pertaining to FY, was **earliest** of

- up to the due date of furnishing GSTR 3B for September following the end of FY i.e **20<sup>th</sup> October**;
- or**
- Date of filing annual return in GSTR 9



## PROPOSED AMENDMENT

Time limit for availing ITC of invoice/debit-note pertaining to FY, shall be earliest of

- **30<sup>th</sup> November** of subsequent financial year;
- or**
- Date of filing annual return in GSTR 9

## **Effectively 41 additional days granted**



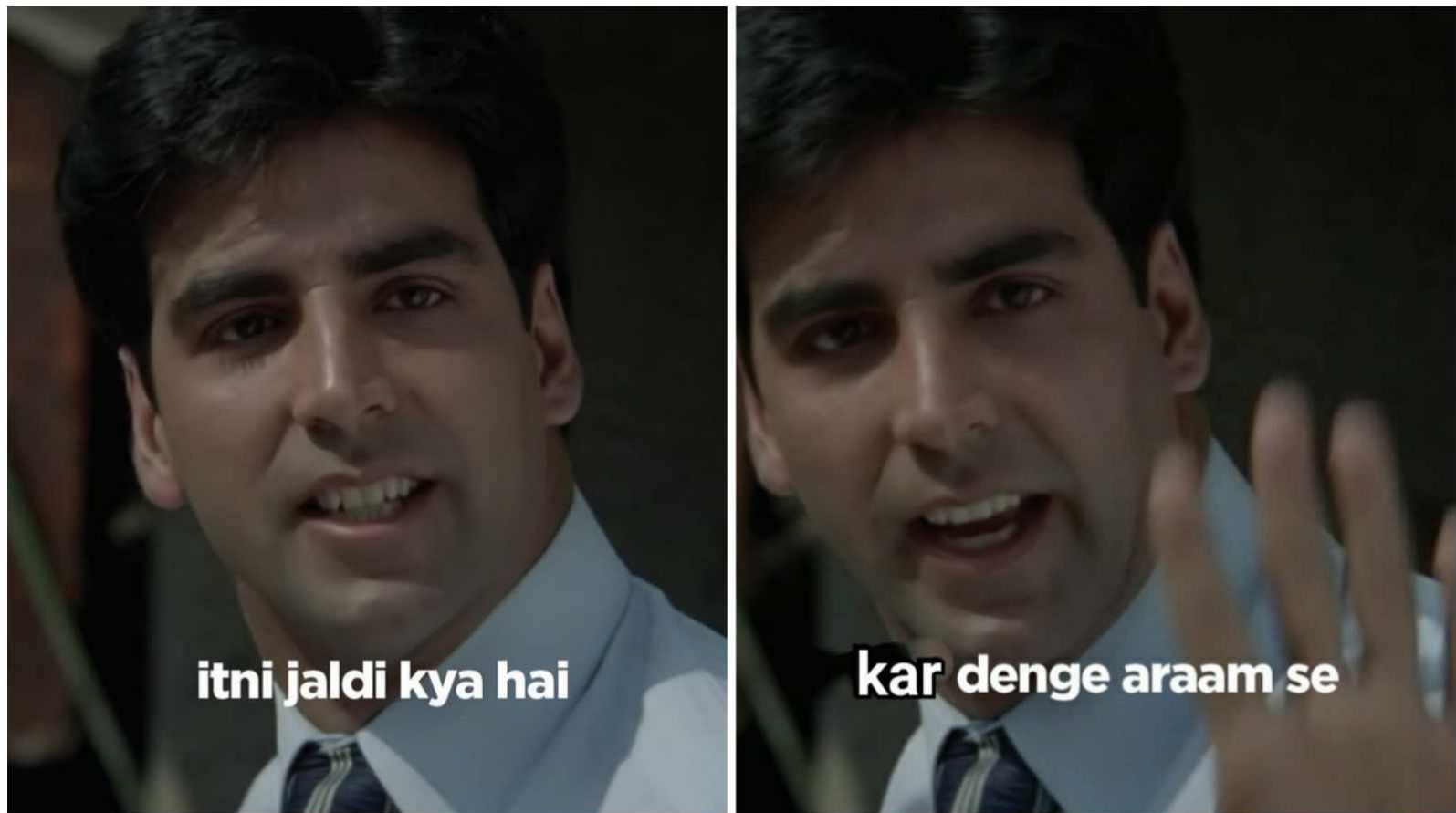
# EXTENSION OF TIME LIMIT FOR RECTIFICATION OF ERROR

Particulars	Present time limit	Proposed time limit
Time limit for Rectification of errors or omissions in the <b>statement of outward supplies (GSTR-1)</b> [proviso to s. 37(3)]	Earliest of –  (i) date of furnishing GSTR-3B of September of the following financial year; <b>or</b>  (ii) date of furnishing annual return	Earliest of –  <b>(i) 30th November</b> of the following Financial Year; <b>or</b>  (ii) Date of furnishing annual return.
Time limit for Rectification of errors or omissions in returns – <b>GSTR 3B</b> [proviso to s. 39(9)]	Earliest of –  (i) Due date for filing return for September of the following financial year; <b>or</b>  (ii) date of furnishing annual return.	Earliest of –  <b>(i) 30th November</b> of following Financial Year; <b>or</b>  (ii) date of furnishing of annual return.

# EXTENSION OF TIME LIMIT FOR RECTIFICATION OF ERROR

Particulars	Present time limit	Proposed time limit
Time limit for <b>Rectification of errors or omissions in monthly TCS returns of Electronic Commerce Operators</b> [proviso to s. 52(6)]	Earliest of –  (i) Due date for filing monthly statement for September of the following financial year; <b>or</b>  (ii) date of furnishing of the annual statement	Earliest of –  (i) 30th November of the following Financial Year; <b>or</b>  (ii) Date of furnishing annual statement
Time limit for <b>filing monthly returns by a Non-resident taxable person</b> [s. 39(5)]	Earliest of –  (i) 20 day after the end of a calendar month; <b>or</b>  (ii) within 7 days after the last day of the expiry period of his registration	Earlier of –  <b>(i) 13 days after the end of a calendar month; or</b>  (ii) within 7 days after the last day of the expiry period of his registration

# BEWARE WHEN YOUR SUPPLIER SAYS



## FOR FURNISHING DETAILS IN GSTR 1

## Section 41(2) – Reversal of ITC on non payment of Tax by supplier

### REVERSAL

It is proposed that ITC availed in respect of inward supplies shall be **reversed along with Interest** by assessee if the tax thereon has not been paid by supplier



### REREDIT

Further, the recipient shall be entitled to re-avail the said ITC in prescribed manner, where the said supplier makes payment of the tax in respect of the aforesaid supplies on later date.

**CHOOSE YOUR  
SUPPLIER WISELY**

# PRE-DEPOSIT THROUGH ITC



- Presently, section 41(2) provide that the credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.
- **Hon'ble ORISSA HC - JYOTI CONSTRUCTION 2021 (10) TMI 524** has held that Section 41(2) of the OGST Act limits the usage of ITC only for payment of self-assessed output tax. **It cannot be debited for making payment of pre-deposit at the time of filing of the appeal in terms of Section 107 (6) of the OGST Act.**
- The said Section 41(2) has been substituted with new provision
- No Restriction on Utilisation of ITC balance for pre-deposit

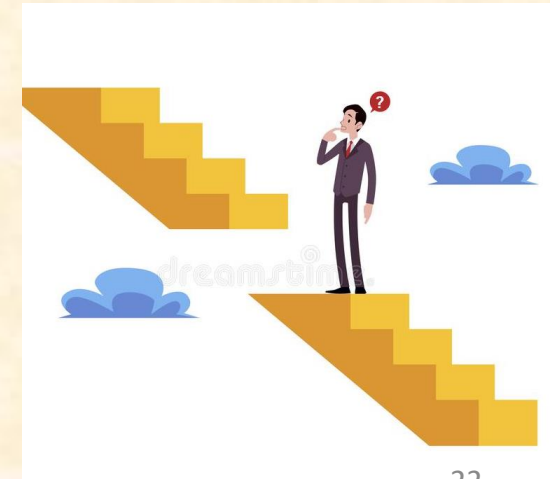
# ENSURE YOUR COMPLIANCES RELATED TO GSTR 1 (Section 37) & GSTR 3B (section 39)



Presently, it is possible for assesses to file **GSTR 1** and **GSTR 3B** even if such return for any previous period were not furnished.

## NOW YOU CAN NOT STEP AHEAD.....

The proposed amendment will restrict you to file GSTR 1 and GSTR 3B in case of you have not filed your preceding GSTR 1 or GSTR 3B



# Section 29 - Cancellation/Suspension of GST Registration



Proper officer can cancel the registration of

- i. **Composition dealer**, if the return in form GSTR-4 has been filed beyond 3 months from the due date of furnishing the said return i.e. 30<sup>th</sup> April following the end of such financial year. **(Erstwhile it was 3 consecutive tax periods )**
- ii. For Others assessee, if he has not furnished returns for a continuous tax periods as may be prescribed. **(Erstwhile it was 6 consecutive tax periods )**

# HOLD YOUR BREATH – TIME TO DISCUSS SECTION 54





# CLAIMING OF REFUND LYING IN ELETRONIC CASH LEDGER

- Claim for refund of any balance in electronic cash ledger, through return furnished under section 39 (i.e. FORM GSTR 3B).
- However, GST portal does not permit filing of such refund claim through GSTR 3B. The GST portal permits to file such refund claim through RFD-01
- The section is modify to match with GST portal





# REFUND - NOT AN EASY TASK....

The power to withhold the refund by proper officer in case of default in filing return, paying tax, etc.

## CURRENT PROVISION

Is only applicable to refund of unutilized ITC for assessee having zero rated supply and inverted duty structure i.e. Section 54(3).

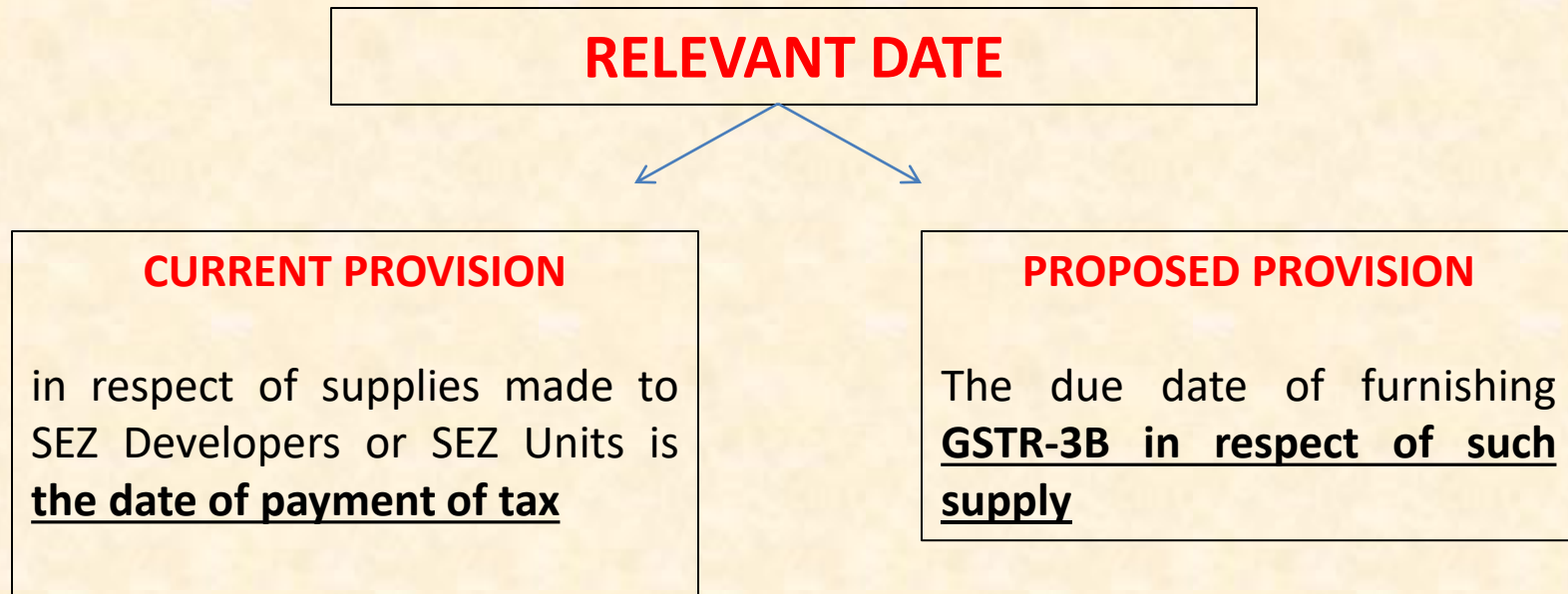
## PROPOSED PROVISION

Shall now be applicable for refund under all scenarios as specified under Section 54 of the Act.



# ATTENTION..... SUPPLIERS OF SEZ UNITS/DEVELOPERS

REFUND CAN BE CLAIMED WITHIN 2 YEARS FROM RELEVANT DATE



## Example:

A Ltd. has entire turnover from zero-rated supplies to SEZ units/developers. Last Date for filing refund claim of unutilized ITC shall be 2 years from the due date of furnishing relevant GSTR 3B in which supply was made.

## Section 54 (2) - ADDITIONAL TIME TO CLAIM REFUND OF UNUTILIZED ITC

- UNO,
- Multilateral Financial Institution,
- Consulate or Embassy of foreign countries



### CURRENT PROVISION

6 months from the last day of the quarter in which supply corresponding to ITC was received.

### PROPOSED PROVISION

2 years from the last day of quarter in which inward supply is received

# Section 49: Late Fees on TCS Return by ECO

Delay in filing  
return in Form  
**GSTR 7** i.e. details  
of TCS by e-  
commerce  
operators



**LEVY OF LATE FEES**



**Rs. 100 per day subject to  
maximum of Rs. 5,000**

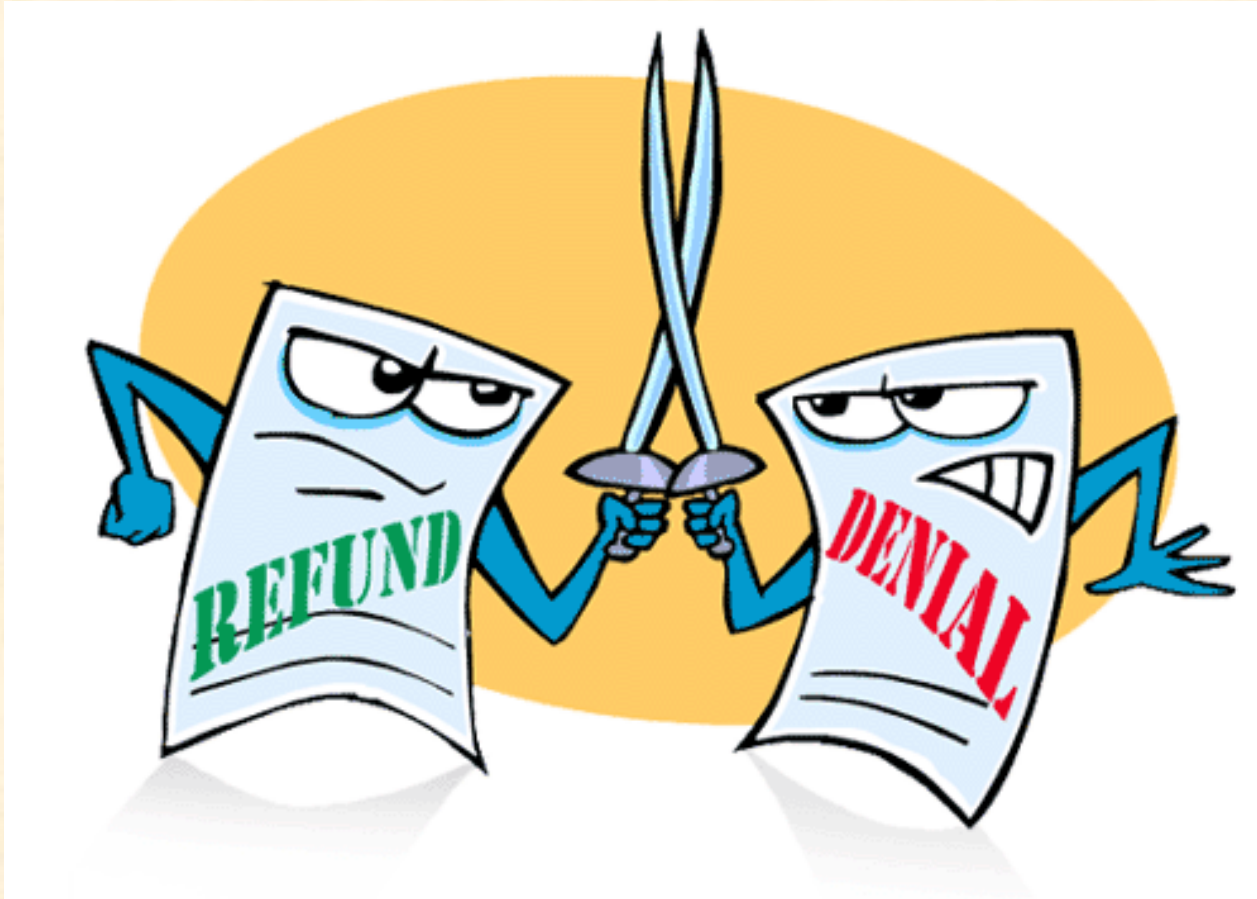


## Sec 50(3)- INTEREST REDUCED TO 18% -RETROSPECTIVELY

- Presently, section 50(3) provides for Interest at the rate of 24% for undue or excess claim of ITC
- It is proposed that the interest would be leviable at the rate of 18% on ITC **only** when such credit is wrongly availed and utilized.
- This amendment is made retrospectively w.e.f. 1<sup>st</sup> July, 2017



# Section 50(3) - REFUND OF INTEREST ALREADY PAID @24%???



- **No Specific provision for such refund.**

# Section 49 - INTER HEAD TRANSFER OF AMOUNT IN ELECTRONIC CASH LEDGER – DISTINCT PERSON

- It is proposed that Distinct Person under same PAN would be able to transfer of any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger from one state to another and vice versa.

Entity having same PAN registered in Maharashtra (including Major & Minor Head)				
Entity having same PAN registered in Gujarat (Incl. Major & Minor Head)	Transfer to	MH – IGST	MH – CGST	MH - SGST
	Transfer from			
	GJ – IGST	Yes	Yes	No
	GJ –CGST	Yes	Yes	No
GJ -SGST	No	No	No	



# Section 49(12)-Restriction on discharging GST liability by Utilising ITC

- Government will specify the maximum portion of output tax liability that an assessee can discharge by utilising ITC, subject to conditions and restrictions.
- Rule 86B (W.e.f. 1<sup>st</sup> Jan, 2021) was introduced wherein restriction on use of amount available in Electronic credit ledger.
- Section brought into force.

# SECTIONS OMITTED



Following sections are proposed to be omitted –

- Section 42 : Matching, reversal and reclaim of input tax credit
- Section 43 : Matching, reversal and reclaim of reduction in output tax liability.
- Section 43A : Procedure for furnishing return and availing input tax credit





हम तुम्हे इतने Compliances  
देंगे की confuse  
हो जाओगे की घर को office  
बना ले या office को घर!!

C.A

Government

# RETROSPECTIVE EXEMPTIONS

- It is proposed that no tax shall be levied on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil from 1<sup>st</sup> July, 2017 to 30th September, 2019
- Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments, has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service vide notification No. 25/2019- Central Tax (R) dated 30.09.2019. These notifications have been given retrospective effect from 01.07.2017
- It is also proposed that no refund shall be granted for taxes already paid on above activities or transactions

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



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