

GST Amendment Bills 2018

One Nation – One Voice – One Simple Tax

The GST Council (**One Voice**) in its 28th meeting held on 21st July 2018 recommended certain amendments to GST Acts, 2017. The Lok Sabha on Thursday (9th August 2018) passed four bills amending laws relating to the Goods and Services Tax (GST). These amendments are focused towards reducing the compliance burden on SME's and clearly express the intend of government, to make this tax a "Good and Simple Tax". A brief analysis of these amendments is as follows:

CGST Bill 2018 (As passed by Lok Sabha)

- **Scope of Supply:** It has been provided that If any activity constitute supply under Section 7(1) (a), (b) & (c) then only schedule II is to be referred to further determine nature of supply i.e. whether It is supply of goods or supply of services
- **Reverse Charge Mechanism:** Under the Act, when an unregistered person supplies goods or services to a registered person, the registered person is liable to pay the IGST on such supply. The bill amends this provision to allow the central government, on the recommendation of the GST Council, to specify a class of registered persons to pay tax on receiving specified categories of goods and services from an unregistered person. **(Government has already extended exemption from RCM on procurement of any goods or services by a registered person from an unregistered person till 30th September 2019: Refer N/N 22/2018-Central Tax (Rate))**
- **Composition Levy:** The Bill seeks to raise the statutory threshold of turnover for a taxpayer to be eligible for the composition scheme **from one crore rupees to one crore and fifty lakh rupees**, and to allow the composition taxpayers to supply services (other than restaurant services), for up to a value not exceeding ten per cent. of turnover in the preceding financial year, or five lakh rupees, whichever is higher.
- **Input Tax Credit:** The bill has also introduced Bill to Ship to model for services. Now the person to whom service invoice has been billed can take ITC even if service is shipped to another person on his direction.
- **Reversal of Input Tax Credit** (Application of Rule 42/43): It has been provided by inserting an explanation in Section 17(3) that input tax credit need not be reversed for supplies provided in schedule III **except** in respect of sale of land or building or both (if sold after receiving completion certificate i.e Non-GST supplies)
- **Blocked Credit (Section 17(5)):** Scope reduced, now GST Credit is available for Motor Vehicles for transportation of persons with seating capacity ≥ 13 without any condition. Please note in authors view, if a Taxable Person purchase motor vehicle for transportation of persons (employees), the company will get Input tax credit for the same irrespective of seating capacity (this position remains unchanged). Even the Taxable Person will also get input tax credit of insurance services, repair & maintenance of such motor vehicles used for transportation of persons (employees)
Key Note: Company should recover GST from employees on transportation charges recovered from salaries.
- **Blocked Credit (Section 17(5)):** It has been **clearly provided now** that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force. Hence, the taxable person

can take input tax credit of Life Insurance & health insurance. The workman compensation Act, 1923 provides for compensation to be provided by employer to employee in case any injury is caused to the employee during employment. In Practice, companies provide life insurance and health insurance free of cost to its employees to comply with this Act. Hence it can be said that the expense is incurred due to an obligatory requirement under law, therefore in authors view GST Credit can be taken.

Key Note: Earlier, it was provided that credit can be taken for the input services notified by government as obligatory, this requirement of notification is withdrawn, hence taxable persons can take above position referring to workman compensation Act, 1923

- **Input Service distributor:** shall not take into consideration turnover on which CST is charged (Entry 92A) i.e outside the purview of GST e.g: Alcohol, petroleum products etc. for distributing input tax credit under Section 20 of CGST Act, 2017
- **Registration Threshold (Section 22):** The threshold exemption limit for registration in the States of Assam, Arunachal Pradesh, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand to be increased to Rs. 20 Lakhs from Rs. 10 Lakhs. So now Threshold of INR 10 Lakh is applicable for Manipur, Mizoram, Tripura and Nagaland.
- **Mandatory Registration under GST** applicable for e-commerce operators who are required to collect tax at source under section 52 of CGST Act, 2017 (**Not for every e commerce operator**)
- **SEZ unit to mandatorily apply for separate registration** i.e no entity can take single registration for SEZ & Non SEZ unit in same state.
- **A person can take multiple registrations in the state** for different place of business subject to conditions, not required to establish separate business vertical. **Illustration:** Kanti Sweets can now take separate GST Registration for each shop in the state of Karnataka
- **Suspension of GST Registration:** Pending Cancellation proceedings, GST Registration can be suspended temporarily under Section 29 of CGST Act, 2017
- **Consolidated Debit/Credit Notes :** Now it will be possible to issue consolidated debit notes/credit notes for invoices issued during the same financial year. I am expecting changes in return formats to align this facility provided by law.
- **GST Audit:** Any Department of the Central or State Government or local authority which is subject to audit by the Comptroller and Auditor-General of India need not get their books of account audited by any Chartered Accountant or Cost Accountant
- **Quarterly GST Return:** Section 39 relating to "Furnishing of returns", has been amended to provide for prescribing the procedure for quarterly filing of returns with monthly payment of taxes.
- **Section 43A has been newly inserted** to provide the Procedure for furnishing return and availing input tax credit, I will discuss this separately in detail once the procedures referred in this section will be notified.
- **GST Practitioners** can perform such other functions as may be Notified
- **Utilization of Input SGST/UTGST:** It has been provided that SGST/UTGST Balance can only be used for paying IGST, if the person has no balance in IGST & CGST Account
- **IGST Input** must be **fully utilized** for payment of **IGST Output** before using CGST Input
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- **Section 54 Refunds:** It has been provided that the principle of unjust enrichment will apply in case of a refund claim arising out of supplies of goods or services or both made to a Special Economic Zone developer or unit

- **Export Proceeds in INR:** It has been provided that receipt of payment in Indian rupees will be considered as satisfactory condition, where permitted, by the Reserve Bank of India **in case of export of services**.
- **Recovery Proceedings against deemed distinct person:** Recovery can be done from another business unit of Tax Payer in another state i.e distinct person under GST
- **Pre-deposit for Appeal:** Max Pre-deposit cap is proposed to be fixed at INR 25 Crore and 50 Crore respectively for filing appeals with Appellate Authority and Tribunal respectively
- It has been clearly provided that, no transitional credit will be provided for pre-GST Cesses like SBC & KKC (**THIS IS RETROSPECTIVE AMENDMENT**)
- **Job Work Procedures:** Commissioner will be empowered to approve extension of 1 yr./2yr. time limit in case of Job Work i.e time limit for bringing back inputs and capital goods.
- **Schedule I: Any person** availing services from its Associated enterprise outside India (related person) will be treated as supply even without consideration. IGST needs to be paid under RCM. Earlier this was applicable for Taxable Person, now proposed to cover every person, hence making registration mandatory to expand the revenue base.
- **Schedule III:** No GST on High Sea Sales and Sale of Warehoused goods before custom clearance

IGST Bill 2018 (As passed by Lok Sabha)

- **Reverse charge mechanism:** Under the Act, when an unregistered person supplies goods or services to a registered person, the registered person is liable to pay the IGST on such supply. The Bill amends this provision to allow the central government, on the recommendation of the GST Council, to specify a class of registered persons to pay tax on receiving specified categories of goods and services from an unregistered person. (**Government has already extended exemption from RCM on procurement of any goods or services by a registered person from an unregistered person till 30 September 2019: Refer N/N 23/2018-Integrated Tax (Rate)**)
- **Place of supply:** The Act provides for the determination of the place of supply of goods and services. In cases where services are supplied through transportation of goods, including by mail and courier, to a registered person, the place of supply is the location of such person. In other cases, where the services are supplied to an unregistered person, the place of supply is where the goods are handed over for their transportation. The Bill clarifies that in the above cases, if the goods are being transported to a place outside India, the place of supply will be the destination of the goods.
- **Apportionment of IGST revenue:** Under the Act, the IGST revenue collected by the centre is apportioned between the centre and the state where the supply of goods or services was received. The Bill provides for the settlement of any balance amount in the integrated tax account after the apportionment to the centre and state. On the recommendation of the GST Council, this amount will be distributed equally between the centre and the state.
- **Appeals:** The Bill inserts a provision specifying the amount of pre-deposit payable for filing appeals. In cases where the appeal is to be filed before the Appellate Authority, the maximum amount payable will be **Rs 50 crore**. Further, in cases where the appeal is to be filed before the Appellate Tribunal, the maximum amount payable will be **Rs 100 crore**.

Disclaimer: These are personal views/interpretation of the Author and not binding on any authority or Court, and hence, no assurance is given that a position contrary to the opinions/interpretation expressed herein, will not be asserted by any authority and/or sustained by an appellate authority or a Court of law.

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