THE CENTRAL GOODS AND SERVICES TAX ACT, 2017

AN

ACT

to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Central Government and the matters connected therewith or incidental thereto.

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

CHAPTER I
PRELIMINARY

1. Short title*, Extent and Commencement.

(*1*) This Act may be called the Central Goods and Services Tax Act, 2017.

(*2*) It extends to the whole of India** ~~except the State of Jammu and Kashmir~~.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

AUTHOR COMMENTS

***Short Title**: All Acts enacted by the Parliament since the introduction of the Indian Short Titles Act, 1897 carry a long and a short title. The long title, set out at the head of the statute, gives a fairly full description of the general purpose of the Act and broadly covers the scope of the Act.

The short title serves simply as an ease of reference and is considered a statutory nickname to obviate the necessity of referring to the Act under its full and descriptive title. Its object is identification, and not description, of the purpose of the Act.

Short Title: The Central Goods and Service Tax Act, 2017

Long Title: An Act to make a provision for levy and collection of tax on **intra-State supply** of goods or services or both by the Central Government and for matters connected therewith or incidental thereto.

Extent: According to Part I of the Constitution of India: "India, that is Bharat, shall be a Union of States". It provides that territory of India shall comprise the States and the Union Territories specified in the First Schedule of the Constitution of India. The First Schedule provides for twenty-nine (29) States and seven (7) Union Territories. Part VI of the Constitution of India provides that for every State, there shall be a Legislature, while Part VIII provides that every Union Territory shall be administered by the President through an 'Administrator' appointed by him. However, the Union Territories of Delhi and Puducherry have been provided with Legislatures with powers and functions as required for their administration.

India is a summation of three categories of territories namely – (i) States (29); (ii) Union Territories with Legislature (2); and (iii) Union Territories without Legislature (5).

The State of Jammu and Kashmir enjoys a special status in the Indian Constitution in terms of Article 370 of the Indian Constitution. The Parliament has power to make laws only on Defense, External Affairs and Communication related matters of Jammu and Kashmir. As regards the laws related on any other matter, subsequent ratification by the Government of Jammu and Kashmir is necessary to make it applicable to that State.

Therefore, the State of Jammu & Kashmir was required to pass special laws to be able to implement the Goods and Services Tax Acts. Accordingly, the assembly of J&K passed the GST bill in the first week of July. Subsequently, Honorable President of India had promulgated two ordinances, namely, the CGST (Extension to Jammu and Kashmir) Ordinance, 2017 and the IGST (Extension to Jammu and Kashmir) Ordinance, 2017 making the CGST/ IGST applicable to the State of Jammu and Kashmir, w.e.f. 8th July, 2017. Once the laws are passed by the State of Jammu & Kashmir, the Union Government will have to amend the Central Goods and Services Act, 2017 to delete the phrase that such provisions do not apply to the State of Jammu & Kashmir. After the promulgation of ordinance, the India has adopted GST in its form across the country.

1. The Central Goods and Services Tax Act, 2017 has been implemented in the State of Jammu and Kashmir from 8th July, 2017 through Constitution Application to Jammu and Kashmir Amendment Order, 2017, the Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 and the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017.

2. Certain provisions were came into force on 22.6.17 and remaining provisions on 1.7.17 as notified by the Central Government and hence appointed day for the CGST Act, IGST, UTGST Acts, SGST Acts was 1st July, 2017. However, the appointed day for the State of Jammu and Kashmir was 8th July, 2017.

Commencement: The Central Goods and Service Tax Act came into operation on 01.07.2017, the date appointed by the Central Government. However, certain provisions i.e. Sections 1,2,3,4,5,10,22,23,24,25,26,27,28,29, 30,139, 146,164 were made effective form 22.6.2017. {**Notification No. 1/2017 – Central Tax**}

रजिस्ट्री सं॰ डी॰ एल॰—(एन)04/0007/2003—17 REGISTERED NO. DL—(N)04/0007/2003—17

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 1
PART II — Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 36] नई दिल्ली, बृहस्पतिवार, अगस्त 24, 2017/ भाद्र 2, 1939 (शक)
No. 36] NEW DELHI, THURSDAY, AUGUST 24, 2017/BHADRA 2, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24th August, 2017/*Bhadra* 2, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 23rd August, 2017, and is hereby published for general information:—

THE CENTRAL GOODS AND SERVICES TAX (EXTENSION TO JAMMU AND KASHMIR) ACT, 2017

No. 26 of 2017

[23rd *August,* 2017.]

An Act to provide for the extension of the Central Goods and Services Tax Act, 2017 to the State of Jammu and Kashmir.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017.

(*2*) It shall be deemed to have come into force on the 8th day of July, 2017.

Extension and amendment of Central Goods and Services Tax Act, 2017.

12 of 2017.

2. (*1*) The Central Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act) and all rules, notifications and orders made thereunder by the Central Government are hereby extended to, and shall be in force in, the State of Jammu and Kashmir.

(*2*) With effect from the date of commencement of this Act, in the principal Act,—

(*a*) in section 1, in sub-section (*2*), the words "except the State of Jammu and Kashmir" shall be omitted;

(*b*) in section 22, in the *Explanation,* in clause (*ii*), after the word "Constitution", the words "except the State of Jammu and Kashmir" shall be inserted;

(*c*) in section 109, in sub-section (*6*),—

(*i*) after the words "each State or Union territory", the words "except for the State of Jammu and Kashmir" shall be inserted;

(*ii*) in the first proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017:

Provided further that";

(*iii*) in the second proviso, for the words "Provided further that", the words "Provided also that" shall be substituted.

Repeal and saving.

3. (*1*) The Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 is hereby repealed. Ord. 3 of 2017.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

AUTHOR COMMENTS

Definition of INDIA: (INDIA as per COI + TW + Seabed & Sub oil underlying TW + CS +EEZ + MZ + Air Space)

Section 2(56): "India" means the **territory of India** as referred to in article 1 of the Constitution of India (COI), its **territorial waters** (TW), **seabed and sub-soil underlying such waters**, **continental shelf** (CS), **exclusive economic zone** (EEZ) or any other **maritime zone** (MZ) as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the **air space above its territory and territorial waters**.

INDIA as per COI: The territory of India shall comprise— (a) the territories of the States;
(b) The Union territories and
(c) Such other territories as may be acquired.

Maritime Zone: The **maritime zones** recognized under international law include internal water, the territorial water, the contiguous **zone**, the exclusive economic **zone**, the continental shelf, the high seas and the area.

Baseline: A **baseline** is the line along the coast from which the seaward limits of a nation's territorial sea and certain other maritime zones of jurisdiction are measured.

Internal Waters: Internal waters are the waters on the landward side of the baseline from which the breadth of the territorial sea is measured.

Territorial Water: The territorial water is the line every point of which is at a distance of **twelve nautical miles** from the nearest point of the appropriate baseline.

Seabed & Sub-Soil: The **seabed** (also known as the **seafloor** or **ocean floor**) is the bottom of the ocean. **Subsoil** is the layer of soil on the surface of the ground.

Contiguous Zone: The contiguous zone of India is area beyond and adjacent to the territorial waters and the limit of the contiguous zone is the line every point of which is at a distance of **twenty-four nautical miles** from the nearest point of the baseline

Continental Shelf: The continental shelf is the submerged prolongation of the land territory of coastal states. It includes the seabed and subsoil of the submerged areas that extend beyond its territorial sea to the outer edge of the continental margin—that is, up to a distance of **200 nautical miles** from the coast.

Exclusive Economic Zone: The exclusive economic zone of India is an area beyond and adjacent to the territorial waters, and the limit of such zone is two hundred nautical miles from the baseline

High Seas: The high seas are comprised of all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters.

The Area: The Area is comprised of the seabed and subsoil beyond the limits of national jurisdiction. The Area and its resources are the common heritage of mankind, and no one can claim or exercise sovereignty or sovereign rights over any part of the Area or its resources.