

GST Update

Weekly Update
01.09.2018

Legislative Changes in CGST Act, IGST Act, UTGST Act and GST (Compensation to States) Act

- This Presentation covers the GST changes in the CGST Act, 2017, IGST Act, 2017 and GST(Compensation to States) Act, 2017
- Similar changes made in UTGST Act, 2017 as well
- Similar parallel provisions in SGST Act(s) shall also be done by the respective States which may be referred to as required
- **The Act(s) shall come into force on a later date which shall be notified**

The CGST (Amendment) Act, 2018

Some of the changes have been made retrospective w.e.f 1st July, 2017, the same are indicated therein

The Act shall come into force on a later date which shall be notified

- **Section 2(4)**
- CBEC changes to CBIC
- “Authority referred to in section 171(2) i.e Anti-Profiteering Authority added in the exclusion list to Adjudicating Authority
- Thus, Anti Profiteering Authority shall not be considered as Adjudicating Authority

Major Changes in CGST Act, 2017(Contd)

- **Section 2(17): Definition of business:** Clause h replaced by as under:
- *(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and*
- The earlier clause was:
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and

- **Section 2(18)**- Definition of Business Vertical omitted
- **Section 2(102): Definition of Services**
 - The following Explanation inserted, namely:—
 - *‘Explanation.—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;’.*

Major Changes in CGST Act, 2017(Contd)

- **Section 7(1) –Scope of Supply (w.e.f 1st July, 2017)** reads as
- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
- (b) import of services for a consideration whether or not in the course or furtherance of business; **and**
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; **and**
- ~~(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.~~
- (1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.”

Major Changes in CGST Act, 2017(Contd)

- **Section 7(1) –Scope of Supply (w.e.f 1st July, 2017)**
- After sub-section (1), the following sub-section shall be inserted and shall always be deemed to have been inserted, namely:—
- *“(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.”*
- And the earlier clause d is omitted.
- An activity must first be covered in definition of supply before being treated as goods or services as per Schedule II

Major Changes in CGST Act, 2017(Contd)

- **Section 9(4): Purchases from unregistered persons**
- The following sub-section substituted, the earlier one:—
- *“(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”.*
- Thus, Section 9(4) to be applicable only for specified class of registered persons

Major Changes in CGST Act, 2017(Contd)

- **Section 10: Composition Levy**
- Govt empowered to enhance upper limit for composition scheme to Rs.1.5 crore by notification. Earlier it was Rs. One crore
- The following second proviso inserted to section 10(1), namely:—
- *“Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.”;*
- Further section 10(2)(a) replaced by-
- *“(a) save as provided in sub-section (1), he is not engaged in the*

Major Changes in CGST Act, 2017(Contd)

- **Section 16(2)(b): Eligibility and conditions for taking ITC**
- Following explanation inserted in respect of services as well for deemed receipt of services
- *For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services*
- *(i) For goods (Already there earlier as well)*
- *(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.”;*

Major Changes in CGST Act, 2017(Contd)

- **Section 16(2)(c): Eligibility and conditions for taking ITC-
Condition of actual payment of tax for taking ITC**
- The provision was subject to provisional credit being allowed under section 41
- Now, the provision has also been made subject to section 43A (Procedure for furnishing return and availing input tax credit) also which is newly inserted now

Major Changes in CGST Act, 2017(Contd)

- **Section 17 (3): Value of Exempt Supply for restricting ITC**
- The following Explanation inserted, namely:—
- *‘Explanation.—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.’;*
- *Thus. Schedule III Supplies (except land and building)- neither supply of goods nor of services, will not be treated as exempt supplies for the purpose of credit reversal*

Major Changes in CGST Act, 2017(Contd)

- **Section 17(5)- Blocked Credits**
- For clause a and b, the following clauses shall be substituted, namely:—
- *“(a) motor vehicles for transportation of persons having **approved seating capacity of not more than thirteen persons** (including the driver), except when they are used for making the following taxable supplies, namely:—*
 - (A) further supply of such motor vehicles; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving such motor vehicles;

Major Changes in CGST Act, 2017(Contd)

- **Section 17(5)- Blocked Credits....**
- *(aa) vessels and aircraft except when they are used— (i) for making the following taxable supplies, namely:—*
 - *(A) further supply of such vessels or aircraft; or*
 - *(B) transportation of passengers; or*
 - *(C) imparting training on navigating such vessels; or*
 - *(D) imparting training on flying such aircraft;*
- *(ii) for transportation of goods;*

- **Section 17(5)- Blocked Credits....**
- *(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):*
- *Provided that the input tax credit in respect of such services shall be available— (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein; (ii) where received by a taxable person engaged— (I) in the manufacture of such motor vehicles, vessels or aircraft; or (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;*

Major Changes in CGST Act, 2017(Contd)



- *(b) the following supply of goods or services or both— (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, **leasing, renting or hiring of motor vehicles, vessels or aircraft** referred to in clause (a) or clause (aa) except when used for the purposes specified therein, **life insurance and health insurance**:*
- *Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;*
- *(ii) membership of a club, health and fitness centre; and*
- *(iii) travel benefits extended to employees on vacation such as leave or home travel concession:*
- *Provided 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 the same to its employees under any law for the time being in force.”*

Major Changes in CGST Act, 2017(Contd)

- **Section 20: Explanation c –Meaning of turnover**
- For the words and figures “under entry 84,”, the words, figures and letter “under entries 84 and 92A” shall be substituted.
- Thus, turnover not to include duty or tax levied under Entry 84(Duties of excise on tobacco), **92A (Sale or purchase in the course of inter-state trade)** and alcohol & narcotics (Entry 51 and 54 of List II already there in the explanation clause)

Major Changes in CGST Act, 2017(Contd)

- **Section 24(x): Compulsory registration in certain cases**
- Electronic Commerce operator
- After the words “commerce operator”, the words and figures “*who is required to collect tax at source under section 52*” inserted.

Major Changes in CGST Act, 2017(Contd)

- **Section 25: Procedure for registration**
- In sub-section (1), after the proviso and before the Explanation, the following proviso inserted, namely:—
“Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.”;
- Separate registration requirement for SEZ unit or developer incorporated in the Act

Major Changes in CGST Act, 2017(Contd)

- **Section 25: Procedure for registration**
- In sub-section (2), for the proviso, the following proviso shall be substituted, namely:—
- *"Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed."*
- Earlier reference to requirement of separates business verticals for separate registration not there now; Definition of the tem *"Business Vertical"* is also omitted

Major Changes in CGST Act, 2017(Contd)

- **Section 29- Cancellation or Suspension of registration**
- The word ‘suspension’ inserted in the marginal heading
- In sub-section (1), after clause (c), the following proviso inserted:—
- *Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.”;*
- In sub-section (2), following second proviso inserted :—
- *“Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.”.*

Major Changes in CGST Act, 2017(Contd)

- **Section 34- Credit and Debit Notes**
- In sub-section 1 as well as 3,
- For the words “Where a tax invoice has”, the words “Where one or more tax invoices have” is substituted; and for the words “a debit/ credit note”, the words “one or more debit/ credit notes for supplies made in a financial year” shall be substituted;
- Thus, periodic debit/credit notes can now be issued for multiple invoices

Major Changes in CGST Act, 2017(Contd)

- **Section 35(5): Compulsory Audit by a chartered accountant or a cost accountant** where turnover exceeds Rs. 2 crore during a Financial Year
- Not applicable for Government companies which are subjected to audit by CAG. Following proviso inserted in section 35(5)-
- *“Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”.*

Major Changes in CGST Act, 2017(Contd)

- **Section 39(1) – Time Period for filing of return:** Last date of for filing return i.e 20th of succeeding month deleted from the Act and time period to be prescribed
- **Section 39(7)-Last date for Payment of tax:** Following proviso inserted
- *“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein”*

Major Changes in CGST Act, 2017(Contd)

- Section 43- Matching, reversal and reclaim of reduction in output tax liability
- After section 43, **Section 43A inserted on Procedure for furnishing return and availing input tax credit.**

Major Changes in CGST Act, 2017(Contd)

- **Section 49 - Payment of tax, interest, penalty and other amounts.**
- The following provisos inserted in clause (c) and (d) of section 49(5) respectively on sequence of utilisation of ITC of Integrated tax, Central tax and State Tax:
- *Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;*
- *Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax*

Major Changes in CGST Act, 2017(Contd)

- After Section 49, following sections inserted:
- **Section 49A- Utilisation of input tax credit subject to certain conditions.**
- *“49A. Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment*

Major Changes in CGST Act, 2017(Contd)

- After Section 49, following sections inserted:
- **Section 49B- Order of utilisation of input tax credit.**
- *49B. Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of subsection (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.”*

Major Changes in CGST Act, 2017(Contd)

- **Section 54(8)(a)- Categories of non applicability of principle of unjust enrichment**
- The term zero rates supplies replaced with exports; Section reads now as
- The refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to
- (a) refund of tax paid on ~~zero-rated supplies~~ **export** of goods or services or both or on inputs or input services used in making such zero-rated supplies **exports**;
- (b)

Major Changes in CGST Act, 2017(Contd)

- **Section 54 (Refund) – Explanation Clause on relevant data**
- Sub-clause e on relevant date in case of refund on account of inverted duty structure substituted as under:
- *“(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;”*
- Earlier it was end of the financial year;

Major Changes in CGST Act, 2017(Contd)

- **Section 107(6)- Pre-deposit of 10% of the tax in dispute before filing of appeals to Appellate Authority**
- Maximum limit of Rs. 25 crore imposed; Section reads as
- **Section 107(6):** No appeal shall be filed under sub-section (1), unless the appellant has paid—
- (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed, subject to a maximum of twenty-five crore rupees

Major Changes in CGST Act, 2017(Contd)

- **Section 112(8)(b)- Pre-deposit of 20% of the tax in dispute before filing appeal before Appellate Tribunal**
- Maximum limit of Rs. 50 crore imposed; Section reads as
- Section 112(8):) No appeal shall be filed under sub-section (1), unless the appellant has paid—
- (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
- (b) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, in relation to which the appeal has been filed, **subject to a maximum of fifty crore rupees**

Major Changes in CGST Act, 2017(Contd)

- **Section 129(6)- Detention, seizure and release of goods and conveyances in transit: Time limit of seven days for payment of tax and penalty enhanced to fourteen days**
- *Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within ~~seven~~ fourteen days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:*
- *Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of ~~seven~~ fourteen days may be reduced by the proper officer.*

Major Changes in CGST Act, 2017(Contd)



- **Section 140(1)** – Transitional arrangements for input tax credit.(w.e.f 1st July, 2017): Transition of various cesses like Education cess, H.Ed.Cess, KKC etc and addl duties of excise(on textile and textile articles) not permitted
- **Section 140(1)**- after the letters and word “CENVAT credit”, the words “of eligible duties” shall be inserted and shall always be deemed to have been inserted
- Explanation 3 inserted:
- *‘Explanation 3.—For removal of doubts, it is hereby clarified that the expression “eligible duties and taxes” excludes any cess which has not been specified in Explanation 1 or Explanation 2 and any cess which is collected as additional duty of customs under section 3(1) of the Customs Tariff Act, 1975.*

Major Changes in CGST Act, 2017(Contd)

- **Section 143(1)(b)- Job Work Procedure:** Time Limit for return of inputs and capital goods of one and three years respectively by job worker made extendable; Following proviso inserted
- *Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively*

Major Changes in CGST Act, 2017(Contd)

- **Schedule I (Para 4)**
- In Schedule I, in paragraph 4, for the words “taxable person”, the word “person” shall be substituted.
- The para 4 reads as:
- *Import of services by a ~~taxable~~ person from a related person or from any of his other establishments outside India, in the course or furtherance of business.*
- Thus, a person importing in above situation will have to compulsory register and pay tax on RCM basis

Major Changes in CGST Act, 2017(Contd)



- **Schedule III- Activities or transactions treated as neither supply of goods nor supply of services ; Following supplies in respect of Out and out supplies(Merchant trading), Sale of goods in customs bonded warehouse and High Seas sales inserted in Schedule**
- *7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.*
- *8. (a) Supply of warehoused goods to any person before clearance for home consumption;*
- *(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.”;*

The IGST (Amendment) Act, 2018

Some of the changes have been made retrospective
w.e.f 1st July, 2017, the same are indicated

The Act shall come into force on a later date which shall
be notified

- **Section 2(6)(iv)- Condition of receipt of remittances in convertible foreign exchange**
- The condition relaxed and remittances can be in Indian rupees in cases wherever permitted by RBI
- **Section 2(16)-Explanation – Meaning of the term “Governmental authority”**
- Function entrusted to Panchayat under article 243G also included in the definition

Major Changes in IGST Act, 2017 (Contd)

- **Section 5(4)- Purchases from unregistered persons as in Section 9(4) of CGST Act**
- To be applicable only for specified class of persons
- Section 8- Business vertical concept omitted

Major Changes in IGST Act, 2017 (Contd)

- **Section 12 (8)- Place of supply of services where location of supplier and recipient is in India in respect of transportation of goods**
- POS changed from location of recipient to destination of goods, if the transportation is to a place outside India; Following proviso inserted
- *"Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods*

Major Changes in IGST Act, 2017 (Contd)

- **Section 13(3)- Place of supply of services where location of supplier or location of recipient is outside India and where goods are actually required to be made physically available**
- **Second Proviso substituted as under:**
- *"Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;"*

Major Changes in IGST Act, 2017 (Contd)

- **Section 17-Appportionment of tax and settlement of funds.**
- Following sub-section 2A inserted for apportionment of Integrated tax in respect of B2B supplies wherein ITC taken by the recipients
- *"(2A). The amount not apportioned under sub-section (1) and sub-section (2) may, for the time being, on the recommendations of the Council, be apportioned at the rate of fifty per cent. to the Central Government and fifty per cent. to the State Governments or the Union territories, as the case may be, on ad hoc basis and shall be adjusted against the amount apportioned under the said sub-sections."*

Major Changes in IGST Act, 2017 (Contd)

- **Section 20-Application of provisions of CGST Act; Following proviso inserted for upper cap on pre-deposit before filing appeals**
- *"Provided also that where the appeal is to be filed before the Appellate Authority or the Appellate Tribunal, the maximum amount payable shall be **fifty crore rupees and one hundred crore rupees** respectively*

The GST (Compensation to States) Act, 2018

The Act shall come into force on a later date which shall be notified

- **CBEC TO CBIC**
- **Section 10-Crediting proceeds of cess to GST Compensation Fund**
- Unutilised amount at any point of time in financial year to be distributed – 50% shall be transferred to the Consolidated Fund of India as the share of Centre, and the balance fifty per cent. shall be distributed amongst the States in the ratio of their base year revenue determined in accordance with the provisions of section 5
- Any shortfall, if any later, to be recovered from Centre and States respectively in the same ratio

Any ISSUES/ queries?

- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
 - 1800 1200 232
 - cbecmitra.helpdesk@icegate.gov.in
- GSTN Help Desk
 - <https://selfservice.gstsystem.in/> - Grievance redressal portal
 - Help Desk Number: 0120-4888999

Any ISSUES/ queries?

- Twitter Handles
- For General Questions
- https://twitter.com/askGST_Gol
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL



THANK YOU