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**AMENDMENT OF THE CENTRAL GOODS AND
SERVICE TAX ACT, 2017**

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Amendment of The Central Goods and Service Tax Act, 2017

Sec. 1(2) of the CGST (Amendment) Act, 2018 as well as IGST (Amendment) Act, 2018 provides as under:

“Save as otherwise provided, the provisions of this Act 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.”

The above provision of the amendment act clearly provides that even though the act has been assented by the president on 29th August 2018 but the same will be made effective from the date which shall be notified. Further it is provided that even there may be different dates notified for different provisions of the Act and those provisions shall become effective from that specific date.

Considering the above we also need to understand that the amended provisions are made effective in the following manner:

- Some are made effective from the retrospective dates.
- Some are made effective from 01.02.2019 by virtue of Notification No 02/2019-Central Tax dated 29.01.2019 and Notification No 01/2019 - Integrated Tax dated 29.01.2019, and
- Some of the provisions are not yet notified and made effective and are kept in abeyance for the time being. *Refer Notification No 02/2019 - Central Tax dated 29.01.2019.*

Gist of important amendments is mentioned below. They are many other amendments as well for which respective notifications should be referred.

Retrospective Amendments i.e. w.r.e.f. 01.07.2017

Section of CGST (Amendment) Act 2018	Relevant Section of the GST Act	Analysis
Section 3(a)(iii)	Section 7 (1)(d)	<p>The definition of supply constituted of four clauses. The clause (d) stated the activities to be treated as supply of goods or services as per Schedule II.</p> <p>But since this clause (d) was made part of the definition of supply it meant that an activity listed in Schedule II would be deemed to be a supply even if it does not constitute as a supply as per the first three clauses.</p> <p>Whereas the intention behind this Schedule II was to have the classification of goods and services and to avoid litigation. And therefore to carry out this intention, a retrospective amendment was made in the definition of supply with effect from 1st July 2017.</p>
Section 28(a)	Section 140 (1)	<p>Merely these words “of eligible duties” are added with the intention of clarifying that only the transitional credit of eligible duties are to be carried forward and not all credits. By not all credits, it is meant that balance credits of cess cannot be carried forward. This has been done from retrospective effect i.e. from 01.07.2017.</p>

Section of CGST (Amendment) Act 2018	Relevant Section of the GST Act	Analysis
Section 2(b)	Section 2(17) (h)- business	<p>The term ‘services’ in this clause was leading to an ambiguity as actionable claims have been defined as goods in the CGST Act, 2017. So, the coverage of the actionable claims in relation to race clubs within the definition of business was really doubtful.</p> <p>To resolve the said ambiguity the term services is substituted by the word activities.</p> <p>Further to this, activities of licensed bookmaker in such club i.e. race club has been explicitly covered within the definition of business through this amendment.</p>

Section 2(c)	Section 2(18)- Definition of Business vertical	This definition is omitted from the GST law because now multiple registrations within state are also allowed by way of amendment. Prior to this amendment in the GST law multiple registrations were allowed only in case of separate business verticals. The law now allows a separate registration for each place of business in a state. Since the concept of business vertical is no more in the law, the definition of business verticals is not required anymore under the GST law.
Section 2(f)	Section 2(102) - Definition of Services- Explanation inserted	<p>Explanation has been inserted in the definition of “services”.</p> <p>GST is on supply of <i>goods or services</i>. Both the terms excludes money and securities.</p> <p>All transactions in relation to securities were debatable and it was considered to be out of the definition of services. This anomaly is rectified now with this amendment.</p> <p>Service charges or service fees or documentation fees or broking charges or any other charges in relation to transactions in securities shall now be a provision of service and chargeable to GST provided consideration is there.</p>
Section 4	Section 9(4)	<p>Section 9(4) mandates that every registered person shall pay the tax under reverse charge basis on purchases made from unregistered persons but the said provision is currently suspended till 30.09.2019.</p> <p>This amendment has been made to replace the said provision to the effect that the Government on the recommendation of the Council shall specify a class of registered persons who shall be covered under the said reverse charge.</p> <p>Therefore, the power has been granted to apply the said provision on a certain class of registered persons and not in general.</p> <p>Notification No. 01/2019 - Central Tax (Rate) & Notification No. 01/2019 - Integrated Tax (Rate) have been issued on 29.01.2019 rescinding Notification No. 8/2017-Central Tax (Rate) & No. 32/2017-Integrated Tax (Rate) respectively.</p> <p>Important point to be kept in mind is exemption is still continued and that shall continue till a Notification as per amended law is issued notifying the class or category of persons liable to pay under reverse charge.</p>
Section 5(a)(ii)	Sec 10 (1)Provisions	<p>The upper limit for registration has been increased from one crore to one hundred and fifty lakhs for Composition.</p> <p>Council is empowered to increase the upper limit to 1.5 Cr in place of 1 Cr. Yet , same is yet not increased by Notification</p>

Section 5(a)(iii)	Sec 10(1) After the proviso	<p>Presently i.e. prior to amendment, the traders and manufacturers engaged in supply of services are not eligible for composition scheme even if a small proportion of their supplies relate to such services.</p> <p>A new proviso has been inserted which allows registered person engaged in supply of services (other than restaurant services) to opt for composition scheme subject to a threshold limit as discussed below.</p> <p>The registered person shall be eligible for composition only if they supply services of value not exceeding 10% of their turnover in the preceding financial year in a State/ Union Territory or Rs 5 lakhs, whichever is higher.</p>
Section 5(b)	Section 10(2)(a)	This is amended so as to clarify that he must not be engaged in the supply of services.
Section 8(a)	Section 16(b)- Explanation	<p>It is deemed that goods are received when the supplier delivers the goods to any other person on direction of the recipient. This deemed assumption shall be applicable in case of services also after this amendment in GST Law.</p> <p>And therefore ITC will be allowed to a person on whose direction and account, the third person receives the services.</p>
Section 9(a)	Section 17(3) Explanation	<p>Clauses of Schedule III except as specified in clause 5 i.e. Sale of land and, subject to clause(b) of paragraph 5 of Schedule II, sale of building, will not entail any reversal of credit since those are excluded from exempt supply.</p> <p>This exclusion will result in lower reversal of credit particularly in case of newly inserted clauses such as high sea sales, merchant trade transactions and supply of warehoused goods before clearance for home consumption.</p>

<p>Section 9(b)</p>	<p>Section 17(5) <u>Note</u> -[Clause (a) and (b) replaced with (a), (aa), (ab) and (b)]</p>	<p>Section 17(5) deals with the blockage of ITC. This sub section has been completely revamped. This amendment is intended to expand the scope of availability of ITC on motor vehicles having approved capacity of not more than 13 persons (including the driver). Hence ITC shall not be available in respect of motor vehicles having capacity of not more than 13 persons (including the drivers). ITC shall also not be available in case of vessels and aircrafts in case those are for personal use or non-specified purposes. Thus, it could be said that ITC shall be available in respect of dumpers, work-trucks, fork-lift trucks. This is a great relief. Further ITC on motor vehicles shall be allowed in case they are used for transportation of money for or by banking company and financial institutions. ITC shall be allowed for motor vehicles used for transportation of goods. In case the same is for transportation of passengers but used for transportation of goods, the credit shall not be allowed. In case of services of general insurance, servicing, repair and maintenance in respect of those motor vehicles, vessels and aircraft, ITC shall not be available in case where the ITC in respect of motor vehicles, vessels and aircraft is not allowed as per clause (a) or (aa). Conveyance for carrying more that 13 passengers shall always be eligible for ITC. It has been further amended to allow ITC in respect of goods or services or both specified in clause (b) if it is made obligatory for an employer to provide such services under any law for the time being in force. Therefore it could be said that the ITC has been now allowed on food and beverages, outdoor catering, beauty treatment, heath services etc. in case it is required to be provided by the employer through any obligation imposed under any law. It is to be noted that as per amended provision renting or hiring of motor vehicles, vessels and aircraft are blocked only if the purchase of such motor vehicles, vehicles and aircrafts are blocked as per clause (a) of (aa).</p>
<p>Section 10</p>	<p>Section 20 - Explanation in clause (c)</p>	<p>Entry 92A of List I cover taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce. Tax levied under entry 92A of List 1 from the values of turnover has been excluded for the purpose of distribution of credit.</p>

Section 11(a)	Section 22(1) After the proviso	By virtue of this amendment, aggregate turnover limit for certain states has been increased from Rs 10 lakhs subject to maximum to Rs 20 lakhs. This amendment has empowered the increase in the threshold limit for registration for certain special category states on their request from Rs. 10 lakhs to any amount but maximum Rs. 20 lakhs
Section 11(b)	Section 22(iii) - Explanation to clause (iii) inserted	In the exclusion list with existing Jammu and Kashmir the following states are also included and now these states shall not be regarded as special category state: Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand
Section 12	Section 24 (x)	Earlier all electronic commerce operator was supposed to get themselves registered compulsorily irrespective of turnover. Even a small electronic commerce operator who used his own portal for online business was required to get himself registered. Now post amendment this issue is settled and hence only those electronic commerce operators who is required to collect TCS is required to take registration compulsorily irrespective of turnover.
Section 13(a)	Section 25 (1)- After the proviso	Similar provision was specified in the CGST Rules 2017 but now it has been included in the Act itself which gives more clarity. And as per the amendment it is provided that a person in a SEZ or being a SEZ developer has to apply for separate registration as compared to his registration in respect of the place of business located outside the SEZ in the same state or territory.
Section 13(b)	Section 25(2)	Prior to this amendment only in case of <i>business vertical</i> separate registrations were allowed in a state. But post amendment the law now allows separate registration for each place of business in respect of persons having multiple places of business in a state. Relevant notifications prescribing the procedure of this is 03/2019-Central Tax dated 29.01.2019. Proviso to sub-rule (1) of Rule 8 is omitted. And Rule 11 has been substituted and the procedure for getting separate registration within one state is prescribed. This is effective from 01.02.2019.
Section 14(b)	Section 29 (1)(c)- Proviso inserted	Once the registration has been sought to be cancelled, the proper officer may suspend the registration till the procedural formalities have been completed. Such suspension shall be for the

Section 14(c)	Section 29(2)- After the proviso	Period and shall be in such manner as may be prescribed. During the period when the registration is suspended, no returns shall be required to be filed. Rule 21A has been inserted vide Notification No 03/2019 - Central Tax dated 29.01.2019 and shall be effective from 01.02.2019.
Section 15(a)	Section 34(1)	This amendment is a very trade friendly amendment. After this amendment, a consolidated credit note can be issued against multiple invoices and hence now the linking of corresponding invoice and credit note is not needed. For giving the impact of this amendment Rule 53 has been amended and sub-rule (1A) has been inserted with effect from 01.02.2019 vide Notification no 03/2019 - Central Tax.
Section 15(b)	Section 34(3)	This amendment is a very trade friendly amendment. After this amendment, a consolidated debit note can be issued against multiple invoices and hence now the linking of corresponding invoice and debit note is not needed. For giving the impact of this amendment Rule 53 has been amended and sub-rule (1A) has been inserted with effect from 01.02.2019 vide Notification no 03/2019 - Central Tax.
Section 16	Section 35(5)- Proviso inserted	Any department of the Central Government or a State Government or a local authority whose accounts are audited by CAG, or in case of local authority by any auditor appointed, under any law for the time being in force, need not get their accounts audited by a C.A or cost accountant.
Section 19	Section 48(2)	Prior to this amendment, GST Practitioner were allowed only to furnish the return filed on behalf of a registered person. But now after the amendment the GST Practitioner shall be allowed to perform such functions and in such manner as may be prescribed. Rule 83 sub-rule (8) has been substituted with effect from 01.02.2019 vide Notification No 03/2019 - Central Tax dated 29.01.2019.
Section 20(b)	Section 49(5)(c)- proviso inserted	Vide this amendment a restriction has been inserted by way of insertion of this proviso. This is provided that ITC balance of SGST shall not be allowed to be utilized to make payment of IGST liability until the ITC account balance of CGST is Zero.
Section 20(b)	Section 49(5)(d)- proviso inserted	Vide this amendment a restriction has been inserted by way of insertion of this proviso. This is provided that ITC balance of UTGST shall not be allowed to be utilized to make payment of IGST liability until the ITC account balance of CGST is Zero.

Section 21	Section 49A	This amendment provides for the new process of utilization and it says that the utilization of IGST should be first for the payment of any output tax liability in the form of CGST/SGST/UTGST/IGST. The balance of CGST/SGST/UTGST can be used only when the balance of IGST is exhausted.
Section 21	Section 49B	This provides that the Government may provide the order and manner of utilization of ITC on account of IGST, CGST, SGST or UTGST for the purpose of payment of any such tax. But this shall be done subject to provisions of clause (e) and clause (f) of sub-section (5) of the CGST Act 2017.
Section 22	Section 52(9)	Matching was not possible, in case of electronic commerce operator, due to deferment of GSTR 2 and since GSTR 3B is being continued the amendment has been done in the act so as to now enable the matching. Now the details as per GSTR 8 and as per GSTR 1 or 3B shall be matched.
Section 23(a)	Section 54(8)(a)	Section 54(8) of the CGST Act, 2017 provides a list of situations wherein the principle of unjust enrichment does not apply for the purposes of refund. One such situation mentioned is zero-rated supplies of goods or services which include exports as well as supplies to SEZ units/developer. The provision is now amended to cover the supply of goods or services to SEZ units or to a developer. In other words, the person applying the refund on account of zero-rated supplies to SEZ units or developer shall prove that he has borne the burden of tax and has not collected the same from such SEZ units or developer. Said amendment has been made since the SEZ unit or the developer is also entitled to claim input tax credit of the tax charged by the domestic supplier.
Section 23(b)	Section 54(2)(c)(i)- Explanation to clause (2)(c)(i)	In cases of Export to Nepal and Bhutan, the RBI has permitted the use of Indian Rupees as the mode of payment

Section 23(b)	Section 54(2)(e)	<p>Section 54 of the CGST Act, 2017 provides that the application for refund has to be made within a period of two years from the relevant date.</p> <p>An amendment has been made to determine the relevant date in case of refund of unutilized input tax credit on account of inverted supply structure</p> <p><i>It shall be the due date for furnishing of return under section 39 for the period in which such claim for refund arises.</i></p>
Section 25	Section 107(6)(b)	<p>A higher cap has been fixed to 25 Cr for pre-deposit in case of Appeal filed to <i>first appellate authority</i>.</p> <p>This means that in case of CGST and SGST individually the amount of pre-deposit shall be 25 cr each and hence it will be 50 cr maximum.</p> <p>In short, the amount of pre-deposit shall be 10% of the tax amount in dispute to the maximum of Rs 25 cr (50 cr for both CGST and SGST)</p>
Section 26	Section 112(8)(b)	<p>A higher cap has been fixed to 50 Cr for pre-deposit in case of Appeal filed to <i>Appellate Tribunal</i>.</p> <p>This means that in case of CGST and SGST individually the amount of pre-deposit shall be 50 cr each and hence it will be 100 cr maximum.</p> <p>In short, the amount of pre-deposit shall be 20% of the tax amount in dispute to the maximum of Rs 50 Cr (100 Cr for both CGST and SGST)</p>
Section 27	Section 129(6)	<p>The time limit for payment of tax and penalty in case of detention of goods in transit was earlier 7 days after which the confiscation proceedings could be initiated is now been relaxed to 14 days.</p>
Section 29	Section 143(1)(b)- after the proviso, the following proviso inserted	<p>This proviso has been inserted to allow the extension of the time limit for receiving back the goods sent on job work.</p> <p>This is done because there are certain jobs which could not be completed within 1 year or 3 years.</p> <p>The time period of 1 year or 3 years may be extended on approval of the Commissioner for a further period not exceeding one year or two years respectively.</p>
Section 30	Schedule 1 - para 4	<p>The term taxable person has been substituted by word person. Effect of this is any person importing service from any related person or from any of his other establishments outside India, in the course or furtherance of business, shall be a supply even if there is no consideration.</p>

Section 32	Schedule 3- After para 6	<p>Entry No. 7 is the new insertion to Schedule III. It provides that the supply of goods from place in the non-taxable territory to another person in the non-taxable territory, without such goods entering into the taxable territory, shall not be considered as supply of goods or supply of services. For Example, a person registered in India procuring goods from JAPAN and sending the same directly to the customer in CHINA shall not be liable to pay tax on the said supply.</p> <p>Entry no 8 has been inserted in Schedule III in order to deal with a scenario where the supplier (i.e. original importer) of warehoused goods supplies such goods to any person (i.e. consignee) before the clearance for home consumption. It also covers supply of goods by the consignee (i.e. the buyer) 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. Therefore both such transactions shall not be regarded as either supply of goods or supply of services.</p>
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[Amendments effective from 01.02.2019](#)

[Amendments still not effective - Notification No 02/2019 - Central Tax dated 29.01.2019](#)

This amendment majorly pertains to new return filing mechanism which is suggested by council. Once it is notified, will provide details of these amendments for better understanding and clarify.