

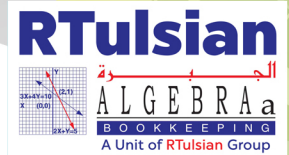
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# An Analysis of amendments in Goods & Service Tax (GST) Acts effective from 1st February 2019

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## Introduction

The GST council in its 31st GST Council Meeting held on 22nd December 2018, has announced through the press release that the effective date of applicability of amendments in GST Act(s) 2018 will be from 1st February 2019. The President of India gave assent on 29th August 2018 to make amendments to following GST laws:-

- The Central Goods and Services Tax (Amendment) Act 2018
- The Integrated Goods and Services Tax (Amendment) Act 2018

### Disclaimer:

*The views expressed by the firm are based on reading of the Amendment of GST Act 2018 will be from 01.02.2019 and on analysis of the relevant provision of the Act. The firm does not accept any liability incurred by any person based on this circular. This is meant for Internal Circulation only and is for educational purposes and shall not be construed as professional advice.*

## Amendments as per The Central Goods and Services Tax (Amendment) Act 2018

### Section-2(18) and Section 25(2) - Definition of Business Vertical

- Definition of 'Business Vertical' is omitted.
- Now more than one registration in single states may be obtained for different place of businesses even if there are not separate verticals.

### Rule 41A - Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory

- Any registered person, who has obtained separate registration for multiple places of business within same State or UT, can transfer the credit of ITC from his existing place of business to his newly registered place of business.
- The credit of existing business shall be transferred in proportion to the value of assets transferred to the newly registered unit. For this purpose, a new Form ITC-02A shall be filed within a period of thirty days from obtaining such separate registrations

### Section-2(102) - Clarification in the definition of "Services"

- Although 'securities' has been excluded from the definition of 'goods' and 'services' in the CGST Act, facilitating or arranging transactions in securities is liable to GST.
- These are service charges or service fees or documentation fees or broking charges or such like fees or charges which are charged in relation to transactions in securities, the same would be a consideration for provision of service and chargeable to GST.

### Section-7(1)(b) - Scope of Supply (Levy & Collection of Tax)

- Import of Service by non-taxable person also taxable.
- This amendment is to ensure that import of services by entities which are not registered under GST (say, they are only making exempted supplies) but are otherwise engaged in business activities is taxed when received from a related person or from any of their establishments outside India.

### Section-9(4) - Reverse Charge in case of supply received from Unregistered Persons

- The provision as to levy of GST under reverse charge, if goods or services are received by a registered person from any unregistered person and the value of such supply in a day exceeds Rs. 5,000, was deferred for the time being by way an exemption notification.
- The charging provisions of Section 9(4) has been amended and Government has been empowered to notify specific classes of registered persons who shall be liable to pay tax under reverse charge on supply of specified goods and services.
- The Government is yet to notify the same.

### Section-10 - Composition Dealer

- The limit for opting composition scheme has been increased from Rs. 1 crore to Rs 1.5 crores.
- Previously, traders and manufacturers, who were also rendering services, were not eligible to opt for composition scheme. Now, as per new norms a registered supplier of goods shall be eligible for composition scheme even if it is engaged in supply of services provided the value of such supply doesn't exceed 10% of its turnover in the preceding financial year in a State/ Union Territory or Rs 5 lakhs, whichever is higher.
- The total tax under composition levy shall be at 1% (0.5% CGST + 0.5% SGST) of turnover of taxable supplies of good and service in State or Union Territory.



## Section 16 - Eligibility and conditions for taking input tax credit

Receipt of goods or services is a pre-condition for availing ITC.

- For services, explanation is being expanded to provide that it shall be deemed that registered person has received services where the services are provided by the supplier to any person on the direction of and on account of such registered person;
- For goods, there is already explanation inserted below S. 16(2) (b) that supply provided to recipient or any other person on the direction of registered person shall be deemed to be received by registered person.

### Example:-

If catering is done by supplier on the direction of some person who takes orders for getting done catering, the ITC shall be available to the person who takes order and not the customer who places order.

## Section 17- Apportionment of credit and blocked credits

### Section- 17(2)

- Now **Section 17(2)** is amended to provide that no reversal of ITC is required for Schedule III supplies except sale of land and building. Therefore, ITC shall be available for the same.
- It is clarified by way of explanation that no reversal of common ITC shall be required on activities or transactions specified in Schedule III other than sale of land and building.

### Section-17(5)

- Input tax credit shall not be available for the GST paid in respect of passenger motor vehicles, with approved seating capacity up to 13 persons including driver. However, the input tax credit shall be allowed if motor vehicle is used for further supply of such motor vehicles or transportation of passengers or imparting training to drive such motor vehicles.

- Further, the Input tax credit shall not be available for the GST paid in respect of general insurance, servicing, repair and maintenance of such motor vehicles, vessels or aircraft. However, the credit for the tax paid on these services shall be allowed in following cases:

✚ If motor vehicles, vessels or aircraft are used for the purposes specified above and ITC is allowed thereon

✚ If these services are received by a taxable person engaged in:

➤ The manufacturing of such motor vehicles, vessels or aircraft

➤ Supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by them

- This amendment makes it clear that ITC would now be available in respect of dumpers; work-trucks, fork-lift trucks and other special purpose motor vehicles

## Section-29(1) - Cancellation of Registration

### Suspension of Registration pending cancellation

- Once a registered person has applied for cancellation of registration, the proper officer may temporarily suspend its registration till the procedural formalities for cancellation are completed.
- During the period of suspension, the supplier shall not collect GST on supply of goods or services and shall not be required to file GST returns.

## Section-34(1) - Debit Note & Credit Note

### Single credit note can be issued for multiple invoices

- Earlier, the supplier was required to raise separate credit note for each invoice, which was very inconvenient and cumbersome. Now, the suppliers have been allowed to issue consolidated credit note and debit note in respect of multiple invoices issued in the same financial year

## Section- 49A - Set off Rules or Adjustment of Liability

As per the new process, it would be mandatory for a supplier to utilize the credit of IGST first for payment of output tax liability (IGST, CGST, SGST or UTGST), and the balance of other ITC (CGST, SGST or UTGST) can be used only if balance of credit of IGST is completely exhausted. This change can be understood with following example:

<i>Particulars</i>	<i>IGST</i>	<i>CGST</i>	<i>SGST</i>
<b>Output tax liability (A)</b>	<b>100</b>	<b>100</b>	<b>100</b>
<b>Available ITC (B)</b>	<b>200</b>	<b>50</b>	<b>50</b>

<b>Up to January 31, 2019</b>			
<i>ITC utilized (C)</i>	100	50	50
<i>Balance ITC (D = B - C)</i>	100	-	-
<i>Unpaid output liability (E = A - C)</i>	-	50	50
<i>Utilization of IGST for payment of CGST/SGST</i>	-	50	50
<i>Balance ITC</i>	-	-	-
<i>Net Liability</i>	-	-	-

<b>On or After February 1, 2019</b>			
<i>Utilization of IGST for payment of IGST, CGST and SGST (C = B - A)</i>	100	100	-
<i>Utilization of SGST for payment of SGST (C = B - A)</i>	-	-	50
<i>Balance ITC (D = B - C)</i>	-	50	-
<i>Unpaid output liability</i>	-	-	50
<i>Balance ITC</i>	-	50	-
<i>Net Liability to be paid in cash</i>	-	-	50



## Section 79 - Recovery of Tax

- It is provided that recovery may be made from distinct persons present in the same or different States / UTs in order to ensure speedy recovery from other establishments of the registered person.
- This will enable government to recover tax from all the registrations under same PAN. So, an entity shall be liable not only for its own dues but also all other establishments covered by the same PAN.

## Section 107(6)/ 112(8) - Appeals to Appellate Authority and appellate tribunal

- This amendment put a ceiling on the limit of the amount to be deposited before filing an appeal to the appellate authority u/s 107 (6) which is 10% of the disputed tax amount subject to maximum limit of INR 25 cores.
- Further, the maximum amount to be deposited to file appeal from the appellate authority [u/s 112(8)] to appellate tribunal is 20% of the disputed tax amount along with the amount deposited u/s 107(6) subject to maximum of INR 50 cores.

## Section 129 - Detention, Seizure and Release of Goods and Conveyances in Transit

- Time to pay tax in case of confiscation of goods increased from seven days to fourteen days

## Section 143 - Job Work Procedure

- Presently, non-return of inputs by Job worker with in 1 year and non-return of capital goods by Job Worker in 3 years is taxable by treated as supply.
- Post amendment, the period of one year or three years, as the case may be, may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively

## Amendments as per The Integrated Goods and Services Tax (Amendment) Act 2018

### Section-2(6)(iv) - Definition of Export of services

- Definition of export of services has been amended in IGST Act to allow receipt of INR for export of services wherever permitted by RBI. This is a taxpayer-friendly measure.
- Under the GST Laws there is no condition of receipt of foreign currency in case of export of goods, however in case of export of services receipt in foreign currency was a pre-condition earlier.

### Section 12(8) {Proviso Inserted} - Place of supply of services

- In case of export of goods, services by way of transportation of goods, including by mail or courier shall be treated as export of services provided other conditions as mentioned in definition of “export of services” are satisfied.
- In order to provide a level playing field to the domestic transportation companies and promote export of goods, this proviso provides that transportation of goods from a place in India to a place outside India by a transporter located in India would not be chargeable to GST, as place of supply will be outside India.

### Section 13(3)(a) {Second Proviso} - Place of supply of performance-based services

- Scope of export of services in case of supply by way of service of goods which are imported into India for repairs and after repair are exported has been expanded to include supply of services by way of any treatment or process on such goods which may or may not amount to repairs.
- Amendment is made to not tax job work of any treatment or process done on goods temporarily imported into India (e.g., gold, diamonds) which are then exported.
- This is a taxpayer-friendly amendment which would encourage skill development in our country. Place of Supply of Job Work for goods imported into India shall be outside India.



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