



# Recent changes in GST

STUDENTS CONFERENCE KOCHI

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# Process of GST amendments

# GST Council - Constitution

- ▶ Article 279A provides for constituting a council called the Goods and Services Tax council within 60 days from date of commencement of 101st Constitution Amendment Act, 2016.
- ▶ Members are as follows :-
  - ▶ the Union Finance Minister as Chairperson;
  - ▶ the Union Minister of State in charge of Revenue or Finance;
  - ▶ the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.
  - ▶ Vice Chairperson to be chosen among the members.

# GST Council - Powers

## **GST Council can make recommendations on the following:**

The taxes, cesses and surcharges that may be subsumed;

The goods and services that may be subjected to or exempted from GST;

Model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied under Article 269A and the principles that govern the place of supply;

The threshold limit of turnover below which goods and services may be exempted;

Rates, floor rates, band, special rates;

Special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand

Date on which GST be levied on petroleum crude, HSD, Petrol, natural gas and ATF and

Any other matter relating to the goods and services tax, as the Council may decide.

# GST Council meetings

## **Quorum:**

One-half of the total number of Members of the Goods and Services Tax Council.

All decisions by a majority of not less than three-fourths of the weighted votes of the members present and voting

## **Weightage of votes:**

Central Government –  $1/3^{\text{rd}}$  of the total votes cast, and

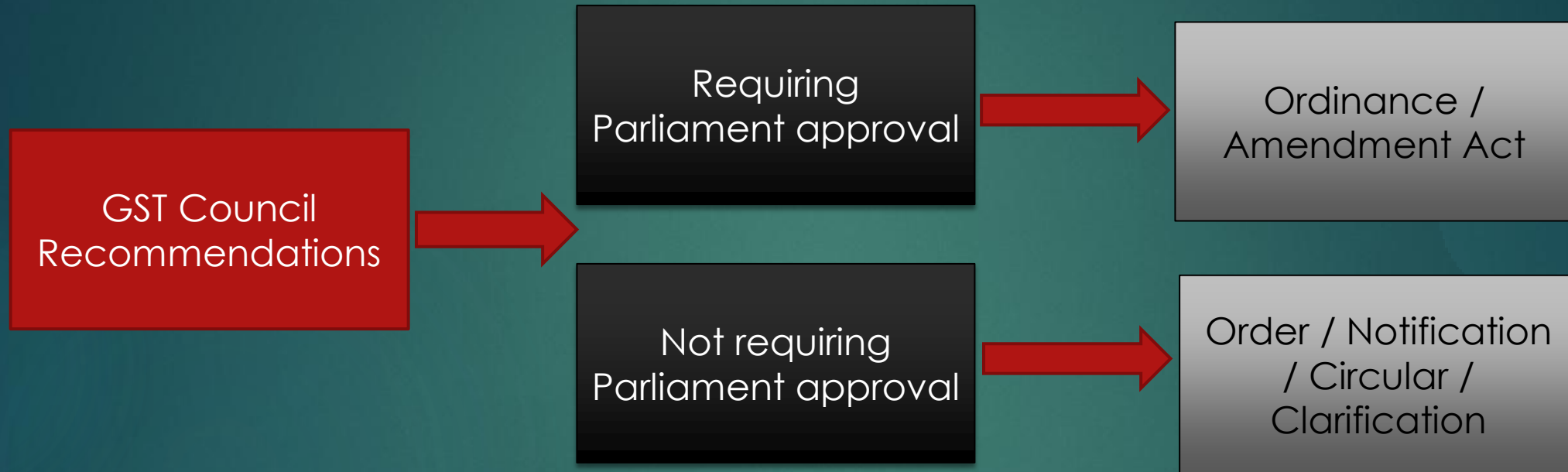
State Governments –  $2/3^{\text{rd}}$  of the total votes cast.

## **Other important roles of GST Council:**

The GST Council to be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

GST Council to devise mechanisms to adjudicate disputes arising between the Centre and States.

# Process of GST amendments





# GST Amendment Act 2018



# Major changes

Amendment	Remarks
Definition of 'business verticals' is deleted	Facilitates multiple registrations within same state under single PAN
Persons with revenues up to INR 1.5 crores can now opt for the composition scheme.  The provision also allows a person opting for composition scheme to supply services up to a value of 10% of turnover / or INR 5 lakhs, whichever is higher	Ambit of composition scheme extended to more assesses  Allows asseessee with service income of 10% of turnover to apply for composition scheme
Those transactions which have now been added to Schedule III (i.e. transactions which are neither supply of goods nor services) will not have an implication qua reversal of credit have been listed.	This mitigates the potential reversal of credit for the following transactions specified in Schedule III: <ul style="list-style-type: none"><li>• Sale of actionable claims</li><li>• High sea sales</li><li>• Merchant sales</li><li>• In-bond sales</li></ul>

# Major changes

Amendment	Remarks
Restriction on availing ITC in case of motor vehicles	Credit shall be available in case of motor vehicles with seating capacity of more than 13 persons. Further, ITC against other related activities such as insurance, servicing, repair etc. of such motor vehicles fall under blocked credits
<p>The timeline for submission of return will be prescribed instead of twentieth of a month.</p> <p>Enabling provision made for notifying the class of persons who would pay to the Government the tax due on or before the last date of furnishing the return</p>	The enabling provisions made for introduction of quarterly returns for specified class of persons.

# Major changes

Amendment	Remarks
Refund for supplies made to SEZ	in case supplies are made to SEZ units with payment of tax then refund shall not be allowed. In such cases, SEZ units shall avail credit and apply for refund for accumulated ITC
Amendment in transitional provisions - following the word 'Cenvat credit', the words 'of eligible duties' has been inserted.	Restriction on transitioning the closing balance of credit pertaining to EC, SHEC or KKC etc. under GST
Definition of export of services	Widened to include the payments received in INR for cases where the same is permitted by Reserve Bank of India
Amendment in RCM in case of inward supplies from unregistered person	Provisions would be applicable only for a specified class of persons in case of specified supplies as notified by Government.



Recent changes through circulars  
notifications, orders

# Notifications, circulars and orders issued post 31<sup>st</sup> GST Council meet

Type	From	To	Nos
Central Tax	67/2018	79/2018	13
Central Tax (Rate)	24/2018	30/2018	7
Circulars	76/50/2018	87/06/2019	12
Orders	2/2018	4/2018	3
<b>Total</b>			<b>35</b>

# Orders issued (Removal of Difficulty)

- Central Government may issue general or special order to remove difficulties in giving effect to provisions of GST Act upto 3 years from commencement of the Act or recommendation of GST Council

Order No	Date	Summary
02/2018	31/12/2018	<ul style="list-style-type: none"><li>▪ U/s 16(4) registered person cannot claim ITC in respect of invoice / debit note after <u>due date of furnishing return u/s 39 for September following FY or furnishing of annual return whichever is earlier</u></li><li>▪ ITC for invoice / debit note relating to 2017-18 can be claimed till due date of filing return u/s 39 of March 2019 (20 April 2019) if <b>details have been uploaded by supplier u/s 37</b></li><li>▪ Rectification of errors / omissions in return of outward supplies was permitted upto due date of filing return for September 2018 – now extended upto <u>due date of March 2019 return</u> (11 April 2019)</li></ul>

# Orders issued (Removal of Difficulty)

Order No	Date	Summary
03/2018	31/12/2018	<p>GST Annual returns to be filed before 31 December following end of FY</p> <ul style="list-style-type: none"><li>▪ Extended to 31 March 2019 for FY 2017-18 vide Order dated 11 December 2018</li><li>▪ Further extended to 30 June 2019 for FY 2017-18</li></ul>
04/2018	31/12/2018	<ul style="list-style-type: none"><li>▪ Date for filing of TCS return by E-commerce operators (GSTR 8) is 10<sup>th</sup> of subsequent month</li><li>▪ Time limit for filing GSTR 8 for months October, November and December extended to 31 January 2019</li></ul>

# Circular 76

Issue	Clarification
<p>Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?</p>	<ul style="list-style-type: none"><li>▪ Such supply is a taxable supply</li><li>▪ If such supply is to a <u>registered person</u> it is taxable on RCM basis</li><li>▪ Respective government departments to obtain GST registration and pay GST on such supply to <u>unregistered person</u></li></ul>
<p>Whether penalty in accordance with section 73 (11) of the CGST Act should be levied in cases where the return in FORM GSTR-3B has been filed after the due date of filing such return?</p>	<ul style="list-style-type: none"><li>▪ Penalty u/s 73(11) applicable where tax is not paid on due date of payment</li><li>▪ Above penalty will not be invoked on delayed filing of GSTR 3B if due tax is paid with interest</li><li>▪ General penalty may be imposed after due process</li></ul>
<p>In case a debit note is to be issued under section 142(2)(a) of the CGST Act or a credit note under section 142(2)(b) of the CGST Act, what will be the tax rate applicable – the rate in the pre-GST regime or the rate applicable under GST?</p>	<ul style="list-style-type: none"><li>▪ In case of revision of prices in respect of supply of goods / services supplied before 1.7.2017 debit note / credit note may be issued</li><li>▪ <u>Applicable rate would be as per GST Act and not the pre GST provisions</u></li></ul>



# Circular 76

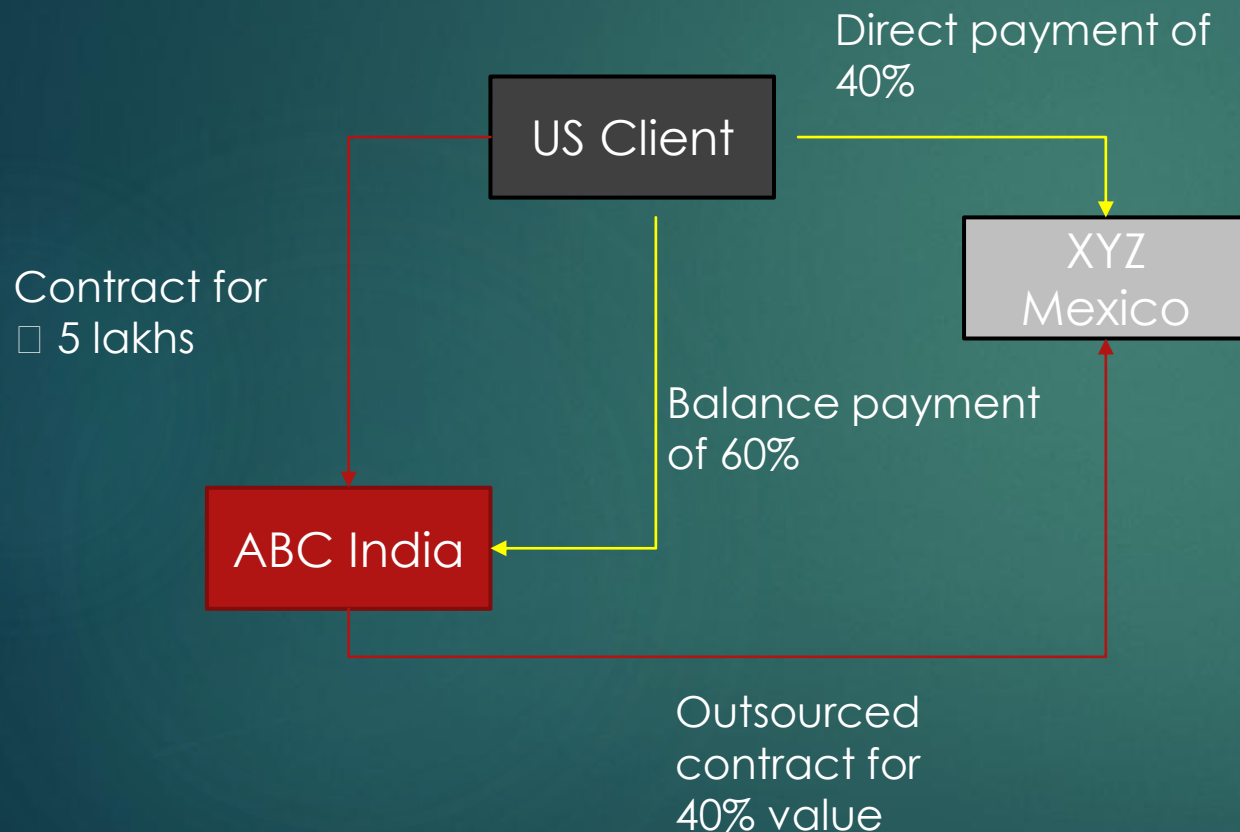
Issue	Clarification
<p>Applicability of the provisions of section 51 of the CGST Act (TDS) in the context of notification No. 50/2018-Central Tax dated 13.09.2018.</p>	<ul style="list-style-type: none"><li>▪ Clarified that TDS provisions applicable to an authority / board / any other body set up by an Act of Parliament / State Legislature / established by any Government <u>with fifty-one per cent. or more participation by way of equity or control</u>, to carry out any function</li><li>▪ If transaction between specified persons responsible for TDS, TDS not applicable (Notification 73)</li></ul>
<p>What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?</p>	<ul style="list-style-type: none"><li>▪ Value of supply includes any taxes, duties cesses, fees and charges levied under any law for the time being in force other than under GST Act</li><li>▪ Taxable value <u>will thus include TCS amount collected</u> under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS.</li></ul>
<p>Who will be considered as the “owner of the goods” for the purposes of section 129(1) of the CGST Act?</p>	<ul style="list-style-type: none"><li>▪ If goods accompanied by invoice owner could be consignor or consignee</li><li>▪ In other cases, owner will be determined by the proper officer</li></ul>

# Circular 77

## Effective date of withdrawal from composition scheme

- ▶ Where assessee opts out of composition scheme on non fulfilment of any of the conditions specified
  - ▶ Assessee files application in Form GST CMP – 04 within 7 days of occurrence of event
  - ▶ Effective date = date indicated in GST CMP – 04 but not before commencement of FY in which application filed
- ▶ Where tax authority denies composition option
  - ▶ Effective date to be determined by tax authority
  - ▶ May be retrospective date but not prior to date of contravention of GST Act
  - ▶ Tax interest and penalty applicable from date of contravention to date of issue of order in Form GST CMP – 07
  - ▶ Section 18(1)(c) on claim of ITC on inputs applicable

# Circular 78



## Clarifications on export of services

- ▶ Entire contract value of ₹ 5 lakhs will be considered as export of services if
  - ▶ ABC India raises invoice for entire value
  - ▶ ABC India has to pay IGST on import of service from XYZ Mexico under RCM and avail ITC on it
  - ▶ RBI permits part consideration to be retained outside India through general or specific order

# Circular 79

## Refund procedure

- ▶ All supporting documents/undertaking/statements to be submitted online at the time of filing of the refund application.
- ▶ Taxpayer will still have the option to physically submit the refund application to jurisdictional officer in FORM GST RFD-01A with supporting documents
  - ▶ Taxpayer unallocated to Centre / State shall have to file documents manually
- ▶ The ARN will be generated only after the claimant has completed the process of filing the refund application in FORM GST RFD-01A with supporting documents
- ▶ Jurisdictional officer will be able to view the application on generation of ARN
- ▶ Acknowledgement for the same / deficiency memo will be issued manually for time being

# Circular 79

## Refund of ITC in case of inverted duty structure

- ▶ Refund of ITC in case of inverted duty structure is available where ITC remains unutilised after payment of output tax liability.
- ▶ “Net ITC” in Rule 89(5) includes ITC on all inputs irrespective of their rate of tax
- ▶ No refund of input services and ITC on capital goods as unutilized ITC

## Disbursal of refund amounts after sanction

- ▶ Interest @ 6% applicable if refund delayed beyond 60 days from expiry of 60 days till credit of bank account of taxpayer
- ▶ All tax authorities to issue final sanction orders in FORM GST RFD-06 within 45 days of the date of generation of ARN to complete disbursement within time

## Procedure in case physical refund applications not received

- ▶ Guidelines provided for processing refund applications generated online but physical copies of documents not received with jurisdictional officer



# Circular 79

## Refund of accumulated ITC of compensation cess

- ▶ Clarifications issued in this regard with examples

## Calculation of unutilised ITC

- ▶ ITC is presently claimed on self declaration basis through GSTR 3B
- ▶ Certain invoices raised in previous months may be claimed subsequently
- ▶ “Net ITC” refers to ITC availed during relevant period through GSTR 3B. Such amounts cannot be excluded by field officers from calculation of unutilised ITC for refund purposes

## Misinterpretation of term “inputs”

- ▶ “Inputs” means goods other than capital goods used in furtherance of business
- ▶ GST paid on inward supplies of stores and spares, packing materials etc. charged as revenue expense available as ITC as long as they are used for the purpose of the business / for effecting taxable supplies and the ITC for such inputs is not restricted u/s 17(5)

# Circular 85

## Supply of food and beverage by educational institute

- ▶ Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 Sl. No 66 exempts services provided by an educational institution to its students, faculty and staff
- ▶ Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Sl. No. 7(i) prescribes GST rate of 5% on supply of food and beverages services. Explanation 1 states that such supply can take place at canteen, mess, cafeteria of an institution such as school, college, hospitals etc.
- ▶ Clarified that
  - ▶ Supply of food and beverages by an educational institution to its students, faculty and staff, where such supply is made by the educational institution itself, is exempt
  - ▶ Supply of food and beverages by any person other than the educational institutions based on a contractual arrangement with such institution is leviable to GST@ 5%.

# Circular 87

## Clarification regarding eligible duties u/s 140(1)

- ▶ CENVAT credit of service tax was available as transitional credit under section 140(1) of the CGST Act and that legal position has not changed due to amendment of section 140(1)
- ▶ The expression “eligible duties” under section 140(1) does not in any way refer to the condition regarding goods in stock as referred to in Explanation 1 to section 140 or to the condition regarding inputs and input services in transit, as referred to in Explanation 2 to section 140



# Notification 75, 76, 77, 78

## Waiver of Late fee for GSTR 1 and GSTR 3B

- ▶ A registered taxpayer who fails to furnish GSTR 1 and GSTR 3B on time relating to period July 2017 to September 2018
- ▶ Furnishes the returns between 22.12.2018 and 31.3.2019

## Waiver of Late fee for GSTR 4

- ▶ Composition taxpayer who fails to furnish GSTR 1 and GSTR 3B on time relating to period July 2017 to September 2018
- ▶ Furnishes the returns between 22.12.2018 and 31.3.2019

## Extension of time limit for filing GST ITC 04

- ▶ GST ITC 04 in respect of goods dispatched to a job worker or received from a job worker from July 2017 to December 2018 can be filed till 31 March 2019

# Changes in RCM (w.e.f 1.1.2019)

Additional category of services covered under RCM

- ▶ Services provided by business facilitator to banking company located in taxable territory
- ▶ Services provided by agent of business correspondent to business correspondent located in taxable territory
- ▶ Security services by any person other than body corporate to a registered person located in taxable territory



# Recommendations of GST Council

# Other recommendations of 31<sup>st</sup> GST Council

- ▶ There would be a single cash ledger for each tax head. The modalities for implementation would be finalised in consultation with GSTN and the Accounting authorities
- ▶ A scheme of single authority for disbursement of the refund amount sanctioned by either the Centre or the State tax authorities would be implemented on pilot basis. The modalities for the same shall be finalized shortly
- ▶ The new return filing system shall be introduced on a trial basis from 01.04.2019 and on mandatory basis from 01.07.2019
- ▶ Taxpayers who have not filed the returns for two consecutive tax periods shall be restricted from generating e-way bills. This provision shall be made effective once GSTN/NIC make available the required functionality
- ▶ Changes made by CGST (Amendment) Act, 2018, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and GST (Compensation to States) Amendment Act, 2018 and the corresponding changes in SGST Acts would be notified w.e.f. 01.02.2019.

# Other recommendations of 31<sup>st</sup> GST Council

- ▶ Suggested changes in GSTR 9, 9A, 9C
  - ▶ GSTR 9 and 9A amended to provide supplies made during the year and not as declared in returns filed during the year
  - ▶ All returns in FORM GSTR-1, GSTR 4 & FORM GSTR-3B have to be filed before filing of FORM GSTR-9, GSTR 9A & FORM GSTR-9C
  - ▶ HSN Code for inward supply only if > 10% of total inward supply
  - ▶ Additional payments if any can be done using GST DRC-03 in cash
  - ▶ ITC cannot be availed through FORM GSTR-9 & FORM GSTR-9C
  - ▶ All invoices pertaining to previous FY would be auto-populated in Table 8A of FORM GSTR-9;
  - ▶ Value of “non-GST supply” shall also include the value of “no supply” and may be reported in Table 5D, 5E and 5F of FORM GSTR-9;
  - ▶ Verification by taxpayer who is uploading reconciliation statement would be included in FORM GSTR-9C



# Recommendations of 32<sup>nd</sup> GST Council

## Threshold for registration

- ▶ Threshold limit for registration to be increased to Rs 40 lakhs from Rs 20 lakhs for suppliers of goods
- ▶ Limit for Special category states to be increased from Rs 10 lakhs to Rs 20 lakhs
- ▶ Option given to states to opt for higher threshold or keep same threshold
- ▶ No change in threshold for service providers
- ▶ Suppliers providing inter state supplies to register mandatorily

## Existing Composition scheme

- ▶ Limit of annual turnover in preceding year for availing composition scheme to be increased to Rs 1.5 crore
- ▶ Special category states may decide limits for their respective states
- ▶ Composition dealers to file one annual return and pay taxes quarterly

# Recommendations of 32<sup>nd</sup> GST Council

## Composition scheme for service providers

- ▶ Tax rate of 6% for small service providers having annual turnover upto Rs 50 lakhs
- ▶ Applicable to service providers as well as suppliers of goods and supplies
- ▶ Such assesseees to file one annual return and pay tax quarterly

**All above decisions operative w.e.f 1 April 2019**

## Other decisions

- ▶ GSTN to provide accounting and billing software to small taxpayers
- ▶ Levy of 1% cess on intra state supply of goods and services within state of Kerala for a period not exceeding 2 years
- ▶ GoM to examine a) composition scheme for residential segment of real estate b) rate structure on lotteries