



C N K GST Alert- CGST (Amendment) Act, 2018

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CGST (Amendment) Act, 2018

BACKGROUND:

GST was implemented in India w.e.f. 1st July 2017 vide the implementation of the CGST Act, 2017 and IGST Act, 2017. The legislation has been amended over time vide several notifications, circulars and orders. However, the existing Acts were materially amended through enactment on 30th August 2018 vide the CGST (Amendment) Act, 2018 and IGST (Amendment) Act, 2018. The date of implementation then was however, to be notified at a future date. A few of these amendments carry a retrospective effect while the majority are made effective from 1st February 2019. A brief synopsis of the prior position and revised positions along with the date of implementation are summarized below:

Sr. No.	TOPIC	PRIOR POSITION	REVISED POSITION	WITH EFFECT FROM
1.	SUPPLY	Any activity specified in Schedule II was to be regarded as a deemed supply.	It is clarified that Schedule II activities would have to first qualify as a supply in terms of Section 7(1) of CGST Act.	1 st July 2017
2.	SERVICE	The definition of service did not include arranging, facilitating transactions in securities.	The definition of 'Service' would now include arranging, facilitating transactions in securities.	1 st July 2017
3	SCHEDULE III	New paragraphs inserted	The following transactions / activities will neither be supply of goods nor supply of service and consequently not liable to GST: - <ol style="list-style-type: none"> 1. High sea sales 2. Third party exports / Out and Out exports 3. Supply of warehoused goods to any person before clearance for home consumption 	1 st February 2019
4.	TRAN-1	CENVAT credit of eligible duties and taxes were allowed	CENVAT credit of eligible duties and taxes further clarifies that the expression 'eligible duties and taxes' excludes any cess specified therein.	To be notified

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5.	REGISTRATION - SEZ	No separate registration was required by taxable person having units in both SEZ & non-SEZ area in the same state	Separation registration is required by a taxable person having units in both SEZ & non-SEZ area in same state.	1 st February 2019
6.	REGISTRATION - LIMIT FOR 6 STATES	As per Section 22 of the CGST Act, every supplier making taxable supplies of goods or services, from any of the special category States, shall be liable to be registered if his aggregate turnover in a financial year exceeds INR. 10 lakhs.	The threshold exemption limit for registration is increased from INR 10 lakhs to INR 20 lakhs for the states of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand	1 st February 2019
7.	REGISTRATION - E-COMMERCE OPERATORS	Every e-commerce operator was liable to be registered under the existing law.	Only those e-commerce operators, who are required to collect TCS are liable to take GST registration.	1 st February 2019
8	REGISTRATION - OTHERS	Each taxpayer was allowed multiple registrations within the same State / Union Territory for different business verticals.	Definition of business vertical is omitted. Each taxpayer is now allowed separate registration for separate place of business in same State / Union Territory.	1 st February 2019
9.	REGISTRATION - SUSPENSION	Once a registered person has applied for cancellation of GST registration, the proper officer should temporarily suspend its registration till the procedural formalities for cancellation are completed	Specific provisions inserted pertaining to suspension of registration	1 st February 2019
10.	REVERSE CHARGE MECHANISM	Every registered person was liable to pay GST under reverse charge on procurement of inward supply from unregistered persons.	Receipt of inward supplies by a registered person from an unregistered person would be liable to reverse charge only if both conditions satisfied: (a) Purchase of specified goods and services; (b) If recipient is notified registered person	1 st February 2019

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11.	COMPOSITION SCHEME – THRESHOLD LIMIT	Taxpayers (other than service providers but including restaurant service) with a turnover up to INR 1 crore in the preceding financial year were eligible to opt for the composition scheme.	The threshold limit for Composition Scheme has been extended to INR 1.5 crore in the preceding financial year.	1 st February 2019
12.	COMPOSITION SCHEME – SERVICE PROVIDERS	Currently, the registered persons engaged in the supply of services (other than restaurant services) are not eligible for the composition scheme.	The manufacturers or traders or restaurant owners can opt for the composition scheme if proportion of service (other than restaurant service) is not more than 10% of total turnover during the previous financial year in a State/UT or INR 5 lakhs, whichever is higher.	1 st February 2019
13.	IMPORT OF SERVICES	Import of services in the course or furtherance of business from a related person or from any of their establishments outside India by a registered person was a deemed supply	Import of services in course or furtherance of business from a related person or from any of their establishments outside India by any person (registered or unregistered) will be deemed to be supply.	1 st February 2019
14.	EXPORTS	Supply of goods by a registered person against Advance Authorisation was notified as deemed exports.	In such cases of deemed exports, the ITC would be available on inputs only against taxable supply of goods (other than nil rated or fully exempted goods) to be supported by a certificate from a chartered accountant within 6 months of such supply. No certificate required if no ITC is availed.	1 st February 2019
15.	EXPORTS CURRENCY -	The payment for export of services shall be received in convertible foreign exchange.	The registered suppliers are allowed to receive the payment in respect of export of services in Indian rupees, if permitted by the RBI.	1 st February 2019

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16.	INPUT TAX CREDIT – EXEMPT SUPPLIES FOR ITC REVERSAL	Section 17(3) enlists specified transactions as exempt supply for credit reversal.	An explanation has been inserted to clarify that the expression 'value of exempt supply' shall not include the value of activities or transactions specified in Schedule III, except for sale of Land and building.	1 st February 2019
17.	INPUT TAX CREDIT - MOTOR VEHICLES	The availability of ITC on motor vehicle was very limited and unclear as per section 17(5) of the CGST Act.	<p>ITC shall be available in every situation, if the seating capacity of the motor vehicle is 13 persons or more (including driver) when used for further supply of such vehicles, transportation of passengers, imparting driving training, transportation of goods.</p> <p>ITC on Leasing, renting or hiring of motor vehicles is not allowed except when it is used for the specified purposes.</p> <p>It further clarifies that no ITC of services w.r.t. general insurance, repair & maintenance of such motor vehicles would be allowed.</p>	1 st February 2019
18.	INPUT TAX CREDIT - VESSELS & AIRCRAFT	There was no special entry for availment of ITC on vessels or aircraft.	<p>ITC on purchase of vessels & aircraft shall not be available.</p> <p>ITC on Leasing, renting or hiring of vessels, aircraft is not allowed except when it is used for the specified purposes</p> <p>However, ITC would be available when it is used for further supply of such vessels or aircraft, transportation of passengers, imparting navigation or flying training and transportation of goods.</p>	1 st February 2019

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19.	INPUT TAX CREDIT - SPECIFIED GOODS & SERVICES	New proviso	<p>The ITC in respect of tax paid on the following are not allowed:</p> <ol style="list-style-type: none"> 1. food and beverages, 2. outdoor catering, 3. health services, 4. beauty treatment 5. cosmetic & plastic surgery 6. life insurance 7. health insurance 8. club /health/fitness membership, 9. leave or home travel concession to employees <p>The above would be allowed as credit if:</p> <ol style="list-style-type: none"> 1. these services are used for further supply of services as composite or mixed supply (sr. no. 1-7 only) <p>It is obligatory for an employer to provide the same to its employees under any law (all above)</p>	1 st February 2019
20.	INPUT TAX CREDIT TRANSFER OF CREDIT	Rule 41 provided for Specific Rules for transfer of credit on sale, merger, amalgamation, lease or transfer of a business	Rule 41A is now inserted which provides for transfer of credit on obtaining separate registration for multiple places of business within a State or Union Territory	1 st February 2019
21.	INPUT TAX CREDIT UTILIZATION	<p>The SGST / UTGST Credit shall first be utilized towards payment of SGST /UTGST liability and the amount remaining, if any, may be utilized towards payment of IGST liability;</p> <p>CGST/SGST ITC was used to set-off CGST /SGST liability</p>	<p>The existing law stands true provided that the SGST /UTGST credit shall be utilised towards payment of IGST liability only where CGST credit is not available.</p> <p>now IGST Credit has to be 1st utilized fully for payment of IGST then for CGST and then for SGST liability as the case may be, even before utilization of ITC of CGST or SGST</p>	1 st February 2019

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		<p>Utilization of Credits can be demonstrated by the following example:</p> <table border="1" data-bbox="499 354 1127 792"> <thead> <tr> <th>Particulars</th> <th>IGST</th> <th>CGST</th> <th>SGST</th> </tr> </thead> <tbody> <tr> <td>ITC</td> <td>65,000</td> <td>25,000</td> <td>25,000</td> </tr> <tr> <td>Liability</td> <td>15,000</td> <td>45,000</td> <td>45,000</td> </tr> <tr> <td>First Set-off</td> <td>15,000 (IGST)</td> <td>25,000 (CGST)</td> <td>25,000 (SGST)</td> </tr> <tr> <td>Second Set-off</td> <td>N.A.</td> <td>20,000 (IGST)</td> <td>20,000 (IGST)</td> </tr> <tr> <td>Carried forward set off</td> <td>10,000 (IGST)</td> <td>NIL</td> <td>NIL</td> </tr> <tr> <td>Paid in Cash</td> <td>NIL</td> <td>NIL</td> <td>NIL</td> </tr> </tbody> </table> <p>CONCLUSION: No cash liability and a credit balance of INR 10,000.</p>	Particulars	IGST	CGST	SGST	ITC	65,000	25,000	25,000	Liability	15,000	45,000	45,000	First Set-off	15,000 (IGST)	25,000 (CGST)	25,000 (SGST)	Second Set-off	N.A.	20,000 (IGST)	20,000 (IGST)	Carried forward set off	10,000 (IGST)	NIL	NIL	Paid in Cash	NIL	NIL	NIL	<p>Utilization of Credits can be demonstrated by the following example:</p> <table border="1" data-bbox="1157 354 1785 792"> <thead> <tr> <th>Particulars</th> <th>IGST</th> <th>CGST</th> <th>SGST</th> </tr> </thead> <tbody> <tr> <td>ITC</td> <td>65,000</td> <td>25,000</td> <td>25,000</td> </tr> <tr> <td>Liability</td> <td>15,000</td> <td>45,000</td> <td>45,000</td> </tr> <tr> <td>First Set-off</td> <td>15,000 (IGST)</td> <td>45,000 (IGST)</td> <td>5,000 (IGST)</td> </tr> <tr> <td>Second Set-off</td> <td>N.A.</td> <td>N.A.</td> <td>25,000 (SGST)</td> </tr> <tr> <td>Carried forward set off</td> <td>NIL</td> <td>25,000 (CGST)</td> <td>NIL</td> </tr> <tr> <td>Paid in Cash</td> <td>NIL</td> <td>NIL</td> <td>15,000 (SGST)</td> </tr> </tbody> </table> <p>CONCLUSION: Cash liability of INR 15,000 and a credit balance of INR 25,000. As seen, the working capital has increased with such amendment.</p>	Particulars	IGST	CGST	SGST	ITC	65,000	25,000	25,000	Liability	15,000	45,000	45,000	First Set-off	15,000 (IGST)	45,000 (IGST)	5,000 (IGST)	Second Set-off	N.A.	N.A.	25,000 (SGST)	Carried forward set off	NIL	25,000 (CGST)	NIL	Paid in Cash	NIL	NIL	15,000 (SGST)	
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22.	CREDIT NOTES /DEBIT NOTES	A credit or debit note was required to be issued invoice-wise	The issue of consolidated / multiple credit or debit notes in respect of multiple/single invoices issued in a financial year without linking the same with individual invoices is allowed	1 st February 2019																																																								
23.	REFUNDS – SEZ	Refund of tax was paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies	The same benefit is now given to exports and not zero rated supplies. Hence, Taxpayer is not eligible to claim refund of tax paid on supplies made to SEZ unit or SEZ developer	1 st February 2019																																																								

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24.	REFUNDS - INVERTED TAX STRUCTURE	The relevant date for filing refunds of unutilised input tax credit was the end of the financial year in which such claim for refund arises.	The relevant date for computing limitation period will commence from the due date of filing return and not from the end of the financial year.	1 st February 2019
25.	PRE-DEPOSIT	<p>The CGST Act requires the payment of pre-deposit amounting to 10% of the tax in dispute before filing an appeal to an Appellate Authority.</p> <p>The CGST Act provides for payment of pre-deposit amounting to 20% of the tax in dispute (in addition to the amount paid above) before filing an appeal to the Appellant Tribunal.</p>	<p>Such pre-deposit is now restricted to INR 25 crore.</p> <p>Such pre-deposit is now restricted to INR 50 crore.</p> <p>Section 20 of IGST Act is amended accordingly to restrict the pre-deposit to INR 50 and 100 crore in case of filing of appeal before ITAT</p>	1 st February 2019
26.	TIME-LIMIT JOB-WORK	The CGST Act provides for a time limit of one year and three years to bring back or supply inputs or capital goods (other than moulds and dies, jigs and fixtures, or tools), respectively, after completion of the job work.	A Proviso has been inserted to extend such time limit of one year or three years by a further period of one year and two years, respectively, by the Commissioner upon sufficient cause being shown.	1 st February 2019
27.	TIME-LIMIT PAYMENT OF TAXES	A time-limit of 7 days was provided to the taxpayer to make the payment of taxes and penalty in case of detention or seizure proceedings.	The period of 7 days has now been increased to 14 days.	1 st February 2019
28.	AUDIT	Every registered person shall get his accounts audited by a Chartered Accountant or a Cost Accountant, if his turnover during a financial year exceeds Rs. 2 crore.	The departments of Central Government or State Governments or local authorities have been exempted from compulsory GST audit, if their books of account are audited by the Comptroller and Auditor-General of India (CAG) or any other auditor under any law.	1 st February 2019

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29.	PLACE OF SUPPLY – TRANSPORTATION OF GOODS	New proviso	The place of supply of service by way of transportation of goods to a place outside India, shall be the place of destination, i.e., outside India.	1 st February 2019
30.	PLACE OF SUPPLY – PERFORMANCE BASED SERVICES	No GST shall be chargeable in case, goods are imported in India for repairs then exported back out of India.	No GST shall be chargeable in case, goods are imported in India for repairs, treatment or any process and then exported back out of India.	1 st February 2019

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