



भारतीय सनदी लेखाकार संस्थान  
(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
(Set up by an Act of Parliament)



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ICAI/IDTC/2018-19/Rep/8

14<sup>th</sup> July, 2018

Shri Piyush Goyal  
Hon'ble Union Minister of Finance  
and Chairman, Goods & Services Tax Council  
Ministry of Finance,  
Government of India, North Block  
New Delhi - 110001



Respected Sir,

**Sub: Suggestions or Amendments proposed in GST Acts**

We refer to the amendments proposed by the Government in the CGST Act, 2017, IGST Act, 2017 and the GST (Compensation to States) Act, 2017 inviting comments/ feedback on the same.

We consider it a privilege to submit herewith our suggestions on the proposed amendments in said GST Acts.

We shall be glad to provide any further input as may be required and your office in case of any information may reach us at [idtc@icai.in](mailto:idtc@icai.in) or 0120-3045954.

Thanking you,

Yours faithfully,

CA. Naveen N. D. Gupta

Encl.: As above.

# Suggestions on Proposed Amendments in GST Law



*Indirect Taxes Committee*

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

**NEW DELHI**



<b>CGST Act 2017</b>				
<b>Sl No. of amendment</b>	<b>Section/Sub-section/Clause</b>	<b>Amendments as shown in Red and Strikethrough</b>	<b>Rationale/Remarks</b>	<b>Suggestion by ICAI and its rationale</b>
<b>Definitions</b>				
2.	2 (17) (h)	(17) “business” includes— (h) <del>services—provided—by</del> <b>activities of a race club including</b> by way of totalisator or a license to book maker <b>or activities of a licensed book maker</b> in such club; and	Changes are being made to ensure that all activities related to a race club are included. The term “services” in this clause leads to ambiguity, as actionable claims have been defined as ‘goods’ in the CGST Act.	(h) <del>services—provided—by</del> <b>activities or transactions</b> 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  <b>Amendment to be made prospective</b>
4.	2 (69)	(69) “local authority” means— (f) a Development Board constituted under article 371 <b>and article 371J</b> of the Constitution; or	Article 371J of the Constitution grants special status to 6 backward districts of Karnataka-Hyderabad region. Under this article, the President is empowered to establish a separate Board to ensure equitable distribution of funds in the State’s budget to meet the developmental needs of the region. It is being added now based on the request received from the State of Karnataka	<b>Amendment to be made prospective</b>
5.	2 (102)	(102) “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion	Although ‘securities’ has been excluded from the definition of ‘goods’ and ‘services’ in the CGST Act, facilitating or arranging transactions in	<b>Amendment to be made prospective.</b>

		<p>by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;</p> <p><i>Explanation-For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities.</i></p>	<p>securities is liable to GST. This has been clarified recently through a detailed FAQ on Banking and Insurance wherein it has been clarified that if some service charges or service fees or documentation fees or broking charges or such like fees or charges are charged in relation to transactions in securities, the same would be a consideration for provision of service and chargeable to GST.</p> <p>It is proposed to insert an Explanation in order to remove any doubts.</p>	
<b>Supply</b>				
6.	7	<p>7. (1) For the purposes of this Act, the expression “supply” includes–</p> <p>(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;</p>	<p>Classification of certain specified activities or transactions (which qualify as a supply under the CGST Act) either as supply of goods or supply of services is supposed to be done in Schedule II. However, it is observed that clause (d) being part of the subsection defining the term ‘supply’ leads to a situation where an activity listed in Schedule II would be deemed to</p>	<p>Section 7 (1A) – Amendment to be made prospective</p>

		<p>(b) import of services for a consideration whether or not in the course or furtherance of business; <b>and</b></p> <p>(c) the activities specified in Schedule I made or agreed to be made without a consideration.; <b>and</b></p> <p><del>(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.</del></p> <p><b>(1A) Certain activities or transactions, when constituting a supply in accordance with the provisions of sub-section (1), shall be treated either as supply of goods or supply of services as referred to in Schedule II.</b></p> <p>(2) Notwithstanding anything contained in sub-section (1),—</p> <p>(a) activities or transactions specified in Schedule III; or</p> <p>(b) such activities or transactions undertaken by the Central Government, a State</p>	<p>be a supply even if it does not constitute a supply as per clauses (a), (b) and (c) of sub-section (1). Hence, it is proposed to insert a new sub-section (1A) in section 7 and omit clause (d) of sub-section (1).</p> <p>Consequential amendment, consequent to insertion of a new sub-section (1A).</p>	
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		<p>Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.</p> <p>(3) Subject to the provisions of sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as–</p> <p>(a) a supply of goods and not as a supply of services; or</p> <p>(b) a supply of services and not as a supply of goods.</p>		
8.	Schedule III, new insertion	<p><b>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 the taxable territory.</b></p>	<p>It is sought to exclude from the tax net such transactions which involve movement of goods, caused by a registered person, from one non-taxable territory to another non-taxable territory.</p>	<p>7. Supply of goods <u>or services</u> from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into the taxable territory.</p> <p>Amendment to be made retrospective from the</p>

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				<p>appointed date.</p> <p>The rationale behind the proposed amendment is to exclude from the tax net such transactions which involve movement of goods, caused by a registered person from one non-taxable territory to another non-taxable territory.</p> <p>However, expression “without such goods entering into the taxable territory” used in the proposed provision requires fine tuning as there will be hassles where the movement of goods that originate from non-taxable territories (foreign countries) and are predestined to Bhutan &amp; Nepal are unloaded at Air / Sea Ports in India and transported thereafter to Bhutan or Nepal as the case may be.</p> <p><i>In order to achieve the stated objective and at the same time to avoid any litigation, the expression “without such goods entering into the taxable</i></p>
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				<p><i>territory for the purpose of clearance for home consumption” could be considered.</i></p> <p><i>Considering, it would also have an impact of non-reversal of common input tax credits, therefore, it is suggested that a suitable amendment may be made in Rule 42 and 43.</i></p>
9.	Schedule III, new insertion	<p>8 (a) Supply of warehoused goods to any person before clearance for home consumption.</p> <p>(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.</p> <p>Explanation.- For the purposes of this clause, the expression “warehoused goods” shall have the meaning as assigned to it in the Customs Act, 1962 (52 of 1962)</p>	<p>It is sought to ensure that there is no double taxation of transactions where supply of goods occurs in the course of high sea sales and sale of warehoused goods, before clearance for home consumption.</p> <p>It was observed that in case of supply of goods as high seas sales and sale of warehoused goods, before being cleared for home consumption, IGST was being levied twice, once under the Customs Tariff Act, 1975 (read with the IGST Act) and then for a second time, on clearance for home consumption under the IGST Act.</p> <p>Since double taxation needs to be</p>	<p>8(b) Supply of goods by the Consignee <u>/s or supplier/s</u> 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.</p> <p>Amendment to be made retrospective from the appointed date.</p> <p><i>Considering, it would also have an impact of non-reversal of common input tax credits, therefore, it is suggested that a suitable amendment may be made in Rule 42 and 43.</i></p>

			avoided, Circulars were issued to state that IGST would be payable only once at the time of clearance of goods for home consumption. However, it is imperative that such situations are squarely mentioned as ‘no supply’ in Schedule III.	
<b>Levy and Collection</b>				
10.	9 (4)	<p><del>9 (4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient 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 the supply of such goods or services or both.</del></p> <p>9 (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of taxable goods or services or both received from an unregistered</p>	<p>Section 9 (4), which mandates that all registered persons shall pay the tax on reverse charge basis on purchases made from unregistered persons, is presently under suspension. This subsection is being omitted for trade facilitation.</p> <p>Instead, it is proposed to take an enabling power for the Government to notify a class of registered persons who would be liable to pay tax on reverse charge basis in case of receipt of goods from an unregistered supplier.</p>	Separate suggestion has been sent by ICAI.

		supplier, pay the tax on reverse charge basis as the recipient of such 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 the supply of such goods or services or both.		
<b>Composition Scheme</b>				
11.	10 (1) & (2)	10 (1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding,— (a) one per cent of the turnover in State or turnover in Union territory in case of a manufacturer, (b) two and a half per cent. of	The limit is being raised from Rs. 1 crore to Rs. 1.5 crore as a measure of trade facilitation, as already recommended by the GST Council.  At present, registered persons engaged in the supply of services (other than restaurant services) are not eligible for composition scheme. As a result, manufacturers and traders supplying services are unable to opt for the scheme even if its percentage is very small as compared to the supplies of goods. With a view to enable these taxpayers to avail of the benefit of composition scheme, a new proviso is being added in order to allow them to be eligible	In the proviso to Section 10(1) to mention Rs. Two Hundred Lakhs which would be in line with decision taken at 23 <sup>rd</sup> GST Council meeting.

		<p>the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and</p> <p>(c) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed:</p> <p>Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one <b>hundred and fifty lakh</b> <del>erore</del> rupees, as may be recommended by the Council.</p> <p><b>Provided further that a person who opts to pay tax under clause (a), clause (b) or clause (c) may supply services of value not exceeding ten percent of turnover in the preceding financial year in a State or Union territory or five lakh rupees, whichever is higher.</b></p>	<p>for the scheme even if they supply services of value not exceeding 10% of the turnover in the preceding financial year in a State/Union territory or Rs. 5 lakhs, whichever is higher.</p> <p>This is a taxpayer-friendly measure and it is believed that small taxpayers would immensely benefit from this amendment.</p> <p>This is a consequential amendment, as a new proviso is being added to section 10 (1) which allows the registered person to opt for the scheme even if they supply services of value not exceeding 10% of the turnover in the preceding financial year in a State/Union territory or Rs. 5 lakhs, whichever is higher.</p>	
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		<p>(2) The registered person shall be eligible to opt under sub-section (1), if—</p> <p>(a) he is not engaged in the supply of services, <del>other than supplies referred to in clause (b) of paragraph (6) of Schedule II</del> save as provided in sub-section (1);</p> <p>(b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;</p> <p>(c) he is not engaged in making any inter-State outward supplies of goods;</p> <p>(d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and</p> <p>(e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:</p>		
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		Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income tax Act, 1961) (43 of 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.		
<b>Input Tax Credit</b>				
14.	16 (2) (b)	<p>16 (2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—</p> <p>(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;</p> <p>(b) he has received the goods or services or both.</p> <p><i>Explanation.</i>— For the purposes of this clause, it shall be deemed that the registered person has</p>	<p>One of the conditions for availing of credit by the registered person under the Act is the receipt of goods or services or both by him. In the case of “bill-to-ship-to” situations, for the purposes of availing of ITC on goods by the registered person, a deeming provision is present as an Explanation to section 16(2)(b) vide which the registered person is deemed to have received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of the said registered person.</p> <p>It is now proposed to provide</p>	<p>Explanation (ii) where the services are provided by the supplier to any person on the direction of <del>and</del> <u>or</u> on account of such registered person;</p> <p>Amendment to be made retrospective from the appointed date</p> <p>Further, as per revised process of returns adopted by the Government, if the invoices uploaded by the supplier is accepted by the recipient, recipient will not be asked for failure to make the tax payment</p>

		<p>received the goods <b>or, as the case may be, services,-</b></p> <p><b>(i)</b> where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</p> <p><b>(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;</b></p>	<p>this deeming fiction in case of services as well which will be taxpayer-friendly.</p>	<p>except in few special circumstances. For proper implementation of this intention, Section 16(2)(b) is required to be amended suitably.</p>
15.	16 (2) Second proviso	<p>16 (2).....</p> <p>(c) Subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and</p> <p>(d) he has furnished the return under section 39:</p> <p>Provided that -----:</p> <p>Provided further that where a</p>	<p>It is proposed to remove the liability to pay interest in case where the recipient has been made liable to pay an amount equal to the ITC availed in case he fails to pay to the supplier of goods or services or both the amount towards the value of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier. Since upon payment of the due amount</p>	<p>Section 16(2) (c) is to be amended to read: Subject to the provisions of section 41 <u>or 43A</u>, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and</p> <p>Amendment to be made prospective</p>

		<p>recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards</p> <p>the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, <del>along with interest thereon</del>, in such manner as may be prescribed:</p>	<p>to the supplier, the recipient shall be eligible to avail ITC of the said amount, it is believed that liability to pay interest is too onerous and should be removed.</p>	
16.	17 (3)	<p>17 (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building <del>but shall not include the value of activities or transactions (other than sale of land and, subject to clause (b) of</del></p>	<p>It is proposed to allow availment of ITC on activities or transactions specified in Schedule III (other than sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building) by excluding it from the ambit of ‘exempt supply’ on which ITC is blocked.</p> <p>The proposed amendment is a taxpayer friendly measure.</p>	<p>Amendment to be made retrospective from the appointed date</p>

		paragraph 5 of Schedule II, sale of building) specified in Schedule III.		
17.	17 (5) (a), new (aa) & (b)	<p>17(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—</p> <p>(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), vessels and aircraft and <del>other conveyances</del> except when they are used—</p> <p>(i) for making the following taxable supplies, namely:—</p> <p>(A) further supply of such vehicles or <del>vessels or aircraft conveyances</del>; or</p> <p>(B) transportation of passengers;</p> <p>or</p> <p>(C) imparting training on driving, flying, navigating such vehicles, <del>vessels or aircraft or conveyances</del>;</p>	<p>It is proposed to expand the scope of ITC availability in case of motor vehicles having approved capacity of not more than 13 persons (including the driver) in case it is used for specified purposes.</p> <p>The amendment is sought to make it clear that input tax credit would now be available in respect of dumpers, work-trucks, fork-lift trucks and other special purpose motor vehicles. After the amendment is carried out, input tax credit would be denied only in respect of motor vehicles for transport of persons having approved seating capacity of not more than 13 persons (including the driver), vessels and aircraft when these are used for personal purposes.</p> <p>An amendment is also being made to the effect that ITC will not be denied in respect of motor vehicles if they are used for</p>	<p>Since it is proposed to restrict credit on motor vehicles for <u>transportation</u> of <u>persons</u> only, exclusion given in Section 17(5)(a)(ii) for transportation of goods is not justified.</p> <p>17(5)(aa) – to be deleted <b>Reason</b> - As services of general insurance, servicing, repair and maintenance of building is allowed the same should be allowed for motor vehicles, vessels and aircraft</p> <p>17(5)(b) to be deleted <b>Reason</b> – As the said credits would be in relation to furtherance of business the same should not be restricted. If it is for personal use, the disallowance is taken care in Rule 42</p> <p><b>Further</b>, in order to avoid any</p>

		<p>(ii) for transportation of goods; <b>and</b></p> <p><b>(iii) for transportation of money for or by a banking company or a financial institution.</b></p> <p><b>(aa) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels and aircraft for which the credit is not available in accordance with the provisions of clause (a);</b></p> <p>(b) the following supply of goods or services or both— (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, <b>renting or hiring of motor vehicles, vessels and aircraft referred to in clause (a), life insurance and health insurance</b> except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward</p>	<p>transportation of money for or by a banking company or a financial institution.</p> <p>The proposal is to clarify that ITC in respect of services of general insurance, servicing, repair and maintenance in respect of those motor vehicles, vessels and aircraft on which ITC is not available under clause (a).</p> <p>The amendments seek to bring clarity and correct the repetition of text.</p>	<p>disputes, the expression can be amended as “renting or hiring of motor vehicles, vessels and aircraft, other than those covered in exception referred to in clause (a) above”.</p>
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		<p>taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</p> <p>(ii) membership of a club, health and fitness centre; and</p> <p><del>(iii) rent a cab, life insurance and health insurance except where-</del></p> <p><del>(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or</del></p> <p><del>(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and</del></p> <p>(iii) travel benefits extended to employees on vacation such as leave or home travel concession:</p>	<p>The amendments seek to bring clarity and correct the repetition of text.</p> <p>Presently, in accordance with the provisions of section 17(5)(b), ITC is not available in respect of food and beverages, health services, travel benefits to employees etc. This sub-section is being amended to allow ITC in respect of such goods or services or both where the provision of such goods or services or both is obligatory for an employer to provide to its employees under any law for the time being in force.</p> <p>This is a taxpayer-friendly amendment.</p>	
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		Provided that the input tax credit in respect of such goods or services or both shall be available, where the provision of such goods or services or both is obligatory for an employer to provide to its employees under any law for the time being in force.		
18.	20, Explanation (c)	<p>Clause (c) of <i>Explanation</i> to section 20: (c) the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under <b>entry entries 84 and 92A</b> of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.</p>	<p>It is proposed to exclude the amount of tax levied under entry 92A of List I from the value of turnover for the purposes of distribution of credit. The same was inadvertently left out from clause (c) of <i>Explanation</i> to section 20.</p> <p>Section 20 deals with the manner of distribution of credit by the Input Service Distributor.</p> <p>Section 20 (2) (d) provides that where the credit is attributable to more than one recipient, such credit shall be distributed amongst the recipients <i>pro rata</i> on the basis of turnover in the State or Union territory.</p> <p>As per clause (c) of <i>Explanation</i> to section 20, the expression “turnover” does not include any</p>	<p>Since the proposed amendment is to correct the inadvertent omission of Entry 92A of List I which covers taxes on the sale or purchase of goods other than newspapers in the course of inter-State trade or commerce, this amendment should be with retrospective effect. On the same basis, similar amendments should be made in <i>Explanation</i> to Rule 42 (i) &amp; Rule 43 (g) of CGST Rules.</p> <p>Similarly the electricity duty levied under Entry 53 of List II to Seventh Schedule to Constitution as well as mandi fees levied under Entry 28 of List II to Seventh Schedule to the Constitution should be excluded from the expression</p>

			<p>duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.</p> <p>Entry 54 of List II covers taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I while Entry 92A of List I covers 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.</p> <p>Thus, it is proposed to correct this inadvertent omission.</p>	<p>“turnover”</p> <p><b>In the alternative,</b> the exclusion of duty or tax levied under Entry no. 84, 92A of List I as well as under Entry nos, 28, 51, 53, 54 of List II of the Seventh Schedule to the Constitution, can be carried out by amending the definition of “turnover in State” or “turnover in Union territory” in Section 2 (112) of the Act</p>
<b>Registration</b>				
21.	25 (2), new second, third and fourth proviso	<p>25 (2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory:</p> <p>Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed:</p>	<p>It is proposed to allow persons having multiple places of business in a State or Union territory to obtain separate registrations for each such place of business.</p> <p>As per the extant provisions, a person seeking registration under the Act shall be granted a single registration in a State or Union</p>	<p>Proviso 4 to be amended as under</p> <p>Provided also that a person having more than one unit, as defined in the Special Economic Zones Act, 2005 (28 of 2005), in a Special Economic Zone <del>shall</del><u>may</u> be granted a separate registration for each such unit, subject to such conditions as may be</p>

		<p>Provided further 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:</p> <p>Provided also that a person having a unit, as defined in the Special Economic Zones Act, 2005 (28 of 2005), in a Special Economic Zone or being a Special Economic Zone Developer shall be granted a separate registration as distinct from his units located outside the Special Economic Zone in the same State or Union territory:</p> <p>Provided also that a person having more than one unit, as defined in the Special Economic Zones Act, 2005 (28 of 2005), in a Special Economic Zone shall be granted a separate registration for each such unit, subject to such conditions as may be prescribed.</p>	<p>territory. However, if he has multiple business verticals in a State or Union territory, he may obtain separate registration for each business vertical. Certain PSUs have requested for separate registration for their individual units in a State, a facility which was available prior to 1<sup>st</sup> July 2017.</p> <p>This amendment is a tax payer friendly measure.</p> <p>It is proposed to insert the provisions of separate registration for a person having a unit(s) in a Special Economic Zone or being a Special Economic Zone developer as a business vertical distinct from his other units located outside the Special Economic Zone. This provision is already contained in rule 8 of the CGST Rules.</p> <p>In line with the amendment to allow a person having multiple places of business in a State or Union territory to obtain separate registration for each such place</p>	<p>prescribed.</p> <p>This is because the use of expression “shall be” could lead to an interpretation that it is mandatory for a person having multiple units in an SEZ to obtain separate registrations.</p>
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			of business, a person having multiple units in an SEZ is also being allowed to take separate registration for each such unit.	
<b>Tax Invoice, Credit and Debit Notes</b>				
27.	43A new insertion	<p>43A. Procedure for furnishing return and availing input tax credit. - (1) Notwithstanding anything contained in section 37 or section 38, the procedure for furnishing the details of outward supplies by a registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 (hereafter in this section referred to as the 'supplier'), and for verifying, validating, modifying or deleting such supplies by the corresponding registered person (hereafter in this section referred to as the 'recipient') in connection with the furnishing of return under section 39 shall be such as may be prescribed.</p> <p>(2) Notwithstanding anything contained in section 41, section</p>	A new section is being introduced in order to enable the new return filing procedure as proposed by the Returns Committee and approved by GST Council.	<p>The proposed new section enables the prescribing of a new return filing procedure as proposed by the Returns Committee and approved by GST Council. The exclusion of input service distributor in proposed Section 43A would result in a situation where the benefit of new procedure for furnishing of return would not be available to an input service distributor, even though such a procedure could also address the associated aspects of verifying, validating, modifying or deleting such supplies by the corresponding registered person i.e. recipient.</p> <p><b>Suggestion:</b> The exclusion of input service distributor from coverage under Section 43A needs to be deleted. Concurrently, Section 39 needs to be added to Section 37 and</p>

	<p>42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.</p> <p>(3) The procedure specified under sub-section (1) and sub-section (2) may include the following:-</p> <p>(i) the procedure for furnishing the details of a tax invoice by the supplier on the common portal for the purposes of availing input tax credit by the recipient in terms of clause (a) of sub-section (2) of section 16;</p> <p>(ii) the amount of tax specified in an invoice for which the details have been furnished by the supplier under clause (i) but the return in respect thereof has not been furnished and tax has not been paid shall be deemed to be tax payable by him under the provisions of this Act;</p> <p>(iii) the procedure and threshold, not exceeding one thousand rupees, for recovery of</p>		<p>38 in the non-obstante part of the proposed Sec 43A.</p>
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		<p>the amount of tax payable under clause (ii);</p> <p>(iv) the procedure and circumstances where the recovery of input tax credit can be made, instead of from the supplier, from the recipient who has availed credit on an invoice for which details have been furnished by the supplier under clause (i) but tax has not been paid by the said supplier;</p> <p>(v) for the purposes of clause (ii) and (iii), the supplier and the recipient shall be jointly and severally liable to pay tax or to reverse the input tax credit availed against such tax, as the case may be;</p> <p>(vi) the procedure and threshold for availing input tax credit by the recipient on the basis of invoice for which details have not been furnished by the supplier under clause (i) and recovery thereof; and</p> <p>(vii) the procedure, safeguards and threshold of tax amounts in the invoices, the details of</p>		
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		which can be furnished under clause (i) by a newly registered person or by a registered person who has defaulted in payment of tax liability, exceeding the amount of tax or the period of time specified in the rules.		
<b>Refunds</b>				
32.	54 (8) (a)	Section 54 (8) (a) refund of tax paid on <del>zero rated-supplies export</del> of goods or services or both or on inputs or input services used in making such <del>zero-rated—supplies exports</del> ;	Section 54 (8) provides a list of situations where the principle of unjust enrichment does not apply for the purposes of payment of refund. One such situation is zero-rated supplies of goods or services.  Zero-rated supply under section 16 (1) of the IGST Act includes physical exports of goods or services and supplies made to an SEZ unit/SEZ developer and the principle of unjust enrichment does not apply in such cases. Presently, under section 16 (3) of the IGST Act, only the supplier making supplies of goods or services to an SEZ unit/SEZ developer can claim refund. It is proposed to allow ITC to the SEZ developer or SEZ unit and	Section 54 (8) (a) refund of tax paid on <del>zero rated-supplies export</del> of goods or services or both or on inputs or input services used in making such <i>zero-rated supplies or exports</i> ;  The above amendment is necessary because, if a supplier to an SEZ Unit wishes to claim refund of unutilized ITC without charging IGST on supplies to the said SEZ Unit, there shall be no unjust enrichment, hence for DTA supplier claiming such refund the word "zero rated" should not be omitted in the later part of 54(8)(a). If the expression Zero-Rated is omitted from the latter part of 54(8)(a) then the

			<p>the supplier in DTA may recover the tax amount from such SEZ unit, etc.</p> <p>Thus, it is proposed to amend section 54(8)(a) in order to provide that the principle of unjust enrichment will apply in case of refund claim arising out of supplies of goods or services made to SEZ developer/unit.</p>	<p>supplier would not be in a position to avail refunds.</p>
33.	54, Explanation (2)(c)(i)	<p>Explanation.-For the purposes of this section,- (2) “relevant date” means-  (c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—</p> <p>(i) receipt of payment in convertible foreign exchange <b>or in Indian Rupees where permitted by the Reserve Bank of India</b>, where the supply of services had been completed prior to the receipt of such payment; or</p>	<p>It is proposed to allow receipt of payment in Indian rupees in case of export of services where permitted by the Reserve Bank of India since particularly in the case of exports to Nepal and Bhutan, the payment is received in Indian rupees as per RBI regulations.</p> <p>In this respect, the provisions of section 2(6)(iv) of the IGST Act are also being amended to provide that services shall qualify as exports even if the payment for the services supplied is received in Indian rupees as per RBI regulations.</p>	<p>Amendment to be made retrospective from the appointed date.</p> <p>Rule 43 to be made retrospective in respect of the above amendment.</p>

		(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;		
<b>Recovery of Tax</b>				
34.	79 (1)	In this section, two Explanations are proposed to be inserted as under: <i>Explanation .-</i> (1) For the purposes of this section, the word person shall include “distinct persons” as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.  (2) For the purposes of this clause, the term “Collector” means the Collector of a revenue district and includes a Deputy Commissioner or a district magistrate or head of the revenue administration in a revenue district.	It is proposed to provide that recovery may be made from distinct persons present in different States / UTs in order to ensure speedy recovery from other establishments of the registered person.  It is proposed to clarify the definition of the term ‘Collector’ since the same varies across different States.	No suggestion
<b>Appeals to Appellate Authority and Appellate Tribunal</b>				
36.	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	In terms of section 112 (8), the appellant is required to pay a sum equal to 20% of the tax in dispute, in addition to the amount paid under section 107	112(8)(b)  a sum equal to twenty per cent of the remaining amount of tax in dispute, <del>in addition to the</del>

		<p>and penalty arising from the impugned order, as is admitted by him; and</p> <p>(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, <b>subject to a maximum of fifty crore rupees</b>, in relation to which the appeal has been filed.</p>	<p>(6), arising from the order of the Appellate Authority for filing an appeal before the Appellate Tribunal.</p> <p>This section is being amended to provide a ceiling of Rs. 50 crores for filing an appeal before the Appellate Tribunal.</p> <p>This is a taxpayer-friendly amendment especially in cases where the tax demand is of hundreds of crores of rupees.</p>	<p><del>amount paid under sub-section (6) of section 107</del>, arising from the said order, subject to a maximum of fifty crore rupees, in relation to which the appeal has been filed.</p>
<b>Transitional Provisions</b>				
37.	140 (1)	<p>(1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit of <b>[eligible duties]</b> carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed.....”</p> <p>“....<i>Explanation 1.</i>—For the purposes of sub-sections <b>[(1)],</b></p>	<p>It is proposed to clarify that only transitional credit of eligible duties can be carried forward in the return and not all credits. This provision is already contained in rule 117(1) of the CGST Rules.</p> <p>The eligible duties do not include the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978.</p> <p>For removal of doubts, it is proposed to clarify that the</p>	<p>No amendment required at this stage since the credits would have already been availed under the transition provisions. If the section is amended now it would amount to promissory estoppel and will trigger unnecessary litigation.</p>

	<p>(3), (4) and (6), the expression “eligible duties” means—</p> <p>(i)... (ii) ... (iii)... (iv) <del>the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;</del>” (v)... ”</p> <p>“...<i>Explanation 2.</i>—For the purposes of sub-sections (1) and (5), the expression “eligible duties and taxes” means—</p> <p>(i)... (ii) ... (iii)... (iv) <del>the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;</del>” (v)... ”</p> <p><i>Explanation 3.</i>—For removal of doubts, it is clarified that the expression “eligible duties and taxes” excludes any cess which has not been specified in Explanation 1 or Explanation 2 above and any cess which is</p>	<p>expression “eligible duties and taxes” excludes any cess which has not been specified in Explanation 1 or Explanation 2 above and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.</p>	
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		collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.		
<b>IGST Act, 2017</b>				
41.	12 (8)	<p>12 (8) The place of supply of services by way of transportation of goods, including by mail or courier to,—</p> <p>–</p> <p>(a) a registered person, shall be the location of such person;</p> <p>(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation:.</p> <p><b>Provided that if the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.</b></p>	<p>In order to provide a level playing field to the domestic transportation companies and promote export of goods, it is proposed that the 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.</p> <p>This is a taxpayer-friendly amendment.</p>	<p>The rationale behind the proposed amendment is Section 12(8) is that as the place of supply would be outside India, such services would not be chargeable to GST.</p> <p>However the proposed amendment by itself will not result in a non-levy of integrated tax as such supply still remains inter-state supply. Moreover this supply will not be covered under “export of service” as the recipient is located in India and consideration is also not received in foreign exchange.</p> <p>In order to achieve the stated objective of ensuring that the above services are not chargeable to GST, exemption be provided for the same or amendment to refund</p>

				provisions be made to qualify the same as export of service appropriately.
42.	Proviso to 13 (3) (a)	<p>(3) The place of supply of the following services shall be the location where the services are actually performed, namely:-</p> <p>(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:</p> <p>Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services: 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 <b>or for any</b></p>	It is proposed 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.	Amendment to be made retrospective from the appointed date

		other treatment or process and are exported after repairs or such treatment or process without being put to any other use in India, than that which is required for such repairs or such treatment or process;		
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