

# Brief on CGST Amendment Act, 2018

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Goods and Services tax (GST) which is introduced on 01.07.2017 in India is not only a tax reform but also changed many business processes. Since GST is a new law, there are many confusions and requirement of various clarifications on many issues relating to compliance, transition, Input tax credit, etc., To clear the confusions and to clarify some of the provisions of the act, Government has come up with many circulars, press releases, etc., Even then, there are some questions unanswered in minds of assesses, consultants and even administrators. Thus, the GST council has proposed, discussed and proposed various amendments to the Central Goods and Services Tax Act, 2017 which lead to introduction of The Central Goods and Service Tax (Amendment) Bill, 2018 which received assent of president on 29.08.2018 to become The Central Goods and Service Tax (Amendment) Act, 2018. This article focused on certain major amendments made to the act and need, reasons and impact of amendments.

Section	Amendment	Remarks
2(18) – Business Vertical	Omitted	Concept of Business vertical omitted. Now, Registration is allowed for each premises rather than for business vertical.
2(102) – Services	Explanation added. Explanation.—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities	Services don’t include Securities but to clarify that facilitating and arranging transactions in securities as services, the explanation is inserted.
7(1) – Scope of	7(d) which talk about Schedule II omitted.	Since Schedule II lists certain

Supply	<p>7(1A) added.</p> <table border="1" data-bbox="448 255 1043 1144"> <thead> <tr> <th data-bbox="448 255 735 322">Earlier 7(d)</th> <th data-bbox="735 255 1043 322">New 7(1A)</th> </tr> </thead> <tbody> <tr> <td data-bbox="448 322 735 1144">(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II</td> <td data-bbox="735 322 1043 1144">“(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II</td> </tr> </tbody> </table>	Earlier 7(d)	New 7(1A)	(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II	“(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II	<p>transactions to be treated as supply of goods or supply of services, the transaction should be forest supply and then schedule can decide whether goods or services. The clarity on the same is missed earlier since it is added as Supply includes transactions referred to in Schedule II. The same is resolved by the amendment.</p>
Earlier 7(d)	New 7(1A)					
(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II	“(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II					
9(4) – RCM in case of supplies from unregistered persons	<p>Earlier 9(4) is applicable to all registered persons. Amended 9(4) is</p> <p><i>(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of 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 such supply of goods or services or both.</i></p>	<p>Now, RCM in case of supplies from unregistered persons is only in case of specified class of registered persons and that too in respect of supply of specified category of goods or services which may reduce compliance burden on many of SMEs.</p>				

<p>10 – Composition Levy</p>	<ul style="list-style-type: none"> <li>• Increase in the limit to opt for composition levy increased from Rs. 1 Crores to Rs. 1.5 Crores.</li> <li>• Proviso added: Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher</li> </ul>	<p>There is a restriction that If a person is engaged in providing services other than supply of food+drink, he cannot opt for composition levy. The new amendment has relaxed the restriction to allow supply of services to extent of Rs. 5 Lakhs or 10% of turnover in state in the preceding financial year, whichever is higher.</p>
<p>16 – Eligibility and Conditions for taking Input Tax Credit</p>	<p>Amendment in Explanation</p> <p>It shall be deemed that the registered person has received the goods or, as the case may be, services</p> <p>(ii) Where the services are provided by the supplier to any person on the direction of and on account of such registered person</p>	<p>In case of bill to ship to model, explanation deems that goods are received by the 3<sup>rd</sup> party though the goods are delivered to recipient on direction of 3<sup>rd</sup> party. Similar provision is added for services.</p>
<p>17 (3) – Definition of ‘Exempt Supply’ for purpose of 17(2)</p>	<p>Explanation added</p> <p>Explanation.—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said</p>	<p>Earlier, the definition is silent on whether the other transactions mentioned in Schedule III other than Entry 4 are to be treated as Exempt supplies or not for purpose of Sec. 17(2). The</p>

	Schedule.‘;	same is clarified vide this explanation.
17 (5) – Blocked Credits	<p>Clause 17 (5) (a) &amp; (b) substituted. New Clauses (aa) and (ab) added</p> <p><b>(a)</b> motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—</p> <p>(A) further supply of such motor vehicles; or</p> <p>(B) transportation of passengers; or</p> <p>(C) imparting training on driving such motor vehicles;</p> <p><b>(aa)</b> vessels and aircraft except when they are used—</p> <p>(i) for making the following taxable supplies, namely:—</p> <p>(A) further supply of such vessels or aircraft; or</p> <p>(B) transportation of passengers; or</p> <p>(C) imparting training on navigating such vessels; or</p> <p>(D) imparting training on flying such aircraft;</p> <p>(ii) for transportation of goods;</p> <p><b>(ab)</b> services of general insurance,</p>	<p>→ Confusion related to blocked ITC on Motor Vehicles clarified to some extent.</p> <p>→ Now, ITC on motor vehicles having seating capacity of &gt; 13 Persons allowed.</p> <p>→ ITC on Insurance, servicing, repair &amp; maintenance of motor vehicles is debated earlier. Now, with clause (ab), the same is clarified that if ITC on motor vehicle is restricted, ITC on allied services or goods is also excluded.</p> <p>→ Clause (b) is just revamp to change the language to make it clearer but there is no change in provisions except to change that not only rent-a-cab but also ITC</p>

	<p>servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):</p> <p>Provided that the input tax credit in respect of such services shall be available—</p> <p>(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;</p> <p>(ii) where received by a taxable person engaged—</p> <p>(I) in the manufacture of such motor vehicles, vessels or aircraft; or</p> <p>(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;</p> <p><b>(b)</b> the following supply of goods or services or both—</p> <p>(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:</p>	<p>on leasing, renting or hiring of motor vehicles is restricted.</p>
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	<p>Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward 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>(iii) travel benefits extended to employees on vacation such as leave or home travel concession:</p> <p>Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.</p>	
29 -	<p>Proviso is added.</p> <p>Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed</p>	<p>Though application for cancellation is submitted online, it is expected that all returns are filed till date of cancellation by officer. This is creating a compliance burden though application of cancellation is submitted. Hence, this amendment made to suspend</p>

		<p>registration till date of cancellation so that returns need not be filed for period between submission of application for cancellation till actual order of cancellation.</p>
<p>34 – Credit Notes &amp; Debit Notes</p>	<p>34 (1) <del>Where a tax invoice has</del> <b>Where one or more tax invoices have</b> been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient <del>a credit note</del> <b>one or more credit notes for supplies made in a financial year</b> containing such particulars as may be prescribed</p> <p>34 (3) <del>Where a tax invoice has</del> <b>Where one or more tax invoices have</b> been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered</p>	<p>There is a restriction that credit note/debit note to be linked to each invoice. This amendment made ease in compliance of credit notes i.e. Now 1 credit note/debit note can be issued for 1 or more tax invoices issued during a financial year.</p>

	<p>person, who has supplied such goods or services or both, shall issue to the recipient <del>a debit note</del> <b>one or more debit notes for supplies made in a financial year</b> containing such particulars as may be prescribed.</p>	
<p>43A - Procedure for furnishing return and availing input tax credit.</p>	<p>Procedures for following will be as may be prescribed:-</p> <ul style="list-style-type: none"> <li>• Procedure for availing of input tax credit by the recipient and verification thereof</li> <li>• Procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient</li> <li>• Procedure in case where suppliers miss to file return of outward supplies and restricting the missing ITC to 20% of available ITC</li> <li>• To make supplier and recipient jointly and severally liable to pay tax/interest for outward supplies that are not declared in return but ITC availed by the recipient</li> </ul>	<p>Enabling section to proposed new procedure to claim ITC in returns is introduced by this amendment.</p>
<p>49A - Utilisation of input tax credit subject to certain conditions</p>	<p>Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax,</p>	<p>This amendment mandates first to use ITC of IGST towards payment of taxes and then the respective taxes to be utilized.</p>



	State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilized fully towards such payment	
49B - Order of utilisation of input tax credit.	Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax	This amendment is to enable Government to prescribe order of utilization of ITC for payment of taxes.
79 – Recovery of Tax	Explanation inserted. Explanation.—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	This amendment enables Government to recover tax/interest/penalty/fine pertaining to an assessee from any of its distinct persons also.
107 (6) & 112(8) – Amount of pre-deposit for filing appeal	Maximum Limits fixed for pre-deposit. ➤ Before Appellate Authority – <b>Rs. 25 Crores</b> ➤ Before Appellate Tribunal – <b>Rs. 50 Crore</b>	
129 – Detention, seizure and	Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in	Time Limit to pay tax and penalty after detention increased from 7 days to 14

release of goods and conveyances in transit.	sub-section (1) within <del>seven days</del> <b>fourteen days</b> of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130.	days from date of detention of vehicle failing which, attracts confiscation.
140 Transitional Credit	– With effect from 01.07.2017, following explanation is inserted Explanation 3.—For removal of doubts, it is hereby clarified that the expression “eligible duties and taxes” excludes any cess which has not been specified in Explanation 1 or Explanation 2 and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.’	This Amendment is to bring clarity and end to various interpretations whether Cess (Education Cess, Secondary and Higher Education Cess and Krishi Kalyan Cess) which have allowed to avail ITC in previous laws can be carried forward to GST as transition credit. This puts an end to controversies clearing that CESS is not allowed to avail as ITC under transition.
Schedule I	Import of services by a <del>taxable</del> person from a related person or from any of his other establishments outside India, in the course or furtherance of business	Entry 4 amended to deem import of services by any ‘person’ from related person as supply even without consideration and not only import by ‘taxable person’
Schedule III	Additions:- 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 India.	There arose various interpretations and confusions regarding taxability of out and out transactions and high sea

	<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>sales. This amendment clarified that both the above mentioned transactions doesn't constitute Supply since they are included in Schedule III.</p>
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There are some more amendments made which are more sort of explanatory amendments. Hence, the same are not discussed in the article. Though there are amendments made vide the amendment act, there are still some open issues on which various interpretations are being made by various consultants, administrators and assesses. Let us hope that the Government further clarifies all open ended issues and make the law stable and also make the law to become ease of implementation and ease of compliance so that goal of ease of doing business is made reality.