



Chapter 2

Administration and Levy

One Nation One Tax - 37 territories



ARTICLE 246A. SPECIAL PROVISION WITH RESPECT TO GOODS AND SERVICES TAX

- (1) Notwithstanding anything contained in articles 246 ^{S VII} and 254 ^{Centre law overrides State Law}, **Parliament** ^{CGST/UTGST/CESS}, and subject to article 246A(2), the **Legislature of every State** ^{SGST}, have power to make laws with respect to **goods and services tax** imposed by the Union ^{includes UT without legislature} or by such State.
- (2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of service, or both takes place **in the course of inter-State trade or commerce**. ^{IGST}

Explanation : The provisions of this article, shall, in respect of goods and services tax referred to in Article 279A(5), take effect from the date recommended by the Goods and Services Tax Council.

ARTICLE 269A. LEVY AND COLLECTION OF GOODS AND SERVICES TAX IN COURSE OF INTER-STATE TRADE OR COMMERCE

- (1) **GST on supplies** in the course of **inter-State** ^{involvement of more than one State} **trade or commerce** shall be levied and collected by the Government of India and such tax shall be **apportioned** between the Union and the States in the manner as may be provided by Parliament by law on the **recommendations of the GST Council**.

Explanation - For the purposes of this clause, supply of goods, or of services, or both in the course of **import into the territory of India** shall be **deemed** to be supply of goods, or of services, or both in the course of **inter-State trade or commerce**.

- (2) ...
- (3) ...
- (4) ...
- (5) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

SECTION 1. SHORT TITLE, EXTENT AND COMMENCEMENT

(1) This Act may be called the Integrated Goods and Services Tax Act, 2017.

¹(2) It shall extend to the whole of India.

^{2 3}(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

SECTION 2. DEFINITIONS

In this Act, unless the context otherwise requires,—

Note 1: Section 2 of the CGST Act is prefaced with “In this Act, unless the context otherwise requires” which warrants a broad interpretation of statutory definitions therein;

SECTION 3. APPOINTMENT OF OFFICERS

The Board may appoint such central tax officers as it thinks fit for exercising the powers under this Act.

1 W.e.f. 08.07.2017 omitted the words ‘except the State of Jammu and Kashmir’ vide Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017 dated 23.08.2017.

2 W.e.f. 22.06.2017 sections 1, 2, 3, 14, 20 and 22 brought into force vide NN 01/2017 IT dated 19.06.2017.

3 W.e.f. 01.07.2017 sections 4 to 13, 16 to 19, 21, 23 to 25 brought into force vide NN 03/2017 IT dated 28.06.2017.

SECTION 4. AUTHORISATION OF OFFICERS OF STATE TAX OR UNION TERRITORY TAX AS PROPER OFFICER IN CERTAIN CIRCUMSTANCES.

Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify.

Notifications

11/2017 IT dated 13.10.2017: Seeks to cross-empower State Tax officers for processing and grant of refund except rule 96 ^{IGST paid refund.}

01/2018 IT dated 13.10.2017: Amendment of NN 11/2017 IT dated 13.10.2017 for cross-empowerment of State tax officers for processing and grant of refund. Now it shall be read as “seeks to cross-empower State Tax officers for processing and grant of refund except sub rules (1) to (8) and sub rule (10) of rule 96”

Note 1: State tax officers can grant refund relating to IGST Paid on export of services but cannot grant refund relating to IGST paid on export of goods. Further they can grant any other kind of refund including refund applied through LUT route. State tax officers do not have power to determine place of supply.

Extract of 9th GST Council Meeting held on 16.01.2017 - Para 28(ix)

Powers under the IGST Act shall be cross-empowered to the State tax administration on the same basis as under the CGST and the SGST Acts either under law or under Article 258 of the Constitution **but with the exception that the Central tax administration shall alone have the power to adjudicate a case where the disputed issue relates to place of supply**, or when an affected State requests that the case be adjudicated by the CGST authority and for such issues of export and import as may be discussed in the Law Committee of officers and brought back to the Council for decision;

Extract of 22nd GST Council Meeting held on 06.10.2017 - Para 35

The Commissioner (GST Policy), CBEC stated that it was proposed to issue notification on cross-empowerment prepared in accordance with the decisions of the Council taken during its 9th Meeting (held on 16.01.2017) and 21st Meeting (held on 09.09.2017). **He stated that while there was a broad agreement for cross-empowerment under the CGST and SGST Acts, there was disagreement on the issue of cross-empowerment under the IGST Act in relation to the Place of Supply Rules.** The Secretary stated that notification of cross-empowerment was urgently required to enable refund to the taxpayers and this notification could be issued. He added that due to persistent differences on cross-empowerment for the Place of Supply Rules issues under IGST, notification regarding cross-empowerment in respect of other matters could be deferred. He stated that by cross-empowering States and Central tax officers for giving refund, it would be ensured that only one officer issued an order of refund for both CGST and SGST. The Council approved the proposal to issue a notification by the Central Government and the State Governments cross-empowering officers of the Central and State Government to sanction refund and that an order of refund passed by an officer of the Central or State Government shall cover both the central tax and the state tax and a similar notification to be issued under the IGST Act.

SECTION 5. LEVY AND COLLECTION

- (1) Subject to the provisions of section 5(2), there shall be levied a tax called the **integrated goods and services tax** on all **inter-State** ^{Section 7} **supplies of goods or services or both** except on the supply of alcoholic liquor for human consumption ¹[and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption], on the **value** determined under section 15 of the Central Goods and Services Tax Act and at such rates, **not exceeding 40%** as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the **taxable person**.

Provided that the integrated tax on **goods imported into India** ^{just like additional duties in erswhile GST replacing excise duty and VAT/CST} ²[*other than the goods as may be notified by the Government on the recommendations of the Council*] shall be levied and collected in accordance with the provisions of **section 3 of the Customs Tariff Act, 1975** on the value as determined under the said Act at the **point** when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962. ^{Proviso is applicable only when Section 5(1) fails - if import of services (import of aircraft under lease) the levy can fall only in Section 5(1)}

³[Notifies the supply of online money gaming as the goods on import of which the proviso to sub-section (1) of section 5 of the said Act shall not apply, but on which integrated tax shall be levied and collected under sub-section (1) of section 5 of the said Act.]

Note 1: Customs Act do not apply to import of services but is subject to RCM as per section 5(3). However, in certain situations, goods brought from outside India to India on lease may simultaneously fall under the definition of “import of goods” under the Customs Act and “import of services” under the GST law. This overlap leads to double levy of IGST. To address such instances, the Customs Act may provide relief through specific exemption notifications.

- (2) The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
- (3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by 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.
- (4) 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.]

1 Inserted by Finance Act 2024 (2) and made effective from 01.11.2024 vide NN 17/2024 dated 27.09.2024.

2 Inserted by IGST Amendment Act 2023 and effective from 01.10.2023 vide NN 02/2023 IT dated 29.09.2023.

3 Inserted 01.10.2023 vide NN 03/2023 IT dated 29.09.2023.

4 Substituted w.e.f. 01.02.2019 for words “The integrated 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.” by IGST Amendment Act 2018 brought into force vide NN 02/2019 IT dated 29.01.2019.

- (5) The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Extract from 8th GST Council Meeting minutes Para 12

Section 5(1) (Levy and collection of Integrated Goods and Services Tax): The Hon'ble Minister from Tamil Nadu observed that this provision allowed the IGST rate to be applied independently of the combined rate of CGST and SGST whereas the understanding was that the IGST rate would be the sum total of the rates of CGST and SGST. He therefore suggested that in this provision, a link should be established to the applied rate of CGST and SGST. The Commissioner (GST Policy Wing), CBEC observed that the sum total of CGST and SGST rates might vary if a band of SGST rates was operated by some State in future. The Hon'ble Minister from Tamil Nadu raised a question as to whether States had the authority to have a different rate of tax. The Secretary stated that a band of rate could be permitted for a State only if the Council agreed to it.

COMPARISON OF LEVY IN IGST AND CGST/SGST

	Section 9 of CGST/SGST = Section 7 of UTGST	Section 5 of IGST
Nature of Supply	Intra State Supply Defined u/s 8 of IGST	Inter State Supply Defined u/s 7 of IGST
Valuation		
- Imported goods	NA	Section 14 of Customs Act
- Imported Services	NA	S 20 of IGST = S 15 of CGST Act
- Other goods or services	S 15 of CGST Act	NA
Rates		
- Imported goods	NA	Notification (IGST Rate)
- Imported Services	NA	Notification (IGST Rate)
- Other goods or services	Notification (Central Rate)	Notification (IGST Rate)
Time of supply		
- Imported goods	NA	Section 14 of Customs Act
- Other goods	S 12 of CGST Act	S 20 of IGST = S 12 of CGST Act
- Services	S 13 of CGST Act	S 20 of IGST = S 13 of CGST Act
GST on Petrol	5(2) of IGST = 9(2) of CGST	5(2) of IGST = 9(2) of CGST
Specific reverse charge	5(3) of IGST = 9(3) of CGST	5(3) of IGST = 9(3) of CGST
General reverse charge	5(4) of IGST = 9(4) of CGST	5(4) of IGST = 9(4) of CGST
E Commerce Operator of specified services	5(5) of IGST = 9(5) of CGST	5(5) of IGST = 9(5) of CGST
Person liable to pay tax		
- Imported goods	NA	Importer as per Customs Act
- Imported services	NA	Recipient u/s 5(3)
- Specific reverse charge	Recipient u/s 9(3)	Recipient u/s 5(3)
- General reverse charge	Recipient u/s 9(4)	Recipient u/s 5(4)
- E Commerce operator	E Commerce Operator u/s 9(5)	E Commerce Operator u/s 5(5)
- Other goods or service	Supplier u/s 9(1)	Supplier u/s 5(1)
OIDAR	NA	Section 14

SECTION 6. POWER TO GRANT EXEMPTION FROM TAX

- (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.
- (2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
- (3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub- section (1) or order issued under sub-section (2), insert an Explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such Explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Explanation .-For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.