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# Law Hierarchy

## Constitution

Constitution is the supreme law of India. It consists of Preamble, 25 Parts containing 448 Articles and 12 schedules

## Act

CGST Act, 2017 – for levying CGST  
IGST Act, 2017 – for levying IGST  
UTGST Act, 2017 – for levying UTCGT (for UT without legislature) [Delhi and Pondicherry have separate State Legislature]  
GST (Compensation to States) Act, 2017 – for compensation to the States for loss of revenue for 5 years. It is levied on specific luxury items or demerit goods, like Pan Masala, tobacco, aerated waters, motors cars, etc

## Rules

Sec 164 of CGST Act, 2017/Sec 22 of IGST Act, 2017 – Made by Govt.

## Regulations

Sec 165 of CGST Act, 2017/Sec 23 of IGST Act, 2017 – Made by Board (CBIC)

## Order/Instruction/Direction (Circulars)

Sec 168 of CGST Act, 2017 – Made by Board (CBIC)

## Notification

As per powers to the Government and given by various provisions of the Act, Rules etc.

# Framework of Constitution of India

As per Art. **265** of Constitution of India, **No tax shall be levied or collected except by authority of law.**

As per Art. **245** of Constitution of India, **Power for enacting the laws** is conferred on the Parliament and on the Legislature of a State

As per Art. **246(1)** of Constitution of India, the **Parliament** has exclusive power to make laws with respect to any of the matters enumerated in **List I** in the Seventh Schedule to the Constitution of India (called Union List)

As per Art. **246(3)** of Constitution of India, the **Legislature of any State** has exclusive power to make laws with respect to any of the matters enumerated in **List II** in the Seventh Schedule to the Constitution of India (called State List)

## Division of Powers

### List-I

- 1. ....
- 82. Income Tax
- 83. Custom Duties
  
- 84. Excise Duties
- 92A. Central Sales Tax
  
- 97 Any matter not falling elsewhere eg. Service Tax

### List-II

- 54. Local Sales Tax

### List-III



# Framework of Constitution of India

Introduction of the GST required amendment in the Constitution so as to **enable integration of the central excise duty, additional duties of customs, State VAT and certain State Specific taxes and service tax into a comprehensive Goods and Service Tax** and to empower both Centre and the States to levy and collect it.

**Consequently, Constitution (101<sup>st</sup> Amendment Act), 2016 [hereinafter mentioned as 101 CAA] was passed.**

## I INSERTION OF NEW ARTICLE 246A- SIMULTANEOUS POWER TO LEVY GST

1. This article gives **simultaneous powers to Parliament and Legislature of every State** to make laws with respect to GST.
2. **Parliament (Centre)** has the exclusive power to make laws with respect to GST in case of **inter-State** supply of goods and/or Services.
3. However, in respect of **Petroleum Crude, High Speed Diesel, Motor Spirit (commonly known as Petrol) , Natural Gas and Aviation Turbine Fuel**, GST shall apply from the date **recommended by the GST Council**.

## II AMENDMENT OF ARTICLE 268 – DUTIES LEVIED BY THE CENTRE BUT COLLECTED AND APPROPRIATED BY THE STATE

1. Article 268 pertains to the duties levied by the Centre but collected and appropriated by the States. It stipulates that such **stamp duties and such duties of excise on medicinal and toilet preparations** as are mentioned in the Union List shall be levied by the Government of India but shall be collected in the case where such duties are leviable within any **Union Territory**, by the **Government of India** and in any **other cases**, by the **States** within which such duties are respectively leviable.
2. The 101 CAA **omits “and such duties of excise on medicinal and toilet preparations”** from Article 268.
3. **Duties of excise on medicinal and toilet preparations** have been subsumed into the goods and service tax to be levied by the Centre and States

## III AMENDMENT OF ARTICLE 268A – ARTICLE 268A EMPOWERING UNION TO LEVY SERVICE TAX HAS BEEN OMITTED

## IV INSERTION OF NEW ARTICLE 269A - LEVY OF INTEGRATED GST

1. **Government of India (Center)** would levy and collect **IGST** on all inter-state supply of goods & services.
2. **Import** of goods & services shall be considered as **inter-state** supply of goods & services- To be subject to **IGST**.
3. **Parliament** would have absolute powers to legislate law in respect of IGST and to formulate principles for determining place of supply.
4. **Proceeds of IGST** will be apportioned between the Union and the States in the manner as may be provided by the Parliament on the basis of recommendations of GST council.
5. Where an amount **collected as IGST** has been used for **payment of SGST or vice versa**, such amount shall **NOT** form part of the **Consolidated Fund of India/State respectively**. This is to facilitate transfer of funds between the Centre and the States.

## **V DEFINITIONS OF GST , SERVICE AND STATE INSERTED IN CONSTITUTION**

**Article 366(12A)** – ‘GST’ means any tax on supply of goods , or services or both  
**except** taxes on the supply of the alcoholic liquor for human consumption.

**Article 366(26A)** – ‘Services’ means anything other than goods.

**Article 366(26B)** – ‘State’ with reference to articles **246A, 268,269,269A** and article **279A**, includes a Union territory with Legislature.

**[STATE = STATE + UT (WITH LEGISLATURE)]**

**The term Good had already been defined in Constitution in an inclusive manner.**

**Article 366(12)** – ‘Goods’ includes all materials, commodities, and articles.

# Definition of State and Union Territory – CGST Act, 2017

**Sec 2(103)** “STATE” includes a Union territory with Legislature;

**Sec 2(114)** “UNION TERRITORY” means the territory of—

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli and Daman and Diu;
- (d) ~~Daman and Diu~~ Ladakh\*;
- (e) Chandigarh; and
- (f) other territory.

**Explanation.**—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

**\* Substituted vide The Finance Act, 2020, w.e.f. 30-6-2020, earlier read as “(c) Dadar and Nagar Haveli (d) Daman and Diu**

**Sec 2(81)** “OTHER TERRITORY” includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114) ;

**Note** - Only Delhi, Pondicherry and Jammu & Kashmir are the three Union Territories with their separate State Legislature.

# Amendment of the Seventh Schedule

ENTRY NO. 84 OF UNION LIST PRIOR TO 101 CAA	ENTRY NO. 84 POST 101 CAA
Excise duty on tobacco & goods manufactured or produced in India <b>Except:-</b> <ul style="list-style-type: none"><li>• Alcoholic liquor for human consumption,</li><li>• Opium, Indian hemp &amp; other narcotic drug and</li><li>• narcotics</li></ul> <b>But including</b> medicinal & toilet preparation containing alcoholic liquor, opium or narcotics	Duties on excise on the following goods manufactured or produced in India, <b>namely:-</b> <ul style="list-style-type: none"><li>(a)Petroleum crude;</li><li>(b)High speed diesel;</li><li>(c)Motor spirit (commonly known as petrol);</li><li>(d)Natural gas;</li><li>(e)Aviation turbine fuel; and</li><li>(f)Tobacco &amp; tobacco products</li></ul>

## **ALCOHOLIC LIQUOR FOR HUMAN CONSUMPTION**

- It is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to **State excise duty** and inter-State/intra state sale of the same is subject to **CST/VAT** respectively.

## **TOBACCO & TOBACCO PRODUCTS UNDER GST REGIME**

- It would be subject to **GST**. In addition, to the Centre would have the power to levy **Central Excise Duty** on these products.

## **OPIUM, INDIAN HEMP & OTHER NARCOTIC DRUG AND NARCOTICS**

- They are within the purview of **GST** i.e. GST is leviable on them. However, State Government have also retained the power to levy excise duty on such products manufactured in India. Resultantly, “Opium, Indian hemp & other narcotic drug and narcotics” is subject to **GST and State Excise Duty**.

## **PETROLEUM CRUDE, DIESEL, PETROL, ATF AND NATURAL GAS**

- These products are presently **not leviable** to **GST**. GST will be levied on these products from a date to be notified on the recommendations of the GST Council. Till such date, **central excise duty** continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-state/intra-state sale of the same is subject to **CST/VAT** respectively.



## 1. EXCISE + VAT

Eg. When the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied. This led to cascading of taxes as it was not possible to set off of one against the credit of another since excise duty was levied by Centre and VAT was State level tax.

## 2. SERVICE TAX + VAT

VAT on goods was not integrated with tax on services, at the State Level, to remove the cascading effect of service tax.

## 3. CST + VAT

CST was another source of distortion in terms of its cascading nature since it was non-VATABLE. Being an origin based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.

## 4. OTHER STATE TAXES + VAT

There were several taxes in the State, such as, Luxury Tax, Entertainment Tax etc. which were not subsumed in VAT.

## 5. DOUBLE TAXATION OF A TRANSACTION AS BOTH GOODS AND SERVICES AS THE DISTINCTION BETWEEN GOODS AND SERVICES WAS OFTEN BLURRED.

Eg. Software was liable to both VAT and service tax



# GST Overview

- GST is a **destination based taxed** where the tax is collected by the State where goods are consumed.
- As per Section 1 of the CGST Act, 2017, CGST has been implemented in India from July 1, 2017
- CGST is applicable to the whole of India including Jammu & Kashmir\*
- State GST law of the respective State extends to whole of that State (Eg. Delhi GST Act, 2017 extends to whole of the State of Delhi)
- Union Territory Goods and Services Tax Act, 2017 extends to the Union Territories.



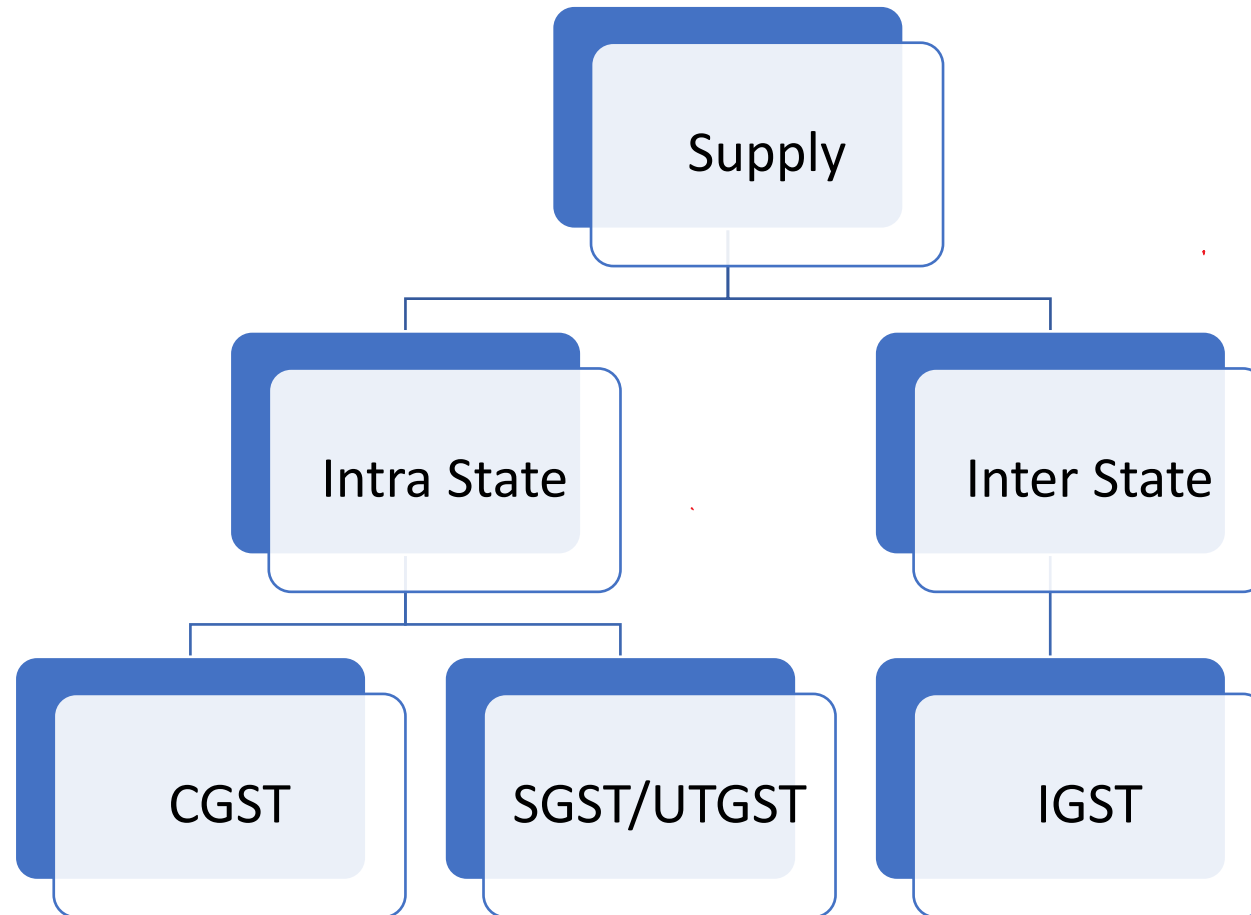
*\*GST is applicable to the State of Jammu and Kashmir vide Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017. This act shall be deemed to have come into force on **8-7-2017**.*

## GST Overview

1. GST is the **biggest indirect tax reform** of India which attempts to create a common national market.
2. GST has **subsumed taxes** like Central Excise Law, Service Tax Law, VAT, Entry Tax, Octroi, etc.
3. GST is a **single tax** on the supply of goods and services which is a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services.
4. GST is **value added tax** levied on manufacture, sale and consumption of goods and services. Therefore, no cascading of taxes.
5. It is a **destination based tax i.e. the consuming state takes the tax on supply of goods and/or service or both.**
6. GST will facilitate **seamless credit across** the entire supply chain and across all States under a common tax base. Input chain will not be broken in all the supplies which take place in India, making India a **common national market.**
7. In **1954**, GST was introduced in **France for the first time.** Today there are around 161 countries approx. that have GST in place.

# Dual GST Model

India has adopted the Dual GST model in which both States and Centre levies tax on Goods or Services or both.



# Dual GST Model

## Name of Legislation and Controlling Authority

Name of Legislation	To be administered by	Scope of Taxation
Central GST	Central Government	Every Supply of goods and/or services within the State/UT i.e. Intra-State Supplies
State GST e.g. Delhi GST, U.P. GST, Haryana GST, Kerala GST, and so on	Respective State Governments	
UTGST	Central Government	
IGST	Central Government	Inter-State supplies

# Taxes To Be Subsumed

## Name of Legislation and Controlling Authority

Central Tax	State Tax
<ol style="list-style-type: none"><li>1. Central Excise Duty</li><li>2. Additional Excise Duties</li><li>3. The Excise Duty levied under the Medicinal and Toiletries Preparations (Excise Duties) Act 1955</li><li>4. Service Tax</li><li>5. Additional Customs Duty, commonly known as Countervailing Duty (CVD)</li><li>6. Special Additional Duties of Customs (SAD)</li><li>7. Central Sales Tax (CST)</li><li>8. Central Cesses and Surcharges in so far as they relate to supply of goods and services</li></ol>	<ol style="list-style-type: none"><li>1. VAT / Sales tax</li><li>2. Purchase Tax</li><li>3. Octroi and Entry Tax</li><li>4. Entertainment tax (unless it is levied by the local bodies)</li><li>5. Luxury tax</li><li>6. Taxes on lottery, betting and gambling</li><li>7. State Cesses and Surcharges in so far as they relate to supply of goods and services</li></ol>

# Taxes Not To Be Subsumed

Central Tax	State Tax
<ol style="list-style-type: none"><li>1. Basic Customs Duty</li><li>2. Customs Cess</li><li>3. Other Customs Duty like Anti- Dumping Duty, Safeguard Duty etc.</li><li>4. Export Duty</li></ol>	<ol style="list-style-type: none"><li>1. Road &amp; Passenger Tax: These are in the nature of fees and not in the nature of taxes on goods and services.</li><li>2. Toll Tax: These are in the nature of user fees and not in the nature of taxes on goods and services.</li><li>3. Property Tax</li><li>4. Stamp Duty</li><li>5. Electricity Duty</li><li>6. Professional Tax</li></ol>

# GST Council And Its Functions - Article 279A of The Constitution of India

- **Constitution empowers President to constitute GST council** which is a **joint forum** of the Center & State

Person	Designation
Union Finance Minister	Chairperson
Union Minister of State in Charge of Revenue or Finance	Member
The Minister in charge of Finance or Taxation or any other minister nominated by each State Government	Members

- The provisions relating to GST Council came into force on 12<sup>th</sup> September, 2016. President constituted the GST Council on 15<sup>th</sup> September, 2016.
- It would be function under the Chairmanship of Union F.M.
- 50% of the members of GST Council shall constitute the quorum.
- Its decision needs to be approved by a 3/4th majority of members present and voting
  - The vote of the Central Govt. shall have a weightage of 1/3rd of the total votes cast, and
  - The votes of all the State Govt. taken together shall have a weightage of 2/3rd of the total votes casts, in that meeting
- It shall recommend the date from when Petroleum Products shall be taxed under the GST



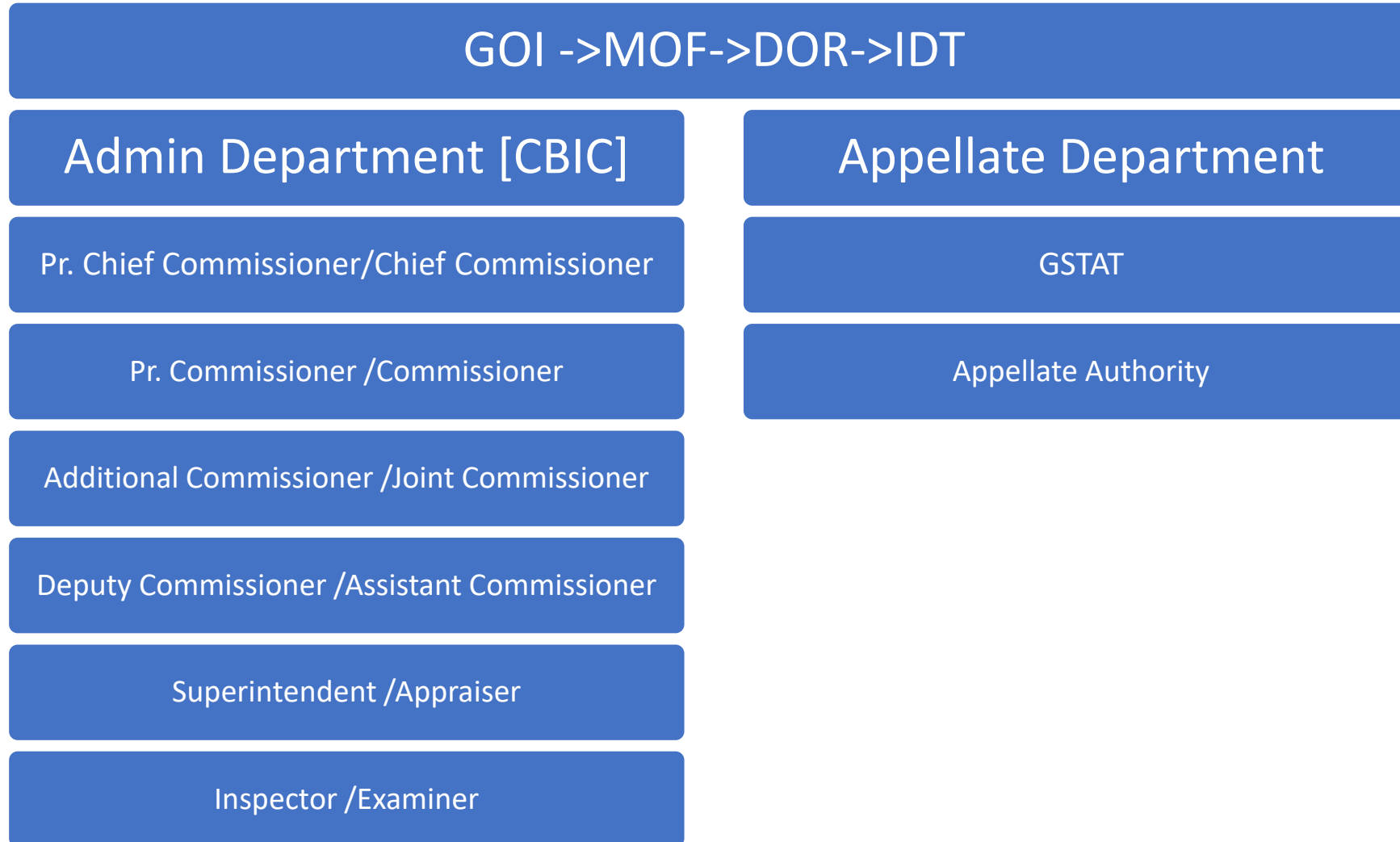
# Functions of GST Council – Article 279A(4)

## **GST Council shall make recommendation to the Union & States on :-**

1. Taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be **subsumed** in the GST that may be subject to, or **exempted** from the GST;
2. Model GST Laws, **principal of levy**, apportionment of GST levied on supplies in the course of inter-State trade or commerce under Article 269A;
3. Threshold limit of turnover below which goods and services may be exempted from the GST;
4. Rates including floor rates of GST;
5. Any **special rate**
6. Goods and rates for a specified period, to raise additional resources during any natural calamity or disaster;
7. **Special provisions** with respect to the States of Arunachal Pradesh, Assam, J&K, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand;
8. **Any other matter** relating to the GST, as the council may decide.

# Administration Under GST

## Appointment of officers by GOVERNMENT (Sec 3 of CGST Act) and Their Hierarchy



## **Appointment of officers by GOVERNMENT (Sec 3 of CGST Act) and Their Hierarchy**

**Sec 3.** The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—

- (a) Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,
- (b) Chief Commissioners of Central Tax or Directors General of Central Tax,
- (c) Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,
- (d) Commissioners of Central Tax or Additional Directors General of Central Tax,
- (e) Additional Commissioners of Central Tax or Additional Directors of Central Tax,
- (f) Joint Commissioners of Central Tax or Joint Directors of Central Tax,
- (g) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,
- (h) Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and
- (i) any other class of officers as it may deem fit:

Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act.

## APPOINTMENT OF FURTHER OFFICERS – Sec 4 of CGST Act

1. Board may appoint officers, in addition to the officers appointed by government, as it thinks fit **(Sec 4(2))**.
2. Board may authorise any officer (i.e. assistant commissioner and above) to appoint officer of central tax below the rank of Assistant Commissioner **(Sec 4(2))**.

## POWER OF OFFICERS – Sec 5 of CGST Act

1. Officers to exercise powers and discharge duties conferred or imposed under this Act, subject to such conditions and limitations as the Board may impose. **(Sec 5(1))** - It is very important to examine in every GST proceeding whether the officer initiating the said proceedings is vested with the authority so to do. It is not uncommon that officers are conferred the authority after they have initiated the any proceedings. In such a situation, the entire proceedings become illegal and in certain cases cannot be restarted due to supervening circumstances or actions taken.
2. Officers may exercise power and discharge duties given to him or officer subordinate to him. **(Sec 5(2))** - Please note the notifications and circulars must be carefully studied to understand the scope and extent as well as limits to the powers conferred. The general rule in section 5(2) that – a superior office is empowered to exercise authority vested with the subordinate – does not hold good in all instances. The notification granting the said power must be examined if the powers are conferred on ‘an officer of certain rank’ or ‘officers below the rank’.
3. Commissioner may delegate his power to officer subordinate to him, subject to such conditions and limitations as may be specified by Commissioner himself. **(Sec 5(3))**.
4. Appellate Authority shall not exercise powers and discharge duties imposed on officer. **(Sec 5(4))**.

## AUTHORISATION OF OFFICERS OF STATE TAX OR UNION TERRITORY TAX AS PROPER OFFICER IN CERTAIN CIRCUMSTANCES

### – Sec 6 of the CGST Act

1. Without prejudice to the provisions of this Act, the **officers appointed** under the **SGST Act or the UTGST Act are authorised** to be the **proper officers for the purposes of this Act**, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify. **(Sec 6(1))**
  - ✓ This means for the purpose of administration of this Act, it is permitted to authorize officers of the State/UT Tax to be simultaneously also be the officers of Central Tax. It is interesting to note that officers of State/UT Tax do not relinquish their authority but accept additional authority as officers of Central Tax. However, to do so requires the recommendations of the Council and adherence to the conditions that the government may impose in this regard.
  - ✓ Please note that this provision enabling mutual allocation of administrative power between officers of central tax and officers of State/UT Tax opens with the words “Without prejudice .....”. As such the provisions conferring power to officers of central tax will prevail over the provisions enabling its mutual allocation.
  - ✓ Only one notification for refund has been issued in this regard.
2. Where any proper officer issues an **order under this Act, he shall also issue an order under the SGST Act or the UTGST Act**, under intimation to the jurisdictional officer of State tax or Union territory tax; **(Sec 6(2)(a))**
3. Where a proper officer under the SGST Act or the UTGST Act has initiated any proceedings on a subject matter, **NO PROCEEDINGS** shall be initiated by the proper officer under this Act **ON THE SAME SUBJECT MATTER. (Sec 6(2)(b))**
4. Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the SGST Act or the UTGST Act. **(Sec 6(3)).**

## **Circular - D.O. F.No. CBEC/20/43/01/2017-GST (Pt.) Dated: 5th October, 2018**

It has been brought to the notice of the Board that there is ambiguity regarding initiation of enforcement action by the Central tax officers in case of taxpayer assigned to the State tax authority and vice versa.

2. In this regard, GST Council in its 9th meeting held on 16.01.2017 had discussed and made recommendations regarding administrative division of taxpayers and concomitant issues. The recommendation in relation to cross-empowerment of both tax authorities for enforcement of intelligence based action is recorded at para 28 of Agenda note no. 3 in the minutes of the meeting which reads as follows:- “viii. Both the Central and State tax administrations shall have the power to take intelligence-based enforcement action in respect of the entire value chain”

3. It is accordingly clarified that the officers of both Central tax and State tax are authorized to initiate intelligence based enforcement action on the entire taxpayer's base irrespective of the administrative assignment of the taxpayer to any authority. The authority which initiates such action is empowered to complete the entire process of investigation, issuance of SCN, adjudication, recovery, filing of appeal etc. arising out of such action.

4. In other words, if an officer of the Central tax authority initiates intelligence based enforcement action against a taxpayer administratively assigned to State tax authority, the officers of Central tax authority would not transfer the said case to its State tax counterpart and would themselves take the case to its logical conclusions.

5. Similar position would remain in case of intelligence based enforcement action initiated by officers of State tax authorities against a taxpayer administratively assigned to the Central tax authority.

6. It is also informed that GSTN is already making changes in the IT system in this regard.

## Similar Provisions under IGST Act

The board may **appoint** such central tax officers as it thinks fit for exercising the powers under IGST Act (**Section 3 of IGST Act – Appointment of officers under IGST Act**)

Without prejudice to the provisions of IGST Act, the officers appointed under the SGST Act or the UTGST Act are **authorised** to be the proper officers for the purposes of IGST Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify. (**Sec 4 of IGST Act – Authorisation of officers of SGST Act or UTGST Act to act as proper officers under certain circumstances**)

# Rules and Regulations

## **POWER OF GOVERNMENT TO MAKE RULES – Sec 164 of CGST Act**

1. The **Government** may, on the recommendations of the Council, by notification, **make rules for carrying out the provisions of this Act. (Sec 164(1))**
2. The **Government** may, make rules for any matter which this Act, **prescribes. (Sec 164(2))**
3. The **power to make rules** conferred by this section shall include the power to give **retrospective effect** to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force. **(Sec 164(3))**
4. Any rules made under sub-section (1) or sub-section (2) may provide that a **contravention** thereof shall be liable to a **penalty not exceeding ₹ 10,000. (Sec 164(4))**

## **POWER TO MAKE REGULATIONS – Sec 165 of CGST Act**

1. The **Board** may, by notification, **make regulations** consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

## **Similar Provisions under IGST Act**

The Central Government and the Board have been vested with the similar powers of making rules and regulations respectively under **sections 22 and 23 of the IGST Act also.**

**Sec 2(87) of CGST Act, 2017** “**PRESCRIBED**” means prescribed by rules made under this Act on the recommendations of the Council;



# Rules and Regulations

## LAYING OF RULES, REGULATIONS AND NOTIFICATIONS – Sec 166 of CGST Act

Every **rule** made by the **Government**,

Every **regulation** made by the **Board** and

Every **notification** issued by the **Government** under this Act, **SHALL BE LAID**,

Before each House of Parliament, for a total period of **30 days** which may be comprised in one session or in two or more successive sessions, and

If, before the expiry of the session immediately following the session or the successive sessions aforesaid,

**BOTH HOUSES AGREE IN MAKING ANY MODIFICATION IN THE RULE OR REGULATION OR IN THE NOTIFICATION**, as the case may be, or **BOTH HOUSES AGREE THAT THE RULE OR REGULATION OR THE NOTIFICATION SHOULD NOT BE MADE**, the rule or regulation or notification, as the case may be, shall thereafter have **EFFECT ONLY IN SUCH MODIFIED FORM OR BE OF NO EFFECT**, as the case may be;

**HOWEVER**, that any such modification or annulment shall be **without prejudice to the validity of anything previously done** under that rule or regulation or notification, as the case may be.

## DELEGATION OF POWERS – Sec 167 of CGST Act

1. The **Commissioner may**, by **notification**, **direct** that subject to such conditions, if any, as may be specified in the notification, **any power exercisable** by **any authority or officer under this Act** may be **exercisable also** by **another authority or officer as** may be **specified** in such notification.

Similar provisions relating to laying of rules, regulations and notifications etc have also been prescribed under Section 24 of the IGST Act.

## **POWER TO ISSUE INSTRUCTIONS OR DIRECTIONS – Sec 168 of CGST Act**

1. Sec 168 empowers the **Board (CBIC)** to **issue** orders, instructions or directions to the CGST officers for the purpose of uniformity in the implementation of the Act.
2. **All the officers** and all other persons employed in the implementation of the Act shall observe and **follow** such orders, instructions or directions.
3. The **binding nature** of such orders, instructions or directions has been a matter of debate and scrutiny.  
The general understanding that prevails now is that a circular is **binding on the officers, but not on the assessee**.  
However, in case such circular states something contrary to the law, the law shall prevail of the circular.
4. The Commissioner specified in  
→ clause (91) of section 2, → sub-section (3) of section 5, → clause (b) of sub-section (9) of section 25,  
→ sub-sections (3) and (4) of section 35, → sub-section (1) of section 37, → ~~sub-section (2) of section 38~~,  
→ sub-section (6) of section 39, → ~~sub-section (1) of section 44~~, → sub-sections (4) and (5) of section 52  
→ sub-section (5) of section 66, → sub-section (1) of section 143, → ~~sub-section (1) of section 151~~,  
→ clause (l) of sub-section (3) of section 158 and → section 167  
**shall mean a COMMISSIONER OR JOINT SECRETARY POSTED IN THE BOARD** and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.  
**[Omitted vide FA, 2021, w.e.f. 1-1-2022 and vide FA, 2022, w.e.f. 1-10-2022]**

## **POWER OF GOVERNMENT TO EXTEND TIME LIMIT IN SPECIAL CIRCUMSTANCES – Sec 168A of CGST Act**

The Central Government has inserted Section 168A of the CGST Act, 2017 through The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 29-9-2020 which empowers it to extend the due date for compliances.

This section enables the Government to extend the time limits provided under the Act in respect of actions which cannot be completed or complied with due to force majeure. This power can also be exercised retrospectively. Here, force majeure means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementations of any of the provisions of this Act. The new section had become effective from 31-3-2020 through Ordinance passed by government which is now given power through Act.

## **REMOVAL OF DIFFICULTIES – Sec 172 of CGST Act**

1. If any difficulty arises in giving effect to any provisions of this **Act**, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:
2. Time limit for making such order shall be ~~three years~~ **five years\* from the date of commencement of this Act.**  
**(substituted by Finance Act, 2020, w.e.f. 30-6-2020)**
3. Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Similar provisions relating to removal of difficulties have also been prescribed under section 25 of the IGST Act.

# Manner of Determination of Commencement and Termination of Time (Sec 9 of the General Clauses Act, 1987)

**Section 9 of the General Clauses Act, 1897** lays down the provision relating to commencement and termination of time. It stipulates that in any Central Act or Regulation made after the commencement of this Act (General Clauses Act), it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word from, and, for the purpose of including the last in a series of days or any other period of time, to use the word to.

In simple words, while computing time, the rule is to exclude the first day and to include the last day. Courts have held that the word “from” is akin to “after” and that the word “from” if used for the purpose of and in reference to the computation of time, as for example, from a stated date, that stated date is prima facie excluded from computation. Although on some occasions, Courts have taken a view that the question as to whether the stated date should or should not be so excluded, should be decided according to the context in which the word “from” occurs.

It is worthwhile to mention here that the **Honourable Supreme Court**, in case of **M/s. Econ Antri Ltd. Vs. M/s. Rom Industries Ltd. & Anr**, had also taken a similar view on this point and decided that while computing the period of limitation, the day on which the offence is committed/ date of cause of action has to be excluded.

Another point which needs a mention here is that **Section 3(35) of the General Clauses Act, 1897** defines the expression “month” to mean a month reckoned according to the British Calendar. Further, Allahabad High Court in case of **Ccus & Cex vs. Ashok Kumar Tiwari 2015 (37) STR 727 (All.)** has held that where the legislature has stipulated the period of limitation in terms of months, such a stipulation can only mean a calendar month and not 30 days.

# Points to Note

Act	Power to Make Rules	Notification
CGST	Section 164	3/2017-Central Tax
IGST	Section 22	4/2017-Integrated Tax

	Goods	Services
Rate	1/2017-Central Tax (Rate)	11/2017-Central Tax (Rate)
Exemption	2/2017-Central Tax (Rate)	12/2017-Central Tax (Rate)
Reverse Charge	4/2017-Central Tax (Rate)	13/2017-Central Tax (Rate)

## Classification of Goods under GST – 1/2017-CTR dt 28-6-2017

Note –

1. **Six rates** of CGST in six schedules of rate notification i.e. 0.125%, 1.5%, 2.5%, 6%, 9% and 14%. Nil rate for certain goods.
2. Tariff item, sub-heading and chapters referred in the Schedules of rate notification for goods under GST are the Tariff item, sub-heading, heading and chapters of the First Schedule to the Customs Tariff Act, 1975. **(Same tariff heading as Custom Tarrif)**
3. Indian Customs Tariff is based on **HSN**. HSN stands for Harmonized System of Nomenclature.
4. HSN is developed by World Customs Organisation (**WCO**) and contains 6 digit code. Based on this 6-digit HSN, India has developed 8-digit HSN (adding 2 digits to 6-digit HSN).
5. Along the lines of HSN, the Indian Customs Tariff has a set of **Rules of Interpretation** of the First Schedule and General Explanatory notes.

# Points to Note

## Classification of Services under GST – 11/2017-CTR dt 28-6-2017

### Note –

1. A **new** scheme of Classification of Services has been devised under GST.
2. It is a modified version of the **United Nations Central Product Classification**.
3. It is called **SAC** – Service Accounting Code in common parlance

## Notification-11/2017-CTR-Annexure

Chapter, Section, Heading or Group	Service Code (Tariff) (SAC)	Service Description
Chapter 99		All services
Section 5		Construction Services
Heading 9954		Construction Services
Group 99541		Construction Services of Building
	995411	Construction services of single dwelling or multi dwelling or multi-storied residential buildings
	995412	
Group 99542		General construction services of civil engineering works
	995421	General construction services of highways, streets, roads, railways and airfield runways, bridges and tunnels