



THE CHAMBER OF TAX CONSULTANTS

3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai - 400 020
●Tel.: 2200 1787 / 2209 0423 ●Fax: 2200 2455 ●E-mail: office@ctconline.org
●Website: www.ctconline.org

17th July, 2018

Honorable Commissioner of State Tax, Maharashtra State
Goods & Service Tax Bhavan,
Balwantsing Dhodi Marg, Mazgaon,
Mumbai – 400 010

Respected Sir,

**Sub: Suggestions on proposed amendments to the Goods and Services Tax
("GST") Law**

The Chamber of Tax Consultants (CTC), Mumbai was established in 1926. CTC is one of the oldest (about 92 years) voluntary non-profit making organisation in Mumbai formed with the object of educating and updating its members on the Tax and other Laws. It has a robust membership strength of about 4000 professionals, comprising of Advocates, Chartered Accountants, and Tax Practitioners. The Chamber of Tax Consultants is organizing various programs on ongoing basis for tax professionals and members in industry in order to familiarize and get them acquainted with Model GST law so as to be in a state of preparedness. The Chamber has been very active in making representations to government on various tax laws (including indirect taxation) in its endeavor to support government for evolvement of taxation laws.

This has a reference to 46 amendments in GST legislation proposed by GST council and has been put on public domain for inputs and suggestions of various stake holders.

Sir, the law governing GST is at its nascent stage and we believe that active participation at this stage of the law would go a long way in the development of law, reducing litigation and smooth administration of the levy.

At the outset, we welcome the proposed amendments to the GST law suggested by the Department of Revenue for addressing grievances of the taxpayers, simplifying tax administration and avoiding litigation.

In our endeavour to contribute to the development of the law, we have sent our representation on proposed amendments to The Additional Secretary, Office of the GST Council Secretariat, New Delhi on 15th July, 2018.

We are submitting herewith said representation for consideration by State GST Authorities. We earnestly request you to take cognizance of the same.

Thanking you,
Yours truly,

For **Indirect Taxes Committee of
The Chamber of Tax Consultants**

Sd/-

CA Hinesh Doshi
President

Sd/-

Mahendra Sanghvi
Chairman
Law & Representation
Committee

Sd/-

CA Naresh Sheth
Chairman
Indirect Tax Committee

Encl: Suggestions on proposed changes in the GST law

**CC: Honorable Joint Commissioner State Tax, GST Cell, Mumbai,
Maharashtra**



THE CHAMBER OF TAX CONSULTANTS

3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai – 400 020.
Tel.: 2200 1787 / 2209 0423 • Fax: 2200 2455 • Email: office@ctconline.org •
Website: www.ctconline.org

Suggestions on Proposed Amendments to GST Law July, 2018

Suggestions on Proposed Amendments in GST Law

INDEX

Sr. No.	Particulars	Sl. No. of the proposed amendment	See Annexure
1.	Proposed Amendments which are welcomed without any suggestions	1 to 5, 7, 10, 11, 12, 13, 14, 19, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 38, 42, 43, 44, 45, 46	-
2.	Proposed Amendments which are welcomed with the only suggestion that the said amendments should be made retrospectively w.e.f. 1.7.2017	6, 8, 9, 18, 33, 39, 40,	-

3. Proposed Amendments which are 15, 16, 17, 20, Annexure 1
welcomed with the certain additional 22, 35, 36, 37,
important suggestion made in bold and 41
italics in last column.
- 4 Additional suggestions for amendments - Annexure 2
(not proposed) but may be considered in
view of the larger public interest

Note: The reference to Sl. Nos. are the Sl. Nos. given in the proposed amendments in GST Law rolled out by the Government.

Annexure 1

Suggestions on the Proposed Amendments on GST law – July, 2018

As per GST Council's proposed amendments				Suggestions by Chamber of Tax Consultants
Sl. No.	Section/Subsection/Clause	Amendments as shown in Red and Strikethrough	Rationale/Remarks	
CGST Act, 2017				
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 -----: Provided further that where a recipient fails to pay to</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 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>	<p><i>The condition of payment of principal amount along with tax to the vendor itself maybe removed since under GST regime, the tax is payable on monthly basis by every assessee irrespective of recovery of consideration from the recipient therefor the tax is always received by the Government from the vendor. Hence ITC to the recipient should not be subjected to condition of payment within 180 days. There was no such condition in erstwhile local VAT laws as well as Central Excise law for availing CENVAT/Set-off of tax paid on goods.</i></p>

		<p>the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards 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; along with interest thereon; in such manner as may be prescribed:</p>		
16.	17 (3)	<p>17 (3) The value of exempt supply under subsection (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 but shall not include the value of</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><i>The objective of the proposed amendment is to prevent reversal of ITC on account of turnover in respect of certain transactions included in Schedule III. However, in cases where the assessee is engaged exclusively in such kind of transactions (say, 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), and does not have any other taxable supplies then such assesses would not be eligible to claim refund of</i></p>

		activities or transactions (other than sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building) specified in Schedule III.		<i>the ITC as such transactions are not considered as exports (zero rated). Since in such transactions the consideration is received in convertible foreign exchange by the Indian Seller, it is suggested that suitable amendments be made in the provisions relating to refund of ITC in relation to zero rated supply also so that the supplier involved exclusively in such transactions is also eligible to claim the refund of unutilized ITC.</i>
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 other conveyances except when they are used—</p> <p>—</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><i>Food & Beverages, outdoor catering, life and health insurance of employees and renting of motor vehicles used by employees should be considered to be a eligible credit since these are essential for business. For possible personal non-business purpose use an ad-hoc disallowance of 25% of such ITC may be considered as ineligible. The proposed requirement of statutory compulsion maybe applicable to only large firms. This is causing severe hardships to smaller firms.</i></p>

		<p>(i) for making the following taxable supplies, namely:— (A) further supply of such vehicles or vessels or aircraft conveyances; or (B) transportation of passengers; or imparting training on driving, flying, navigating such vehicles, vessels or aircraft or conveyances;) for transportation of goods; and)for transportation of money for or by a banking company or a financial institution.</p> <p>(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);</p> <p>(b) the following supply of</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 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>goods or services or both—</p> <p>(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, renting or hiring of motor vehicles, vessels and aircraft referred to in clause (a), life insurance and health insurance 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 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) rent a cab, — life insurance — and health insurance — except where — (A) — the Government notifies the services which are obligatory for an</p>	<p>The amendments seek to bring clarity and correct the repetition of text. 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 subsection 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>	
--	--	--	---	--

		<p>employer to provide to its employees under any law for the time being in force; or</p> <p>(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</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 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>		
--	--	--	--	--

20.	24 (x)	24 (x) every electronic commerce operator who is required to collect tax at source under section 52;	An e-commerce operator is presently required to take compulsory registration in terms of section 24(x) even if his aggregate turnover in a financial year does not exceed Rs. 20 lakhs. Clause (x) of section 24 is being amended to provide that only those e-commerce operators who are required to collect tax at source under section 52 would be required to take compulsory registration. Other e-commerce operators who are not required to collect tax at source under section 52 would henceforth not be required to take registration if their aggregate turnover in a	<i>There is a need to provide clarity that in cases where a person is not required to get registered vide Section 23, he shall not be required to be registered even if he is covered under Section 24.</i>
22.	29 (1), new proviso	29 (1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,— (a) .. (b) .. (c) the taxable person,	It is proposed to provide that once a registered person has applied for cancellation of registration, the proper officer may temporarily suspend its registration till the procedural formalities for cancellation are completed. This measure would relieve the taxpayer of continued compliance burden under the law till such time as the process of allowing cancellation of registration is completed.	<ul style="list-style-type: none"> • <i>The intention of the amendment is to relieve the assessee from procedural formalities till cancellation is completed.</i> • <i>However, provision should be made to enable the assessee to log into the portal to file his return and pay taxes and do other matters for the period prior to cancellation</i> • <i>It is also recommended that there is no specific provision in the statute for application for cancellation of registration by assessee who has opted for voluntary registration U/s.25(3). It is recommended that suitable</i>

		other than the person registered under subsection (3) of section 25, is no longer liable to be registered under section 22 or section 24.: Provided that pending cancellation of registration, the proper officer may suspend the registration of the person subject to such conditions and limitations as may be prescribed.		<i>section be inserted whereby option should be granted to assessee to apply for cancellation in case of voluntary registration.</i>
Appeals to Appellate Authority and Appellate Tribunal				
35.	107 (6)	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 and penalty arising from the impugned order, as is admitted by him; and (b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, subject to a maximum of twenty-five crore rupees, in	Presently, in terms of section 107(6), the appellant is required to pay a sum equal to 10% of the tax in dispute arising from the order being appealed against for filing an appeal before the Appellate Authority. It is proposed to provide a ceiling of Rs. 25 crore for filing an appeal before the Appellate Authority. This is a taxpayer- friendly amendment especially in cases where the tax demand is of hundreds of crores of rupees.	<ul style="list-style-type: none"> • <i>The upper cap of Rs.25 Crores be brought down to Rs.10 Crores in line with the earlier Central Excise /Service Tax regime.</i> • <i>Further, the quantum of pre-deposit be reduced from 10% to 7.5% to be in line with the earlier Central Excise /Service Tax regime.</i>

		relation to which the appeal has been filed.		
36.	112 (8)	<p>No appeal shall be filed under sub-section (1), unless the appellant has paid—</p> <p>(a) in full, such part of the amount of tax, interest, fine, fee 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, subject to a maximum of fifty crore rupees, in relation to which the appeal has been filed.</p>	<p>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 (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>	<ul style="list-style-type: none"> • <i>The upper cap of Rs. 50 Crores be brought down to Rs.10 Crores in line with the earlier Central Excise /Service Tax regime.</i> • <i>Further, the quantum of pre-deposit be reduced from 20% to 10% to be in line with the earlier Central Excise /Service Tax regime</i>

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 [eligible duties] 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>“...Explanation 1.—For the purposes of sub-sections [(1)], (3), (4) and (6), the expr “eligible duties” means— (i)... (ii) ... (iii)... (iv) the additional duty of excise leviable under section 3 of the Additional Duties of (Textile and Textile Articles) Act, 1978;”</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><i>Since this amendment is related to transitional provisions, it would have retrospective effect and the assesseees who have carried forward ineligible credits in absence of any statutory provisions restricting such credit would be exposed to interest and all penal consequences. The assesseees should be allowed to reverse such ineligible credits without payment of any interest and other penal consequences.</i></p>
-----	---------	--	---	---

		<p>(v)... ”</p> <p>“...Explanation 2.—For the purposes of sub-sections (1) and (5), the expression “eligible duties and taxes” means—</p> <p>(i)... (ii) ... (iii)... (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;”</p> <p>(v)... ”</p> <p>Explanation 3.—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 collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.</p>	<p>For removal of doubts, it is proposed to clarify 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 collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.</p>	
--	--	---	--	--

IGST Act, 2017			
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>(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>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.</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><i>The avowed objective to treat the transaction as export would be achieved only if the definition of “export of service” U/s. 2(6) be amended to provide that in such cases, the transaction would still qualify as export of service even if the location of recipient is in India and money is also not received in convertible foreign exchange but in Indian Rupees.</i></p>

Additional suggestions for amendments (not proposed) but may be considered in view of the larger public interest

1. Under section 129(2) of the Customs Act, 1962, a person who has been *an advocate for at least 10 years* is qualified to be appointed as a judicial member of the Customs, Excise and Service Tax Appellate Tribunal. However, in section 110(1)(b) of the CGST Act, 2017 such a person is not qualified to be a judicial member. ***It is hereby suggested that section 110(1)(b) be amended to provide that a person who has been an advocate for at least 10 years would be qualified to be a judicial member.***

2. Under section 129C(2) of the Customs Act, 1962, a Bench normally consists of a Judicial member and a Technical member. However, under section 109, the Benches of the Goods and Services Tax Appellate Tribunal (National, Regional, State and Area benches) would consist of one Judicial member and two Technical members. ***It is hereby suggested that section 109 of the CGST Act, 2017 be amended to provide that the Benches contain as many Judicial members as Technical members to maintain parity.***