

Dear Professional Colleague,

GST Constitutional Amendment Bill passed in Rajya Sabha with Key amendments

The long-delayed Constitution (122nd Amendment) Bill, 2014 on GST (“**122nd CAB**” or “**GST Bill**”) has finally got the nod of the Rajya Sabha yesterday, with the Government successfully stitching together a political consensus on the GST Bill, to pave the way for much-awaited roll out of the landmark tax reform that will create a common market of 1.25 billion people. GST, is the biggest indirect tax reform since independence, is aimed at dismantling Inter-State barriers to trade in goods and services by subsuming a slew of around 17 indirect taxes viz. Excise Duty, Service Tax, VAT, CST, Luxury tax, Entertainment Tax, Entry Tax, Octroi, etc.

The Rajya Sabha has unanimously passed the ambitious GST Bill as amended with over 2/3 majority. The motion for the constitutional amendment for the GST Bill has been passed with 197 Ayes. It was crucial for the critical amendment to come in as early as possible with only ten days left for the monsoon session to end. The key to forging consensus was the amendments the National Democratic Alliance (NDA) effected in the GST Bill, a copy of which was circulated among Rajya Sabha members on August 2, 2016.

The GST Bill after getting introduced in Lok Sabha on December 19, 2014, was approved by the Lok Sabha in May last year (May 6, 2015) and referred to a Select Committee of Rajya Sabha which had submitted its Report on 122nd CAB on July 22, 2015. The GST Bill was introduced in Rajya Sabha in May last year where it has been pending because of consensus to be emerged between ruling and opposition party over certain provisions viz. Dropping of 1% additional tax on Inter-State sale of goods, Capping of GST rate in 122nd CAB, Forming of dispute resolution authority.

Ahead of the much-delayed 122nd CAB being taken up by Rajya Sabha yesterday, the Government, on August 2, 2016, has circulated to MPs, the amendments it has proposed in the GST Bill to enable implementation of GST. These proposed amendments importantly includes dropping of 1% additional tax on Inter-State Sale of goods and a definite provision in the statute for 100% compensating the States for any revenue loss for 5 years, amongst others.

With these official amendments, the Government partially met the demands of the Congress party which has been blocking the bill in the Rajya Sabha and this enabled the 122nd CAB to finally see the light of the day.

We are summarising herewith key amendments to the GST Bill, which was circulated to Rajya Sabha members on August 2, 2016, for easy digest:

Dropping 1% Additional tax on Inter-State supply of goods:

It is proposed to delete the provision under Clause 18 of the GST Bill.

Clause 18 of the GST Bill:The 122nd CAB proposes for levy of an Additional tax, not exceeding 1%, on Inter-State supply of goods in the course of Inter-State trade or commerce. It is proposed that such Additional tax would be levied and collected by the Union for a period of 2 years or such other period as the GST council may recommend, and be assigned to the State from where the supply originates.

Recommendation of the Select Committee, 2015:The Committee felt that the provision of 1% Additional tax in its present form is likely to lead to cascading of taxes. Therefore, the Committee strongly recommended that following explanation should be added defining the word 'supply' under Clause 18:

"Supply: "All forms of supply made for a consideration".

The suggested change was meant for dropping of 1% additional tax on inter-state the movement of goods within the same company but, the proposed amendment now has done away with 1% Additional tax on Inter-State supply of goods whether it is within the Company or outside the Company.

Full Compensation to States upto 5 years:

Clause 19 of the GST Bill:The Parliament **may**, by law, provide for compensation to States for any loss of revenues arising on account of GST, for a period which may extend to five years, based on the recommendations of the GST Council. This implies that Parliament may decide to provide compensation to States and may also decide the time period for which it can provide such compensation, which may extend to five years.

Proposed amendment:The Parliament **shall**, by law, provide for compensation to States for any loss of revenues arising on account of GST, for a period which may extend to five years, based on the recommendations of the GST Council. This implies that the Parliament must provide compensation and compensation shall be provided for a maximum time period of five years.

Recommendation of the Select Committee, 2015:The Committee felt that there is no justification for substitution of the word 'may' with 'shall'. It, however, recommended that compensation should be provided for whole period of 5 years and accordingly proposed amended Clause 19 as follows:

"19. Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for the loss of revenue arising on account of implementation of the Goods and Services Tax for a period of five years."

Dispute resolution Authority:

Clause 12 of the GST Bill: The GST Council may decide upon the modalities to resolve disputes arising out of its recommendations.

2016 proposed amendment: The GST Council shall establish a mechanism to adjudicate any dispute between:

- (a) the Government of India and one or more States; or
- (b) the Government of India and any State or States on one side and one or more States on the other side; or
- (c) Two or more States

arising out of its recommendations.

Recommendation of the Select Committee, 2015: The Committee, having noted the point mentioned by the Department of Revenue that the GST Council shall decide only the 'modalities' to resolve disputes, did not agree to recommend inclusion of Article 279B i.e. provision for GST Dispute Settlement Authority, as was proposed in Constitution (115th Amendment) Bill, 2011.

Other changes:

Integrated Goods and Services Tax ("IGST")

Clause 9: Apportionment of IGST i.e. Article 269A: It has been clarified that the States' share of the IGST shall not form a part of the Consolidated fund of India.

Clause 12: IGST term to be replaced with GST on supplies in the course of inter-state trade or commerce: Under Clause 12 of the GST Bill, it was mentioned that the GST Council would make recommendations on the apportionment of the IGST. Since, the term IGST was not defined, it has been proposed to replace this term with "*Goods and Services Tax levied on supplies in the course of inter-state trade or commerce under article 269A*".

Inclusion of CGST and IGST in tax devolution to States

It has been proposed that under Clause 10 of the GST Bill, CGST and the Centre's share of IGST will be distributed between the Centre and States.

Clause 10 of the GST Bill: The GST collected and levied by the Centre, other than States' share of IGST, (CGST and Centre's share of IGST) shall also be distributed between the Centre and States.

Recommendation of the Select Committee, 2015: Adopted with no change

Way forward to GST by April 2017:

Unanimous passage of the GST Bill is indeed a good day for the economy, but, at the same time, it marks just the beginning of a still-to-go-journey.

Since there are key amendments in the original draft of the GST Bill that was passed in the Lok Sabha last year, the GST Bill has to, once again, go back to the Lok Sabha.

Thereafter, the GST Bill will also have to be ratified by at least 50% of the States before being presented to the Hon'ble President of India for his assent. Subsequently, a GST Council will be set up within 60 days of the enactment of the GST Bill, comprising the Union Finance Minister, MOS – Revenue/Finance and State Finance Ministers, which will make important recommendations on GST rates, Exempted goods and services, dual control & adjudication, etc.

Thereafter, two legislations—Central GST (CGST) and Integrated GST (IGST) will have to be passed by Parliament and a State GST (SGST) legislation by each of the State Legislatures.

Passage of the 122nd CAB in the Parliament is being seen as a big victory for the Narendra Modi government. The next big challenge for the Narendra Modi government is to get the States on board and get rest of the process going as quickly as possible to meet the deadline of implementation of GST by April 2017.

Video presentations on Model GST Law:

Watch the following videos to enrich knowledge regarding the key takeaways of the Model GST Law and the areas to be worked upon under the Model GST Laws – CGST, SGST and IGST:

- **Presentation on Draft GST Law - Levy, Taxable Event: Supply, Taxable Person, Composition Scheme:** <https://www.youtube.com/watch?v=XrWHZMZf8GQ>



- Highlights of Draft GST Law, 2016: <https://www.youtube.com/watch?v=7ByfCXugAk0>



To view the amendments in GST Bill, please click on the link below:

http://www.a2ztaxcorp.com/wp-content/uploads/2016/08/GST-Bill-amendments_1-aug-2016.pdf

Hope the information will assist you in your Professional endeavours. In case of any query/ information, please do not hesitate to write back to us.

Thanks & Best Regards,

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