



Lawgics

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Section 164 of CGST Act, 2017

164. Power of Government to make rules.

- (1) The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.
- (2) Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.
- (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.
- (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 ten thousand rupees.

Our Interpretation

Section 164	<p>The Government is given the power to make rules for carrying out the provisions of this Act. There is a general power under sub-section (1) and specific power under sub-section (2). The general rule making power is granted to the Central and State Governments. The rule making power is subject to a procedural limitation that it can be made only when there is a recommendation by the Council. Such rule making power also includes power to issue notifications with retrospective effect under the rules.</p> <p>General powers to carry into effect the purposes of this Act are provided by vesting the appropriate Government with the rule making power to fill in the gaps with expression "as may be prescribed". This does not limit the general rule making power to carry out the purposes of Act.</p> <p>Legislature has an inherent power to make retrospective laws but the delegated authority can make retrospective rules but not earlier than the date of commencement of this Act.</p> <p>In order to ensure the rules are enforceable, breach of the rules are recognized as a cause for imposing penalty not exceeding Rs. 10,000/-.</p>
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Section 165 of CGST Act, 2017

165. Power to make regulations.

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

Our Interpretation

Section
165

Under Section 165 power to make regulations is given to the Board and Commissioner of SGST.

The Board is empowered to notify regulations consistent with the objects of the Act. No recommendation of the GST Council is called for in this case.

Section 166 of CGST Act, 2017

166. Laying of rules, regulations and notifications.

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, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty 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; so, 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.

Our Interpretation

Section
166

This Section lays down the general procedure of laying delegated legislations before the Parliament for a prescribed duration.

The Act permits making of rules by Government, issuance of regulation by Board and issuance of notification by the Government. Such rule, regulation and notification, which is a part of delegated legislation is placed before the Parliament.

It is laid before the Parliament, soon after it is made or issued, when the Parliament is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

Before the expiry of the session or successive sessions, both Houses may make suitable modifications and would have effect in such modified form.

However, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification.