

01/02/2024

GOODS AND SERVICES ACT 2017

Note:

(a) CGST Act means Central Goods and Services Tax Act, 2017

(b) IGST Act means Integrated Goods and Services Tax Act, 2017

(c) UTGST Act means Union Territory Goods and Services Tax Act, 2017

Amendments carried out in the Finance Bill, 2024 will come into effect on the date of its enactment.

Changes vis-à-vis old provisions are specified are as follows:

AMENDMENTS IN THE CGST ACT, 2017:

No	Amendment - Substitution of definition of the Input Service Distributor u/s 2(61)	
	New Provision	Old Provision
1	"Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to	"Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices issued <i>under section 31</i> towards the receipt of input services and <i>issues a prescribed document for the purposes of distributing the credit of</i>

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<p>tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20;</p>	<p><i>central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;</i></p>
<p>Comment:</p> <ol style="list-style-type: none">1. ISD Registration has been made compulsory as compared to optional in the cases where RTP is having Multi GSTIN Registration.2. Thus, the amended provision is not applicable RTP is having single registration.3. Now RTP can distribute ITC credit on account of RCM supplies u/s 9(3) and/or 9(4) of the Act.4. RTP would be required to maintain the robust accounting records to derive the details for distribution of ISD as per the provisions of Section 20 of CGST Act, 2017.5. Thus, such amendment shall increase the compliance burden obligations in the hands of RTP who are holding multiple GST Registration across the country viz. Monthly filing ISD Returns in GST Form 6, disclosures in monthly GSTR 3B as well as annual returns u/s 44 of	

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	<p>CGST Act, 2017.</p> <p>6. MoF had issued Circular No. 199/11/2023-GST dated 17-07-2023 had provided the clarification that the Head Office (HO) had an option to distribute ITC in respect of such common input services either by following ISD mechanism or cross charge and that the ISD route was not mandatory as per the current provisions of the CGST Act and Rules.</p> <p>7. Thus, in view of the above amendment RTP would test the waters as whether controversy saga of ISD v/s cross charge would be rested or stretches or upsurge to a renewed round of encounters.</p>	
	<p>Substitution of the provision in view of the amendment of definition u/s 2(61):</p>	
	New Provision	Old Provision
2	<p>Manner of distribution of credit by Input Service Distributor</p> <p>“20. (1) Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services</p>	<p><i>Manner of distribution of credit by Input Service Distributor</i></p> <p><i>20. (1) The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of</i></p>

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<p>liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, shall be required to be registered as Input Service Distributor under clause section 24 and shall distribute the input tax credit in respect of such invoices.</p> <p>(2) The Input Service Distributor shall distribute the credit of central tax or integrated tax charged on invoices received by him, including the credit of central or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub-section (4) of section 9 paid by a distinct person registered in the same State as the said Input Service Distributor, in such manner, within such time</p>	<p><i>input tax credit being distributed in such manner as may be prescribed.</i></p> <p><i>(2) <u>The Input Service Distributor may distribute the credit subject to the following conditions, namely: —</u></i></p> <ul style="list-style-type: none"><i>a. the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;</i><i>b. the amount of the credit distributed shall not exceed the amount of credit available for distribution;</i><i>c. the credit of tax paid on input services attributable to a recipient of credit shall be</i>
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<p>and subject to such restrictions and conditions as may be prescribed.</p>	<p><i>distributed only to that recipient;</i></p> <p><i>d. the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;</i></p> <p><i>e. the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of</i></p>
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		<p><i>the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.</i></p> <p><i>Explanation. —For the purposes of this section, —</i></p> <p><i>a.</i></p> <p><i>the "relevant period" shall be—</i></p> <p><i>i. if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or</i></p> <p><i>ii. if some or all recipients of the credit do not have any turnover in their States or Union</i></p>
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		<p><i>territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;</i></p> <p><i>b. the expression "recipient of credit" means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;</i></p> <p><i>c. the term "turnover", in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax</i></p>
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<p>Insertion of new sub-clause 20(3)</p> <p>(3) The credit of central tax shall be distributed as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit, in such manner as may be prescribed.”.</p>	<p><i>levied under entries 84 and 92A of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule</i></p>
<p>Comment:</p> <p>1. As ISD registration has been made mandatory for all multi GSTIN unit holders, if registration is not obtained then it would be termed as contravention of Section 20 to Section 22, thus, all consequential implications pertaining to non-registration, non-filing of monthly ISD returns and/or non-distribution of ISD Credits would result into incorrect claim of ITC u/s 16 of CGST Act,</p>	

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	<p>2017 in the regular assessment of multi GSTIN units as per the provisions of GST Act, 2017.</p> <p>2. RTP would be required to the records to substantiate the basis on which ISD credits is distributed in the regular assessments too.</p> <p>3. Consequently, as ISD registration is mandatory, its distribution is also mandated by using the word “shall” in place of word “may “in the old provision.</p> <p>4. If RTP adopts cross charge mechanism in place of ISD mechanism, then it would also result into litigation in future.</p>	
	<p>Insertion of the new Section 122A - Penalty for failure to register certain machines used in manufacture of goods as per special procedure.</p>	
	New Provision	Old Provision
3	<p>122A. (1) Notwithstanding anything contained in this Act, where any person, who is engaged in the manufacture of goods in respect of which any special procedure relating to registration of machines has been notified under section 148 (Special Procedure for</p>	

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<p>Furnishing Details of Supplying Online Information and Data Base Access or Retrieval Services From a Place Outside India to a Person in India), acts in contravention of the said special procedure, he shall, in addition to any penalty that is paid or is payable by him under Chapter XV (Section 73 to 84) or any other provisions of this Chapter, be liable to pay a penalty equal to an amount of one lakh rupees for every machine not so registered.</p> <p>(2) In addition to the penalty under sub-section (1), every machine not so registered shall be liable for seizure and confiscation:</p> <p>Provided that such machine shall not be confiscated where—</p> <p style="text-align: center;">—</p> <p>(a) the penalty so imposed is</p>	
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<p>paid, and</p> <p>(b) the registration of such machine is made in accordance with the special procedure within three days of the receipt of communication of the order of penalty.”.</p>	
<p>Comment: In view of the above changes, every RTP needs to register each machine for the purpose of compliance.</p> <p>Section 148 The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons. Such notified persons are as under:</p> <ol style="list-style-type: none">1. Special Procedure for Furnishing Details of Supplying Online Information and Data Base Access or Retrieval Services from a Place Outside India to a Person in India, Notification No. 30/2019-Central Tax, dated 28-6-2019.2. For builders, time of accrual of tax liability, in case of TDR Notification No. 4/2018-Central Tax (Rate), dated 25-1-2018, Notification No. 4/2018-Integrated Tax (Rate), dated	

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	<p>25-1-2018 and Notification No. 4/2018-Union Territory Tax (Rate), dated 25-1-2018.</p> <p>3. For notified classes of registered persons in whose case liability shall arise on specified date, Notification No. 6/2019-Central Tax (Rate), dated 29-3-2019 and Notification No. 6/2019-Integrated Tax (Rate), dated 29-3-2019 and Notification No. 6/2019-Union Territory Tax (Rate), dated 29-3-2019.</p> <p>4. Notification No. 4/2024-Central Tax, dated 05-01-2024 was issued to prescribe the special procedure to be followed by registered persons engaged in manufacturing notified goods viz. pan masala, unmanufactured tobacco, hookah, smoking tobacco, chewing tobacco, Gutkha, etc.</p>
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Note: All Readers are requested to read the provisions on their own before relying on this compilation. We have tried to compile the information to the best of our ability and understanding. This information has been shared only with sole objective of spreading the education for all in general.

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