



CGST Amendment Act 2018

By:-

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Analysis of CGST Amendment Act

1. Section 1 of CGST Amendment Act: Short title and commencement
2. Section 2 of CGST Act
3. Section 7 of CGST Act
4. Section 9 of CGST Act 2017
5. Section 10 of CGST Act 2017
6. Section 12 of CGST Act 2017
7. Section 13 of CGST Act 2017
8. Section 16 of CGST Act 2017
9. Section 17 of CGST Act 2017
10. Section 20 of CGST Act 2017
11. Section 22 of CGST Act 2017
12. Section 24 of CGST Act 2017
13. Section 25 of CGST Act 2017
14. Section 29 of CGST Act 2017
15. Section 34 of CGST Act 2017
16. Section 35 of CGST Act 2017
17. Section 39 of CGST Act 2017
18. Section 43 of CGST Act 2017
19. Section 48 of CGST Act 2017
20. Section 49 of CGST Act 2017
21. Insertion of section 49A & 49B
22. Section 52 of CGST Act 2017
23. Section 54 of CGST Act 2017
24. Section 79 of CGST Act 2017
25. Section 107 of CGST Act 2017
26. Section 112 of CGST Act 2017
27. Section 129 of CGST Act 2017
28. Section 140 of CGST Act 2017
29. Section 143 of CGST Act 2017
30. Schedule I of CGST Act 2017
31. Schedule II of CGST Act 2017
32. Schedule III of CGST Act 2017

Analysis of CGST Amendment Act 2018

1. Section 1 of CGST Amendment Act 2018

<u>Date of applicability</u>	<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
<u>Section 1</u> 1.02.2019	<u>Applicable w.e.f 01.02.2019</u>	Short Title & Commencement	Its title of CGST Second Amendment Act 2018	Title of AA

2. Section 2 of CGST Amendment Act 2018

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 2(a) <i>Applicable w.e.f 01.02.2019</i>	<u>Section 2(4): Definition of "adjudicating authority"</u>	"adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs , <u>Central Board of Indirect Taxes and Customs</u> the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal <u>the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171.</u>	<ol style="list-style-type: none"> 1. Name of CBEC is changed to CBIC. Correction is made in Act to replace CBEC with CBIC. 2. Authority for anti profiteering is excluded from the definition of adjudicating authority.
Section 2(b) <i>Applicable w.e.f 01.02.2019</i>	<u>Section 2(17): Definition of "business"</u>	(17) "business" includes— (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit; (b) any activity or	<ol style="list-style-type: none"> i. Earlier only services were covered now activities will

Analysis of CGST Amendment Act

		<p>transaction in connection with or incidental or ancillary to sub-clause (a); (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction; (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business; (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members; (f) admission, for a consideration, of persons to any premises; (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation; (h) services provided by a race club by way of totalizator or a license to book maker in such club; (h) <u>activities of a race club including by way of totalizator or a license to book maker or activities of a licensed book maker in such club</u>; and (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;</p>	<p>have broader coverage. It will include both goods and services now.</p> <p>ii. The activities of a licensed bookmaker are also covered.</p>
<p>Section 2(c) Applicable w.e.f 01.02.2019</p>	<p><u>Section 2(18):</u> <u>Definition of business vertical.</u></p>	<p>“business vertical” means a distinguishable component of an enterprise that is engaged in the supply of individual goods or</p>	<p>Definition of business segment is removed. We need to look at it in conjunction with the</p>

Analysis of CGST Amendment Act 2018

		<p>services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals. Explanation.— For the purposes of this clause, factors that should be considered in determining whether goods or services are related include— (a) the nature of the goods or services; (b) the nature of the production processes; (c) the type or class of customers for the goods or services; (d) the methods used to distribute the goods or supply of services; and (e) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;</p>	<p>removal of proviso to section 25(2) and insertion of new proviso. Now we can take registration of a business place in same state. It is not required to be a business segment. Thus this definition was of no use.</p>
<p>Section 2(d) Applicable w.e.f 01.02.2019</p>	<p><u>Section 2(35):</u> <u>Definition of</u> <u>“cost</u> <u>accountant”</u></p>	<p>“cost accountant” means a cost accountant as defined in clause (c) <u>Clause (b)</u> of sub- section (1) of section 2 of the Cost and Works Accountants Act, 1959</p>	<p>A minor change to correct the wrong sub section quoted earlier.</p>
<p>Section 2(e) Applicable w.e.f 01.02.2019</p>	<p><u>Section 2(69):</u> <u>Definition of</u> <u>“local</u> <u>authority”</u></p>	<p>“local authority” means— (a) a “Panchayat” as defined in clause (d) of article 243 of the Constitution; (b) a “Municipality” as defined in clause (e) of article 243P of the Constitution; (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund; (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006; (e) a Regional Council or a District</p>	<p>Again a minor change to cover the development board constituted under article 371J also.</p>

Analysis of CGST Amendment Act

		Council constituted under the Sixth Schedule to the Constitution; (f) a Development Board constituted under article 371 <u>and article 371J</u> of the Constitution; or (g) a Regional Council constituted under article 371A of the Constitution;	
Section 2(f) Applicable w.e.f 01.02.2019	<u>Section 2(102)</u> <u>: Definition of</u> <u>"services"</u>	<p>"services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged</p> <p><u>Explanation. —For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;</u></p>	<p>Securities were excluded from the definition of both goods and services. But it is to clarify that though securities are excluded from definition of services but transaction in securities will be included.</p> <p>Although industry is already charging GST on these transaction.</p>

Analysis of CGST Amendment Act 2018

3. Section 3 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 3 Applicable w.e.f <u>01.07.2017</u>	<u>Section 7 of CGST Act</u>	<p>(1) For the purposes of this Act, the expression “supply” includes—</p> <p>(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;</p> <p>(b) import of services for a consideration whether or not in the course or furtherance of business; and</p> <p>(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and</p> <p>(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.</p> <p><u>(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.</u></p> <p>(2) Notwithstanding anything contained in sub-section (1), –</p> <p>(a) activities or transactions specified in Schedule III; or</p> <p>(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.</p> <p>(3) Subject to the provisions of sub-sections</p>	<p>Very important change to make this definition clearer. Earlier it was drafted in such a way that it included the activities whose nature is defined by schedule II instead of clarifying the nature of transactions already qualifying as supply. This clarification has removed the ambiguity. (There are some major changes in Schedule I, II & III also, they are also covered in this compilation.)</p>

Analysis of CGST Amendment Act

		<p>(1) and (2) sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—</p> <p>(a) a supply of goods and not as a supply of services; or</p> <p>(b) a supply of services and not as a supply of goods.</p>	
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4. Section 4 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 4 Applicable w.e.f 01.02.2019	<u>Section 9(4): URD RCM</u>	<p>(4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</p> <p><u>(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.</u></p>	The famous URD reverse charge is curtailed down via this change. Now it will not be generalized. It will be applicable only on notified person and on notified goods and/or services.

Analysis of CGST Amendment Act 2018

5. Section 5 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 5 Applicable w.e.f 01.02.201 9	<u>Section 10:</u> <u>Composition levy</u>	<p>(1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate <u>"in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate"</u> as may be prescribed, but not exceeding, —</p> <p>(a) one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer,</p> <p>(b) two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and</p> <p>(c) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed:</p> <p>Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, <u>"one crore and fifty lakh rupees"</u> as may be recommended by the Council.</p> <p><u>"Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.";</u></p>	<p>This section has already seen many changes via notifications also. Now it is changed again to facilitate the following:</p> <ol style="list-style-type: none"> In lieu of taxes has been changed with "in lieu of taxes u/s 9(1) although RCM was already applicable on a composition dealer. New threshold limit of aggregate turnover for a composition dealer has been increased to 1.5 Cr. Although GST council announced it many months back. It was delayed for amendment in Act. Now Government can increase

Analysis of CGST Amendment Act

		<p>(2) The registered person shall be eligible to opt under sub-section (1), if:—</p> <p>(a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;</p> <p><u>(a) save as provided in sub-section (1), he is not engaged in the supply of services;"</u></p> <p>(b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;</p> <p>(c) he is not engaged in making any inter-State outward supplies of goods;</p> <p>(d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and</p> <p>(e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:</p> <p>Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.</p> <p>(3) The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).</p> <p>(4) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.</p> <p>(5) If the proper officer has reasons to believe</p>	<p>iii. this limit upto 1.5Cr. Now a composition dealer is also allowed to make a supply of services along with goods. But it has a limit. Supply of services can be up to higher of Rs. 5lac or 10% of turnover in a state.</p>
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Analysis of CGST Amendment Act 2018

		that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.	
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6. Section 6 of CGST Amendment Act 2018:

<u>S. No</u>	<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
	Section 6	<u>Section 12(2a):</u> Time of supply for Goods in FCM	(1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section. (2) The time of supply of goods shall be the earlier of the following dates, namely: — (a) the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or (b) the date on which the supplier receives the payment with respect to the supply:	Invoice is covered by section 31. Earlier there was mention of invoice of section 31(1) only. Section 31(3) also list many instances for invoicing. Now all of them are also covered.

Analysis of CGST Amendment Act

7. Section 7 of CGST Amendment Act 2018:

<u>S. No</u>	<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
	Section 7	<u>Section 13(2b):</u> Time of supply in FCM for services	(1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section. (2) The time of supply of services shall be the earliest of the following dates, namely: — (a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or (b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or (c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:	Invoice is covered by section 31. Earlier there was mention of invoice of section 31(2) only. Section 31(3) also list many instances for invoicing. Now all of them are also covered.

Analysis of CGST Amendment Act 2018

8. Section 8 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 8(a) Applicable w.e.f 01.02.2019	<u>Explanation on to Section 16(2)</u>	<p>Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</p> <p><u>Explanation. —For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—</u></p> <p>(i) <u>where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</u></p> <p>(ii) <u>(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person</u></p>	Earlier constructive receipt of goods was covered. It raises a question whether the constructive receipt of services is possible in GST regime or not. This modification has taken the constructive receipt of services also.
Section 8(b): Applicability is <u>on hold</u> (Notification no. 02/2019 CT dated 29 th)	<u>Section 16(2c): Payment of tax by supplier</u>	(c) subject to the provisions of <u>section 41 or section 43A</u> the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply;	Newly inserted section 43A is also covered here.

Analysis of CGST Amendment Act

January 2019.			
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9. Section 9 of CGST Amendment Act 2018:

Section 9a Applicable w.e.f 01.02.2019	<u>Section 17(3):</u> Inclusion of some items of schedule III in exempted supply	(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. <u>'Explanation.—For the purposes of this subsection, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.</u>	High sea sales were under dispute earlier. It was doubtful whether they should be added into exempted supply for calculation of reversal of ITC. This explanation is inserted to clarify that only the items mentioned in para 5 of Schedule III.
Section 9b Applicable w.e.f 01.02.2019	<u>Section 17(5):</u>	(5) Notwithstanding anything contained in subsection (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:— (a) motor vehicles and other conveyances except when they are used— (i) for making the following taxable supplies, namely:— (A) further supply of such vehicles or conveyances ; or (B) transportation of passengers; or (C) imparting training on driving, flying, navigating such vehicles or conveyances; (ii) for transportation of goods; (b) the following supply of goods or services or both— (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward	- The changes brought in from 01.02.2019 are: 1. ITC of motor vehicle having the capacity of more than 13 passengers is freely available. 2. ITC of motor vehicles having capacity of up to 13 passengers can be allowed subject to some conditions. 3. ITC for vehicles used to carry goods will be allowed. 4. ITC of insurance, repairs and other

Analysis of CGST Amendment Act 2018

	<p>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;</p> <p>(iii) rent a cab, life insurance and health insurance except where—</p> <p>(A) the Government notifies the services which are obligatory for an 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 (iv) travel benefits extended to employees on vacation such as leave or home travel concession;</p> <p>(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;</p> <p>(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.</p> <p>Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes re construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;</p> <p>(e) goods or services or both on which tax has been paid under section 10;</p> <p>(f) goods or services or both received by a non-</p>	<p>incidental expenses will be allowed if the ITC of Motor vehicle is allowed.</p> <p>5. Also the ITC of the services will also be allowed to the person engage in:</p> <ul style="list-style-type: none"> - In manufacturing of such motor vehicle - In supply of general insurance in respect of such vehicles. <p>6. ITC of all items in entry no (I), (ii) and (iii) will be available if they are mandatory under any law.</p>
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Analysis of CGST Amendment Act

		<p>resident taxable person except on goods imported by him;</p> <p>(g) goods or services or both used for personal consumption;</p> <p>(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and</p> <p>(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.</p> <p><u><i>“(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:— (A) further supply of such motor vehicles; or (B) transportation of passengers; or (C) imparting training on driving such motor vehicles;</i></u></p> <p><u><i>(aa) vessels and aircraft except when they are used—</i></u></p> <p><u><i>(i) for making the following taxable supplies, namely:—</i></u></p> <p><u><i>(A) further supply of such vessels or aircraft; or</i></u></p> <p><u><i>(B) transportation of passengers; or</i></u></p> <p><u><i>(C) imparting training on navigating such vessels; or</i></u></p> <p><u><i>(D) imparting training on flying such aircraft;</i></u></p> <p><u><i>(ii) for transportation of goods;</i></u></p> <p><u><i>(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa);</i></u></p> <p><u><i>Provided that the input tax credit in respect of such services shall be available—</i></u></p>	
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Analysis of CGST Amendment Act 2018

		<p><u>(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;</u></p> <p><u>(ii) where received by a taxable person engaged—</u></p> <p style="padding-left: 40px;">(I) <u>in the manufacture of such motor vehicles, vessels or aircraft; or</u></p> <p style="padding-left: 40px;">(II) <u>in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;</u></p> <p><u>(b) the following supply of goods or services or both—</u></p> <p><u>(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:</u></p> <p><u>Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both 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;</u></p> <p><u>(ii) membership of a club, health and fitness centre; and</u></p> <p style="padding-left: 40px;">(iii) <u>travel benefits extended to employees on vacation such as leave or home travel concession:</u></p> <p><u>Provided that the input tax credit in respect</u></p>	
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Analysis of CGST Amendment Act

		<u>of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”.</u>	
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10. Section 10 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 10 Applicable w.e.f 01.02.201 9	<u>Explanation to Section 20</u>	<p>Explanation.—For the purposes of this section,—</p> <p>(a) the “relevant period” shall be—</p> <p>(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</p> <p>(ii) if some or all recipients of the credit do not have any turnover in their States or Union 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;</p> <p>(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;</p> <p>(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</p>	The definition of turnover is changed to exclude the tax leviable under entry no. 92A of List I of the Seventh Schedule

Analysis of CGST Amendment Act 2018

		levied under entry 84 <u>under entries 84 and 92A</u> of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.	
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11. Section 11 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 11a Applicable w.e.f 01.02.2019	<u>Insertion of proviso after first proviso to section 22(1)</u>	(1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees: Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees. <u>"Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified."</u>	A right is given to the government to increase the threshold limit of a special category state for an amount up to Rs. 20Lac.
Section 11b Applicable w.e.f 01.02.2019	<u>Clause 3 of explanation to section 22</u>	Explanation. —For the purposes of this section,— (i) the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals; (ii) the supply of goods, after completion of job work, by a registered job worker shall be	Following states are excluded from the list of special category states: -Arunachal Pradesh -Assam -Himachal Pradesh -Meghalaya -Sikkim

Analysis of CGST Amendment Act

		<p>treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;</p> <p>(iii) the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the State of Jammu & Kashmir and <u>States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand</u></p>	<p>-Uttarakhand. Only four are left in list now:</p> <ul style="list-style-type: none"> - Manipur - Mizoram - Nagaland - Tripura
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12. Section 12 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 12 Applicable w.e.f 01.02.2019	<u>Section 24(x)</u>	(x) every electronic commerce operator <u>“who is required to collect tax at source under section 52.”</u>	Earlier this provision covered every E-commerce operator. Now addition of words “ who is required to collect tax at source had made it more reasonable. Only the TCS deductor will be liable to take registration without a threshold.

Analysis of CGST Amendment Act 2018

13. Section 13 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 13a Applicable w.e.f 01.02.2019	<u>Section 25</u>	<p>Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.</p> <p><u>"Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.";</u></p> <p>Explanation. —Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.</p>	It was already provided in rules. Now added into the Law itself.
13b Applicable w.e.f 01.02.2019	<u>Section 25</u>	<p>(2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory:</p> <p>Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.</p> <p><u>"Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.".</u></p>	Now a person can take a separate registration in the same state for a place of business. Earlier separate registration was available only for a separate business vertical only. The definition of business vertical is also deleted from the Act.

Analysis of CGST Amendment Act

14. Section 14 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 15a <i>Applicable w.e.f 01.02.2019</i>	Marginal heading to Section 29	Cancellation <u>or suspension</u> of registration.	Suspension word also added to the marginal heading to section 29.
Section 15b <i>Applicable w.e.f 01.02.2019</i>	<u>Section 29</u>	<p>(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, —</p> <p>(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or</p> <p>(b) there is any change in the constitution of the business; or</p> <p>(c) the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.</p> <p><u>Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.</u></p>	Taxpayers were facing an issue because many registrations applied for cancellation were pending with the department. Taxpayers were confused and directionless for their liability towards the GST compliances. Now a power is given to suspend the registration till department cancels it.
Section 14c <i>Applicable w.e.f</i>	<u>Section 29(2)</u>	<p>(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—</p> <p>(a) a registered person has contravened such</p>	Same provision replicated for cancellation of registration by

Analysis of CGST Amendment Act 2018

01.02.2019		<p>provisions of the Act or the rules made thereunder as may be prescribed; or</p> <p>(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or</p> <p>(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or</p> <p>(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or</p> <p>(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:</p> <p>Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.</p> <p><u>Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.</u></p>	department.
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15. Section 15 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 15a Applicable w.e.f 01.02.2019	<u>Section 34(1)</u>	(1) Where a tax invoice <u>Where one or more tax invoices have</u> has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both	Now a credit note can be issued for more than one invoices. Rule 53(1A) has been inserted to the CGST rules to mention the items required on the Credit note. Entry (g)

Analysis of CGST Amendment Act

		supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note <u>one or more credit notes for supplies made in a financial year</u> containing such particulars as may be prescribed.	of said rule provide for : g) serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply. Thus format of credit note is also changed to include multiple invoices.
Section 15b Applicable w.e.f 01.02.2019	<u>Section 34(3)</u>	(3) Where a tax invoice has <u>Where one or more tax invoices have</u> been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note <u>one or more debit notes for supplies made in a financial year</u> containing such particulars as may be prescribed	Same changes for a debit note.

16. Section 16 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 16 Applicable w.e.f 01.02.2019	<u>Section 35</u>	(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.	Proviso inserted to relieve the department of central Govt., state govt. or local authority liable for audit by CAG.

Analysis of CGST Amendment Act 2018

		<p><u><i>"Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force"</i></u></p>	
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17. Section 17 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 17a: Applicability is on hold (Notification no. 02/2019 CT dated 29 th January 2019.	<u>Section 39(1)</u>	<p>Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, <u>in such form, manner and within such time as may be prescribed</u> a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, on or before the twentieth day of the month succeeding such calendar month or part thereof.</p> <p><u>"Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein."</u></p>	A right is provided to prescribe the time also.

Analysis of CGST Amendment Act

Section 17b: <i>Applicability is <u>on hold</u> (Notification no. 02/2019 CT dated 29th January 2019.</i>	<u>Section 39(7)</u>	<p>(7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.</p> <p><u>“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.”</u></p>	Same in this provision. A right to prescribe the time for a class of registered person.
Section 17c <i>Applicable w.e.f 01.02.2019</i>	<u>Section 39(9)</u>	<p>(9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, <u>in such form and manner as may be prescribed</u> subject to payment of interest under this Act:</p> <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second</p>	<ol style="list-style-type: none"> 1. Right is provided to government to prescribe the manner of correction. 2. To clarify that here financial year means the financial year to which such details pertain.

Analysis of CGST Amendment Act 2018

		quarter following the end of the financial year , <u>the end of the financial year to which such details pertain</u> or the actual date of furnishing of relevant annual return, whichever is earlier.	
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18. Section 18 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 18: Applicability is <u>on hold</u> (Notification no. 02/2019 CT dated 29 th January 2019.	<u>Section 43A</u>	<p><u>43A. (1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.</u></p> <p><u>(2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.</u></p> <p><u>(3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.</u></p> <p><u>(4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax</u></p>	

Analysis of CGST Amendment Act

		<p><u>credit available, on the basis of details furnished by the suppliers under the said sub-section.</u></p> <p><u>(5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.</u></p> <p><u>(6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.</u></p> <p><u>(7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.</u></p> <p><u>(8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,—</u></p> <p><u>(i) within six months of taking registration;</u></p> <p>(ii) who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount, shall be such as may be prescribed.”.</p>	
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Analysis of CGST Amendment Act 2018

19. Section 19 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 19 Applicable w.e.f 01.02.2019	<u>Section 48(2)</u>	(2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 and to perform such other functions in such manner as may be prescribed.	GST practitioners are also allowed to do other functions along with filing the returns.

20. Section 20 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
<u>Section 20a:</u> Applicability is on hold (Notification no. 02/2019 CT dated 29 th January 2019.	<u>Section 49(2)</u>	(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41 or section 43A , to be maintained in such manner as may be prescribed.	This provision is still on hold along with section 43A. Both will be applicable from a later date.
<u>Section 20b</u> Applicable w.e.f 01.02.2019	<u>Section 49(5)</u>	(5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of— (a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the	The manner of utilization of input tax credit is modified. It is going to result in some possible additional liability in some circumstances.

Analysis of CGST Amendment Act

		<p>case may be, Union territory tax, in that order; (b) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax; (c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;</p> <p><u><i>Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax</i></u></p> <p>(d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;</p> <p><u><i>Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax</i></u></p> <p>(e) the central tax shall not be utilised towards payment of State tax or Union territory tax; and</p> <p>(f) the State tax or Union territory tax shall not be utilised towards payment of central tax.</p>	<p>When we need to use ITC for payment of IGST, The ITC of CGST is required to be utilized first after IGST.</p>
<p><u>Section 21</u> Applicable w.e.f 01.02.2019</p>	<p><u>Two new sections are inserted after</u></p>	<p><u><i>49A. Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union</i></u></p>	<p>The Input tax credit of IGST will be exhausted first towards IGST and other ITC will be used only after that. Now</p>

Analysis of CGST Amendment Act 2018

	<u>section 49</u>	<p><u>territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.</u></p> <p><u>49B. Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax."</u></p>	<p>the adjustment is fixed as following: IGST---CGST---SGST For IGST. The reason behind this change is to restrict the use of IGST as it is most liquidated amongst all ITC's.</p>
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22. Section 22 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 22 Applicable w.e.f 01.02.2019	<u>Section 52(9)</u>	(9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37 or section 39 , the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.	Matching of tax deducted by an e commerce operator will be matched with the return filed u/s 39.

23. Section 23 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 23a Applicable	<u>Section 54(8)</u>	(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the	The term zero rated supply has been interchanged with

Analysis of CGST Amendment Act

e w.e.f 01.02.20 19		<p>applicant, if such amount is relatable to—</p> <p>(a) refund of tax paid on zero-rated supplies export of goods or services or both or on inputs or input services used in making such zero-rated supplies exports ;</p> <p>(b) refund of unutilised input tax credit under sub-section (3);</p> <p>(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;</p> <p>(d) refund of tax in pursuance of section 77;</p> <p>(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or</p> <p>(f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.</p>	<p>the term export. We need to understand that export is comparatively narrower term. Zero rated supply included other supplies also apart from Export. Now principal of unjust enrichment will also be applicable to supply by a DTA unit to SEZ. In case burden is transferred by DTA the SEZ will be eligible to get refund.</p>
Section 23b	<u>Explanation</u> <u>Clause 2:</u> <u>Relevant</u> <u>date to</u> <u>claim</u> <u>refund</u>	<p>“relevant date” means— (a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—</p> <p>(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or</p> <p>(ii) if the goods are exported by land, the date on which such goods pass the frontier; or</p> <p>(iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;</p>	<p>The relevant date in case of export of services is modified to include the date of receipt of payment in Indian rupees, where the RBI allows that.</p>

Analysis of CGST Amendment Act 2018

		<p>(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;</p> <p>(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—</p> <p>(i) receipt of payment in convertible foreign exchange—<u>“or in Indian rupees wherever permitted by the Reserve Bank of India”</u>, where the supply of services had been completed prior to the receipt of such payment; or</p> <p>(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;</p> <p>(d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;</p> <p>(e) in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;</p> <p><u>“(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;”</u></p> <p>(f) in the case where tax is paid provisionally under</p>	
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Analysis of CGST Amendment Act

		<p>this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;</p> <p>(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and</p> <p>(h) in any other case, the date of payment of tax.</p>	
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24. Section 24 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 24 Applicable w.e.f 01.02.2019	<u>Explanation added After Section 79</u>	<u>'Explanation.—For the purposes of this section, the word person shall include "distinct persons" as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.'</u>	Section 79 provide for the recovery proceedings in case of any sum payable by a person is not paid. An explanation has been inserted into the section to cover the term distinct person into the definition of person.

25. Section 25 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 25 Applicable w.e.f 01.02.2019	<u>Section 107</u>	<p>(6) 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 ten per cent. of the</p>	Maximum amount payable by taxpayer for appeal to <u>appellate authority</u> is curtailed down to <u>Rs. 25 Crore.</u>

Analysis of CGST Amendment Act 2018

		remaining amount of tax in dispute arising from the said order <u>"subject to a maximum of twenty-five crore rupees,"</u> in relation to which the appeal has been filed.	
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26. Section 26 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 26 Applicable w.e.f 01.02.201 9	<u>Section 112(8)</u>	(8) 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 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 <u>"subject to a maximum of fifty crore rupees,"</u> in relation to which the appeal has been filed.	The amount of payment for appeal to <u>appellate Tribunal</u> is curtailed down to a <u>maximum of Rs. 50 Crore Rupees.</u>

27. Section 27 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 27	<u>Section 129(6)</u>	(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within seven days <u>"fourteen days"</u> of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130: Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.	The time limit for payment of amount of tax and penalty in case of detention or seizure is extended to 14 days from 7 days earlier.

Analysis of CGST Amendment Act

28. Section 28 of CGST Amendment Act 2018:

<u>Section</u> <u>(CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 28a Applicable w.e.f 01.02.2019	<u>Section 140</u>	(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 <u>"of eligible duties"</u> 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: Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:— (i) where the said amount of credit is not admissible as input tax credit under this Act; or (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or (iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.	The scope of transitional credit is narrowed down by adding the word "of eligible duties" Earlier everything falling under the definition of CENVAT Credit was covered in this provision.
Section 28(b)(i) Applicability is <u>on hold</u> (Notification no. 02/2019 CT dated 29 th)	<u>Explanation 1 to section 140</u>	Explanation 1.—For the purposes of sub-sections <u>(1)</u> , (3), (4) and (6), the expression "eligible duties" means— (i) the additional duty of excise leviable under section 3 of the	This explanation defines the term "Eligible duties". As we discussed the term eligible duties is added in section 140(1). This explanation is also made applicable to sub

Analysis of CGST Amendment Act 2018

January 2019.		<p>Additional Duties of Excise (Goods of Special Importance) Act, 1957;</p> <p>(ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;</p> <p>(iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;</p> <p>(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) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;</p> <p>(vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and</p> <p>(vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.</p>	<p>section 1 to section 140(1). But its applicability is put on hold.</p>
<p>Section 28(b)(ii)</p> <p><i>Applicable w.e.f 1.07.2017</i></p>	<p><u>Explanation 1 to section 140</u></p>	<p>Explanation 1.—For the purposes of sub-sections (3), (4) and (6), the expression “eligible duties” means—</p> <p>(i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;</p>	<p>The definition of eligible duties is amended to exclude the additional duty of excise leviable on u/s 3 of Additional duties of Excise (Textile and Textile Articles) Act. This is a retrospective amendment. It will be applicable from 1st July</p>

Analysis of CGST Amendment Act

		<p>(ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;</p> <p>(iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;</p> <p>(iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978; <u>(Omitted and shall always be deemed to have been omitted)</u></p> <p>(v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;</p> <p>(vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and</p> <p>(vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.</p>	2017.
<p>Section 28(c)(i) <i>Applicability is <u>on hold</u></i> <i>(Notification no. 02/2019 CT dated 29th January 2019).</i></p>	<p><u>Explanation 2 to section 140</u></p>	<p>Explanation 2.—For the purposes of sub-section <u>(1) and</u> (5) the expression “eligible duties and taxes” means—</p> <p>(i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;</p> <p>(ii) the additional duty leviable under sub-section (1) of section 3 of the</p>	<p>Sub section 1 is again covered here but this provision is also on hold.</p>

Analysis of CGST Amendment Act 2018

		<p>Customs Tariff Act, 1975;</p> <p>(iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;</p> <p>(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) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;</p> <p>(vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;</p> <p>(vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and</p> <p>(viii) the service tax leviable under section 66B of the Finance Act, 1994, in respect of inputs and input services received on or after the appointed day.</p>	
<p>Section 28(c)(ii) Applicable w.e.f 1.07.2017</p>	<p><u>Explanation</u> <u>2 to section</u> <u>140</u></p>	<p>Explanation 2.—For the purposes of sub-section (5) the expression “eligible duties and taxes” means—</p> <p>(i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;</p> <p>(ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;</p>	<p>The Additional duty of excise leviable u/s 3 of the Additional Duties of Excise (Textile and Textile Articles) Act is excluded from the definition of Eligible duties.</p>

Analysis of CGST Amendment Act

		<p>(iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;</p> <p>(iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978; <u>(Omitted and shall always be deemed to have been omitted)</u></p> <p>(v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;</p> <p>(vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;</p> <p>(vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and</p> <p>(viii) the service tax leviable under section 66B of the Finance Act, 1994, in respect of inputs and input services received on or after the appointed day.</p>	
Section 28d Applicable w.e.f 01.07.2017	<u>After Explanation 2 as so amended, the following Explanation shall be inserted and shall always be</u>	<u>'Explanation 3.—For removal of doubts, it is hereby clarified that the expression "eligible duties and taxes" excludes any cess which has not been specified in Explanation 1 or Explanation 2 and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.'</u>	Cess is excluded from the definition of eligible duties. Any cess like Krishi Kalyan Cess or Education cess will not be eligible for transition. This is also a retrospective amendment and will hit the right of taxpayer. Cess was disallowed via

Analysis of CGST Amendment Act 2018

	<u>deemed to have been inserted</u>	rules but now rules and Act are made consistent.
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29. Section 29 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 29 Applicable w.e.f 01.02.201 9	<u>Section 143</u>	<p>143. (1) A registered person (hereafter in this section referred to as the “principal”) may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,—</p> <p>(a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax;</p> <p>(b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:</p> <p>Provided that the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares</p>	<p>The commissioner is given power to extend the period for return of goods sent for job work. The time can be <u>extended by one year in case of inputs</u> and by <u>two years</u> in case of <u>capital goods</u>.</p>

Analysis of CGST Amendment Act

		<p>the place of business of the job worker as his additional place of business except in a case—</p> <p>(i) where the job worker is registered under section 25; or</p> <p>(ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.</p> <p><u><i>“Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.”.</i></u></p>	
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30. Section 30 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 30 Applicable w.e.f 01.02.201 9	<u>Schedule I</u>	<p>ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION</p> <p>....</p> <p>1....</p> <p>2...</p> <p>3...</p> <p>a</p> <p>b</p> <p>4 . Import of services by a taxable person <u>person</u> from a related person or from any of his other establishments outside India, in the course or furtherance of business.</p>	<p>The deletion of word taxable has enhanced the scope of this entry. <u>See Note 1 for detailed description.</u></p>

Analysis of CGST Amendment Act 2018

31. Section 31 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 31 Applicable w.e.f 01.07.201 7	<u>Schedule II:</u> <u>Change in</u> <u>its title</u>	ACTIVITIES <u>"OR TRANSACTIONS"</u> TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES	Just to make it more comprehensive so that all entries in Schedule II can be covered under this title.

32. Section 32 of CGST Amendment Act 2018:

<u>Section (CGST AA)</u>	<u>Coverage</u>	<u>Modification in existing Law</u>	<u>Impact</u>
Section 32(i) Applicable w.e.f 01.02.201 9	<u>Schedule III</u>	<p>ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES</p> <p>1. Services by an employee to the employer in the course of or in relation to his employment.</p> <p>2. Services by any court or Tribunal established under any law for the time being in force.</p> <p>3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;</p> <p>(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or</p> <p>(c) the duties performed by any</p>	<p>Three new entries are inserted into Schedule III of CGST Act. First of all let us understand what this schedule signifies. Schedule III of CGST Act list the supplies which shall be treated neither as a supply of goods nor services. It means that the items mentioned here will be out of the preview of GST and wont be included even in exempted turnover. They are not supply at all for the purpose of GST. Now let us have a look on these entries.</p> <p>1. The first entry is supply of goods from a non-taxable territory to another place in the non-taxable territory without such goods entering into India. It will cover the high sea sales where the goods are sold without entering into India.</p> <p>It is noteworthy that section 2(56) of CGST defines the term India as <i>"India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters,</i></p>

Analysis of CGST Amendment Act

	<p>person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.</p> <p>4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.</p> <p>5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.</p> <p>6. Actionable claims, other than lottery, betting and gambling.</p> <p><u>"7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.</u></p> <p><u>8. (a) Supply of warehoused goods to any person before clearance for home consumption;</u></p> <p><u>(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption."</u></p> <p>Explanation.—For the purposes of paragraph 2, the term "court"</p>	<p><i>seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters."</i></p> <p>2. Supply of warehoused goods to any person before clearance for home consumption. Earlier Circular no. 3/1/2018 dated 25th may 2018 provided for the valuation of goods at the time of filing of bill of entry for home consumption. Relevant extract is reproduced here:</p> <p><i>"It is therefore, clarified that integrated tax shall be levied and collected at the time of final clearance of the warehoused goods for home consumption i.e., at the time of filing the ex-bond bill of entry and the value addition accruing at each stage of supply shall form part of the value on which the integrated tax would be payable at the time of clearance of the warehoused goods for home consumption. In other words, the supply of goods before their clearance from the warehouse would not be subject to the levy of integrated tax and the same would be levied and collected only when the warehoused goods are cleared for home consumption from the customs bonded warehouse."</i></p>
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Analysis of CGST Amendment Act 2018

		includes District Court, High Court and Supreme Court.	<p>After the insertion of this clause it is clear any of such sales will not be leviable to GST as they are not a supply for GST. This circular is rescinded via Circular No. 04/01/2019-GST dated 1st February 2019.</p> <p><i>3. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.</i></p> <p>This is another form of high sea sales. It will not be included in Supply for GST.</p>
Section 32(ii) Applicable w.e.f 01.02.2019	<u>Explanation to Schedule III</u>	<u>'Explanation 2.—For the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962.'</u>	<p>Warehoused goods as defined in Customs Act.</p> <ul style="list-style-type: none"> - Section 2(43) of Customs Act "<u>warehouse" means a public warehouse appointed under section 57 or a private warehouse licensed under section 58;</u> - Section 2(44) of Customs Act 1962 "<u>warehoused goods" means goods deposited in a warehouse;</u>

Analysis of CGST Amendment Act

Note:1

Registered Person

Relevant provision	Consideration	For business	Related party/Establishment	Supply	RCM (Notification No. 10/2017-Integrated Tax (Rate))
It will fall under section 7	<u>Yes</u>	<u>Yes</u>	No	Yes	Yes
Won't get hit by any clause	<u>No</u>	<u>No</u>	<u>No</u>	No	No
Schedule I clause IV NA	No	Yes	<u>No</u>	No	No
Will be covered in clause IV of Sc.I	No	<u>Yes</u>	<u>Yes</u>	Yes	Yes
It will fall under Clause 7(1)(b)	Yes	No	No	Yes	Yes
It will fall under Clause 7(1)(b)	Yes	No	Yes	Yes	Yes

Un-registered Person

Relevant provision	Consideration	For business	Related party/Establishment	Supply	RCM (Notification No. 10/2017-Integrated Tax (Rate))
The IODAR service provider is req to take registration in India	<u>Yes</u>	<u>Yes</u>	No	No	
Wont get hit by any clause	<u>No</u>	<u>No</u>	<u>No</u>	No	No
Schedule I clause IV NA	No	Yes	<u>No</u>	No	No
Will be covered in clause IV of Sc.I from 1 st Feb 2019 earlier was not covered.	No	<u>Yes</u>	<u>Yes</u>	Yes	Yes
It will fall under Clause 7(1)(b)	Yes	No	No	Yes	No
It will fall under Clause 7(1)(b)	Yes	No	Yes	Yes	Yes

The RCM provisions in Notification No. 10/2017- Integrated Tax (Rate):

<u>Sl. No.</u>	<u>Category of Supply of Services</u>	<u>Supplier of service</u>	<u>Recipient of Service</u>
1.	Any service supplied by any person who is located in a non-taxable territory to any person other than <u>non-taxable online recipient.</u>	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.

Analysis of CGST Amendment Act 2018

The term non-taxable online recipient is defined u/s 2(16) of IGST Act:

Section 2(16) of IGST Act “non-taxable online recipient” means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory. Explanation.—For the purposes of this clause, the expression “governmental authority” means an authority or a board or any other body,—

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government, with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;

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