

NOTES ON STATE GST LAWS & RULES

In the scheme of overall implementation of GST, the Parliament enacted Central GST Act, Integrated GST Act, Union Territory GST Act (which is a single law enacted by the Parliament in respect of all the 5 Union Territories without legislature) Ladakh will also be included along with Union territories without legislature and when it comes to State GST Acts, each of the State legislatures are to enact their respective State GST enactments and frame Rules thereunder.

As discussed in this background material in detail, on intra-state supply of goods or services, two levies would stand attracted, i.e., Central GST and State GST in case of States and Union Territories with legislature (Delhi, Puducherry and Jammu and Kashmir); Central GST and Union Territory GST in case of Union Territories (5 Union Territories). When the same transaction attracts two taxes, both the enactments should operate simultaneously, in the absence of which compliance with law arises. In that direction, the GST Council had provided to all the States, a version of State GST law for enactment in the respective States. It is needless to say that all the States have more or less followed the CGST Act to enact their State level GST laws. In respect of certain goods which still attract Value Added Taxes / Central Sales tax in respect of a transaction of sale, some States have still retained certain powers through the “repeal and savings provision” in the State Level GST enactments.

The GST law shall have two components: one levied by the Centre (referred to as Central GST or CGST), and the other levied by the States (referred to as State GST or SGST). Rates for Central GST and State GST would be approved appropriately, reflecting revenue considerations and acceptability.

The CGST and the SGST would be applicable to all transactions for intra state supply of goods and services made for a consideration except the exempted goods and services.

Cross utilization of ITC both in case of Inputs and capital goods between the CGST and the SGST would not be permitted except in the case of inter-State supply of goods and services (i.e., IGST).

The Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of thresholds for goods and services prescribed for the States and the Centre.

All the States have passed their respective State GST Act whether through an ordinance or through the respective legislatures. On a perusal of the same it can be seen that almost all the provisions are identical with the provisions of Central GST Act with suitable modifications as to State GST.

In this background material:

The rules are considered and discussed at appropriate places / sections / chapters. These rules are issued under the delegated legislation by the Central Government in so far as the CGST, IGST and UTGST laws are concerned whereas it is issued by the respective State Government when it comes to SGST law.

Special Category States under GST include:

1. Manipur
3. Mizoram
4. Nagaland
5. Tripura

With the effect of Finance Act 2018, from 1st February 2018, the states of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand shall no more be included in the expression "special category state".

Aggregate Turnover Limit for Registration as per CGST Act:

Section 22 of the CGST Act provides that 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 [refer 2(6) of the CGST Act] 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.

W.e.f 01.4.2019, if any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed forty lakh rupees is exempt from obtaining registration. In case of special category states, the limit in such case is twenty lakh rupees.

One can proceed based on assumption that in the normal course the State GST Laws would be *pari materia* with the CGST Laws / Rules framed thereunder.

Exemption Notification applicability to State:

It is important to note that section 11 of each State GST law provides that every exemption notification issued by Central Government will automatically get apply to SGST Law. However, if any exemption notification issued by a State with due approval of GST Council, the same may not apply to CGST Act.