

GST 2.0

GSTAT overview

Advocate forum -7th Oct 2025



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Anti Profiteering

56th Council meet- Discussion by CA Shaifaly Girdharwal

Section 171- CGST Act

(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

*(2) The Central Government may, on recommendations of the Council, by notification, **constitute an Authority, or empower an existing Authority constituted under any law for the time being in force,** to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

Section 171- CGST Act

*[Provided that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him. **(Inserted vide the Finance (No. 2) Act, 2024, notified through Notification No. 17/2024 - CT dated 27.09.2024.)**]*

Explanation - For the purposes of this sub-section, "request for examination" shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.]

Section 171- CGST Act

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

*(3A) **Where the Authority referred to in sub-section (2),** after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:*

Section 171- CGST Act

*Provided that no penalty shall be leviable if the profiteered amount is deposited within **thirty days** of the date of passing of the order by the Authority.*

Explanation 16[1] For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both]

[Explanation 2 – For the purposes of this section, the expression "Authority" shall include the "Appellate Tribunal".] Inserted vide the Finance (No. 2) Act, 2024, notified through Notification No. 17/2024 - CT dated 27.09.2024.

Notification no. No. 23/2022 – Central Tax dated the e 23rd November, 2022

*S.O.....(E).- In exercise of the powers conferred by sub-section (2) of section 171 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Goods and Services Tax Council, hereby empowers the **Competition Commission of India established under** sub-section (1) of section 7 of the Competition Act, 2002 (12 of 2003), to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

2. This notification shall come into force with effect from 1 st day of December, 2022.

Notification no. No. No. 18/2024 – Central Tax – Central Tax
dated the 30th September, 2024

*S.O.....(E).- In exercise of the powers conferred by sub-section (2) of section 171 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Goods and Services Tax Council, hereby empowers the **Competition Commission of India established under** sub-section (1) of section 7 of the Competition Act, 2002 (12 of 2003), to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

2. This notification shall come into force with effect from 1 st day of December, 2022.

56th Council meet- Discussion by CA Shaifaly Girdharwal

**Notification no. No. 19/2024 – Central Tax dated the 30th
September, 2024**

*S.O.....(E).- In exercise of the powers conferred by proviso to sub-section (2) of section 171 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Goods and Services Tax Council, hereby appoints the 1st day of April, 2025 as the date from which the **Authority referred to in the said section shall not accept any request** for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by that registered person.*

2. This notification shall come into force on the date of its publication in the Official Gazette.

What's the criteria to calculate ITC or reduction in output tax-

Period [Financial Year (FY)/ Quarter Ending (QE)]	Sale of Products		Profit Before Exceptional Items & Tax		Change in Sale and Profits
	Sales (Rs. Lakh)	% increase over previous period	Profit (Rs. Lakh)	% increase over previous period	
FY 2014-15	2,07,409.32		17,206.12		
FY 2015-16	2,40,947.65	16.17%	16,696.21	-2.96%	Sale ↑ 16%; Profit ↓ 3%
FY 2016-17	2,54,606.98	5.67%	10,992.14	-34.16%	Sale ↑ 6%; Profit ↓ 34%
FY 2017-18	2,98,044.06	17.06%	31,323.84	184.97%	Sale ↑ 17% ; Profit ↑ 185%
QE Dec. 2014	55,426.83		4,880.17		
QE Dec. 2015	63,376.09	14.34%	4,551.34	-6.74%	Sale ↑ 15%; Profit ↓ 7%
QE Dec. 2016	65,875.51	3.94%	2,947.53	-35.24%	Sale ↑ 4%; Profit ↓ 35%
QE Dec. 2017	79,516.54	20.71%	10,092.29	242.40%	Sale ↑ 21% ; Profit ↑ 242%
QE March 2015	54,200.99		4,530.23		
QE March 2016	61,783.59	13.99%	4,389.54	-3.11%	Sale ↑ 14%; Profit ↓ 3%
QE March 2017	61,277.50	-0.82%	2,028.08	-53.80%	Sale ↓ 1%; Profit ↓ 54%
QE March 2018	77,982.08	27.26%	10,268.81	406.33%	Sale ↑ 27% ; Profit ↑ 406%

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What's the criteria to calculate ITC or reduction in output tax-

The DGAP has also contended that the increase in the cost of inputs and input services was a factor for determination of prices but this factor was independent of the output GST rate and it couldn't be asserted that the elements of cost unrelated to GST were affected by the change in the output GST rates, therefore in terms of Section 171 of the CGST Act, 2017, the claim of increase in cost of inputs and input services had not been considered.

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Reversal

56th Council meet- Discussion by CA Shaifaly Girdharwal

Sec 2(47) "exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under **section 11, or under section 6 of the Integrated Goods and Services Tax Act**, and includes non-taxable supply;

Sec 18(4) Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become **wholly exempt**, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi- finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in **his electronic credit ledger shall lapse**.

(d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock **relatable to such exempt supply** and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

Rule 44. Manner of reversal of credit under special circumstances.-

(1) **The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18 or sub-section (5) of section 29,** be determined in the following manner, namely,-

- (a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;
- (b) for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.

Illustration:

Capital goods have been in use for 4 years, 6 month and 15 days.

The useful remaining life in months= 5 months ignoring a part of the month

Applicability of Sec. 14 – Supply of goods

- Sec. 12(2)(a) – Date of issue of invoice or last date on which invoice is required to be issued (Sec. 31(1))
- Notification No. 66/2017-Central Tax, dated 15-11-2017, issued in exercise of powers u/s 148
- the Central Government, on the recommendations of the Council, hereby notifies the registered person who did not opt for the composition levy under section 10 of the said Act [, other than the registered person making supply of specified actionable claims as defined in clause (102A) of section 2 of the said Act,] as the class of persons who shall pay the central tax on the outward supply of goods at the time of supply as specified in clause (a) of sub-section (2) of section 12 of the said Act including in the situations attracting the provisions of section 14 of the said Act, and shall accordingly furnish the details and returns as mentioned in Chapter IX of the said Act and the rules made thereunder and the period prescribed for the payment of tax by such class of registered persons shall be such as specified in the said Act

Hotel sector – Impact on the ITC

- 4.Explanation.—for the purposes of this notification,—
- (iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,—
- (a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and
- (b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central goods and Services tax act, 2017 and the rules made there-under.

Automobile sector – Abolition of cess and the impact

- Notification No. 02/2025-Compensation Cess (Rate) dt. 17.09.2025, effective from 22.09.2025, has substituted the cess rate entry with “Nil” in Notification No. 1/2027 Compensation Cess (Rate) dt. 28.06.2017.
- Notification No. 09/2025-CT (Rate) has increased the rate of GST on certain types of vehicles, which earlier attracted Cess.
- Utilisation of cess to discharge GST
- Cellular Operators Association of India vs. Union of India 2018(14)G.S.T.L.522(Del.) • Special Leave to Appeal(C)No(s).20273/2018 pending before the Apex Court
- Reversal of the cess balance as on 21.09.2025 or Payment of the cess on the unsold inventory as on 21.09.2025
- Whether Sec.18(4) can apply? • Whether Sec.17(2) can apply?
- How will the mechanism of Rule 42 apply w.e.f.22.09.2025?

Reversal -Cess

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Section 11. Other provisions relating to cess.

(1) The provisions of the Central Goods and Services Tax Act, and the rules made there under, including those relating to ***assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, as far as may be, mutatis mutandis***, apply, in relation to the levy and collection of the cess leviable under section 8 on the intra-State supply of goods and services, as they apply in relation to the levy and collection of central tax on such intra-State supplies under the said Act or the rules made there under.

(2) The provisions of the Integrated Goods and Services Tax Act, ***and the rules made there under, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, mutatis mutandis, apply*** in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-State supplies under the said Act or the rules made there under:

Provided that the input tax credit in respect of cess on supply of goods and services leviable under section 8, shall be utilised only towards payment of said cess on supply of goods and services leviable under the said section.

Section 20 of IGST Act-

Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act relating to,-

- (i) scope of supply;
- (ii) composite supply and mixed supply;
- (iii) time and value of supply;
- (iv) input tax credit;
- (v) registration;
- (vi) tax invoice, credit and debit notes;
- (vii) accounts and records;
- (viii) returns, other than late fee;
- (ix) payment of tax;
- (x) tax deduction at source;
- (xi) collection of tax at source;
- (xii) assessment;

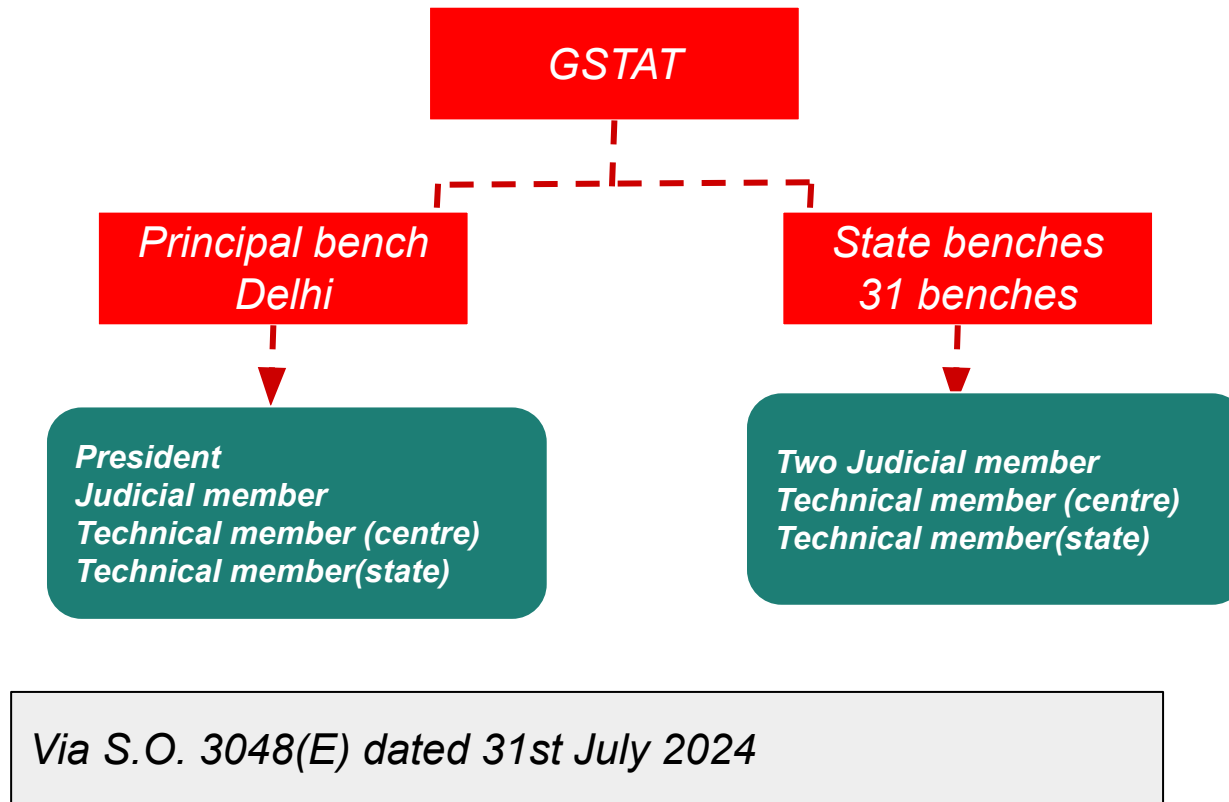
(xiii) refunds;
(xiv) audit;
(xv) inspection, search, seizure and arrest;
(xvi) demands and recovery;
(xvii) liability to pay in certain cases;
(xviii) advance ruling;
(xix) appeals and revision;
(xx) presumption as to documents;
(xxi) offences and penalties;
(xxii) job work;
(xxiii) electronic commerce;
(xxiv) transitional provisions; and
(xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty, shall, **mutatis mutandis**, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act:

Intermediary

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FORMATION

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Particulars	Appellate authority	GSTAT
Nature of dispute	Any	Principal Bench- Any State bench - Any except the Place of supply
Appealable Order	Any order of Adjudicating authority	Appellate authority Order Revision Order
Pre Deposit	100% of liability admitted 10% of Tax disputed 25% of penalty in case of Detention of vehicle 10% of Only penalty orders from 1st October 2025	100% of liability admitted Additional 10%
Timeline	3 month plus 1 month condonation	3 month plus 3 month
Fees	Nil	1% of Tax/ITC upto Rs. 25000

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Particulars	Appellate authority	GSTAT
Fees	Nil	1% of Tax/ITC upto Rs. 25000
Time limit	No time limit	From date of filing appeal- 1year From the date of hearing - 30 days
Refusal of appeal for non payment of pre deposit	No	Not possible although it was possible in erstwhile taxation regime. Can't be uploaded without pre deposit.
Limit for appeal	NA	
Rectification of errors	No fees	No fees , within 3 months (Sec 113)
President	NA	Judge of SC of chief justice of a high court

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Example to calculate the time limit for filing of appeal- Computation of time limit

Example-

Date of communication of order- 1st March

Date of Tribunal coming into the force-

The day to start - Remove this as per rule 3

Time limit is =

Format and contents of appeal form

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Rule 18-

- *Cause title to state "In the goods and services tax appellate tribunal"*
- *Para numbered*
- *Details of parties*
- *Parties shall be numbered consecutively*

Rule 20- Grounds of appeal

- *In distinct headings*
- *Separately numbered*
- *Grounds should be typed at the double spacing*
- *A4 size*
- *Duly indexed*
- *Signed*
- *Certified true copy*