

ATHENA NEWSLETTER



GST 10-point Series

A quick and efficient mode to understand important aspects of the biggest tax reform in India

2016/ Issue 2

01

LEVY OF GST

*Article 265 of the Constitution of India mandates that no tax shall be **levied or collected** except by the authority of law. Charging section is a must in any taxing statute for the purpose of **levy** and collection of tax."*

02

Article 246A of the 122nd Constitution Amendment Bill, 2014 ("the Bill"), empowers Parliament and the legislature of every state, to make laws with respect to Goods and Services Tax imposed by the Union or by such State.

03

Article 269A of the Bill empowers

The Parliament to levy and collect Goods and Services tax on supplies in the course of inter-State trade or Commerce

04

It has been specified in Article 246A(2) of the Bill, that the Parliament has exclusive power to make laws with respect to Goods and Services Tax where the supply takes place in the course of inter-State trade or commerce. Thus State Governments cannot levy tax or make any law for charging tax on the inter-state supplies.

05

Accordingly, Section 7 of the draft Central Goods and Services Tax Act ("CGST Act")/ State Goods and Services Tax Act ("SGST Act") and Section 4 of the draft Integrated Goods and Services Tax Act ("IGST Act") has been framed.

06

Section 7 is the charging section for imposition of CGST and SGST on intra-State supplies of goods and services. The said section provides that:

- ☑ CGST/ SGST shall be levied on all intra-State supplies
- ☑ of goods and services
- ☑ at the rate specified in schedule
- ☑ and collected in such manner as may be prescribed

07

Thus in case of intra-state supplies of goods and/ or services following taxes would be imposed simultaneously:

- ☑ CGST by Union Parliament; and
- ☑ SGST by State Government

08

Meaning of intra-State supplies of goods and/ or services is explained in **Section 3A of the IGST Act**. As per the said section,

intra-state supply means a supply where location of the supplier and place of supply are in the same state

09

On the other hand **Section 4 of the IGST Act** is the charging Section for levy of tax (called the Integrated Goods and Services Tax) on all supplies of goods and/ or services, made in the course of Inter-State trade or commerce.

10

Meaning of inter-state supply of goods and/ or services is explained in Section 3 of the IGST Act. As per the said section,

inter-state supply means a supply where location of supplier and the place of supply are in different states

ABOUT THIS PUBLICATION

This publication forms part of 10-point series by Athena Law Associates, to help readers quickly understand key provisions of the Model Goods & Services Tax (GST) law proposed to be implemented in India, starting April 2017.

Refer to our website <http://www.gstlawindia.com/> or contact us for more details about this topic.

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