

**THE CONSTITUTION (ONE HUNDRED AND FIFTEENTH
AMENDMENT) BILL, 2011**

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BILL

Further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-second year of the Republic of India as follows: -

Short title and commencement.-

1. (1) This Act may be called the Constitution (One Hundred and Fifteenth Amendment) Act, 2011.

(2) It shall come into force on such date as the Central Government may by Notification in the official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Insertion of new article 246A:

2. After article 246 of the Constitution, the following article shall be inserted, namely: -

Special provision with respect to goods and service taxes:

'246A. Notwithstanding anything contained in articles 246 and 254, Parliament and the Legislature of every State have power to make laws with respect to goods and services tax imposed by the Union or by that State respectively:

Provided that Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation.- For the purpose of this article, "State" includes a Union territory with Legislature.'

Amendment of Article 248:

3. In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.

Amendment of Article 249:

4. In article 249 of the Constitution, in clause (1), after the words "with respect to", the words "goods and services tax or" shall be inserted.

Amendment of Article 250:

5. In article 250 of the Constitution, in clause (1), after the words "with respect to", 10 the words "goods and services tax or" shall be inserted.

Amendment of Article 268:

6. In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.

Amendment of Article 268A:

7. Article 268A of the Constitution [as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003] shall be omitted.

Amendment of Article 269:

8. In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.

Amendment of Article 269A:

9. After article 269 of the Constitution, the following article shall be inserted, namely: -

'269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be prescribed by Parliament by law.

Explanation I. - For the purposes of this clause, supply of goods or of services or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

Explanation II. - For the purpose of this article, "State" includes a Union territory with Legislature.

(2) Parliament may, by law, formulate the principles for determining when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.'

Amendment of article 270:

10. In article 270 of the Constitution,-

(i) in clause (1), for the words, figures and letter "articles 268, 268A and 269", the words, figures and letter "articles 268, 269 and 269A" shall be substituted;

(ii) after clause (1), the following clause shall be inserted, namely: -

"(IA) Goods and services tax levied and collected by the Government of India shall also be distributed between the Union and the States in the manner provided in clause (2).".

Amendment of article 271:

11. In article 271 of the Constitution, after the words "in those articles", the words "except the goods and services tax" shall be inserted.

Insertion of new articles 279A and 279B:

12. After article 279 of the Constitution, the following articles shall be inserted, 40 namely:-

Goods and Services Tax Council:

'279A. (1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and Fifteenth Amendment) Act, 2011, by order, constitute a Council to be called the Goods and Services Tax Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely:-

(a) the Union Finance Minister Chairperson;

(b) the Union Minister of State in charge of Revenue Member;

(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government Members.

(3) The Members of the Goods and Services Tax Council referred to in sub clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on-

(a) the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed in the goods and services tax;

(b) the goods and services that may be subjected to or exempted from the goods and services tax;

(c) the threshold limit of turnover below which goods and services tax may be exempted;

(d) the rates of goods and services tax; and

(e) any other matter relating to the goods and services tax, as the Council may decide.

(5) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(6) One-third of the total number of members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(7) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(8) Every decision of the Goods and Services Tax Council taken at a meeting shall be with the consensus of all the members present at the meeting.

(9) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of -

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a Member of the Council; or

(c) any irregularity in the procedure of the Council not affecting the merits of the case.

Explanation.- For the purposes of this article, "State" includes a Union territory with Legislature.

Goods and Services Tax Dispute Settlement Authority:

279B. (1) Parliament may, by law, provide for the establishment of a Goods and Services Tax Dispute Settlement Authority to adjudicate any dispute or complaint referred to it by a State Government or the Government of India arising out of a deviation from any of the recommendations of the Goods and Services Tax Council constituted under article 279A that results in a loss of revenue to a State Government or the Government of India or affects the harmonised structure of the goods and services tax.

(2) The Goods and Services Tax Dispute Settlement Authority shall consist of a Chairperson and two other members.

(3) The Chairperson of the Goods and Services Tax Dispute Settlement Authority shall be a person who has been, Judge of the Supreme Court or Chief Justice of a High Court to be appointed by the President on the recommendation of the Chief Justice of India.

(4) The two other members of the Goods and Services Tax Dispute Settlement Authority shall be persons of proven capacity and expertise in the field of law, economics or public affairs to be appointed by the President on the recommendation of the Goods and Services Tax Council.

(5) The Goods and Services Tax Dispute Settlement Authority shall pass suitable orders including interim orders.

(6) A law made under clause (1) may specify the powers which may be exercised by the Goods and Services Tax Dispute Settlement Authority and provide for the procedure to be followed by it.

(7) Notwithstanding anything in this Constitution, Parliament may by law provide that no Court other than the Supreme Court shall exercise jurisdiction in respect of any such adjudication or dispute or complaint as is referred to in clause (1).

Explanation. - For the purpose of this article, "State" includes a Union territory with Legislature.'

Amendment of article 286:

13. In article 286 of the Constitution,-

(i) in clause (1),-

(A) for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of services or both, where such supply takes place" shall be substituted;

(B) in sub-clause (b), for the word "goods", at both the places where it occurs, the words "goods or services or both" shall be substituted;

(ii) in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted;

(iii) for clause (3), the following clauses shall be substituted, namely:-

"(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of tax as Parliament may by law specify.

(4) Nothing in clause (3) shall apply to a law of a State insofar as it imposes or authorises the imposition of goods and services tax."

Amendment of article 366:

14. In article 366 of the Constitution,-

(i) after clause (12), the following clause shall be inserted, namely: -

'(12A) "goods and services tax" means any tax on supply of goods or services or both except taxes on the supply of the following goods, namely: -

(i) petroleum crude;

(ii) high speed diesel;

(iii) motor spirit (commonly known as petrol);

(iv) natural gas;

(v) aviation turbine fuel; and

(vi) alcoholic liquor for human consumption.';

(ii) clause (29A) shall be omitted.

Amendment of article 368:

15. In article 368 of the Constitution, in clause (2), in the proviso, in clause (a), for the words and figures "article 162 or article 241 ", the words, figures and letters "article 162, article 241, article 279A or article 279B" shall be substituted.

Amendment of Sixth Schedule:

16. In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph. (3),-

(i) in clause (e), the word "and" occurring at the end shall be omitted;

(ii) in clause (d) , the word "and" shall be inserted at the end;

(iii) after clause (d), the following clause shall-be inserted, namely: -

"(e) taxes on entertainment and amusements."

Amendment of Seventh Schedule:

17. In the Seventh Schedule to the Constitution,-

(a) in List I - Union List,-

(i) for entry 84, the following entry shall be substituted, namely: -

"84. Duties of excise on the following goods' manufactured or produced in India, namely: -

- (a) petroleum crude;
- (b) high speed diesel;
- (c) motor spirit (commonly known as petrol);
- (d) natural gas;
- (e) aviation turbine fuel; and
- (j) tobacco and tobacco products.";

(ii) entries 92 and 92C shall be omitted;

(b) in List II - State List, -

(i) for entry 52, the following entry shall be substituted, namely: -

"52. Taxes on the entry of goods into a local area for consumption, use or sale therein to the extent levied and collected by a Panchayat or a Municipality.";

(ii) for entry 54, the following entry shall be substituted, namely:

"54. Taxes on the sale, other than sale in the course of inter-State trade or commerce or sale in the course of international trade and commerce of, petroleum crude, high speed diesel, natural gas, motor spirit (commonly known as petrol), aviation turbine fuel and alcoholic liquor for human consumption.";

(iii) entry 55 shall be omitted;

(iv) for entry 62, the following entry shall be substituted, namely:

"62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.".

Transitional provision:

18. Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.

Power of the President to remove difficulties:

19. (1) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution or law, as appear to

the President to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of three years from the date of such assent.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament.