



The Institute of Chartered Accountants of India

GST & Indirect Taxes Committee

GOODS & SERVICES TAX UPDATE-197

The Integrated Goods and Services Tax (Amendment) Bill, 2023 seeks to make certain amendments in the IGST Act, 2017 to give effect to the recommendations made by the GST Council regarding taxability of online gaming. The proposed amendments are given hereunder:

1. Insertion of new section 14A: Special provision for specified actionable claims supplied by a person located outside the taxable territory

A new section 14A is proposed to be inserted to provide as under:

- (i) A supplier of online money gaming located in a non-taxable territory shall be liable to pay IGST on the supply of online gaming by him to a person in taxable territory.
- (ii) Such supplier shall obtain a single registration under the Simplified Registration Scheme as referred to in section 14(2).
- (iii) If any person located in the taxable territory is representing such supplier for any purpose in the taxable territory, then such person shall get registered and pay the IGST on behalf of the supplier. If the supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, then he shall appoint a person in the taxable territory for the purpose of paying IGST and such person shall be liable for payment of such tax.
- (iv) Failure to comply with above provisions by the supplier of the online money gaming or a person appointed by such supplier or both, notwithstanding anything contained in section 69A of the Information Technology Act, 2000, any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such supplier shall be liable to be blocked for access by the public in such manner as specified in the said Act.

2. Amendment in section 2(17) (Online information and database access or retrieval services)

Sub-clause (vii) of clause (17) is proposed to be amended to exclude online money gaming as defined in section 2(80) of the CGST Act, 2017, from the scope of online information

and database access or retrieval services.

3. Amendment in section 5 (Levy and collection)

Section 5 is proposed to be amended to provide that the IGST on goods *other than the goods as may be notified by the Government on the recommendations of the Council* imported in to India shall be levied and collected in accordance with the provisions of section 3 of the Custom Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

Thus, in case of import of such notified goods IGST shall not be levied in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 read with section 12 of the Customs Act, 1962 but shall be levied and collected as inter-State supply as per the provisions of section 5(1).

4. Amendment in section 10 (Place of supply of goods other than supply of goods imported into, or exported from India)

A new clause (ca) is proposed to be inserted in section 10(1) to provide that where the supply of goods is made to an unregistered person, the place of supply shall be the location of the said person as recorded in the invoice and the location of the supplier where the address of the said person is not recorded in the invoice.

Further, the explanation to the clause clarifies that recording of the name of State of the said person in the invoice shall be deemed to be recording of the address of the said person.

[IGST \(Amendment\) Bill, 2023](#)

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