Decriminalisation of Offences under GST

Why in news?

The 48th GST Council meeting chaired by Finance Minister Nirmala Sitharaman recommended to decriminalise certain offences under Section 132 of the Central Goods and Services Tax (CGST) Act, 2017.

What is the need for criminalizing offences under GST?

- There has been a significant increase in tax evasion, with numerous cases of taxpayers using multiple strategies to avoid indirect tax.
- Tax authorities are actively using technology and data from e-way bills and GST returns to check evasion.
- The GST law establishes stringent penalties to ensure smooth intrastate or interstate trade of goods and to combat corruption and maintain an effective tax collection system.

What was previously criminalised under GST?

- The GST Law provides for two different types of penalties which may be both concurrent and simultaneous.
- **Fines** - The department authorities have the authority to impose monetary fines and the seizure of goods as penalties for violating statutory provisions.
- **Imprisonment and fines** - Criminal penalties include imprisonment and fines which can only be awarded in a criminal court following a prosecution.
- The amount of tax evaded, the amount of Input Tax Credit (ITC) improperly claimed or used, or the amount of refund improperly claimed determines the length of the prison sentence.
- The offences are also divided into cognisable and bailable and those that are not cognisable and bailable.
- Certain offences like tax evasion, fraud etc. under GST law also attract IPC and CrPC provisions.
- Up to a fraud of 2 crore rupees [now 5 crore rupees, after CGST (Amendment) Act, 2018], no arrest is made.

What about decriminalising the GST offences?

Recommendations for decriminalisation

- The 48th GST Council meeting has recommended measures such as
    - Raising the minimum threshold of tax amount for launching prosecution under GST from 1 crore to 2 crore with exceptions
    - Reducing the compounding amount from the present range of 50 to 150% of the

tax amount to the range of 25 to 100%
    - Decriminalising certain offences specified under the CGST Act, such as preventing any officer from doing his duties, deliberate tempering of material evidence, failure to supply information, etc.
- If decriminalisation of GST offences are implemented, then prosecution, arrest and imprisonment in GST cases would only be in the rarest of rare cases of hard, habitual, deliberate defaulters.

Recommendations to facilitate trade

- The Council recommended prescribing the procedure for filing application of refund by the unregistered buyers.
- The GST Council had also granted in-principle approval for allowing unregistered suppliers and composition taxpayers to make intra-state supply of goods through E-Commerce Operators (ECOs).
- The Council approved the amendments in the GST Act and GST Rules.
- Other recommendation includes facilitating e-commerce for micro enterprises.

Quick facts

GST Council

- As per **Article 279A**, the GST Council which will be a joint forum of the Centre and the States, shall consist of the following members:
    - **Chairperson** - Union Finance Minister
    - **Members** - The Union Minister of State, in-charge of Revenue of finance, Minister In-charge of finance or taxation or any other Minister nominated by each State Government
- As per Article 279A (4), the Council will make recommendations to the Union and the States on important issues related to GST, like exemptions from GST, model GST Laws, etc.

References

1. The Hindu |Decriminalisation of offences under GST

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