Lakshmikumaran & Sridharan attorneys

L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

L&S GST Update
No. 15 of 2016
20th September 2016

Constitution Amendment Act, 2016 on GST – Amendments effective 16-9-2016

Central Government notifies 16th September, 2016 as appointed date for GST related amendments in Constitution of India

- The Ministry of Finance (Department of Revenue) has by Notification S.O. 2986(E), dated 16-9-2016 notified that all the provisions of the Constitution (One Hundred and First Amendment) Act, 2016, except Section 12, shall come into force from 16th of September 2016.

- This notification issued exercising powers of sub-section (2) of Section 1 of the said Act, appoints 16-9-2016 as the date on which the provisions of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19 and 20 of the said Act have come into force.

Some of the important amendments are :

- **New Article 246A**
  - Parliament and the State Legislatures empowered to make laws with respect to GST imposed by the Union or such States.
  - Parliament has exclusive power to enact laws with respect to GST when supply of goods or services or both takes place, in the course of inter-State trade or commerce (IGST).

- **New Article 269A**
  - GST on supplies in the course of inter-State trade or commerce to be levied and collected by Central Government (IGST).
  - IGST collected by Central Government shall be apportioned between the Centre and the States.
  - Supply of goods or services or both in the course of imports will be deemed as inter-State supply and subjected to IGST.
  - Parliament may formulate principles for determining place of supply.

- **New clause (12A) in Article 366**
  - ‘Goods and Services tax’ to mean any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.
- **New clause (26A) in Article 366**
  - ‘Services’ to mean anything other than goods.
- **Seventh Schedule of the Constitution – List I - Union List amended**
  - Entry 84 in Union List amended to provide for duties of excise on crude petroleum, high speed diesel, motor spirit (petrol), natural gas, aviation turbine fuel and tobacco and tobacco products. *This implies that excise duty on other goods may be covered under Entry 97*.
  - Entry 92 dealing with taxes on sale or purchase of newspapers and on advertisements omitted.
  - Entry 92C on taxes on services omitted. *This entry was never brought into force and service tax is covered under Entry 97*.

- **Seventh Schedule of the Constitution – List II – State List amended**
  - Entry 52 dealing with Entry Tax, omitted
  - Entry 54 on taxes on sale or purchase of goods (other than newspapers) substituted to provide for taxes on sale of crude petroleum, high speed diesel, motor spirit (petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption but excluding inter-State sale or sale in the course of international trade or commerce of such goods.
  - Entry 55 stands omitted. This dealt with taxes on advertisements other than those in newspapers and advertisements broadcast by ratio or television.
  - Entry 62, before amendment, dealt with luxury tax and entertainment tax including taxes on amusements, betting and gambling. This entry has been substituted to provide for taxes on entertainments and amusements to the extent levied and collected by local bodies.

- **Transitional Provisions**

  (Section 19 of the Constitution Amendment Act)

  – Existing laws on tax on goods or services or both in force in States will continue to be in force till one year from commencement, if not repealed/amended earlier.
  – *This implies that Goods & Services Tax has to be implemented within one year from the date of this notification*.

- **New Article 279A**
  – Section 12 of the Constitution Amendment Act, came into force from 12th of September, 2016 by way of Notification No. 2915(E), dated 10-9-2016.
  – Section 12 inserts new Article 279A in the Constitution of India and this Article provides for constitution, composition and functions of Goods & Services Tax Council.
  – The President of India exercising his powers conferred by said Section has issued an Order dated 15-9-2016 so as to constitute GST Council.

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