Decriminalisation of offences under GST

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What's in today's article?

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Why in News?

- The 48th GST Council, chaired by the finance minister recommended decriminalising certain offences under Section 132 of the Central Goods and Services Tax (CGST) Act, 2017, which provides for the levy of the CGST.
- Some other recommendations, for the facilitation of trade, include an increased threshold of the amount of tax for prosecution, reducing the compounding amount in GST, etc.

What is the Goods and Services Tax (GST)?

- It is an indirect tax, that came into effect from 1 July 2017 through the implementation of the **101st Amendment to the Constitution of India** by the Indian government.
- It has actually replaced various indirect taxes such as – service taxes, VAT, excise and others in the country.
- It is levied on the manufacturer or seller of goods and the providers of services.
- It is divided into five different tax slabs for collection of tax – **0%, 5%, 12%, 18% and 28%.**
- **Types of GST:** State Goods and Services Tax (SGST), Central Goods and Services Tax (CGST) and the Integrated Goods and Services Tax (IGST).

What is GST Council?

- **Article 279A** of the Indian Constitution gives power to the President of India to constitute a joint forum of the Centre and States called the GST Council, consisting of –
    - Union Finance Minister – **Chairperson**
    - The Union Minister of State, in-charge of Revenue of finance – **Member**
    - The Minister in-charge of finance or taxation or any other Minister nominated by each State Government – **Members**
- The GST Council is an apex committee to modify, reconcile or to make recommendations to the Union and the States on GST, like the goods and services that may be subjected or exempted from GST, model GST laws, etc.
- Decisions in the GST Council are taken by a majority of not less than three-fourth of weighted votes cast.
    - **Centre** has one-third weightage of the total votes cast and **all the states taken together** have two-third of weightage of the total votes cast.
    - All decisions taken by the GST Council have been arrived at through **consensus**.

Criminalisation of offences under GST:

- **Need:**
    - Since the implementation of GST, there has been a significant increase in tax evasion, with taxpayers using a variety of techniques to evade the discovery of 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 and guidelines that taxpayers must abide by to ensure smooth intrastate or interstate trade of goods and to combat corruption and maintain an effective tax collection system.
- **Two different types of penalties under GST law:** They may be both concurrent and simultaneous –

    - The department authorities have the authority to impose monetary fines and the seizure of goods as penalties for violating statutory provisions.
    - **Criminal penalties** include imprisonment and fines, which are also provided by GST Law but 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.**
    - Sections 122 to 131 of the CGST Act of 2017 contain provisions relating to penalties, while Sections 132 to 138 contains provisions relating to prosecution and compounding.
    - The aforementioned section further divides offences into those that are cognisable and bailable and those that are not cognisable and bailable.

News Summary:

- **Need to decriminalise offences:** The GST law is **still developing and is in its infancy.** As a result, it is critical to recognise that applying penal measures in an unclear ecosystem influences the ability of firms to conduct business**.**
- The 48th GST Council meeting has recommended measures such as –
    - **Raising the minimum threshold** of tax amount for launching prosecution under GST from one to two crore.
    - **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** under Section 132 of the CGST Act, 2017, such as preventing any officer from doing his duties, deliberate tempering of material evidence and failure to supply information.
    - **Other recommendations** include refunding unregistered persons and facilitating e-commerce for micro enterprises.
- **Possible impacts:**
    - Prosecution, arrest and imprisonment in GST cases would only be in the rarest of rare cases.
    - It will promote ease of doing business.

Q1) Is GST Council a constitutional body?

Yes. GST Council is a constitutional body under Article 279A of the Indian Constitution.

Q2) What are the 4 types of GST?

The types of GST in India are Central Goods and Services Tax State Goods and Services Tax, Union Territory Goods and Services Tax, and Integrated Goods and Services Tax.

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