

GSTAT Coalition India welcomes the setting up of the GST Appellate Tribunal with the passage of the Finance Act, 2023

Press Release - April 10, 2023 - Bengaluru, India.

The [Coalition for the Goods and Service Tax Appellate Tribunal \(GSTAT\)](#) welcomes the passing of the Finance Act, 2023 by Parliament. The passage of the Act has implemented the report of the Group of Ministers on the GST Appellate Tribunal with certain modifications. This adoption of the report was outlined in the [press release of the GST Council dated February 18, 2023](#).

The setting up of the GSTAT as a single national institution with benches across the country composed of an equal number of judicial and technical members is a positive development and we commend all the GST Council members for having reached this agreement. We request the GST Council to consider the following aspects in its future deliberations:

1. As per the amendments to the CGST Act, all cases that include “*place of supply*” as one of the questions will be heard only by the Principal Bench at New Delhi (newly inserted Section 109(5) of the CGST Act) and appeals against orders of the Principal Bench can be filed only with the Supreme Court (amendment to Section 118).
 - (a). Allowing for appeals to be filed only at the Supreme Court would help in the certainty of tax positions and potentially faster resolution of such disputes.
 - (a). From the perspective of access to litigants, this will require robust infrastructure, enablement in the to-be-drafted GSTAT Rules, and strict monitoring of how virtual hearings are being adopted by practitioners and Members.
 - (a). Where an appeal filed with the GSTAT has both disputes on Place of Supply and other matters, the mechanism for the same needs to be thought through so as to not allow undue advantage to either a set of litigants, types of disputes, or the Revenue authorities from a speedy resolution perspective.
 - (a). In case there are a substantial number of disputes with a place of supply as one of the questions, the Principal Bench would be unduly burdened and consequently would impact resource allocation across GSTAT. The GST Council may have to enable state benches also to hear such matters in such a scenario.
2. A single-member bench has now been enabled (with the insertion of Section 109(5)) to hear cases where there is no question of law or the quantum of dispute is less than Rs. 50 lakhs which have been referred to it by the President. Given that what constitutes a “question of law” itself may be a question of law, and the jurisprudence and practices that have evolved at High Courts and tribunals in this regard, we expect that this would lead to procedural delays. We recommend that the monetary threshold should be the only factor in determining cases that could be referred to a single-member bench.

3. Members should not be able to come back to the parent cadre after GSTAT as this blurs the line between executive and judiciary. This will need to be made clear in the to-be-drafted GSTAT Rules at both the Union and state levels.
4. The circumscription of Administrative and Financial Powers of the President of the GSTAT is welcome (under the newly inserted Section 114). We believe this is critical for the institutional design of the GSTAT and await further clarity on how this will be operationalised.

“The response of the GST Council and the Union Government to this issue has been exemplary. We urge the states to complete the process of amending the state GST laws at the earliest. With this, the next steps required to operationalise the GSTAT can be initiated, including the setting up of a search-cum-selection committee and the technology architecture for a digitally native institution. Only the Principal Bench at New Delhi being granted jurisdiction to hear appeals on questions relating to place of supply is a mixed bag and would require thinking through systemic impact over the medium term.”, said Surya Prakash B.S., Convenor, GSTAT Coalition.

About the Coalition:

The Coalition for the Goods and Services Tax Appellate Tribunal in India (‘GSTAT Coalition India’) is convened by DAKSH, Bangalore and brings together domain experts from the field of law, economics, chartered accountancy, public policy and civil service to advocate for the speedy constitution of, and develop an inclusive and shared imagination of a modern digital Goods and Services Tax Appellate Tribunal (‘GSTAT’) in India. Our previous work in this regard has been [Concept Note of May 2022](#), [Joint Note of November 2022](#) and [A Note on GSTAT: State Level vs National Level of February 2023](#).

The members of the Coalition are:

- Ajit Ranade, Vice Chancellor, Gokhale Institute of Politics and Economics (GIPE), Pune;
- Najib Shah, IRS(ret'd.), former Chairperson, Central Board of Excise and Customs, Bengaluru;
- Prakash Kumar, IAS (ret'd.), formerly CEO of Goods and Service Tax Network (GSTN), New Delhi;
- Dr Harish Narasappa, Senior Advocate and CoFounder, DAKSH, Bengaluru;
- Jatin Christopher, Partner, JCSS, Bengaluru;
- L. Badri Narayanan, ExecutivePartner, Lakshmikumaran and Sridharan, New Delhi;
- Manish Mishra, Partner, Jyoti Sagar and Associates, Gurgaon;
- Charanya L., Partner, Lakshmikumaran and Sridharan, New Delhi;
- Bimal Jain, Chairman of Indirect Taxes & GST Committee of PHD Chamber of Commerce, New Delhi;
- Vivek Jalan, Chairman, Fiscal Affairs And Taxation Committee, The Bengal Chamber of Commerce & Industry, Kolkata;
- Jatin Harjai, Leader at JHA Legal, Jaipur;

- Tejasvi Gupta, Manager at NASSCOM: Public policy and Government Liasioning, New Delhi; and
- Surya Prakash B.S., Programme Director, DAKSH, Bengaluru

The Coalition has been convened by DAKSH (www.dakshindia.org), a civil society organisation working on law and justice system reforms, and accountability and transparency of institutions.

For more information about GST Coalition India and its work, please visit our website or contact: Mr Surya Prakash, B.S., Convener, GSTAT Coalition India at surya@dakshindia.org.