THE GOODS AND SERVICES TAX (COMPENSATION TO ~~THE~~ STATES ~~FOR LOSS OF REVENUE~~) BILL, 2017

~~(No. __ of 2017)~~

~~[__th _____, 2017]~~

A Bill to provide for compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax ~~for a period~~ in pursuance of the provisions of ~~five years as per Section 18 of The~~ the Constitution (One Hundred and First Amendment) Act, 2016.

BE it enacted by Parliament in the Sixty-~~seventh~~ eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. SHORT TITLE, EXTENT AND COMMENCEMENT.

(1) This Act may be called the Goods and Services Tax (Compensation to the States ~~for Loss of Revenue~~) Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint ~~in this behalf~~.

2. DEFINITIONS.

(1) In this Act, unless the context otherwise requires,––

~~(1) "base year" shall have the meaning assigned to it in section 4;~~

~~(2) "base year revenue" shall have the meaning assigned to it in section 5;~~

(a) "central tax" means the central goods and services tax levied and collected under the Central Goods and Services Tax Act;

(b) "Central Goods and Services Tax Act" means the Central Goods and Services Tax Act, 2017;

(c) "cess" means the goods and services tax compensation cess levied under section 8;

(d) "compensation" means an amount, in the form of goods and services tax compensation, as determined under section 0;

~~(3) "Compensation Fund" means a non-lapsable fund in the Public Account, created for the purpose of compensation to the States for loss of revenue arising on account of~~

~~implementation of the goods and services tax for the transition period and funded through levy of cess and such other revenue as the Council may decide.~~

~~(4) "earlier law" shall have the meaning assigned to it in the State Goods and Services Tax Act of the respective State;~~

(e) "Council" means Goods and Services Tax Council ~~established as per the Article~~ constituted under the provisions of article 279A of the Constitution;

~~(5) "Goods and Services Tax Compensation Cess"means the cess levied under section8;~~

(f) "Fund" means the Goods and Services Tax Compensation Fund ~~shall have the meaning assigned to it~~ referred to in section 10;

(g) "input tax" in relation to a taxable person ~~under this Act, means the Goods and Services Tax Compensation Cess~~, means, --

(i) cess charged on any supply of goods or services or both made to him;

(ii) cess charged on ~~any supply of goods and/or services to him, Goods and Services Tax Compensation Cesscharged on~~ import of goods; and

(iii) includes the ~~Goods and Services Tax Compensation Cess~~ cess payable on reverse charge basis;

~~(5) "input tax credit" means credit of 'input tax' as defined in section 2(9);~~

(h) "Integrated Goods and Services Tax Act" means the Integrated Goods and Services Tax Act, 2017;

(i) "integrated tax" means the integrated goods and services tax levied and collected under the Integrated Goods and Services Tax Act;

(j) "prescribed" means prescribed by rules made this Act;

(k) "projected growth rate" means the rate of growth projected for the transition period as per section 0;

~~(6) "projected revenue" shall have the meaning assigned to it in section 6;~~

(l) "State" shall include –

(i) for the purposes of sections 3, 4, 5, 6 and 7, the States ~~mentioned in~~ and the ~~First Schedule to the Constitution~~ Union territories with Legislature mentioned in the First Schedule to the Constitution; and

(ii) for the purposes of sections ~~1,2,~~ 8, 9, 10 and 11 ~~shall have,~~ the ~~meaning~~ States as defined under the Central Goods and Services Tax Act;

~~(14) "taxable person" shall have the meaning as assigned to it in, 2016; ;~~

(m) "State tax" means the State goods and services tax levied and collected under the State Goods and Services Tax Act;

(n) "State Goods and Services Tax Act" means the law to be made by the State Legislature for levy and collection of tax by the concerned State on supply of goods or services or both;

(o) "taxable supply" means a supply of goods ~~and/~~or services or both which is chargeable to the ~~Goods and Services Tax CompensationCess~~ cess under this Act;

(p) "transition date" shall mean, in respect of any State, the date on which the State Goods and Services Tax Act of the concerned State comes into force;

(q) "transition period" means a period of five years from the transition date;

(2) The words and expressions used ~~but~~ and not defined in this Act ~~and~~ but defined in the Central Goods and Services Tax Act~~, 2016 (... of 2016),~~ and the Integrated Goods and Services Tax Act shall have the meanings respectively assigned to them in those Acts. ~~that Act, in the context of GST Compensation Cess levied on taxable supplies of goods and/or services made in the course of intra-State trade or commerce; and~~

~~(7) words and expressions used but not defined in this Act and defined in the Integrated Goods and Services Tax Act, 2016 (... of 2016) shall have the meanings respectively assigned to them in that Act, in the context of GST Compensation Cess levied on taxable supplies of goods and/or services made in the course of inter-State trade or commerce.~~

3. PROJECTED GROWTH RATE.

The projected nominal growth rate of revenue subsumed for a State during the transition period shall be ~~14%~~ fourteen per cent. per annum.

4. BASE YEAR.

For the purpose of calculating the compensation amount payable in any financial year during the transition period, the financial year ending the 31st March, 2016 ~~will~~ shall be taken as the base year.

5. BASE YEAR REVENUE.

(1) Subject to the provision of sub-sections (2), (3) (4) and (5), the base year revenue for a State shall be the sum of the revenue collected by the State and the local bodies during the base year, on account of the taxes levied by the respective State or ~~Centre,~~ Union and net of refunds, with respect to the following taxes, imposed by the respective State or ~~Centre~~ Union, which are subsumed into goods and services tax~~:~~, namely:--

(a) the value added tax, sales tax, purchase tax, tax collected on works contract, or any other tax levied by the concerned State under the erstwhile Entry 54 of List-II (State List) of the Seventh Schedule to the Constitution~~, prior to bringing into effect the provisions of the Constitution (One Hundred and First Amendment) Act, 2016~~;

(b) the Central sales tax levied under the Central Sales Tax Act, 1956;

(c) the entry tax, octroi, local body tax or any other tax levied by the concerned State under the erstwhile Entry 52 of List-II (State List) of the Seventh Schedule to the Constitution~~, prior to bringing into effect the provisions of the Constitution (One Hundred and First Amendment) Act, 2016~~;

(d) the taxes on luxuries, including taxes on entertainments, amusements, betting and gambling or any other tax levied by the concerned State under the erstwhile Entry 62 of List-II (State List) of the Seventh Schedule to the

Constitution~~, prior to bringing into effect the provisions of the Constitution (One Hundred and First Amendment) Act, 2016~~;

(e) the taxes on advertisement or any other tax levied by the concerned State under the erstwhile Entry 55 of List-II (State List) of the Seventh Schedule to the Constitution~~, prior to bringing into effect the provisions of the Constitution (One Hundred and First Amendment) Act, 2016;~~;

(f) the duties of excise on medicinal and toilet preparations levied by the Union but collected and retained by the concerned State Government under the erstwhile article 268 of the Constitution, ~~prior to bringing into effect the provisions of the Constitution (One Hundred and First Amendment) Act, 2016; and~~

(g) any cess or surcharge or fee ~~levied by the State Government under any Act which is included in the definition of 'earlier laws' as per section 2(39) of the State Goods and Services Tax Act of the concerned State. Provided that the fee referred to in section 5(1)(g) had been imposed under Entry~~ leviable under entry 66 read with entry 52, 54, 55 and 62 of ~~State List in~~ list II of the Seventh Schedule ~~of~~ to the Constitution ~~as it existed~~ by the State Government under any Act notified under sub-section (4),

prior to ~~amendment vide~~ the commencement of the provisions of the Constitution (~~101st~~One Hundred and First Amendment) Act, 2016:

~~(2) The Acts of the Central and State Governments under which the specific taxes are being subsumed into the goods and services tax shall be as notified.~~

Provided that the revenue collected during the base year in a State, net of refunds, ~~on account of~~ under the following taxes~~,~~ shall not be included in the calculation of the base year revenue for that State, namely:–

(a) any taxes levied under any Act enacted under the erstwhile entry 54 of List-II (State List) of the Seventh Schedule to the Constitution, prior to ~~bringing~~ the coming into effect of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016, on the sale or purchase of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption;

(b) any taxes levied under the Central Sales Tax Act, 1956 on the sale or purchase of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption;

(c) any cess imposed by the State Government on the sale or purchase of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption; and

(d) the entertainment tax levied by the State but collected by local bodies, under any Act enacted under the erstwhile Entry 62 of List-II (State List) of the Seventh Schedule to the Constitution, prior to ~~bringing~~ coming into effect of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.

(2) In respect of the State of Jammu and Kashmir, the base year revenue shall include the amount of ~~sales~~ tax collected on sale of services ~~collected~~ by the said State Government during the base year.

(3) In respect of the States mentioned in sub-clause (g) of clause (4) of article 279A~~(4)(g)~~ of the Constitution, the amount of revenue foregone on account of exemptions or remission given by the said State ~~Government to specific entities under the laws specified under sub-section (2)~~ Governments to promote industrial investment in the State, with respect to such specific taxes referred to in sub-section (1), would be included in the total base year revenue of the State, subject to ~~the~~ such conditions as may be prescribed.

(4) The Acts of the Central Government and State Governments under which the specific taxes are being subsumed into the goods and services tax shall be such as may be notified.

(5) The base year revenue shall be calculated as per sub-sections (1), (2) and (3), ~~(4) and (5)~~ on the basis of the figures of revenue collected and net of refunds given in that year, as audited by the Comptroller and Auditor General of India.

(6) In respect of any State, if any part of revenues mentioned in sub-sections (1), (2) and (3) are not credited in the Consolidated Fund of the respective State, the same shall be included in the total base year revenue of the State, subject to ~~the~~ such conditions as may be prescribed.

6. PROJECTED REVENUE FOR ANY YEAR.

The projected revenue for any year in a State shall be calculated by applying the projected growth rate over the base year revenue of that State.

Illustration: *If the base year revenue for 2015-16 for a concerned State, calculated as per section 5 is ~~Rs. 100~~ one hundred rupees, then the projected revenue for~~, say,~~ financial year 2018-19 shall be as follows:*

$$Projected\ Revenue\ for\ 2018-19 = 100\left(1+\frac{14}{100}\right)^{3}$$

7. CALCULATION AND RELEASE OF COMPENSATION.

(1) The ~~GST~~ compensation payable to a State shall be provisionally calculated and released ~~bi monthly,andshall~~ at the end of every two months period, and shall be finally calculated for ~~everyfinancialyear~~ every financial year after the receipt of final revenue figures, as audited by the Comptroller and Auditor General of India ~~(CAG).~~:

Provided ~~further~~ that in case any excess amount has been released as ~~GST~~ compensation to a State in any financial year during the transition period, as per the ~~CAG~~ audited figures of revenue collected, the excess amount so released shall be adjusted against the ~~GST~~ compensation amount payable to ~~the~~ such State in the subsequent financial year.

(2) The total ~~GST~~ compensation payable for any financial year during the transition period to any State shall be calculated ~~as follows:~~in the following manner, namely:––

(a) the projected revenue for any financial year during the transition period, ~~that~~ which could have accrued to a State in the absence of ~~GST~~ the goods and services tax, shall be calculated as per section 0;

(b) the actual revenue collected by a State in any financial year during the transition period would be the actual revenue from State ~~Goods and Services Taxcollected~~ tax collected by the State~~,~~ and net of refunds given by the said State under Chapters XI and XXVII of the ~~SGST Act, and the Integrated~~ State Goods and Services Tax Act, and the integrated goods and services tax apportioned to that State, as certified by the Comptroller and Auditor General of India;

(c) the total compensation payable in any financial year shall be the difference between the projected revenue for any financial year and the actual revenue collected by a State ~~as defined in sub-section (b).~~referred to in clause (b).

(3) The loss of revenue at the end of every two months period in any year for a State during the transition period shall be calculated, at the end of ~~every two months as follows:~~the said period, in the following manner, namely:––

(a) the projected revenue that could have been earned by the State in absence of ~~GST~~ the goods and services tax till the end of ~~the relevant bi monthly period~~every two months of the respective financial year would be calculated on a pro-rata basis as a percentage of the total projected revenue for any financial year during the transition period, ~~as~~ calculated ~~as per~~ in accordance with section 6.

(Illustration: *If the projected revenue for any year calculated ~~as per~~in accordance with section 6 is ~~Rs. 100,~~one hundred rupees, for calculating the projected revenue that could be earned till the end of ~~fifth bi monthly~~ the period of ten months for the purpose of this sub-section shall be 100x(5/6)=Rs. 83.33.)*

(b) the actual revenue collected by a State till the end of relevant ~~bi monthly~~ two months period in any financial year during the transition period would be the actual revenue from State ~~Goods and Services Taxcollected by~~ tax collected by the State, net of refunds given by the State under Chapters XI and XXVII of the ~~SGST~~ State Goods and Services Tax Act, including ~~Integrated Goods~~ the integrated goods and ~~Services Tax~~services tax apportioned to that State, as certified by the Principal ~~CCA (CBEC).~~ Chief Controller of Accounts of the Central Board of Excise and Customs;

(c) the provisional ~~GST~~ compensation payable to any State at the end of the ~~relevantbi monthly periodin~~ relevant two month period in any financial year shall be the difference between the projected revenue ~~for~~ till the end of the relevant period ~~as per sub-section (3)(~~in accordance with clause (a) and the actual revenue collected by a State in the said period as ~~defined~~ referred to in ~~sub-section (3)(~~clause (b), reduced by the provisional ~~GST~~ compensation paid to a State till the end of the ~~previousbi monthly periodin~~previous two months period in the said financial year during the transition period.

(4) In case of any difference between the final ~~GST~~ compensation amount payable to a State calculated ~~as per~~in accordance with the provisions of sub-section (2) upon receipt of the audited revenue figures from the ~~CAG~~Comptroller and Auditor General of India, and the

total provisional ~~GST~~ compensation amount released to a State in the said financial year ~~as per~~ in accordance with the provisions of sub-section (3), the same shall be adjusted against release of ~~GST~~ compensation to the State in the subsequent financial year.

(5) Where no compensation is due to be released in any financial year, and in case any excess amount has been released to a State in the previous year, this amount shall be refunded by the State to the Central Government and such amount shall be credited to the ~~GST Compensation~~ Fund in ~~a~~such manner as may be prescribed.

Explanation.— For the ~~purpose~~purposes of this section, the actual revenue collected would include the collection on account of ~~SGST~~State tax, net of refunds of ~~SGST~~such tax given by the State under Chapter XI of the concerned ~~SGST~~State Goods and Services Tax Act, and any collection of taxes on account of the taxes levied by the respective State under the ~~laws~~Acts specified ~~under~~ in sub-section (4) of section 5~~(2),~~ net of refunds of such taxes.

8. LEVY AND COLLECTION OF CESS.

(1) There shall be levied a cess ~~to be called the GST Compensation Cess~~ on such intra- State supplies of goods ~~and/~~or services or both, as provided for in section ~~8~~7 of the ~~CGST~~Central Goods and Services Tax Act, ~~2016,~~ and such inter-State supplies of goods~~/~~ or services or both as provided for in section 5 of the ~~IGST~~Integrated Goods and Services Tax Act, ~~2016, as may be prescribed on the recommendations of the Council~~ and collected in such manner as may be prescribed, on the recommendations of the Council, for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the ~~CGST~~provisions of Central Goods and Services Tax Act is brought into force, for a period of five years~~,~~ or for ~~any~~ such period as may be prescribed on the ~~GST~~recommendation of the Council ~~may recommend.~~:

Provided that no such cess shall be leviable ~~under this section~~ on supplies made by a taxable person who has decided to opt for composition levy under section ~~9~~8 of the ~~CGST~~Central Goods and Services Tax Act~~, 2016~~.

(2) The ~~GST Compensation~~ cess shall be levied on the basis of value, quantity ~~etc.~~ or on such basis as may be recommended by the ~~GST~~ Council.~~The GST Compensation Cess shall be levied~~ at such rate not exceeding ___ per cent as may be notified by the Central Government~~, but not exceeding .... per cent Where~~:

Provided that where the ~~GST Compensation Cess~~cess is chargeable on any supply of goods ~~and/~~or services or both with reference to their value, for each such supply ~~such value shall be on~~ the value shall be determined under section 15 of the ~~CGST~~Central Goods and Services Tax Act~~, 2016for~~ for all intra-State and inter-State ~~supplies~~supply of goods ~~and/~~or services~~.~~ or both:

Provided further that the ~~GST Compensation Cess~~cess on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 ~~(51 of 1975)~~ at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962 ~~(52 of 1962),~~ on a value determined under the ~~first mentioned~~Customs Tariff Act, 1975.

9. RETURNS, PAYMENTS AND REFUNDS.

(1) Every taxable person ~~registered under CGST Act, 2016~~, making a taxable supply of goods ~~and/~~or services or both, shall ~~–~~

(a) pay the amount of cess as payable under this Act;

(b) furnish such returns in such ~~formats, as may be prescribed~~forms, along with the returns to be filed under the Central Goods and Services Tax ~~Act, 2016, shall pay the amount payable under the Act in the manner as may be prescribed and~~ Act; and

(c) apply for refunds ~~ofcess~~of such cess paid ~~and refundable~~ in such form, ~~as may be prescribed.~~

as may be prescribed.

(2) For all purposes of furnishing of returns and claiming refunds, except for the ~~format~~form to be filed, the provisions of the Central Goods and Services Tax Act~~, 2016,~~ and the rules made ~~thereafter~~thereunder, shall, as far as may be, apply in relation to the levy and collection of the ~~cessleviable~~cess leviable under section 8 on all taxable supplies of goods ~~and/~~or services or both, as they apply in relation to the levy and collection of Central ~~Goods and Services Tax~~ tax on such supplies under the said Act or the rules made thereunder~~, as the case may be~~.

10. CREDITING PROCEEDS OF CESS TO ~~GST COMPENSATION~~ FUND.

(1) The proceeds of the ~~GST Compensation Cess~~ cess leviable under section 8 and ~~proceeds of~~ such other ~~revenue~~ revenues as may be recommended by the ~~GST~~ Council ~~may decide,~~ shall be credited to a non-lapsable fund known as the ~~GST~~Goods and Services Tax Compensation Fund ~~to be credited~~ in the ~~Public Account,~~public account and shall be utilized for purposes specified in the said section ~~8~~.

(2) All amounts payable to the States under section 7 shall be paid ~~from~~ out of the ~~Goods and Services Tax Compensation~~ Fund.

(3) Fifty ~~percent~~per cent. of the amount remaining unutilized in the ~~GST Compensation~~ Fund at the end of the transition period shall be transferred to the Consolidated Fund of India~~,~~ as ~~Centre's~~ the share of Centre, and the balance fifty ~~percent~~per cent. shall be distributed amongst the States ~~and Union Territories with or without legislature~~ in the ratio of their total revenues from ~~SGST or Union Territory GST, as the case may be~~ the State tax in the last year of the transition period.

(4) The accounts relating to Fund shall be audited by the Comptroller and Auditor General of India or any person appointed by him at such intervals as may be specified by him and any expenditure in connection with such audit shall be payable by the Central Government to the Comptroller and Auditor General of India.

~~(4)~~(5) The accounts of the Fund, as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of Parliament.

11. OTHER PROVISIONS RELATING TO CESS.

(1) The provisions of the Central Goods and Services Tax Act~~, 2016~~, and the rules made thereunder, including those relating to assessment, input tax credit ~~(subject to sub-section (3)),~~ non-levy, short-levy, interest, appeals, offences and penalties, shall, as far as may be, apply be, *mutatis mutandis*, in relation to the levy and collection of the cess leviable under section 8 on the intra-~~state~~State supply of goods and services, as they apply in relation to the levy and collection of Central ~~Goods and Services Tax~~ tax on such intra-~~state~~State supplies under the said Act or the rules made thereunder~~, as the case may be~~.

(2) The provisions of the Integrated Goods and ~~Service~~Services Tax Act~~, 2016~~, and the rules made thereunder, including those relating to assessment, input tax credit ~~(subject to sub-section (3)),~~ non-levy, short-levy, interest, appeals, offences and penalties, shall, ~~as far as may be, apply~~ *mutatis mutandis*, apply in relation to the levy and collection of the ~~cessleviable~~cess leviable under section ~~8on~~8 on the inter-~~state~~State supply of goods and services, as they apply in relation to the levy and collection of Integrated ~~Goods and Services Tax~~tax on such inter-~~state~~State supplies under the said Act or the rules made thereunder~~, as the case may be.~~:

~~(3)~~ Provided ~~further~~ that the input tax credit in respect of ~~GST Compensation Cess~~cess on supply of goods and services leviable under section 8, shall be utilized only towards payment of ~~GST Compensation Cess~~ said cess on supply of goods and services leviable under the said section.

12. POWER TO MAKE RULES.S

(1) The Central Government shall, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the conditions which were included in the total base year revenue of the States referred to in sub-clause (g) of clause (4) of article 279A of the Constitution, under sub-section (2) of section 5;
(b) the conditions which were included in the total base year revenue of any State under sub-section (4) of section 5;
(c) the amount credited to the Fund under sub-section (5) of section 9;
(d) the tax on reverse charge basis and the manner of collection of said tax under sub-section (1) of section 8;
(e) the forms for furnishing of returns under sub-section (1) of section 9; and
(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

13. LAYING OF RULES BEFORE PARLIAMENT.

Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should

not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

14. POWER TO REMOVE DIFFICULTIES

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.