

GST Council – Voting Mechanism

The 47th meeting of the GST Council was held on June 28-29, 2022 under the Chairmanship of the Finance Minister Mrs. Nirmala Sitharaman and made several recommendations to implement changes to the GST regime.

Recently, in response to a discussion while speaking in the Rajya Sabha, the Finance Minister said, “As regards, the latest 47th meeting which was held in Chandigarh, it’s a matter of record that all states agreed to the proposal. There was not even a single disagreement.”

Despite India having a complicated federal structure on Indirect taxation, the GST Council has not played a significant role in streamlining the working under the “One Nation, One Tax, One Market” theme but also has been pivotal in ensuring that all the relevant stakeholders have a common structured platform to deliberate, discuss and recommend any changes in the GST laws. And to further strengthen this resolve, the Constitution provisions governing the Council mandates that any proposal to amend any law, rule or notification needs to be approved with at-least 75% majority. So, political differences aside, no proposal or discussion can become a recommendation unless both Centre and the States agree to it.

In order to get a better understanding on it, let’s look at how the approval and voting mechanism on a proposal works in the GST Council.

The Article 279A, inserted vide The Constitution (101st Amendment) Act, 2016 deals with Goods and Service Tax Council.

Clause 2 of Article 279A states that the GST Council shall be a joint forum of the Centre and the States, consisting of Union Finance Minister as the Chairperson. The Union Minister of State, in-charge of Revenue or finance and The Minister In-charge of finance or taxation or any other Minister nominated by each State Government shall be the Members of the GST Council. The GST Council is thus equally represented by the Centre and the respective States as stakeholders.

Clause 7 of the Article 279A mentions that One-half of the total number of Members of the GST Council shall constitute the quorum at its meetings.



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Clause 9 of the Article 279A deals with the voting mechanism in the GST Council meeting. It states

- Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and
(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.

Now, let's look at how the weighted voting system works.

In terms of Clause 9 of the Article 279A, the "weighted votes of the members present and voting" in favour of a proposal in the GST Council shall be determined as under:

$$T = C + S$$

Where,

T = Total weighted votes of all members in favour of a proposal.

C = Weighted vote of the Centre = $1/3$ i.e., 33.33%

S = Weighted votes of the States in favour of a proposal.

Calculation of Weighted Vote of the Centre, C

This calculation is very easy. Where Centre is in favour of proposal, it will be $1 \times 1/3 = 1/3$ or say 33.33%. However, if Centre is not favour in proposal, the weighted vote of Centre will be $0 \times 1/3 = 0$.

Calculation of Weighted Vote of the States, S

$$S = W \times F/P$$

Where,

W = Weighted allocated to all States present and voting

i.e., i.e., $2/3$ or 66.67%

F = Number of States voting in favour of a proposal.

P = Number of States present and voting.

For example, if 24 states are present (P) and 18 states are in favour (F) of a proposal. The Weight of State (W) would be $2/3 \times 18/24 = 1/2 = 50\%$.

So, on a proposal, if Centre is also in favour, in the above example, Total Weighted Votes of all members (T) shall be 83.33% (33.33% + 50%) and the proposal shall be passed.

What will be the situation in case Centre is against the Proposal?

Every decision of the GST Council will be taken by a majority of not less than three-fourths of weighted votes (75%) of the members present and voting. The Centre's share of weight is either 33.33% (if it is in favour) or 0% (if Centre is not in favour). The minimum requirement is that three-fourth of weighted votes must be in favour of proposal. Thus, if Centre is against the proposal, then the weighted vote cannot reach 75%. Even if all the states agree to any proposal their total weight will be only 66.67%.

One may argue that the provision runs in such a manner that Centre is having a Veto Power. Without the consent of the Centre, no decision can be taken at the Council even if all States come together and agree on a proposal. Is it a case where the provision is unduly tilted in favour of the Centre or is it that the strength of voting weightage of Centre ensures that the balance is maintained? Whatever the answer may be, let's not undermine the fact that Centre is as important a stakeholder as the States are when it comes to the concurrent jurisdiction of taxation as enshrined in the Constitution. And to have a strong sounding board is very important to ensure that the laws framed are tax friendly, pragmatic and in the right earnest to push India towards 5 trillion \$ economy and beyond.

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