

# **GST HEADLINES**

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**Bid to End the Fear of Jail Time under GST Regime**

*[Source: The Economic Times]*

# Bid to end the fear of jail time under GST regime

By [Deepshikha Sikarwar](#), ET Bureau | Updated: Jan 17, 2017, 11.58 PM IST

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NEW DELHI: India is proposing to dilute the provisions of arrest under the proposed goods and services tax (GST) to ensure there is no 'raid raj' under the new tax regime.

Offences dealing with non-payment of tax or forgery of up to Rs 2 crore would be made bailable. "This issue has been discussed...The plan now is to make offence of [tax evasion](#) or forgery of up to Rs 2 crore bailable," said a senior government official privy to the deliberations of the GST Council, the apex decision-making body for the upcoming tax regime.

This means the accused will get bail immediately. That will make the provisions lighter than those in the [Indian Penal Code](#) which treat cheating or forgery as a non-bailable offence under Section 420. The move follows apprehensions raised by some states that under the proposed GST regime, tax officials may get unlimited power for prosecution and arrest, leading to harassment of businesses.



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# A Benevolent Regime

**GST evasion/**  
forgery of up to  
₹2 cr could be  
bailable offence



**Aim to make**  
provisions  
lighter than  
those in Indian  
Penal Code

**Currently,**  
cheating/  
forgery a  
non-bailable  
offence  
under IPC

**THERE'S A FEAR  
THAT OFFICIALS**  
may get unlim-  
ited prosecution  
power under GST

**PUNISHMENT  
SOUGHT FOR**  
those who  
collect tax but  
don't deposit it



**There can be interpretational  
issues because of which a  
trader may not pay tax, but he  
shouldn't be arrested**

**GOVT OFFICIAL**

There can be interpretational issues because of which a trader may not pay tax, but he should not be arrested for this," said another government official.

There is a need to relook at the provisions to ensure that there is no rampant misuse of powers at the ground level as GST would deal with small traders."



Most states do not have arrest provisions in their framework for value added tax. Under service tax rules, arrest provisions kick in for evasion of more than Rs 2 crore, while in excise, the trigger is Rs 50 lakh.

“Given that GST aims to tax small dealers and service providers, a high threshold needs to be kept for any stringent provisions of arrest to be evoked to avoid misuse and undue hardship to small taxpayers,” said Bipin Sapra, a partner at EY.

However, there is a view that there should be stringent punishment for those who collect tax but do not deposit it with the government above a certain threshold. Provisions under the existing model GST law are more inclined towards those in excise law.

Under the proposed law, offences recognised as ‘cognizable and non-bailable’ for ‘arrest’ are those where the amount of tax evaded (including wrong input tax credit and refund taken wrongly) exceeds Rs 1 crore.

These include supply of goods or services without issue of invoice or gross misdeclaration in description of supply on invoice, to intentionally evade tax, issue of invoice for supply of goods or services in violation of GST laws leading to wrongly availing credit or duty refund, collection of tax but not depositing it with the government within three months, collection of any tax in contravention of GST laws and non-payment to the government and taking or utilising input tax credit without actual receipt of goods or services.

Suitable changes would be carried out in the GST legislations to ensure that there is no misuse of such provisions, the official said.

Experts also pitch for changes to the existing provisions. “The proposed provision of arrest seems to be wider than what currently exists for service tax laws and is closer to what we have under excise ... Government should consider some measures to ensure that ‘arrest powers’ are not abused by the tax officials,” said Pratik Jain, leader-indirect tax at PwC India.

GST seeks to replace multiple taxes on goods and services levied by the Centre such as excise duty and service tax and states such as value added tax, purchase tax and electricity duty into a single tax creating a seamless national market.

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