

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

RAJYA SABHA
UNSTARRED QUESTION NO. 203
ANSWERED ON – 19.07.2022

Judgement of Supreme Court on the GST Council

203 Dr. Amar Patnaik:

Will the Minister of FINANCE be pleased to state:

(a) whether the judgement of the Hon'ble Supreme Court of India in Union of India & Anr. Vs M/s Mohit Minerals Pvt. Ltd. through Director, holding that the recommendations of the GST Council are non-binding on States, alters the constitutional mechanism of the GST Council;

(b) whether Government has any plans/proposals to amend the Constitution of India to make the recommendations of the GST Council binding on States; and

(c) if so, the details thereof?

ANSWER

THE MINISTER OF STATE IN MINISTRY OF FINANCE
(SHRI PANKAJ CHAUDHARY)

(a): No Sir. The judgment of the Hon'ble Supreme Court of India in Union of India & Anr. Vs. M/s Mohit Minerals Pvt. Ltd. does not alter the constitutional mechanism of the GST Council.

The Constitution has vested upon the GST Council the responsibility to make recommendations of various aspects of GST. The recommendations pertaining to GST laws are implemented through normal legislative process and to that extent the recommendations have a persuasive value. However, the State and Central Acts provide that rates, exemptions and rules etc. would be prescribed only on the recommendations of the GST council and, therefore, the recommendations of the GST Council with respect to subordinate legislations, e.g. those pertaining to rules, notifications and rates are binding on States and Centre. The judgment of the Apex Court only augments this process.

For the past five years, more than a thousand decisions have been taken by the GST Council and only one of them has required voting and all the remaining decisions have been taken by consensus. Even in this case the dissenting States have implemented the recommendation of the Council. One of very important objectives of the GST Council is to maintain a harmonized structure of GST within the country essential for a unified national market. All the decisions in the GST Council are taken after detailed deliberations and, therefore, the recommendations of GST Council have been implemented by Centre and States without any change.

(b) & (c): Does not arise.
