

SC says Centre, States have equal powers to make GST-related laws

It confirms Gujarat HC ruling that govt. can't levy IGST on ocean freight imports

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The Supreme Court on Thursday, in a judgment championing the importance of “cooperative federalism” for the well-being of democracy, held that Union and State legislatures have “equal, simultaneous and unique powers” to make laws on Goods and Services Tax (GST) and the recommendations of the GST Council are not binding on them.

The apex court's decision came while confirming a Gujarat High Court ruling that the Centre cannot levy Integrated Goods and Services Tax (IGST) on ocean freight from Indian importers.

“The recommendations of the GST Council are the product of a collaborative dialogue involving the Union and the States. They are recommendatory in nature... The recommendations only have a persuasive value. To regard them as binding would disrupt fiscal federalism when both the Union

What next?

FOR BUSINESSES

■ Goods importers get some relief as they are no longer liable to pay GST on ocean freight charges; could seek refunds for past payments

reiterates the spirit in which the GST Council is functioning

■ “All but one decision of the Council has been reached by consensus so far”

FOR THE CENTRE AND STATES

■ Finance Ministry believes SC order only

■ The Council may be summoned soon to discuss SC verdict's implications



and the States are conferred equal power to legislate on GST,” a Bench led by Justice D.Y. Chandrachud held.

The court emphasised that Article 246A (which gives the States power to make laws with respect to GST) of the Constitution treat the Union and the States as “equal units”. “It confers a simultaneous power (on Union and States) for enacting laws on GST... Article 279A, in constituting the GST Council, envisions that neither the Centre nor the States are actually dependent on the other,” Justice Chandrachud interpreted.

He said the Centre and States were “autonomous, independent and even competing units” while making GST laws. “The federal system is a means to accommodate the needs of a pluralistic society in a democratic manner... Democracy and federalism are inter-dependent. Federalism would only be stable in a well functioning democracy. The constituent units of a federal polity checks the exercise of powers of one another to prevent one group from exercising dominant power,” it noted.

 An administrative body created by the Constitution cannot have an overriding right on the legislature

TARUN BAJAJ, Revenue Secretary

 The Centre had been arbitrarily imposing its decisions on States... We hope the verdict would pave the way for States to protect their rights

K.N. BALAGOPAL, Kerala Finance Minister