

Centre, states have equal authority to legislate on GST- Supreme Court

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The Supreme Court said on May 19 that the GST council's recommendations were not binding on the Union and states. However, they do have a persuasive value because of the country's cooperative federal structure. A bench of Justices DY Chandrachud, Surya Kant, and Vikram Nath also stated that the Centre and states had concurrent rights to legislate on GST, but that the council must work together to reach an acceptable solution. According to Article 246A, both Parliament and the state legislatures have equal authority to legislate on taxation issues.

"Article 246A treats Centre and state as equal and Article 279 of the constitution says that Centre and state cannot act independent of each other," it said.

The Supreme Court said that recommendations of the GST council were a product of collaborative discussions between the Centre and states and it was not imperative that one of the federal units must possess a higher share.

Indian federalism is a dialogue between cooperative and non-cooperative federalism and the Centre and states always engage in dialogue, it said.

The bench pointed out that there are no provisions in the GST Act of 2017 that deal with repugnancy between the laws drawn up by the Centre and state and it is for the council to advise them suitably whenever such occasions come to fore.

The Supreme Court ruling came on a batch of pleas as it upheld a Gujarat High Court verdict to quash the levy of Integrated GST (IGST) on the importers on ocean freight under reverse charge.

The High Court had held that no tax can be levied under the IGST on the ocean freight for the services provided by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station in India.

It had quashed the 2017 notification of the Centre by which IGST of five per cent would be levied on the services of transport of goods in a vessel.