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L&S Update

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Lakshmikumaran & **Sridharan**

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28th Meeting of GST Council – Highlights of certain proposed changes

28th Meeting of the GST Council - Highlights

- GST Council in its 28th Meeting at Delhi, held on 21st of July, 2018 took several major decisions including:
  - **GST rate reduction on several goods by pruning list of goods subject to 28% GST.**
  - **Amendments in CGST Act, IGST Act, UTGST Act and the GST (Compensation to States) Act.**
  - **Exemption to various services from GST, rate reduction in respect of certain services and clarifications in respect of taxability of certain services.**
  - **Proposal for single monthly return.**
  - **Reopening of migration window for tax payers who who received provisional IDs but could not complete the migration process.**

It may be noted that these changes are yet to notified by CBIC

Reduction in GST rate - List of goods subject to 28% GST to be trimmed

- Some of the major products that will attract reduced rate of 18% instead of 28% are:
  - **Chapters 32 - 38 –**Paints and varnishes (including enamels and lacquers), Glaziers' putty, grafting putty resin cements.

Reduction in GST rate - List of goods subject to 28% GST to be trimmed (contd.)

- **Chapters 84 - 85 –** Refrigerator, freezer and other refrigerating or freezing equipment including water cooler, milk cooler, refrigerating equipment for leather industry, ice cream freezer, washing machine, Lithium-ion batteries, vacuum cleaner.
- Domestic electrical appliances such as food grinders and mixers & food and vegetable juice extractor, shaver, hair clippers, etc.
- Storage water heaters and immersion heaters, hair dryers, hand dryers, electric smoothing irons etc., Televisions upto the size of 68 cm.
- **Chapters 86 – 89 –** Special purpose motor vehicles. e.g., crane lorries, fire fighting vehicle, concrete mixer lorries, spraying lorries.
- Works trucks [self-propelled, not fitted with lifting or handling equipment] of the type used in factories, warehouses, dock areas or airports for short transport of goods. Trailers and semi-trailers.
- Fuel cell vehicle – Down to 12% from 28%.
- **Chapter 90-96 –** Miscellaneous articles such as scent sprays and toilet sprays, powder puffs and pads for application of cosmetics or toilet preparations.

Rationalisation of rates of some goods and services

- GST rates on specified goods and services have also been proposed to be reduced, namely,
  - **From 18% to 12% -** Bamboo Flooring, Brass Kerosene Pressure Stove, Hand Operated Rubber Roller, Zip and Slide Fasteners, Special handicraft items such as handbags, including pouches and purses, jewellery box, wooden frames for painting, photographs, mirrors etc., Art ware of cork, stone art ware, stone inlay work, ornamental framed mirrors, glass statutes etc.
  - **From 18% to 5% -** Ethanol for sale to Oil Marketing Companies for blending with fuel, Footwear having retail sale price upto Rs. 1000/-.
  - **From 18% to Nil**- Rakhi (Other than of precious or semi-precious material of Chapter 71), Raw material for broom, Khali dona
  - **From 12%/5%/3% to nil –** Sanitary Napkins, Stone/Marble/ Wood Dieties, Coir pith compost.

Rationalisation of rates of certain goods and services (contd.)

– **From 12% to 5%** - Chenille fabrics and other fabrics under heading 5801, Handloom dari, Phosphoric acid (fertilizer grade only), Knitted cap/topi having retail sale value not exceeding Rs 1000, Handmade carpets and other handmade textile floor coverings, Hand-woven tapestries, handmade lace etc.

Clarifications

– Milk enriched with vitamins or minerals salt (fortified milk) is classifiable under HS code 0401 as milk and exempt from GST.

– 5% GST on both treated and plain tamarind kernel powder.

– Beet and cane sugar, including refined beet and cane sugar, (falling under heading 1701) attracts 5% GST rate.

– Water supplied for public purposes (other than in sealed containers) does not attract GST.

– Kota stone and similar stones [other than marble and granite] other than polished will attracts 5% GST, while ready to use polished Kota stone and similar stones will attracts 18%.

Rationalisation of GST rate and valuation provisions in respect of services

- Reduction in rate of GST from 18% to 5% on supply only of e-books for which print version exists.
- Rate of tax on accommodation service shall be based on transaction value instead of declared tariff.
- Prescribe GST rate of 12% with full ITC under forward charge for composite supply of multimodal transportation.
- Rationalization of the notification entry prescribing reduced GST rate on composite supply of works contract received by the Government or a local authority in the course of their sovereign functions.
- Rationalization of entry relating to composite supply of food and drinks in restaurant, mess, canteen, eating joints and such supplies to institutions (educational, office, factory, hospital) on contractual basis at GST rate of 5%;
- To clarify that the scope of outdoor catering under relevant entry of notification is restricted to supplies in case of outdoor/indoor functions that are event based and occasional in nature.

Exemptions

– Exemption on warehousing of minor forest produce in line with exemptions provided to the agricultural produce.
– Exemption on the works of installation and commissioning undertaken by DISCOMS/ electricity distribution companies for extending electricity distribution network upto the tube well of the farmer/ agriculturalist for agricultural use.
– Exemption on services provided by FSSAI to food business operators.
– Exemption on services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in activities relating to the welfare of industrial or agricultural labour or farmer; or for the promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, to own members against consideration in the form of membership fee up to an amount of one thousand rupees per member per year.
– Exemption on services provided by Government to ERCC by way of assigning the right to collect royalty, DMFT etc. from the mining lease holders.

Exemptions

- Exemption on the guarantees given by Central/State Government/UT administration to their undertakings/PSUs.
- Exemption on GST on import of services by Foreign Diplomatic Missions/ UN & other International Organizations based on reciprocity.
- Exemption on services supplied by an establishment of a person in India to any establishment of that person outside India, which are treated as establishments of distinct persons in accordance with Explanation I in section 8 of the IGST Act provided the place of supply is outside the taxable territory of India in accordance with section 13 of IGST Act.

Export / other trade facilitation measures

- Extend the exemption granted on outward transportation of all goods by air and sea by another one year i.e. upto 30th September, 2019 as relief to exporters of goods.
- Place liability to pay GST on services provided by individual DSAs to banks/NBFCs under reverse charge on the buying banks/NBFCs. However, services by non-individual NBFCs (corporate, partnership firms) to banks/NBFCs would continue under forward charge, as at present.

Clarifications

– Supply of services by State and Central educational boards to students for conduct of examination will be clarified to be exempt.
– To clarify that the courses run by private ITIs for designated trades are exempt under GST whereas non-designated courses are taxable.
– Insertion of an explanation in Notification No. 13/2017-Central Tax (Rate) to define the term renting of immovable property.
– To clarify that certain services such as “deposit works(expenses for providing electric line/plant)” related to distribution of electricity provided by DISCOM, attract GST.

Approval of Simplified GST Return

- All taxpayers excluding small taxpayers and a few exceptions like ISD, etc., shall file one monthly return.
- The return is simple with two main tables. One for reporting outward supplies and one for availing input tax credit based on invoices uploaded by the supplier.
- NIL return filers (no purchase and no sale) shall be given facility to file return by sending SMS.
- The Council approved quarterly filing of return for the small taxpayers having turnover below Rs. 5 Cr as an optional facility. Quarterly return shall be similar to main return with monthly payment facility but for two kinds of registered persons – small traders making only B2C supply or making B2B + B2C supply.
- Government claims that 93% of the taxpayers have a turnover of less than Rs 5 Cr and these taxpayers would benefit substantially from the simplification measures proposed improving their ease of doing business.

Re-opening of Window for Migration

- Proposal to reopen the migration window for taxpayers, who received provisional IDs but could not complete the migration process, has been approved by GST Council.
- The taxpayers who filed Part A of FORM GST REG-26, but not Part B of the said FORM will be required to approach the jurisdictional Central Tax/State Tax nodal officers with the necessary details on or before 31 August, 2018.
- The nodal officer would then forward the details to GSTN for enabling migration of such taxpayers.
- It has also been decided to waive the late fee payable for delayed filing of return in such cases.
- Such taxpayers are required to first file the returns on payment of late fees, and the waiver will be effected by way of reversal of the amount paid as late fees in the cash ledger under the tax head.

Proposed amendment in CGST Act, 2017, IGST Act, 2017, UTGST Act 2017, and GST (Compensation to States) Act, 2017

- Upper limit of turnover for opting for composition scheme to be raised from Rs. 1 crore to Rs. 1.5 crore.
- Composition dealers to be allowed to supply services (other than restaurant services), for upto a value not exceeding 10% of turnover in the preceding financial year, or Rs. 5 lakhs, whichever is higher.
- Levy of GST on reverse charge mechanism on receipt of supplies from unregistered suppliers, to be applicable to only specified goods in case of certain notified classes of registered persons.
- Threshold exemption limit for registration in the States of Assam, Arunachal Pradesh, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand to be increased to Rs. 20 Lakhs from Rs. 10 Lakhs.
- Taxpayers may opt for multiple registrations within a State/Union territory in respect of multiple places of business located within the same State/Union territory

Proposed amendment in CGST Act, 2017, IGST Act, 2017, UTGST Act2017, and GST (Compensation to States) Act, 2017 (Contd..)

- Mandatory registration is required for only those e-commerce operators who are required to collect tax at source.
- Registration to remain temporarily suspended while cancellation of registration is under process, so that the taxpayer is relieved of continued compliance under the law.
- In case the recipient fails to pay the due amount to the supplier within 180 days from the date of issue of invoice, the input tax credit availed by the recipient will be reversed, but liability to pay interest is being done away with.
- The following transactions to be treated as no supply (no tax payable) under Schedule III:
  - Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India;
  - Supply of warehoused goods to any person before clearance for home consumption; and
  - Supply of goods in case of high sea sales.

Proposed amendment in CGST Act, 2017, IGST Act, 2017, UTGST Act2017, and GST (Compensation to States) Act, 2017 (Contd..)

- Registered persons may issue consolidated credit/debit notes in respect of multiple invoices issued in a Financial Year.
- Scope of input tax credit is being widened, and it would now be made available in respect of the following:
  - Most of the activities or transactions specified in Schedule III;
  - Motor vehicles for transportation of persons having seating capacity of more than 13 (including driver), vessels and aircraft;
  - Motor vehicles for transportation of money for or by a banking company or financial institution;
  - Services of general insurance, repair and maintenance in respect of motor vehicles, vessels and aircraft on which credit is available; and
  - Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force.

Proposed amendment in CGST Act, 2017, IGST Act, 2017, UTGST Act2017, and GST (Compensation to States) Act, 2017 (Contd..)

- Amount of pre-deposit payable for filing of appeal before the Appellate Authority and the Appellate Tribunal to be capped at Rs. 25 Crores and Rs. 50 Crores, respectively.
- Commissioner to be empowered to extend the time limit for return of inputs and capital sent on job work, upto a period of one year and two years, respectively.
- Supply of services to qualify as exports, even if payment is received in Indian Rupees, where permitted by the RBI.
- Place of supply in case of job work of any treatment or process done on goods temporarily imported into India and then exported without putting them to any other use in India, to be outside India.
- Recovery can be made from distinct persons, even if present in different State/Union territories.

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