L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

GST Update No. 21
24th December , 2018

.

Recommendations made / Decisions taken in the 31st meeting of GST Council held on 22 December, 2018

-

Recommendations made / Decisions taken by GST Council in its 31st Meeting held on 22 December, 2018

Input tax credit:

- ✓ It has been recommended **that input tax credit in relation to invoices issued by the supplier during FY 2017-18 may be availed by the recipient till the due date for furnishing GSTR 3B Return for March 2019.** This will be subject to conditions to be specified.

- ✓ Earlier the time-limit to avail input tax credit in respect of invoices pertaining to FY 17-18 was due date for filing GSTR 3B Return for September 2018.

-

Recommendations made by GST Council in its 31st Meeting

Interest on unpaid tax amount:

- ✓ Section 50 of the CGST Act would be amended to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit, **i.e. interest would be leviable only on the amount payable through the electronic cash ledger.**

- ✓ Presently Section 50 of CGST Act provides for applicability of interest on unpaid tax amount.

GST Returns mechanism:

- ✓ New return filing system will be introduced on trial basis from 01.04.2019 and **on mandatory basis from 01.07. 2019.**

-

Extension of due date for various compliances:

- ✓ **GST Annual return & Audit for FY 2017-18:**Due date of furnishing Annual Return in Form GSTR 9/9A & reconciliation statement in Form GSTR 9C is being extended to **30.06.2019**

- ✓ **TCS return:** Due date of filing GSTR 8 by e-commerce operators for the months of October to December 2018, is being extended to **31.01.2019**

- ✓ **Job work :** Due date of furnishing Form ITC-04 for the period of July 2017 to December 2018, is being extended to **31.03.2019**

Changes in Annual Return / reconciliation statement:

- ✓ Various changes & clarifications have been provided with respect to Form GSTR 9 & Form GSTR 9C.

GST Refunds:

- ✓ All supporting documents/invoices for claiming refund would required to be uploaded online. Taxpayer need not visit tax office for submission of application for refund.

- ✓ A scheme of **single authority for disbursement of the refund amount sanctioned by either the Centre or the State tax authorities** would be implemented on pilot basis & finalised shortly.

- ✓ Following types of refunds shall also be made available through FORM GST **RFD01A:**

  i. Refund on account of Assessment/ Provisional Assessment / Appeal / Any Other Order;
  ii. Tax paid on an intra-State supply which is subsequently held to be inter-State supply and vice-versa;
  iii. Excess payment of Tax; and
  iv. Any other refund.

Other Miscellaneous changes:

- ✓ It has been proposed that a Centralised Appellate Authority for Advance Ruling (AAAR) would be created to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue.

- ✓ One more window for completion of migration process is being allowed. Taxpayers who did not file the complete FORM GST REG-26 but received only a Provisional ID till 31.12.2017 for furnishing the requisite details to the jurisdictional nodal officer shall be extended till 31.01.2019. Further, the due date for furnishing GST returns for such persons for the period July, 2017 to December 2018/February, 2019 shall be extended till 31.03.2019.

-

Other Miscellaneous changes:

- ✓ Late fee shall be completely waived for all taxpayers in case FORM GSTR-1, FORM GSTR-3B & FORM GSTR-4 for the months / quarters July, 2017 to September, 2018, are furnished after 22.12.2018 but on or before 31.03.2019.

- ✓ Taxpayers who have not filed the returns for two consecutive tax periods will be restricted from generating e-way bills. This provision will be made effective once GSTN/NIC make available the required functionality.

- ✓ **Changes made by respective GST Amendment Acts will be notified with effect from 01.02.2019.**

- ✓ Certain clarifications would be issued on certain refund related matters.

-

Reduction in GST rate of various goods

The GST Council in its 31st meeting held on 22nd December 2018 took various decisions regarding exemption/ reduction in GST rates on various goods & services. Major recommendations are hereunder:

- ✓ **GST rate on various goods to be reduced from 28% to 18%:** Those goods includes monitors & TVs upto 32 inches, power banks, digital cameras, re-treaded tyres & goods falling under HSN 8483 & 9504 etc.

- ✓ **GST rate on various goods to be reduced from 28%/18%/12% to lower slab rates/nil rate:** These goods includes corks, vegetable in unit containers, fly ash blocks, music books etc.

[Notifications to be referred to as and when they are issued]

-

GST rate of various goods

- ✓ **Solar power generating plant & other renewable energy plants:** To avoid disputes related to classification of parts of renewable energy devices & parts thereof and applicable GST rate in case of EPC contracts, it has been recommended that 70% of the gross value of contract shall be deemed as value of supply of goods attracting 5% GST rate & the remaining portion (30% value) of aggregate value of such contract shall be deemed as value of taxable supply of service attracting applicable GST rate.

- ✓ **FIBC:** Uniform GST rate of 12% on Flexible Intermediate Bulk Container (FIBC) from existing 5%/12% (depending on the value) has been prescribed.

-

GST rate of various goods

Other changes / clarifications:

- ✓ GST Rate of 5%/18% to be applied based on transaction value of footwear.
- ✓ Movement of Rigs, Tools & Spares and all goods on wheels on own account where such movement is not intended for further supply of such goods but for provision of service does not involve a supply (e.g., movement of testing equipment etc.) and is not liable to GST.
- ✓ Exemption from GST has been provided on supply of gold by Nominated Agencies to exporters of article of gold Jewellery.
- ✓ Various other clarifications have been given with respect to applicability of GST Rates on several goods. [Circulars to be referred to as and when they are issued].

Reduction in GST rate of various services

Reduction in rates/exemptions

- ✓ **GST rate on various services to be reduced:** Such services include services by way of entry to cinema, third party insurance of vehicles carrying goods, & air travel of pilgrims (in specified cases).

- ✓ Services provided by GTA to Government departments/local authorities which have taken registration only for deducting tax under Section 51 shall be excluded from payment of tax under RCM and the same shall be exempted.

- ✓ Exemption to services provided by Government (CG/SG/UT) to their undertakings or PSUs by way of guaranteeing loans taken by them from financial institutions is being extended to guaranteeing of such loans taken from banks.

-

Other changes & clarifications for services:

- ✓ Security services (supply of security personnel) provided to a registered person, except Government Departments which have taken registration for TDS and entities registered under composition scheme, shall be brought under Reverse Charge Mechanism (RCM).

- ✓ Services provided by unregistered Business Facilitator (BF) to a bank and agent of Business correspondent (BC) to BC shall be brought under RCM.

- ✓ Parliament and State legislatures shall be extended the same tax treatment with regard to payment of tax under RCM as available to Central and State Governments.

- ✓ Services of “printing of pictures” fall under service code “998386: Photographic and videographic processing services” of the scheme of classification of services and attract GST @18% and not 12% GST.

-

Clarifications for services

- ✓ It has been clarified that scope of entry for multi-modal transport with GST rate of 12% inserted w.e.f. date 26.07.2018, covers only transport of goods from a place in India to another place in India, that is, only domestic multi-modal transport.

- ✓ It has been clarified that GST is exempt on supply of food and drinks by an educational institution when provided by the institution itself to its students, faculty and staff and is leviable to GST of 5% when provided by any other person based on a contractual arrangement with such institutions.

-

Amendments/Clarifications in Form GSTR 9:

- ✓ Amendment of headings in the forms to specify that the return in FORM GSTR9 & FORM GSTR-9A would be in respect of supplies etc. *'made during the year'* and not '*as declared in returns filed during the year';*

- ✓ All returns in FORM GSTR-1 & FORM GSTR-3B have to be filed before filing of FORM GSTR-9 & FORM GSTR-9C;

- ✓ All returns in FORM GSTR-4 have to be filed before filing of FORM GSTR-9A;

- ✓ HSN code may be declared only for those inward supplies whose value independently accounts for 10% or more of the total value of inward supplies;

- ✓ Additional payments, if any, required to be paid can be done through FORM GST DRC-03 only in cash.

-

Amendments/Clarifications in Form GSTR 9:

- ✓ ITC cannot be availed through FORM GSTR-9 & FORM GSTR-9C;
- ✓ All invoices pertaining to previous FY (irrespective of month in which such invoice is reported in FORM GSTR-1) would be auto-populated in Table 8A of FORM GSTR-9;
- ✓ Value of “non-GST supply” shall also include the value of “no supply” and may be reported in Table 5D, 5E and 5F of FORM GSTR-9;
- ✓ Verification by taxpayer who is uploading reconciliation statement would be included in FORM GSTR-9C.

Certain important issues referred by GST Council to various Committees / GoM

GST Council has recommended following issues to various committees/GoM:

- ✓ Extending the Composition scheme to small service providers. The rate of tax and threshold limit to be proposed - Law Committee and Fitment Committee.
- ✓ Tax rate on lotteries – Committee of States.
- ✓ Taxation of residential property in real estate sector – Law Committee and Fitment Committee.
- ✓ Threshold limit of exemption under GST regime – GoM on MSMEs.

Above issues will be taken up in the next meeting of the GST Council.

NEW DELHI
5 Link Road, Jangpura Extension,
Opp. Jangpura Metro Station,
New Delhi 110014
Phone : +91-11-4129 9800

B-6/10, Safdarjung Enclave
New Delhi - 110 029
Phone : +91-11-4129 9900
E-mail : lsdel@lakshmisri.com

MUMBAI
2nd floor, B&C Wing,
Cnergy IT Park,
Appa Saheb Marathe Marg, (Near Century Bazar)
Prabhadevi, Mumbai - 400025.
Phone : +91-22-2439 2500
E-mail : lsbom@lakshmisri.com

CHENNAI
2, Wallace Garden, 2nd Street
Chennai - 600 006
Phone : +91-44-2833 4700
E-mail : lsmds@lakshmisri.com

BENGALURU
4th floor, World Trade Center
Brigade Gateway Campus
26/1, Dr. Rajkumar Road,
Malleswaram West,
Bangalore-560 055.
Ph: +91-80-4933 1800
E-mail : lsblr@lakshmisri.com

HYDERABAD
'Hastigiri', 5-9-163, Chapel Road
Opp. Methodist Church, Nampally
Hyderabad - 500 001
Phone : +91-40-2323 4924
E-mail : lshyd@lakshmisri.com

AHMEDABAD
B-334, SAKAR-VII,
Nehru Bridge Corner,
Ashram Road,
Ahmedabad - 380 009
Phone : +91-79-4001 4500
E-mail : lsahd@lakshmisri.com

PUNE
607-609, Nucleus, 1 Church Road,
Camp, Pune – 411 001
Phone : +91-20-6680 1900
E-mail : lspune@lakshmisri.com

KOLKATA
2ND Floor, Kanak Building
41, Chowringhee Road,
Kolkatta-700071
Phone : +91-33-4005 5570
E-mail : lskolkata@lakshmisri.com

CHANDIGARH
1st Floor, SCO No. 59,
Sector 26,
Chandigarh - 160026
Phone : +91-172-492 1700
E-mail : lschd@lakshmisri.com

GURGAON
OS2 & OS3, 5th Floor, Corporate Office Tower, AMBIENCE Island, Sector 25-A,
Gurgaon - 122001
Phone : +91-124-477 1300
E-mail :lsgurgaon@lakshmisri.com

ALLAHABAD
3/1A/3, (opposite Auto Sales), Colvin Road, (Lohia Marg),
Allahabad -211001 (U.P.)
Phone no. : (0532) – 2421037, 2420359
Email: lsallahabad@lakshmisri.com

www.lakshmisri.com www.gst.lakshmisri.com