Lakshmikumaran & Sridharan attorneys

L&S Update

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

L&S GST Update No. 27 of 2019
24th September 2019

Highlights of 37th Meeting of GST Council: GST rates on specified services and changes in law and procedures

Hospitality and Tourism Industry

Hotel Accommodation (per unit per day)	Present	Proposed	Conditions
Transaction value up to INR 1000	Nil	Nil	ITC shall not be eligible
Transaction value from INR 1001 to INR 7500	TV less than INR 2500-12% TV from INR 2500 to 7499-18% TV INR 7500 -28%	12%	ITC shall be eligible
Transaction value INR 7501 and more	28%	18%	ITC shall be eligible

The rate changes shall be made effective with effect from 01.10.2019

<table>
<tr><th>Outdoor Catering</th><th>Present</th><th>Proposed</th><th>Conditions</th></tr>
<tr><td>a) Catering in premises with daily tariff of unit of accommodation is INR 7501 and above</td><td colspan="2">No change- 18%</td><td>ITC shall be eligible</td></tr>
<tr><td>b) All other catering including outdoor catering</td><td>18%</td><td>5%</td><td>ITC shall not be eligible</td></tr>
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L&S Comments: All caterers other than (a) above shall mandatorily be required to charge 5% without ITC .

The rate changes shall be made effective with effect from 01.10.2019

Job work services

Job Work Service	Present	Proposed	Conditions
In respect of diamonds	5%	1.5%	ITC shall be eligible
In respect of **machine job work** such as in engineering industry except Bus body building	18%	12%	ITC shall be eligible
Other than above	18%	18%	ITC shall be eligible

L&S Comments: The scope of the term "machine job work" has to be analysed.

The rate changes shall be made effective with effect from 01.10.2019

New Exemptions

Warehousing Services

- Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea.

Insurance Services

- Bangla Shasya Bima (BSP) crop insurance scheme of West Bengal Government.
- Life Insurance Services provided by Central Armed Parliamentary Forces Group Insurance Funds to their members.

FIFA Related Services

- The services related to FIFA Under-17 Women’s World Cup 2020.

Intermediary Services

- Services provided by an intermediary when both the supplier and recipient of goods are located outside India.
- *Presently such intermediary services are taxable under GST.*

Transportation Services

- Transportation of goods for export by air or sea to be extended till 30th September 2020.

Place of Supply

R&D Services

- The place of supply of specified R&D services provided by Indian pharma companies to foreign service recipients shall be the location of service recipient.

Chip Design Software R&D services

- It will be ***clarified*** that Section 13(3)(a) of the IGST Act (i.e., place of performance) not to be made applicable for determining place of supply when the said service is provided to foreign clients using sample test in India.

Miscellaneous

GST on royalty services under forward charge

- Option shall be available to registered authors to pay GST on royalty charged from publishers under forward charge.

Liquor licence

- Grant of liquor licence by State Governments against payment of license fee to be treated as "no supply".

RCM applicability

- Securities lending services to be taxed under RCM @ 18%.
- Renting of vehicles @ 5% by registered person other than body corporate (LLP, proprietorship) to body corporate entities.

Return related changes

A. Relaxation in filing Annual Returns for FY 2017-18 and FY 2018-19

- GSTR-9A **WAIVED** for Composition Taxpayers

- FORM GSTR-9 made **OPTIONAL** for taxpayers having aggregate turnover up to Rs. 2 crores

B. New return system now to be introduced from April, 2020

Due dates for furnishing of return in FORM GSTR-3B and details of outward supplies in FORM GSTR-1 for the period October, 2019 - March, 2020 shall be notified.

C. Committee of Officers to be constituted to examine the simplification of Forms for Annual Return and reconciliation statement.

Amendments related to Circulars

Circulars to be issued for clarifying the following:

- Procedure to claim refund in FORM GST RFD-01A subsequent to favourable order in appeal or any other forum;
- Eligibility to file a refund application in FORM GST RFD-01A for a period and category under which a NIL refund application has already been filed;
- Supply of Information Technology enabled Services being made on own account or as intermediary (in supersession of Circular No. 107/26/2019-GST dated 18.07.2019).

Amendments related to Circulars

Circulars to be issued for clarifying the following:

- Scope of 'services of exploration, mining or drilling of petroleum crude or natural gas or both".

- Taxability of Passenger Service Fee (PSF) and User Development Fee (UDF) levied by airport operators.

Circular to be rescinded:

- Circular No. 105/24/2019-GST dated 28.06.2019 issued in respect of post-sales discount shall be *ab-initio* rescinded.

Portal related changes

- Integrated refund system with disbursal by single authority to be introduced from 24th September, 2019.

- Linking Aadhar with registration of taxpayers under GST and examining the possibility of making Aadhar mandatory for claiming refunds.

Proposed amendments

- Restrictions may be imposed on availment of input tax credit by the recipients where details of outward supplies are not furnished by the suppliers in GSTR-1.

- Restrictions to be imposed on passing of credit by **risky taxpayers including risky new taxpayers** to subdue practice of fake invoices and fraudulent refunds.

- Extension of last date for filing of appeals before the GST Appellate Tribunal as the Appellate Tribunals are yet not functional.

- Amendments to be made in CGST Act, UTGST/ SGST Acts in view of creation of UTs of Jammu & Kashmir and Ladakh.

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