LKS UPDATE

An e-update to clients from Lakshmikumaran & Sridharan

1 MARCH 2023

INDIRECT TAX

Amendments in GST Rate notifications

UPDATE NO. 21 OF 2023

Lakshmikumaran & Sridharan attorneys

exceeding expectations
SINCE 1985

The current amendments have been made in pursuance of the recommendations made by the GST Council in its 49th Meeting held on 18 February 2023 and the Press Release issued by the Government in this regard. All the amendments will come into force w.e.f. 1 March 2023.

I. AMENDMENT IN NOTIFICATION NO. 1/2017-CENTRAL TAX (RATE) DATED 28 JUNE 2017 *VIDE* NOTIFICATION NO. 3/2023-CENTRAL TAX (RATE), DATED 28 FEBRUARY 2023

A. Change in rate of Rab:

- S. No. 91A of Schedule I has been amended to include 'Rab, pre-packaged and labelled'.
- Thus, GST rate on Rab has been reduced from 18% to 5% in case where the same is sold as pre-packed and labelled.

B. Change in rate of pencil sharpeners:

- S. No. 186A has been inserted in Schedule II to provide reduce GST rate on pencil sharpeners from 18% to 12%.
- Simultaneously, S. No. 302A of Schedule III has been amended to include the words 'other than pencil sharpeners'.

II. AMENDMENT IN NOTIFICATION NO. 2/2017-CENTRAL TAX (RATE) DATED 28 JUNE 2017 *VIDE* NOTIFICATION NO. 4/2023-CENTRAL TAX (RATE), DATED 28 FEBRUARY 2023

Exemption to Rab:

- S. No. 94 has been amended to include and exempt 'Rab, other than pre-packaged and labelled'
- Thus, in case where Rab is sold as pre-packaged and labelled, the same will be chargeable to GST @ 5%. In other cases, Rab will be exempt from GST.
- However, necessary amendments are yet to be brought in so as to regularize payment of GST on Rab for the past period on "as is basis" as was recommended by the GST Council in its 49th Meeting.

III. AMENDMENT IN NOTIFICATION NO. 12/2017-CENTRAL TAX (RATE) DATED 28 JUNE 2017 *VIDE* NOTIFICATION NO. 1/2023-CENTRAL TAX (RATE) DATED 28 FEBRUARY 2023

Exemption to National Testing Agency or authority or body set up for conducting entrance examination for admission to educational institutions:

- Presently, services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee are exempt from GST. Further, Central and State Educational Boards are treated as educational institutions for the limited purpose of providing services by way of conduct of examination to the students.
- Now, Clause (iva) has been inserted in the Explanation in Paragraph 3 to clarify that any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational

institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.

- Thus, the aforesaid authority / board / body will also be entitled to exemption from GST in respect of services by way of conduct of entrance examination

LKS COMMENTS

- Availability of the benefit of the exemption retrospectively w.e.f. 1 July 2017 onwards needs to be analysed.

IV. AMENDMENT IN NOTIFICATION NO. 13/2017-CENTRAL TAX (RATE) DATED 28 JUNE 2017 *VIDE* NOTIFICATION NO. 2/2023-CENTRAL TAX (RATE), DATED 28 FEBRUARY 2023

Applicability of reverse charge in case of services provided by Courts and Tribunals:

- GST on various services supplied by the Central Government and State Governments is paid by the recipients under reverse charge mechanism
- Clause (h) of the Explanation to Notification No. 13/2017- Central Tax (Rate) dated 28 June 2017 (**"Reverse Charge Notification"**) provides that the provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament and State Legislatures. Now, this Explanation has been amended to include 'Courts and Tribunals'.
- Thus, the taxable services supplied by Courts and Tribunals will now be chargeable to GST on reverse charge basis.

V. AMENDMENT IN NOTIFICATION NO. 1/2017- COMPENSATION CESS (RATE), DATED 28 JUNE 2017 *VIDE* NOTIFICATION NO. 1/2023- COMPENSATION CESS (RATE), DATED 28 FEBRUARY 2023

Exemption to coal rejects supplied to a coal washery:

- Prior to amendment, coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and input tax credit thereof has not been availed by any person were exempt from compensation cess in terms of S. No. 41A.
- Now, S. No. 41A has been substituted to extend the exemption to coal rejects supplied to a coal washery as well.

LKS COMMENTS

- This is a taxpayer friendly amendment which will settle the ongoing disputes in respect of applicability of compensation cess on coal rejects supplied to a coal washery. This will also ensure that the compensation cess does not become a cost in the hands of a coal washery.
    - However, the meaning of the terms "coal rejects" as well as "coal washery" needs to be analysed in order to understand the scope of this exemption.

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