L&S UPDATE
An e-update to clients from Lakshmikumaran & Sridharan

5 OCTOBER 2021

INDIRECT TAX

Amendment in GST Rates of Goods and Services

UPDATE NO. 31 OF 2021

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exceeding expectations
SINCE 1985

A. CHANGES IN GST RATES OF GOODS

- **Reduction in GST rates on the specified items being used in Covid-19 relief and management till 31 December 2021 *[Notification No.:12/2021-Central Tax (Rate), dated 30 September 2021]***

S. No.	Chapter, Heading, Sub-heading or Tariff item	Description of goods	Reduced Rate*
1.	30	Tocilizumab	Nil
2.	30	Amphotericin B	Nil
3.	30	Remdesvir	5%
4.	30	Heparin (anti-coagulant)	5%
5.	30	Itolizumab	5%
6.	30	Posaconazole	5%
7.	30	Infliximab	5%
8.	30	Bamlanivimab & Etesevimab	5%
9.	30	Casirivimab & Imdevimab	5%
10.	30	2-Deoxy-D-Glucose	5%
11.	30	Favipiravir	5%

The above rate reductions/exemptions are effective from 1 October 2021 and shall remain in force upto and inclusive of 31 December 2021.

L&S Comments

Notification No. 5/2021-Central Tax (Rate) provided reduction in GST rates on the specified items being used in Covid-19 relief and management such as hand sanitizers, pulse oximeter, oxygen concentrator / generator, high flow nasal canula device, BiPAP Machine, Covid-19 testing kits etc. The said notification provided the benefit of concessional rate till 30th September 2021. The earlier notification has not been extended beyond 30 September 2021.

- **Reduction in GST rate for Fortified Rice Kernels for schemes like ICDS etc.**
  [Notification No.: 11/2021-Central Tax (Rate)]

  Concessional GST rate of 5% [CGST+SGST] shall be levied on supply of Fortified Rice Kernel (Premix) for ICDS or similar scheme duly approved by the Central Government or any State Government, subject to fulfillment of certain conditions.

- **Change in GST rates on specified items with effect from 1 October 2021**
  [Notification No. 8/2021-Central Tax (Rate)]

S. No	Chapter, Heading, Sub-heading or Tariff item	Description of goods	Old Rate	New Rate
1.	1209	Tamarind seeds meant for any use other than sowing	Nil	5%
2.	3826	Bio-diesel supplied to Oil Marketing Companies for blending with High Speed Diesel	12%	5%
3.	2601	Iron ores and concentrates, including roasted iron pyrites.	5%	18%
4.	2602	Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculated on the dry weight.	5%	18%
5.	2603	Copper ores and concentrates.	5%	18%
6.	2604	Nickel ores and concentrates.	5%	18%
7.	2605	Cobalt ores and concentrates.	5%	18%
8.	2606	Aluminium ores and concentrates.	5%	18%
9.	2607	Lead ores and concentrates.	5%	18%
10.	2608	Zinc ores and concentrates.	5%	18%
11.	2609	Tin ores and concentrates.	5%	18%
12.	2610	Chromium ores and concentrates.	5%	18%
13.	3915	Waste, Parings and Scrap, of Plastics	5%	18%

S. No	Chapter, Heading, Sub-heading or Tariff item	Description of goods	Old Rate	New Rate
14.	84, 85 or 94	Following renewable energy devices and parts for their manufacture: (a) Bio-gas plant; (b) Solar power based devices; (c) Solar power generator; (d) Wind mills, Wind Operated Electricity Generator (WOEG); (e) Waste to energy plants / devices; (f) Solar lantern / solar lamp; (g) Ocean waves / tidal waves energy devices / plants; (h) Photo voltaic cells, whether or not assembled in modules or made up into panels. Explanation: If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017 [G.S.R. 690(E)], the value of supply of goods for the purposes of this entry shall be deemed as seventy percent. Of the gross consideration charged for all such supplies, and the remaining thirty per cent. of the gross consideration charged shall be deemed as value of the said taxable service."; **L&S Comments** • The transitional implications in respect of on-going renewable energy projects as on 1st October 2021 have to be examined. • Implications needs to be examined regarding agreements for 'solar power generating system' as the same has been replaced by 'solar power generator'.	5%	12%

S. No	Chapter, Heading, Sub-heading or Tariff item	Description of goods	Old Rate	New Rate
15.	30 or any chapter	Pembrolizumab (Keytruda)	12%	5%
16.	90 or any other	Retro fitment kits for vehicles used by the disabled	App. Rate	5%
17.	4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops or the like	12% 18%	18%
18.	4906 00 00	Plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, being originals drawn by hand; hand-written texts; photographic reproductions on sensitized paper and carbon copies of the foregoing.	12%	18%
19.	4907	Unused postage, revenue or similar stamps of current or new issue in the country in which they have, or will have, a recognised face value; stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title (other than Duty Credit Scrips)	12%	18%
20.	4908	Transfers (decalcomanias).	12%	18%
21.	4909	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings.	12%	18%
22.	4910	Calendars of any kind, printed, including calendar blocks.	12%	18%
23.	4911	Other printed matter, including printed pictures and photographs; such as Trade advertising material, Commercial catalogues and the like, printed Posters, Commercial catalogues, Printed inlay cards, Pictures, designs and photographs, Plan and drawings for architectural engineering, industrial, commercial, topographical or similar purposes reproduced with the aid of computer or any other devices."	12%	18%
24.	8601	Rail locomotives powered from an external source of electricity or by electric accumulators.	12%	18%

S. No	Chapter, Heading, Sub-heading or Tariff item	Description of goods	Old Rate	New Rate
25.	8602	Other rail locomotives; locomotive tenders; such as Diesel electric locomotives, Steam locomotives and tenders thereof.	12%	18%
26.	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604.	12%	18%
27.	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, track liners, testing coaches and track inspection vehicles).	12%	18%
28.	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604).	12%	18%
29.	8606	Railway or tramway goods vans and wagons, not self-propelled.	12%	18%
30.	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof.	12%	18%
31.	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing	12%	18%
32.	9608	Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens; stylograph pens and other pens; duplicating stylos; pen holders, pencil holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609.	12% / 18%	18%
33.	2202	Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice	Appl Rate	28%

S. No	Chapter, Heading, Sub-heading or Tariff item	Description of goods	Old Rate	New Rate
		L&S Comments: 1. There were disputes regarding carbonated beverages containing fruit juice as Entry No 48 of Schedule II of Notification No. 1/2017 – Central Tax (Rate) provides that fruit pulp or fruit juice based drinks shall be taxable at 6% (GST -12%). 2. The above amendment aims to provide specific entry for carbonated beverages with fruit juice to be taxable at 28% along with Compensation Cess at 12% prospectively. **Points to ponder:** 1. Whether all fruit drinks having carbon dioxide will be covered under this entry? 2. What would be the impact of new entry on stand taken by taxpayers regarding classification of carbonated beverages with fruit juice prior to 1st October 2021?		

L&S Comments

The Government has increased the GST rate on various goods to resolve the issue of inverted duty structure (for example: supplies made to railways, renewable energy devices and parts etc.) or to provide the uniform rate for certain Chapter Headings for which separate rates of GST were earlier prescribed (for example: pens, boxes etc.).

B. AMENDMENT IN REVERSE CHARGE NOTIFICATION ON GOODS

- **Insertion of certain good on which tax is liable to be paid under reverse charge mechanism by recipient of such goods *[Notification No.: 10/2021-Central Tax (Rate)]***

    - Registered recipient is liable to pay tax on reverse charge basis on procurement of following essential oils other than those of citrus fruits namely:
      a) Of peppermint (Mentha piperita);
      b) Of other mints : Spearmint oil (ex-mentha spicata), Water mint-oil (ex-mentha aquatic), Horsemint oil (ex-menthasylvestries), Bergament oil (ex-mentha citrate).

    - The supplier of good must be an unregistered person.

    - This notification has come into force on 1 October 2021.

C. AMENDMENT IN EXEMPTION NOTIFICATION – GOODS

- **Insertion of Explanation in Sl. No. 86 of Notification No. 2/2017-Central Tax (Rate) *[Notification No. 9/2021-Central tax (Rate)]***

    - Sl. No. 86 of Notification No. 2/2017-Central Tax (Rate) exempts supply of Seeds, fruit and spores, of a kind used for sowing, falling under Chapter Heading 1209.

    - An explanation has been inserted to provide that this entry does not cover seeds meant for any use other than sowing.

D. APPLICABILITY OF COMPENSATION CESS

- **Insertion of Entry 4B in Notification No. 1/2017-Compensation Cess (Rate)**
  [Notification No. 1/2021-Compensation Cess (Rate)]

  - Compensation cess at the rate of 12% will be leviable on carbonated Beverages of fruit drink or carbonated beverages with fruit juice falling under Chapter Heading 2202.

  - This notification shall come into force on 1st day of October 2021.

E. CHANGES IN GST RATES OF SERVICE

- **Changes in GST rates / exemption on specified services as mentioned in Notification Number 11/2017-Central Tax (Rate) and Notification Number 12/2017-Central Tax (Rate) respectively with effect from 1 October 2021 *[Notification Number 6/2021-Central Tax (Rate) and Notification Number 7/2021-CentralTax (Rate)]***

S. No.	Description	From	To
1.	Services by an entity registered under section 12AB of the Income-tax Act, 1961 by way of charitable activities	18%	Nil
2.	Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India subject to a condition it is certified by Director (Sports), Ministry of Sports.	18%	Nil
3.	Services by an old age home run by an entity registered under section 12AB of the Income-tax Act, 1961 to its residents (aged 60 years or more) against consideration up to twenty-five thousand rupees per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.	18%	Nil
4.	Renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AB of the Income-tax Act, 1961 subject to exclusions provided under S. No. 13.	18%	Nil
5.	Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended upto 30.9.2022	-	Nil
6.	Services by way of grant of National Permit to goods carriages on payment of fee	18%	Nil
7.	Skill Training for which Government bears 75% or more of the expenditure [earlier exemption was available only if it is 100% funded by Govt.]	18%	Nil
8.	Services provided by rehabilitation professionals by way of rehabilitation, therapy or counselling and such other activity as covered under the Rehabilitation Council of India Act, 1992 to an entity registered under section 12AB of the Income-tax Act, 1961.	18%	Nil
9.	Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AB of the Income-tax Act.	18%	Nil
10.	Services related to AFC Women's Asia Cup 2022.	18%	Nil

S. No.	Description	From	To
11.	Works contract services provided by way of construction, renovation repair etc. a building owned by an entity registered under section 12AB of the Income Tax Act, 1961 which is used for carrying out the activities of providing, centralised cooking or distribution, for mid-day meals under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities	18%	12%
12.	Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of goods other than Information Technology software. ●●● **L&S Comments:** S. No. 17(i) has been deleted; and S. No. 17(ii) has been amended to cover all transactions of transfer of IP rights (whether or not related to transfer of IP Rights in respect of information technology software). Here, it is interesting to note all kinds of transfer of IPR whether or not related to information technology software has been kept at par to be taxable at the rate of 18%. However, similar amendment has not been made under Goods Notification.	12%	18%
13.	Services by way of job work in relation to manufacture of alcoholic liquor for human consumption. ●●● **L&S Comments:** In the industry, few members had taken a view that job work charges will be subject to levy of GST at the rate of 5% as per entry 26(f) of Rate Notification. However, Maharashtra Appellate Authority in the application filed by **Crown Beers** had ruled that job work charges will be taxable at the	-	18

S. No.	Description	From	To
	rate of 18%, and not at the rate of 5% for the reason liquor will not qualify to be food in the light of decision of Hon'ble Supreme Court in the case of *Collector of Central Excise* v. *Parle Exports (P) Ltd.* Now, the Council has removed ambiguity and clarified that job work charges will be subject to tax at the rate of 18% by way of insertion of a new entry (ica) under S. No. 26.		
14.	Printing services [including newspapers, books (including Braille books), journals and periodicals], where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer. **L&S Comments:** Now, the aforesaid entry has been deleted and merged with S. No. 27 (ii) to be taxable at the rate of 18%. The amended entry covers other manufacturing services; publishing, printing and reproduction services; material recovery services.	12%	18%
15.	Exemption on leasing of rolling stock by IRFC to Indian Railways withdrawn.		

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