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

2 JULY 2022

INDIRECT TAX

Transportation and Logistic Sector – Recommendations of 47th GST Council Meeting

Recommendations in the 47th GST Council Meeting to be made effective from 18th July 2022 by way of issuance of Notification

UPDATE NO. 31 OF 2022

Lakshmikumaran & Sridharan attorneys

exceeding expectations
SINCE 1985

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PROPOSED CHANGES IN RATES – RENTING OF GOODS CARRIAGE

S.No.	Description of Services	Earlier Rate	Rate
1.	Renting of truck or goods carriage for goods transportation by road where cost of fuel is included in the consideration charged	18%	12%

L&S Comments:

- This is a welcome amendment.
- More clarity is awaited to understand if this entry would cover the renting of truck or goods carriage with operator and / or without operator.
- It seems that this benefit / exemption available for hiring of means of transport to goods transport agency (GTA) under S. No. 22 of NN 12/2017-CTR will continue.

PROPOSED CHANGES IN RATES – RENTING OF VEHICLE

S.No.	Description of Services	Earlier Rate	Rate
2.	Renting of vehicle with operator for transportation of goods on time basis, where the cost of fuel is included in the consideration charged	18% *Heading* 9966 [Sl. No. 10(iii) of the NN 11/2017 - CTR*]	12%

L&S Comments:

- This will be a welcome amendment.
- A reduced rate benefit was earlier available for time charter of vessel and to motor vehicles designed to carry passengers where the cost of fuel is included in the consideration charged.
- This proposed amendment is captured under the heading clarification in relation to GST rate of services instead of recommendation for change in rate of tax. Therefore, more clarity is expected basis the notification.

PROPOSED CHANGES – WITHDRAWAL OF EXEMPTION

S.No.	Description of Services	Earlier Rate	Proposed Rate
3.	Transportation of railway equipment and material by rail or vessel	Exempt *Heading* 9965	5% with no ITC of goods except few (Transported by vessel)
			5% with no ITC on goods (Transported by rail)
			12% / 18% (Transported in containers by rail by any person other than Indian Railways)

L&S Comments:

- Upon withdrawal of the exemption, the rates prevailing in respect of transportation of goods by rail and by vessel under NN 11/2017 – CT(R) will become applicable, unless exempted under any other entry.

PROPOSED CHANGES – WITHDRAWAL OF EXEMPTION

S.No.	Description of Services	Earlier Rate	Proposed Rate
4.	Storage or warehousing of commodities which attract tax (such as nuts, spices, jaggery, cotton, copra, etc.)	Nil *Heading 9986*	18%
5.	Fumigation in a warehouse of agricultural produce	Nil *Heading 9986*	18%

L&S Comments:

- On the withdrawal of the exemption, the rates prevailing under the N/N 11/2017-CT(R) in respect of such services will become applicable.
- Currently, the service of fumigation in a warehouse of agricultural produce is covered under both the notifications i.e. rate N/N 11/2017-CT(R) @ Nil rate and in the exemption N/N 12/2017-CT(R).
- Therefore, it remains to be seen as to whether the benefit will be removed from both the notifications or not.

PROPOSED CHANGES FOR GOODS TRANSPORT AGENCY (GTA)

- Goods transport agency (GTA) is being given option to pay GST at 5% or 12% under forward charge. The option will be allowed to be exercised at the beginning of every FY by the GTA. The option of payment of tax on reverse charge will also continue.

L&S Comments:

- Currently, the option to pay GST at the rate of 12% could be exercised by the GTA only once, and could not be altered later on.
- More clarity is awaited for the procedure and mechanism to be followed while changing the option.

PROPOSED CHANGES- CLARIFICATION FOR TRANSIT CARGO EXEMPTION

- It has been proposed to clarify that the supply of services associated with transit cargo both to and from Nepal and Bhutan are exempt from GST under the said entry.

L&S Comments:

- This is a welcome amendment to bring the exemption entry in line with the 21st GST Council Meeting agenda notes.
- Currently, the exemption entry exempts the supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) from GST.
- It remains to be seen the retrospective effect of this clarification.
- It also remains to be seen whether the definition of transit cargo and the scope of the services associated with transit cargo is also clarified, thereby ending the ambiguity with respect to the same.

PROPOSED CHANGES – CLARIFICATION ON HIGHER TOLL CHARGES

- It is proposed to be clarified that the additional fees collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and shall be given the same tax treatment as given to toll charges.

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