L&S UPDATE

An e-update to clients from Lakshmikumaran & Sridharan

18 JULY 2022

INDIRECT TAX

Amendments in Rate Notifications - Miscellaneous

UPDATE NO. 42 OF 2022

Lakshmikumaran & Sridharan attorneys

exceeding expectations
SINCE 1985

AMENDMENTS IN NOTIFICATION NO. 11/2017-CENTRAL TAX (RATE) DATED 28 JUNE 2017 *VIDE* NOTIFICATION NO. 03/2022-CENTRAL TAX (RATE) DATED 13 JULY 2022

- **Services provided by a foreman of a chit fund in relation to chit**

  Sl. No. 15(i) providing for a rate of 12% on services provided by a foreman of a chit fund in relation to chit providing has been omitted.

  Parallelly, reference of sl. No. 15(i) in Sl. No. 15(vii) has also been omitted.

L&S comments:

- The 47th GST Council had recommended that the said service is to attract a higher rate of 18% from 12% in order to correct the inverted rate structure. It needs to be analysed whether the said services will now fall under Sl. No. 15(vii) which provides that financial and related services other than (ii), (iii), (v), and (vi) shall attract a rate of 18%.

- **Specified job work services**

Job work in relation to processing of hides, skins and leather	[Sl. No. 26(i)(e)]
Job work in relation to manufacture of leather goods or footwear	[Sl. No. 26(i)(ea)]
Job work in relation to manufacture of clay bricks	[Sl. No. 26(i)(h)]

L&S comments:

- The 47th GST Council had recommended that the said services are to attract a higher rate of 12% from 5% in order to correct the inverted rate structure. Hence, the appropriate sub-headings for classification of such job-work services under Sl. No. 26 of the said notification need to be analysed.

- **Meaning of the term 'print media' has been inserted to the rate notification**

(xxxvii) 'print media' means, —

(i) 'book' as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;

(ii) 'newspaper' as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867);

L&S comments:

Selling of space for advertisement in print media is taxable at 5% under the rate notification. However, the term 'print media' was not defined under the said notification but was defined in the Services Exemption Notification.

The inclusion of the said definition is in light of the clarification provided by the GSTC stating that the activity of selling of space for advertisement in souvenirs published in the form of books shall be eligible for concessional GST of 5%.

AMENDMENTS IN NOTIFICATION NO. 12/2017-CENTRAL TAX (RATE) DATED 28 JUNE 2017 *VIDE* NOTIFICATION NO. 04/2022-CENTRAL TAX (RATE) DATED 13 JULY 2022

- **Services by the Department of Posts**

Insertion of new entry

Sl. No. 24C has been inserted to exempt the services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams).

Parallelly, reference of description of service by Department of Post i.e., "by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory" has been omitted.

Hence, the following exemption entries exclude all the services provided by Department of Posts:

From Sl. No.	New Entry excludes following services
6(a)	Services by Central Government, State Government, Union territory or local authority to business entities
Explanation to 7	Services by Central Government, State Government, Union territory or local authority to business entity with an aggregate turnover of up to prescribed amount
Proviso (i) to 8	Services by Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority.
Proviso (i) to 9	Services by Central Government, State Government, Union territory or local authority where consideration for such services does not exceed five thousand rupees.

- **Withdrawal of tax exemption on various services *vide* Notification No. 04/2022-C.T.(R.) dated 13 July 2022 w.e.f. 18 July 2022**

Sl. No. of N.N. 12/2017-C.T.(R.) dated 28 June 2017	Description of Service	L&S Comments
26	Services by RBI	No specific entries have been inserted in Notification No. 13/2017-C.T.(R.) dated 28.06.2017 (RCM Notification) in relation to these services. Therefore, it needs to be analysed whether such services will be taxable under forward charge or reverse charge
32	Services provided by IRDAI to insurers under the IRDA Act, 1999	
33	Services by SEBI by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.	

Sl. No. of N.N. 12/2017-C.T.(R.) dated 28 June 2017	Description of Service	L&S Comments
47A	Licensing, registration and analysis or testing of food samples supplied by FSSAI to Food Business Operators	
51	Services by GSTN to Central / State Governments or UTs for implementation of GST.	
56	Slaughtering of animals	

- **Services of training or coaching in recreational activities**

  S. No. 80 of N.N. 12/2017-C.T.(R.) dated 28 June 2017 granting GST exemption on 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 12AA or 12AB of the Income-tax Act, 1961 (Heading 9996), has been amended. The amended entry reads as follows:

  "Services by way of training or coaching in (a) recreational activities relating to arts or culture, by an individual, or (b) sports by charitable entities registered under Section 12AA or 12AB of the Income Tax Act."

L&S comments:

Tax exemption on training/coaching in recreational activities relating to arts or culture has been restricted to such services when provided by individuals.

Pertinently, as per the Press Release dated 29.06.2022 containing the recommendations of the 47th GST Council Meeting, tax exemption on training / coaching in recreational activities relating to 'sports' was also recommended to be restricted to such services when provided by individuals. However, N.N. 04/2022-C.T.(R.) dated 13.07.2022 has provided for such restriction for recreational activities relating to 'arts or culture' only.

Further, the Notification has altered the language of the said entry by providing tax exemption on 'training/coaching in sports' by charitable entities registered under Section 12AA or 12AB of the Income Tax Act, in place of the earlier exemption for 'training/coaching in recreational activities relating to sports' by such entities as per the unamended entry. This might lead to interpretational issues resulting in litigation.

- **Services of right to admission to the events organised under FIFA U-17 Women's World Cup 2020**

  S. No. 82A of N.N. 12/2017-C.T.(R.) dated 28.06.2017 has been amended. As per the amended entry, the tax exemption on right to admission to the events organised under FIFA U-17 Women's World Cup 2020 will now be available whenever the said event is rescheduled.

AMENDMENTS IN NOTIFICATION NO. 13/2017-CENTRAL TAX (RATE) DATED 28 JUNE 2017 *VIDE* NOTIFICATION NO. 05/2022-CENTRAL TAX (RATE) DATED 13 JULY 2022

- **Services by Department of Posts**

  In terms of S. No. 5(2)(i) of N.N. 13/2017-C.T.(R.) dated 28 June 2017, services by Department of Posts, only by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central/State Government or U.T. or local authority, were excluded from reverse charge mechanism. Now, *Vide* N.N. 05/2017-C.T.(R.) dated 13 July 2022, all the services by Department of Posts have been excluded from RCM. Accordingly, tax on all the taxable services by Department of Posts will now be payable under forward charge.

AMENDMENTS IN NOTIFICATION NO. 05/2017-CENTRAL TAX (RATE) DATED 28 JUNE 2017 VIDE NOTIFICATION NO. 09/2022-CENTRAL TAX (RATE) DATED 13 JULY 2022

- **Refund of unutilised input tax credit under Section 54(3) of the CGST Act, 2017 has been disallowed for following supply of goods**

S. No. inserted in N.N. 05/2017-C.T. (R.) dated 28 June 2017 *vide* N.N. 09/2022-C.T.(R.) dated 13 July 2022 w.e.f. 18 July 2022	Heading	Description of Goods
1A	1507	Soya-bean oil and its fractions, whether or not refined, but not chemically modified.
1B	1508	Ground-nut oil and its fractions, whether or not refined, but not chemically modified.
1C	1509	Olive oil and its fractions, whether or not refined, but not chemically modified.
1D	1510	Other oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 1509
1E	1511	Palm oil and its fractions, whether or not refined, but not chemically modified.
1F	1512	Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified.
1G	1513	Coconut (copra), palm kernel or babassu oil and fractions thereof, whether or not refined, but not chemically modified.

1H	1514	Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified.Rape, colza or mustard oil and fractions thereof, whether or not refined,
1I	1515	Other fixed vegetable or microbial fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified. but not chemically modified.
1J	1516	Vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared.
1K	1517	Edible mixtures or preparations of vegetable fats or vegetable oils or of fractions of different vegetable fats or vegetable oils of this Chapter, other than edible fats or oils or their fractions of heading 1516
1L	1518	Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516
1M	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal
1N	2702	Lignite, whether or not agglomerated, excluding jet
1O	2703	Peat (including peat litter), whether or not agglomerated

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