L&S Update

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

L&S GST Update
No. 2 of 2018

GST Council – 25th Meeting held on 18th of January, 2018 – Major recommendations / decisions

GST Council Meeting held on 18th of January, 2018

GST Council in its 25th meeting held in New Delhi on 18th of January, 2018 has taken the following important decisions:

- **Late Fee:**
  - Late fee payable for failure to furnish Form GSTR-1 (outward supply details), Form GSTR-5 (non-resident taxable person) and Form GSTR-5A (OIDAR) to be reduced to Rs.50 per day and Rs.20 per day for NIL filers, respectively.
  - Late fee payable for failure to furnish Form GSTR-6 (ISD return) will be reduced to Rs.50 per day.
- **Cancellation of registration:**
  - Taxable persons who obtained voluntary registration will be permitted to apply for cancellation of registration even before expiry of one year from the effective date of registration.
  - Last date for filing Form GST REG-29 for cancellation of registration by migrated taxpayers to be extended till 31st March, 2018 (from 31st December, 2017 earlier).

➢ E-way bills:

- The portal http://ewaybill.nic.in to be used on a trial basis for generation, modification and cancellation of e-way bills.
- Once the e-way bill system is fully operational, the same will start functioning on http://ewaybillgst.gov.in.
- Certain modifications will be made to e-way bill rules to operationalise the same nationwide for inter-State movement from 01.02.2018 (for intra-State not later than 01.06.2018).

It may be noted that notifications to bring these changes into effect are yet to be issued.

➢ GST Rate for certain goods to be reduced:

- Reduction in GST rate on certain goods has been recommended. Some important goods covered are:
  - Old and used motor vehicles (medium and large cars and SUVs) – 18%, down from 28% (Compensation cess recommended to be reduced to NIL).
  - Old and used motor vehicles (other than medium and large cars and SUVs) – 12%, down from 28% (Compensation cess recommended to be reduced to NIL).
  - Sugar boiled confectionary – 12%, down from 18%.
  - Drinking water packed in 20 litres bottles – 12%.
  - Fertilizer grade Phosphoric acid - 12%.
  - Bio-diesel - 12%.
  - Certain bio-pesticides – 12%.
  - Drip irrigation system including laterals, sprinklers – 12%.
  - Mechanical Sprayer – 12%.
  - Tamarind Kernel Powder – 5%, down from 18%.
  - Velvet fabric – 5% with no refund of unutilised Input Tax Credit.
  - Diamonds and precious stones – 0.25%, down from 3%.
  - De-oiled rice bran – Nil.

GST Rate for certain goods to be <u>increased</u>:

- Increase in GST rate on certain goods has been recommended:
  - Rice bran (other than de-oiled rice bran) – 5%, from Nil.
  - Cigarette filter rods – 18%, from 12%.

Clarifications in respect of GST rate on goods:

- Poly Butylene Feed Stock & LPG – 18% GST to apply only on the net quantity of Poly Butylene Feed Stock or LPG retained for the manufacture of Poly-Iso Butylene or Propylene or dibutyl para cresol respectively, subject to specified conditions.
- Rail coach industry - Only the goods falling under Chapter 86 attract 5% GST rate with no refund of unutilised ITC. Goods falling in any other Chapter will attract applicable GST rate under the respective chapters, even if supplied to the Indian Railways.
- Coal rejects - Coal rejects fall under heading 2701 and attract 5% GST plus Rs. 400 PMT Compensation Cess.

It may be noted that notifications to bring the above changes into effect have been recommended to be issued w.e.f. 25th January, 2018.

➢ Exemption from GST for certain services:

- Exemption from GST on certain services has been recommended. Some important services covered are:
  - Providing information under RTI Act, 2005.
  - Legal services provided to Government, Local Authority, Governmental Authority and Government Entity.
  - Transportation of goods from India to a place outside India by air and; Transportation of goods from India to a place outside India by sea [Exemption till 30th September, 2018].
  - IGST payable on supply of IPR services to the extent of duties and taxes leviable under relevant provisions of Customs Tariff Act read with IGST Act on part of consideration declared under Customs Act towards royalty and license fee includible in transaction value.
  - Pure services provided to Govt. entity and pure service of composite supply involving predominantly supply of services i.e. upto 25% of supply of goods (as per Entry No. 3 of Notification No. 12/2017-Central Tax (Rate).

➢ Exemption from GST for certain services:

- Exemption from GST on certain services has been recommended. Important services covered are:
  - Services relating to admission to, or conduct of examination provided to educational institutions.
  - Services by educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.
  - Services by way of fumigation in a warehouse of agricultural produce.
  - Subscription of online educational journals/periodicals by educational institutions providing degree recognized by law.
  - Renting of transport vehicles provided to a person providing services of transportation of students, faculty and staff to an educational institution providing education upto higher secondary or equivalent.

It may be noted that notifications to bring the above changes into effect have been recommended to be issued w.e.f. 25th January, 2018.

➢ GST Rate on certain services to be <u>reduced</u>:

- Reduction in GST rate on certain services has been recommended. Important services covered are:
  - Job work services for manufacture of leather goods (Chapter 42) and footwear (Chapter 64) - 5%.
  - Construction of metro and monorail projects – 12%, down from 18%.
  - Tailoring service - 5%, down from 18%.
  - Works Contract Services (WCS) provided by sub-contractor to the main contractor providing WCS to Central / State Government, Union territory, a local authority, a Governmental Authority or a Government Entity, which attract 12% GST – 12%, down from 18%; Similarly, WCS provided by sub-contractor to the main contractor providing WCS to such authorities, which attract 5% GST - 5%, down from 18%.
  - Transportation of petroleum crude and petroleum products (MS, HSD, ATF) - 5% without ITC or 12% with ITC.
  - Common Effluent Treatment Plants services of treatment of effluents - 12%, down from 18%.
  - Mining or exploration services of petroleum crude and natural gas and for drilling services in respect of the said goods – 12%.

➢ Other changes / clarifications for services:

- Levy of GST @ 5% without ITC on small housekeeping service providers, notified under Section 9(5) of CGST Act, providing such service through electronic commerce operator.
- Allow ITC of input services in the same line of business at the GST rate of 5% in case of tour operator service.
- Levy GST on time charter services at the GST rate of 5% (same rate as applicable to voyage charter or bare boat charter, with the same conditions).
- Amend CGST Rules to clarify that value of exempt supply under Section 17(2) shall not include the value of deposits, loans or advances on which interest or discount is earned.
- Defer levy of GST on Transferable Development Rights (TDR) against consideration in the form of construction service and on construction service against consideration in the form of TDR to the time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (eg. allotment letter). No deferment in point of taxation in respect of cash component.
- Levy GST on renting of immovable property by government or local authority to a registered person under reverse charge. Such renting to unregistered person shall continue under forward charge.

➢ Other clarifications for services:

- Exemption of Rs. 1000 per day or equivalent (declared tariff) is available in respect of accommodation service in hostels.
- Fee paid by litigants in the Consumer Disputes Commissions and any penalty imposed by these Commissions, will not attract GST.
- Services provided by senior doctors/consultants/technicians hired by the hospitals, whether employees or not, are healthcare services which is exempt from GST.
- Entire amount charged by hospitals from the patients including retention money and the fee / payments made to the doctors etc., is towards healthcare services provided by the hospitals to the patients and is exempt from GST.
- Food supplied to in-patients as advised by the doctor / nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors is taxable.

It may be noted that notifications to bring the above changes into effect have been recommended to be issued w.e.f. 25th January, 2018.

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