GST Update No 242 on amendments in relation to GTA

The levy of tax on GTA services has been a complicated affair in GST as initially, the said service was covered under RCM liable to tax @ 5% but subsequently, option was given to GTA for charging tax under forward charge mechanism @ 12% with the facility of ITC. Recently, GST Council in its 47th meeting has proposed certain changes with respect to GTA services. These amendments have been carried out vide ***Notification No. 03/2022- Central Tax (rate) dated 13.07.2022 and Notification No. 05/2022- Central tax (rate) dated 13.07.2022***. The present update seeks to analyse the impact of amendments made vide the said notifications on the GTA sector.

Prior to the amendment the GTA had only 2 options which are as follows: -

- GTA exercised the option not to charge GST on invoices. GST at the rate of 5% was payable by specified recipient under reverse charge mechanism (RCM) in accordance with provisions of Section 9(3) of CGST Act, 2017; or
- GTA may charge GST at the rate of 12% with the facility of input tax credit under Forward Charge Mechanism (FCM).

However, looking into the ambiguities and difficulties faced by the industry, now the GST Council has amended the earlier issued Notification No. 11/2017-Central Tax (rate) dated 28.06.2017 wherein it has provided an option to GTA to charge GST at the rate of 5% without availing ITC under forward charge in addition to existing GST at the rate of 12% with the facility of ITC. This thereby means that at the beginning of the Financial Year, GTA has been given an option to either charge GST under Forward Charge Mechanism at the rate of 5% without Input tax credit or to charge GST at the rate of 12% with Input tax credit. The option shall be exercised at the beginning of the Financial Year by the GTA via making declaration in Annexure-V to Notification No. 03/2022. It has been further clarified that the said declaration shall be furnished by 15th March of Preceding Financial Year. However, an opportunity is provided to the transporters to claim this option for Financial Year 2022-23 also on or before

16th August 2022. Further, if in any case the transporter fails to furnish any declaration, it shall be deemed that the transporter has opted for reverse charge mechanism. Looking at the present scenario, the moot question still existing in the minds of taxpayers is the circumstances in which the declaration is to be given to the departmental authorities i.e. switching from FCM to RCM or vice-versa. The answer to this question can be drawn from the following table: -

Option followed presently	**Proposed Option**	**Action to be taken**
FCM	FCM	File declaration by 16 August
FCM	RCM	No action required
RCM	RCM	No action required
RCM	FCM	File declaration by 16 August

The above decision of GST Council is a favourable decision since now there is flexibility to the avail the option to pay under FCM or RCM, differently for different registration numbers. Further, the option of FCM @ 5%/12% can be exercised differently at each transaction level and for different supplies to the same customers. However, once option exercised, it cannot be changed subsequently within the same financial year.

In alignment with the above, it is also clarified that exemption as provided vide Exemption Notification No. 12/2017 dated 28.06.2017 under Serial No. 21 is withdrawn. The said entry is reproduced herewith for your reference: -

Services provided by a goods transport agency, by way of transport in a goods carriage of –

(a) ---
(b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs. 1500/-;
(c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed Rs. 750/-;

This means that in case of any supply is being made of Rs. 1 also, it shall stand taxable from now onwards. This will further increase the miseries of small taxpayers on the other hand.

Moving further, it is also clarified that in case the GTA is also engaged in any other taxable business, whether Input Tax Credit can be claimed? In such a scenario, it is clarified that the transporter will be under a liability to maintain separate account for expenses exclusively related to GTA business since no Input Tax Credit shall be available in such a scenario. Further, input tax credit shall be fully available for the expenses directly incurred towards taxable business. However, common input tax credit towards taxable and non-taxable business shall be reversed in accordance with the Rule and 43 of CGST Rules, 2017. Further, the transporters can use single truck for both 5% and 12% business since there is no such restriction imposed by statue in respect of capital goods to be used in making the said supply. It is worth mentioning that in case transporters opt for 5% business, the said supply would be treated as exempt supply and consequently, the proportionate credit is to be reversed in accordance with the Rule 43 of CGST Rules, 2017.

To sum up, it is necessary for the transporters to analyse the situation and be extra vigilant in deciding as to whether to opt for 5% or 12% business because the option once exercised cannot be changed during the financial year. The option should be chosen considering the availability of input tax credit on trucks and the competency of the GTA to comply with the GST laws in case the forward charge mechanism is resorted to.