

**Amendments made in GST TAXATION REGIME through 37<sup>th</sup> meeting of GST COUNCIL**

The 37th GST Council met in Goa under the Chairmanship of Union Finance & Corporate Affairs Minister Smt Nirmala Sitharaman. The meeting was also attended by Union Minister of State for Finance & Corporate Affairs Shri Anurag Thakur besides Chief Minister of Goa Shri Pramod Sawant, Finance Ministers of States & UTs and senior officers of the Ministry of Finance.

The outcome of the meeting was in attempt to give the boost to the economic growth owing to slowdown in market in the country. Though the official notification has not been issued yet. We are giving you gist of amendments and their impact. As soon as the official notifications are issue, we will inform you the same.

The highlights of the meeting are:

**GST RATE Reduction**

- a. 18% to 12% on parts of Slide Fasteners
- b. 18% to 5% on Marine Fuel 0.5% (FO)
- c. 12% to 5% on Wet Grinders (consisting stone as a grinder)

GST Rate cut from 5% to Nil on: -

1. Dried tamarind.
2. Plates and cups made up of leaves/ flowers/bark.

**COMMENTS:** Some exporters from Guar Gum industry are also engaged in export of Tamarind and as such it will be beneficial for them. But they will not be able to take the credit on common inputs as the final product is exempted. But since they are exporting and it is zero rated, hence they will be able to take the credit. But the Tamarind will not exported on payment of GST. If the volume is huge then they can claim the benefit of refund of unutilised credit.

- d. 3% to 0.25% on cut and polished semi- precious stones.
- e. Applicable rate to 5% on specified goods for petroleum operations undertaken under Hydrocarbon Exploration Licensing Policy (HELP).
- f. Exemptions from GST/IGST on: -
  - i. imports of specified defence goods not being manufactured indigenously (up to 2024) supply of goods and services to FIFA and other specified persons for organizing the Under-17 Women's Football World Cup in India.
  - ii. supply of goods and services to Food and Agriculture Organisation (FAO) for specified projects in India.

**GST concession in certain cases for specific period: -**

- a. Exemption to Fishmeal for the period 01.07.17 to 30.09.19. There were doubts as regards taxability of fishmeal in view of the interpretational issues. However, any tax collected for this period shall be required to be deposited.
- b. 12% GST during the period 1.07.2017 to 31.12.2018, on pulley, wheels and other parts (falling under Heading 8483) and used as parts of agricultural machinery.

Passenger vehicles of engine capacity 1500 cc in case of diesel, 1200 cc in case of petrol and length not exceeding 4000mm designed for carrying upto 9 persons attract compensation cess of 1% for petrol and 3% for diesel vehicle. Council recommended same compensation cess rate for vehicles having these specifications (length and engine capacity) but designed for carrying more than 10 persons but up to 13 persons. (Presently these vehicles attract compensation cess at the rate of 15%)

**COMMENTS:** The slowdown in the growth of automobile industry lead to this amendment, the decreased compensation cess on big cars like SUV will make the cars cheaper and affordable.

**SECTOR WISE RATE REDUCTION:**

**Hospitality and tourism.**

1. To reduce the rate of GST on hotel accommodation service as below:

Transaction value per unit per day	Gst rate	Comments
Rs 1000 and less	Nil	Earlier rate was also nil
Rs 1001 and Rs 7500	12%	Earlier rate was also same Medium sized 2- or 3-star hotel. But there was another slab of 18 % also.
Rs 7501 and more	18%	GST rate reduced from 28% to 18%.

**This would boost the tourism to some extent as the five star hotels will now be cheaper than earlier.**

2. To reduce rate of GST on outdoor catering services other than in premises having daily tariff of unit of accommodation of Rs 7501 from present 18% with ITC to 5% without ITC. This means that small hotels will have option to pay outdoor catering at reduced rate of 5% or higher rate of 18% with credit facility. Catering in premises with daily tariff of unit of accommodation is Rs 7501 and above shall remain at 18% with ITC. As the credit is available to star hotels on room accomdation also then they will pay tax 18% only and no option is available to them.

**COMMENTS:** there is no clarity on whether the reduced rate will be available to hotel or catering service provider working in a hotel. The hotel owner providing catering service inside hotel will not be qualified as outdoor catering as he is providing inside his hotel. It normally falls under Mandap keeper service. Now, the same hotel is providing outdoor catering at some other place then it will outdoor catering.

In other case, the outdoor cater providing services to small hotel then he will charge 5% without ITC as the small hotel will demand the same. He will not take credit in that case. But the same catering service provider providing services to big hotel then he has to pay @ 18% and take credit. Separate

inventory will be very difficult task or to go for proportionate reversal under Rule 42 and 43 which is again a difficult task.

Hence, this amendment needs clarification as well as it will be difficult to implement.

## **Job work service**

- a. To reduce rate of GST from 5% to 1.5% on supply of job work services in relation to diamonds.

**Comments:** this is done to make in line the GST RATES on diamond which is low 3% (now .25% through this council meeting) with the gst charged on the job work of the same.

- b. To reduce rate of GST from 18%to 12% on supply of machine job work such as in engineering industry, except supply of job work in relation to bus body building which would remain at 18%. This is again a welcome step for industry. But the meaning of “Engineering services” will create disputes. Most of the industry getting engineering job work done is paying duty @ 18% duty and getting credit. Reduction in rate will reduce the credit. Hence, the cash flow at job work units will reduce but it will increase at principal resulting in no impact.

But it will create disputes about engineering job work. Whether supply of car for repairing will not fall under engineering job work? This is one example. Many disputes will arise.

## **EXEMPTION SECTOR WISE**

### **Warehousing**

To exempt prospectively services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea.

**Comments:** the above amendment seems to in line with granting exemption of warehousing of agriculture produce. Earlier, in service tax regime, the

exemption was available to these items but it was withdrawn in GST regime. But it is again re-introduced in GST.

## **Transportation**

To increase the validity of conditional exemption of GST on export freight by air or sea by another year, i.e. till 30.09.2020

## **Insurance**

- a. To exempt "BANGLA SHASYA BIMA" (BSB) crop insurance scheme of West Bengal Government.
- b. To exempt services of life insurance business provided or agreed to be provided by the Central Armed Paramilitary Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the respective Group Insurance Schemes of these Central Armed Paramilitary forces.

## **Export promotion:**

- a. To exempt services provided by an intermediary to a supplier of goods or recipient of goods when both the supplier and recipient are located outside the taxable territory.
- b. To issue a notification under Section 13(13) of IGST Act notifying the place of supply of specified R&D services (such as Integrated discovery and development, Evaluation of the efficacy of new chemical/ biological entities in animal models of disease, Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays, Drug metabolism and pharmacokinetics of new chemical entities, Safety Assessment/ Toxicology, Stability Studies, Bio Equivalence and Bio Availability Studies, Clinical trials, Bio analytical studies) provided by Indian pharma companies to foreign service recipients, as the place of effective use and enjoyment of a service i.e. location of the service recipient.
- c. To clarify that the place of supply of chip design software R&D services provided by Indian companies to foreign clients by using sample test kits in India is the location of the service recipient and section

13(3)(a) of IGST Act, 2017 is not applicable for determining the place of supply in such cases.

### MISCELLENEOUS

- a. To allow the registered authors an option to pay GST on royalty charged from publishers under forward charge and observe regular GST compliance.
- b. To notify grant of liquor licence by State Governments against payment of license fee as a “no supply” to remove implementational ambiguity on the subject.
- c. To exempt services related to FIFA Under-17 Women's World Cup 2020 similar to existing exemption given to FIFA U17 World Cup 2017.

### Rationalisation facilitation measures

- a. To allow payment of GST on securities lending service under reverse charge mechanism (RCM) at the merit rate of 18% and to clarify that GST on securities lending service for period prior to RCM period shall be paid on forward charge basis. IGST shall be payable on supply of these services and in cases where CGST/SGST/UTGST have been paid, such taxpayers will not be required to pay tax again.
- b. To allow RCM to suppliers paying GST @ 5% on renting of vehicles, from registered person other than body corporate (LLP, proprietorship) when services provided to body corporate entities.

**COMMENTS:** Thus, the rent a cab services were earlier taxable under service tax regime. Now the same is again taxable under reverse charge if the services are being provided to body corporate entities under GST regime.

### GST rates have been recommended to be increased from:

- a. 5% to 12% on goods, falling under chapter 86 of tariff like railway wagons, coaches, rolling stock (without refund of accumulated ITC).

**COMMENTS:** This is to address the concern of ITC accumulation with suppliers of these goods.

b. 8% to 28%+12% compensation cess on caffeinated Beverages.

**COMMENTS:** This would make the energy drinks, beverages at coffee shop costlier and some of the soft drinks.

### Measures for Export Promotion

a. Exemption from GST/IGST: -

- i. At the time of import on Silver/Platinum by specified nominated agencies.
- ii. supply of Silver/Platinum by specified nominated agency to exporters for exports of Jewellery.

b. inclusion of Diamond India Limited (DIL) in the list of nominated agencies eligible for IGST exemption on imports of Gold/ Silver/Platinum so as to supply at Nil GST to Jewellery exporters.

### Uniformation of GST RATE of items in HSN 3901.

A uniform GST rate of 12% on Polypropylene/Polyethylene Woven and Non-Woven Bags and sacks, whether or not laminated, of a kind used for packing of goods (from present rates of 5%/12%/18%).

**ANALYSES:** Though this would result in uniform rate but the same would result in the accumulation of input tax credit. 3901 HSN ITEMS covers the polypropylene and polyethylene (LDPE/HDPE/LLDPE). Though the ambiguity has raised whether the packing industries manufacturing packing pouches would constitute as ITEMS classifiable under HSN 3901.

Earlier when the rates were increased in Excise regime, the department contended that laminated pouches fall under bags and sacks. But the assessee contended that it is separate. But now the position has changed. The laminated pouch manufacturing unit will contend that they fall under the same but the department will take opposite stand.

It will lead to accumulation of credit at bag manufacturers and they will apply for refund. But the industry will get less credit and has to pay in cash. Hence, this amendment will unnecessarily create problems and with no revenue impact.

Furthermore, logic behind this exemption is not known to industry also. How it will lead to export promotion, no idea about the same to authors of this update.

It will create complexity as fabrics will be charged at 18% and bag at 12%. Hence, everyone will sale and purchase bags only. As such, small bag manufacturers will be out of industry. When the credit is available to industry, it will not have any revenue impact.

## **OTHER MISCELANEOUS CHANGES:**

- a. Aerated drink manufacturers shall be excluded from composition scheme.
- b. Option to pay GST at the rate of 18% on transaction value at the time of disposal of specified goods for petroleum operations (on which concessional GST rate of 5% was paid at the time of original supply) provided that the goods are certified by Director General Hydrocarbon(DGH) as non-serviceable.
- c. Restriction on refund of compensation cess on tobacco products (in case of inverted duty structure)
- d. Prescribing modalities for allowing concessions on spare parts imported temporarily by foreign airlines for repair of their aircraft, while in India in transit in terms of the Chicago Convention on Civil Aviation.
- e. Certain other changes of technical nature for the sake of clarity in application of notification.

## **Clarifications as regards applicability of GST rate in respect of certain goods recommended by GST Council which inter-alia includes:**

- a. Mere heating of leguminous vegetables (gram/lentil) for removing moisture, or to soften and puff it or removing the skin, and not



subjecting to any other processing or addition of any other ingredients (salt, oil etc.) would be classified under HS code 0713.

- b. All “mechanical sprayers” falling under HS Code 8424 would attract 12% GST.
- c. Parts like Solar Evacuation tubes for solar power-based devices like solar water heater, solar steam, generation systems, would be eligible to 5% GST rate.
- d. Exclusive parts and accessories suitable for use solely or principally with a medical device (falling under headings 9018, 9019, 9021 or 9022) would fall in respective headings and attract GST at the concessional rate of 12%.
- e. Almond milk is classifiable under HS code 22029990 and attracts GST rate of 18%.
- f. Imported stores for Navy would be entitled to exemption from IGST

## **Issuance of circulars for uniformity in application of law across all jurisdictions**

- a. *procedure to claim refund in FORM GST RFD-01A subsequent to favourable order in appeal or any other forum;*
- b. *eligibility to file a refund application in FORM GST RFD-01A for a period and category under which NIL refund application has already been filed; and*
- c. *clarification regarding supply of Information Technology enabled Services (ITeS services) (in supersession of Circular No. 107/26/2019-GST dated 18.07.2019) being made on own account or as intermediary.*
- d. *In order to nudge taxpayers to timely file their statement of outward supplies, imposition of restrictions on availment of input tax credit by the recipients in cases where details of outward supplies are not furnished by the suppliers in the statement under section 37 of the CGST Act, 2017.*

- e. *New return system now to be introduced from April, 2020 (earlier proposed from October, 2019), in order to give ample opportunity to taxpayers as well as the system to adapt and accordingly specifying the due date for furnishing of return in FORM GSTR-3B and details of outward supplies in FORM GSTR-1 for the period October, 2019 - March, 2020.*
  
- f. *In order to tackle the menace of fake invoices and fraudulent refunds, in principle decision to prescribe reasonable restrictions on passing of credit by risky taxpayers including risky new taxpayers.*

## **Relaxation in filing of annual return**

Relaxation in filing of annual returns for MSMEs for **FY 2017-18** and **FY 2018-19** as under:

- a. waiver of the requirement of filing **FORM GSTR-9A** for Composition Taxpayers for the said tax periods; and
  
- b. filing of **FORM GSTR-9** for those taxpayers who (are required to file the said return but) have aggregate turnover up to Rs. 2 crores made optional for the said tax periods.
  
- c. Simplification of GSTR-9 and 9C.

**COMMENTS:** Thus, the taxpayers who were only required to file GSTR 9 need not to file GSTR 9. Those who have abided the law and filed the returns, will be finding that they are always at loss.

Those CA who have completed the task and filed the returns will not reimbursed for the same. Further, the simplification will again lead to complexity and understanding the same once and again re-computing the same.

The CA fraternity should stand up and raise voice against this system. The efforts put by them has proved useless and who will be responsible for the same?

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