

# THE GST JOURNAL

INFRASTRUCTURE EDITION

Issue 04  
December 2020

A fortnightly journal  
that explores the  
current scenario of  
GST in India.

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# ■ Note from N J Jain



**“Best things in life are tax free, for the rest, we’re here to help you.”**

**Nitesh Jain**

*Managing Partner,  
N.J. Jain & Associates*

**One of the crucial sectors that calls for a quick GST reform is the infrastructure sector. With its implications on the nation’s economy going far and wide, the glitches must be ironed and clarification on disparities must be issued.**

GST was introduced in 2007. Three years down the line, we, as a country, are still trying to fully understand its implications on various sectors. And while the authorities are working towards creating the best version of GST, a taxation system that was introduced with the purpose of simplifying indirect taxes, we still have a long way to go before we accomplish what the system set out to do.

In this edition of The GST Journal, we dissect some notable points and clauses in order to help our readers better understand the infrastructure industry and the GST clauses that apply to it. With comments from experts and a review of the conversation going around the industry, we aim to bring you a comprehensive and unbiased discourse on the matter.




# GST in conversation




India's economy shrinks 7.5% in Q2: What experts said



Demonetization to GST to farm bills: economy's dangerous slide



GST registration may be linked to biometrics



GST: NAA finds Logix Infrastructure guilty of not passing ITC benefit to Flat buyers



Government begins deliberations on bringing power sector under GST: Report



Fuel supply by Coal India to power sector drops 7% in Apr-Oct

Coal India Limited  
A Maharatna Company



E-invoicing under GST pick up speed, posts 17% growth in November



FM says frequent changes to GST rates upset calculations

# GST in Social media



## Ministry of Finance

@FinMinIndia

- Jharkhand has become the latest State to go for Option-1
  - White heavy check mark All States choose Option-1 to meet the GST implementation shortfall (1/2)
- [@nsitharamanoffc](#) [@Anurag\\_Office](#) [@PIB\\_India](#)  
[@DDNewslive](#) [@GST\\_Council](#) [@cbic\\_india](#)



## Ministry of Finance

@FinMinIndia

- Jharkhand will get Rs. 1,689 crore through special borrowing window to meet the GST implementation shortfall
- Permission to raise additional Rs. 1,765 crore through borrowings also issued to Jharkhand



## CNBC-TV18

@CNBCTV18News

MONETARY POLICY DEEP DIVE | Accommodative stance, growth gets top billing even as inflation forecast is raised & system remains flush with cash. [@latha\\_venkatesh](#) speaks to the best mint street experts. [#RBIPolicy](#)



## NSitharamanOffice

@nsitharamanoffc

GST collections, a major indicator of economic activity, recovered quickly following the lifting of the lockdown. Now, for two consecutive months, collections have surpassed the levels seen in the corresponding period of last year.



## GST Tech

@CNBCTV18News

Quarterly Return Monthly Payment (QRMP) scheme launched. Now taxpayers up to Rs. 5 Cr turnover have the option to file their GSTR-1 and GSTR-3B returns quarterly.

[@PTI\\_News](#) [@ANI](#) [@ETVBharatEng](#)  
[@ians\\_india](#) [@DDNewslive](#)



## Ministry of Finance

@FinMinIndia

Rs 1,04,963 crore of gross GST Revenue collected in the month of November 2020. The total number of GSTR-3B Returns filed for the month of November up to 30th November 2020 is 82 lakhs (1/2)



## Ministry of Finance

@FinMinIndia

In line with the recent trend of recovery in the GST revenues, the revenues for the month of November 2020 are 1.4% higher than the GST revenues in the same month last year. (2/2)



# GST & GSTN Updates

## GSTN Updates

- Update of auto-population of e-invoice details into GSTR-1

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- Update on blocking of E-Way Bill (EWB) generation facility, after 1st December, 2020

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- GSTR-9 of FY 2019-20 is available now.

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- Quarterly Return filing and Monthly Payment (QRMP) scheme launched on GST Portal

## GST Updates

89/2020-Central Tax dated 29.11.2020 - Seeks to waive penalty payable for non-compliance of the provisions of notification No.14/2020 – Central Tax, dated the 21st March, 2020.

Penalty waived for non compliance to QR code provisions if complied by April 01, 2021 for default during the period December 1,2020 to March 31,2021

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90/2020-Central Tax dated 01.12.2020 - Seeks to provide for compulsory mentioning of 8 digit HSN for certain Chemical and dyes products

Seeks to specify certain class of supply whose HSN code shall mention eight number of digits in a tax invoice

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# Judicial Review

## 2019 (8) TMI 1010 - APPELLATE AUTHORITY FOR ADVANCE RULING, RAJASTHAN

★ IN RE: M/S. ARAVALI POLYART (P) LTD.,  
ORDER NO.RAJ/AAAR/03/2019-20

Dated: 30 May 2019



Classification of services - Rate of GST - Royalty in relation to mining lease - Excess Royalty Collection Contracts (ERCC) - services provided by the State of Rajasthan to M/s. Aravali Polyart Private Limited for which royalty is being paid - classified under SAC 9973 specifically under 997337 as Licensing Sendees for the right to use minerals including its exploration and evaluation or as any other Sendee? - reverse charge mechanism - N/N. 11/2017-Central Tax (Rate) dated 28.06.2017 - challenge to AAR decision.

HELD THAT:- The Service has been rightly classified under the Service Code 997337 [Licensing services for the right to use minerals including its exploration and evaluation (entry No. 257)] falling under the Group 99733 [Licensing Services for the right to use intellectual property and similar products (entry No.250)] falling under the Heading 9973 [Leasing or rental services with or without operator (entry No. 232)].

Determination of the rate of tax on the impugned Service - HELD THAT:- The entry No. 17 of the Notification No. 11/2017 - Central Tax (Rate), deals with the Heading 9973 (Leasing or rental services with or without operator).

Since the discussion under the agenda covers Group 99733, it is wholly applicable on the activity under consideration i.e. impugned Service. From perusal of point No. 1 of the Discussion, it is very much clear that the impugned Service is not classifiable under entry No. (iii) and (iv) of the Notification No. 11/2017- Central Tax (Rate). Perusal of point No. 2 of the Discussion makes it clear that the rate under pre-revised entry No. 8 does not apply to "Licensing services for the right to use intellectual property' and similar products other than IPR". Since the impugned Service is also the "Licensing services for the right to use intellectual property and similar products other than IPR", the rate under pre-revised entry No. 8 is not applicable on it. Since the rate under newly created entry No. (viiia) is same as that of pre-revised entry No. (viii), the impugned Service would not attract this rate and so would also not merit classification under the entry No. (viiia). Even, the description of the Service under the entry No. (viiia) i.e. "Leasing or renting of Goods" by no stretch of imagination covers the impugned Service i.e. "Licensing services for the right to use intellectual property and similar products other than IPR".

It is crystal clear that neither entry No. (iii) nor (iv) nor (viiia) would cover the impugned Service. Point No. 2 ibid clearly mentions that for this Service (Licensing services for the right to use intellectual property' and similar products other than IPR), the GST council has carved out a new entry No. (viii) with the Service description "Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viiia) above" with rate of tax as 18%.

**AAR ruling upheld - appeal dismissed.**



# Judicial Review

## 2020 (8) TMI 520 - AUTHORITY FOR ADVANCE RULING, KERALA

★ IN RE: M/S. RAY CONSTRUCTIONS LTD.  
Advance Ruling No. KER/87/2020

Dated: 20 May 2020



### Brief Facts of the case:

M/s. Ray Constructions Ltd (hereinafter referred to as the "applicant") is carrying on business in the housing and construction sector. They are engaged in providing services of construction including materials and labour as per the tender requirements. They have received a work order from Vikram Sarabhai Space Centre for the construction of a building for space transportation system. It is a composite contract which includes supply of materials as well as service. They have also received another work order from Mis. Infrastructure Kerala Ltd, a Public Private Partnership Company promoted by Government of Kerala, for the development of Medical College, Thiruvananthapuram which includes construction of road, bridges and other infrastructure. The applicant has requested for advance ruling on the rate of tax applicable for the above works contracts awarded by the Government authorities.

Classification of services - rate of tax - works contracts awarded by the Government authorities - construction of a building for space transportation system - HELD THAT:- As per Section 2 (119) of the CGST Act, 2017; "works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract - On a perusal of the work orders and the agreements entered by the applicant it is clear that the services rendered by the applicant clearly falls within the definition of works contract under Section 2(119) of the CGST Act, 2017.

Since the services provided by the applicant under both the contracts fall under the definition of works contract under Section 2 (119) of the CGST Act, 2017 and the services being provided to the Central Government and State Government as discussed above the applicant is eligible for the concessional rate of GST of 12% prescribed in Sl No. 3 (vi) (a) of the Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017 as amended.

### Order

The services provided by the applicant under both the contracts being composite supply of works contract as defined in clause (119) of Section 2 of the CGST Act, 2017 provided to the Central Government and State Government by way of construction, erection, commissioning or installation of a civil structure or any other original works meant predominantly for use other than for commerce, industry or any other business or profession is covered under entry at Sl No. 3 (vi) (a) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended and attract GST at the rate of 12% [6% CGST and 6% SGST].



# FAQs

## ★ What is the rate of GST applicable for providing contract services?

Contract services are grouped under the Works Contract services under Section 2(119) of the CGST Act, 2017 as it incorporates elements of provision of services and sale of goods as well. The government has bifurcated the work contract services into two categories:

1. Non-Government Works contract services, which levy GST rate of 18%
2. Government works contract services, which levy GST rate of 12%

## ★ How is GST calculated on telecom services?

The telecommunication services attract GST of 18% in the GST regime. Under the new GST regime, telecom service providers can avail credit of IGST paid on domestically procured goods, as well as imported goods.

As per some estimates, this additional input tax credit would be as much as 2% of the turnover of the telecom industry.

## ★ What is the ITC treatment on construction and works contract services?

As per Section 17(5) (C) of the CGST Act, 2017, ITC shall not be available in respect of the works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service.

Thus, ITC for works contract can be availed only by one who is in the same line of business and is using such services received for further supply of works contract service. For example, a building developer may engage the services of a sub-contractor for a certain portion of the whole work. The subcontractor will charge GST in the tax invoice raised on the main contractor. The main contractor will be entitled to take ITC on the tax invoice raised by his sub-contractor as his output is works contract service. However, if the main contractor provides work contract service (other than for plant and machinery) to a company say in the IT business, the ITC of GST paid on the invoice raised by the contractor will not be available to the IT Company.





# Understanding the New Reforms

**ITC Reversal in Hybrid Annuity Road Project**

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**Recent changes in GST for Infrastructure & Real Estate Construction Sector**

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**Input Tax Credit on expenses relating to Construction & Plant Machinery**

[CLICK HERE TO VIEW](#)

**Analysis of Advance Ruling on Taxability of Employee costs in companies having Multi-State businesses**

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**TDS Provisions and Compliance under GST law**

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**And here I thought it would be a 'powerful' cut!**



NEWS

# DAILY NEWS!

TOP NEWS !!!!

**Government considers bringing power sector under GST, thereby reducing cost by 17 paise per unit**





## BRINGING THE **POWER** **SECTOR** UNDER GST



WHAT WILL IT MEAN?

Since the introduction of GST in India a few years ago, there has been much discourse and deliberation on whether or not the power sector (or electricity) should be brought under the GST umbrella. With many entities, big and small (including power companies), maintaining that it should be brought under GST since it would be hugely beneficial for the consumers, the government is now seriously deliberating on the issue. Here are some points worth noticing about the subject:

[READ MORE](#)



**N. J. JAIN & ASSOCIATES**  
CHARTERED ACCOUNTANTS

📍 B1301 – 1305, Ratnaakar Nine Square, Opp. ITC Narmada, Nr. Keshavbaug Party Plot, Satellite, A'bad - 380015

☎ +91 79 400 226 28 / 29/ 30

✉ info@niteshjain.co.in

🌐 www.njjain.com

