

GST Alert 19/2017-18

Date 13.10.2017

### Changes effected by 22nd GST Council Meeting

GST Council in its 22<sup>nd</sup> meeting held on 6.10.2017 had announced some major changes to give relief on major issues. Notification giving effect to these recommendations have been issued today, brief analysis of what these exact changes will be is as under. Please note all the issues mentioned below are now effective.

#### **1. Levy of GST on purchases made from Unregistered persons is deferred (Notification 38/2017-CTR)**

Vide notification 8/2017-CTR government granted exemption from levy of GST on URD purchases till Rs. 5000 per day. Now vide Notification 38/2017-CTR government has deleted this limit of Rs. 5000 thereby granting a complete exemption from levy of GST on ALL purchases of goods and services from Unregistered Persons. Important issues to be kept in mind with regards to this issue are:

- a. **This change will be applicable from 13.10.2017 onwards only, so if any URD purchases made on or before 12.10.2017 will be taxable and GST will have to be paid thereon.**
- b. This exemption will be applicable only till 31.03.2018, hence from April 2018 onwards one will have to pay tax on URD procurements as being done now. **In other words this exemption is from 13.10.2017 to 31.03.2018 only.**
- c. Notified services like Advocates, Sponsorship, GTA etc will continue to be under RCM, there is no change whatsoever in this regard.
- d. This exemption shall apply for intra-state as well as inter-state supplies of goods or services

#### **What happens to the ongoing transactions?**

##### **Example:**

A registered person received an invoice for services worth Rs. 10 lacs from an unregistered person on 10.10.2017. Services were completed on 9.10.2017 and payment thereof is being made on 14.10.2017. Is the registered person required to pay tax under RCM in the given case. Would it make any difference if the invoice was issued on 10.08.2017.

As per section 12 and 13 of the CGST Act, Time of Supply would be earlier of the following 2 events:

1. Date of payment

### 2. 61st day from the date of invoice

In the given case the time of supply of service by the URD is on 14.10.2017 (dt of payment) hence in our view no tax is payable.

If the invoice was issued on 10.08.2017 then the Time of supply would be 10.10.2017 and not the date of payment as it was made on 14.10.17 and therefore registered person will be required to pay GST under RCM.

Basically this change has been brought about with a view to give time to people to adapt to the new law, hence all are requested to configure their accounting systems for this tax and then reverse the tax entries at the end of the month so that the system can be tested and corrections wherever required can be made.

### 2. Persons making inter-State supplies of taxable services will not be required to take registration (Notification 10/2017-IGST)

Section 24 of the CGST requires a person supplying goods or services on interstate basis to take compulsory registration even if his turnover was below Rs. 20 lacs in a year. This posed major issues for many small businesses. Effective from 13.10.2017, any person supplying **SERVICES** on interstate basis whose all India turnover is below is Rs. 20 lacs (10 lacs in case of special category states except J&K) will not be required to take compulsory registration and thus will be absolved from payment of GST and doing all the required compliances.

### 3. Change in GST Rates for Services (Notification 31/2017-CTR)

#### A. Works Contract Services

- i. Certain works contract services are taxed at a concessional rate of 12% if the service recipient is either Government, local authority or governmental authority. one entry is added to this list of recipients called the "Government Entity". This term is defined as under:

*Government Entity" means an authority or a board or any other body including a society, trust, corporation,*

*i. set up by an Act of Parliament or State Legislature; or*

*ii. established by any Government,*

*with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.*

Difference between the term – Governmental Authority and Government entity is very subtle but important. The only difference between the 2 is that for being a Governmental authority the body has to be performing any functions listed under article 243 W or 243 G of the Constitution whereas for being a Government Entity the body must be carrying out any functions entrusted by the Central/State Government, union territory or local authority.

Hence scope of concessional rate on certain works contract services has been increased significantly.

- ii. Works contract services where earth work is a major component will now be taxed @ 5% if the following conditions are fulfilled:
  - a. Work being done is a works contract as defined in section 2 (119) of the CGST Act, 2017
  - b. More than 75% of the work in the contract is of earth work
  - c. Service is provided to Central Government, State Government, Union territory, local authority, a Governmental Authority or a Government Entity
- iii. Supply of works contract services as defined in section 2 (119) of the CGST Act, 2017 and associated services, relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles from the nearest point of the appropriate base line will also be taxable @ 12%

### B. Transportation of Passenger Services

Two important changes have been made in this service which are as under:

- i. Earlier transport of passengers through a **MOTOR CAB** was only put under the 5% tax bracket, but now passenger transport services provided through **ANY MOTOR VEHICLE** would be taxed @ 5% if the supplier doesn't want to avail input credit of goods or services
- ii. Supplier of transport of passenger services used to take the motor vehicle on rental basis from another person, sometime this chain used to have multiple agencies on back to back basis. From 13.10.2017 onwards such supplier paying GST @ 5% would be eligible to take credit of input services on renting of motor vehicles from another person. In other words similar line of business credit will now be available.

- iii. If the supplier wants to avail all types of credits then he can choose to pay GST @ 12% instead of 5%
- C. Rate of tax on Services of Transportation of natural gas through pipeline is brought down to 5% if the suppliers doesn't want to avail input tax credits. In case he wants to avail credit than he will have to pay tax @ 12%. Earlier Tax rate was 18% with credits.
- D. Supplier of services of Renting of ANY motor vehicle designed to carry passengers would now be taxable @ 5%. From 13.10.2017 onwards such supplier paying GST @ 5% would be eligible to take credit of input services on renting of motor vehicles from another person. In other words, similar line of business credit will now be available. In addition to this supplier of passenger vehicles on rent can pay tax @ 12% and claim all types of credits including that of the vehicle itself.

**In our view, vide the above amendments there is an inherent conflict between 2 entries, 8 (ii) and 8 (vi) of 11/2017-CTR. First one talks of transportation of passengers by air-conditioned contract carriage being taxable @ 5% but any ITC, whereas new entry 8 (vi), is for Transport of passengers by any motor vehicle designed to carry passengers which also is taxable @ 5% but with the facility of claiming ITC on similar line of business or of renting of motor vehicle. This anomaly needs to be corrected at the earliest.**

#### **E. Leasing of old vehicles**

Leasing of motor vehicles purchased and leased prior to 1st July 2017 will be taxable at an abated rate of 65% of the applicable rate of GST and Cess. If a car falling in the tax bracket of 29% was leased pre 1.07.2017 then effective from 13.10.2017, tax rate would be 18.20% (65% of 28%) plus Cess 0.65% (65% of 1%), total being 18.85%

#### **F. Jobwork services in relation to the following will all be taxable @ 5% with ITC**

- products (textiles) falling under chapter 50 to 63
- printing of all goods falling under Chapter 48 or 49, which attract GST @ 5 % or Nil
- all food and food products falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975
- all products falling under Chapter 23 in the First Schedule to the Customs Tariff Act, 1975, except dog and cat food put up for retail sale falling under tariff item 23091000 of the said Chapter;
- manufacture of clay bricks falling under tariff item 69010010 in the First Schedule to the Customs Tariff Act, 1975

**4. Exemption from payment of GST – (Notification 32 and 35/2017-CTR)**

Following goods/services have been granted exemption from payment of GST

- A. Services provided by a goods transport agency to an unregistered person other than the following recipients, namely: -
  - a) any factory registered under the Factories Act
  - b) any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India
  - c) any Co-operative Society established by or under any law for the time being in force
  - d) any body corporate established, by or under any law for the time being in force
  - e) any partnership firm whether registered or not under any law including association of persons
  - f) any casual taxable person registered under the GST laws
- B. Service by way of access to a road or a bridge on payment of annuity
- C. Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants
- D. Sale of Duty Credit Scrips

**5. Change in Reverse Charge – (Notification 33 and 36/2017-CTR)**

Following new goods/services have been added whereby tax will be paid under RCM

- A. In case of Supply of services by the members of Overseeing Committee to Reserve Bank of India whereby now the RBI will pay tax on RCM on payments made to the members.
- B. In case of Supply of Used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Central Government, State Government, Union territory or a local authority, the registered person who buys these goods will pay GST under RCM

**6. Sale of Old Vehicles – (Notification 37/2017-CT)**

If a registered person sells motor vehicles falling under chapter 87 purchased by him pre 1.07.2017, then he will be liable to pay 65% of the applicable GST and cess

### **7. Monetary limit for opting for composition scheme enhanced – (Notification 46/2017-CT)**

Following persons having a turnover below Rs. 75 lacs (in 2016-17) were allowed to opt for paying GST under Composition scheme, this limit is now enhanced to Rs. 1 crore. They can now pay GST at reduced rates till they achieve a turnover 1 crore in 2017-18.

- a. Manufacturer
- b. Trader
- c. Restaurant service provider

For persons doing business in following special category states this limit is enhanced from 50 lacs to 75 lacs.

- (i) Arunachal Pradesh,
- (ii) Assam,
- (iii) Manipur,
- (iv) Meghalaya,
- (v) Mizoram,
- (vi) Nagaland,
- (vii) Sikkim,
- (viii) Tripura,
- (ix) Himachal Pradesh:

### **8. Person having turnover below 1.5 crores will not be required to pay tax on Advances (Notification 40/2017-CT)**

A registered person whose (small taxpayer):

- a. Turnover in the preceeding financial year was below 1.50 Crores, OR
- b. Turnover in the current is likely to be below 1.50 crores

Will not be liable to pay GST on receipt of advances towards supply of goods. In other words a small tax payer will be required to pay GST only on issuance of invoices only. Further if there is change in rate of tax on goods being supplied, rate of GST applicable on the day of issuance of invoice will only be relevant.

**Please note, this facility is available only to suppliers of goods and NOT to Service providers.**

### **9. Extension of Return filing due dates for certain tax payers (Notification 41, 42, 43/2017-CT)**

- a. Taxpayers who have opted for Composition scheme are required to file GSTR 4, its due date has been extended to 15.11.2017
- b. Person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient have to file GSTR 5A, its due date has been extended to 20.11.2017
- c. Input Service Distributor is required to file GSTR-6, its due date has been extended to 15.11.2017

### 10. Some other changes

- a. A registered person who is supplying taxable as well as exempted goods or services to an unregistered person, shall be allowed to issue a single “invoice-cum-bill of supply” for all such supplies.
- b. Format of GSTR 1 is amended to include column for Compensation cess in Table 6 where details of export related items is to be given.
- c. Rates of many goods have been changed

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