

GST Alert 21/2017-18

Date 14.11.2017

Changes effected by 23rd GST Council Meeting

GST Council in its 23rd meeting held on 10.11.2017 in Guwahati has announced some major changes to give relief to many sectors. Notification giving effect to these recommendations are proposed to be issued on 14/15th November which shall be made effective from Midnight of 15th November (Morning of 15th), brief analysis of what these exact changes will be is as under. **Please note all the issues mentioned below are right now in proposal format, will be effective as and when the notifications are issued and may change based on the language of the relevant notifications.**

1. Major restructuring of GST rates

Post implementation of GST, council was receiving negative feedback from many sectors with regards to the high rates imposed on them due to which these sectors were getting impacted. About 228 items were taxed in the 28% tax bracket earlier to this council meeting. In this meeting, Council based on the negative feedback, has reduced tax rates for 178 items, so now only 50 items will be taxed at 28% or more. 174 items out of the 228 will now be taxable @ 18% and 4 will be taxable @ 5%. Some reductions in tax rates have also been made in items falling under 18%, 12% and 5%.

List of goods which have received these rate cuts are in the annexure below.

What happens to the ongoing transactions?

The question that arises now is what happens to ongoing transactions, please see the following example

Example:

A company ABC Ltd. agreed to supply marble stone worth 10 lacs to another company XYZ Ltd on 9.11.2017. These goods were taxable @ 28%. W.e.f. 15.11.2017 rate on marble stone has been reduced to 18%. He received an advance of Rs. 5 lacs on 9.11.2017 itself. Goods are physically supplied on 20.11.2017 alongwith Invoice and reach the premises of XYZ on 21.11.2017. Remaining payment of Rs. 5 lac is received by ABC on 22.11.2017.

At what rates will ABC be required to pay GST. Would it make any difference if the invoice was issued on 9.11.2017.

As per section 14 of the CGST Act, as the goods have been physically supplied after reduction in tax rate, Time of Supply in case of change in rate of tax would be the date on issuance of invoice which in the given case is 20.11.2017 hence the tax rate on this date would be applicable. Therefore entire 10 lacs would be taxable @ 18% only.

If the invoice is issued as well as the payment is received before the change in rate of tax then the higher rate of 28% will be applicable.

2. Changes relating to GST rates on certain services

Members of the Council felt that the Restaurant industry was not passing on the benefits of the additional credits being received by it due to implementation of GST and the burden of levy of 18% was being passed on entirely to the customer, in view of which the council has recommended some big ticket changes taxability of Restaurant services. Some other changes have also been recommended as under:

- All stand-alone restaurants irrespective of being air conditioned or otherwise, will attract GST rate of 5% without Input tax credit (ITC). Food parcels (or takeaways) will also attract 5% GST without ITC.
- Restaurants in hotel premises having room tariff of less than Rs 7500 per unit per day will also attract GST of 5% without ITC.
- Restaurants in hotel premises having room tariff of Rs 7500 and above per unit per day (even for a single room) will attract GST of 18% with full ITC.
- **Outdoor catering will continue to be at 18% with full ITC.**

- GST on services by way of admission to "protected monuments" to be exempted.
- GST rate on job work services in relation to manufacture of those handicraft goods in respect of which the casual taxable person has been exempted from obtaining registration, to be reduced to 5% with full input tax credit.

3. Exemption will be granted from levy of GST in following cases:

- Exemption from IGST on imports of lifesaving medicine supplied free of cost by overseas supplier for patients, subject to certification by DGHS of Centre or State and certain other conditions
- **Exemption from IGST on imports of goods (other than motor vehicles) under a lease agreement if IGST is paid on the lease amount.**
- To extend IGST exemption presently applicable to skimmed milk powder or concentrated milk, when supplied to distinct person under section 25(4) for use in production of milk

for distribution through dairy cooperatives to where such milk is distributed through companies registered under the Companies Act.

- Exemption from IGST on imports of specified goods by a sports person of outstanding eminence, subject to specified conditions
- Exemption from GST on specified goods, such as scientific or technical instruments, software, prototype supplied to public funded research institution or a university or IISc, or IITs or NIT.
- Coverage of more items, such as temporary import of professional equipment by accredited press persons visiting India to cover certain events, broadcasting equipments, sports items, testing equipment, under ATA carnet system. These goods are to be re-exported after the specified use is over.

4. Measures for simplification on following issues

- To clarify that inter-state movement of goods like rigs, tools, spares and goods on wheel like cranes, not being in the course of furtherance of supply of such goods, does not constitute a supply. This clarification gives major compliance relief to industry as there are frequent inter-state movement of such kind in the course of providing services to customers or for the purposes of getting such goods repaired or refurbished or for any self-use. Service provided using such goods would in any case attract applicable tax.
- To prescribe that GST on supply of raw cotton by agriculturist will be liable to be paid by the recipient of such supply under reverse charge.
- Supply of e-waste attracts 5% GST rate. Concerned notification to be amended to make it amply clear that this rate applies only to e-waste discarded as waste by the consumer or bulk consumer.

5. Rationalization of certain exemption entries

- The existing exemption entries with respect to services provided by Fair Price Shops to the Central Government, State Governments or Union Territories by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System (PDS) against consideration in the form of commission or margin, is being rationalized so as to remove ambiguity regarding list of items and the category of recipients to whom the exemption is available.
- In order to maintain consistency, entry at item (vi) of Sr. No.3 of notification No. 11/2017-CT(R) will be aligned with the entries at items (ii), (iii), (iv) and (v) of Sl.No.3. [The word "services" in entry (vi) will be replaced with "Composite supply of Works contract as defined in clause 119 of Section 2 of CGST Act, 2017"].
- In order to obviate dispute and litigation, it is proposed that irrespective of whether permanent transfer of Intellectual Property is a supply of goods or service.-

6. Clarifications

- It is being clarified that credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter-state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons as specified in section 25 of the CGST Act.
- A Circular will be issued clarifying that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits & cashew nuts etc. fall outside the definition of agricultural produce given in notification No. 11/2017-CT(R) and 12/2017-CT(R) and therefore the exemption from GST is not available to their loading, packing, warehousing etc.
- A suitable clarification will be issued that (i) services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST under Sl. No. 40 of notification No. 12/2017-Central Tax (Rate); (ii) services provided by State Government by way of general insurance (managed by government) to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of notification No. 12/2017-CT(R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals.

7. Changes recommended in Composition Scheme

- a. Uniform rate of tax @ 1% under composition scheme for manufacturers and traders (for traders, turnover will be counted only for supply of taxable goods).
- b. No change for composition scheme for restaurant.
- c. Supply of services by Composition taxpayer upto Rs 5 lakh per annum will be allowed by exempting the same
- d. Annual turnover eligibility for composition scheme will be increased to Rs 2 crore from the present limit of Rupees 1 crore under the law. Thereafter, eligibility for composition will be increased to Rs. 1.5 Crore per annum.
- e. Above changes recommended by GST Council at (d) above will be implemented only after the necessary amendment of the CGST Act and SGST Acts.

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Annexure of rate changes

I. Goods on which GST rate reduced from 28% to 18% include:

1. Wire, cables, insulated conductors, electrical insulators, electrical plugs, switches, sockets, fuses, relays, electrical connectors
2. Electrical boards, panels, consoles, cabinets etc for electric control or distribution
3. Particle/fibre boards and ply wood. Article of wood, wooden frame, paving block
4. Furniture, mattress, bedding and similar furnishing
5. Trunk, suitcase, vanity cases, brief cases, travelling bags and other hand bags, cases
6. Detergents, washing and cleaning preparations
7. Liquid or cream for washing the skin
8. Shampoos; Hair cream, Hair dyes (natural, herbal or synthetic) and similar other goods; henna powder or paste, not mixed with any other ingredient;
9. Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, perfumery, cosmetic or toilet preparations, room deodorisers
10. Perfumes and toilet waters
11. Beauty or make-up preparations
12. Fans, pumps, compressors
13. Lamp and light fitting
14. Primary cell and primary batteries
15. Sanitary ware and parts thereof of all kind
16. Articles of plastic, floor covering, baths, shower, sinks, washbasins, seats, sanitary ware of plastic
17. Slabs of marbles and granite
18. Goods of marble and granite such as tiles
19. Ceramic tiles of all kinds
20. Miscellaneous articles such as vacuum flasks, lighters,
21. Wrist watches, clocks, watch movement, watch cases, straps, parts
22. Article of apparel & clothing accessories of leather, guts, furskin, artificial fur and other articles such as saddlery and harness for any animal
23. Articles of cutlery, stoves, cookers and similar non electric domestic appliances
24. Razor and razor blades
25. Multi-functional printers, cartridges
26. Office or desk equipment

27. Door, windows and frames of aluminium.
28. Articles of plaster such as board, sheet,
29. Articles of cement or concrete or stone and artificial stone,
30. Articles of asphalt or slate,
31. Articles of mica
32. Ceramic flooring blocks, pipes, conduit, pipe fitting
33. Wall paper and wall covering
34. Glass of all kinds and articles thereof such as mirror, safety glass, sheets, glassware
35. Electrical, electronic weighing machinery
36. Fire extinguishers and fire extinguishing charge
37. Fork lifts, lifting and handling equipment,
38. Bull dozers, excavators, loaders, road rollers,
39. Earth moving and levelling machinery,
40. Escalators,
41. Cooling towers, pressure vessels, reactors
42. Crankshaft for sewing machine, tailor's dummies, bearing housings, gears and gearing; ball or roller screws; gaskets
43. Electrical apparatus for radio and television broadcasting
44. Sound recording or reproducing apparatus
45. Signalling, safety or traffic control equipment for transports
46. Physical exercise equipment, festival and carnival equipment, swings, shooting galleries, roundabouts, gymnastic and athletic equipment
47. All musical instruments and their parts
48. Artificial flowers, foliage and artificial fruits
49. Explosive, anti-knocking preparation, fireworks
50. Cocoa butter, fat, oil powder,
51. Extract, essence and concentrates of coffee, miscellaneous food preparations
52. Chocolates, Chewing gum / bubble gum
53. Malt extract and food preparations of flour, groats, meal, starch or malt extract
54. Waffles and wafers coated with chocolate or containing chocolate
55. Rubber tubes and miscellaneous articles of rubber
56. Goggles, binoculars, telescope,
57. Cinematographic cameras and projectors, image projector,

58. Microscope, specified laboratory equipment, specified scientific equipment such as for meteorology, hydrology, oceanography, geology

59. Solvent, thinners, hydraulic fluids, anti-freezing preparation

II. Goods on which GST rate reduced from 28% to 12% are:

60. Wet grinders consisting of stone as grinder

61. Tanks and other armoured fighting vehicles

III. Goods on which GST rate reduced from 18% to 12%

62. Condensed milk

63. Refined sugar and sugar cubes

64. Pasta

65. Curry paste, mayonnaise and salad dressings, mixed condiments and mixed seasoning

66. Diabetic food

67. Medicinal grade oxygen

68. Printing ink

69. Hand bags and shopping bags of jute and cotton

70. Hats (knitted or crocheted)

71. Parts of specified agricultural, horticultural, forestry, harvesting or threshing machinery

72. Specified parts of sewing machine

73. Spectacles frames

74. Furniture wholly made of bamboo or cane

IV. Goods on which GST rate reduced from 18% to 5%

75. Puffed rice chikki, peanut chikki, sesame chikki, revdi, tilrevdi, khaza, kazuali, groundnut sweets gatta, kuliya

76. Flour of potatoes put up in unit container bearing a brand name

77. Chutney powder

78. Fly ash

79. Sulphur recovered in refining of crude

80. Fly ash aggregate with 90% or more fly ash content

V. Goods on which GST rate reduced from 12% to 5%

81. Desiccated coconut
82. Narrow woven fabric including cotton newar [with no refund of unutilised input tax credit]
83. Idli, dosa batter
84. Finished leather, chamois and composition leather
85. Coir cordage and ropes, jute twine, coir products
86. Fishing net and fishing hooks
87. Worn clothing
88. Fly ash brick

VI. Goods on which GST rate reduced from 5% to nil

89. Guar meal
90. Hop cone (other than grounded, powdered or in pellet form)
91. Certain dried vegetables such as sweet potatoes, maniac
92. Unworked coconut shell
93. Fish frozen or dried (not put up in unit container bearing a brand name)
94. Khandsari sugar

VII. Miscellaneous

95. GST rates on aircraft engines from 28%/18% to 5%, aircraft tyres from 28% to 5% and aircraft seats from 28% to 5%.
96. GST rate on bangles of lac/shellac from 3% GST rate to Nil.