

GST Alert 05/2019-20

Date 3.10.2019

Recent Changes made in GST Law

37th Council meeting was held on 20.09.2019 in Goa, certain decisions were taken which we had clarified on in our alert dated 21.09.2019. Notifications have now been issued to convert those decisions into law, following is a gist of all the notifications:

All these notifications are effective from 1.10.2019

I. Changes in GST Rate applicable on Certain Goods [Noti 14,15,17/2019-CTR & 43/2019-CT]

Sr no	Description of Goods/Services	Chapter / Heading	Rate UPTO 30.09.2019	Rate FROM 01.10.2019	Remarks
1	Tamarind, dried	0813	5%	0.00%	Entry No 33A omitted from Sch – I and Exempted from whole of central tax
2	Marine Fuel 0.5% (FO)	2710	18%	5%	Entry inserted under Serial No 164 of Sch - I
3	Other made up textile articles, sets, of sale value not exceeding ₹ 1000 per piece	63 [other than 6305 32 00, 6305 33 00, 6309]	12%	5%	HSN 6305 33 00 added to Serial No 224 of Sch – I
4	Wet grinder consisting of stone as grinder	8509	12%	5%	Moved from Sch – II to Sch - I
5	Railway wagons, locomotives coaches and parts thereof powered from an external source of electricity or by electric accumulators	8601, 8602, 8603, 8604, 8605, 8606, 8607 and 8608	5%	12%	Moved from Sch – I to Sch – II
6	Woven and non-woven bags and sacks of polyethylene or polypropylene strips or the like, whether or not laminated for packing of goods	3923 or 6305	5% / 12% / 18%	12%	New Entry Inserted in Sch – II. Suitable Exception added in Sch – III
7	Parts of Slide Fasteners	9607	18%	12%	Parts of Slide Fasteners will also be now taxed at 12%
8	Caffeinated beverages	2202 99 90	18%	28%	Caffeinated Beverages excluded from Sch – III

Sr no	Description of Goods/Services	Chapter / Heading	Rate UPTO 30.09.2019	Rate FROM 01.10.2019	Remarks
9	<p>Following motor vehicles namely: -</p> <p>a) Petrol, LPG or CNG driven vehicles of engine capacity exceeding 1200cc and length 4000 mm</p> <p>b) Diesel driven vehicles of engine capacity exceeding 1500 cc and length 4000 mm</p> <p>for persons with orthopaedic physical disability, subject to the condition that an officer not below the rank of Dy Secretary to the Government of India in the Dept of Heavy Industries certifies that the said goods shall be used by the persons with orthopedic physical disability in accordance with the guidelines issued by the said Dept</p>	8703	18%	28% + Cess	Concessional Rate of GST @ 18% on Cars for physically handicapped persons curtailed to only vehicles less than 4000mm in length and not exceeding 1200cc for Petrol/PNG/CNG and not exceeding 1500cc for Diesel – Bigger cars will not be eligible for this benefit now
10	Semi-precious stones, whether or not worked or graded but not strung, mounted or set; semi-precious stones, temporarily strung for convenience of transport [other than Unworked or simply sawn or roughly shaped	7103	3%	0.25%	Entry Deleted from Sch – V and shifted to Sch VI
11	groundnut sweets and gajak Synthetic or reconstructed semi-precio stones, whether or not worked or graded but not strung, mounted or set; ungraded synthetic or reconstructed semi-precious stones, temporarily strung for convenience of transport	7104	1.50%	0.25%	Entry Deleted from Sch – V and shifted to Sch VI
12	Plates and cups made up of all kinds of leaves/ flowers/bark	46	5%	0.00%	Exempted from whole of central tax
13	Gold, silver or platinum when supplied by Nominated Agency under the scheme for "Export Against Supply by Nominated Agency"	71	3%	0.00%	Exempts supply of Silver and Platinum by nominated agencies to registered persons

Sr no	Description of Goods/Services	Chapter / Heading	Rate UPTO 30.09.2019	Rate FROM 01.10.2019	Remarks
14	Suppliers of Aerated Water who had opted for Composition scheme	2202 10 10	6%	18% / 28% + Cess	Suppliers of Aerated Water excluded from Composition scheme and rates increased

II. Changes in GST Rate applicable on Certain Services [Noti 20,21/2019-CTR]

Rates for certain services have been restructured as under:

1. Hospitality Industry

A. Rates for hotel accommodation have been restructured as under:

Room Rate per day	Old Rate	New Rates
Rs. 0 to 999	Nil	Nil
Rs. 1000	12%	Nil
Rs. 1001 to 2499	12%	12%
Rs. 2500 to 7499	18%	12%
Rs. 7500	28%	12%
Rs. 7501 or more	28%	18%

B. Restaurant Services

Place where Service is provided	Old Rate	New Rates	ITC Entitlement	Remarks
Hotel premises where room rates are above 7500 per day	18%	18%	ITC Allowed	No Change
Any place other than above	5%	5%	ITC Not allowed	No Change

C. Outdoor Catering

Rates for Catering industry has been restructured as under:

Type of Outdoor Catering Supplier	Old Rate	New Rates	ITC Entitlement	Remarks
Outdoor catering done at any place other hotel where room rate is above 7500	18%	5%	ITC not allowed	--

Composite supply of services of Outdoor catering along with renting of premises other than the one mentioned below	18%	5%	ITC not allowed	--
Outdoor catering done in a hotel where room rates are above 7500	18%	18%	ITC allowed	No Change
Catering service provided by hotel (having rooms above 7500) at any premises whether inside or outside the hotel	18%	18%	ITC allowed	No Change

Rate of 5% without ITC is mandatory in nature and supplier will not have any option of choosing to go with rate of 18% with ITC.

2. Jobwork Services

Supply of job work services in relation to diamonds which was taxable at 5% will now be taxable at 1.5%

There is no change in rates for Supply of job work in relation to bus body building, it would continue to be taxed at 18%.

Supply of machine job work such as for engineering industry which was taxable at 18% will now be taxable at 12%. **Due to amendments made in the Jobwork entry interpretational issues between jobworks taxable at new rate of 12% and certain jobworks amounting to manufacture taxable at 18% will arise and clog the industry with litigation. GST when introduced sought to do away with this distinction between Jobworks amounting to manufacture or otherwise but now that controversy has been reintroduced, council will have to take a serious relook at this and correct this anomaly at the earliest.**

There is no change whatsoever for Repairs and maintenance services provided by authorised service stations or other supplies on vehicles or other goods, they will be taxed at 18% as earlier. Repair & Maintenance services is classified under SAC code 9987 falling under serial no. 25 of Notification 11/2017-CTR and jobwork services are classified under SAC code 9988 falling under serial no. 26 of Notification 11/2017-CTR

3. Place of Supply of Research and Development Services related to Pharmaceutical Services [Noti 4/2019-IGST]

Place of Supply for Research and development services related to pharmaceutical sector as specified below supplied by a person located in taxable territory to a person located in the non-taxable territory shall be the location of the recipient of services subject to fulfilment of the following conditions:-

(i) Supply of services from the taxable territory are provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory.

(ii) Such supply of services fulfils all other conditions in the definition of export of services, except sub- clause (iii) provided at clause (6) of Section 2 of IGST Act, 2017

- a. Integrated discovery and development
- b. Integrated development
- c. Evaluation of the efficacy of new chemical/ biological entities in animal models of disease
- d. Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays
- e. Drug metabolism and pharmacokinetics of new chemical entities
- f. Safety Assessment/ Toxicology
- g. Stability Studies
- h. Bio-equivalence and Bioavailability Studies
- i. Clinical trials
- j. Bio analytical studies

4. Other Services

- a. 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 will be exempted.
- b. Professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both will now be taxed at 12% instead of 18%.

- c. Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India will be exempted subject to certain conditions
- d. Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force will be exempted
- e. Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020 will be exempted

III. Reverse Charge Mechanism [Noti 22/2019-CTR]

Following changes are made in RCM provisions

S. No.	Name of Service	Status of Service Provider	Status of Svs Recipient	Tax payable by Provider	Tax payable by Recipient
1	Renting of Motor Vehicle	Any person other than Body Corp. opting to pay Tax @ 5% without ITC	Body Corporate in India	Nil	5%
<p>Please Note in case the supplier of rent a cab service has opted for 12% (with ITC) rate then same shall not fall under RCM, supplier will have to pay the tax</p>					
2	Transfer or permitting the use of a copyright relating to original literary works	Author	Publisher located in the taxable territory	Nil	18%

IV. Changes for Auto Industry and other miscellaneous changes in rates

1. Concessional Rate of GST @ 18% on Cars for physically handicapped persons curtailed to smaller vehicles less than 4000mm in length and not exceeding 1200cc for Petrol/PNG/CNG and not exceeding 1500cc for Diesel – **Bigger and costlier cars will not be eligible for this benefit now.**
2. Currently Cars of engine capacity 1500 cc (diesel), 1200 cc (Petrol) and length not exceeding 4000mm designed for carrying upto 9 persons is taxed at Compensation Cess of 1% for petrol and 3% for diesel vehicle. Similar CCess rates will be applicable for vehicles having engine capacity 1500 cc (diesel), 1200 cc (Petrol) and length not exceeding 4000mm and **designed for carrying more than 10 persons but upto 13 persons** (Presently these vehicles attract cess at the rate of 15%)
3. **Dreaded circular 105/2019 dt 28.06.2019 which confused GST treatment on post sales discounts has been withdrawn ab-initio, apart from auto industry this circular was applicable all business which run on distributor/franchisee model. We recommended deletion of Para 4 of this circular, however due to mass representation entire circular has been withdrawn vide circular 112. Para 5 of this circular had given much required clarity on eligibility of credits for dealers and distributors even if discounts were passed on through financial credit notes. This crucial clarification must be reissued by the council at the earliest else litigation on this count will be huge. All in all it is a good step to withdraw this circular.**

V. Procedural Changes

Certain procedural changes explained below were also announced after the council meeting, but notification / circulars for them are still awaited.

1. Composition Scheme Taxpayers will not be required to file Annual Return GSTR 9A for 2 years being FY 2017-18 & 2018-19
2. Filing of GSTR 9 (Annual Return) made optional for Taxpayers having turnover upto 2 crores for 2 years being FY 2017-18 & 2018-19
3. Committee will be set up to simplify formats of Annual Return (GSTR 9 and 9A) and GST Reconciliation (GSTR 9C)

4. Extension of last date for filing of appeals against orders of Appellate Authority before the GST Appellate Tribunal as the Appellate Tribunals are yet not functional.
5. Restrictions on availing ITC will be notified in case the supplier do not file GSTR 1 (statement of outward supplies)
6. Integrated refund system with disbursal by single authority to be introduced from 24th September, 2019. This will do away with the hassle of approaching 2 authorities for refunds.
7. New return system which was going to be made applicable from October 2019 will now be introduced from April 2020, hence current system of filing GSTR 3B and GSTR 1 will continue till March 2020.
8. Aadhar shall be linked with registration of taxpayers.
9. **In order to tackle the menace of fake invoices and fraudulent refunds, in principle decision has been taken to prescribe reasonable restrictions on passing of credit by risky taxpayers including risky new taxpayers. Details of what this means are awaited.**

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