

POLICY RECOMMENDATIONS

Following are the major policy recommendations made by the GST Council in their 31ST Meeting held on 22ND December 2018:

Annual Return and GST Audit related changes

- The due date for furnishing the annual returns in **FORM GSTR-9, FORM GSTR-9A** and reconciliation statement in **FORM GSTR-9C** for the Financial Year 2017 – 2018 shall be further **extended till 30.06.2019**
- Following changes are to be carried out in Form GSTR 9 and GSTR 9C in the format and the instructions:
 - **Amendment of headings** in the forms to specify that the return in FORM GSTR-9 & FORM GSTR-9A would be in respect of supplies etc. **‘made during the year’** and not ‘as declared in returns filed during the year’;
 - All returns in **FORM GSTR-1 & FORM GSTR-3B** have to be filed **before filing of FORM GSTR-9 & FORM GSTR-9C**;
 - All returns in **FORM GSTR-4** have to be filed before filing of **FORM GSTR-9A**;
 - **HSN code** may be declared only for those **inward supplies** whose value independently accounts for **10% or more** of the total value of inward supplies;
 - **Additional payments**, if any, required to be paid can be done through **FORM GST DRC-03 only in cash**;
 - **ITC cannot be availed** through **FORM GSTR-9 & FORM GSTR-9C**;
 - **All invoices** pertaining to **previous FY (irrespective of month in which such invoice is reported** in FORM GSTR-1) would be **auto-populated in Table 8A** of FORM GSTR-9;
 - Value of **“non-GST supply”** shall also **include the value of “no supply”** and may be reported in Table 5D, 5E and 5F of FORM GSTR-9;
 - **Verification by taxpayer** who is uploading reconciliation statement would be included in **FORM GSTR-9C**.
- **ITC** in relation to invoices issued by the supplier **during FY 2017-18** may be availed by the recipient **till the due date for furnishing of FORM GSTR-3B for the month of March, 2019**, subject to specified conditions.

Refund related changes

- **Single authority** for disbursal and sanctioning of **refund** is to be implemented on pilot basis
- **Uploading of all supporting documents** for the sanctioning of **refund** is proposed to be implemented soon. There will be **no need of visiting the tax department** once this option is enabled.

- Where **application** of refund has been filed **before the rollout** of online functionality, the **supporting documents** are still to be **submitted physically**. If not submitted within 60 days of generation of ARN at the jurisdictional office, the claimants will be sent communication on where to submit the application. If application is still not submitted within 15 days of the email, the application will be rejected and the debited amount will be re-credited.
- **Clarifications** shall be issued on **certain refund related matters** like refund of ITC accumulated on account of inverted duty structure, disbursal of refunds within the stipulated time, time allowed for availment of ITC on invoices, refund of accumulated ITC of compensation cess etc.
- The following types of refunds shall also be available through Form RFD-01A:
 - Refund on account of **Assessment/Provisional Assessment/Appeal/Any Other Order**;
 - Tax paid on an **intra-State supply** which is subsequently **held to be inter-State supply** and vice-versa;
 - **Excess payment** of Tax; and
 - Any other refund.

New Return filing mechanism

- The **new return filing system** shall be introduced on a **trial basis from 01.04.2019** and on **mandatory basis from 01.07.2019**

Extension of due dates

- The due date for furnishing **FORM GSTR-8** by e-commerce operators for the months of **October, November and December, 2018** shall be extended till **31.01.2019**.
- The due date for submitting **FORM GST ITC-04** for the period **July 2017 to December 2018** shall be **extended till 31.03.2019**.
- **Late fee** shall be completely **waived** for all taxpayers in case FORM GSTR-1, FORM GSTR-3B & FORM GSTR-4 for the months / quarters **July, 2017 to September, 2018**, are **furnished after 22.12.2018 but on or before 31.03.2019**.
- One more window for completion of migration process is being allowed. The due date for the taxpayers who did not file the complete **FORM GST REG-26** but received only a Provisional ID (PID) till 31.12.2017 for furnishing the requisite details to the jurisdictional nodal officer shall be **extended till 31.01.2019**. Also, the due date for furnishing FORM GSTR-3B and FORM GSTR-1 for the period **July, 2017 to February, 2019/quarters July, 2017 to December, 2018** by such taxpayers shall be extended till **31.03.2019**.

Effective date of GST Amendments

- Changes made by **CGST (Amendment) Act, 2018**, **IGST (Amendment) Act, 2018**, **UTGST (Amendment) Act, 2018** and **GST (Compensation to States) Amendment Act,**

2018 and the corresponding changes in SGST Acts would be **notified w.e.f. 01.02.2019**

Other Amendments

- A single cash ledger is proposed to be created for each tax head.
- Taxpayers who have not filed the returns for two consecutive tax periods shall be restricted from generating e-way bills. This provision shall be made effective once GSTN/NIC make available the required functionality.

LAW AMENDMENTS

- Creation of a **Centralised Appellate Authority for Advance Ruling (AAAR)** to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue.
- Amendment of section 50 of the CGST Act to provide that **interest** should be charged **only on the net tax liability of the taxpayer**, after taking into account the admissible input tax credit, i.e. interest would be leviable only on the amount payable through the electronic cash ledger.

RECOMMENDATION ON GST RATE CHANGE ON SERVICES

Reduction in GST rates/exemptions on services:

1. GST rate on cinema tickets above Rs. 100 shall be reduced from 28% to 18% and on cinema tickets upto Rs. 100 from 18% to 12%.
2. GST rate on third party insurance premium of goods carrying vehicles shall be reduced from 18% to 12%
3. Services supplied by banks to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY) shall be exempted.
4. Services supplied by rehabilitation professionals recognised under Rehabilitation Council of India Act, 1992 at medical establishments, educational institutions, rehabilitation centers established by Central Government / State Government or Union Territories or entity registered under section 12AA of the Income-tax Act shall be exempted.
5. Services provided by GTA to Government departments/local authorities which have taken registration only for the purpose of deducting tax under Section 51 shall be excluded from payment of tax under RCM and the same shall be exempted.
6. Exemption on services provided by Central or State Government or Union Territory Government to their undertakings or PSUs by way of guaranteeing loans taken by them from financial institutions is being extended to guaranteeing of such loans taken from banks.

7. Air travel of pilgrims by non-scheduled/charter operations, for religious pilgrimage facilitated by the Government of India under bilateral arrangements shall attract the same rate of GST as applicable to similar flights in Economy class (i.e. 5% with ITC of input services).

Rationalization

8. Parliament and State legislatures shall be extended the same tax treatment with regard to payment of tax under RCM (reverse charge mechanism) as available to Central and State Governments.
9. Security services (supply of security personnel) provided to a registered person, except Government Departments which have taken registration for TDS and entities registered under composition scheme, shall be put under RCM.
10. Services provided by unregistered Business Facilitator (BF) to a bank and agent of Business correspondent (BC) to a BC shall be put under RCM.

Clarifications

11. To clarify that with effect from 31st January, 2018 degrees/ diploma awarded by IIMs under IIM Act, 2017 will be exempt from GST.
12. To clarify that the services provided by IFC and ADB are exempt from GST in terms of provisions of IFC Act, 1958 and ADB Act, 1966.
13. To clarify to West Bengal that services provided by Council/ Board of Primary/ Secondary/ Higher Secondary Education for conduct of examination to its students are exempt.
14. To clarify that "printing of pictures" falls under service code "998386: *Photographic and videographic processing services*" of the scheme of classification of services and attract GST @18% and not under "998912: *Printing and reproduction services of recorded media, on a fee or contract basis*" which attracts GST @12%.
15. To clarify that leasing of pumps and reservoirs by the OMCs to petrol pump dealers is a mixed supply and the Licence Fee Recovery (LFR) charged for the same shall be leviable to GST @ 28%, the rate applicable to pumps. Leasing of land and buildings along with equipment shall fall under heading 9972 (real estate services) and attract GST rate of 18%.
16. To clarify that the incentives paid by RBI to Banks under "Currency Distribution and Exchange Scheme" (CDES) are taxable.
17. To clarify under section 11(3) of the CGST Act, 2017 that scope of entry for multi-modal transport with GST rate of 12% inserted w.e.f. date 26.07.2018, covers only transport of goods from a place in India to another place in India, that is, only domestic multi-modal transport.

18. To clarify that the nature of business establishment making supply of food, drinks and other articles for human consumption will not determine whether the supply by such establishments is a supply of goods or services. It will rather depend on the constituents of each individual supply and whether same satisfies the conditions / ingredients of a 'composite supply' or 'mixed supply'.
19. To clarify that GST is exempt on supply of food and drinks by an educational institution when provided by the institution itself to its students, faculty and staff and is leviable to GST of 5% when provided by any other person based on a contractual arrangement with such institutions.
20. To clarify that the banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via business facilitator or the business correspondent.
21. To issue a clarification to Food Corporation of India (FCI) that the service provided by godown owner in case of lease with services, where the godown owner, besides leasing the warehouse, undertakes to carry out activities of storage and preservation of stored food grains, is the service of storage and warehousing of agricultural produce and the same is exempt.

RECOMMENDATION ON GST RATE CHANGE ON GOODS

I. GST rate reduction on goods which were attracting GST rate of 28% :

A. 28% to 18%

- Pulleys, transmission shafts and cranks, gear boxes etc., falling under HS Code 8483
- Monitors and TVs of upto screen size of 32 inches
- Re-treaded or used pneumatic tyres of rubber;
- Power banks of lithium ion batteries. Lithium ion batteries are already at 18%. This will bring parity in GST rate of power bank and lithium ion battery.
- Digital cameras and video camera recorders
- Video game consoles and other games and sports requisites falling under HS code 9504.

B. 28% to 5%

- Parts and accessories for the carriages for disabled persons

II. GST rate reduction on other goods,-

A. 18% to 12%

- Cork roughly squared or debagged

- Articles of natural cork
- Agglomerated cork
- B. 18% to 5%**
- Marble rubble
- C. 12% to 5%**
- Natural cork
- Walking Stick
- Fly ash Blocks
- D. 12% to Nil:**
- Music Books
- E. 5% to Nil**
- Vegetables, (uncooked or cooked by steaming or boiling in water), frozen, branded and put in a unit container
- Vegetable provisionally preserved (for example by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption.
- F. Miscellaneous**
- Exemption from GST on supply of gold by Nominated Agencies to exporters of article of gold Jewellery.
- Exemption from GST on proceeds received by Government from auction of gifts received by President, Prime Minister, Governor or Chief Minister of a State and public servants, the proceeds of which is used for public or charitable cause.
- Exemption from IGST/Compensation cess on vehicles imported for temporary purposes under the Customs Convention on the Temporary importation of Private Road Vehicles (carnet de passages-en-douane).
- Rate of 5%/18% to be applied based on transaction value of footwear
- Uniform GST rate of 12% on Flexible Intermediate Bulk Container (FIBC) from existing 5%/12% (depending on the value)

III. GST on solar power generating plant and other renewable energy plants

- GST rate of 5% rate has been prescribed on renewable energy devices & parts for their manufacture (bio gas plant/solar power based devices, solar power generating

system (SGPS) etc) [falling under chapter 84, 85 or 94 of the Tariff]. Other goods or services used in these plants attract applicable GST.

- Certain disputes have arisen regarding GST rates where specified goods attracting 5% GST are supplied along with services of construction etc and other goods for solar power plant.
- To resolve the dispute the Council has recommended that in all such cases, the 70% of the gross value shall be deemed as the value of supply of said goods attracting 5% rate and the remaining portion (30%) of the aggregate value of such EPC contract shall be deemed as the value of supply of taxable service attracting standard GST rate.

IV. Clarifications:

- Sprinkler system consisting of nozzles, lateral and other components would attract 12% GST rate under S.No. 195B of notification No. 1/2017-Central Tax (Rate) dated 28.6.2018
- Movement of Rigs, Tools & Spares and all goods on wheels on own account where such movement is not intended for further supply of such goods but for the provision of service does not involve a supply (e.g., movement of testing equipment etc.) and is not be liable to GST.
- The goods with description Bagasse Board [whether plain or laminated] falling under Chapter 44 attract GST at the rate of 12%.
- Concessional GST rate of 5% applies to the LPG supplied in bulk to an OMC by refiners/fractioners for bottling for further supply to household domestic consumers.
- While animal/cattle/aquatic/poultry feed are exempt vide S. No. 102 of notification No. 2/2017-Central Tax (Rate), this exemption would not apply to their inputs such as fish meal, meat bone meal, bran, sharps, oil cakes of various oil seeds etc.
- Manure of determination of classification of vitamins, provitamins etc. as animal feed supplements
- Sattu or Chattua falling under HS code 1106 and attracts the applicable GST rate.
- Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP falls under HS code 3923 and attract 18% GST rate.
- 18% GST is applicable on wood logs including the wood in rough/log used for pulping.
- Turbo charger is classified under heading 8414 and attracts 18% GST and not 5% GST.

- Fabric even if embroidered or has stitching of lace and tikki etc., and even if sold in three piece fabric as ladies suit set, will be classifiable as fabric and would attract 5% GST.
- Scope of concessional rate of 5% GST rate for specified equipment for waste to energy plant.

REFERENCE TO VARIOUS COMMITTEES BY GST COUNCIL

The GST Council in its 31st meeting held today at New Delhi decided to refer the following issues to Committees / GoM indicated against them:

- Extending the Composition scheme to small service providers. The rate of tax and threshold limit to be proposed - Law Committee and Fitment Committee.
- Tax rate on lotteries – Committee of States.
- Taxation of residential property in real estate sector – Law Committee and Fitment Committee.
- Threshold limit of exemption under GST regime – GoM on MSMEs.

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