

Date – 27.7.2018

**Recommendations of the 28th GST Council Meeting  
and analysis of Notifications issued thereunder**

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## 1. Compliance Related Aspects

### **1.1 Simplified return format:**

The council has recommended for a simplified return process as follows:

- a. All taxpayers **excluding small taxpayers** and a few exceptions like ISD etc. shall file one monthly return.
- b. The return is simple with two main tables. One for reporting outward supplies and one for availing input tax credit based on invoices uploaded by the supplier.
- c. Invoices can be uploaded continuously by the seller and can be continuously viewed and locked by the buyer for availing input tax credit.
- d. This process would ensure that very large part of the return is automatically filled based on the invoices uploaded by the buyer and the seller. Simply put, the process would be “UPLOAD – LOCK – PAY” for most tax payers.

***H&A Comment:** Filing of Form GSTR 2 and Form GSTR 3 had been deferred earlier as per recommendation of the 23rd GST Council meet. The proposed new amendment provides for simplification of return filing procedures as proposed by the Returns Committee and approved by GST Council. The new return format is expected to be made operational w.e.f. January 2019*

*There is unconfirmed news that the new return format would be released on 30.7.2018 for public comments.*

### **1.2 Quarterly return for taxpayers with turnover upto Rs. 5 Crore:**

The Council has approved for providing an option of filing quarterly return with monthly payment of tax by the small tax payers with turnover upto Rs. 5 crores. 93% of the taxpayers fall within this bracket.

Further, Quarterly return shall be similar to the main return with monthly payment facility but for two kinds of registered persons – small traders making only B2C supply or making B2B + B2C supply.

Simplified returns have been designed for such taxpayers called ‘Sahaj’ and ‘Sugam’. In these returns details of information required to be filled is lesser than that in the regular return

***H&A Comment:**Presently, taxpayers having a turnover up to Rs. 1.5 crores are having an option to fill Form GSTR -1 quarterly with monthly payment of tax. The current limit of Rs. 1.5 crores is being raised to Rs. 5 crores with a view to cover 93% of the taxpayers who fall within this bracket and simplifying compliance requirement for such major class of assesses. However, tax has to be paid on monthly basis. The effective date of compliance under this option has not been notified yet. Further, revised return format under this option have also not been released yet.*

### **1.3 Facility for filing NIL Return by SMS:**

NIL return filers (no purchase and no sale) shall be given facility to file return by sending SMS.

*H&A Comment: This is a taxpayer-friendly measure and it is believed that small taxpayers would benefit from this amendment.*

#### **1.4 Amendment of Invoices in the new facility - Amendment Return:**

The new return design provides facility for amendment of invoice and also other details filed in the return. Amendment shall be carried out by filing of a return called '**amendment return**'.

Further, payment would be allowed to be made through the amendment return as it will help save interest liability for the taxpayers.

*H&A Comment: Presently, assesseees were not able to rectify the return once it has been filed on the portal. The only way out available for the assessee was to rectify the mistakes in the following months return along with the interest. Therefore, by bringing in the facility of Amendment Return, will immensely benefit the assesseees in rectifying the returns at the earliest and help them save on the interest payments on the same. Nothing notified as to the Amendment Return as of now.*

#### **1.5 Facility to create profile by the taxpayer:**

Taxpayers would have facility to create his profile based on nature of supplies made and received. The fields of information which a taxpayer would be shown and would be required to fill in the return would depend on his profile.

#### **1.6 Opening of migration window for tax payers till 31st Aug'18:**

- The Council has recommended to open the migration window for taxpayers, who received provisional IDs but could not complete the migration process.
- The taxpayers who filed **Part A** of **FORM GST REG-26**, but not **Part B** of the said FORM will be required to approach the jurisdictional Central Tax/State Tax nodal officers with the necessary details **on or before 31<sup>st</sup> August, 2018**. The nodal officer would then forward the details to GSTN for enabling migration of such taxpayers.
- Late fee payable for delayed filing of return for such pending cases will be waived. However, the taxpayer will be required to first file the returns on payment of late fees, and the waiver will be effected by way of reversal of the amount in the cash ledger.

*H&A Comment: Many of the assessee who had filed application for migration from pre GST regime to post regime got provisional IDs which could not be converted in the final registration number. The provisional registrations of these categories of tax payers were rejected. There were apprehensions as to the liability accrued during this period, the availment of credits on inward supply and eligibility of credit to the customers as such person were not able to file their return. Proposed amendment is expected to sort out all the challenges being faced by such persons.*

## **2. Amendment in respect of Goods**

The rate of tax has been rationalised on many goods as clarified below:

### **2.1 Rationalisation of rates in respect of Goods: (effective date – 27.7.2018)**

The rate of tax has been rationalised on many products, few of which are indicated as below:

- Milk enriched with vitamins or minerals salt (fortified milk) is classifiable under HS code 0401 as milk and exempt from GST.
- 5% GST on both treated (modified) tamarind kernel powder and plain (unmodified) tamarind kernel powder.
- Beet and cane sugar, including refined beet and cane sugar, (falling under heading 1701) attracts 5% GST rate.
- Water supplied for public purposes (other than in sealed containers) does not attract GST.
- Marine engine (falling under sub-heading 8408 10 93) attracts 5% GST rate.
- Kota stone and similar stones [ other than marble and granite] other than polished will attracts 5% GST, while ready to use polished Kota stone and similar stones will attracts 18%.

***H&A Comment:**Rate reduction by Government on many goods (especially from 28 bracket to lower bracket) has been commendable. Taxable persons engaged in the making supply of goods where rate reductions have taken place need to consider the impact of the anti profiteering on immediate basis.*

*Detailed Notification for giving effect to the changes in rate of tax for various goods may be referred to in the following Notifications:*

- *Notification No. 18/2018-Central Tax (Rate) making changes in the effective rate of tax on goods*
- *Notification No.19/2018-Central Tax (Rate) exempting certain categories of goods from levy of GST*
- *Notification No. 21/2018 -Central Tax (Rate) reducing the rate of tax on the handicraft goods*

**Details given in Annexure 1 of the Document.**

### **2.2 Inverted Duty refund allowed to textile sections: (effective date – 1.8.2018)**

- Many of the products in the textile sectors were under inverted duty structure but there was restriction on claiming refund of accumulated credit on account of inverted duty under Notification No. 5/2017-Central Tax (rate). This was causing in accumulation of credits with such suppliers without any option available for them to liquidate/encash the same.
- The proposed amendment has removed the restriction and such person would be entitled to claim the refund under inverted duty structure.

- The refund may be claimed in respect of supplies which are received on or after 1.8.2018.
- The credit accumulated till 31.7.2018 may be utilized against the liability for the period ended upto July 2018 and the balance amount of credits, if any, shall lapse.

***H&A Comment:** Though it has been a welcome move for the industry but the benefit must have been extended for the past accumulated credits also. The lapsing of unutilized credits as on 31.7.2018 will unnecessarily cause loss to the taxpayers. Further, suppliers who are engaged in this line of business as well as other business will have to identify the credit pertaining to such business and reverse the credit to the extent available till such date. It would have been ideal if the benefit of refund was given retrospective without requiring reversal of closing balance as on 31<sup>st</sup> July, 2018.*

### 3. Amendment in respect of Services

#### Change in Rate of Tax

#### 3.1 5% Rate of tax on canteen services provided in factory, school, institutions etc.[Notification No. 13/2018-Central Tax (rates)]

- There were confusions as to the applicable rate of tax on the services supplied by contractor at fixed premises (factory, school, college, office) on regular basis.
- Explanation has been inserted in the Notification No. 11/2017-Central Tax (rates) against serial number 7 to clarify that 5% rate of tax would be applicable when:
  - The services are provided **by any person based on contractual engagement** at canteen, mess, cafeteria or dining space of institutions such as school, college, hospital, industrial unit, office.
  - The services are provided by such institutions to the person availing services at such institutions.
- Consequent to such amendment, the supplies by contractors at institutions (whether to institution or persons directly availing the services) and by institutions to the persons would be covered under 5% rate of tax.
- The supplier shall not be entitled to get the credits of the same.
- However, the amendment does not cover such cases where supply is event based or occasional in nature. In such cases, the applicable rate of tax would be 18%.
- The amendment has come by way of an explanation. There is possible view to claim that the amendment is clarificatory in nature and hence it has retrospective effect.

**H&A Comment:** This is welcome move to remove ambiguity as to the applicable rate of tax on such supplies. However, the benefit of reduced rate should have been given along with ITC. It is to be noted that change has been proposed in the section 17 (5) of CGST Act to provide that the input tax credits of foods, beverages or outdoor catering would be permitted when it is obligatory for an employer to provide its employees under any law for the time being in force. The amendment in the section 17 (5) is yet to be effective. The combined effect of the change in rate of tax and proposed amendment in the section 17 (5) would be as below: **(from the date of amendment taking place in the Law)**

Rate of tax on supply made by contractor	Obligation for employer to provide services to employees	Recovery from employees	Applicable rate on recovery from employees	Eligibility of credits to the employer	Net tax effect
5%	Yes	No	NA	Yes	Reduction in cost as

					<i>ITC would be available to employer</i>
5%	Yes	Yes	5%	No	<i>Increase in cost by 10% as - ITC of tax charged by contractor cannot be claimed when used for making further supply @ 5% - 5% tax to be paid on recovery from employees</i>
5%	No	No	NA	No	<i>ITC not available as services not obligatory for employer . Tax charged by contractor to become cost.</i>
5%	No	Yes	5%	No	<i>Increase in cost by 10% as - ITC of tax charged by contractor cannot be claimed as services not obligatory - 5% tax to be paid on recovery from employees</i>

**3.2 Catering services at Railway liable at 5%***[Notification No. 13/2018-Central Tax (rates)]*

- Catering services provided by following categories of persons have been made liable to tax @ 5%
  - Indian Railway
  - IRCTC
  - Licensees of above categories of persons
- The services may be provided either in the trains or at platforms

**3.3 Outdoor catering services liable to tax @ 18%***[Notification No. 13/2018-Central Tax (rates)]*

- The scope of outdoor catering services have been clarified to provide that supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink which are **event based or occasional in nature** when provided at:
  - Exhibition halls
  - Events
  - Conferences
  - Marriage halls; and
  - Other outdoor or indoor functions
- The applicable rate of tax in such cases would be 18%

#### 3.4 **Hotels to charge tax rate based on transaction value** *[Notification No. 13/2018-Central Tax (rates)]*

- The rate of tax on accommodation in hotels was chargeable based on **declared tariff** of unit of accommodation in the hotel irrespective of actual value charged from the recipient. This was resulting in higher tax burden especially in off seasons.
- The amendment has been proposed to provide that the rate of tax would be determined based on actual value of supply, not on declared tariff.

#### 3.5 **Multimodal transportation services liable to tax @ 12%** *[Notification No. 13/2018-Central Tax (rates)]*

- Many service providers in the transporter sectors have been providing multimodal transportation services i.e. services of transportation of goods provided by more than one means of transportation. This could include services by rail, road, air or vessels.
- The rate of tax applicable for transportation under these categories could be different.
- There were confusions as to the applicable rate of tax when the services were provided through multiple means. The rate of tax was required to be determined based on the principal supply forming part of the composite supply.
- The amendment has made the multimodal transportation as special category of service where the rate of tax has to be charged @ 12% irrespective of the individual rate applicable for specific mode of transportation.
- The supplier of service shall not have option to segregate the consideration for separate mode of services. Single rate of tax has to be charged for the consolidated consideration.
- “Multimodal transport” means carriage of goods by atleast two different modes of transport from the place of acceptance of goods to the place of delivery of goods by a multimodal transporter.



- “mode of transport” means carriage of goods by road, air, rail, inland waterways or sea
- Multimodal transporter has been defined as a person who:
  - enters into a contract under which he undertakes to perform multimodal transportation against freight; and
  - **acts as principal, and not as an agent** either of the consignor, or consignee or of the carrier participating in the multimodal transportation and **who assumes responsibility for the performance of the said contract.**

*H&A Comment: The amendment has to be closely looked into by the suppliers in this sector as many of such suppliers may have been providing transportation through single mean as well as multimodal transportation. The contractual arrangement between parties and actual mode employed for transportation would determine the status of service and applicable rate of tax thereon. Proposed amendment could result in higher tax rate when GTA services are provided along with other mode of transportation. However, the net tax effect when considered along with ITC may not be that significant.*

### 3.6 Supply of e-books liable to tax @ 5% [Notification No. 13/2018-Central Tax (rates)]

- Supply consisting only of ‘e-books’ have been made liable to tax @ 5%.
- E- book means an electronic version of a printed book (falling under tariff item 4901 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)) supplied online which can be read on a computer or a hand held device.

*Note: Above amendments in the rate of tax have become effective from 27-7-2018. There could be many instances of ongoing contracts where services have been partially provided or received, or where advances have been received etc. The effect of change in rate of tax has to be given in accordance with provision of section 13 which could be summarised as below:*

#### A. Services supplied before change in rate of tax

Date of Invoice	Date of payment	Time of Supply	Applicable rate of tax
30.7.2018 (A)	5.5.2018 (A)	5.5.2018 (A)	New rate
20.7.2018 (B)	5.5.2018 (A)	20.7.2018 (B)	Old rate
30.7.2018 (A)	22.7.2018 (B)	22.7.2018 (B)	Old rate

**B. Services supplied after change in rate of tax**

Date of Invoice	Date of payment	Time of Supply	Applicable rate of tax
20.7.2018 (B)	5.5.2018 (A)	5.5.2018 (A)	New rate
20.7.2018 (B)	22.7.2018 (B)	22.7.2018 (B)	Old rate
30.7.2018 (A)	22.7.2018 (B)	30.7.2018 (A)	New rate

*The above principles would be applicable to continuous supply of services also if covered under any of the above services where rate of tax have changed.*

**3.7 Exemption granted/amendment in the exemption notifications***(inserted in the Notification No. 12/2017 vide amendment Notification 14/2018-Central Tax (rates) effective from 27.7.2018)*

S. No. of Notification	Amendment proposed	Effect of amendment
12/2017-4	Omission of Central Government, State Government, Union Territory, Local Authority	The exemption was provided for services by way of an activity in relation to function entrusted to a municipality under Article 243W of the Constitution by these service providers. Now, the exemption is confined only when services are provided by Governmental Authority
5	Same as above	Same as above except that it covers functions provided in Article 243G of the Constitution
Insertion of new entry 9C	<ul style="list-style-type: none"> <li>- Old age home run by CG, SG or 12AA registered entities</li> <li>- For residents aged 60 years or more</li> <li>- For consideration upto 25,000/- per month per member</li> <li>- Charges include boarding, lodging and maintenance</li> </ul>	New exemption granted to old age home run by specified services providers when consideration received is within specified limit
Insertion of new entry 10A	<ul style="list-style-type: none"> <li>- Services provided by electricity distribution utilities</li> <li>- Services are by way of construction, erection, commissioning or installation of infrastructure</li> <li>- For the purpose of extending electricity distribution network</li> <li>- Uptotubewell of farmer or</li> </ul>	New exemption granted for extending electricity infrastructure to farmers for agricultural use

	agriculturist - For agricultural use	
14	Word “declared tariff” to be replaced by “value of supply”	The exemption provided to lodging/accommodation services provided by hotel, inn, guesthouses upto Rs. 1,000 which was earlier linked to <b>declared tariff</b> has now been amended to link to <b>actual value</b> charged from the recipient of service.
19A and 19B	Replacement of ‘2018’ by ‘2019’	Services by way of transportation of goods from air craft or vessel from Customs Station of India to a place outside India was exempted till 30 <sup>th</sup> September, 2018. Now the exemption has been extended till 30 <sup>th</sup> September, 2019.
Insertion of entry 24A	Services by way of warehousing of minor forest produce	The warehousing service for agricultural produce was exempted but the definition of agricultural produce did not cover forest produce. Now the exemption has been extended to warehousing of minor forest produce also. However, the meaning of term ‘minor forest produce’ has not been explained in the Notification.
Insertion of entry 31A	Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948).	New exemption granted
Insertion of entry 31B	Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.	New exemption granted
Insertion of entry 34A	Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings(PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the financial institutions.	New exemption granted
36A	Inclusion of word and figure 40	The effect of amendment would be to grant exemption to services by way of reinsurance of schemes

		where total premium is paid by Central Government, State Government or Union Territory
Insertion of entry 47A	Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators	New exemption entry inserted
Insertion of 55A	Services by way of artificial insemination of livestock (other than horses).	New exemption entry inserted
Insertion of entry 65B	Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.	The exemption has been given subject to certain conditions as mentioned in the Notification
Insertion of entry 77A	Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,- (i) activities relating to the welfare of industrial or agricultural labour or farmers; or (ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs 1000/-) per member per year.	New exemption entry inserted
Explanation in para 3	For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students	The clarification has been given to provide that consideration charged by Central and State Education Board towards conduct of examination shall be entitled to exemption extended to educational institutions.

**3.8 Services covered in RCM** *(Notification No. 15/2018- Central Tax (Rate))*

Nature of Service	Service Provider	Person liable to pay tax
Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs).	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a non-banking financial company, located in the taxable territory.”;

**Annexure 1:**

**CHANGES IN GST RATE FOR THE FOLLOWING GOODS:**

Sl. No.	Description
<b>REDUCTION IN GST RATE FROM 28% TO 18%</b>	
1	Paints and varnishes (including enamels and lacquers)
2	Glaziers' putty, grafting putty, resin cements
3	Refrigerators, freezers and other refrigerating or freezing equipment including water cooler, milk coolers, refrigerating equipment for leather industry, ice cream freezer etc.
4	Washing machines.
5	Lithium-ion batteries
6	Vacuum cleaners
7	Domestic electrical appliances such as food grinders and mixers & food or vegetable juice extractor, shaver, hair clippers etc
8	Storage water heaters and immersion heaters, hair dryers, hand dryers, electric smoothing irons etc
9	Televisions upto the size of 68 cm
10	Special purpose motor vehicles. e.g., crane lorries, fire fighting vehicle, concrete mixer lorries, spraying lorries
11	Works trucks [self-propelled, not fitted with lifting or handling equipment] of the type used in factories, warehouses, dock areas or airports for short transport of goods.
12	Trailers and semi-trailers.
13	Miscellaneous articles such as scent sprays and similar toilet sprays, powder-puffs and pads for the application of cosmetics or toilet preparations.
<b>REDUCTION IN GST RATE FROM 28% TO 12%</b>	
14	Fuel Cell Vehicle. Further, Compensation cess shall also be exempted on fuel cell vehicle.
<b>REDUCTION IN GST RATE FROM 18%,12%, 5% TO NIL</b>	
15	Stone/Marble/Wood Deities
16	Rakhi [other than that of precious or semi-precious material of chapter 71]
17	Sanitary Napkins,
18	Coir pith compost
19	Sal Leaves siali leaves and their products and Sabai Rope
20	PhoolBhari]hadoo [Raw material for Jhadoo]
21	Khali dona.
22	Circulation and commemorative coins, sold by Security Printing and Minting Corporation of India Ltd [SPMCIL] to Ministry of Finance.
<b>REDUCTION IN GST RATE FROM 12% TO 5%</b>	

Sl. No.	Description
23	Chenille fabrics and other fabrics under heading 5801
24	Handloom dari
25	Phosphoric acid (fertilizer grade only).
26	Knitted cap/topi having retail sale value not exceeding Rs 1000
<b>REDUCTION IN GST RATE FROM 18% TO 12%</b>	
27	Bamboo flooring
28	Brass Kerosene Pressure Stove.
29	Hand Operated Rubber Roller
30	Zip and Slide Fasteners
<b>REDUCTION IN GST RATE FROM 18% TO 5%</b>	
31	Ethanol for sale to Oil Marketing Companies for blending with fuel
32	Solid bio fuel pellets
<b>REDUCTION IN GST RATE IN RESPECT OF FOOTWEAR</b>	
33	5% GST is being extended to footwear having a retail sale price up to Rs. 1000 per pair
34	Footwear having a retail sale price exceeding Rs. 1000 per pair will continue to attract 18%
<b>REDUCTION IN GST RATE IN RESPECT OF SPECIFIED HANDICRAFT ITEMS</b>	
<b>REDUCTION IN RATE FROM 18% TO 12%</b>	
35	Handbags including pouches and purses; jewellery box
36	Wooden frames for painting, photographs, mirrors etc
37	Art ware of cork [including articles of sholapith]
38	Stone art ware, stone inlay work
39	Ornamental framed mirrors
40	Glass statues [other than those of crystal]
41	Glass art ware [ incl. pots, jars, votive, cask, cake cover, tulip bottle, vase ]
42	Art ware of iron
43	Art ware of brass, copper/ copper alloys, electro plated with nickel/silver
44	Aluminium art ware
45	Handcrafted lamps (including panchloga lamp)
46	Worked vegetable or mineral carving, articles thereof, articles of wax, of stearin, of natural gums or natural resins or of modelling pastes etc, (including articles of lac, shellac)
47	Ganjifa card
<b>SPECIFIED HANDICRAFT ITEMS - REDUCTION IN RATE FROM 12% TO 5%</b>	
48	Handmade carpets and other handmade textile floor coverings (including namda/gabba)
49	Handmade lace
50	Hand-woven tapestries

Sl. No.	Description
51	Hand-made braids and ornamental trimming in the piece
52	Toran

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