

GST **GUIDE**



Decisions of 37th Council Meeting are given effect

Introduction of New RCM Service – Renting of Motor Vehicle

Refund of EXWP of IGST allowed after adjusting Drawback – HC, Kerala

New GST Returns can now be filed on trial basis

Online processing of Refund Applications and Single Authority Disbursement implemented



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Notifications, Circulars and Amendments to Law/Rule



Sr. No.	Amendments	Notification No.																
1.	Change in GST Rates on certain goods which is applicable from 01-Oct-19 (Refer Annexure A)	14/15/16/2019 CT(R) dated 30-Sep-19																
2.	Changes in GST rates on services which is applicable from 01-Oct-19 (Refer Annexure B)	20-2019 CT (R) dated 30-Sep-19																
3.	Additions made in Exemption list of Goods and Services (Refer Annexure C)	17/19/21/2019-CT (R) dated 30-Sep-19																
4.	Certain services notified under Reverse Charge mechanism majorly covering rent a cab service. (Refer Annexure D)	22/2019 -CT (R) dated 30-Sep-19																
5.	Special procedure prescribed for payment of taxes in case of development right services will be rescinded for development right services	23/2019 -CT (R) dated 30-Sep-19																
6.	Services by way of grant of alcoholic liquor licence against consideration in the form of license fee or applicable fee or by whatever name it is called shall be neither be treated as supply of goods nor services.	25/2019 CT (R) dated 30-Sep-19																
7.	Change in Compensation Cess rates for motor vehicles for persons with orthopaedic physical disability subject to certain conditions:- <table border="1" data-bbox="321 1075 925 1271"> <thead> <tr> <th rowspan="2">Engine Capacity</th> <th rowspan="2">Type</th> <th rowspan="2">Particulars</th> <th colspan="2">Compensation Cess</th> </tr> <tr> <th>Existing</th> <th>Revised</th> </tr> </thead> <tbody> <tr> <td>1500 CC</td> <td>Diesel</td> <td rowspan="2">Length not exceeding 4000 mm and which is designed for carrying upto 13 persons</td> <td>15%</td> <td>1%</td> </tr> <tr> <td>1200 CC</td> <td>Petrol</td> <td>15%</td> <td>3%</td> </tr> </tbody> </table>	Engine Capacity	Type	Particulars	Compensation Cess		Existing	Revised	1500 CC	Diesel	Length not exceeding 4000 mm and which is designed for carrying upto 13 persons	15%	1%	1200 CC	Petrol	15%	3%	02/2019 CT (R) dated 30-Sep-19
Engine Capacity	Type				Particulars	Compensation Cess												
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1500 CC	Diesel	Length not exceeding 4000 mm and which is designed for carrying upto 13 persons	15%	1%														
1200 CC	Petrol		15%	3%														
8.	Exclusion of manufacturers of aerated waters from purview of composite scheme	18/2019 CT (R) dated 30-Sep-19																
9.	The place of supply for supply of research and development services related to pharmaceutical sector shall be the effective use and enjoyment of a service i.e. recipient of service subject to fulfilment of certain conditions	04/2019 – IT (R) dated 30-Sep-19																
10.	No refund of unutilized input tax credit of Compensation Cess shall be allowed for tobacco and manufactured tobacco substitutes, where compensation cess credit has been accumulated on account of inverted duty structure	04/2019 – IT (R) dated 30-Sep-19																

Refer Annexures for changes in GST Rates

Notifications, Circulars and Amendments to Law/Rule



RAMA SAYS:-

Finance Minister has rationalize the GST rates on several goods or services considering the various representations made to the council. The change in rates may be beneficial to the end consumers and will impact the marketability of the product.

Advance Authority Rulings (GST)



Case I – No need to reverse ITC on capital goods in the year in which there is no supply of exempted goods

Case Name: Metro Dairy Ltd

Appeal No: ORDER NO. 23/WBAAR/2019-20

Date: 23-Sep-19

Court: AUTHORITY FOR ADVANCE RULINGS, WEST BENGAL

Facts of the case:

The Applicant has set up a manufacturing facility for UHT milk, milkshake, curd and lassi, some of these items are exempt and others taxable. Commercial production of UHT milk has been going on since December 2018. Manufacturing of other products is likely to begin soon.

The Applicant has procured capital goods and input services that are common to the production of both taxable and exempted goods.

Matter under Consideration:

The Applicant wants to know the extent and proportion of the input tax credit that is admissible on such capital goods and input services.

Observations and Findings:

Based on the proviso to rule 43(1)(d) of the GST Rules and further prescriptions under rule 43(1)(e), (f) and (g) of the GST Rules, the Applicant is required to compute the admissible amount of the input tax credit on the capital goods used for both taxable and exempt supplies in the tax periods over the useful life of such capital goods, calculated from the date of invoice. The

Advance Authority Rulings (GST)



Applicant shall reverse the balance amount of the input tax on the said capital goods that has already been credited to its electronic credit ledger.

As the commercial production of exempted goods did not begin in 2018-19, the entire input tax on input services, subject to the provisions under rule 42(2) of the GST Rules, is an admissible credit during 2018-19.

Ruling:

Ruled that the applicant need not reverse the ITC on the capital goods in the year in which there were no supply of exempted goods but shall comply with the provisions of reversal over the useful life of the capital goods i.e. 5 years from the date of invoice.

RAMA SAYS:

The CSGT Rules are clear regarding reversal of ITC on capital goods when they are used for both exempt and taxable supplies. The ruling brings clarity that ITC on capital goods shall not be reversed where there is no supply of exempt goods / service.

Case II – GST not leviable on Delayed Payment Charges in case of purchase of Securities

Case Name: SPFL Securities Ltd.

Appeal No: ORDER NO.
06/AAAR/18/4/2019

Date: 18-Apr-19

Court: AUTHORITY FOR ADVANCE
RULINGS, UTTAR PRADESH

Facts of the case:

The applicant/appellant is engaged primarily in the business of providing services of stock broking, i.e., purchasing and selling of shares on behalf of the clients on exchange platform by virtue of being a recognized BSE/NSE appointed stock broker.

Advance Authority Rulings (GST)

Matter under Consideration:

Taxability on Delayed Payment Charges on reimbursement of amount by client to applicant, where client failed to pay amount paid to Stock Exchanges for purchase of securities with T+1 (trading day plus one day) under SEBI Regulation norms and deducted by Stock Exchange from applicant account being purchase consideration of securities which are neither good nor service under GST.

Observations:

- Based on the modus operandi of Stock Exchange, the Appellate Authority determined the nature of the delayed payment charges as summarized below for understanding its taxability under the GST law:- Where the client makes delay (i.e., beyond T+1 statutory time limit for payment as per SEBI Regulations) in reimbursing the expense (being purchase consideration of the securities bought for client and already collected from stock broker by stock exchange with T+1 time limit) to the broker and broker charges amount on delay of such reimbursement of expense, for securities purchased from the client. It is purely a deferment of liability only which arose since the payment was not made within the stipulated period of



time by the client to the Stock Exchange for purchase of securities.

- Since the service of buying and selling of securities which is exempted under GST, as per the definitions of 'goods' and 'services' under section 2(52) and section 2(102) respectively, the corresponding delayed payment charges which are also linked to the above service of trading of securities should also stand exempt under GST.
- Another point raised by the appellant is regarding the FAQ on the Banking, Insurance, Stock amended by the C.B.I.C. on 27-Dec-18, needs to be taken into consideration, which clarified that the GST shall not be applicable on delayed payment charges.

Advance Authority Rulings (GST)



Ruling:

- In view of the foregoing discussion and findings the Appellate Authority hereby modifies the Ruling of the Authority for Advance Ruling to the extent.
- The applicant is not liable to pay GST on the delayed payment charges on reimbursement of amount by client to applicant, where client failed to pay amount paid to Stock Exchange for purchase of securities with T+1 (trading day plus one day) under SEBI Regulation norms and deducted by Stock Exchange from applicant account being purchase consideration of securities which are neither goods nor services under GST.



RAMA Says:

As per Section 15(2) (d) of The CGST Act, any interest, late fee or penalty for delayed payment of any consideration will attract GST. However, the concept of Bundled supply of Service says that the tax rate of the principal supply will be levied on entire bundle of service. Combining both the concepts, Authority delivered the sound ruling stating that the interest of delayed payment shall not be taxable since the principle supply of securities is not taxable under GST.

Recent Case Laws (GST)

Case I: - High Court Allows Refund of IGST After Adjusting Higher Rate of Duty Drawback

G Nxt Power Corp. v. Union of India (High Court of Kerala)

Facts of the Case:

Petitioner was an exporter. It exported goods with payment of IGST. In such transaction, the petitioner availed higher duty drawback. Later on, it filed a refund application for IGST paid on such exports. However, the same was rejected by the Department contending that since the petitioner had already availed higher duty drawback on these exports, it is not entitled for refund of IGST. Therefore, while ordering refund of IGST, the petitioner was required to refund the higher rate of duty drawback already availed by it with interest.

The petitioner by filing the instant writ petition contends that he is entitled for refund of IGST paid during the transition period as per Ext.P6. According to petitioner, the amended claim for refund could be submitted in terms of Section 149 of Customs Act, 1962. The denial of refund of IGST on a transaction which is otherwise



zero-rated transaction is illegal, contrary to Article 265 of Constitution of India and prays for appropriate directions for refund of the IGST paid by the petitioner.

The department took the stance that, as the writ applicant had availed higher duty drawback and as there is no provision for accepting the refund of such higher duty drawback, the writ-applicant is not entitled to seek the refund of the IGST paid in connection with the goods exported, i.e. 'zero rated supplies'. Also, they stated that in case refund of IGST is to be allowed to the petitioner, it will have to refund the amount of Duty Drawback received with interest. Further they relied on the circular dated 09-Oct-18 which explained the provisions of the drawback.

Observations and Findings

The petitioner mentioned that Rule 96 of the CGST Rules provides for a deeming fiction. The shipping bill that the exporter

Recent Case Laws (GST)

of goods may file is deemed to be an application for refund of the integrated tax paid on the goods exported out of India. Further, Rule 96(4) makes it abundantly clear that the claim for refund can be withheld only in two circumstances as provided in sub-clauses (a) and (b) respectively of clause (4) of Rule 96 of the Rules, 2017. The petitioner took the stance that they are not falling in either of the two circumstances which was fairly conceded by the respondent.

The High Court took notice of two things so far as the circular is concerned. Apart from being merely in the form of instructions or guidance to the concerned department, the circular is dated 9-Oct-18, whereas the export took place on 27-Jul-17. Over and above the same, the circular explains the provisions of the drawback and it has nothing to do with the IGST refund. Thus, the circular will not save the situation for the respondents. We are of the view that Rule 96 of the Rules, 2017, is very clear.

Ruling:

1. The respondents are given liberty to adjust the amount already availed by the petitioner on account of higher rate of duty drawback and pay the balance of IGST payable to petitioner



within six weeks from the date of receipt of a copy of this judgment.

2. The respondents are directed to pay the balance amount i.e., IGST minus higher rate of duty drawback already availed by the petitioner within the time granted by this Court and avoid the additional burden of interest payment on IGST refund. The respondents, if commit default in payment of balance amount as directed by this judgment, the respondents will be obligated to pay interest @ 7% together with balance amount payable from the date on which a request for refund is made by the petitioner till the date of payment.

RAMA Says:

The High court made the fair decision in a way that the petitioner is not deprived of its right to claim refund of IGST on export with payment of tax and also not allowing the double benefit of refund as well as duty drawback.

RAMA IRIS GST / Portal Updates

IRIS UPDATES:

1. Enhanced 3B Auto-compute feature:-

- a. Table 3.1 Details of Outward Supplies and inward supplies liable to reverse charge: Data is now updated to include the impact of amendments in all sections. Also impact of advances, its adjustments and any related amendment impact is included in "3.1(a) outward taxable supplies (other than zero rated, nil rated and exempted)".
- b. Table 3.2: POS wise interstate supplies: POS wise inter-state supplies to unregistered customers will now include impact of amendment. This data will be reflected from GSTR1 data uploaded and filed through IRIS portal.
- c. Ineligible ITC (If Purchase register uploaded) and Values of exempt, nil-rated and non-GST inward supplies will also be auto-populated

2. GSTR2A Download:

Now you will be able to download GSTR2A data of all sections (B2B, B2BA, CDN, CDNA) for a single filing period in a single file.

PORTAL UPDATES –

1. **New GST Return (Trial)** - Supplier taxpayers can now fill in details of tables 3A (Business-to-Consumer (B2C) details), table 3B (Business-to-Business (B2B) details) & table 3H (Details of Supplies attracting Reverse Charge) in their Form GST ANX 1, online, on the GST Portal. On saving these details by Supplier Taxpayer records of Form GST ANX-1 will automatically flow to GST ANX 2 of the recipient taxpayer.

Table 3A of GST ANX-2 of the Recipient Taxpayer will thus get auto-populated. The Recipient Taxpayer can now take 'Action' (Accept / Reject / Pending) on Form GST ANX-2, online and save it.

2. **Option for composition scheme by taxpayers dealing with services**, in Form GST CMP -02, has been made available on the GST Portal. Taxpayer can select category as specified in the form and multiple options can be selected. Taxpayer who have filed Form GSTR -1 /GSTR 3B for April/May/June 2019 cannot opt for this now.

For demo enquiry, please contact
Mr. Kapil Bansal: +91 97693 63338

RAMA IRIS GST / Portal Updates

2. Taxpayers coming under this scheme can file return Form CMP-08 only.
3. **TDS/TCS Deductors & Temp Registrants can now add bank account details** by a non-core amendment in their registration application to file for refund.
4. In the “Search Taxpayer functionality” available on GST Portal, Trade Name of the taxpayer will also be now made available as part of taxpayer profile. (Home> Search Taxpayer> Search by GSTIN/UIN)
5. **Changes in offline tools available on GST Portal –**
 - On import of excel file in offline tool to prepare GST ANX1, the error file containing erroneous records, if any, will be generated. These records can be exported into an excel file for rectification and after rectification the excel file can be re-imported into offline tool.
 - Records ‘Mark for Delete’ in GST ANX-1 using offline tool, can now



- be uploaded on GST Portal using JSON file by supplier taxpayer, to delete such records.
- The offline tool will now throw error if HSN code is wrongly entered or is non-existent.
- GST ANX 2 & Matching Tool: Facility to ‘Refine Matching Result’, using tolerance limit and approximation logic, is now made available in offline tool. Now taxpayers can select limits, using which they can match the records, while matching purchase register details with GST ANX 2.

For demo enquiry, please contact
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GST Network starts online refund processing - GST Network on unveiled an online refund process as decided by the GST Council. With the deployment of online refund functionality, taxpayers can now file a refund application (in RFD 01 form) easily and tax officers can process the same online.

Biggest ever pan-India joint operation by Directorate General of GST Intelligence and Directorate General of Revenue Intelligence against fraudulently claiming refund of IGST by exporters - Pan-India searches were carried out at 336 different locations across the country involving about 1200 officers. The preliminary examination of the records/documents indicated that an Input Tax Credit of more than Rs. 470 Crore (Invoice value of approx. Rs 3500 Crores) is fake which has been further utilized by the exporters for effecting exports on payment of IGST through ITC and claiming consequential cash refund of the same.

Racket of Issuance of Invoices without Actual Supply of Goods busted in Delhi - Investigations revealed around 60 dummy firms were opened and some of these firms passed on fraudulent Input Tax Credit to firms within this group to avail IGST refund



or refund against supplies made to SEZ. The accused had applied for IGST refunds from various ports across India and Rs.18.09 crores had been credited to their bank accounts. Also, three refund claims involving Rs.29.66 crores for supplies made to SEZ were filed in CGST North and West Divisional Offices which had not been sanctioned. During search operations unaccounted cash of Rs.91.92 lakhs was also seized and two bank accounts having amount of Rs.1.68 crores have been provisionally attached.

GST Revenue Collection for September 2019 - The revenue during September, 2019 is declined by 2.67% in comparison to the revenue during September, 2018. During April-September, 2019 vis-à-vis 2018, the domestic component has grown by 7.82% while the GST on imports has shown negative growth and the total collection has grown by 4.90%.

Annexure A: - Change in GST Rates with respect to Goods

Item	Existing Rate	New Rate	Notification No.
Dried Tamarind	5%	Nil	NN – 15/2019 CT(R) dated 30-09-2019, Applicable from 01- 10-2019
Plates and cups made of flowers, leaves and bark	5%	Nil	
Marine Fuel 0.5%	-	5%	NN – 14/2019 CT(R) dated 30-09-2019, Applicable from 01- 10-2019
Wet grinder consisting of stone as a grinder	12%	5%	
Woven and Non- Woven Bags and sacks of Polyethylene Polypropylene strips, whether laminated or not	18%	12%	
Parts of railway or tramway locomotives, wagons, coaches, etc., classified under tariff heading 8601 to 8608	5%	12% (without refund of ITC)	
Caffeinated Beverages	18%	28% + 12% cess	

Annexure B: - Amendments in GST Rates with respect to Services

Particulars	Old GST Rate	New GST Rate	Conditions
Hotel Accommodation {NNo. 21/2019-CT (R)}			
Below 1000 per day	Exempted	Exempted	-
Equal to 1000 per day	12%	Exempted	-
Above 1000 but below 2500	12%	12%	-
Equal & Above 2500 but below 7500	18%	12%	-
Equal & Above 7500	28%	18%	-
Restaurant services other than at 'Specified premises'.	5%/12%/18%	5%	No ITC
Specified Premises means premises providing hotel accommodation services having declared tariff of any unit of accommodation above Rs. 7,500 per unit per day or equivalent.			
Supply of goods, being food or any other article for human consumption or any drink, by the Indian Railways or IRCTC or their licensees, whether in trains or at platforms.	5%	5%	No ITC
Outdoor Catering or Composite supply of 'outdoor catering' together with renting of premises or supply of 'outdoor catering', at premises other than 'specified premises' provided by any person except-	18%	5%	No ITC
(a) suppliers providing 'hotel accommodation' at 'specified premises', or			
(b) suppliers located in 'specified premises'			
Support services to agriculture, hunting, forestry, fishing, mining and utilities, animal-husbandry.	NIL	NIL	-
Support service to services of exploration, mining or drilling of petroleum crude or natural gas or both.	12%	12%	-
Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both	18%	12%	-
Services by way of job work			
in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);	-	1.50%	-
in relation to bus body building;	-	18%	-
General Rate other than prescribed	18%	12%	-
Introduction of Definitions:			
New Definitions of Restaurant Service, Outdoor Catering Service, Hotel Accommodation Service, Declared Tariff and Specified Premise are introduced with reference to Hospitality Industry.			

Annexure C: - Addition to Exemption List

Sr No.	Particulars	Notification No.
1	Exemption for Import of silver/platinum by specified agencies to exporters for the export of jewellery. (Diamond India Ltd)	{NNo. 17/2019-CT (R)}
2	Exemption of supply of goods for specified projects under Food and Agricultural Organisation - United Nations.	{NNo. 19/2019-CT (R)}
3	- Services provided by and to 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 subject to certain conditions - Services by way of right to admission to the events organized under FIFA U-17 Women's World Cup 2020	{NNo. 21/2019-CT (R)}
4	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, indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.	{NNo. 21/2019-CT (R)}
5	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.	{NNo. 21/2019-CT (R)}
7	Services by way of transportation of goods by a Vessel or aircraft from customs station of clearance in India to a place outside India is further extended for one year upto 30.09.2020 .	{NNo. 21/2019-CT (R)}
8	Services of general insurance business provided under " Bangla Shasya Bima " Scheme .	{NNo. 21/2019-CT (R)}
9	Services provided by an arbitral tribunal/ advocates to business entity having aggregate turnover upto 20 Lacs in P.F.Y . The limit of 20 lacs substituted by " such amount in the P.F.Y as makes it eligible for exemption from registration under CGST Act. "	{NNo. 21/2019-CT (R)}

Annexure D: - Addition in List of Services Under RCM

Sr No.	Titles	Particulars	Notification No.
1	Services by Author - Separate Entry	Separate entry on services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a)	22/2019-CT (R), dt. 30-09-2019
2	Renting Motor Vehicle	Services provided by any person (other than Body Corporate paying Central Tax @ 2.5%) by way of renting of a motor vehicle provided to a body corporate.	
3	Lending of Securities - SEBI	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended.	
4	RCM on Cement - Unregistered Supplier to Promoter	RCM will be applicable on the goods 'Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975)' supplied by unregistered supplier to promoter without any condition or limit.	24/2019-CT(R), dt. 30-09-2019

Disclaimer: The views expressed in various sections of the guide are based on understanding of the GST Laws and study of notifications, circulars, rulings and judgements issued by various competent authorities, however, in no case these should be considered as opinion expressed on a particular scenario that would require a deeper understanding of the transaction in consideration.

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