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## KEY UPDATES

August, 2018

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## SIGNIFICANT NOTIFICATIONS

| Sr.No | Notification No.  | Key Update   |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |
|-------|---|--|----|----------------|--|----|---|--|----|---|--|----|---|--------|----|---------------------------------|--|-----|----------|--|-----|--------|--|----|--|--|----|--|--|
| 1.    | <b>31/2018 –<br/>Central Tax,<br/>Dt, 06.08.2018</b>  | <p>The Central Government, on the recommendations of the Council, hereby specifies the <b>persons who did not file the complete FORM GST REG26</b> of the Central Goods and Services Tax Rules, 2017 <b>but received only a Provisional Identification Number (PID)</b> (hereinafter referred to as “such taxpayers”) <b>till the 31st December, 2017 may now apply for Goods and Services Tax Identification Number (GSTIN).</b></p> <p>➤ The special procedure to be followed for registration of such taxpayers is as detailed below:</p> <p style="margin-left: 20px;"><b>i.</b> The details as per the Table below should be furnished by such taxpayers to the jurisdictional nodal officer of the Central Government or State Government on or before the 31st August, 2018.</p> <table border="1" style="margin-left: 40px; border-collapse: collapse; width: 80%;"> <tbody> <tr><td style="width: 5%;">1.</td><td style="width: 75%;">Provisional ID</td><td style="width: 20%;"></td></tr> <tr><td>2.</td><td>Registration Number under the earlier law (Taxpayer Identification Number (TIN)/Central Excise/Service Tax Registration number)</td><td></td></tr> <tr><td>3.</td><td>Date on which token was shared for the first time</td><td></td></tr> <tr><td>4.</td><td>Whether activated part A of the aforesaid FORM GST REG-26</td><td style="text-align: center;">Yes/No</td></tr> <tr><td>5.</td><td>Contact details of the taxpayer</td><td></td></tr> <tr><td>5a.</td><td>Email id</td><td></td></tr> <tr><td>5b.</td><td>Mobile</td><td></td></tr> <tr><td>6.</td><td>Reason for not migrating in the system</td><td></td></tr> <tr><td>7.</td><td>Jurisdiction of Officer who is sending the request</td><td></td></tr> </tbody> </table> <p style="margin-left: 20px;"><b>ii.</b> On receipt of an e-mail from the Goods and Services Tax Network (GSTN), such taxpayers should apply for registration by logging onto <a href="https://www.gst.gov.in/">https://www.gst.gov.in/</a>) in the “Services” tab and filling up the application in FORM</p> | 1. | Provisional ID |  | 2. | Registration Number under the earlier law (Taxpayer Identification Number (TIN)/Central Excise/Service Tax Registration number) |  | 3. | Date on which token was shared for the first time |  | 4. | Whether activated part A of the aforesaid FORM GST REG-26 | Yes/No | 5. | Contact details of the taxpayer |  | 5a. | Email id |  | 5b. | Mobile |  | 6. | Reason for not migrating in the system |  | 7. | Jurisdiction of Officer who is sending the request |  |
| 1.    | Provisional ID  |  |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |
| 2.    | Registration Number under the earlier law (Taxpayer Identification Number (TIN)/Central Excise/Service Tax Registration number) |  |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |
| 3.    | Date on which token was shared for the first time   |  |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |
| 4.    | Whether activated part A of the aforesaid FORM GST REG-26   | Yes/No   |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |
| 5.    | Contact details of the taxpayer   |  |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |
| 5a.   | Email id  |  |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |
| 5b.   | Mobile  |  |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |
| 6.    | Reason for not migrating in the system  |  |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |
| 7.    | Jurisdiction of Officer who is sending the request  |  |    |                |  |    |   |  |    |   |  |    |   |        |    |                                 |  |     |          |  |     |        |  |    |  |  |    |  |  |

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|    |   | <p>GST REG-01 of the Central Goods and Services Tax Rules, 2017</p> <p><b>iii.</b> After due approval of the application by the proper officer, such taxpayers will receive an email from GSTN mentioning the Application Reference Number (ARN), a new GSTIN and a new access token</p> <p><b>iv.</b> Upon receipt, such taxpayers are required to furnish the following details to GSTN by email, on or before the 30th September, 2018, to migration@gstn.org.in:-</p> <p>a) New GSTIN;<br/>b) Access Token for new GSTIN;<br/>c) ARN of new application;<br/>d) Old GSTIN (PID).</p> <p><b>v.</b> Upon receipt of the above information from such taxpayers, GSTN shall complete the process of mapping the new GSTIN to the old GSTIN and inform such taxpayers.</p> <p><b>vi.</b> Such taxpayers are required to log onto the common portal www.gstn.gov.in using the old GSTIN as “First Time Login” for generation of the Registration Certificate.</p> <p>➤ <b>Such taxpayers shall be deemed to have been registered with effect from the 1st July, 2017.</b></p> |
| 2. | <b>32 /2018 – Central Tax, Dt, 10.08.2018</b> | <p>➤ In exercise of the powers conferred by the second proviso to sub-section (1) of section 37 read with section 168 of the CGST Act, 2017, the Commissioner, on the recommendations of the Council, hereby <b>extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 of the CGST Rules, 2017</b>, by persons <b>having aggregate turnover of more than Rs. 1.5 crore in the preceding financial year or the current financial year, for each of the months from July, 2018 to March, 2019 till the 11<sup>th</sup> day of the month succeeding such month.</b></p>  |
|    | <b>37/2018 – Central Tax, Dt, 24.08.2018</b>  | <p>➤ The return in <b>FORM GSTR-1</b> for the months of July, 2018 and August, 2018, for-</p> <p>(i) <b>registered persons in the State of Kerala;</b><br/>(ii) registered persons whose principal place of business is in <b>Kodagu</b> district in the <b>State of Karnataka;</b> and</p>   |

|         |  | <p>(iii) registered persons whose principal place of business is in <b>Mahe in the Union territory of Puducherry</b></p> <p>shall be furnished electronically through the common portal, <b>on or before the 5th October, 2018 and 10th October, 2018 respectively.</b></p>  |         |  |   |    |                        |                    |    |                          |                    |    |                       |                  |
|---------|--|--|---------|--|---|----|------------------------|--------------------|----|--------------------------|--------------------|----|-----------------------|------------------|
| 3.      | <b>33/2018 - Central Tax, Dt,10.08.2018</b>            | <p>➤ Persons having <b>aggregate turnover of up to Rs. 1.5 crore</b> in the preceding financial year or the current financial year <b>may furnish</b> the details of outward supply of goods or services or both in <b>FORM GSTR-1</b> of the CGST Rules, 2017, effected during the quarter till the time as specified table below:</p> <table border="1"> <thead> <tr> <th>Sr. No.</th> <th>Quarter for which details in FORM GSTR-1 are furnished</th> <th>Time period for furnishing details in FORM GSTR-1</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>July - September, 2018</td> <td>31st October, 2018</td> </tr> <tr> <td>2.</td> <td>October - December, 2018</td> <td>31st January, 2019</td> </tr> <tr> <td>3.</td> <td>January - March, 2019</td> <td>30th April, 2019</td> </tr> </tbody> </table> | Sr. No. | Quarter for which details in FORM GSTR-1 are furnished | Time period for furnishing details in FORM GSTR-1 | 1. | July - September, 2018 | 31st October, 2018 | 2. | October - December, 2018 | 31st January, 2019 | 3. | January - March, 2019 | 30th April, 2019 |
| Sr. No. | Quarter for which details in FORM GSTR-1 are furnished | Time period for furnishing details in FORM GSTR-1  |         |  |   |    |                        |                    |    |                          |                    |    |                       |                  |
| 1.      | July - September, 2018                                 | 31st October, 2018   |         |  |   |    |                        |                    |    |                          |                    |    |                       |                  |
| 2.      | October - December, 2018                               | 31st January, 2019   |         |  |   |    |                        |                    |    |                          |                    |    |                       |                  |
| 3.      | January - March, 2019                                  | 30th April, 2019   |         |  |   |    |                        |                    |    |                          |                    |    |                       |                  |
|         | <b>38/2018 - Central Tax, Dt, 24.08.2018</b>           | <p>➤ The return in <b>FORM GSTR-1</b> for the quarter from July, 2018 to September, 2018 for-</p> <p>(i) <b>registered</b> persons in the <b>State of Kerala</b>;</p> <p>(ii) registered persons whose principal place of business is in <b>Kodagu</b> district in the <b>State of Karnataka</b>; and</p> <p>(iii) registered persons whose principal place of business is in <b>Mahe in the Union territory of Puducherry.</b></p> <p>shall be furnished electronically through the common portal, <b>on or before the 15th November, 2018.</b></p>   |         |  |   |    |                        |                    |    |                          |                    |    |                       |                  |
| 4.      | <b>34/2018 - Central Tax, Dt. 10.08.2018</b>           | <p>➤ In exercise of the powers conferred by section 168 of the CGST Act, 2017, the Commissioner, on the recommendations of the Council, hereby specifies that the <b>return in FORM GSTR-3B</b> of the said rules for each of the months <b>from July, 2018 to March, 2019</b> shall be furnished electronically through the common portal, <b>on or before the 20<sup>th</sup> day of the month succeeding such month.</b></p> <p>➤ <b>Payment of taxes for discharge of liability towards tax, interest, penalty, fees or any other amount payable under the Act not later than the last date</b>, on which he is required to furnish <b>FORM GSTR-3B.</b></p>   |         |  |   |    |                        |                    |    |                          |                    |    |                       |                  |

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|  | <b>35/2018 -<br/>Central Tax,<br/>Dt. 21.08.2018</b>   | ➤ The return in <b>FORM GSTR-3B</b> for the month of July, 2018 shall be furnished electronically through the common portal, <b>on or before the 24th August, 2018.</b>   |
|  | <b>36/2018 -<br/>Central Tax,<br/>Dt. 24.08.2018</b>   | ➤ The return in <b>FORM GSTR-3B</b> for the months of July, 2018 and August, 2018, for-<br><br>(i) <b>registered persons in the State of Kerala;</b><br>(ii) registered persons whose principal place of business is in <b>Kodagu</b> district in the <b>State of Karnataka;</b> and<br>(iii) Registered persons whose principal place of business is in <b>Mahe in the Union territory of Puducherry</b> shall be furnished electronically through the common portal, <b>on or before the 5th October, 2018 and 10th October, 2018 respectively.</b> |
| 5.   | <b>22/2018 -<br/>Central Tax<br/>(Rate), Dt.<br/>06.08.2018;</b><br><br><b>23/2018 -<br/>Integrated Tax<br/>(Rate), Dt.<br/>06.08.2018<br/>and<br/>22/2018 -Union<br/>Territory Tax<br/>(Rate), Dt.<br/>06.08.2018</b> | ➤ The Central Government, on the recommendations of the council, hereby <b>exempts intra-State/ intra-UT / inter-state</b> supplies of goods or services or both received by a registered person <b>from any supplier, who is not registered</b> , from the whole of the central tax leviable thereon under Section 9 (4) / 7(4) / 5 (4) of the CGST Act, 2017 / UTGST Act, 2017 / IGST Act, 2017 respectively, and it seeks to exempt payment of tax till <b>30th September, 2019.</b>   |
| <b>For detailed Notifications kindly follow below link-</b><br><a href="http://www.cbic.gov.in/htdocs-cbec/gst/index">http://www.cbic.gov.in/htdocs-cbec/gst/index</a> |  |   |

## SIGNIFICANT CIRCULARS & ORDERS

| Sr. No. | Circular No. / Order No.                         | Key Updates   |
|---------|--|---|
| 1.      | <b>Circular No.52/26/2018-GST Dt. 09.08.2018</b> | <ul style="list-style-type: none"> <li>➤ <b>Applicability of GST on Fortified Toned Milk:</b><br/>It is clarified that toned milk fortified (with vitamins 'A' and 'D') attracts NIL rate of GST under HSN Code 0401.</li> <li>➤ <b>Applicable GST rate on refined beet and cane sugar</b><br/>It is clarified that beet and cane sugar, including refined beet and cane sugar, will fall under heading 1701 and attract 5% GST rate.</li> <li>➤ <b>Applicable GST rate on treated (modified) tamarind kernel powder and plain (unmodified) tamarind kernel powder:</b><br/>Both plain (unmodified) tamarind kernel powder and treated (modified) tamarind kernel powder fall under chapter 13, it is hereby clarified that both attract 5% GST in terms of the said notification.</li> <li>➤ <b>Applicability of GST on supply of safe drinking water for public purpose:</b><br/>Attention is drawn to the entry at S. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, by virtue of which water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] falling under HS code 2201 attracts NIL rate of GST.<br/><br/>Therefore, it is clarified that <b>supply of drinking water for public purposes</b>, if it is not supplied in a sealed container, is <b>exempt from GST</b>.</li> <li>➤ <b>GST rate on Human Blood Plasma:</b><br/>Normal human plasma would attract 5% GST rate under List I (S. No. 186), whereas plasma products would attract 12% GST rate, if otherwise not specifically covered under the said List.</li> </ul> |

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|  |  | <p>➤ <b>Appropriate classification of baby wipes, facial tissues and other similar products:</b><br/>If the any wipes are impregnated with perfumes or cosmetics, then the same would fall under HS code 3307 and would attract 18% GST rate. Similarly, if they are coated with soap or detergent, then it would fall under HS code 3401 and would attract 18% GST.</p> <p>➤ <b>Classification and applicable GST rate on real zari Kasab (thread):</b><br/>It is clarified that imitation zari thread or yarn known as “Kasab” or by any other name in trade parlance, would attract a uniform GST rate of 12% under tariff heading 5605.</p> <p>➤ <b>Applicability of GST on marine engine:</b><br/>The supplies of marine engine for fishing vessel (being a part of the fishing vessel), falling under tariff item 8408 10 93 attracts 5% GST.</p> <p>➤ <b>Applicable GST rate on cotton quilts under tariff heading 9404-Scope of the term “Cotton Quilt”.</b><br/>Cotton quilts falling under tariff heading 9404 attract a GST rate of 5% if the sale value of such cotton quilts does not exceed Rs. 1000 per piece [as per S. No. 257 A of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017]. However, such cotton quilts, with sale value exceeding Rs.1000 per piece attract a GST rate of 12% (as per S. No. 224A of Schedule II of the said notification)</p> <p>A quilt filled with cotton constitutes a cotton quilt, irrespective of the material of the cover of the quilt. The GST rate would accordingly apply.</p> <p>➤ <b>Applicable GST rate for bus body building activity:</b><br/>The services of Fabrication of buses may involve the following two situations:</p> <p>a) Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the value of the bus.<br/>The supply made is that of bus, and accordingly supply would attract <b>GST @28%</b>.</p> <p>b) Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work).</p> |
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|    |  | <p>Fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and <b>18% GST</b> as applicable will be charged accordingly.</p> <p>➤ <b>Applicable GST rate on Disc Brake Pad:</b></p> <p>a) Chapter 68 attracts a GST rate of 18%, while heading 8708 attracts a GST rate of 28%.</p> <p>b) Parts and accessories of motor vehicles of headings 8701 to 8705 are classified under heading 8708 and attract 28% GST. HSN Explanatory Notes to the heading 6813 specifically excludes: i) Friction materials not containing mineral materials or cellulose fiber.</p> <p>c) Disc Brake pad for automobiles, are appropriately classifiable under heading 8708 of the Customs Tariff Act, 1975 and would attract 28% GST.</p> |
| 2. | <p><b>Circular No.53/27/2018-GST, dt. 09.08.2018</b></p> | <p>➤ <b>Clarification regarding applicability of GST on petroleum gases retained for the manufacture of petrochemical and chemical products-</b></p> <p>GST will be payable by the refinery only on the net quantity of petroleum gases retained by the recipient.</p> <p>Refinery would be liable to pay GST on such returned quantity of petroleum gases, when the same is supplied by it to any other person.</p> <p>It is reiterated that this clarification would be applicable mutatis mutandis on other cases involving supply of goods, where feed stock is retained by the recipient and remaining residual material is returned back to the supplier. The net billing is done on the amount retained by the recipient.</p>  |
| 3. | <p><b>Circular No. 54/28/2018-GST Dt. 09.08.2018</b></p> | <p>➤ <b>Classification of fertilizers supplied for use in the manufacture of other fertilizers at 5% GST rates -</b></p> <p>The fertilizers supplied for direct use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use (soil or crop fertilizers), will attract 5% IGST.</p> <p>The fertilizers items falling under the above mentioned headings, which are clearly not to be used as fertilizer attract 18% GST [S. No. 42 to 45 of the III schedule to the notification No. 1/2017 Central Tax (Rate)].</p>   |

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|    |   | The phrase “ <b>other than clearly to be used as fertilizers</b> ” would <b>not cover such fertilizers</b> that are used for making complex fertilizers for use as soil or crop fertilizers.  |
| 4. | <b>Circular<br/>No.55/29/2018-<br/>GST<br/>Dt. 10.08.2018</b> | <p>➤ <b>Taxability of services provided by Industrial Institutes(ITI)</b></p> <ul style="list-style-type: none"> <li>• Services provided by a private ITI in respect of designated trades notified under Apprenticeship Act 1961 are exempt from GST under Sr. No. 66 of Notification No. 12/2017-CT(Rate). As corollary, services provided by a private ITI in respect of other than designated trades would be liable to pay GST and are not exempt.</li> <li>• In case of designated trades, services provided by a private ITI by way of conduct of entrance examination against consideration in the form of entrance fee will also be exempt from GST (Entry (aa) under Sr.No. 66 of Notification No. 12/2017-CT (Rate) refers.). Further, in respect of such designated trades, services provided to an educational institution, by way of, services relating to admission to or conduct of examination by a private ITI will also be exempt (Entry (b(iv)) under Sr.No. 66 of Notification No. 12/2017-CT (Rate) refers)</li> <li>• It is further clarified that in case of other than designated trades in private ITIs, GST shall be payable on service of conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination by such institutions, as these services are not covered by the exemption <i>ibid</i></li> <li>• Services provided by a Government ITI to individual trainee/students, is exempt under SI. No. 6 of 12/2017-CT(R) dated 28.06.2017 as these are in the nature of services provided by the Central or State Government to individuals. Such exemption in relation to services provided by Government ITI would cover both – vocational training and examinations conducted by these Government ITIs.</li> </ul> |

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| 5. | <p><b>Circular No. 56/30/2018-GST Dt. 24.08.2018</b></p> | <p>➤ <b>Clarification regarding removal of restriction of refund of accumulated ITC on fabrics:</b><br/> The doubts raised, with reference to changes made vide notification No. 20/2018-Central Tax are as follows:</p> <ol style="list-style-type: none"> <li>1. <i>Whether this notification seeks to lapse all the ITC lying unutilized after payment of tax upto the month of July, 2018?</i></li> <li>2. <i>Whether unutilized ITC in respect of services and capital goods shall also be disallowed?</i></li> <li>3. <i>Implication to fabrics like cotton and silk where there was no inverted duty structure?</i></li> <li>4. <i>Whether accumulated ITC in respect of exports shall also be made to lapse?</i></li> </ol> <ul style="list-style-type: none"> <li>• The proviso has to be read with the principal part of the notification. A comprehensive reading of amended notification makes it clear that the proviso seeks to lapse only such ITC which is subject matter of principal notification, i.e. accumulated credit on account of inverted duty structure in respect of stated fabrics. The net effect is that it provides for lapsing of ITC that would have been refundable in terms of section 54 of the Act, for the period prior to 31st July, 2018, but for the restriction imposed to the extent of accumulated ITC lying unutilized after making payment of GST upto the month of July, 2018. In short, the <b>ITC on account of inverted duty structure lying in balance after payment of GST for the month of July shall lapse.</b></li> <li>• This notification does not put any restriction in respect of ITC on input services and capital goods, therefore the <b>notification does not affect the ITC availed on input services and capital goods.</b></li> <li>• As regards, <b>the legislative power of providing for lapsing of ITC, the same flows inherently from the power to deny refund of accumulated ITC on account of inverted structure.</b></li> <li>• <b>The accumulated ITC determined by each supplier using the prescribed formula lying unutilized in balance after making payment of GST for the month of July, 2018 shall lapse.</b></li> </ul> |
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### Illustrations:

- A manufacturer may have closing stock of finished goods and inputs as on 31.07.2018. It is clarified that the proposed amendment seeks to lapse only such credit that has been accumulated on inputs on account of inverted duty structure. Therefore, in case a manufacturer, whose accumulated ITC is liable to lapse in terms of said notification, has certain stock lying in balance as on 31/7/2018, the input tax credit involved in inputs contained in such stocks (including inputs lying as such) may be excluded for determination of Net ITC for the purposes of applying the said formula. For this purpose, the ITC relating to inputs contained in stock may be determined in the manner as provided in S. No. 7 of Form GST ITC-01.
- As regards accumulated ITC in relation to exports, the refund of such ITC on exports is separately determined under rule 89 (4). Application of formula, as prescribed in rule 89(5), ensures that accumulated ITC on exports does not lapse as this formula excludes zero rated supplies. Further notification No. 5/2017 – Central Tax (Rate) does not impose any restriction of refunds on zero rated supplies as was also clarified vide CGST circular no. 18/2017 – Central Tax dated 16th November, 2017. Hence the proviso has no applicability to the input tax credit relating to zero rated supplies. Accordingly, accumulated ITC on zero rated supplies shall not lapse. This is ensured by application of formula

➤ **The procedure to be followed for lapsing of accumulated ITC:**

- A taxable person, whose ITC is liable to be lapsed in terms of said notification, shall calculate the amount of such accumulated ITC, in the manner as clarified above. This amount shall, upon self-assessment, be furnished by such person in his GSTR 3B return for the month of August, 2018. The amount shall be furnished in column 4B(2) of the return [ITC amount to be reversed for any reason(others)]. Verification of the accumulated ITC amount so lapsed may be done at the time of filing of first refund (on account of inverted duty structure on fabrics) by such person.

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|---|---|--|
|   |   | <ul style="list-style-type: none"> <li>• Therefore, a detailed calculation sheet in respect of accumulated ITC lapsed shall be prepared by the taxable person and furnished at the time of filing of first refund claim on account of inverted duty structure.</li> </ul>  |
| 6.  | <b>Order No. 3/2018-Central Tax, dt. 16.08.2018</b> | <p>➤ <b>Constitution of Standing Committee for ‘Consumer Welfare Fund’ under sub-rule (4) of rule 97 of CGST Rules, 2017</b><br/>In exercise of the powers conferred by sub-rule (4) of rule 97 of CGST Rules, 2017 read with Section 168 of CGST Act, 2017 the Government hereby constitutes the requisite Standing Committee.</p> <p>➤ <b>Constitution of the Committee:</b><br/>The Committee shall consist of the following members:</p> <ol style="list-style-type: none"> <li>a) The Secretary, Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, who shall be the Chairman of the committee;</li> <li>b) Secretary, Department of Expenditure in the Ministry of Finance or the Financial Adviser, Department of Consumer Affairs in the Ministry of Consumer Affairs, Food and Public Distribution, who shall be the vice Chairman of the committee;</li> <li>c) Chairman, Central Board of Indirect Taxes and Customs or an officer not below the rank of a Joint Secretary in the Department of Revenue of the Ministry of Finance;</li> <li>d) Member (GST) of the Central Board of Indirect Taxes and Customs;</li> <li>e) Secretary/ Joint Secretary/ Economic Advisor, Department of Rural Development;</li> <li>f) Chief Executive Officer, Food Safety and Standards Authority of India (FSSAI);</li> <li>g) Secretary or his nominee not below the rank of Joint Secretary, Ministry of Information and Broadcasting;</li> <li>h) Secretary or his nominee not below the rank of Joint Secretary, Department of Higher Education, Ministry of HRD;</li> <li>i) Director General/ Additional Director General, Bureau of Indian Standard; and</li> <li>j) The Additional Secretary/ Joint Secretary in charge of Consumer Welfare Fund in the Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution who shall also be the Member Secretary of the Committee.</li> </ol> |
| <p><b>For detailed Circulars kindly follow below link–</b><br/> <a href="http://www.cbic.gov.in/htdocs-cbec/gst/index">http://www.cbic.gov.in/htdocs-cbec/gst/index</a></p> |   |  |

## SUMMARY OF RELEVANT AMENDMENTS - CENTRAL GOODS AND SERVICES TAX (AMENDMENT) ACT, 2018

**NOTE: The provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.**

| Section No. | Description   | CGST Act, 2017  | CGST (Amendment) Act, 2018   |
|-------------|---|---|--|
| 2(4)        | <b>Change of name of Central Board of Excise and Custom</b> | “adjudicating authority” means any authority, appointed or authorized to pass any order or decision under this Act, but does not include the <b>Central Board of Excise and Customs</b> , the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal. | <p>Words ‘Central Board of Excise and Customs’ shall be replaced with <b>‘Central Board of Indirect Taxes and Customs’</b></p> <p><b>Keynote:</b><br/><i>It has been carried out to give effect of the change in name of ‘Central Board of Excise and Customs’ to ‘Central Board of Indirect Taxes and Custom’.</i></p> <p>Words ‘the Appellate Authority and the Appellate Tribunal’ shall be replaced with ‘the Appellate Authority, the Appellate Tribunal <b>and the Authority referred to in sub-section (2) of Section 171’.</b></p> <p><b>Keynote:</b><br/><i>Authority for anti-profiteering established under Section 171 shall not be treated as adjudicating authority.</i></p> |

| Section No. | Description  | CGST Act, 2017  | CGST (Amendment) Act, 2018  |
|-------------|--|---|---|
| 2(17)(h)    | <b>Service provided by a Race Club</b>   | Services provided by a <b>race club</b> by way of totalisator or a license to book maker in such club were construed as business.   | Activities of a race club <b>including</b> by way of totalisator or a license to book maker or <b>activities</b> of a licensed book maker in such club<br><br><b>Keynote:</b><br><i>It can be observed that the scope of the services provided by a race club has been widened. The list of services which was earlier exhaustive (limited) has been amended and made inclusive (wide).</i> |
| 2(18)       | <b>Omission of definition of Business Vertical</b>                             | <b>“business vertical”,</b><br><i>‘means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.’</i>       | The same has been <b>omitted</b><br><br><b>Keynote:</b><br><i>Consequently, Business Vertical is not defined under CGST Act, 2017. Definition has no meaning after amending Section 25(2) for allowing separate registrations for multiple businesses in a single state. Rules governing such registration shall be introduced.</i>   |
| 2(102)      | <b>Services by way of facilitating or arranging transactions in securities</b> | <b>Service</b> means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged. | Explanation to Section inserted as per the amendment:<br><i>‘Explanation – For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities.’</i>   |



| Section No. | Description   | CGST Act, 2017   | CGST (Amendment) Act, 2018   |
|-------------|---|--|--|
|             |   |  | <b>Keynote:</b><br><i>Services by way of Facilitating or arranging transaction in security have been bought under ambit of GST as the same amounts to service.</i>   |
| 7(1)(d)     | <b>Omission of Supply of Goods and Services referred in Schedule II</b> | The expression “ <b>supply</b> ” includes<br><i>‘the activities to be treated as supply of goods or supply of services as referred to in Schedule II.’</i>       | The same has been omitted.<br><br><b>Keynote:</b><br><i>Clause (d) of sub section 1 has been omitted because activities specified in Schedule II are only to determine the supply as either goods or services. It does not expand the meaning of supply.</i>   |
| 7(1)        | <b>Addition of new sub section (1A) in definition of Supply</b>         | -  | Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.<br><br><b>Keynote:</b><br><i>Subsection 1A has been inserted wherein it is clarified that activity specified in Schedule II are only for the purpose of considering the supply as goods or services. It does not expand the meaning of supply.</i> |
| 9(4)        | <b>RCM for supplies received from unregistered persons</b>              | The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such | The Government may, on the recommendations of the Council, by notification, <b>specify a class of registered persons who shall</b> , in respect of supply of   |



| Section No. | Description   | CGST Act, 2017  | CGST (Amendment) Act, 2018   |
|-------------|---|---|--|
|             |   | <p>person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</p>   | <p>specified categories of goods or services or both received from an unregistered supplier, <b>pay the tax on reverse charge basis as the recipient of such supply</b> of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.</p> <p><b>Keynote:</b><br/>Only a class of registered persons, as notified by the Government, receiving supplies from an unregistered dealer may require to pay tax under Reverse Charge Mechanism.</p> |
| 10(1)       | <p><b>Changes related to Composition Scheme</b></p> | <p>A <b>registered person</b>, whose aggregate turnover in the preceding financial year <b>did not exceed fifty lakh rupees</b>, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding:</p> <p>(a) <b>1% of the turnover</b> in State or turnover in Union territory in case of a manufacturer,</p> <p>(b) <b>2.5% of the turnover</b> in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b)</p> | <p>Proviso to Section 10 amended as below:<br/>“Provided that the Government may, by notification, <b>increase</b> the said <b>limit of fifty lakh rupees</b> to such higher amount, <b>not exceeding “one crore and fifty lakh rupees”</b>, as may be recommended by the Council.”</p> <p>2nd proviso to Section 10 has been inserted:<br/>“Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services of value <b>not exceeding 10% of turnover</b> in a State or Union</p>   |

| Section No. | Description                       | CGST Act, 2017   | CGST (Amendment) Act, 2018  |
|-------------|-----------------------------------|--|---|
|             |                                   | <p>of paragraph 6 of Schedule II, and<br/>(c) <b>0.5% of the turnover</b> in State or turnover in Union territory in case of other suppliers,</p> <p>Provided that the Government may, by notification, <b>increase</b> the said <b>limit of fifty lakh rupees</b> to such higher amount, <b>not exceeding one crore rupees</b>, as may be recommended by the Council.</p>         | <p>territory in the preceding financial year or <b>five lakh rupees</b>, whichever is higher.”</p> <p><b>Keynote:</b><br/><i>Authority to increase turnover limit has been raised to Rs. 1.5 Cr from the previous Rs. 1 Cr.</i></p> <p><i>Registered person can avail of the benefit of composition scheme, if aggregate value of services does not exceed 10% of aggregate turnover of State / UT or Rs.5 lakhs whichever is higher.</i></p> |
| 12(2)       | <b>Time of Supply of goods</b>    | <p>The time of supply of goods shall be the earlier of the following dates, namely:—</p> <p>a) The date of issue of invoice by the supplier or the last date on which he is required, under <b>sub-section (1) of</b> Section 31 to issue the invoice with respect to the supply; or</p> <p>b) The date on which the supplier receives the payment with respect to the supply:</p> | The words, brackets and figure <b>‘Sub section (1) of</b> is omitted.   |
| 13(2)       | <b>Time of supply of services</b> | 1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.  | The words, brackets and figure <b>“sub-section (2) of”</b> occurring at both the places, shall be omitted.  |

| Section No. | Description   | CGST Act, 2017   | CGST (Amendment) Act, 2018  |
|-------------|---|--|---|
|             |   | <p>2) The time of supply of services shall be the earliest of the following dates, namely:—</p> <p>a) The date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under <b>sub-section (2) of section 31</b> or the date of receipt of payment, whichever is earlier; or</p> <p>b) The date of provision of service, if the invoice is not issued within the period prescribed under <b>sub-section (2) of section 31</b> or the date of receipt of payment, whichever is earlier;</p> |   |
| 16(2)       | <p><b>Eligibility and conditions for taking Input Tax Credit for Services</b></p> | <p>No registered person shall be entitled to the credit of any ITC of any supply of goods and services or both to him unless:-</p> <p>a) He is in possession of the Tax Invoice or debit note issued by the registered supplier</p> <p>b) He has received the goods or services or both</p> <p><b>Explanation:-</b></p> <p>For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other</p>                 | <p>Explanation to Section has been amended:</p> <p>“Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—</p> <p>i) Where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</p> |

| Section No.  | Description                            | CGST Act, 2017  | CGST (Amendment) Act, 2018   |
|--------------|--|---|--|
|              |  | person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;  | <b>ii)Where the services are provided by the supplier to any person on the direction of and on account of such registered person.”</b>   |
| <b>17(3)</b> | <b>Exempt Supply as per Section 17</b> | The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. | Explanation to Section has been inserted:<br><br>'Explanation - For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said schedule.'<br><br><b>Keynote:</b><br><i>Activities specified in Schedule III will not form part of Exempt Supply as per Section 17(2) except sale of land and sale of building (subject to clause 'b' of paragraph 5 of Schedule II).</i> |
| <b>17(5)</b> | <b>Blocked Credit</b>                  | Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:—<br><br><b>a)Motor vehicles and other conveyances except when they are used-</b>                                       | Clause (a) and (b) shall be substituted as follows:-<br><br><b>a) Motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—</b>  |

| Section No. | Description | CGST Act, 2017   | CGST (Amendment) Act, 2018  |
|-------------|-------------|--|---|
|             |             | <p>(i) For making the following taxable supplies, namely:—</p> <p>A. Further supply of such vehicles or conveyances ; or</p> <p>B. Transportation of passengers; or</p> <p>C. Imparting training on driving, flying, navigating such vehicles or conveyances;</p> <p>(ii) For transportation of goods;</p> <p><b>b)</b> The following supply of goods or services or both—</p> <p>(i) Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</p> <p>(ii) Membership of a club, health and fitness centre;</p> <p>(iii) Rent-a-cab, life insurance and health</p> | <p>A. Further supply of such motor vehicles; or</p> <p>B. Transportation of passengers; or</p> <p>C. Imparting training on driving such motor vehicles;</p> <p><b>(aa)</b> Vessels and aircraft except when they are used--</p> <p>(i) For making the following taxable supplies, namely:—</p> <p>(A) Further supply of such vessels or aircraft; or</p> <p>(B) Transportation of passengers; or</p> <p>(C) Imparting training on navigating such vessels; or</p> <p>(D) Imparting training on flying such aircraft;</p> <p>(ii) For transportation of goods;</p> <p><b>(ab)</b> Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):<br/>Provided that the input tax credit in respect of such services shall be available—</p> <p>(i) Where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;</p> |

| Section No. | Description | CGST Act, 2017  | CGST (Amendment) Act, 2018  |
|-------------|-------------|---|---|
|             |             | <p>insurance except where-</p> <p>A. The Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or</p> <p>B. Such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and</p> <p>(iv) Travel benefits extended to employees on vacation such as leave or home travel concession;</p> | <p>(ii) Where received by a taxable person engaged—</p> <p>(I) In the manufacture of such motor vehicles, vessels or aircraft; or</p> <p>(II) In the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;</p> <p><b>(b)</b> The following supply of goods or services or both—</p> <p>(i) Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:</p> <p>Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable</p> |

| Section No. | Description | CGST Act, 2017 | CGST (Amendment) Act, 2018   |
|-------------|-------------|----------------|--|
|             |             |                | <p>composite or mixed supply;</p> <p>(ii) Membership of a club, health and fitness Centre; and</p> <p>(iii) Travel benefits extended to employees on vacation such as leave or home travel concession:</p> <p>Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”</p> <p><b>Keynote:</b><br/> <i>Block Credit in terms of Motor Vehicles is applicable only for vehicles having capacity of not more than 13 persons (including driver). Further, ITC of repairs, maintenance and insurance on such vehicles is also not available unless same category of services are provided by the recipient.</i></p> <p><i>Further, minor changes have been made in the list of block credits.</i></p> |

| Section No. | Description  | CGST Act, 2017   | CGST (Amendment) Act, 2018  |
|-------------|--|--|---|
| 20          | <b>Manner of Distribution of credit by Input Service Distributor</b> | The term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.   | The term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied <b>under entry 84 and 92A (newspaper)</b> of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.   |
| 22(1)       | <b>Persons liable for Registration</b>                               | <p>Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:</p> <p>Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.</p> | <p>Additions have been made to the proviso of sec 22 which is as follows:</p> <p>“Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso <b>from ten lakh rupees to</b> such amount, <b>not exceeding twenty lakh rupees</b> and subject to such conditions and limitations, as may be so notified.”;</p> <p><b>Keynote:</b><br/><i>Relaxation in registration limits for special category states if requested by that particular state on recommendation of the Council from <b>Rs.10 Lakh to Rs.20 Lakh.</b></i></p> |



| Section No. | Description  | CGST Act, 2017   | CGST (Amendment) Act, 2018   |
|-------------|--|--|--|
| 22          | <b>Special Category States</b>   | The expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution.   | Following states are added in the list of Special Category States which are as follows: <ul style="list-style-type: none"> <li>- Arunachal Pradesh</li> <li>- Assam</li> <li>- Himachal Pradesh</li> <li>- Meghalaya</li> <li>- Sikkim</li> <li>- Uttarakhand</li> </ul>   |
| 24 (x)      | <b>Compulsory registration criteria for Electronic Commerce Operator and collection of tax at source</b> | Compulsory Registration is required for-<br><b>Every electronic commerce operator;</b>   | Additions are made to Clause(x) of sec 24 and is made more specific by adding the words which is as follows-<br><br>Every electronic commerce operator <b>who is required to collect tax at source under section 52.</b><br><br><i><b>Keynote:</b><br/>Only those electronic commerce operators who are required to collect tax under Section 52 will be made liable to compulsorily register under GST.</i> |
| 25(1)       | <b>Procedure for registration for Special Economic Zone</b>  | Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within <b>30 days</b> from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed | 2 <sup>nd</sup> proviso has been inserted as below:<br><br>“Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special  |

| Section No. | Description   | CGST Act, 2017  | CGST (Amendment) Act, 2018  |
|-------------|---|---|---|
|             |   | <p>Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least <b>five days prior</b> to the commencement of business.</p>   | <p>Economic Zone in the same State or Union territory."</p> <p><b>Keynote:</b><br/><i>Persons having unit in Special Economic Zones or Are Special Economic Developers are required to register separately as a distinct place of business other than that of business which are located outside SEZ.</i></p>   |
| 25(2)       | <p><b>Single Registration in a State or Union territory</b></p>   | <p>A person seeking registration under this Act shall be granted a single registration in a State or Union territory:</p> <p>Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for <b>each business vertical</b>, subject to such conditions as may be prescribed.</p> | <p>Following proviso shall be substituted-</p> <p>Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration <b>for each such place of business</b>, subject to such conditions as may be prescribed.</p> <p><b>Keynote:</b><br/><i>Every person having different businesses in a state or Union territory will be granted a separate registration for any place of business subject to conditions as may be prescribed. Rules governing such registration shall be introduced.</i></p> |
| 29(1)       | <p><b>Provisions relating to cancellation of registration</b></p> | <p>The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-</p>   | <p>Provision has been added after clause(c) which is as follows:</p> <p>"Provided that during pendency of the proceedings relating to</p>   |

| Section No. | Description   | CGST Act, 2017  | CGST (Amendment) Act, 2018  |
|-------------|---|---|---|
|             |   | <p>a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or</p> <p>b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or</p> <p>c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or</p> | <p>cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.”</p> <p><b>Keynote:</b><br/> <i>During the period of pending cancellation proceedings the registration shall be <b>suspended</b> for that person for that period in such manner as may be prescribed.</i></p>  |
| 29(2)       | <p><b>Provisions relating to cancellation of registration</b></p> | <p>The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where-</p> <p>...</p> <p>...</p> <p>...</p> <p>Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.</p>  | <p>2<sup>nd</sup> proviso has been inserted in section 29(2) which is as below-</p> <p>“Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.”</p> <p><b>Keynote:</b><br/> <i>During the period of pending cancellation proceedings the registration shall be <b>suspended</b> for that person for that period in such manner as may be prescribed.</i></p> |

| Section No. | Description                       | CGST Act, 2017   | CGST (Amendment) Act, 2018  |
|-------------|-----------------------------------|--|---|
| 34(1)       | <b>Credit Notes</b>               | <b>Where a tax invoice has been</b> issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient <b>a credit note</b> containing such particulars as may be prescribed. | For the words “ <b>Where a tax invoice has</b> ”, the words “ <b>Where one or more tax invoices have</b> ” shall be substituted.<br><br>And for the words “ <b>a credit note</b> ”, the words “ <b>one or more credit notes for supplies made in a financial year</b> ” shall be substituted.<br><br><i>Keynote:</i><br><i>Multiple credit notes for a single invoice and a single credit note for multiple invoices can be issued.</i> |
| 34(3)       | <b>Debit Notes</b>                | <b>Where a tax invoice has</b> been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient <b>a debit note</b> containing such particulars as may be prescribed.  | For the words “ <b>Where a tax invoice has</b> ”, the words “ <b>Where one or more tax invoices have</b> ” shall be substituted.<br><br>And for the words “ <b>a debit note</b> ”, the words “ <b>one or more debit notes for supplies made in a financial year</b> ” shall be substituted.<br><br><i>Keynote:</i><br><i>Multiple debit notes for a single invoice and a single debit note for multiple invoices can be issued.</i>     |
| 35          | <b>Accounts and other records</b> | Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of  | New provision has been added which is as follows-<br><br>Provided that nothing contained in this sub-section shall apply to any   |

| Section No. | Description                  | CGST Act, 2017   | CGST (Amendment) Act, 2018  |
|-------------|------------------------------|--|---|
|             |                              | <p>registration, a true and correct account of—</p> <p>(a) Production or manufacture of goods;</p> <p>(b) Inward and outward supply of goods or services or both;</p> <p>(c) Stock of goods;</p> <p>(d) Input tax credit availed;</p> <p>(e) Output tax payable and paid; and</p> <p>(f) Such other particulars as may be prescribed:</p> <p>Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:</p> <p>Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.</p> | <p>department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.</p> <p><b>Keynote:</b><br/> <i>Any department of Central / State Government / local authority need not undergo GST audit.</i></p> |
| 39(1)       | <b>Furnishing of Returns</b> | <p>Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, <b>in such form and manner as may be prescribed</b>, a return, electronically, of inward</p>  | <p>For the words “<b>in such form and manner as may be prescribed</b>”, the words “<b>in such form, manner and within such time as may be prescribed</b>” shall be substituted.</p> <p>And the words “<b>on or before the twentieth day of the month succeeding such calendar month or</b></p>  |

| Section No. | Description                  | CGST Act, 2017  | CGST (Amendment) Act, 2018   |
|-------------|------------------------------|---|--|
|             |                              | and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, <b>on or before the twentieth day of the month succeeding such calendar month or part thereof.</b>  | <b>part thereof” shall be omitted.</b><br><br>New proviso has been added-<br>“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.”  |
| 39(7)       | <b>Furnishing of returns</b> | Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.                                    | New proviso has been added-<br>“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.” |
| 39(9)       | <b>Furnishing of Returns</b> | Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or | For the <b>words "in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed"</b> , the words <b>"in such form and manner as may be prescribed"</b> shall be substituted;  |

| Section No. | Description   | CGST Act, 2017  | CGST (Amendment) Act, 2018   |
|-------------|---|---|--|
|             |   | <p>enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars <b>in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed</b>, subject to payment of interest under this Act:<br/>           Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following <b>the end of the financial year</b>, or the actual date of furnishing of relevant annual return, whichever is earlier.</p> | <p>In the proviso, for the words <b>“the end of the financial year”</b>, the words <b>“the end of the financial year to which such details pertain”</b> shall be substituted.</p>  |
| 43A         | <p><b>Procedure for furnishing return and availing Input Tax Credit</b></p> | -   | <p>Insertion of new section 43A</p> <p>1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.</p> <p>2) Notwithstanding anything contained in section 41, section 42 or section 43, the</p> |

| Section No. | Description | CGST Act, 2017 | CGST (Amendment) Act, 2018  |
|-------------|-------------|----------------|---|
|             |             |                | <p>procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.</p> <p>3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.</p> <p>4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.</p> <p>5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.</p> |



| Section No. | Description | CGST Act, 2017 | CGST (Amendment) Act, 2018   |
|-------------|-------------|----------------|--|
|             |             |                | <p>6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.</p> <p>7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.</p> <p>8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,—</p> <p>(i) Within six months of taking registration;</p> <p>(ii) Who has defaulted in payment of tax and where such default has continued for more than two months from the</p> |

| Section No. | Description                               | CGST Act, 2017  | CGST (Amendment) Act, 2018  |
|-------------|---|---|---|
|             |   |   | <p>due date of payment of such defaulted amount shall be such as may be prescribed.</p> <p><b>Keynote:</b><br/>Section 43A prescribes new procedure for furnishing return and availing input tax credit (ITC).</p> <p>The recipient can claim credit of inward supply only up to 20% of ITC available, if the supplier has not declared the outward supply.</p> <p>The supplier and recipient would become jointly and severally liable to pay the tax or to reverse the ITC availed in certain situations.</p> <p>Separate controls are proposed on disclosure of outward supplies by new registrants and persons who have defaulted in payment of tax for more than two months.</p> |
| 48          | <b>Goods and Service Tax Practitioner</b> | A registered person may authorize an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies U/S 38 and the return U/S 39 or section 44 or section 45 in such manner as may be prescribed. | <p>Add words “<b>and to perform such other function</b>”.</p> <p><b>Keynote:</b><br/>Widening scope of Goods and Service Tax Practitioner.</p>  |
| 49 (5)      | <b>Payment of tax, interest,</b>          | The amount of input tax credit available in the electronic credit ledger of   | c) The State tax shall first be utilized towards payment of State tax and   |

| Section No. | Description                                    | CGST Act, 2017   | CGST (Amendment) Act, 2018   |
|-------------|--|--|--|
|             | <b>penalty and other amounts</b>               | <p>the registered person on account of-</p> <p>...</p> <p>...</p> <p>...</p> <p>c) The State tax shall first be utilized towards payment of State tax and the amount remaining, if any, may be utilized towards payment of integrated tax;</p> <p>d) The Union territory tax shall first be utilized towards payment of Union territory tax and the amount remaining, if any, may be utilized towards payment of integrated tax;</p> | <p>the amount remaining, if any, may be utilized towards payment of integrated tax; <b>Provided that the input tax credit on account of State tax shall be utilized towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;</b></p> <p>d) The Union territory tax shall first be utilized towards payment of Union territory tax and the amount remaining, if any, may be utilized towards payment of integrated tax; <b>Provided that the input tax credit on account of Union territory tax shall be utilized towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax.</b></p> <p><b>Keynote:</b><br/> <i>Utilization of SGST and UTGST credit against IGST possible only when CGST balance in Nil.</i></p> |
| 49A         | <b>Utilization of input tax credit subject</b> | -  | Notwithstanding anything contained in section 49, <b>the input tax credit on</b>   |

| Section No. | Description                              | CGST Act, 2017  | CGST (Amendment) Act, 2018   |
|-------------|--|---|--|
|             | to certain conditions                    |   | account of central tax, State tax or Union territory tax shall be utilized towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, <b>only after the input tax credit available on account of integrated tax has first been utilized fully towards such payment.</b>   |
| 49B         | Order of utilization of input tax credit | -   | Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilization of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax. |
| 52(9)       | Collection of tax at source              | Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed. | Where the <b>details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37 or section 39, the discrepancy shall be communicated to both</b> persons in such manner  |

| Section No. | Description  | CGST Act, 2017  | CGST (Amendment) Act, 2018   |
|-------------|--|---|--|
|             |  |   | and within such time as may be prescribed.   |
| 54(8)       |  | Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—<br><br>(a) Refund of tax paid on <b>zero-rated supplies</b> of goods or services or both or on inputs or input services used in making such <b>zero-rated supplies</b> ; | In sub-section (8), in clause (a), for the words “ <b>zero-rated supplies</b> ”, the words “ <b>export</b> ” and “ <b>exports</b> ” shall respectively be substituted.<br><br><b>Keynote:</b><br><i>No refund of taxes shall be allowed to supplier to SEZ Unit. It will restrict unjust enrichment on supplies made to SEZ Units.</i>                                   |
| 54          | <b>Explanation - Relevant Date in respect of export</b>  | For Services exported out of India—<br><br>(i) Receipt of payment in <b>convertible foreign exchange</b> , where the supply of services had been completed prior to the receipt of such payment; or   | After the words ‘ <b>convertible foreign exchange</b> ’, ‘ <b>in Indian rupees wherever permitted by the RBI</b> ’ shall be inserted.  |
| 54          | <b>Explanation - Time period for claiming refund of unutilized input tax credit under Section 54(3) Clause ‘e’</b> | In the case of refund of unutilized input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises.  | In the case of refund of unutilized input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises.<br><br><b>Keynote:</b><br><i>The due date to file an application for refund arising due to inverted tax rates is the return to be filed</i> |

| Section No.      | Description                                  | CGST Act, 2017  | CGST (Amendment) Act, 2018   |
|------------------|--|---|--|
|                  |  |   | <i>under Section 39 for the period for which refund is being processed.</i>  |
| <b>79(4)</b>     | <b>Explanation to section 79(4) inserted</b> | Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.   | Explanation inserted:<br><br>Explanation – For the purposes of this section, the word person shall include <b>“distinct persons”</b> as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.  |
| <b>107</b>       | <b>Ceiling on amount of tax in dispute</b>   | No appeal shall be filed under sub-section (1), unless the appellant has paid—<br><br>(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and<br><br>(b) A sum equal to ten per cent. of the remaining amount of tax in dispute arising <b>from the said order</b> , in relation to which the appeal has been filed. | After the words <b>“arising from the said order,”</b> , the words <b>“subject to a maximum of twenty-five crore rupees,”</b> be inserted.<br><br><b>Keynote:</b><br><i>The amount of tax to be deposited in order to file an appeal with Appellate Authority is restricted to Rs. 25 Crores.</i> |
| <b>112(8)(b)</b> | <b>Ceiling on amount of tax in dispute</b>   | No appeal shall be filed under sub-section (1), unless the appellant has paid—<br><br>(a) In full, such part of the amount of tax, interest, fine, fee and penalty arising from the   | After the words <b>“arising from the said order,”</b> , the words <b>“subject to a maximum of fifty crore rupees,”</b> shall be inserted.  |

| Section No. | Description                      | CGST Act, 2017   | CGST (Amendment) Act, 2018   |
|-------------|----------------------------------|--|--|
|             |                                  | <p>impugned order, as is admitted by him, and</p> <p>(b) A sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, in relation to which the appeal has been filed</p>   | <p><b>Keynote:</b><br/> <i>The amount of tax to be deposited in order to file an appeal with Appellate Tribunal is restricted to Rs. 50 Crores.</i></p>          |
| 129(6)      | <b>Change in time duration</b>   | <p>Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within <b>seven</b> days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:</p> <p>Provided that where the detained or seized goods are perishable or hazardous in Nature or are likely to depreciate in value with passage of time, the said period of <b>seven</b> days may be reduced by the proper officer.</p> | For the words “ <b>seven days</b> ”, the words “ <b>fourteen days</b> ” shall be substituted.  |
| 140(1)      | <b>CENVAT credit eligibility</b> | A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of <b>CENVAT credit</b> carried forward in the return  | After the letters and word “ <b>CENVAT credit</b> ”, the words “ <b>of eligible duties</b> ” shall be inserted and shall always be deemed to have been inserted; |

| Section No. | Description   | CGST Act, 2017  | CGST (Amendment) Act, 2018   |
|-------------|---|---|--|
|             |   | relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed.  | <p>[For the purposes of <b>sub-sections (1)(3), (4) and (6)</b>, the expression “eligible duties” means–</p> <p>For removal of doubts, it is hereby clarified that the expression “<b>eligible duties and taxes</b>” <b>excludes any cess which has not been specified in Explanation 1 or Explanation 2 and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.</b></p> <p><i><b>Keynote:</b></i><br/> <i>ITC of any cess paid cannot be availed as CENVAT Credit through TRAN - 1.</i></p> |
| 143(1)(b)   | <b>Job work procedure</b>   | Supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be: | <p><b>2<sup>nd</sup> proviso shall be inserted:</b></p> <p>Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.</p>  |
| Schedule I  | <b>Activities treated as supply even made without consideration</b> | Import of services by a <b>taxable person</b> from a related person or from any of his other establishments outside India, in the course or furtherance of business.  | Import of services by a <b>person</b> from a related person or from any of his other establishments outside India, in the course or furtherance of business.   |



| Section No.  | Description  | CGST Act, 2017   | CGST (Amendment) Act, 2018   |
|--------------|--|--|--|
|              |  |  | <p><b>Keynote:</b><br/> <i>The word taxable has been removed and hence, any person receiving services from place outside India has to pay tax under RCM.</i></p>   |
| Schedule II  | Change in heading  | Activities to be treated as supply of goods or services. | <b>Activities or transactions to be treated as supply of goods or services.</b>  |
| Schedule III | Activities and transactions which shall be treated neither as a supply of goods nor a supply of services | -  | <p>7. Supply of goods from a place in the <b>nontaxable territory</b> to another place in the <b>non-taxable territory</b> without such goods entering into India.</p> <p>8. (a) Supply of warehoused goods to any person before clearance for home consumption;</p> <p>(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home Consumption.</p> <p>Explanation 2 - For the purposes of paragraph 8, the expression "Warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962.</p> |

## SUMMARY OF RELEVANT AMENDMENTS - INTEGRATED GOODS AND SERVICES TAX (AMENDMENT) ACT, 2018

**NOTE: The provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.**

| Section No. | Description  | IGST Act, 2017   | IGST (Amendment) Act, 2018  |
|-------------|--|--|---|
| 2 (6)(iv)   | <b>Export of service</b>                                   | Export of services means the supply of any service when –<br>...<br>...<br>...<br>(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange.  | The payment for such service has been received by the supplier of service in convertible foreign exchange <b>or in Indian rupee wherever permitted by the RBI</b><br><br><b>Keynote:</b><br><i>The supplier of export services can receive payment in Indian currency (i.e. INR) if permitted by RBI.</i>   |
| 5(4)        | <b>RCM for supplies received from unregistered persons</b> | The integrated tax in respect of the supply of taxable goods or services or both by A supplier, who is not registered, to a registered person shall be paid by such person on Reverse charge basis as the recipient and all the provisions of this Act shall apply to such Recipient as if he is the person liable for paying the tax in relation to the supply of such Goods or services or both. | The government may, on the recommendations of the council, by notification, <b>specify a class of registered persons who shall</b> , in respect of supply of Specified categories of goods or services or both received from an unregistered supplier, <b>pay the tax on reverse charge basis as the recipient of such supply</b> of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such |

| Section No.               | Description                                    | IGST Act, 2017   | IGST (Amendment) Act, 2018   |
|---------------------------|--|--|--|
|                           |  |  | supply of goods or services or both.<br><br><b>Keynote:</b><br><i>Only a class of registered persons, as notified by the Government, receiving supplies from an unregistered dealer may require to pay tax under Reverse Charge Mechanism.</i> |
| <b>8(2) Explanation 1</b> | <b>Intra-state supply</b>                      | For the purposes of this Act, where a person has,-<br>...<br>...<br>(iii) an establishment in a state or union territory and any other establishment being a <i>business vertical</i> registered within that state or union territory,<br><br>then such establishments shall be treated as establishments of distinct persons. | The words ' <i>business vertical</i> ' have been omitted.  |
| <b>12(8)</b>              | <b>Place of supply Proviso inserted</b>        | -  | Proviso inserted to subsection 8 -<br>Provided that where the transportation of goods is to a place outside India,<br><br>The place of supply shall be the place of destination of such goods.   |
| <b>13(3)(a)</b>           | <b>Place of supply 2nd proviso substituted</b> | Provided further that nothing contained in this clause shall apply in the case Of services supplied in respect of goods which  | Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which  |

| Section No. | Description                                  | IGST Act, 2017   | IGST (Amendment) Act, 2018   |
|-------------|--|--|--|
|             |  | are temporarily imported into India for <i>repairs</i> and are exported after repairs without being put to any other use in India, than that which is required for such repairs. | are temporarily imported into India for <b>repairs or for any other treatment or process</b> and are exported after such repairs <b>or treatment or process</b> without being put to any use in India, other than that which is required for such repairs <b>or treatment or process</b> . |
| 20          | <b>Application of provisions of CGST Act</b> | -  | 4 <sup>th</sup> proviso inserted as below:<br>Provided also that where the appeal is to be filed before the appellate authority or the appellate tribunal, the maximum amount payable shall be. Fifty crore rupees and One hundred crore rupees respectively.                              |

## RECENT CASE LAWS

### 1. Statutory body, corporation or an authority created by the Parliament or a State Legislature is neither Government nor a local authority.

|                        |  |
|------------------------|--|
| Applicant              | <b>M/s Skilltech Engineers &amp; Contractors Private limited</b> |
| Journal of Publication | KAR ADRG 03 / 2018   |
| Date of Ruling:        | 21st March, 2018   |
| Ruling Authority       | <b>Authority for Advance Ruling, Karnataka</b>                   |

| FACTS  |
|--|
| <ul style="list-style-type: none"> <li>The applicant is engaged in execution of works awarded by M/s Karnataka Power Transmission Corporation Limited (hereinafter referred to as “KPTCL”), for construction of power lines, erection of transmission towers and transformers.</li> <li>The contract with KPTCL is a single composite contract, but with three connected agreements for Supply of Materials, Erection &amp; Civil Works respectively.</li> <li>All the three agreements were awarded to the applicant in response to a single tender notification &amp; the general terms and conditions are commonly applicable to all the three agreements.</li> </ul> |
| ISSUE  |
| <ul style="list-style-type: none"> <li>“Whether the contract, executed by them for KPTCL, is a divisible contract [Supply of goods &amp; Supply of Services] or an indivisible contract [works contract]?”</li> <li>“Whether the tax rate of 12% [CGST-6% + SGST-6%] is applicable to the above contract, in pursuance of Notification No.24/2017-Central Tax (Rate) dated 21.09.2017?”</li> </ul>   |
| HELD   |
| <ul style="list-style-type: none"> <li>The applicant is supplying the material and providing the erection of towers service and also civil works service. Therefore, the contract entered by the applicant is of the nature of indivisible and squarely falls under the works contract, which is a service.</li> <li>The Applicant contends that they are providing services to State Government and are thus eligible for the tax rate enumerated in the aforesaid notification.</li> </ul>   |

- It was held that a statutory body, corporation or an authority created by the Parliament or a State Legislature is neither Government nor a local authority. Therefore, M/s KPTCL cannot be a State Government.
- Further M/s KPTCL, who awarded the contract to the applicant, are registered under Companies Act, 1956 as a company and is a separate entity. Therefore, it cannot be considered as the State Government or a State Government Authority.
- Hence the applicant is not entitled for the benefit of the concessional rate of GST @ 12%, in terms of Notification No.24/2017-Central Tax (Rate) dated 21.09.2017.

## 2. Reinstatement charges & access charges paid to Municipal Authorities liable to GST?

|                        |   |
|------------------------|---|
| Applicant              | <b>Reliance Infrastructure Ltd</b>                |
| Journal of Publication | [2018] 93 taxmann.com 100                         |
| Date of Ruling:        | MARCH 21, 2018                                    |
| Ruling Authority       | <b>Authority for Advance Rulings, Maharashtra</b> |

| <b>FACTS</b>  |
|---|
| <ul style="list-style-type: none"><li>• The applicant was engaged in business of generation, transmission and distribution of electricity which called for laying and maintenance of power lines and other incidental work which required digging up of trenches.</li><li>• Applicant being a distribution licensee would be required to make payment of reinstatement charges for the reinstatement of trenches arising out of the excavation work done by the distribution licensees and access charges to the Municipal Authorities to carry out the excavation of roads for laying, repair and maintenance of electric supply lines.</li></ul>  |
| <b>ISSUE</b>  |
| <ul style="list-style-type: none"><li>• Whether reinstatement charges paid to Municipal Authorities would be liable to GST?</li><li>• Whether access charges paid to Municipal Authorities would be liable to GST?</li></ul>  |
| <b>HELD</b>   |
| <ul style="list-style-type: none"><li>• The function as entrusted by the Constitution of India in relation to the construction of roads for the use by general public is a sovereign function.</li><li>• Restoration work does not result in the performance of any sovereign function. It is a result of the business activities of business entities &amp; which is for commercial purposes. Hence it does not come under the purview of Article 243W.</li><li>• Accordingly, no exemption is available to the said activities. Hence the applicant will be liable to pay tax under RCM in view of Entry no. 5 of Notification no. 13/2017- Central Tax (Rate).</li><li>• Therefore, restoration charges and access charges paid to Municipal Authorities are liable to GST since the same does not amount to a sovereign function.</li></ul> |

### 3. Supply of motor vehicles as scrap after its usage would be liable for GST

|                        |   |
|------------------------|---|
| Applicant              | <b>CMS Info Systems Ltd.</b>                      |
| Journal of Publication | [2018] 93 taxmann.com 95                          |
| Date of Ruling:        | MARCH 19, 2018                                    |
| Ruling Authority       | <b>Authority for Advance Rulings, Maharashtra</b> |

| <b>FACTS</b>  |
|---|
| <ul style="list-style-type: none"> <li>• The applicant is engaged in Cash Management Services which including providing ATMs and it's installation, managing cash circulation through transporting cash from currency chests to bank branches, cash pickup and delivery from and to dedicated banks.</li> <li>• The applicant purchases raw (basis) motor vehicles and gets it converted to cash carrying vans with requisite fabrications. When these vans cannot be processed further, the applicant sells these motor vehicles as scrap.</li> </ul>  |
| <b>ISSUE</b>  |
| <ul style="list-style-type: none"> <li>• Whether supply of such motor vehicles as scrap after its usage can be treated as 'supply' in the course or furtherance of business and attracts GST?</li> <li>• Whether Input Tax Credit is available to applicant on purchase of motor vehicles (cash carry vans)?</li> </ul>   |
| <b>HELD</b>   |
| <ul style="list-style-type: none"> <li>• Schedule 1 covers cases that are treated as supply although they lack consideration. One of the cases is the permanent transfer or disposal of business assets. Since the use of cash carry vans is incidental to the business of the applicant, it will be considered as a business asset. Hence, supply of such motor vehicle will be considered as supply and would attract GST.</li> <li>• <u>One view for the availability of ITC is that in accordance with sub section 5 of Section 17, "further supply" means resale and hence, ITC would not be available. Another view for the same is that currency received would be treated as goods and not money and hence the applicant is eligible to claim ITC. In view of difference of opinion, <b>reference should be made to the Appellate Authority.</b></u></li> </ul> |



4. Amount received by tenant towards alternate accommodation or delayed possession of new premises would be liable for GST.

|                        |   |
|------------------------|---|
| Applicant              | <b>Zaver Shankarlal Bhanushali</b>                |
| Journal of Publication | [2018] 95 taxmann.com 3                           |
| Date of Ruling:        | MAY 22, 2018                                      |
| Ruling Authority       | <b>Authority for Advance Rulings, Maharashtra</b> |

| <b>FACTS</b>   |
|--|
| <ul style="list-style-type: none"> <li>Applicant was a tenant in a building premises, owned by company 'F'. 'F' entered into an agreement for redevelopment of said premises with a developer and thereby, owner/developer entered into an agreement with tenant for new premises to be allotted to him in lieu of giving up possession of old premises.</li> <li>During construction period, applicant has to make for temporary alternate arrangement - As per agreement, owner/developer shall pay to applicant compensation for alternate accommodation.</li> </ul>  |
| <b>ISSUE</b>   |
| <ul style="list-style-type: none"> <li>Whether such a transaction would attract GST?</li> </ul>  |
| <b>HELD</b>  |
| <ul style="list-style-type: none"> <li>The receipt of amounts towards alternate accommodation or delayed possession of premises would be receipt of amounts for doing an act i.e. vacating the premises for redevelopment as well as tolerating the construction cum redevelopment work till possession of new redeveloped premises.</li> <li>The same would definitely be a 'supply' and therefore, there arises an occasion to levy GST under the on the impugned transactions.</li> <li>Under Schedule-II at sr. no. 5(e) it has been specified as under: "agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act" will be treated as supply of services</li> <li>In view of the above legal provisions, for levy of tax in GST regime: following requirements are to be fulfilled: <ul style="list-style-type: none"> <li>✓ There should be 'goods' or 'services' or 'goods &amp; services'</li> <li>✓ There should be 'supply' of goods, or services or goods &amp; Services,</li> <li>✓ The supply should be in the course or furtherance of business.</li> </ul> </li> </ul> |

- Thus above transaction of vacating the premises for re-development and also getting compensation for alternative accommodation is in furtherance of business and therefore it is taxable.

## 5. Reversal of Input Tax Credit in case of High Sea Sales

|                        |   |
|------------------------|---|
| Applicant              | <b>BASF India Ltd.</b>                            |
| Journal of Publication | [2018] 95 taxmann.com 1                           |
| Date of Ruling:        | MAY 21, 2018                                      |
| Ruling Authority       | <b>Authority for Advance Rulings, Maharashtra</b> |

### FACTS

- The applicant is seeking an advance ruling that it will be purchasing the goods from its overseas related party situated abroad based on purchase order received from its customers in India.
- While the goods are in transit, the goods will be sold by the applicant to its customers before the goods are entered for customs clearance in India.

### ISSUE

Whether IGST will be leviable on such sale effected by the applicant to customers who are known to them at the time of placing order on the overseas party and whether input tax credit will have to be reversed, to the extent of inputs, input services and common input services used by the applicant, in case the above transaction is not subjected to the levy of IGST by treating the same as an exempt supply for the purpose of section 17 of the CGST Act?

### HELD

- It is very clear that supply of goods imported into the territory of India till they cross the customs frontier shall be treated as supply of goods in the course of inter-state trade or commerce.
- Integrated tax on goods imported into India is to be levied and collected in accordance with section 3 of the Customs Tariff Act, 1975 and section 12 of the Customs Act, 1962 and the same is to be levied and collected at the time of import into India. The goods are considered to be imported into India only after they clear the customs frontier after compliance of applicable procedures and payment of duty as applicable.
- Thus, in case of goods sold on high seas sale basis there is no levy till the time of their customs clearance in compliance with section 12 of the Customs Act and section 3 of the Customs Tariff Act.
- As there is no levy the good come under the definition of non-taxable supply. Thus goods sold on High Seas sale basis being non-taxable supply as per section 2(78) of the CGST Act and being exempt supply as per section 2(47) of the CGST Act, **the input tax credit to the extent of inputs, input services and common input services would be required to be reversed by the applicant as per section 17 of the CGST Act.**

## 6. Applicability of GST on sale of undivided and impartible share of land

|                        |  |
|------------------------|--|
| Applicant              | <b>Shree Sanjeev Sharma</b>                |
| Journal of Publication | 03/DAAR/2018                               |
| Date of Ruling:        | MARCH 28, 2018                             |
| Ruling Authority       | <b>Authority For Advance Ruling, Delhi</b> |

| <b>FACTS</b>  |
|---|
| <ul style="list-style-type: none"> <li>The applicant plans to engage itself in the development and sale of residential houses, generally floors/flats in India. The applicant shall either purchase land or it shall enter into collaboration agreements with various land owners whereby the applicant shall acquire the right to develop the property and further sell the units developed. In case of purchase of land - the applicant shall be entitled to sell all the units developed. In cases of development and sale rights - the applicant shall be entitled to sell the flats/unit falling to the applicant's share, in terms of the collaboration agreement.</li> </ul> <p>Following agreements would be entered into by the applicant:</p> <ol style="list-style-type: none"> <li>Sale of undivided and impartible share in land.</li> <li>Sale of superstructure</li> </ol> |
| <b>ISSUE</b>  |
| <ul style="list-style-type: none"> <li>Whether GST will be applicable on the sale of undivided and impartible share of land represented by Agreement to sell the land?</li> <li>Whether GST shall be applicable on sale of superstructure (which is under construction)?</li> <li>If yes:               <ol style="list-style-type: none"> <li>What will be the value on which tax is payable?</li> <li>What would be the applicable rate for charging GST?</li> </ol> </li> </ul>  |
| <b>HELD</b>   |
| <ul style="list-style-type: none"> <li>In the case of supply of services by way of construction of a complex, building, civil structure or a part including a complex or building intended for sale to a buyer, wholly or partly except where the entire consideration has been received after issuance of completion certificate where required by the competent authority or after its first occupation whichever is earlier. The GST would be payable on two-third of the total amount consisting of amount charged for transfer of land or undivided share of land, as the case may be and whole of the consideration charged for the supply of goods and services.</li> <li>The value of land or the undivided share of land, as the case may be, would be deemed to be one-third of the total amount which is excluded from the value for the purposes of</li> </ul>                |

payment of GST. Even if agreement between the applicant and the buyer is entered after part of the construction is already completed, whole of the consideration would be added for payment of GST. The applicable rate of GST on the said two-third of total amount is 9% (CGST) and 9% SGST.

## 7. Place of Supply for Shops located in International Airports

|                        |   |
|------------------------|---|
| Applicant              | <b>Rod Retail (P.) Ltd.</b>                     |
| Journal of Publication | [2018] 92 taxmann.com 317                       |
| Date of Ruling:        | 27th March,2018                                 |
| Ruling Authority       | <b>Authority for Advance Rulings, New Delhi</b> |

| <b>FACTS</b>   |
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| <ul style="list-style-type: none"> <li>• The applicant was in the business of retail sale of sunglasses. The applicant had several retail outlets in Delhi and one such outlet is at Terminal-3 Indira Gandhi International Airport, New Delhi. The said retail outlet is in the Security Hold Area on crossing the Customs &amp; Immigrations. The said outlet is permitted to function beyond the Customs Area and within the Security Hold Area of the IGI Airport an arrangement with the Delhi International Airport Private Limited.</li> <li>• The applicant procures supplies from the Sunglass Hut brand owner Luxottica India Private Limited, Gurgaon, after payment of Integrated Tax at the rate of 28 percent. These sunglasses are further supplied by the applicant to the International passengers travelling to outside India against a valid international boarding pass.</li> <li>• The applicant is charging SGST/CGST on the supply invoice issued to the International passengers but the applicant is of the view that its supply of goods to international passengers is a zero rated transaction being export sale.</li> </ul> |
| <b>ISSUE</b>   |
| <p>Whether the supply of sunglasses from the retail outlet of the applicant at Terminal-3 to outbound international passengers against the international boarding pass is liable to SGST under the DGST Act, 2017 and CGST under the CGST Act, 2017 or is it a zero rated export supply.</p>   |
| <b>HELD</b>  |
| <ul style="list-style-type: none"> <li>• It is observed that export of goods has been defined under section 2(5) of the IGST Act, 2017 as taking goods out of India to a place outside India.</li> <li>• Further, as per section 2(56) of the CGST Act “India means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the airspace above its territory and territorial waters.”</li> </ul>   |

- Hence, when goods are exported by Air, the export will be completed only when goods crosses airspace limits of its territory or territorial waters of India and not merely on crossing the Customs Frontiers of India.
- The supply of goods to the international passengers going abroad by the applicant from their retail outlet situated in the Security Hold Area of the Terminal-3 of IGI Airport, New Delhi may be taking place beyond Customs Frontiers of India. The said outlet is not outside India, as claimed by the applicant but the same is within the territory of India and. The applicant is not taking goods out of India and their supply cannot be called export or zero rated supply. So, the applicant is required to pay GST at the applicable rates.