



Additional Agenda for 22nd GST Council Meeting

6 October 2017

New Delhi



TABLE OF CONTENTS

<u>Agenda No.</u>	<u>Agenda Item</u>	<u>Page No.</u>
13	Any other agenda item with the permission of the Chairperson	
i.	Exemption from obtaining registration for persons making inter-State supply of services whose aggregate turnover is below the threshold limit	4
ii.	Decision on effective date for starting Tax Deduction at Source and Tax Collection at Source	5
iii.	Changes in GST rates on certain goods and exemption from IGST in certain cases	6
iv.	Issue of Annuity being given in Place of Toll Charges to Developers of Public Infrastructure-exemption there on	10
v.	Additional relief to Small Tax Payers - Composition Scheme	11
vi.	GST on development charges collected by Gift City Company Limited for allotment of land on long term lease (of 30 years or more) to developers for development of commercial and residential spaces	13
vii.	Additional relief to Small Tax Payers – GTA to unregistered persons	14

Discussion on Agenda Items

Agenda Item 13: Any other agenda item with the permission of the Chairperson

Agenda Item 13 (i) - Exemption from obtaining registration for persons making inter-State supply of services whose aggregate turnover is below the threshold limit

Representations have been received from the services sector with respect to the provisions of clause (i) of section 24 of the CGST Act, 2017 vide which persons making inter-State taxable supply of goods or services or both are required to be compulsorily registered irrespective of the fact that their aggregate turnover in a financial year is less than Rs 20 lakhs (Rs. ten lakhs for special category States other than the State of Jammu and Kashmir). This means that even an instance of an inter-State supply of service by a person would make him liable to get registered under GST.

2. A case in point is the supply of services by mutual fund agents, spread all over the country, to an Asset Management Company (AMC) located in a particular State, would invariably be an inter-State supply and the agent would be liable to get registered irrespective of his turnover. Further, persons/experts going to different States for delivering lectures/seminars for a consideration would be liable to get registered irrespective of their turnover. Thus, it appears that the provision of compulsory registration in case of inter-State supply is increasing the compliance burden on small service providers and restricting them to make only intra-State supplies. It is pertinent to mention that in the erstwhile service tax regime, there was no distinction between intra-State and inter-State supplies and small taxpayers were eligible for the benefit of threshold exemption irrespective of the nature of supply.

3. It is further submitted that the GST Council in its 21st meeting held on 09.09.2017 at Hyderabad, had recommended granting exemption from registration to the job workers whose aggregate turnover is less than Rs. twenty lakhs (Rs. ten lakhs for special category States other than the State of Jammu and Kashmir) in a financial year engaged in making inter-State supply of services to a registered person. Similar exemption was recommended for a taxable person making inter-State supplies of specified handicraft goods. Accordingly, Notification No. 7/2017-Integrated Tax and Notification No. 8/2017-Integrated Tax both dated 14.09.2017 were issued.

4. Hence, approval of the Council is sought for recommending grant of exemption from compulsory registration to persons making inter-State supply of services to any person (whether registered or not). This exemption shall not apply to suppliers whose aggregate turnover is more than Rs. twenty lakhs (Rs. ten lakhs for special category States other than the State of Jammu and Kashmir) in a financial year or who has opted to take voluntary registration under sub-section (3) of section 25 of the CGST Act. This exemption notification shall be issued only under the IGST Act, 2017.

Agenda Item 13 (ii) - Decision on effective date for starting Tax Deduction at Source and Tax Collection at Source

The GST Council, in its 21st meeting held at Hyderabad on 09th September, 2017 had recommended notifying section 51 of the CGST Act, 2017, the SGST Acts and the UTGST Acts with effect from 18.09.2017 so that the registration for persons liable to deduct tax at source (TDS) shall commence from the said date. It was also decided to notify the categories of persons who would be liable to deduct tax at source under section 51(1)(d) of the CGST Act, 2017, the SGST Acts and the UTGST Acts. Accordingly, notification No. 33/2017-Central Tax dated 15.09.2017 has been issued. However, actual tax deduction at source (TDS) was slated to start from a date to be decided later.

2. With regard to Tax Collection at Source (TCS), it was decided in the said meeting that the effective date for starting registration for TCS would be specified by issuing a circular rather than by notifying section 52 of the said Acts since notifying the said section would start the process of tax collection at source immediately which might not be desirable. It may be noted that both Tax Deductors at Source and Tax Collectors at Source are required to be compulsorily registered as a normal taxable person under section 24 of the CGST Act, 2017.

3. However, the facility for TDS/TCS registration and processing is not available on the common portal till date. GSTN has informed the GoM (Group of Ministers) constituted to monitor and resolve IT challenges that the facility for TDS/TCS registration and processing shall be available on the GSTN portal from 07.10.2017. Whereas, the trade and industry have been asking about when would the effective date from which the deduction / collection of tax should start be specified so that they can prepare themselves.

4. In this regard, it is submitted that the amount of TDS / TCS is to be auto-populated in FORM GSTR-2 of the taxable person on whose account the amount has been deducted or collected. Further, the process of return filing has not stabilised so far and is likely to take some more time. It is proposed that the Council may finalise the effective date keeping in view these facts.

5. Accordingly, the Council is requested to decide the effective dates from which the deduction / collection of tax would start in terms of section 51 / section 52 of the said Acts respectively.

Agenda Item 13 (iii) - changes in GST rates on certain goods and exemption from IGST in certain cases

The fitment Committee has met again on 5th October, 2017 and examined change in GST rates on certain goods; exemption from IGST on imports of *bona fide* gifts upto value limit of Rs. 3000 through post or air; and has made the recommendations for consideration in the 22nd Meeting of the GST Council on 06.10.2017 as summarised below:

A. Table Agenda for changes in GST rates on certain goods:

S. No	Issue	Present applicable GST rate	Proposed GST rate
1.	<p><u>Reference From</u> - Ministry of Commerce</p> <p><u>IGST exemption on import of gold by nominated agencies (para 4.41 of the FTP)</u></p> <p>a) 36 Banks [23 PSUs and 6 Private] and 6 PSUs are Nominated Agencies.</p> <p>b) There is no shortage of gold for domestic purposes.</p> <p>c) Exporters may obtain gold/silver/platinum from nominated Agency.</p> <p>d) It is difficult for small exporters to get gold for jewellery, as nominated agencies have to do a lot of paper work for exporters [bond for import duty, BG from exporters, which can be discharged only after exports have taken place and exports proceeds are received] and the nominated agencies do not feel attractive enough to go through these hassles.</p> <p>e) Exempting IGST on gold imports by nominated agencies may be considered. It will ensure that banks at the time of import do not pay IGST, and payment of IGST get deferred to the stage when nominated agencies supply gold to any persons, including exporters. During the intervening period the nominated agency will have to give bond for the IGST amount involved.</p>	3%	Nil
2.	<p><u>To reduce GST on manmade filament yarn, Spun Yarn and sewing thread</u></p> <p>a) Sewing thread of manmade filaments, whether or not put up for retail sale (5401)</p> <p>b) All synthetic filament yarn, such as nylon, polyester, acrylic, etc. (5402, 5404, 5406)</p> <p>c) All artificial filament yarn, such as viscose rayon, Cuprammonium, etc. (5403, 5405, 5406)</p> <p>d) Sewing thread of manmade staple fibres (5508)</p> <p>e) Yarn of manmade staple fibres (5509, 5510, 5511)</p>	18%	12%
3.	<p><u>All types of Scrap</u></p> <p>a) Plastic scrap (Ch 39) – 18%</p> <p>b) Paper scrap (Ch 47) – 12%</p>	12% / 18%/28%	5% on 1. Plastic scrap,

	c) Rubber scrap (Ch 40) – 18% and Hard Rubber Scrap – 28% d) Glass scrap (Ch 70) – 18% e) Precious metal scrap (Ch 71) – 3% f) Wood scrap (Ch 44) – 5%		2. paper scrap (waste paper), 3. Rubber scrap and 4. Glass scrap.
4.	<p><u>Clarification regarding Unstitched Salwar suits</u></p> <p>a) Unstitched salwar suit is a fabric cut from lumps or <i>thans</i> on which value addition is done with embroidery, highlighting, handwork, patchwork etc.</p> <p>b) Fabric shall remain fabric despite the fact that they have undergone process of printing, embroidery or any other type of work.</p> <p><u>Clarification:</u></p> <p>a) Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit.</p> <p>b) Mere cutting and packing of fabrics into pieces of different lengths from bundles and <i>thans</i>, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective chapter heading as the fabric and attract 5% GST rate.</p>		
5.	<p><u>Reference from Finance Minister Kerala</u></p> <p>1. In 6th GST Council meeting it was decided to reduce GST rate on Coir mats and matting and floor coverings from 12% to 5%.</p> <p>2. However, the classification of these products in the relevant entry of the concerned notification is 5705, though these goods also fall under headings 5702 and 5703.</p> <p>3. Concerned notifications need to be suitably amended.</p>		
6.	<p>To exempt IGST on imports of rigs imported for oil / gas exploration and production projects under lease, subject to the following conditions that:</p> <p>(i) Integrated tax leviable under section 5(1) of the IGST Act, 2017 on supply of service covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Services Tax Act, 2017;</p> <p>(ii) The rig is not sold without the prior permission of the Commissioner of Customs of the port of importation;</p> <p>(iii) to re-export the goods within 3 months from the expiry of the period for which they were supplied under a transaction covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Services Tax Act, 2017 out of India;</p> <p>(iv) to pay on demand an amount equal to the integrated tax payable on the said goods but for the exemption under this notification in the event of violation of any of the above conditions and applicable interest.</p>	5%	Nil

7.	GST rate on: a) Unbranded ayurvedic, unani, siddha, homeopathy medicines, whether or not registered b) Unbranded namkeens, [definition of registered brand name /brand name definition will be same as that in case of branded cereals, pulses and flours etc.	12%	5%
8.	To shift the time of supply on advances received against supply of goods to be made by a dealer whose aggregate turnover in a financial year does not exceed Rs. 1.5 crore to issuance of invoice or actual supply of goods if invoice is not issued within stipulated time.		
9.	Exemption from IGST on medicines supplied free by international agencies like UNICEF, WHO, Red Cross etc.	12%/5%	NIL
10.	<u>To reduce GST on:</u> a) Parts of Fixed Speed Diesel Engines of power not exceeding 15HP; and b) Parts of power driven pumps primarily designed for handling water, namely, centrifugal pumps (horizontal and vertical), deep tube-well turbine pumps, submersible pumps, axial flow and mixed flow vertical pumps.	28%	18%

B. Exemption from IGST on imports of *bona fide* gifts up to value limit of Rs. 3000 through post or air:

Brief background: Prior to the roll out of GST, import of *bona fide* gifts were exempted from basic custom duty (BCD) as well as additional duties of Customs (CVD and SAD) vide notification no. 171/93-Cus dated 16.09.1993. Initially, the value for such *bona fide* gifts was fixed at Rs 5,000/- which was then increased to Rs 10,000/- in 2008 and then to Rs 20,000/- in Budget 2016. This benefit was withdrawn on the eve of GST rollout but a *de minimis* of Rs. 1000/- CIF value per consignment (Goods imported through postal parcels, packets and letters) introduced in Budget 2017 continues.

2. Numerous references have been received from various Members of Parliament, Trade bodies stating that the withdrawal of exemption limit of Rs. 20,000/- has resulted in hardship to Non Resident Indians, mainly labour migrants, as they can no longer avail benefit of customs duty exemption on *bona fide* gifts to be sent to their family and friends.

3. Given the fact that the exemption to *bona fide* gifts similar to notification no. 171/93-Cus is prone to misuse by the unscrupulous elements who tend to mis-declare commercial goods as *bona fide* gifts as was done in the past, therefore, re-introduction of **same exemption limits** does not merit consideration. However, keeping in mind the difficulty referred to in the references from Members of Parliaments etc, it is proposed to increase the *de-minimis* value in the case of ***bonafide gifts only***.

Proposal:

It is proposed to enhance the *de-minimis* value to Rs. 3000/- (CIF) from existing Rs. 1000/- subject to application of the *de-minimis* to ***bona fide gifts only***.

Reasons:

The proposal is being made taking into account the following reasons:

- (i) the difficulties being faced by the non-resident Indians sending *bona fide* gifts to their family and friends
- (ii) that it is counterproductive to have a duty that is more expensive to collect than the value of goods itself-i.e. administrative burden should not be higher than cost of collection.

Approval Sought

To provide exemption from IGST on the import of *bonafide* gifts only up to the CIF value of Rs 3,000/- only (Rupees Three Thousand) i.e. enhancing the *de-minimis* limit to Rs. 3,000 in case of *bonafide* gifts alone, **imported through post or air.**

3. The above recommendations of the Fitment Committee are for consideration of the GST Council.

Agenda Item 13 (iv) - Issue of Annuity being given in Place of Toll Charges to Developers of Public Infrastructure-exemption there on

Toll is exempt from GST. In service tax it was in the Negative List.

2. There is a difference between toll and annuity. While toll is a payment made by users of road to concessionaires for usage of roads, annuity is an amount paid by National Highways Authority of India (NHAI) to concessionaires for construction of roads. In other words, annuity is a consideration for the service provided by concessionaires to NHAI.
3. The works contract services by way of construction of road was exempt from service tax. However, service tax was leviable only on the service component of such works contract (40%). The material or goods component of the works contract was leviable to VAT. However, it was subject to State VAT (composition rate).
4. Construction of roads is now subject to 12% GST. EPC contractor (Engineering, Procurement and Construction) pays 12% GST on the service of road construction to the concessionaire.
5. In view of the above, there is a free flow of ITC from EPC Contractor to the concessionaire and thereafter to NHAI. As a result, the GST of 12% leviable on the service of road construction provided by concessionaire to NHAI would be paid partly from the ITC available with him.
6. A view may be taken for grant of exemption to annuity paid by NHAI/State Highways Construction Authority to concessionaires for construction of roads. This will amount to not taxing the value addition of the concessionaire. The argument for exempting annuity from GST is that the road construction service was exempt from service tax. However, GST would continue to be levied on the road construction service provided by the EPC contractor to the concessionaire.

Agenda Item 13 (v) – Additional relief to Small Tax Payers - Composition Scheme

Section 10 of the Central Goods and Services Tax 2017 (GST) Act contains provisions for Composition Scheme.

2. The Composition Scheme is primarily to ease compliance burden for small tax payers with turnover above the threshold exemption limit. It essentially provides for a turnover tax regime for such tax payers, with facility for filing of return on quarterly basis (instead of monthly return by the normal tax payers).

3. However, among some of the limitations which the Composition Scheme has in its present form, one of the limitations is the restriction that the supplier must not be engaged in the supply of services other than the supply referred to in clause (b) of paragraph 6 of Schedule II. Some of the other limitations have been sought to be addressed vide Agenda No. 6 (i) in the Agenda Items for the 22nd meeting of the GST Council on 6th October, 2017.

4. One of the common supply of service is *extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount*. Most dealers make deposits in banks etc. thereby earning interest. As a result even though they are not required to pay any GST on interest in respect of these deposits; however, as a result of this statutory requirement they are unable to avail of the Composition Scheme. This certainly could not be our intention while making the provisions of the Composition Scheme because, in effect, no small dealer or manufacturer would be able to avail of the Composition Scheme.

5. In the earlier service tax regime, services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, was in the Negative List of the Finance Act (Section 66 D).

6. No doubt, the Negative List of services was also in the category of exempted service under the Cenvat Credit Rules 2004, [Rule 2 (e) of Cenvat Credit Rules, which defined, exempted services, to mean, *interalia*, a service on which no service tax was leviable under Section 66 (B) of the Finance Act which included the Negative List] However, there was another provision in the Cenvat Credit Rules which provided that the value for the purpose of reversal of input tax credits paid on inputs or input services used for providing exempt services did not include the value of services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount [Rule 6 (3D) Explanation I(e) refers] This was done with a view to ensure that manufacturers are not required to reverse input tax credit in respect of the interest earned. Had this provision not been there, almost all manufacturers, even if manufacturing all taxable goods, would still be required to reverse ITC if they earned any amount of interest in respect of their bank deposits.

7. It is, therefore, felt that in order to make the Composition Scheme more certain and attractive, it may be desirable to issue removal of difficulty order under Section 172 of the CGST act (and corresponding provisions of UT GST Act and State GST Acts) to the effect that

(i) Section 10(2) (a) should be read so as to exclude the services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;

(ii) Section 10 (1) of CGST Act should be read so as to exclude the interest earned from deposits, loans or advances from the aggregate turnover.

In other words, if a dealer who makes supplies of goods and services referred to in clause (b) of paragraph 6 of Schedule II of CGST Act and/or also receives interest income will not be ineligible for the Composition Scheme under Section 10 provided all other conditions are met.

Agenda Item 13 (vi) - GST on development charges collected by Gift City Company Limited for allotment of land on long term lease (of 30 years or more) to developers for development of commercial and residential spaces

Presently, the upfront amount charged by State Industrial Development Corporations/undertakings (known as premium, salami, development charges etc) for long term lease (of 30 years or more) of industrial plots to industrial units is exempt from GST.

2. Gift City Company Limited which is developing International Financial Services Centre (IFSC) in Gujarat has requested for a similar exemption for the amount charged by it for granting development rights to developers for construction of commercial and residential spaces in DTA area of the project. [The project has an SEZ area (261 acres) and DTA area (412 acres)]. The amount charged for development rights is payable by the developers over a period of 3 years. In addition, an annual lease rent is also payable by developers. The request is for exempting only the amount payable for development rights.

3. The present request is different from the existing exemption in that it covers long term lease of commercial and residential plots also. [Allotment of land by authorities such as Delhi Development Authority, Ghaziabad Development Authority, NOIDA on long term lease for residential purposes is not exempt presently.] Further, unlike State Industrial Development Corporations, the ownership of the Government (through Gujarat Urban Development Corporation) in Gift City Company Limited is only 50%. The remaining ownership is with Infrastructure Leasing and Financial Services company Ltd.

4. In view of the fact that GIFT City Co. Ltd. is developing the first international financial services centre in India with an aim to attract international financial business to India, which has lot of employment potential, it is felt that development rights granted by Gift City Company Limited to developers for construction of commercial and residential buildings on long term lease of 30 years or more need be exempted. This would reduce initial costs of developers and encourage them to invest in the project.

5. It is proposed that upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service, by way of granting of long term lease (of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations/ Undertakings or any other entity having 50% or more ownership of Central Government, State Government, Union territory to (a) industrial units or (b) developers in any industrial or financial business area, may be exempted from GST.

Agenda Item 13 (vii) – Additional relief to Small Tax Payers – GTA to unregistered persons

Services provided by a GTA attract GST @ 5% without ITC under RCM or 12% with ITC under forward charge. In case of services provided by a GTA operating under @ 5% GST rate to the following persons, tax is payable by the recipients of service under RCM.

- (a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or*
- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or*
- (c) any co-operative society established by or under any law; or*
- (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or*
- (e) anybody corporate established, by or under any law; or*
- (f) any partnership firm whether registered or not under any law including association of persons; or*
- (g) any casual taxable person.*

2. However, when a GTA provides service to an unregistered person other than the above recipients (mentioned in para 1 above), the GTA is required to pay tax @ 5% under forward charge.

3. It has come to light that GTAs are not willing to provide services to an un-registered person so as to avoid taking registration. [A person making such supplies which are wholly exempt or are entirely chargeable under RCM is not required to take registration.] Registration would also make a GTA liable to pay tax on their inward supplies from unregistered persons under RCM in terms of section 9(4) of CGST Act. [This provision is proposed to be deferred under Agenda No 6 (iii).]

4. It is proposed that in order to remove hardship being faced by small unregistered businesses on this count, the services provided by a GTA to an unregistered person (under GST law) other than the recipients mentioned in paragraph 1 (a), (b), (c), (e) and (f) above, may be exempted from GST. The exemption may be provided in case of services provided by GTAs operating under 5% GST rate under RCM and those paying GST @ 12% under forward charge; otherwise, it would be a disadvantage to GTAs who choose to come under ITC chain at 12% rate.