

# G S T LAWS – 2018 AMENDMENTS

**K.VAITHEESWARAN**  
*ADVOCATE & TAX CONSULTANT*

**Mobile: 98400-96876**

**E-mail : [vaithilegal@yahoo.co.in](mailto:vaithilegal@yahoo.co.in) / [vaithilegal@gmail.com](mailto:vaithilegal@gmail.com)**

**[www.vaithilegal.com](http://www.vaithilegal.com)**

**‘VENKATAGIRI’**  
Flat No.8/3 & 8/4, Ground Floor,  
No.8 (Old No.9), Sivaprakasam Street,  
T. Nagar, Chennai - 600 017, India  
Tel.: 044 + 2433 1029 / 4048

402, Front Wing,  
House of Lords,  
15/16, St. Marks Road,  
Bangalore – 560 001, India  
Tel : 080 22244854/ 41120804

# BACKGROUND

- CGST Amendment Bill, 2018; IGST Amendment Bill, 2018; UTGST Amendment Bill, 2018; GST Compensation Cess Amendment Bill, 2018; passed by the Lok Sabha
- Major changes based on recommendations of GST Council
- Amendments will come into force from a date to be notified
- Some amendments are retrospective

# REVERSE CHARGE MECHANISM

- Section 9(4)
- Unregistered suppliers and registered recipients
- Provision made non-operational through Notifications
- Section 9(4) substituted
  - Government through notification would specify a class of registered persons
  - These persons shall pay GST under RCM in respect of specified categories of goods or services or both received from an unregistered supplier

This provision appears to be limited in scope and can be targeted towards segments where the Government has data on leakage of revenue.

# COMPOSITION LEVY

- Composition outer limit enhanced from Rs. 1 crore to Rs. 1.5 crores
- Composition dealer permitted to supply services subject to certain limits
  - Not exceeding 10% of turnover in a State or UT in the preceding financial year or Rs. 5 lakhs whichever is higher

Manufacturers and dealers who opt for composition can also provide services other than restaurant services subject to limits. Restaurants can provide other services subject to limits. Eligibility for composition is thus not disturbed on account of providing certain services within the identified limits

# INPUT TAX CREDIT

- Amendment of explanation to Section 16(2)
- Recognition of 'bill to ship to' concept for goods and services
- Section 10(1)(b), IGST Act, 2017, transactions – deemed that registered person has received the goods
- Where services are provided by a supplier to any person on the direction of and on account of such registered person; services shall be deemed to be received by the registered person
- Concept of tax deemed to be paid in the manner set out in new Section 43A

Since receipt of goods / services was one of the conditions for ITC, enabling amendments are made to recognise the concept of deemed delivery in certain cases.

# ITC – NEW PROCEDURE

- New Section 43A
  - Details of supplies furnished by suppliers to be verified, validated, modified or deleted in the returns
  - Procedure for ITC availment and verification will be prescribed
  - Procedure for furnishing details of outward supplies by the supplier for availing ITC by the recipient shall be prescribed
  - Procedure for availing ITC in respect of outward supplies not furnished shall be prescribed and the procedure can include maximum amount of ITC that can be availed not exceeding 20% of the ITC available
  - Where the details have been furnished by the supplier in the manner prescribed, the tax specified shall be deemed to have been paid
  - Joint and several liability on supplier and recipient in case details furnished but return is not filed
  - Recovery procedure to be prescribed

This provision is a new provision and is non-obstante Section 16(2), Section 37, Section 38, Section 41, Section 42, Section 43.

# EXEMPT SUPPLY

- *Section 17(3) – Explanation*
- Exempt supply shall not include value of activities or transactions in Schedule III, except those specified in Para 5 of the said Schedule.
- Schedule III covers transactions which are neither supply of goods nor supply of services and currently covers transactions such as services by an employee to employer; actionable claims etc., sale of land and building etc.

# EXEMPT SUPPLY & SCHEDULE III

- Scope of Schedule III expanded
  - Supply of goods from non-taxable territory to another non-taxable territory without the goods entering India
  - Supply of warehoused goods before clearance for home consumption
  - Supply of goods by endorsement of document of title before clearance for home consumption

The effect of the amendment is that clarity is introduced in respect of the non-tax position for certain transactions. Further, except sale of land and building, other transactions set out in Schedule III would not be considered as an exempt supply. Hence, ITC would be available in full.



# BLOCKED CREDITS – MOTOR VEHICLES

- Section 17(5)(a) substituted
- ITC shall not be available in respect of motor vehicle for transportation of persons having approved seating capacity of not more than 13 persons (including the driver) except when they are used for making the following taxable supplies:
  - Further supply of such motor vehicle; or
  - Transportation of passengers; or
  - Imparting training on driving such motor vehicles
- No ITC in respect of services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicle referred to above
- ITC available in respect of the said services
  - Where motor vehicles are used for purposes specified
  - Where received by a person who is engaged in manufacture of such motor vehicle or in the supply of general insurance service in relation to such motor vehicle

# BLOCKED CREDIT – VESSELS & AIRCRAFTS

- Section 17(5)(aa)
- ITC shall not be available in respect of vessels and aircrafts except when they are used for making the following taxable supplies:
  - Further supply of such vessel or aircraft; or
  - Transportation of passengers; or
  - Imparting training on navigation of such vessels; or
  - Imparting training on flying such aircraft
- No ITC Services of general insurance, servicing, repair and maintenance in so far as they relate to vessel or aircraft referred to above
- ITC available in respect of services
  - Where vessels or aircrafts are used for purposes specified
  - Where received by a person who is engaged in manufacture of such vessel or aircraft or in the supply of general insurance service in relation to such vessel or aircraft

# BLOCKED CREDITS

- Food and Beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, *leasing, renting or hiring of motor vehicles or vessels or aircraft* except when used for the purposes specified in Section 17(5)(a) or 17(5)(aa), life insurance and health insurance except when it is an inward supply for making outward taxable supply in the same category or is an element of taxable composite or mixed supply
- Membership of club, health and fitness centre, travel benefits extended to employees on vacation such as leave or home travel concession

Credit is available on these items where it is obligatory for an employer to provide to its employees under any law for the time being in force. This will widen the scope of ITC for an employer's perspective.

# REGISTRATION

- Based on request, threshold limit can be increased from Rs. 10 lakhs to such amount not exceeding Rs. 20 lakhs for Special Category States through notification
- E-commerce operator requires registration only if he is required to collect TCS under Section 52
- Separate registration required for SEZ units or Developer, distinct from business located in DTA in the same State or UT
- Separate registration permissible for each place for a person having multiple places of business in the same State or UT subject to conditions to be prescribed
- Concept of suspension of registration pending cancellation proceedings introduced

The concept of business vertical has been removed and instead the facility of multiple registration in the same State has been introduced

# RETURNS

- Enabling provisions introduced
  - To facilitate quarterly returns for notified classes of registered persons
  - Different due dates
  - Payment of tax before furnishing of return for certain notified classes of registered persons
  - To facilitate revised return procedure

# PAYMENT OF TAXES

- Section 49 amended to provide for the following:
  - SGST can be used to pay IGST only if there is no balance in CGST for payment of IGST
  - UTGST can be used to pay IGST only if there is no balance in CGST for payment of IGST
- Introduction of Section 49A to provide that notwithstanding Section 49, ITC on account of CGST, SGST, UTGST shall be utilized towards payment of IGST, CGST, SGST or UTGST as the case may be *only after the ITC available on account of IGST has first been utilized fully towards such payment.*
- New Section 49B enables Government based on Council's recommendations to prescribe order and manner of utilization of IGST, CGST, SGST, UTGST as the case may be towards payment of tax.

# EXPORTS & IMPORTS

- Section 54(8)(a) amended to substitute the word 'export' for 'zero rated supply'.
- In respect of service exports, receipt in INR wherever permitted by RBI is also recognized.
- Import of service by a 'person' from a related person or his other establishments outside India is treated as a 'supply' without consideration.
  - Originally, only import by a taxable person was covered.

# APPEALS

- In first appeal, pre-deposit of 10% of the disputed taxes is now subject to a ceiling limit of Rs.25 crores.
- In respect of appeals to Tribunal, pre-deposit of 20% of the disputed taxes is now subject to a ceiling limit of Rs.50 crores.



# TRANSITIONAL CREDIT

- Section 140(1) amended and reads as *cenvat credit of 'eligible duties'*.
- Amendment effective from 01.07.2017 and is deemed to have been inserted from that date.
- Explanation-III inserted to clarify that the expression 'eligible duties and taxes' excludes any cess which is collected as additional duties of customs under Section 3 of Customs Tariff Act.

Eligible duties is defined in Explanation-I and does not cover education cess, secondary education cess, etc. Retrospective amendment is likely to affect many assesseees who had claimed the benefit of transitional credit based on language deployed in Section 140(1)

# SIMPLIFICATION – CGST ACT, 2017

- Amendment to Section 7 to confine sub-section (1) to elements of supply
- Introduction of sub-section (1A) to cover transactions that are either supply of goods or supply of services referred to in Schedule II
- Multiple tax invoices can be covered in credit and debit notes referred to in Section 34
- Registered persons can issue consolidated credit/debit notes in respect of multiple invoices issued in a Financial Year
- Audit not required for Government departments and local authorities who are subject to audit by CAG or auditor appointed under any law
- Section 129 amended to increase the period relating to detention or seizure of goods and conveyance in transit from 7 days to 14 days.
- Section 143 amended to facilitate extension of time to bring back the goods in the case of job work.

# IGST ACT – AMENDMENTS

- Definition of 'export of services' amended to cover receipt in INR wherever permitted by RBI.
- Reverse Charge Mechanism under Section 5(4) substituted and would cover class of notified registered persons in respect of specified categories of goods or services or both received from unregistered suppliers.
- Concept of business vertical omitted.

# IGST ACT – AMENDMENTS

- Section 12(8) of the IGST Act amended to specify place of supply as the place of destination of goods in respect of transportation of goods.
- Scope of exclusion in Section 13(3)(a) expanded to cover any other treatment or process to goods in addition to repair.

# THANK YOU

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