

Chamber of Tax Consultants  
“GST Workshop”  
at IMC, Mumbai

“Significant changes in GST  
Rates on supply of Goods &  
Issues there under”

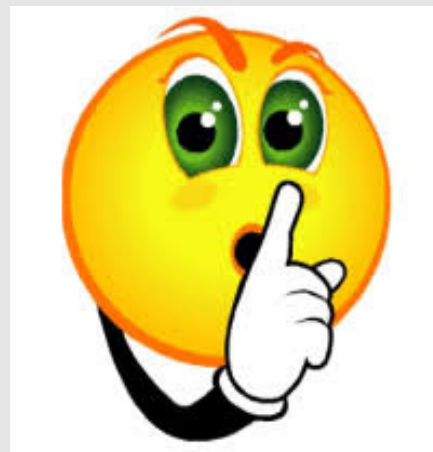
by

CA Deepak Thakkar

1 Sept 2018



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## Advances received for supply of goods is not liable to GST

- **Notifn # 40/2017-CT Dt. 13 Oct 2017:**

Regd. Person whose aggregate turnover in preceding FY did not exceed Rs. 1.5 Crore or whose turnover in year of Regn is likely to be less than Rs. 1.5 Crore and who did not opt for composition levy shall not be liable to pay GST when he receives advances in respect of supply of goods.

- **Notifn # 66/2017-CT Dt. 15 Nov 2017 superseded above Notification:**

Regd. Person who did not opt for composition levy shall not be liable to pay GST when he receives advances in respect of supply of goods.

- **Sec. 12(2)(b) provision for Time of Supply of goods:**

“the date on which the supplier receives the payment with respect to the supply:...”

- Above sub-clause (b) does not apply to RP covered by above Notifications.

## GST reduced on supply of certain goods

- New Notification # 6/2018- Central Tax (Rate) dt 25 Jan 2018 amends CGST Sch Rates as under:
- Amends Schedules of Notification # 1/2017- Central Tax (Rate) dt 28 June 2017

Sr. #	HSN Code	Description of Goods	New CGST Rate wef 25 Jan 2018	Old CGST Rate wef 1 July 2017 to 24 Jan 2018
32AA	1704	Sugar boiled confectionery	6%	9% (u/Sch III-Sr # 12)
46B	2201	Drinking water packed in 20 litres bottles	6%	9% (u/Sch III-Sr # 24)
236B	7324	Sanitary ware and parts thereof, of iron and steel	9%	14% (u/Sch IV-Sr # 102)

## GST reduced on supply of certain goods

- New Notification # 18/2018- CTR dt 26 July 2018 amends CGST Sch Rates wef 27 July 2018:
- Amends Principal Notfn # 1 CTR dt 28 June 2017, last amended by Notfn # 6- CTR dt 25 Jan 2018

Sr. #	HSN Code	Description of Goods	CGST Rate wef 1 July 2017	Remark
222	61	Articles of apparel and clothing accessories, knitted or crocheted, <b>of sale value not exceeding Rs. 1000 per piece</b>	2.5%	<b>Q.1. Sale value means?</b> <b>Sec. 15(2): The value of supply shall include—</b> (a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force <b>other than this Act</b> , the State/UT GST Act,.. if charged separately by the supplier
		<u>Entry substituted as under</u>	<u>Wef 27 July 2018</u>	
222	61 or 6501 or 6505	Article of apparel and clothing accessories <b>or cap/ topi</b> , knitted or crocheted, of <b>sale value not exceeding Rs 1000 per piece</b>	2.5%	<b>Q.2. Tax rate on cap/topi upto 26 July 2018?</b>

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## GST reduced on supply of certain goods

- New Notification # 18/2018- CTR dt 26 July 2018 amends CGST Sch Rates wef 27 July 2018:
- Amends Principal Notfn # 1/2017- CTR dt 28 Jun 17, last amended by Notfn # 6/2018-CTR dt 25 Jan 18

Sr. #	HSN Code	Description of Goods	CGST Rate wef 1 July 2017	Remark
225	64	Footwear having a <b>retail sale price not exceeding Rs.500</b> per pair, provided that <b>such retail sale price is indelibly marked or embossed on the footwear itself.</b>	2.5%	'RSP' vs Sale value?
		<u>Entry substituted as under</u>	<u>Wef 27 July 2018</u>	
225	64	Footwear having a <b>retail sale price not exceeding Rs.1000</b> per pair, provided that such retail sale price is indelibly marked or embossed on the footwear itself.	2.5%	

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## GST reduced on supply of certain goods

- New Notification # 18/2018- CTR dt 26 July 2018 amends CGST Sch Rates wef 27 July 2018:
- Amends Principal Notfn # 1/2017- CTR dt 28 Jun 17, last amended by Notfn # 6/2018- CTR dt 25 Jan 18

Sr. #	HSN Code	Description of Goods	New CGST Rate wef 27 July 2018	Old CGST Rate wef 1 July 2017 to 26 July 2018
52A/52 B/52C	3208 or 3209 or 3210	Paints and varnishes.....	9%	14% (u/Sch IV- Sr # 20, 21, 22)
319A	8418	<b>Refrigerators, freezers</b> and other refrigerating or freezing equipment, electric or other; heat pumps <b>other than air conditioning machines of heading 8415</b>	9%	14% (u/Sch IV- Sr # 120)
341A	8450	<b>Household or laundry-type</b> washing machines, <b>including machines which both wash and dry</b>	9%	14% (u/Sch IV- Sr # 130)

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## GST reduced on supply of certain goods

- New Notification # 18/2018- CTR dt 26 July 2018 amends CGST Sch Rates wef 27 July 2018:
- Amends Principal Notification # 1/2017- CTR dt 28 June 2017, last amended by Notfn # 6/2018- CTR dt 25 Jan 2018

Sr. #	HSN Code	Description of Goods	New CGST Rate wef 27 July 2018	Old CGST Rate wef 1 July 2017 to 26 July 2018
378A	8516	<b>Electric instantaneous or storage water heaters</b> and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hair-dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; <b>other electro-thermic appliances of a kind used for domestic purposes</b> ; electric heating resistors, other than those of heading 8545	9%	14% (u/Sch IV- Sr # 146)
383C of Sch III	8528	<b>Television set</b> (including LCD or LED television) <b>of screen size not exceeding 68 cm</b>	9% wef 27 July 2018	14% (u/Sch IV- Sr # 154) upto 26 July 2018

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## GST reduced on supply of notified handicraft goods

- New Notification # 21/2018- CTR dt 26 July 2018 amends CGST Sch Rates **wef 27 July 2018**;
- Old Notfn 32/CT/15-9-2017 & 38/CT/13-10-2017

Sr. #	HSN	Description of Goods	CGST Rate	Remark
39 Entries	3406... .9703	Handicraft goods as notified For Eg. Handicraft candles, handbags, purses, jewellery box, coir articles, toran, etc	1.5% or 2.5% or 6% wef 27 July 2018	Different rates as covered by different entries/schedules upto 26 July 2018
16	6117, 6214	Handmade/hand embroidered shawls of <b>sale value not exceeding Rs. 1000</b> per piece	2.5% wef 27 July 2018	----do----
17	6117, 6214	Handmade/hand embroidered shawls of <b>sale value exceeding Rs. 1000</b> per piece	6% wef 27 July 2018	----do----

**Explanation - For the purpose of this notification, the expression "handicraft goods" means –**  
*"Goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility."*

## Supply of certain goods, made exempt

- New Notification # 19/2018- CTR dt 26 July 2018 amends CGST Sch Rates **wef 27 July 2018**;
- Amends Principal Notification # 2/2017- CTR dt 28 June 2017, last amended by Notfn # 7/2018- CTR dt 25 Jan 2018

Sr. #	HSN Code	Description of Goods	New CGST Rate wef 27 July 2018	Old CGST Rate wef 1 July 2017 to 26 July 2018
114A	44 or 68	Deities made of stone, marble or wood	Nil	Residuary Entry Sr # 453 rate 9% or 14% as article of stone....
117	48 or 4907 or 71	Rupee notes or coins when sold to Reserve Bank of India or the Government of India	Nil	Residuary rate 9% or (14% as coin under HSN 7118 -Sr. 18 of Sch. IV)
146A	9619 00 10 /20	Sanitary towels (pads) or sanitary napkins; tampons	Nil	6% (u/Sch IV- Sr # 235) upto 26 July 2018
152	Any Chapter except 71	Rakhi (other than those made of goods falling under Chapter 71)	Nil	Residuary Entry Sr # 453 rate 9% (CH 71 is for precious stones, pearls, precious metals, jewellery, etc)

## GST reduced on Resale of Old & Used Motor Vehicles (MV)

- Notification # 8/2018- Central Tax (Rate) dt 25 Jan 2018 exempts central tax in excess of following:
- Amended Sch IV of Notification # 1/2017- Central Tax (Rate) dt 28 June 2017

HSN Code	Description of Goods supplied	New GST Rate wef 25 Jan 2018	Old GST Rate wef 1 July 2017 to 24 Jan 2018
8703	Old & Used, Petrol, LPG or CNG driven Motor Vehicles of engine capacity of <u>1200 cc or more</u> and of <u>length of 4000 mm or more</u>	For RP who has claimed depreciation: <b>9%</b> on Value = Margin of Supplier = Consideration recd for supply of such goods – WDV of such goods on dt of supply; In Other case: Value = Margin = SP – PP; Negative margin shall be ignored	14% on Value of supply
8703	Old & Used, <u>Diesel</u> driven MV of engine capacity of <u>1500 cc or more</u> and of length of 4000 mm	----Do----	----Do----
8703	Old & Used MV of engine capacity exceeding 1500 cc (SUVs)	----Do----	----Do----
87	All Old & Used <u>Vehicles</u> <u>other</u> than mentioned above	<b>6%</b> & ----Do----	----Do----

Note: (1) Cess is NIL as per Notifn # 1/2018 – Compensation Cess (Rate) dt 25 Jan 2018. (2) This Notifn shall not apply, if Supplier has availed ITC under GST Act, CENVAT under CENVAT Credit Rules, 2004 or ITC of VAT or any other taxes paid, on such goods

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## GST Payable on Resale of Old and Used Motor Vehicles wef 25 Jan 2018

Details	Bigger M.V	Smaller MV	Bigger M.V	Smaller MV
Details of A Motor Vehicle	Where Depreciation taken	Where Depreciation taken	Where Depreciation Not taken	Where Depreciation Not taken
Purchase Price	20 lakhs	10 lakhs	20 lakhs	10 lakhs
Depreciation	- 8 lakhs	- 4 lakhs	Nil	Nil
WDV	12 lakhs	6 lakhs	20 lakhs	10 lakhs
Sale Price	8 lakhs	7 lakhs	8 lakhs	7 lakhs
Margin (Profit/Loss)	- 4 lakhs	1 lakhs	- 12 lakhs	- 3 lakhs
GST	Nil	12,000	Nil	Nil
Remark	No GST as margin is negative	CGST 6% & SGST 6% Cess 0%	No GST as margin is negative	No GST as margin is negative

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Clarification regarding GST rate on certain goods;  
TRU Circular # 52/26/2018-GST dt 9 Aug 2018

Goods	Fortified Toned Milk
Issue	Whether it is milk?
Classification of Milk under Rate Schedule	HSN 0401/ Sr 25/ Notfn 2/CTR/28-6-2017/ GST @ Nil; fresh milk and pasteurised milk, including separated milk, milk and cream, not concentrated nor containing added sugar or other sweetening matter, excluding Ultra High Temperature (UHT)
Observation	As per <a href="#">HSN Explanatory Notes</a> milk enriched with vitamins & minerals is classifiable under HSN 0401
Clarification	Toned milk with vitamins 'A' & 'D' is milk covered under HSN 0401
GST Rate	HSN 0401/ Sr 25/ Notfn 2/CTR/28-6-2017/ GST @ Nil

Clarification regarding GST rate on certain goods;  
TRU Circular # 52/26/2018-GST dt 9 Aug 2018

Goods	Tamarind Kernel Powder (TKP) (Modified & Un Modified form)
Issue	Tamarind powder whether modified/treated or plain/unmodified attracts same GST rate?
Observation/Facts	TKP are of 2 grades; plain/unmodified form (hot, water soluble; chemically treated/modified form (cold, water soluble).
Clarification	As unmodified & modified TKP falls under Chapter 13, hence though the GST notfn does not specifically mention the word "modified", both are covered by said GST Notfn attracting same GST rate
GST Rate	Tamarind kernel powder - CH13/ Sr 76A/ Notfn 6/CTR/25-1-2018/ GST @ 5%; Tamarind, dried - HSN 0813/ Sr 33A/ Notfn 27/CTR/22-9-2017/ GST @ 5%;

Clarification regarding GST rate on certain goods;  
TRU Circular # 52/26/2018-GST dt 9 Aug 2018

Goods	Supply of Safe Drinking Water for public purpose
GST Rate on Water	Water [other than aerated, mineral, <b>purified, distilled</b> , medicinal, ionic, battery, de-mineralized and <b>water sold in sealed container</b> ] – Sr # 99/ HSN 2201/ Notfn 2/CTR/28-6-2017/ GST @ Nil%
Sealed container means?	
Clarification	Supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST.
GST Rate	Sr # 99/ HSN 2201/ Notfn 2/CTR/28-6-2017/ GST @ Nil%

Clarification regarding GST rate on certain goods;  
TRU Circular # 52/26/2018-GST dt 9 Aug 2018

Goods	Baby wipes, facial tissues and other similar products
Facts	<b>Such products are generally made by using <u>non-woven</u> fabrics</b> of viscose and polyviscous blend and are sprinkled with demineralized water, various chemicals and fragrances, which impart the essential character to the product. The base raw materials are moisturising and cleansing agents, preservatives, aqua base, cooling agents, perfumes etc. The textile material is present as a carrying medium of these cleaning/wiping components.
Industry Practice	These products are classified under different HSN: either 3307 or 3401 or 5603
GST Rate under HSN 5603	<b>Nonwovens</b> , whether or not impregnated, coated, covered or laminated; HSN 5603/Sr # 135/Sch II/ Notfn 1/CTR/28-6-2017/ GST @ 12%
Observation	<b>Referred to General Rules for Interpretation- GRI-3(b) of First Sch to the Customs Tariff Act</b> & observed that essential character of wipes is imparted by the components which are to be mixed with the textile material; <b>HSN Explanatory Notes to HSN 5603 clearly excludes <u>nonwoven</u></b> , impregnated, coated or covered with substances or preparations such as perfumes or cosmetics, soaps or detergents, polishes, creams or similar preparations. <b>HSN Explanatory Notes to HSN 3307 includes wadding, felt and <u>nonwovens</u> impregnated, coated or covered with perfume or cosmetics; HSN Explanatory Notes to HSN 3401 includes wipes made of paper, wadding, felt and <u>nonwovens</u>, impregnated, coated or covered with soap or detergent, whether or not perfumed or put up for retail sale.</b>
Clarification	If the baby wipes are impregnated with perfumes or cosmetics, then it falls under HSN 3307 and if they are coated with soap or detergent, then it falls under HSN 3401; Under both entry GST is @ 18%



**Clarification regarding GST rate on certain goods;  
TRU Circular # 52/26/2018-GST dt 9 Aug 2018**

Goods	Real Zari Kasab (Thread) (Metallised yarn)
Relevant Sch Entries	Specified embroidery product falls under HSN 5809/5810 which is covered by Sr # 220 of Sch I & attracts GST @ 5%; Yarn falls under HSN 5605 which is covered by Sr # 137 of Sch II & attracts GST @ 12%
Observation	HSN 5809 and 5810 cover embroidery and zari articles. It does not cover yarn of any kinds. Hence, while these headings apply to embroidery articles, embroidery in piece, in strips, or in motifs, they do not apply to yarn, including Kasab yarn. Further all types of metallised yarns or threads are classifiable under HSN 5605
Clarification	Imitation zari thread or yarn known as kasab or by any other name in trade parlance, would be covered under HSN 5605 which is covered by Sr # 137 of Sch II & attracts GST @ 12%

**Clarification regarding GST rate on certain goods;  
TRU Circular # 52/26/2018-GST dt 9 Aug 2018**

Goods	Cotton Quilt and comforter
Relevant Sch Entries	Cotton quilts falling under HSN 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. 257A of Schedule I of Notfn # 1/CTR dt 28.06.2017; 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).
Issue	what constitutes cotton quilt, i.e. whether a quilt filled with cotton with cover of cotton, or filled with cotton but cover made of some other material, or filled with material other than cotton.
Observation	The essential character of the cotton quilt is imparted by the filling material. Therefore, a quilt filled with cotton constitutes a cotton quilt, irrespective of the material of the cover of the quilt.
Clarification	The GST rate would apply accordingly.

Clarification regarding GST rate on certain goods;  
TRU Circular # 52/26/2018-GST dt 9 Aug 2018

Activity	Bus body building as supply of motor vehicle or job work
Issue	Whether the activity of bus body building is a supply of goods attracting GST @ 28% or is a jobwork services attracting GST @ 18%?
Observation	Type A: Bus body builder builds a body, working on the chassis owned by him and supplies the bus to the customer OR Type B: Bus body builder builds a body working on the chassis provided by other person and charges for fabrication of bus body.
Clarification	In case of Type A it is a supply of bus, a motor vehicle attracting GST @28%; In case of Type B it is a fabrication of body on the goods provided by other person which is the supply of service which attracts GST @ 18%

Clarification regarding GST rate on certain goods;  
TRU Circular # 53/27/2018-GST dt 9 Aug 2018;  
Old Circular # 12/12/2017-GST dt 26 Oct 2017 &  
#29/3/2018- GST dt 25 Jan 2018

Facts	In case of continuous supply of goods, such as petroleum gases, Methyl Ethyl Ketone, etc. by oil refineries to a recipient through dedicated pipelines, while a portion of material is retained by these recipients and remaining quantity is returned to the supplier.
Issue	Whether the whole quantity (Gross supply) or the retained quantity (Net) would be liable to GST?
Clarification	GST will be payable by supplier only on the Net quantity of goods retained by the recipient. The returned quantity of goods, when supplied to any other person, it will be liable to GST.
Further Clarified	This clarification would be applicable <i>mutatis mutandis</i> 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.

Clarification regarding GST rate on certain goods;  
TRU Circular # 54/28/2018-GST dt 9 Aug 2018;

Facts & Issue	Whether <u>simple fertilizers</u> , such as MOP (Murate of Potash) classified under Chapter 31, and <u>supplied for use in manufacturing of a complex fertilizer</u> , are entitled to the concessional GST rate of 5%, as applicable in general to fertilizers (i.e. fertilizers which are cleared to be used as fertilizers).
Observation	Fertilizer is covered under CH 31 of Customs Tariff Act. Fertilizer is mostly used for increasing soil and land fertility, either directly, or by use in manufacturing of complex fertilizers; Certain fertilizers & similar goods may be used for other purposes like use of molten urea for manufacture of melamine or use of urea for organic synthesis, etc.
Pre-GST regime	The concessional duty was applied when CH 31 goods were directly used as fertilizers or in manufacture of other fertilizers.
GST Regime	The tax structure on fertilizers has been prescribed on the lines of Pre-GST tax incidence. The wording of GST Notfn is similar to the Central Excise Notfn except certain changes to meet the requirement of GST regime.
Clarification	<b>Fertilizer supplied, which are clearly not to be used as fertilizer will be covered by Sr# 42 to 45 of Sch III of Notfn 1/2017-CTR dt 28-6-2017, GST@ 18%;</b> The intention has been to provide concessional rate of GST to fertilizers which are used directly as fertilizers or used in manufacturing of complex fertilizers. Thus, such supply will be covered by Sr# 182A to 182D of Sch I of Notfn 1/2017-CTR dt 28-6-2017, GST@ 5%.

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## ‘MRP’ provisions under The Legal Metrology (Packaged Commodities) Rules, 2011.

- **Sec. 2(m):** “*retail sale price*” means the maximum price at which the commodity in packaged form may be sold to the consumer and the price shall be printed on the package in the manner given below;  
**‘Maximum or Max. retail price (MRP) Rs/.....inclusive of all taxes** or in the form MRP Rs/.....incl., of all taxes, rounded off....;
- **Rule 4: Regulation for pre-packing and sale etc. of commodities in packaged form. –**  
*On and from the commencement of these rules, no person shall pre-pack or cause or permit to be pre-packed any commodity for sale, distribution or delivery unless the package in which the commodity is pre-packed bears thereon or, a label is securely affixed thereto such declarations as are required to be made under these rules.*  
**Explanation.-** The existence of packages without the declaration of retail sale price within the manufacturer’s premises shall not be construed as a violation of these rules and it shall be ensured that **all packages leaving the premises of manufacturer for their destination shall have declaration of retail sale price on them as required in these rules.**
- **Rule 6(3):** It shall **not be permissible to affix individual stickers on the package for altering or making declaration** required under these rules:  
**Provided that for reducing the Maximum Retail Price (MRP), a sticker with the revised lower MRP (inclusive of all taxes) may be affixed** and the same shall not cover the MRP declaration made by the manufacturer or the packer, as the case may be, **on the label of the package.**

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Clarification by Legal Metrology Division of Dept of Consumer Affairs, Ministry of Consumer Affairs, Food & Public Distribution of Govt Of India vide Circular #WM-10(31)/2017 dt 4 July 2017.

<b>Subject</b>	<b>Stamping or putting sticker or online printing of new MRP on unsold stock of Pre-packaged commodities, due to impact of GST.</b>
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- 1). Exercising powers u/r 33(1) of Legal Metrology (Packaged Commodities) Rules, 2011, (LM Rules) the Central Govt permitted the manufacturers or packers or importers of pre-packaged commodities to declare the changed Retail Sale Price (MRP) on the unsold stock prior to 1 July 2017, after inclusion of the increased amount of tax due to GST in addition to the existing MRP, upto 30 Sept 2017.
- 2). The changed MRP ( New MRP) shall be made by stamping or putting sticker or online printing on the package.
- 3). The Revised MRP shall not be higher than the extent of increase in tax on account of implementation of GST Act & Rules.
- 4). The Original MRP shall be continued to be seen/ displayed even after putting the Revised MRP.
- 5). Atleast 2 advertisements in newspapers & circulation of notices indicating the change in the price of such packages to the dealers & to the Director & Controllers of Legal Metrology in the Central & State Govt.
- 6). **U/r 6(3) of the LM Rules for reducing the MRP, a sticker with revised lower MRP (inclusive of all taxes) may be affixed & the same shall not cover the MRP declaration.**
- 7). Any packaging material or wrapper which could not be exhausted prior to 1 July 2017 may be used for packing of material upto 30 September 2017, after putting revised MRP.

## Anti-Profiteering Measure (Sec. 171 of CGST Act)

- **Sec. 171(1): Any reduction in rate of tax on any supply of goods or services or the benefit of ITC shall be passed on to the recipient by way of commensurate reduction in prices.**
- **Sec. 171(2):** The Central Government may, on recommendations of the Council, by notification, constitute **an Authority**, or empower an existing Authority constituted under any law for the time being in force, **to examine whether** ITC availed by any registered person or the reduction in the tax rate have actually **resulted in a commensurate reduction in the price** of the goods or services or both supplied by him.
- **Sec. 171(3):** The **Authority** referred to in sub-section (2) **shall exercise such powers** and discharge such functions **as may be prescribed.**

Supply of goods for Merchant Export at concessional GST rate of 0.1% vide  
Notfn # 41/2017-IGST(Rate) dt 23 Oct 2017;  
Notfn #40/2017 - Central Tax (Rate) dt 23 Oct 2017;

- A registered supplier can supply goods to a registered recipient exporter by charging CGST @ 0.05% + SGST/UTGST @ 0.05% or IGST @ 0.1%, instead of applicable rate on goods, iff it is for trading exports/merchant exports.
- The exporter shall export said goods within 90 days of his purchase following the prescribed procedure/conditions as per the Notification.
- Failure to export goods within 90 days by the exporter/recipient will make the supplier liable to pay full tax as applicable on goods along with interest, which can be recovered by the supplier from the recipient of goods.
- Said move of Government will not block the working capital of merchant exporters and result in refund claim of lesser amount.
- Note : SGST Act – Sec 11(4): Any Notification/Order issued by Central Government on the recommendation of GST Council, u/s 11(1) or 11(2) shall be deemed to be a Notification/Order issued under the SGST Act.
- Entire procedure/conditions for such supply follows.

Supply of taxable goods, by Regd. Supplier (RS) to Regd. Recipient (RR) for  
Export, CGST @ 0.05% & SGST @ 0.05% OR IGST @ 0.1%

**Notification # 40/2017-Central Tax (Rate) dt 23 Oct 2017:**

Supply of taxable goods, by Regd. Supplier (RS) to Regd. Recipient (RR) for Export, CGST @ 0.05% & SGST @ 0.05% OR IGST @ 0.1%, **subject to following conditions:**

- Supply issuing a tax invoice;
- RR shall export the said goods within a period of 90 days from the date of issue of a tax invoice; (Thus permitted Trading Export only) (Thus No need to have pre-existing export order)**
- RR shall indicate GSTIN of RS & tax invoice number issued by RS in respect of the said goods, in the shipping bill or bill of export, as the case may be; (Thus LINK be established)**
- RR shall be registered with an Export Promotion Council or a Commodity Board** recognised by the Department of Commerce;
- RR shall place an order on RS for procuring goods at concessional rate** and a **copy** of the same shall also **be provided to the Jurisdictional Tax Officer of RS;**
- RR shall move the said goods from place of RS –** (a) directly to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported; or  
(b) directly to a registered warehouse from where the said goods shall be move to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported;

## Supply of taxable goods, by Regd. Supplier (RS) to Regd. Recipient (RR) for Export, CGST @ 0.05% & SGST @ 0.05% OR IGST @ 0.1%

### Notification # 40/2017-Central Tax (Rate) dt 23 Oct 2017:

Supply of taxable goods, by Regd. Supplier (RS) to Regd. Recipient (RR) for Export, CGST @ 0.05% & SGST @ 0.05% OR IGST @ 0.1%, **subject to following conditions:**

- (i) To (vi) .....
- (vii) **If RR intends to aggregate supplies from multiple RS and then export**, the goods from each RS shall move to a registered warehouse and after aggregation, the RR shall move goods to the Port, Inland Container Depot, Airport or Land Customs Station from where they shall be exported;
- (viii) In case of situation referred to in condition (vii), the RR shall endorse receipt of goods on the tax invoice and also obtain acknowledgement of receipt of goods in the registered warehouse from the warehouse operator and the endorsed tax invoice and the acknowledgment of the warehouse operator shall be provided to the RS as well as to the Jurisdictional Tax Officer of such supplier; and
- (ix) When goods have been exported, the **RR shall provide copy of shipping bill or bill of export** containing details of GSTIN & tax invoice of the RS **along with proof of export general manifest or export report having been filed to the RS as well as Jurisdictional Tax Officer of such supplier. (Export details of RR revealed to RS)**

**The RS shall not be eligible for the above mentioned exemption if the RR fails to export the said goods within a period of 90 days from the date of issue of tax invoice.**

## Slump Sale of one of the units, as a going concern, for a lumpsum consideration, is not liable to GST

- **Rajashri Foods Pvt. Ltd. Advance Ruling No. KAR ADRG 06 / 2018 Dt 23rd April, 2018 (KAR):**
- **Facts:** The Company having 3 Manufacturing units situated at different places intended to sell one of the unit along with all its fixed assets viz. land, building, plant & machinery etc., current assets viz. stock & trade receivables etc., and liabilities viz. Bank term loans, bank working capital loans, creditors for supplies etc., for a lump sum consideration.
- **Issue: 1. "Whether the transaction would amount to supply of goods or supply of services or supply of goods & services?"**  
**Issue 2. "Whether the transaction would cover under sl.no.2 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017?"**
- **Observations:** the unit sought to be sold is a fully functional unit and the transaction contemplates the transfer of the entire business to a new person, who would not only enjoy a right over the assets but shall also take over the liabilities. It thus postulates that there will be a continuity of business. As the unit is said to be functional and is desired to be transferred as a whole to a new owner it amounts to transfer of a going concern as a whole.  
  
In part 4(c) of Schedule II it is provided that when the business is transferred as a going concern then it does not amount to supply of goods. It, therefore, becomes clear that such transfer of business does not constitute a supply of goods. Cont'd.....

### Slump Sale of one of the units, as a going concern, for a lumpsum consideration, is not liable to GST

- **Observations Cont'd:**

Activities which constitute supply of services are also described in Schedule II. However, the transaction involving the transfer of a going concern is not covered under this Schedule.

**Notification, No. 12/2017-CTR dt 28 June 2017, Sr # 2 of said Notification provides for „Services by way of transfer of a going concern, as a whole or an independent part thereof“. This indicates that the activity of transfer of a going concern constitutes a supply of service. The Notification further provides “Nil” rate of tax on such a supply.**

**A going concern is a concept of accounting** and applies to the business of the company as a whole. Transfer of a going concern means transfer of a running business which is capable of being carried on by the purchaser as an independent business. Such transfer of business as a whole will comprise comprehensive transfer of immovable property, goods and transfer of unexecuted orders, employees, goodwill etc. In the instant case, the Applicant has not furnished any documentary evidence to establish that the Applicant is a going concern except their admission that its an ongoing business and the transaction proposes to transfer all the assets and liabilities to the new owner. It implies that the business will continue in the new hands with regularity and a nature of permanency.

- **Ruling:** A.1. The transaction of transfer of business as a whole of one of the units of the Applicant in the nature of a going concern amounts to supply of service.  
A. 2. The transaction of transfer of one of the units of the Applicant as a going concern is covered under Sl.No.2 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, subject to the condition that the unit is a going concern.

### No ITC on goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples as per sec 17(5)(h) of CGST Act.

- **Approach of Authority at the Disturbing times due to natural calamity:**
- The Deputy Commissioner, Kerala State GST, Mattancherry issued letter dt 21 Aug 2018 to all ACs & STOs instructing to issue show cause notice (SCN) u/s 73(1) & recover the tax along with interest @18% and penalty of the amount of ITC claimed earlier on the goods which are lost or destroyed in devastating flood in the state.
- Aforesaid letter gives the format of statement asking the data of stock lost or damaged on which ITC was availed giving details of invoice, supplier, goods, quantity, value, tax rate, etc.
- Affix notices in the office premises requesting the taxpayers to report the damage/ loss of goods.
- Send the mail/mange to all taxpayers to report the damage/ loss of goods in the given format.
- Field visit may be conducted to ascertain the genuineness of the damage reported.
- To cross verify the damage or loss statement with GST data in Backend system.
- If taxpayer pays the tax with interest within 30 days of issue of SCN, no penalty shall be payable & proceedings be concluded.
- The proper officer shall after considering the reply, if any, determine the amount of tax, interest & penalty @ 10% of tax or Rs. 10,000, whichever is higher.
- **What can a Tax payer expect more from the Authority / Govt??**

\* Best Wishes for GST Practice \*

**THANK U All...**

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