ALA Legal GST Knowledge Sharing

Highlights of proposed changes by GST Council Meeting dated 6th October, 2017

1. **No RCM on purchase from unregistered supplier:-**

- It is proposed that liability to pay tax under reverse charge on supplies made by unregistered to registered person shall be suspended till 31st March 2018.

2. **Proposed changes for assessee having aggregate turnover upto 1.5 crores:-**

- Quarterly return starting from the quarter September- October 2017. However FORM GSTR-3B is to be filed monthly till December 2017.

- Not required to pay tax on advance received for supply of goods.

3. **No compulsory registration for inter-state supply of service:-**

- Service provider whose annual turnover is less than Rs. 20 lacs (Rs. 10 lacs in special category sates except J&K) are making inter-state taxable supplies of service are not required to take registration.

4. **Reduction in Tax Rates**

- GST on certain Job work services.

- Tax rate on leasing or sale of vehicles which were leased or purchased before 1st July 2017.

- In relation to certain works contract services including services provided to Government Entity.

Please find attached the list of goods & services on which GST council has proposed the reduction in tax rates.

5. **Provision of TCS & TDS**

- The registration and operationalization of TDS/TCS provision shall be postponed till 31st March 2018.

6. **E-way Bill**

- The e-way bill system shall be introduced in a staggered manner with effect from 01.01.2018 and shall be rolled out nationwide with effect from 01.04.2018.

7. **Goods Transport Agencies (GTA)**

- The services provided by a GTA to an unregistered person shall be exempted from GST.

8. **Composition Levy**

- Threshold limit increased:-

    - 1 crore for all state including J&K & Uttarakhand

- 75 lacs for special category states except J&K & Uttarakhand.

- The facility of availing composition under the increased threshold shall be available to both migrated and new tax payers up to 31.03.2018.

- Person providing who are otherwise eligible for composition scheme and are providing any exempt service (such as extending deposits to banks for which interest is being received), shall be eligible for composition scheme

9. **Invoice Rules**

- Invoice rules are being modified to provide relief to certain classes of registered person.

Benefits to Exporters

1. **Merchant Exporters**

- Merchant exporters can procure goods from domestic suppliers for export at the payment of 0.1% GST.

2. **Processing of Refunds**

- The held up refund of IGST paid on export of goods for the month of July would begin to be paid from 10.10.2017and August would be cleared from 18.10.2017.

3. **To Prevent the cash blockage**

- Immediate relief given by extending the Advance Authorization (AA)/ Export Promotion Capital Goods (EPCG)/ 100% EOU schemes to sourcing inputs etc. from abroad as well as domestic suppliers. Holders of AA/ EPCG and EOUs would not have to pay IGST, cess etc on imports. Also, domestic supplies to holders of AA/EPCG and EOUs would be treated as deemed exports under section 147 of CGST/SGST Act and refund of tax paid on such supplies given to the supplier.

- Long term support to exporters.

4. **LUT for all exporters**

- Exporters are exempted from furnishing Bond and Bank guarantee. LUT can be filed by all exporters except those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in a case where the amount of tax evaded exceeds INR 250 lakhs (already notified vide circular no. 8/8/2017 dated 4th October 2017).

5. **GST rate on sale of duty scrips**

- The GST rate on sale –purchase of duty credit scrips is being reduced from 5% to 0%.

6. **E-wallet Facility**

- E-wallet will be credited with a notional amount as if it is an advance refund the credit would be used to pay IGST, GST etc. The council desired that the e-wallet should be operational w.e.f 1st April 2018;

Note: The proposed changes are yet to be notified.

Pawan Arora
Joint Partner, ALA Legal
Email: pawan@alalegal.in
7th October, 2017

CHANGES IN GST RATE FOR CERTAIN GOODS

AND

IGST RATE ON IMPORTS OF CERTAIN GOODS

[As per discussions in the 22nd GST Council Meeting held on 6th October, 2017]

A. GST RATE FOR CERTAIN GOODS

S. No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description	Present GST Rate	GST Rate Recommended by the GST Council
1.	0804	Mangoes sliced dried	12%	5%
2.	1905 or 2106	Khakra and plain chapati / roti	12%	5%
3.	19 or 21	Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government, subject to specified conditions [Foot note 1]	18%	5 %
4.	21	Namkeens other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily [Foot note 2]	12%	5%
5.	2710	Imposing GST only on the net quantity of superior kerosene oil [SKO] retained for the manufacture of	18%	18% [Clarification to be issued]

		Linear Alkyl Benzene [LAB]		
6.	30	Ayurvedic, Unani, Siddha, Homeopathy medicines, other than those bearing a brand name [Foot note 3]	12%	5%
7.	3213	Poster Colour	28%	18%
8.	3407	Modelling paste for children amusement	28%	18%
9.	3915	Plastic waste, parings or scrap	18%	5%
10.	4004 00 00	Rubber waste, parings or scrap	18%	5%
11.	4017 00 20	Hard Rubber waste or scrap	28%	5%
12.	4707	Paper waste or scrap	12%	5%
13.	4907	Duty credit scrips	5%	Nil
14.	5401	Sewing thread of manmade filaments, whether or not put up for retail sale	18%	12%
15.	5402, 5404, 5406	All synthetic filament yarn, such as nylon, polyester, acrylic, etc.	18%	12%
16.	5403, 5405, 5406	All artificial filament yarn, such as viscose rayon, Cuprammonium,	18%	12%
17.	5508	Sewing thread of manmade staple fibres	18%	12%
18.	5509, 5510, 5511	Yarn of manmade staple fibres	18%	12%
19.	5605	Real Zari	12%	5%
20.	6802	All goods falling under heading 6802 [other than those of marble and granite or those which attract 12% GST]	28%	18%
21.	7001	Cullet or other waste or scrap of Glass	18%	5%
22.	8305	Fittings for loose-leaf binders or files, letter clips, letter corners, paper clips, indexing tags and similar office articles, of base metal; staples in strips (for example, for offices, upholstery, packaging), of base metal	28%	18%

23.	8483	Plain Shaft Bearing 8483	28%	18%
24.	84	Parts suitable for use solely or principally with fixed Speed Diesel Engines of power not exceeding 15HP	28%	18%
25.	84 or 85	Parts suitable for use solely or principally with 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%
26.	84 or 85	E-Waste	28%/18%	5%
27.	Any Chapter	Biomass briquettes	18%	5%

Foot Note:

1. Reduction in GST rate against S. No 4 above is subject to following condition:
    a) If the supplier of such food preparations produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or not below the rank of the Deputy Secretary to the State Government concerned to the effect that such food preparations have been distributed free to the economically weaker sections of the society under a programme duly approved by the Central Government or the State Government concerned, within five months from the date of supply of such goods or within such further period as the jurisdictional Commissioner of Central tax or jurisdictional Commissioner of State tax, as the case maybe, may allow in this regard.

2. For S. No.5 above, the phrase registered brand name means:
    a) A brand registered as on 15.05.2017 shall be deemed to be a registered brand for the purposes of levy of 5% GST, irrespective of whether or not such brand is subsequently deregistered.
    b) A brand registered as on 15.05.2017 under the Copyright Act, 1957 shall also be treated as a registered brand for the purposes of levy of 5% GST.
    c) A brand registered as on 15.05.2017 under any law for the time being in force in any other country shall also be deemed to be a registered brand for the purposes of levy of 5% GST.

3. For S. No. 7 above, the phrase “brand name” is defined as:
   "brand name" or "trade name" means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.

B. IGST EXEMPTION ON IMPORTS OF GOODS:

S. No	Description	Present applicable IGST rate	Recommended IGST rate
1	IGST exemption on imports of rigs imported for oil / gas exploration and production projects under lease, subject to the following conditions that: (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; (ii) The rig is not sold without the prior permission of the Commissioner of Customs of the port of importation; (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; (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.	5%	Nil
2	Exemption from IGST on imports of medicines supplied free by international agencies like UNICEF, WHO, Red Cross etc.	12%/5%	Nil
3	Exemption from IGST on imports of *bona fide* gifts upto CIF value limit of Rs. 5000 imported through post or air.	28%	Nil

Decisions taken by the GST Council in the 22nd meeting held on 6th October 2017

The following decisions were taken by the GST Council at its 22nd meeting held in Vigyan Bhavan on 6th October, 2017. The information is being uploaded immediately after the GST Council's decision and it will be subject to further vetting during which the list may undergo some changes. The decisions of the GST Council are being communicated for general information and will be given effect to through gazette notifications which shall have force of law.

Relief to small units:

1. GST rates on job work services is being rationalised as follows: -

S.No	Description of Service	Rate
1	Job work services in relation to all products falling in Chapter 71 (including imitation jewellery)	5%
2	Job work services in relation to food and food products falling under Chapters 1 to 22 of the HS Code (except packing of processed milk into packets)	5%
3	Job work services in relation to products falling under Chapters 23 of the HS Code except dog and cat food put up for retail sale (CTH 23091000)	5%
4	Job work in relation to manufacture of umbrella	12%
5	Job work in relation to manufacture of clay bricks falling under CTH 69010010	5%
6	Services by way of printing on job work basis or on goods belonging to others in relation to printing of all goods falling under Chapter 48 or 49, which attract GST @ 5% or Nil [Heading 9988]	5%
7	Services by way of printing on job work basis or on goods belonging to others in relation to printing of all goods falling under Chapter 48 or 49, which attract GST @ 12% [Heading 9988]	12%
8	Services by way of printing on job work basis or on goods belonging to others in relation to printing of goods falling under Chapter 48 or 49, other than those covered by (6) and (7) above, [Heading 9988]	18%
9	Services by way of printing in relation to printing of all goods falling under Chapter 48 or 49, which attract GST @ 5% or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer [(Heading 9989)]	12%
10	Services by way of printing of all goods falling under Chapter 48 or 49 which attract GST @12%, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer	12%
11	Services by way of printing of all goods falling under Chapter 48 or 49 which attract GST @18% or above, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer	18%
12	To issue a clarification with regard to classification of printing products/services.	

2. 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 or makes supply of

any exempt service, (s)he will not be ineligible for the Composition Scheme under Section 10 provided all other conditions are met. Further, in computing his aggregate turnover in order to determine his eligibility for composition scheme, interest income and value of supply of any exempt services shall not be taken into account. Removal of Difficulty order under section 172 of CGST/SGST/UTGST Act will be issued.

3. The services provided by a GTA to an unregistered person (under GST law) including unregistered casual taxable person other than the recipients liable to pay tax on GTA services under reverse charge shall be exempted from GST.

4.1 Leasing of vehicles purchased and leased prior to 1.7.2017, shall be taxed at 65% of the applicable GST + Cess rate. This reduced rate would be applicable for a period of 3 years with effect from 1st July 2017;

4.2 The vehicles covered by the above leases (i.e. leases of vehicles purchased and leased prior to 1.7.2017), when disposed off/ sold shall also be taxed at 65% of the applicable GST + Cess rate. This reduced rate would be applicable for a period of 3 years with effect from 1st July 2017;

4.3 Sale/supply of vehicles by a registered person, who had procured the vehicle prior to 1st July 2017 and has not availed input tax credit of central excise duty, VAT or any other taxes paid on such vehicles, would be taxed at 65% of the applicable GST + Cess rate. This reduced rate would be applicable for a period of 3 years with effect from 1st July 2017.

4.4 Sale by way of auction etc. of used vehicles, seized and confiscated goods, scrap etc by Central Government, State Government, Union Territory or a local authority, to any person, to be subjected to GST under reverse charge under section 9 (3) of the CGST Act.

5. Transport of passengers by motor cab/ renting of motor cab:-
   (i) GST of 5% without ITC and 12% with full ITC available to transport of passengers by motor cab/ renting of motor cab shall be extended to any motor vehicle;
   (ii) ITC of input services shall be allowed in the same line of business at GST rate of 5%

Other rate changes in services:

1. Works contract services involving predominantly earth works (that is, constituting more than 75% of the value of the works contract) supplied to Central Government, State Governments, Local Authority, Governmental Authority or Government Entity shall be taxed at 5%.

2. To expand the existing definition of *Governmental Authority* so as to include any authority set up to carry out any functions entrusted to a Panchayat under Article 243G of the Constitution.

3. Supply of service or goods by a Government Entity to Central Government, State Government, Union Territory, Local Authority or any person specified by them against

consideration received from them in the form of grants, shall be exempted. "Government Entity" shall be defined as an authority or a board or any other body including a society, trust, corporation which is, -

(i) set up by an Act of Parliament or State Legislature, or
(ii) established by any government,

with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government or a local authority.

4. The reduced rate of 12% on specified works contract services supplied to the Central Government, State Government, Union Territory, Local Authority and Governmental Authority shall be extended to a Government Entity, where such specified works contract services have been procured by the government entity in relation to the work entrusted to it by the Central Government, State Government, Union Territory or Local Authority.

5. GST shall be levied @ 12% on works contract services in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles.

6. GST shall be levied @ 12% with ITC or 5% without ITC for transportation of natural gas through pipeline.

7. Exemption to annuity paid by NHAI (and State authorities or State owned development corporations for construction of roads) to concessionaires for construction of public roads.

8. 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 .

9. The services provided by Overseeing Committee members to RBI shall be taxed under the reverse charge mechanism under section 9(3) of the CGST Act, 2017.

10. Some other technical changes/amendments shall be made in notifications issued under CGST, IGST, UTGST and SGST Acts.