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## A. CHANGES IN THE GST REGIME

### GST on mess facility provided in colleges and hostels

The educational institutions have mess facility for providing food to their students and staff. Such facility is either run by the institutions themselves or is outsourced to a third person. Earlier, doubts persisted regarding the taxability and rate of GST on services by a mess or canteen provided in colleges and hostels. In this regard, a circular has now been issued by CBEC to clarify that mess or canteen facility provided to the staff and students in an educational institution is categorised as 'supply of food or drink' and is taxable at the rate of 5% without input tax credit[1]. It is immaterial whether such service is provided by the educational institution itself or the institution outsources such activity to an outside contractor.

### Circular on taxability of certain services

A circular has been issued by CBEC to clarify the taxability of certain supplies under GST. Some of the clarifications provided in the circular are:

<u>Clarification on declared tariff in case of accommodation services</u>

- In case of accommodation services, GST rate would be determined according to the declared tariff for the room, and GST at the rate so determined would be levied on the entire amount charged from the customer[2]. For example, if the declared tariff is INR 7,000 per unit per day but the amount charged from the customer on account of extra bed is INR. 8,000, GST will be charged at 18% on the entire consideration i.e. INR 8,000.
- For this purpose, tariff declared anywhere, for example on the websites through which business is being procured or printed on tariff card or displayed at the reception will be the declared tariff. If different tariffs are declared at different places, the highest of such declared tariffs will be treated as the declared tariff for the purpose of levy of GST.
- In case different tariff is declared for different seasons or periods of the year, the tariff declared for the season in which the service of accommodation is provided will apply.

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[1] Serial No. 7(i) of notification no. 11/2017-Central Tax (Rate) as amended by notification no. 46/2017-Central Tax (Rate) dated 14th November 2017.

[2] Hotels with a declared tariff below INR 1,000 per day are exempt from GST, while those with a declared tariff of INR 1,000 to INR 2,500 are taxed at the rate of 12%, those with a declared tariff of INR 2,500-7,500 attract GST at the rate of 18% tax and those above INR 7,500 are taxed at 28%.

Clarification on betting and gambling services

- GST is leviable at the rate of 28% on both entry to casinos and gambling. In case of betting and gambling services, the GST will be applicable on the transaction value of betting, i.e. the total bet value, in addition to GST levy on any other services being provided by the casinos (such as services by way of supply of food/ drinks etc. at the casinos). This is similar to the pre-GST regime where the betting tax was applicable on the full bet value.

## Updated documents under GST released

The CBEC has updated the compilation of 51 GST fliers, which were released earlier from time to time in order to promote the conceptual understanding of GST on topics such as supply, registration, time of supply, works contract, refunds and input tax credit. The fliers have been updated upto 1st January, 2018 in view of significant developments post their release. Additionally, the CBEC has also updated the power point presentation on GST and the concept paper on GST. These updated documents are available at the CBEC homepage www.cbec.gov.in under the 'MyGST' tab:

## B. PROPOSED CHANGES AND INDUSTRY ISSUES

## Proposed agendas of the GST Council meeting

The 25th GST Council meeting will be convened on 18th January 2018. As per media reports, some of the points for discussion before the GST Council at this meeting may be:

- Certain changes to be brought in the definition of the all-important term 'supply' in order to clear up ambiguities, particularly with respect to services, that have been raised by industry.
- The definition of the term 'handicrafts', based on the report of the committee specially constituted in this regard, may also be adopted. The committee has also proposed a reduction in the GST rate for job work on handicraft items to 5%.
- The GST Council is also likely to consider merging the three return forms namely GSTR-1, GSTR-2 and GSTR-3 into one and doing away with invoice matching online. However, invoice matching at the back end is likely to continue.
- The invoice numbering format may be changed from the present alphanumeric system to solely numeric characters in order to reduce mismatches on account of invoice numbers.

## Recommendation of the Law Committee

The Law Committee, formed by the GST Council and comprising of 10 representatives from the Central Government and State Government, has put forth around 16 recommendations before the GST Council which will be considered at the GST Council's 25th meeting to be held on 18th January, 2018. These recommendations are based on the suggestions received by the Law Committee from the GST Advisory Panel, comprising representatives from trade and industry. Some of these recommendations are:

- Centralised registration, instead of the present state-wise registration, for large service providers operating across ten or more states with an annual aggregate turnover exceeding INR 5 billion.
- Reverse charge in case of supplies received from unregistered suppliers be made applicable in case of only certain specified categories of unregistered suppliers as against the earlier proposal to levy it for all unregistered suppliers.
- Levy of reverse charge mechanism in case of renting of immovable property services provided by any person other than a business entity to a registered person.
- Adoption of two separate categories of tax invoices, one for business to business transactions and other for business to customer transactions.

- Keeping the composition scheme restricted to only the restaurant service providers and not extending the composition scheme for all service providers for the time being.
- Keeping the threshold limit of composition scheme at INR 15 million at against the earlier decision of the GST Council to increase the said limit to INR 20 million.

## GST on digital cameras

Presently, all camera devices are taxed at the highest rate of 28% under the GST regime. This is much higher than the effective rate of 16%-17% which was applicable in the earlier indirect tax regime. As per the Information Technology Agreement[3] to which India is a signatory, all taxes and tariffs on the information technology products must be lowered to zero. Following its commitment under ITA, India had exempting various IT products including digital cameras from the levy of basic customs duty. However, under GST, these cameras have been put in the highest rate slab. The industry association have now made a representation to the government to reduce the GST rate applicable to digital cameras citing India's commitment to (ITA) to persuade it to lower the levy. In its representation, the industry association also states that unfair treatment is being met to the camera industry as smart phones, which are being excessively used as cameras, have been classified in the GST rate slab of 12%,.

## Clarifications in the anti-profiteering regime sought

The anti-profiteering mechanism envisaged under GST seeks to ensure that benefits under GST regime available to any manufacture supplier are passed on to the ultimate consumer. However, the anti-profiteering rules prescribed in this regard are vague as to what constitutes an act of profiteering and the method of assessment of quantum of profiteering. This has left much to the discretion of the anti-profiteering authorities. The Confederation of Indian Industry (CII) has now approached the government for more clarity in the anti-profiteering rules so as to ensure effective implementation of the same. As per a press release of CII, several factors contribute to pricing decisions, such as supply and demand conditions, as lower logistics costs, elimination of certain taxes, and better efficiency. The anti-profiteering rules and regulations regarding assessment of valuation and impact of taxes must structured keeping these factors in mind.

## Glossary

**CBEC- Central Board of Excise and Customs**

**GST Council- Goods and Service Tax Council (a joint forum of the Centre and the States created by the Constitution of India)**

## DISCLAIMER



[3] The Information Technology Agreement is an agreement enforced by the World Trade Organization (WTO) entered into force 1 July 1997. The agreement was expanded in 2015. The aim of the treaty is to lower all taxes and tariffs on information technology products by signatories to zero.