



Week of 10th July 2017

Ordinances promulgated for inclusion of Jammu and Kashmir in the GST Regime

The Central Goods and Service Tax (Extension to Jammu and Kashmir) Ordinance, 2017 and Integrated Goods and Service Tax (Extension to Jammu and Kashmir) Ordinance, 2017 have been promulgated by the President of India to provide for the extension of the CGST Act and IGST Act respectively to the state of Jammu and Kashmir with effect from 8th July, 2017.

Annexure regarding scheme of classification of services

An annexure to the CGST and IGST notifications which provide the GST rates for services has been uploaded on the government website www.cbec.gov.in. This annexure provides a classification of services. The services have been broadly classified therein into chapters, sections, heading and groups. A service code (tariff) has also been provided for each of the services mentioned therein.

Exports under letter of undertaking

As per section 16 of the IGST Act, an exporter (being a person who is making a zero-rated supply) and who wishes to claim refund of the unutilised input tax credit has an option to supply goods and services or both without payment of IGST by furnishing a bond or letter of undertaking. In this regard, the Government has notified the following registered persons to be eligible for submission of letter of undertaking, instead of a bond:

- A status holder as specified in paragraph 5 of the Foreign Trade Policy 2015- 2020; or
- A person who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than Rs. 10,000,000/-, in the preceding financial year.

Further, such a person should not have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 or under any of the existing laws in case where the amount of tax evaded exceeds Rs. 250,000/-. It is also notified that the letter of undertaking is to be furnished in duplicate for a financial year in the annexure to FORM GST RFD – 11. It is to be executed by the working partner, the managing director or the company secretary or the proprietor or by a person duly authorised by such persons mentioned hereinbefore. The letter of undertaking is valid for 12 months. If an exporter fails to comply with the conditions of the letter of undertaking, he may be asked to furnish a bond.

Exports under bond

The CBEC has issued a circular to clarify the following details for exporters who wish to claim refund of the unutilised input tax credit for exports without payment of IGST and are required to furnish a bond for the same:

- Form: Such exporters, desiring to export without payment of IGST, are required to furnish a running bond (instead of a consignment wise bond) in FORM GST RFD -11, on non-judicial stamp

paper of the value as applicable in the State in which bond is being furnished.

- **Bond Amount:** The bond should cover the amount of tax involved in the export on self-assessed estimated basis. In case the bond amount is insufficient; the exporter is required to furnish a fresh bond to cover such liability.
- **Bank Guarantee:** The amount of bank guarantee to be submitted with the bond will be decided by the jurisdictional commissioner depending upon the track record of the exporter. If the commissioner is satisfied with the track record of an exporter then furnishing of bond without bank guarantee would suffice. In any case the bank guarantee should normally not exceed 15% of the bond amount.

GSTIN not required in case of exempt exports/imports

The customs department in Maharashtra has clarified that importers and exporters of goods, who are engaged in exempt supplies and consequently not required to obtain a GST registration number, can clear their consignments by quoting PAN.

Exemption in respect of inter-state movement of modes of conveyance between distinct persons

It has been clarified that inter-state movement of goods like movement of various modes of conveyance [not involving further supply of the same conveyance], including trains, buses, trucks, tankers, trailers, vessels, containers and aircrafts, between distinct persons carrying goods or passengers or both or repairs and maintenance may not be treated as a supply and consequently IGST will not be payable on such supply. However, CGST/SGST/IGST, as the case may be, will be applicable on repairs and maintenance done for such conveyance.

Time limit for completing registration

Any person who has been granted a provisional registration identification number (PID) may submit the required documents on GSTN for getting the certificate of registration on or before 22nd September, 2017. In the interim, tax invoice may be issued using the PID already allotted. Applicant for new registration can also issue a bill of supply for supplying goods / services during period from date of liability to obtain registration till date of issuance of registration certificate if he has applied for registration within 30 days from date he has so become liable, and on grant of such registration, revised tax invoices can be issued for the said supplies.

Time limit for opting for composition levy

Any person who has been granted PID and wishes to opt for composition scheme is required to submit an intimation of option in a prescribed form on GSTN on or before 21st July, 2017. A person seeking fresh registration can opt for composition scheme at the time of filing of registration form.

Gifts from employer

The CBEC has issued a press release to clarify that the supply by an employer to an employee in terms of a contractual agreement entered into between an employer and an employee will not be subjected to GST. It is also clarified that if services such as membership of a club, health and fitness centre are provided free of charge to all employees by an employer, then the same will not be subjected to GST, provided appropriate GST on such services was paid when procured by an employer. The same would hold true for free housing to the employees, when the same is provided in terms of a contract between an employer and an employee and is a part and parcel of the cost-to-company (C2C).

No GST on prasadam or food supplies by religious places

The CBEC has issued a press release to clarify that no GST is applicable on free food supplied in anna kshetras run by religious institutions. Further, the prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc. attracts nil rate of CGST/SGST or IGST, as the case may be. However, some of the inputs and input services required for making prasadam such as include sugar, vegetable edible oils, ghee, butter, service for transportation of these goods etc would be subject to GST.

No GST in case of sale of old gold ornaments by individual

The Finance Ministry has clarified that there will be no GST levy on reverse charge basis (RCM) in the case of sale of old ornaments by an individual to a jeweller. However GST will be attracted under RCM if an

unregistered supplier of gold ornaments sells it to a registered supplier. It has been reasoned that even though the sale of old gold by an individual is for a consideration, it cannot be said to be in the course or furtherance of his business (as selling old gold jewellery is not the business of the said individual), and hence does not qualify as a supply per se.

GST Rate Finder

An application 'GST Rate Finder' is now available on the government website www.cbec.gov.in which enables users to directly find out the rate applicable to a particular good or service by key-in of the relevant description. The application can also be downloaded by android users.

Facilities active on GSTN

The following facilities are now active on GSTN:

- Interface for tax payer to login, change password, register/update DSC
- Registration: Application for new registration; application for filing clarification; application of enrolment for GSTP; application to opt for composition scheme; application for new registration for input service distributor.
- Payments: Online payments through internet banking, credit card/debit card, NEFT/ RTGS; offline payments-over the counter (authorized bank); creation and maintenance of cash ledger. d. creation of challan; 'review my draft' and saved challans and 'track payment status'.

Glossary

CBEC- Central Board of Excise and Customs	MGST- Maharashtra goods and service tax
CGST- Central goods and service tax	UTGST- Union territory goods and service tax
IGST- Integrated goods and service tax	SEZ- special economic zone

DISCLAIMER

This update has been written for the general interest of our clients and professional colleagues by the **GSTUpdateTeam@ALMT** and is subject to change. This update is not to be construed as any form of solicitation. It is not intended to be exhaustive or a substitute for legal advice. We cannot assume legal liability for any errors or omissions. Specific advice must be sought before taking any action pursuant to this update. For further clarification and details on the above, you may write to the GSTUpdateTeam@almtlegal.com If you would like to unsubscribe from this weekly update please send an e-mail to us at the above address with the subject unsubscribe.