



Week of 16th July, 2018

PROPOSED CHANGES IN THE GST LAW

The government has proposed a draft of 46 amendments in the GST law. These amendments will be placed before the next GST Council meeting which is to be held on 21 July 2018. Some of the key proposed amendments are as follows:-

- The definition of 'business' under the CGST Act has been proposed to be amended to ensure that all activities related to a race club are included. Presently, the definition of business inter alia includes 'services provided by' a race club by way of totalisator or a license to book maker in such club. The proposed definition of business inter alia includes activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club.
- The definition of 'services' under the CGST Act has been proposed to be amended to insert an explanation to clarify that although 'securities' has been excluded from the definition of 'goods' and 'services', facilitating or arranging transactions in securities is covered under the expression 'services'.
- The expression 'supply' under the CGST Act has been proposed to be amended. Presently, as per clause (d) of section 7(1) of the CGST Act, activities or transactions relating to supply of goods or services specified in Schedule II are deemed to be a supply even if they do not constitute a supply as per the remaining clauses of the term 'supply'. It is proposed to delete the clause (d) and insert a new sub-section (1A) to section 7 to avoid a situation where an activity listed in Schedule II would be deemed to be a supply even if it does not constitute a supply as per clauses (a), (b) and (c) of section 7(1) of the CGST Act.
- Schedule I (which covers activities to be treated as supply even if made without consideration) is proposed to be amended. Presently, activities under Schedule I covers import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business. The word 'taxable' has been proposed to be omitted to ensure that import of services by entities which are not registered under GST is taxed.
- Schedule III (which covers activities or transactions which shall be treated neither as supply of goods nor a supply of services) is proposed to be amended by insertion of additional transactions. It is proposed to exclude the following transaction from taxability under GST:- (1) a supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into the taxable territory; (2) a supply of warehoused goods to any person before clearance for home consumption; (3) a supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.
- Presently, the RCM provision applies to all registered persons on procurements from unregistered persons. It is proposed that the applicability of this RCM provision will be restricted to a class of registered persons as notified by the government.

- The threshold turnover for composition dealers is proposed to be raised from INR 1 crore (10 million) to INR 1.5 crore (15 million).
- Presently, in order to claim ITC by a registered person under section 16(2) of the CGST Act, the registered person must be in receipt of goods or services or both. The explanation to this section provides a deeming fiction in respect of goods where a registered person shall be deemed to be in receipt of goods. It is proposed to extend this deeming fiction to services and therefore it is proposed that a registered person shall be deemed to be in receipt of services if services are provided by the supplier to any person on the direction of and on account of such registered person.
- Presently, where a recipient fails to pay to the supplier of goods or services or both (other than the supplies on which tax is payable on reverse charge basis) the amount towards the value of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the ITC availed by the recipient shall be added to his output tax liability, along with interest thereon. It is proposed to remove the liability to pay interest.
- Presently, ITC is not available in respect of motor vehicles except for making certain taxable supplies. It is proposed that ITC would be denied only in respect of motor vehicles for transport of persons having approved seating capacity of not more than 13 persons (including the driver) except for making certain taxable supplies.
- Presently, ITC is not available in respect of food and beverages, health services, travel benefits and other facilities provided by the employers to its employees. It is now proposed to allow ITC in respect of such goods or services or both where the provision of such goods or services or both is obligatory for an employer to provide to its employees under any law for the time being in force.
- Presently, an e-commerce operator is required to take compulsory registration. It is proposed that e-commerce operator who is required to collect tax at source under section 52 of the CGST Act will be required to take compulsory registration under GST. Consequently, e-commerce operators who are not required to collect tax at source under section 52 of the CGST Act and have an annual turnover of less than INR 20 lakhs (2 million) will not be required to register under GST.
- A person seeking registration under GST shall be granted a single registration in a state or union territory. However, a person having multiple business verticals in a state or union territory may be granted a separate registration for each business vertical, subject to conditions. It is now proposed that a person having multiple places of business in a state or union territory may be granted a separate registration for each such place of business, subject to conditions as may be prescribed.
- It is proposed to provide that once a registered person has applied for cancellation of registration, the proper officer may temporarily suspend its registration till the procedural formalities for cancellation are completed so that the taxpayer will be relieved of the continued compliance burden under GST till such time as the process of allowing cancellation of registration is completed.
- It is proposed to provide for allowing the registered taxpayer to amend his GST return. This would enable the taxpayers to correct inadvertent mistakes in the returns by filing an amendment return.
- A new section is proposed to be introduced in order to enable the new return filing procedure and availment of ITC.
- Presently, GST practitioners are authorised to furnish the details of outward and inward supplies and various returns on behalf of a registered person. It is now proposed to allow the GST practitioners to perform other functions such as filing refund claim, filing application for cancellation of registration, etc.
- A new section is proposed to be introduced to enable the government (on the recommendations of the GST Council) to prescribe the order of utilization of input tax credit of integrated tax, central tax, state tax or union territory tax, as the case may be, towards payment of any such tax.
- The definition of 'export of services' under the IGST Act has been proposed to be amended to provide that services shall qualify as exports even if the payment for the services supplied is received by the supplier of service in Indian rupees as per RBI regulations.
- Presently under section 107(6) of the CGST Act, the appellant is required to pay a sum equal to 10% of the tax in dispute arising from the order being appealed against for filing an appeal before the Appellate Authority. It is proposed to provide a ceiling of INR 25 crore (250 million) for filing an appeal before the Appellate Authority.
- Presently under section 112(8) of the CGST Act, the appellant is required to pay a sum equal to 20% of the tax in dispute, in addition to the amount paid under section 107 (6) of the CGST Act, arising from the order of the Appellate Authority for filing an appeal before the Appellate Tribunal. It is proposed to provide a ceiling of INR 50 crores (500 million) for filing an appeal before the Appellate Tribunal.

- Presently, the place of supply of services by way of transportation of goods, including by mail or courier to (1) a registered person, shall be the location of such person; (2) a person other than a registered person, shall be the location at which such goods are handed over for their transportation. It is now proposed that if the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods. This amendment is proposed in order to provide a level playing field to the domestic transportation companies and promote export of goods.

Glossary

CGST- Central Goods and Service Tax
IGST – Integrated Goods and Services Tax
RCM – Reverse Charge Mechanism
ITC- Input Tax Credit

GST Council- Goods and Services Tax Council, a constitutional body comprising of members of the Central and the State Governments to recommend changes under the existing GST regime.

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