



RECOMMENDATIONS MADE BY GST COUNCIL DURING IT'S 31ST MEETING HELD ON DECEMBER 22, 2018

FORMATION OF GROUP OF MINISTERS TO STUDY THE REVENUE TREND:

- » Compensation given to the States / UTs for revenue loss on roll-out of GST for 2017-18 (8 months) was INR 48,000 crores. Based on this figure and considering the assured 14 per cent revenue growth, the GST compensation for 2018-19 (12 months) would be INR 83,000 crores. GST compensation paid for first six months in 2018-19 is INR 30,000 crores. It is expected that the GST compensation should come down to INR 60,000 crores for 2018-19 instead of INR 83,000 crores.

KNAV comments: The budgeted expenditure towards compensation in the last Union Budget was INR 90,000 crores for 2018-19 (INR 60,500 crores for 2017-18).

- » The monthly average collection of GST in 2017-18 was around INR 89,000 crore. The monthly average collection of GST in 2018-19 is around INR 96,500 crore. The growth is approx. 8.4%.

KNAV comments: The budgeted growth as per last Union Budget is 11.5%.

- » The GST Council approved the formation of a seven-member Group of Ministers (GoMs) to study the revenue trend, including analysing the reasons for structural patterns affecting the revenue collection in some of the



States. The study would include the underlying reasons for deviation from the revenue collection targets vis a vis original assumptions discussed during the design of GST system, its implementation and related structural issues. The GoMs will be assisted by the committee of experts from Central Government, State Governments and the National Institute of Public Finance and Planning, who would study and share the findings with GoM. The GoM in turn would give its recommendation to the GST Council. The members of the GoM and the Committee of experts would be announced in due course of time.

REFERENCE OF ISSUES TO COMMITTEE / GoMs:

GST Council referred the following issues to Committee / GoM:

- » Extending the composition scheme to small service providers and the rate of tax and threshold limit to be proposed - Law Committee and Fitment Committee (currently, composition scheme is primarily for manufacturer or trader)
- » Tax rate on lotteries – Committee of States
- » Taxation of residential property in real estate sector – Law Committee and Fitment Committee
- » Threshold limit of exemption under GST regime - GoM on MSMEs.

GST council would take a view on the above issues in its next meeting.

AMENDMENTS IN THE GST ACTS:

- » Creation of a centralised Appellate Authority for Advance Ruling to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue.
- » Amendment of section 50 of the CGST Act to provide that interest would be charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit, i.e. interest would be leviable only on the amount payable through the electronic cash ledger.



CHANGES IN THE RATE OF GST - GOODS:

<ul style="list-style-type: none"> » Reduction from 28% to 18%: <ul style="list-style-type: none"> > Pulleys, transmission shafts and cranks, gear boxes etc. for agriculture users > Monitors and TVs of upto screen size of 32 inches > Re-treaded or used pneumatic tyres of rubber > Power banks of lithium ion batteries (Lithium ion batteries are already at 18%, this will bring parity in rate of power bank and lithium ion battery) > Digital cameras and video camera recorders > Video game consoles and other games and sports requisites 	<ul style="list-style-type: none"> » Reduction from 28% to 5%: <ul style="list-style-type: none"> > Parts and accessories for the carriages for disabled persons
<ul style="list-style-type: none"> » Reduction from 18% to 12%: <ul style="list-style-type: none"> > Cork roughly squared or debagged > Articles of natural cork > Agglomerated cork 	<ul style="list-style-type: none"> » Reduction from 18% to 5%: <ul style="list-style-type: none"> > Marble rubble
<ul style="list-style-type: none"> » Reduction from 12% to 5%: <ul style="list-style-type: none"> > Natural cork > Walking stick > Fly ash blocks 	<ul style="list-style-type: none"> » Reduction from 12% to Nil: <ul style="list-style-type: none"> > Music books
<ul style="list-style-type: none"> » Reduction from 5% to Nil: <ul style="list-style-type: none"> > Vegetables, (uncooked or cooked by steaming or boiling in water), frozen, branded and put in a unit container > Vegetable provisionally preserved (for example by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption. 	

EXEMPTION FROM GST - GOODS:

- » Supply of gold by Nominated Agencies to exporters of article of gold jewellery
- » Proceeds received by Government from auction of gifts received by President, Prime Minister, Governor or Chief Minister of a State and public servants, the proceeds of which is used for public or charitable cause
- » Vehicles imported for temporary purposes under the Customs Convention on the Temporary Importation of

Private Road Vehicles (carnet de passages-en-douane) - exemption from IGST / Compensation cess

CHANGES IN RATE OF GST - SERVICES:

- » GST rate on cinema tickets above Rs. 100 to be reduced from 28% to 18% and on cinema tickets upto Rs. 100 to be reduced from 18% to 12% [likely revenue impact to be INR 900 crores]

- » GST rate on third party insurance premium of goods carrying vehicles to be reduced from 18% to 12%
- » Air travel of pilgrims by non-scheduled / charter operations, for religious pilgrimage facilitated by the Government of India under bilateral arrangements to attract the same rate of GST as applicable to similar flights in economy class (i.e. 5%) and in business class (i.e. 12%) [this would not attract 18%, as being currently categorized]

EXEMPTION FROM GST - SERVICES:

- » Services supplied by banks to Basic Saving Bank Deposit account holders under Pradhan Mantri Jan Dhan Yojana
- » Services supplied by rehabilitation professionals recognised under Rehabilitation Council of India Act, 1992 at medical establishments, educational institutions, rehabilitation centers established by Central Government / State Government / UTs or entity registered under section 12AA of the Income-tax Act
- » Services provided by GTA to Government departments / local authorities which have taken registration only for the purpose of deducting tax under Section 51 shall be excluded from payment of tax under RCM and the same to be exempted
- » Services provided by Central or State Government or UT Government to their undertakings or PSUs by way of guaranteeing loans taken by them from banks



GST ON SOLAR POWER GENERATING PLANT AND OTHER RENEWABLE ENERGY PLANTS:

- » GST rate of 5% has been prescribed on renewable energy devices & parts for their manufacture (bio gas plant/solar power based devices, solar power generating system etc.). Other goods or services used in these plants attract applicable GST. Disputes have arisen with respect to applicability of GST rates where specified goods attracting 5% are supplied along with services of construction etc. and other goods for solar power plant. To resolve the dispute the Council recommended that in all such cases, the 70% of the gross value shall be deemed as the value of supply of said goods attracting 5% rate and the remaining portion (30%) of the aggregate value of such EPC contract shall be deemed as the value of supply of taxable service attracting standard GST rate.

CLARIFICATIONS - GOODS:

- » Footwear - rate of 5% / 18%, as applicable to be applied based on transaction value
- » Flexible Intermediate Bulk Container - uniform rate of 12% to apply instead of existing 5% / 12% (depending on the value)
- » Sprinkler system consisting of nozzles, lateral and other components to attract rate of 12%
- » Movement of rigs, tools & spares and all goods on wheels on own account where such movement is not intended for further supply of such goods but for the provision of service does not involve a supply (e.g., movement of testing equipment etc.) and is not be liable to GST
- » Bagasse Board, whether plain or laminated, falling under Chapter 44 to attract rate of 12%
- » LPG supplied in bulk to an OMC by refiners / fractioners for bottling for further supply to household domestic consumers - concessional rate of 5% to apply
- » Polypropylene woven and non-woven bags and PP woven and non-woven bags laminated with BOPP falls under HS code 3923 and attract rate of 18%
- » Wood logs including the wood in rough/log used for pulping - rate of 18% is applicable
- » Turbo charger is classified under heading 8414 and attracts rate of 18% and not 5%
- » Fabric even if embroidered or has stitching of lace and tikki etc., and even if sold in three-piece fabric as ladies suit set, will be classifiable as fabric and would attract rate of 5%.
- » Specified equipment for waste to energy plant - concessional rate of 5% to apply

CLARIFICATIONS AND RATIONALIZATION - SERVICES:

- » Parliament and State legislatures to be extended the same tax treatment with regard to payment of tax under RCM (reverse charge mechanism) as available to Central and State Governments.
- » Security services (supply of security personnel) provided to a registered person, except Government Departments which have taken registration for TDS and entities registered under composition scheme, shall be put under RCM.
- » Services provided by unregistered Business Facilitator to a bank and agent of Business correspondent (BC) to a BC shall be put under RCM.
- » Clarify that with effect from January 31, 2018 degrees/ diploma awarded by IIMs under IIM Act, 2017 will be exempt from GST
- » Clarify that the services provided by IFC and ADB are exempt from GST in terms of provisions of IFC Act, 1958 and ADB Act, 1966
- » Clarify to West Bengal that services provided by Council/ Board of Primary/ Secondary/ Higher Secondary Education for conduct of examination to its students are exempt.
- » Clarify that "printing of pictures" falls under service code "998386: Photographic and video graphic processing services" of the scheme of classification of services

and attract rate of 18% and not under “998912: Printing and reproduction services of recorded media, on a fee or contract basis” which attracts rate of 12%

- » Clarify that leasing of pumps and reservoirs by the OMCs to petrol pump dealers is a mixed supply and the Licence Fee Recovery charged for the same shall be leviable to GST at rate of 28%, the rate applicable to pumps. Leasing of land and buildings along with equipment shall fall under heading 9972 (real estate services) and attract GST rate of 18%
- » Clarify that the incentives paid by RBI to Banks under “Currency Distribution and Exchange Scheme” are taxable.
- » Clarify under section 11(3) of the CGST Act, 2017 that scope of entry for multi-modal transport with GST rate of 12% inserted w.e.f. date July 26, 2018, covers only transport of goods from a place in India to another place in India, that is, only domestic multi-modal transport
- » Clarify that the nature of business establishment making supply of food, drinks and other articles for human consumption will not determine whether the supply by such establishments is a supply of goods or services. It will rather depend on the constituents of each individual supply and whether same satisfies the conditions / ingredients of a ‘composite supply’ or ‘mixed supply’.
- » Clarify that GST is exempt on supply of food and drinks by an educational institution when provided by the institution itself to its students, faculty and staff and is leviable to GST of 5% when provided by any other person based on a contractual arrangement with such institutions.
- » Clarify that the banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via business facilitator or the business correspondent.
- » Clarify to Food Corporation of India that the service provided by godown owner in case of lease with services, where the godown owner, besides leasing the warehouse, undertakes to carry out activities of storage and preservation of stored food grains, is the service of storage and warehousing of agricultural produce and the same is exempt.

ANNUAL RETURN / RECONCILIATION STATEMENT / GST AUDIT:

- » The due date for furnishing the annual returns and reconciliation statement for the Financial Year 2017-18 to be further extended from March 31, 2019 to June 30, 2019
- » Clarificatory changes to be carried out in the formats of / instructions to annual return / reconciliation statement –
 - > Amendment of headings in the annual return would be in respect of supplies etc. ‘made during the year’ and not ‘as declared in returns filed during the year’
 - > All returns in FORM GSTR-1, FORM GSTR-3B, FORM GSTR-4, as applicable, have to be filed before filing annual return
 - > HSN code may be declared only for those inward supplies whose value independently accounts for 10% or more of the total value of inward supplies

- > Additional payments, if any, required to be paid can be done through FORM GST DRC-03 only in cash
- > ITC cannot be availed through annual return and reconciliation statement
- > All invoices pertaining to previous FY (irrespective of month in which such invoice is reported in FORM GSTR-1) would be auto-populated in Table 8A of annual return
- > Value of “non-GST supply” shall also include the value of “no supply” and may be reported in Table 5D, 5E and 5F of annual return
- > Verification by taxpayer who is uploading reconciliation statement would be included in the reconciliation statement



POLICY RECOMMENDATIONS:

- » ITC in relation to invoices issued by the supplier during FY 2017-18 may be availed by the recipient till the due date for furnishing of FORM GSTR-3B for the month of March 2019, subject to specified conditions
- » Taxpayers who have not filed the returns for two consecutive tax periods shall be restricted from generating e-way bills. This provision shall be made effective once GSTN/NIC make available the required functionality
- » The new return filing system shall be introduced on a trial basis from April 1, 2019 and on mandatory basis from July 1, 2019
- » The due date for submitting FORM GST ITC-04 for the period July 2017 to December 2018 to be extended till March 31, 2019
- » There would be a single cash ledger for each tax head. The modalities for implementation would be finalised in consultation with GSTN and the Accounting authorities
- » A scheme of single authority for disbursement of the refund amount sanctioned by either the Centre or the State tax authorities would be implemented on pilot basis. The modalities for the same to be finalized shortly
- » The due date for furnishing FORM GSTR-8 by e-commerce operators for the months of October, November and December 2018 to be extended till January 31, 2019
- » All the supporting documents / invoices in relation to a claim for refund in FORM GST RFD-01A to be uploaded electronically on the common portal at the time of filing of the refund application itself
- » In case of applications for refund in FORM GST RFD-01A (except those relating to refund of excess balance in

- the cash ledger) which are generated on the common portal before the roll out of the electronic uploading functionality, and which have not been submitted in the jurisdictional tax office within 60 days of the generation of ARN, the claimants to be sent communications on their registered email ids containing information on where to submit the said refund applications. If the applications are not submitted within 15 days of the date of the email, the said refund applications shall be summarily rejected, and the debited amount, if any, shall be re-credited to the electronic credit ledger of the claimant
- » The following types of refunds to be also made available through FORM GST RFD-01A:
 - > Refund on account of Assessment/Provisional Assessment/Appeal/any other Order
 - > Tax paid on an intra-State supply which is subsequently held to be inter-State supply and vice-versa
 - > Excess payment of tax
 - > Any other refund
 - » Late fee shall be completely waived for all taxpayers in case FORM GSTR-1, FORM GSTR-3B & FORM GSTR-4 for the months / quarters July 2017 to September 2018, are furnished after December 22, 2018 but on or before March 31, 2019
 - » Clarifications shall be issued on certain refund related matters like refund of ITC accumulated on account of inverted duty structure, disbursement of refunds within the stipulated time, time allowed for availing of ITC on invoices, refund of accumulated ITC of compensation cess etc.
 - » Changes made by CGST (Amendment) Act, 2018, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and GST (Compensation to States) Amendment Act, 2018 and the corresponding changes in SGST Acts would be notified with effect from February 1, 2019.

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For expert assistance, please contact Amitabh Khemka: amitabh.khemka@knavcpa.com or +91 9821298432
 Visit us at: www.knavcpa.com