

Analysis of GST Rate Amendments applicable from 20th October 2023 vide Notifications 12-20 Central Tax (R) dt'ed 19th October 2023

By: Team Tax Connect

1. Notification No. 12/2023 - Central Tax (Rate) amends Not. No. 11/2017-Central Tax (Rate) for the "Rate of Services" as under (effective date today i.e. 20th October 2023)

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Our Comments – Amendment in **Rent a Cab Service** –

Rent a cab service from non-body corporates to body corporates is under reverse charge. For others under forward charge, they have an option to charge 5% or 12%. For operators who charge 5% GST (when cost of fuel was included in the price) and take back-to-back service from sub-contractors who charge 12% GST, it used to create an artificial inverted duty structure for the same service. Now this anomaly has been rectified by limiting the ITC to 5% only. This has been illustrated as follows –

'A' engages 'B' for transport from New Delhi to Jaipur in a motor cab for Rs. 1000. 'B', for supplying the said service, hires a motor cab with operator from 'C' for Rs. 800. 'C' charges 'B' central tax at the rate of 6% (Rs. 48). If 'B' charges 'A' central tax at the rate of 2.5%, he shall be entitled to take input tax credit on the input service in the same line of business supplied by 'C' only to the extent of Rs. 20 (2.5% of Rs. 800) and not Rs. 48.";

Amendment in the notification is as follows -

8	Heading 9964 (Passenger transport services)	¹⁷ [(vi) Transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle), has not been taken. [Please refer to Explanation no. (iv)]
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			<p>#[Provided further that where the supplier of input service in the same line of business charges central tax at a rate higher than 2.5%, credit of input tax charged on the input service in the same line of business in excess of the tax paid or payable at the rate of 2.5%, shall not be taken.</p> <p>Illustration: 'A' engages 'B' for transport from New Delhi to Jaipur in a motor cab for Rs. 1000. 'B', for supplying the said service, hires a motor cab with operator from 'C' for Rs. 800. 'C' charges 'B' central tax at the rate of 6% (Rs. 48). If 'B' charges 'A' central tax at the rate of 2.5%, he shall be entitled to take input tax credit on the input service in the same line of business supplied by 'C' only to the extent of Rs. 20 (2.5% of Rs. 800) and not Rs. 48.]</p>
		or	
		6	

10	Heading 9966 (Rental services of transport vehicles 58[with operators])	19[(i) Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	2.5	<p>Provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken. [Please refer to Explanation no. (iv)]</p> <p>#["Provided further that where the supplier of input service in the same line of business charges central tax at a rate higher than 2.5%, credit of input tax charged on the input service in the same line of business in excess of the tax paid or payable at the rate of 2.5%, shall not be taken.</p> <p>Illustration: 'A' engages 'B' for transport from New Delhi to Jaipur in a motor cab for Rs. 1000. 'B', for supplying the said service, hires a motor cab with operator from 'C' for Rs. 800. 'C' charges 'B' central tax at the rate of 6% (Rs. 48). If 'B' charges 'A' central tax at the rate of 2.5%, he shall be entitled to take input tax</p>
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				credit on the input service in the same line of business supplied by 'C' only to the extent of Rs. 20 (2.5% of Rs. 800) and not Rs. 48." ;]
				or
			6	-]

#[] - inserted

Our Comments – Amendment in entries w.r.t. **specified actionable claim**. As per decisions taken in 51st GST Council meeting **specified actionable claim** shall be taxable as goods -

34	Heading 9996 (Recreational, cultural and sporting services)	(iv) Services provided by a race club by way of @[]totalisator or a license to] #[]licensing a] bookmaker in such club.	14	-
		(v) @[]Gambling.	14]	-
		(vi) Recreational, cultural and sporting services other than (i), (ii), 44[(iia),] (iii), (iiia), (iv) and (v) above.	9	-

@[]696		999692	Gambling and betting services including similar online services]
@[]698		999694	Lottery services]

@[] - removed

#[]licensing a] – insert

2. Notification No. 13/2023 - Central Tax (Rate) amends Not. No.12/2017-Central Tax (Rate) w.r.t. exemption of 'services' (effective date today i.e. 20th October 2023) -

A. Government Services –

Our Comments – The following services provided to "Government Authority" shall be exempt –

- (a) water supply;
- (b) public health;
- (c) sanitation conservancy;
- (d) solid waste management; and
- (e) slum improvement and upgradation.

This entry will be important to all private players which are providing the services to a 'Government Authority' only. It is important to note that no exemption shall be provided when the supply is to a "Government Entity".

Amendment in the notification is as follows -

"3B	Chapter 99	Services provided to a Governmental Authority by way of - (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation.	Nil	Nil";
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12[(zf) "Governmental Authority" means an authority or a board or any other body, -

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.

(zfa) "Government Entity" means an authority or a board or any other body including a society, trust, corporation,

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government,

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

B. Services by Indian Railways –

Our Comments – In the past certain services by Indian Railways was exempt. Now these exemptions have been withdrawn by excluding the service by The Ministry of Railways (Indian Railways) from the exemption notification (effective date today i.e. 20th October 2023). This would help Indian railways get the ITC for inward supplies.

Amendment in the notification is as follows -

6	Chapter 99	Services by the Central Government, State Government, Union territory or local authority excluding the following services (a) services by the Department of Posts #[and the Ministry of Railways (Indian Railways)];	Nil	Nil
7	Chapter 99	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017 (12 of 2017)]. Explanation.- For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to- (a) services,-	Nil	Nil

		(i) by the Department of Posts# [and the Ministry of Railways (Indian Railways)]		
`8	Chapter 99	Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority: Provided that nothing contained in this entry shall apply to services (i) by the Department of Posts # [and the Ministry of Railways (Indian Railways)]	Nil	Nil
9	Chapter 99	Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees: Provided that nothing contained in this entry shall apply to (i) services by the Department of Posts # [and the Ministry of Railways (Indian Railways)];	Nil	Nil

#[] – Inserted

3. Notification No. 14/2023 - Central Tax (Rate) amends Not. No.13/2017-Central Tax (Rate) w.r.t. Reverse Charge w.r.t. 'services' (effective date today i.e. 20th October 2023) -

A. Government Services –

Our Comments – All Services supplied by Indian Railways shall be under forward charge.

Amendment in the notification is as follows -

5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts #[and the Ministry of Railways (Indian Railways)];	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.
⁵ [5A]	Services supplied by the Central Government #[excluding the Ministry of Railways (Indian Railways)], State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017.]

#[..] – inserted

4. Notification No. 15/2023 - Central Tax (Rate) amends Not. No.15/2017-Central Tax (Rate) w.r.t. inverted duty structure on construction services (effective date today i.e. 20th October 2023) -

Comments - There was a confusion among certain field officers that inverted duty refund would not be available in terms of N No 15/2017 Central Tax (Rate) incase of 'works contract' w.r.t. infra projects and other constructions too. By amendment of the said notification, this issue is clear now. Inverted duty refund can only be denied for construction of a complex, building, etc and not for infra and other projects not coming under the said ambit.

Amendment in the notification is as follows -

In exercise of the powers conferred by sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that no refund of unutilised input tax credit shall be allowed under sub-section (3) of section 54 of the said Central Goods and Services Tax Act, in case of supply of services specified in sub-item (b) of item 5 of Schedule II of the Central Goods and Services Tax Act. #[of construction of a complex, building or a part thereof, intended for sale to a buyer, wholly or partly, where the amount charged from the recipient of service includes the value of land or undivided share of land, as the case may be, except where the entire consideration has been received after issuance of completion certificate , where required , by the competent authority or after its first occupation , whichever is earlier]

#[] - newly inserted

5. Notification No. 16/2023 - Central Tax (Rate) amends Not. No.17/2017-Central Tax (Rate) w.r.t. Reverse Charge on 'services supplied through an e-commerce operator' (effective date today i.e. 20th October 2023) -

Comments – With effect from 1 January 2022, liability to pay GST on bus transportation services supplied through Electronic Commerce Operators (ECOs) has been placed on the ECO under section 9(5) of CGST Act, 2017. This trade facilitation measure was taken on the representation of industry association that most of the "bus operators" supplying service through ECO owned one or two buses and were not in a position to take registration and meet GST compliances. To arrive at a balance between the need of small operators for ease of doing business and the need of large organized players to take ITC, GST Council had recommended that bus operators organised as companies may be excluded from the purview of section 9(5) of CGST Act, 2017. This would enable them to pay GST on their supplies using their ITC. The same has been implemented.

Amendment in the notification is as follows -

In exercise of the powers conferred by sub-section (5) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.17/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 696(E) dated the 28th June, 2017, namely:-

(i) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab 2[, motor cycle, omni bus or any other motor vehicle;] #[or any other motor vehicle except omnibus]

#["(ia) services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company." ;]

Explanation.- For the purposes of this notification,-

#["(d) "Company" has the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013)." .]

#[] - newly inserted

6. Notification No. 17/2023 - Central Tax (Rate) amends Not. No. 1/2017-Central Tax (Rate) w.r.t. GST rate on goods (effective date today i.e. 20th October 2023) -

Comments – Millets -

GST rates on "Food preparation of millet flour in powder form, containing at least 70% millets by weight", falling under HS 1901, with effect from date of notification, have been prescribed as - 5% if sold in pre-packaged and labelled form

GST on molasses reduced from 28% to 5%. This step will –

1. Increase liquidity with mills and enable faster clearance of cane dues to sugarcane farmers.
2. This will also lead to reduction in cost for manufacture of cattle feed as molasses is also an ingredient in its manufacture.

GST on Spirits for industrial use is specified as 18%.

Amendment in Not. No.1/2017-Central Tax (Rate) –

(A) in Schedule I - 2.5%, -

(i) after S. No. 92 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:-

(1)	(2)	(3)
"92A.	1703	Molasses";

(ii) after S. No. 96 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:

(1)	(2)	(3)
"96A.	1901	Food preparation of millet flour, in powder form, containing at least 70% millets by weight, pre-packaged and labelled";

(B) in Schedule III - 9%,

¹¹⁰ [13.	1901 [other than 1901 20 00]	Malt extract, food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of
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		heading 0401 to 0404, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis not elsewhere specified or included [other than mixes and doughs for the preparation of bakers' wares of heading 1905] # [of heading 1905; food preparation of millet flour, in powder form, containing at least 70% millets by weight, pre-packaged and labelled]
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(ii) after S. No. 25 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
"25A.	2207 10 12	Spirits for industrial use";

(C) in Schedule IV - 14%, S. No. 1 and the entries relating thereto shall be omitted.

1.	1703	Molasses
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7. Notification No. 18/2023 - Central Tax (Rate) amends Not. No. 2/2017-Central Tax (Rate) w.r.t. exemption on GST on goods (effective date today i.e. 20th October 2023)

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Comments – Millets -

GST rates on "Food preparation of millet flour in powder form, containing at least 70% millets by weight", falling under HS 1901, with effect from date of notification, have been prescribed as:

a. 0% if sold in other than pre-packaged and labelled form

The amendment to the notification is as follows –

In the said notification, in the Schedule, after S. No. 94 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
"94A.	1901	Food preparation of millet flour, in powder form, containing at least 70% millets by weight, other than pre-packaged and labelled".

8. Notification No. 19/2023 - Central Tax (Rate) amends Not. No. 4/2017-Central Tax (Rate) w.r.t. reverse charge on goods (effective date today i.e. 20th October 2023) -

Comments – Supply of “Used vehicles, seized and confiscated goods, old and used goods, waste and scrap” by railways shall be under forward charge

The amendment to the notification is as follows –

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
1[6.	Any Chapter	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority #[Central Government [excluding Ministry of Railways (Indian Railways)], State Government, Union territory or a local authority]	Any registered person]

#[] – inserted

9. Notification No. 20/2023 - Central Tax (Rate) amends Not. No. 5/2017-Central Tax (Rate) w.r.t. goods which are not eligible to inverted duty refund (effective date today i.e. 20th October 2023) -

Comments – This clarifies that imitation zari thread or yarn made out of metallised polyester film /plastic film, falling under HS 5605, are covered by the entry for imitation zari thread or yarn attracting 5% GST rate. However, no refund will be allowed on polyester film (metallised) /plastic film on account of inversion.

The amendment to the notification is as follows –

In the said notification, in the TABLE, after S. No. 6A and the entries relating thereto, following S.No. and the entries shall be inserted, namely:-

(1)	(2)	(3)
"6AA.	5605	Imitation zari thread or yarn made out of Metallised polyester film /plastic film; Explanation: This entry shall apply for refund of input tax credit only on polyester film /plastic film";

LET'S DISCUSS FURTHER!

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