

GST Council

54th Meeting

9th Sep. 24

Real Estate

Sector

Preferential Location Charges

To be clarified that PLC is naturally bundled with construction and are eligible for same tax treatment as the main supply that is, construction service. I.e. not to be taxed @18%.

RCM for Commercial Renting

Renting of commercial property by unregistered person to a registered person to be brought under Reverse Charge Mechanism.

Real Estate Sector

Preferential Location Charges

Circular to be issued to clarify that PLC is naturally bundled with construction and are eligible for same tax treatment as the main supply that is, construction service.

PPC Insight

W.e.f. 1/4/19, issue is already cleared through Clause (xvi) of Para 4 to Notification No. 11/2017-CTR for affordable residential units. Now, there will be relief for prior period demands and demands for other types of units also.

PLC will be taxed at 1%/5%/12% (as the case may be) and not @18%.

Real Estate Sector

RCM for Commercial Property

Renting of commercial property by unregistered person to a registered person under Reverse Charge Mechanism.

PPC Insight

It is proposed that RCM on commercial property will be applicable if landlord is an unregistered person. At present, in the case of residential property, RCM is applicable even if landlord is registered person. Summary, post implementation will be as follows.

Supplier	Recipient	Property	RCM/FCM
Unregistered	Registered	Residential	RCM
Registered	Registered	Residential	RCM
Registered	Registered	Commercial	FCM
Unregistered	Registered	Commercial	RCM

Metal Scrap

RCM for Unregistered

If metal scrap is purchased by registered person from an unregistered person, buyer will be required to pay GST under RCM on such Metal Scrap purchase.

2% TDS

2% TDS will be required to be deducted if Metal Scrap is purchased from a registered person.

Metal Scrap Industry

RCM for Unregistered & 2% TDS

If Metal Scrap is purchased from unregistered person, buyer of Metal Scrap have to pay GST under RCM. If purchase from registered person, 2% TDS is required to be deducted by buyer.

PPC Insight

A relief to buyers of scrap who are at risk of getting metal scrap with bogus invoices and facing demands of tax, interest and penalties without their involvement. 2% TDS will make sure that at least 2% of revenue in such cases is realized by the Government. This step may not be fully effective, but still will help and it was demand of industry also. In many cases, 2% is not even margin of a scrap dealer and may be an issue.

Food Industry

Extruded Namkeen

GST rate of extruded or expanded products, savoury or salted falling under HS 1905 90 30 to be reduced, from 18% to 12%, at par with namkeens, bhujia, mixture, chabena and similar edible preparations in ready for consumption form which are classifiable under HS 2106 90.

Rate Cut Prospectively Only

Above rate cut will be applicable only from the date to be notified and not retrospectively. No relief is suggested for outstanding demands and prior period demands.

Food Industry

Extruded Products

Extruded Namkeen

GST rate of extruded or expanded products, savoury or salted to be reduced **prospectively**, from **18% to 12%**, at par with namkeens, bhujia, mixture, chabena and similar edible preparations in ready for consumption.

PPC Insight

Many Namkeen products like Kurkure (of Pepsico) & Chataka Pataka (of Balaji) are produced using extrusion process.

Various Courts [Pepsico –Raj. HC, FRITO Lay India – SC etc.] has held that such products can be classified as Namkeen and hence should be taxed at 12% at present.

No relief is granted to existing high demands as rate cut is prospectively only.

Similar issue for un-fried or un-cooked snack pellets is already settled by GST council earlier on “as is where is” basis and being taxed @5%.

Automobile & Transport Industry

Car Seats

Clarification to be issued to clarify that Car Seats are classifiable under 9401 and taxable @18% at present. Car Seats Rate will be increased to 28% from 18% prospectively.

ITC for Demo Vehicles

Circular to be issued to provide clarity and to remove doubts and ambiguities for availability of ITC on demo vehicles by the dealers of the vehicle manufacturers.

GTA & Loading Unloading

It is to be clarified that ancillary activities like loading/unloading/packing/unpacking/temporary warehousing etc. be taxed as GTA services only. (and not @ 18%)

Auto & Transport Industry

Car Seats

To be clarified that Car Seats are taxable @18% at present & rate to be increased to 28% prospectively.

ITC for Demo Vehicles

Clarification to be issued soon.

GTA & Loading etc.

To be clarified that ancillary activities like loading etc. are taxable as if GTA Services.

PPC Insight

Car Seats are taxed @18% at present as against 28% for motorcycle seats. Both will be taxed @28% in future. No clear clarification regarding Demo Vehicle in Press Release but circular shall be issued soon. Activities like loading/ unloading/packing/unpacking/ temporary warehousing etc. are ancillary to GTA and shall be taxed as GTA only and not @18%. Similar Circular No. 186/5/2015-ST dated 05/10/2015 is already issued in Service Tax.

Education

Sector

R & D Grants

Research and Development services by University, Research Association, Collage etc., using Government or Private Grants to be exempt. Past demands to be regularised on 'as is where is' basis.

CBEC/State Education Boards

Affiliation Services by CBEC/Edu. Boards to Government Schools only are to be made exempt prospectively. Relief till 17/06/2021 is also proposed.

Affiliation by Universities

To clarify by way of circular that the affiliation services provided by universities to their constituent colleges are not exempt but taxable @18%.

Education Sector

R & D Grants

Research and Development services by University, Research Association, Collage etc., using Government or Private Grants to be exempt. Past demands to be regularised on 'as is where is' basis.

Affiliation by Edu. Board/Universities

Affiliation Services by CBEC/Edu. Boards to Government Schools only are to be made exempt prospectively. Relief till 17/06/2021 is also proposed. To clarify by way of circular that the affiliation services provided by universities to their constituent colleges are not exempt but taxable @18%.

PPC Insight

R & D Services against Private Grants are also recommended to be exempt. Circular No. 151 Dt. 17/6/21 clarified that affiliation charges are taxable @ 18% and hence no retrospective exemption is recommended after that date for affiliation fees for Gov. Schools.

Aviation Sector

Flying training courses

Circular to be issued to clarify that approved flying training courses conducted by DGCA approved Flying Training Organizations (FTOs) are exempt from the levy of GST.

Helicopter Rides @5%

It is to be notified that GST @ 5% on the transport of passengers by helicopters on seat share basis and to regularize the GST for past period on 'as is where is' basis.

Helicopter Charter @18%

It is to be clarified that charter of helicopter will continue to attract 18% GST.

Aviation Sector

Flying training courses

Circular to be issued to clarify that approved flying training courses conducted by DGCA approved Flying Training Organizations (FTOs) are exempt from the levy of GST.

Helicopter Rides @5%, Charter @18%

It is to be notified that GST @ 5% on the transport of passengers by helicopters on seat share basis and to regularize the GST for past period on 'as is where is' basis. It is to be clarified that charter of helicopter will continue to attract 18% GST.

PPC Insight

In some Advance Rulings(AAR) , similar stand is taken. But recently in an App. AAR (AAAR UP) [CAE SIMULATION TRAINING PRIVATE LIMITED] it was held that such services are not exempted but GST is payable. Now, it is relief for Flying Schools.

Recommendations

Other

Amnesty Scheme - Date 1/11/2024

Section 128A, granting waiver of interest and penalty for Section 73 demands for FY 2017-18 to 19-20 is to be notified w.e.f. 01/11/2024. Circular clarifying various issues in Amnesty Scheme will be issued.

Later Returns and ITC Limit

One time benefit of extension of time limit till 30/11/2021 for the ITC pertaining to period 2017-18 to 2020-21 is already incorporated through the last budget. Now, it is recommended that If any demand is already confirmed and no appeal is preferred, such demand will be dropped by special procedure for rectification of orders to be notified under section 148.

PPC Insight

It is worth noting In terms of Section 150 of the Finance (No. 2) Act, 2024, if above benefit is available, but tax is already paid, refund of such tax is not available. Hence, if tax is not paid order will be rectified and demand will be dropped but if already paid, no such relief will be available.

End of Rule 96(10) Era

Sunset for Rule 96(10) Restrictions

It is recommended to remove restrictions under Rule 96(10), 89(4A) and 89(4B). After removal, exporters will be able to export with payment of IGST/able to claim ITC refund even if they have availed raw material under various concessional schemes like purchasing goods @0.1% (Notification No. 40/2017-CTR), recipient of deemed export (Noti. No. 48/2017-CTR) or has imported raw material under advance authorization or Capital Goods under EPCG. **It is also proposed that if Bill of Entry is reassessed, refund of IGST on export will not be disputed.**

PPC Insight

Above restrictions will be removed prospectively and no benefit is recommended for past periods. It is worth noting that number of cases are booked and demands are confirmed by the department and Courts on the issue. Such restrictions are difficult to comply. Further, it will also release working capital already blocked due to above cases.

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