



INDIAN INSTITUTE OF TECHNOLOGY KANPUR
Finance & Accounts Section



No.: IITK/Accts/GST/2017-18/482
November 29, 2017

Sub: Applicability of Goods and Service Tax (GST)

The Goods and Services Tax has revolutionized the Indian taxation system. The GST Act was passed in the Lok Sabha on 29th March, 2017, and came into effect from 1st July, 2017. Goods & Services Tax Law in India is a **comprehensive, multi-stage, destination-based tax** that will be levied on every **value addition**. In simple words, GST is an indirect tax levied on the supply of goods and services. GST Law has replaced many indirect tax laws that previously existed in India.

2. The Central Government vide Notification No. 33/2017 – Central Tax dated 15.09.2017 has made applicable the provision in relation to Tax Deduction at Source (TDS) as specified under Section 51 (1) of CGST Act w.e.f 18th September, 2017 with respect to persons specified namely: -

- (a) An authority or a board or any other body,
 - (i) set up by an Act of Parliament; or
 - (ii) a State Legislature; or
 - (ii) established by any Government, with fifty-one percent or more participation by way of equity or control, to carry out any function;

3. IIT is constituted under an Act of Parliament, hence, it is a government authority. Government Authority has been defined u/s 2 (16) of the Integrated Goods and Services Tax Act (IGST), 2017. IIT having been established under an Act of Parliament is a Governmental authority in terms of the above cited definition.

4. As IIT is set up by an Act of Parliament, it is covered under the notified person as above and liable to Deduct Tax at Source as mandated under Section 51 of CGST Act, 2017.

5. IIT is referred to as the “Deductor” and the supplier of goods and services is referred to as “Deductee”.

6. The deductor, in case of a contract where the total value of supply of taxable goods or services or both exceeds Rs. 2.5 lakh (Rupees two lakhs and fifty thousand) under a contract shall deduct **1% each** for State GST and CGST, from the payment made or credited to the deductee i.e. where the supply is of taxable goods or services or both.

7. The tax so deducted should be paid separately. Therefore, every Deductor under State GST and CGST is required to deduct tax at the rate of one per cent each. Thus total deduction would be 2%.

8. **That the date from which the above person is liable to deduct tax from the payments made or credited to the supplier of taxable goods or services or both shall be notified subsequently, on the recommendations of the Council, by the Central Government.**

9. It may be noted that as per Notification No. 24/2017-CT(rate) dated 21-09-2017, a reduced rate of 12% has been prescribed for **services provided to the Central or State Government, Union Territory, a local authority or a governmental authority** by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of the nature specifically listed in the said notification. Hence, Notification No. 24/2017-CT (rate) dated 21-09-2017 is applicable for services provided to IIT.

10. Vide notification No.24/2017- CT (rate) dated 21-09-2017, the **rate of GST on services provided to a Governmental Authority** by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –

- a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
- b) a structure meant predominantly for use as
 - (i) an educational,
 - (ii) a clinical, or
 - (iii) an art or cultural establishment;

has been reduced to 12% w.e.f. 21-09-2017.

11. The rate of GST as will be applicable on a particular supply will be the rate of GST prevailing at the time of supply determined as per Section 14 of the CGST Act, 2017, **which will not always be the rate prevailing on the date of issue of invoice.**

The Said section 14 is reproduced as under-

Notwithstanding anything contained in section 12 or section 13, **the time of supply, where there is a change in the rate of tax in respect of goods or services or both**, shall be determined in the following manner, namely: —

(a) **in case the goods or services or both have been supplied before the change in rate of tax, —**

- (i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
- (ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or
- (iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in

rate of tax, the time of supply shall be the date of receipt of payment;

(b) in case the goods or services or both have been supplied after the change in rate of tax, —

- (i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or
- (ii) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
- (iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice.

The rate of GST prevailing at the time of supply determined as per Section 14 of the CGST Act, 2017 reproduced above shall be the applicable rate for the particular supply.

It is to be noted that IIT is a governmental authority, which definition has been inserted in Para 4 of notification no. 11/2017-CT(rate) dated 28-06-17 vide Notification No. 31/2017-CT(rate) dated 13-10-2017.

12. The services rendered during the period prior to 01-07-2017 will be governed by provisions of Chapter V of the Finance Act, 1994.

13. Reference in this respect is further invited to Sections 173 and 174 of the CGST Act, 2017 which clearly provide that any liability accrued under Chapter V of Finance Act, 1994 shall not be affected by omission of this chapter of the Finance Act, 1994 w.e.f. 01-07-2017.

14. The relevant legal provisions are reproduced as under-
'173. Save as otherwise provided in this Act, Chapter V of the Finance Act, 1994 shall be omitted.

174. (1) Save as otherwise provided in this Act, on and from the date of commencement of this Act, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985 (hereafter referred to as the repealed Acts) are hereby repealed. (2) The repeal of the said Acts and **the amendment of the Finance Act, 1994** (hereafter referred to as "such amendment" or "amended Act", as the case may be) **to the extent mentioned in the sub-section (1) or section 173 shall not—**

- a) revive anything not in force or existing at the time of such amendment or repeal; or
- b) affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or
- c) **affect any** right, privilege, obligation, or **liability** acquired, **accrued** or incurred **under the amended Act** or repealed Acts or orders under such repealed or amended Acts: Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or
- d) affect any duty, tax.....’

15. As per Section 66B of the Finance Act, 1994 (which was in force at the time of rendering of services) there shall be levied a tax (hereinafter referred to as the service tax) at the rate of fourteen per cent **on the value of all services**, other than those services specified in the negative list, **provided** or agreed to be provided **in the taxable territory** by one person to another and collected in such manner as may be prescribed.

Services rendered during the period upto 30th June 2017 shall be governed by the Service tax provisions which is also supported by Section 142(10) of the CGST Act, 2017 which clearly provides that GST shall be levied on the services rendered w.e.f. 01-07-2017 in pursuance of a contract entered into prior to 01-07-2017 (and not on the services rendered prior to 01-07-2017).

Please refer to the document linked below:

<https://drive.google.com/file/d/0ByYSMSK7PFNOSkdPTng0VHdYZGM/view?usp=sharing>

16. **As per the 22nd GST Council meeting held on 6th October 2017:**

- i. Registration and operationalization of TDS/TCS provisions shall be postponed till 31.03.2018.
- ii. The e-way bill system shall be introduced in a staggered manner with effect from 01.01.2018 and shall be rolled out nationwide with effect from 01.04.2018.
- iii. The reverse charge mechanism under sub-section (4) of section 9 of the CGST Act, 2017 and under subsection (4) of section 5 of the IGST Act, 2017 has been suspended till 31.03.2018. In other words, registered taxpayers can now procure goods or services from unregistered persons without having to pay GST on reverse charge basis.

Section 9 (4) of CGST Act, 2017 provided that central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by the recipient on reverse charge basis.

It may be noted that liability to pay GST on goods and services which are specifically notified to be covered under reverse charge has not been suspended. This means that reverse charge as specified u/s 9(3) of the CGST Act, 2017 shall continue.

- iv. Taxpayers having annual aggregate turnover up to Rs. 1.5 crore shall not be required to pay GST at the time of receipt of advances on account of supply of goods. The GST on such supplies shall be payable only when the supply of goods is made.
- v. Presently, anyone making inter-state taxable supplies, except inter-State job worker, is compulsorily required to register, irrespective of turnover. It has now been decided to exempt **those service providers** whose annual aggregate turnover is less than Rs. 20 lacs (Rs. 10 lacs in special category states except J & K) from obtaining registration even if they are making **inter-State taxable supplies of services**.

It is important to note that only service providers have been provided this exception. Persons supplying goods will still be required to obtain GST registration mandatorily, if they undertake inter-state sales.

This means that visiting faculty from outside Uttar Pradesh shall not be required to obtain registration under GST where their annual aggregate turnover is less than Rs. 20 lacs.

- vi. GSTR-3B shall continue to be filed on a monthly basis (till 20th of the subsequent month) till December, 2017.

17. **As per the 23rd GST Council meeting held on 10th November 2017-**

- i) Form GSTR-3B will continue to be filed along with payment of taxes by 20th of the succeeding month till March 2018.
- ii) Taxpayers with annual aggregate turnover more than Rs. 1.5 crore need to file GSTR-1 on monthly basis as per the following frequency:

Period	Dates
Jul-Oct	31st Dec 2017
Nov	10th Jan 2018
Dec	10th Feb 2018
Jan	10th Mar 2018
Feb	10th Apr 2018
March	10th May 2018

- iii) Filing of GSTR-2 and 3 postponed till decision of Committee of Officers.
- iv) From October 2017 onwards, the amount of late fee payable by a taxpayer will be Rs. 50/- per day (Rs. 25/- per day each under CGST & SGST Acts).

- v) Date for submission of TRAN-1 (with option of one-time revision) has been extended to 27-12-2017.
- vi) Taxpayers shall not be required to pay GST at the time of receipt of advances on account of supply of goods. The GST on such supplies shall be payable on the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply.

Decisions of 23rd GST Council meeting have been given effect to by notifications **effective from 15-11-2017**.

18. Works contracts are subject to the following rate of GST:

- i) All works contracts from 01.07.2017 to 21.08.2017 @ 18% of GST.
- ii) Composite supply of works contract supplied to a Governmental Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of:
 - (a) A historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
 - (b) canal, dam or other irrigation works;
 - (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal

from 22.08.2017 onwards @ 12% of GST.

- (iii) [Services]* provided to a Governmental Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –
 - a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
 - b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or
 - c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017

from 21.09.2017 onwards @ 12% of GST.

*Substituted by- Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 w.e.f. 15-11-2017.

- (iv) Composite supply of works contract, involving predominantly earth work (that is, constituting more than 75 per cent of the value of the works contract) provided to a Governmental Authority from 13.10.2017 onwards @ 5% of GST.

19. As per Section 2(119) of the Central Goods and Service Tax (CGST) Act, 2017 "works contract" **means** a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning **of any immovable property** wherein transfer of property in goods (whether as goods or in some other form) is **involved** in the execution of such contract.

20. Liability to pay tax on services arises at the time of supply of services as determined according to the provisions of Section 14 of CGST Act, 2017. As per section 14 of the CGST Act, determined in the following manner, namely: -

- a) In case the goods or services or both have been supplied before the change in rate of tax,
- i. Where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or...'

Clearly as per provisions of Section 14 (a) (i) of CGST Act, 2017 when services have been supplied before the change in rate of tax and invoice is issued after the change in rate of tax and the payment is also received after the change in rate of tax, time of supply shall be the date of issue of invoice therefore, the applicable rate of GST shall be the rate prevailing on the date of issue of invoice i.e. 22nd September, 2017 i.e. 12% (assuming that the payment will be made by IIT to the supplier after 22nd September).

21. **GST exemption in respect of supplies from unregistered person:** Central Government has vide **Notification No.38/2017-CT (Rate) dated 13.10.2017** exempted **intra-state supplies** of goods or services or both received by a registered person from any supplier, who is not registered, **from the whole of the central tax** leviable thereon under section 9 (4) of the CGST Act, 2017 till 31.03.2018.

And vide **Notification No.32/2017-IT (rate) dated 13.10.2017**, exempted **inter-state supply** of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the integrated tax leviable thereon under Section 5(4) of the IGST Act, 2017 **till 31.03.2018**.

22. Section 9(4) of CGST Act, 2017/Section 5(4) of the IGST Act, 2017 provided that central tax/integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by the recipient on reverse charge basis.

It means that registered taxpayers will have to pay GST under reverse charge for all supplies of goods or services procured from unregistered suppliers till 12.10.2017, **However, w.e.f. 13.10.2017, registered taxpayers can procure goods or services from unregistered persons without having to pay GST on reverse charge basis and this exemption is available only till 31.03.2018.**

It may also be noted that liability to pay GST on goods and services which are specifically notified to be covered under reverse charge has not been suspended. This means that reverse charge as specified u/s 9(3) of the CGST Act, 2017/5(3) of the IGST Act, 2017 shall continue.

23. The above clarifications are as per the advice of our GST/Service tax consultant and different directives issued by GOI.

24. All units entering into any kind of purchase or sale arrangements/agreements/contracts are strongly advised to consult with the undersigned to determine the nature and quantum of Institute's liability with respect to GST.

25. This is issued with the approval of Director.

AK
(AK Misra) 29/11/17
Joint Registrar (F&A)
x.7382 *Q*

To:

1. DOAA/ DORD/ DOSA/ DORA
2. Chairman GATE/Chairman JEE
3. Superintending Engineer
4. Jt. Registrar (DOAA)
5. Jt. Registrar (S&P)
6. AR (F&A-I)/ AR (F&A-II/ AR (IA)

Copy to:

1. Director- for kind information please.
2. Dy. Director
3. DOFA/DOIP
4. Finance Officer
5. Registrar

1/12/17
Webmaster
Sh. Mohanty - for filing in GST folder.