



The Institute of Chartered Accountants of India

GST & Indirect Taxes Committee

GOODS & SERVICES TAX UPDATE - 244

The following clarifications have been issued based on the recommendations made in the 54th GST Council Meeting held on 9th September, 2024:

1. Clarifications regarding the applicability of GST on certain services

(i) Affiliation service provided by universities to colleges

The activity of affiliation is to monitor and ensure whether the institution possesses the required infrastructure in terms of space, technical prowess, financial liquidity, faculty strength, etc. and is thereby eligible for the privileges to conduct the course/program of study or the degree/title extended by the University to the students enrolled in such institutions. The affiliation services provided by the universities to colleges are not by way of services related to the admission of students to such colleges or the conduct of examinations by such colleges.

Thus, such affiliation services are not covered within the ambit of exemptions provided to educational institutions in the *Notification No.12/2017-CT(R) dated 28.06.2017* and attracts GST @ 18%.

(ii) Affiliation service provided by Central and State educational boards or Councils, or other similar bodies to schools

Service of affiliation, provided to schools by Central or State educational boards or councils or other similar bodies, by whatever name called, are taxable. However, affiliation service provided by Central and State educational boards or Councils, or other similar bodies, by whatever name called, **to government schools** i.e., schools established owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity has been exempted w.e.f. 10.10.2024 vide *Notification No.08/2024-Central Tax (Rate) dated 08.10.2024*.

The payment of GST on the services of affiliation provided by Central and State educational boards or Councils, or other similar bodies, to all schools is regularized on 'as is where is' basis for the period from 01.07.2017 to 17.06.2021 which is the date of issuance of *CircularNo.151/07/2021-GST* wherein accreditation services of boards are

clarified to be taxable at the rate of 18%.

(iii) Directorate General of Civil Aviation (DGCA) approved flying training courses conducted by Flying Training Organizations (FTOs) approved by the DGCA

It has been clarified that the approved flying training courses conducted by FTOs approved by DGCA, wherein the DGCA mandates the requirement of a completion certificate, are covered under Sl.No.66 of *Notification No.12/2017-Central Tax (Rate) dt. 28.06.2024* and are hence, exempt.

(iv) Regularizing payment of GST on transport of passengers by helicopter

Payment of GST on transportation of passengers, with or without accompanied baggage, by air or in helicopter, on seat share basis has been regularized on 'as is where is' basis for the period from 01.07.2017 to 09.10.2024. From 10.10.2024, GST rate of 5% has been notified on such services vide *Notification No.07/2024-Central Tax (Rate) dated 08.10.2024*.

Further, the transport of passengers by helicopter on other than seat-share basis i.e., for charter operations will continue to attract GST at the rate of 18%.

(v) Whether incidental/ancillary services such as loading/unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency service, being composite supply, or are these services to be treated as separate independent supplies?

It has been clarified that ancillary or incidental services provided by GTA in the course of transportation of goods by road such as loading/unloading, packing/unpacking transshipment, temporary warehousing etc. will be treated as composite supply of transport of goods. The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service. However, if such services are not provided in the course of transportation of goods and are invoiced separately, then these services will not be treated as composite supply of transport of goods.

(vi) Regularizing payment of GST on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration

The payment of GST on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India when made without consideration is hereby regularized for the period from 01.07.2017 to 09.10.2024 on 'as is where is' basis. From 10.10.2024, such services have been exempted vide *Notification No.08/2024-Integrated Tax (Rate) dated 08.10.2024*.

(vii) Applicability of GST on Preferential Location Charges (PLC) collected along

with consideration for sale/transfer of residential/commercial properties

Location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential/commercial/industrial complex forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply of construction service.

(viii) Regularizing payment of GST on certain support services provided by an electricity transmission or distribution utility

The payment of GST on services provided by an electricity transmission or distribution utility which are incidental or ancillary to the supply of transmission and distribution of electricity by such utility, such as providing metering equipment on rent, testing for meters/transformers/capacitors, etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., have been regularized on 'as is where is' basis from 01.07.2017 to 09.10.2024. From 10.10.2024, such services have been exempted vide *Notification No. 08/2024-Central Tax (Rate) dt. 08.10.2024*.

(ix) Regularizing payment of GST on services of film distributors or sub-distributors who act on a principal basis to acquire and distribute films

The payment of GST on transaction between distributors and exhibitors wherein the distributors grant the theatrical rights to the exhibition centers is regularized for the period from 01.07.2017 to 30.09.2021 on 'as is where is' basis.

[*Circular No. 234/28/2024-GST dt. 11.10.2024*](#)

2. Clarification regarding GST rates & classification of goods

(a) Clarification regarding GST rate on Extruded/ Expanded Savoury food products

W.e.f. 10.10.2024, extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 attract 12% GST at par with namkeens, bhujia, mixture, chabena (pre-packaged and labelled) and similar edible preparations in ready for consumption form. The GST rate of 5% shall continue on un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion.

It has been clarified that the reduced GST rate of 12% on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion) shall apply prospectively from the date of effect of the said notification (i.e. 10.10.2024). For the past period, 18% GST shall be payable.

(b) Clarification regarding GST rate on Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways

It has been clarified that Roof Mounted Package Unit (RMPU) Air Conditioning Machines for railways are classified under HS 8415, which attracts a GST rate of 28%.

(c) Clarification regarding GST rate on Car and Motorcycle seats

HS 9401 covers ‘Seats, whether or not convertible into beds and parts thereof’ (Tariff Item 9401 20 00 specifically covers seats of a kind used for motor vehicle). However, the Explanatory Note for HS 9401 has specifically excluded items under HS 8714 (includes parts and accessories of two wheelers). The explanatory note for HS 8714 has a list of inclusions, which has mention of Saddles (seats). Thus, for two wheelers (HS 8711), the seats would be classifiable under HS 8714.

Car seats which are classifiable under 9401 attract GST@18 % vide S. No. 435A of Schedule III of notification No. 1/2017-Central Tax (Rate) dated 28th June, 2017 (as amended) and seats meant for two wheelers are classifiable under HS 8714 which attract a GST rate of 28%.

In order to bring parity with seats of motorcycles (classified under HS 8714) which already attract a GST rate of 28%, based on the recommendation of the Council w.e.f. 10.10.2024, vide S. No. 210A of Schedule IV of notification No. 1/2017-Central Tax (Rate) dated 28th June, 2017 (as amended), car seats classifiable under HS 9401 attract GST at the rate of 28%.

It has been clarified that the 28% rate on car seats classifiable under HS 9401 is applicable prospectively, that is, from the date of effect of the said notification (w.e.f. 10.10.2024).

[Circular No. 235/29/2024-GST dt. 11.10.2024](#)

3. Clarification regarding the scope of “as is / as is, where is basis” mentioned in the GST Circulars issued on the basis of recommendation of the GST Council in its meetings

The phrase ‘regularized on as is where is’ basis means that the payment made at lower rate or exemption claimed by the taxpayer shall be accepted and no refund shall be made if tax has been paid at the higher rate. The intention of the Council is to regularize payment at a lower rate including nil rate due to the tax position taken by taxable person, as full discharge of tax liability. The tax position of a taxable person is reflected in the returns filed by the person where the applicable rate of tax (or relevant exemption entry) on a transaction/supply is declared.

Thus, in cases where the matters have been regularized on “as is” or “ as is, where is basis”, in case of two competing rates and the GST is paid at lower of the two rates, or at nil rate

where one of the competing rates was nil under notification entry, by some suppliers while other suppliers have paid at higher rate, payment at lower rate/non-payment on account of exemption entry shall be treated as tax fully paid for the period that is regularized. No refunds will be given to taxpayers who paid at a higher GST rate.

Situation	GST Council decision	Tax position taken by taxpayer	Impact of regularization on 'as is where is basis' for period prior to 01.12.2023
<i>Illustration 1</i> Two competing GST rates - 5% and 12%	Rate reduced to 5% prospectively from 01.12.2023; past period regularized on 'as is where is basis'	GST paid @ 5%	5% GST paid will be treated as tax fully paid and tax differential of 7% will not be required to be paid.
		GST paid @ 12%	No refund will be allowed.
<i>Illustration 2</i> 5% or Nil rate on account of exemption entry	Rate clarified as 5% prospectively from 01.12.2023; past period regularized on 'as is where is basis'	GST paid @ 5%	No refund will be allowed.
		Nil GST paid on account of exemption entry	Non-payment of GST on account of exemption entry will be treated as full discharge of tax liability and tax differential of 5% between Nil and 5% will not be required to be paid.
<i>Illustration 3</i> Two competing GST rates - 5% and 12%	Rate clarified as 12% prospectively from 01.12.2023; past period regularized on 'as is where is basis'	GST paid @ 5%	5% GST paid will be treated as tax fully paid and tax differential of 7% will not be required to be paid.
		GST paid @ 12%	No refund will be allowed.
		No GST paid	12% tax will be recovered; regularization will not apply.

[Circular No. 236/30/2024-GST dt. 11.10.2024](#)

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