

## GST updates

Date: 2 January 2019

Issues: Amendments in methodology of availment of input credit.  
Changes in payment of tax for renting of motor vehicles  
Advance Rulings for healthcare services and issuance of gift vouchers

### **Change in amount of availment of input credit.**

With effect from 1 January 2020, amount of input credit available in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers, shall limited to 10% of the eligible credit available. [Notification no. 75/2019-Central Tax, 26 December 2019]

### **Restriction on utilization of input credit availed fraudulently.**

GST officers may not allow availment of input credit (for utilization or claiming refund) in the following cases:

- Input credit has been availed without receipt of goods or services
- The recipient has not received the tax invoice or debit note
- The vendor has not made payment to tax
- The vendor is found to be non-existent or is not conducting business from the registered premises
- The recipient is found to be non-existent or is not conducting business from the registered premises

Upon being satisfied that the defects have been removed, the GST officers may permit availment of such input credit.

Such amendment would be effective from the date of publication in Official Gazette. [Notification no. 75/2019-Central Tax, 26 December 2019]

### **Restriction on issuance of e-waybills.**

With effect from 11 January 2020, registered persons (except composite supply dealers) who have not filed returns providing details of outward supplies for two months / two quarters consecutively, would not be eligible to feed their details in e-waybills. [Notification no. 75/2019-Central Tax, 26 December 2019]

### **Tax payable under reverse charge mechanism for renting of motor vehicle.**

Companies renting motor vehicles from any person (other than a company), would be required to pay GST @5% under reverse charge mechanism.

The service provider may pay tax on the provision of services by charging GST @12% and also avail input credit. [Notification no. 29/2019-Central Tax (Rate), 31 December 2019]

**Amendment in conditions for exemption of upfront payment for long term lease of specified plots.**

Upfront amount payable for long term lease (of industrial plots / plots for infrastructure of financial business plots) to an entity having 20% or more ownership of Central or State Government shall be exempt. [Notification no. 28/2019-Central Tax (Rate), 31 December 2019]

Conditions to be followed for availing such exemption are:

- > The leased plots shall be used for the purpose for which they are allotted
- > The State Government concerned shall monitor and enforce the above condition
- > In case of any violations the original lessor, original lessee, any subsequent lessee or buyer shall be jointly and severally liable to pay such GST, interest and penalty
- > Agreements entered into by the original lessor and any subsequent lease or sale shall incorporate the fact that GST was exempted on the long term lease, subject to above condition, and that the parties to the said agreements undertake to comply with the same

**Advance ruling: CMC Vellore Association**

Question arose on applicability of tax on medicines, drugs, stents, consumables and implants used in the course of providing health care services to in-patients admitted to the hospital for medical treatment.

Patients are provided a comprehensive treatment which includes room rent, nursing care, medicines, consumables, implants, etc. The doctors who treat the in-patients themselves prescribe medicines, consumables and implants that are used in the treatment. The in-patients are charged for all of these goods.

It was held that the hospital cannot provide health services including diagnostic, treatment surgery, etc. without the help of medicines to be taken during treatment, implants and consumables used during their stay in the hospital. Only on using these medicines, consumables and implants as required, will the treatment be complete. Hence, supply of medicines, implants and consumables are naturally bundled with the supply of health services.

In this case, supply of health services is the principal supply as that is the reason the in-patients get admitted to hospital. Accordingly, supply of such goods is exempt from GST (as notified health care services are also exempt from GST).

**Advance ruling: Kalyan Jewellers India**

The Bench has discussed the taxability of gift vouchers / gift cards issued by the applicant. The questions brought forward were:

- > Whether gift vouchers are goods or services?
- > What is the time of supply?
- > What is the applicable GST rate?

On the first question, the Bench held that gift vouchers / gift cards should not qualify as 'actionable claim'. They have further expounded that gift vouchers qualify as a 'goods' given they are not immovable property. The voucher has both a value and an ownership and is the property

of whoever first purchases it and later whoever redeems it and it is movable. Thus, it is also neither money nor actionable claim.

On the matter of time of supply, the Bench held that in case the voucher is redeemable against specified goods, the time of supply should be the date of issuance of such voucher. In case the voucher is redeemable against any goods, the time of supply should be the date of redemption of voucher.

Lastly, it was held that in case the applicant issues paper vouchers, the same should be classified under subheading 4911 and the applicable rate should be 12%.

If the vouchers are in the form of plastic cards which can be electronically loaded, they should be classified under heading 8523 and the applicable rate should be 18%.