

Analysis of Changes in Service Tax and GST through Finance Bill, 2018 and GST Council 25th Meeting

Finance Bill 2018 has been presented by the honble Finance Minister on 1st February 2018 which has put forward some changes in indirect taxation regime. Also, in recent days, several modifications have been made under GST after recommendations of 25th GST council meeting.

The changes recommended by GST council have been notified by the Ministry of Finance vide issue of Notification No. 3/2018-Central Tax dated 23rd January 2018 with regards to procedural modifications. Such changes have been made by way of amendments or additions to CGST Rules, 2017. Further, the suggested revision of rates has been notified vide Notification No. 1/2018-Central Tax (Rate) to 9/2018- Central Tax (Rate) dated 25th January 2018.

For clear understanding, we have divided the amendments under 2 categories-

I. Applicable on the date of enactment of the Finance Bill, 2018:

- A. Changes related to Service Tax;
- B. Changes related to Customs affecting IGST;
- C. Change in CGST Act.

II. Applicable w.e.f. 25th January 2018:

- A. Change in rates/exemption;
- B. Changes related to Reverse Charge Mechanism;
- C. Changes related to Time of Supply;
- D. Procedural modifications.

I. Applicable on the date of enactment of the Finance Bill, 2018:

A. Changes related to Service Tax:

- (i) Services provided or agreed to be provided by the Naval Group Insurance Fund by way of life insurance to personnel of Coast Guard, under Group Insurance Schemes of Central Government, are proposed to be exempted from service tax for the period commencing from 10th September 2004 and ending with 30th June 2017 both days inclusive).

Refund of any service tax paid can be claimed after filing of refund application within a period of 6 months from the date on which Finance Bill, 2018 receives assent of the President.

(Clause 103 of Finance Bill, 2018)

- (ii) Services provided or agreed to be provided by the Goods and Services Tax Network to Central Government or State Government or Union Territory administration are proposed to be exempted from service tax for period commencing from 28th March 2013 and ending on 30th June 2017 (both days inclusive).

Refund of any service tax paid can be claimed after filing of refund application within a period of 6 months from the date on which Finance Bill, 2018 receives assent of the President.

(Clause 104 of Finance Bill, 2018)

(iii) Consideration paid to the Government in the form of Government's share of profit petroleum in respect of services provided or agreed to be provided by Government by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, is proposed to be exempted from service tax for period commencing from 1st April 2016 and ending with 30th June 2017 (both days inclusive).

Refund of any service tax paid can be claimed after filing of refund application within a period of 6 months from the date on which Finance Bill, 2018 receives assent of the President.

(Clause 105 of Finance Bill, 2018)

B. Changes related to Customs affecting IGST

Exemption has been proposed of integrated tax leviable under section 3(7) of Customs Tariff Act, 1975 on aircrafts, aircraft engines and other aircraft parts imported under cross-border lease during the period from 1st July 2017 to 7th July 2017 subject to payment of IGST leviable under section 5(1) of IGST Act, 2017 on the said supply. Through this proposal the exemption is being given retrospective effect as Notification No. 50/2017- Customs, amended by Notification No. 65/2017- Customs had already provided such exemption w.e.f. 8th July 2017.

Refund of any integrated tax which has been paid can be claimed after filing of refund application within a period of 6 months from the date on which Finance Bill, 2018 receives assent of the President.

(Clause 99 of Finance Bill, 2018)

C. Change in CGST Act:

In CGST Act, 2017 under section 2(16), for the words Central Board of Excise and Customs, the words Central Board of Indirect Taxes and Customs has been proposed to be substituted.

(Clause 218 of Finance Bill, 2018)

II. Applicable w.e.f. 25TH JANUARY 2018

A. Change in rates/exemption

(i) GST rates of several services have been reduced vide Notification No. 1/2018- Central Tax (Rate). The list of services whose rates have been revised are provided below

S. No.	Description of service	Old rates	New rates
1.	<u>Construction Service –</u> i. <u>EWS houses, constructed under Affordable Housing in partnership by state or UT or local authority or urban development authority,</u>	18%	12%

	<p>ii. Houses constructed or acquired under <u>credit linked subsidy scheme</u> for EWS/ Lower Income Group/ Middle Income Group-1/ Middle Income Group-2, under Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban).</p> <p>•□□□□a building owned by an entity registered under section 12AA of the Income Tax Act, 1961, which is used for carrying out the activities of providing, centralised <u>cooking or distribution, for mid-day meals</u> under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities;</p>		
	<p>ii. <u>monorail and metro</u>;</p> <p>ii. <u>low-cost houses up to a carpet area of 60 square metres per house</u> in an affordable housing project which has been given infrastructure status vide notification of Government of India vide F. No. 13/6/2009-INF, dated the 30th March,2017;</p>	18%	12%
	(iii) Composite supply of <u>works contract by a sub-contractor to the main contractor</u> providing works contract service to Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity, which attract GST of 12%;	18%	12%
	(iv) Composite supply of <u>works contract by a sub-contractor to the main contractor</u> providing works contract service to Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity, which attract GST of 5%;	18%	5%
	(v) Services by way of <u>house-keeping</u> , such as plumbing, carpentering, etc. supplied <u>through e-commerce operator</u> and supplier is not liable for registration	18%	5% without ITC
2.	<u>Transportation</u> of petroleum crude, petrol, high speed diesel or aviation turbine fuel through pipeline	18%	5% without ITC
3.	Leasing/ Rental services of <u>Time charter for transport of goods</u>	18%	5% without ITC of goods (other than on ships, vessels including bulk

			carriers and tankers)
4.	<u>Real Estate Services –</u> <ul style="list-style-type: none"> Services of <u>lease of land</u> by central government, state government, UT or local authority to government authority/ entity; <u>Supply of land or undivided share of land by way of lease or sub-lease</u> where such supply is part of composite supply of construction of flats etc. 	Not specifically mentioned	Nil
5.	Tour Operator Services	5% without ITC	5% without ITC (except ITC of input service in same line of business)
6.	Fumigation of agricultural produce in a warehouse	Not specifically mentioned	Nil
7.	Service of exploration, mining or drilling of petroleum crude or natural gas or both	Not specifically mentioned	12%
8.	Job work – <ul style="list-style-type: none"> Manufacture of leather goods or footwear falling under Chapter 42 or 64 of First Schedule of Customs Tariff Act, 1975 respectively; and Tailoring services 	18%	5%
9.	Services of <u>treatment of effluents</u> by a common effluent treatment plant	18%	12%
10.	Admission to amusement parks	28%	18%

(ii) Notification No. 2/2018- Central Tax (Rate) has been issued to extend benefit of exemption w.r.t. following services-

1.	<u>Educational Institutions –</u> The following services have been exempted : <ul style="list-style-type: none"> Giving on hire a <u>motor vehicle for transport of student, faculty and staff</u> to a person providing service of transportation of students, faculty and staff upto a higher secondary school or equivalent; Services provided <u>by</u> an educational institution by way of conduct of entrance exam against an entrance fees;
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	<ul style="list-style-type: none"> Supply of online educational journal or periodicals <u>to</u> an educational institute, however the exemption is not applicable to an institution providing services by way of pre-school education and education upto higher secondary school or education as a part of an approved vocational education course. Services by an educational institute relating to admission to or conduct of examination has been exempted for all educational institutions.
2.	Composite supply of goods and services in which <u>value of supply of goods constitute not more than 25% of value of said composite supply</u> provided to Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution, has been exempted from levy of GST.
3.	Service of life insurance by Naval Group Insurance Fund to personnel of coast guard has been exempted.
4.	Service of <u>Re-insurance of specified insurance schemes</u> which have been exempted under Notification No. 12/2018-Central Tax (Rate) have also been exempted.
5.	Services by an intermediary of financial services located in SEZ with IFSC status to a customer located outside India for services in currencies other than INR have been exempted.
6.	<u>Legal services</u> to Central Government, State Government, UT, local authority, Government authority/ entity have been exempted.
7.	Services by way of providing information under RTI Act, 2005 have been exempted.
8.	Transportation of goods by an aircraft/ vessel from customs station of clearance in India to a place outside India have been exempted till 30 th September 2018.
9.	Limit of exemption on contribution received from members by RWA increased from Rs. 5,000/- to Rs. 7,500/-.
10.	The limit of exempted cover for Life insurance services provided under Life micro-insurance product as approved by IRDA, has been increased from Rs. 50,000/- to Rs. 2.5 lakh.
11.	Time period for exemption of <u>Viability Gap Funding (VGF)</u> has been increased from 1 year from date of commencement of operations of regional connectivity scheme airport to 3 years.
12.	Exemption limit of consideration for right to admission to events or places increased from Rs. 250/- to Rs. 500/- for the following events : <ul style="list-style-type: none"> circus, dance, or theatrical performance; award function, concert, pageants, any sporting events; planetarium (here planetarium has been added vide Notification No. 2/2018-Central Tax (Rate) itself)

(iii) In addition to the aforementioned services, several changes have been introduced in GST rates of goods as well. Said changes have been notified vide Notification No. 5/2018-Central Tax (Rate) to 9/2018- Central Tax (Rate) dated 25th January 2018. The revision of rate which is most note-worthy

is related to old and used vehicles which has been notified vide Notification No. 8/2018-Central Tax (Rate). It has been provided in the said notification that the value on which tax is to be charged shall be the margin of supplier on supply of such goods. The new rates have been provided below-

S.No.	Description	New GST rates
1.	Old and used petrol, LPG, CNG driven motor vehicles of engine capacity 1200 cc or more and length 4000 mm or more.	18%
2.	Old and used diesel driven motor vehicles of engine capacity 1500 cc or more and length 4000 mm.	18%
3.	Old and used motor vehicles of engine capacity exceeding 1500 cc popularly called SUVs including utility vehicles.	18%
4.	All motor vehicles other than mentioned above.	12%

The notification also highlights the following points-

- In case of registered person who has claimed depreciation on said goods, margin of the supplier shall be (Consideration received minus Depreciated value of goods on date of supply), and where the margin is negative, it shall be ignored;
- In any other case margin shall be (Selling Price minus Purchase Price), and where the margin is negative, it shall be ignored;
- This notification shall not be applicable where the supplier of such goods has availed ITC under CGST Act, 2017 or CENVAT credit under CENVAT Credit Rules, 2004 or ITC of VAT or any other tax paid on such goods.

B. Changes related to Reverse Charge Mechanism:

Vide **Notification No. 3/2018- Central Tax (Rate)** services by Central Government, State Government, UT or local authority by way of renting of immovable property to a registered person has been brought into the ambit of Reverse Charge. Therefore, w.e.f. 25th January 2018, a registered person shall be liable to pay GST on such service.

C. Changes related to Time of Supply :

Vide **Notification No. 4/2018-Central Tax (Rate)** the specific case of Transfer of Development Rights (TDR) has been handled. It is specified that in case of supply of services by transferor of development rights who received consideration in form of construction service of complex etc. and the developer who supplies construction service against consideration in form of TDR, the liability to pay GST shall arise for both parties at the time when the said developer transfers possession or the right in the constructed complex, building or civil structure, to the person supplying development rights.

D. Procedural modifications :

The following procedural amendments have been notified vide Notification No. 3/2018-Central Tax, dated 23rd January 2018-

S. No.	Description	Amendment/Addition
1.	Composition Scheme	<ul style="list-style-type: none"> • Time limit for filing of FORM GST ITC-03 has been increased from 90 days to 180 days from the day when person opting for composition scheme commenced payment of tax under the scheme; • For a manufacturer, other than notified, rate of tax shall be 1% of turnover; • For restaurants, the rate of tax shall be 5% of turnover; • For other suppliers, the rate of tax shall be 1% of turnover of taxable supplies of goods.
2.	Cancellation of registration	<ul style="list-style-type: none"> • The restriction to not apply for cancellation of voluntary registration before expiry of 1 year from effective date of registration has been removed; • The last date for filing of FORM GST REG- 29 for cancellation of registration obtained by a person who was registered under erstwhile act, but was not liable to be registered under GST, has been extended from 31st December 2017 to 31st March 2018.
3.	Value of supply in case of lottery, betting, gambling and horse racing (Newly added)	<ul style="list-style-type: none"> • Value of supply of <u>lottery run by state government</u>: 100/112 of face value of ticket or price as notified in official gazette, whichever is higher; • Value of supply of <u>lottery authorized by state government</u>: 100/128 of face value of ticket or price as notified in official gazette, whichever is higher; • Value of supply of chance of win in <u>betting, gambling or horse race</u>: 100% of face value of bet or amount paid into the totalisator.
4.	Exclusions from meaning of aggregate value of exempt supplies for the purpose of reversal of ITC	<p>In addition to previous exclusions, the following have shall also be excluded when computing exempt supplies for the purpose of reversal of ITC:</p> <ul style="list-style-type: none"> • Value of service by way of accepting deposits, extending loans or advances,

		<p>where the consideration is represented by way of interest or discount (not applicable on banking company, financial institution, NBFC, engaged in supply of services as mentioned above);</p> <ul style="list-style-type: none"> Value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.
5.	Transfer of credit from a registered person to an Input Service Distributor (ISD) (Newly added)	It has been notified that a registered person having same PAN and state code as an ISD may transfer the credit of common services to ISD.
6.	Tax invoice or bill of supply to accompany transport of goods (Newly added)	The person-in-charge of a conveyance shall carry a copy of tax invoice or bill of supply in a case where such person is not required to carry an e-way bill.
7.	Extension of benefit of refund on ITC availed for export of goods	The benefit of refund of ITC availed in respect of inputs received for export of goods and ITC in respect of other inputs and input services to the extent used in making such export of goods has been extended to supplies received on which supplier has availed benefit of Notification no. 78/2017-Customs and 79/2017-Customs. Earlier, refund of ITC on supplies received from the supplier claiming benefit of only Notification no. 40/2017-Central Tax (Rate) and 41/2017-Integrated Tax (Rate) were allowed.
8.	Amendment regarding application for refund of IGST paid on services exported	In regards to services, it has now been provided that application for refund of IGST paid on services exported shall be filed in FORM GST RFD-01. Earlier, there was no specific mention of services under the rules.
9.	Extension of restriction on refund of IGST paid on export of goods or services	A restriction has been put into place for any exporter of goods or services claiming refund of IGST paid on such exports that such exporter should not have received supplies on which the supplier has availed the benefit of Notification no. 48/2017-Central Tax, 40/2017-Central Tax (Rate) and 41/2017-Integrated Tax (Rate). Now Notification No. 78/2017-Customs and 79/2017-Customs have also been added to

		the list of such notifications. Therefore, if an exporter of goods or services has received supplies on which supplier has availed benefit of the aforementioned notifications, then such exporter shall not be allowed refund of IGST paid on such exports.
10.	Substitution of Rule 138, i.e. information to be furnished prior to commencement of movement of goods and generation of e-way bill	The previous rule has been substituted with updated rule after recommendations of GST council. FORM GST EWB-01 and FORM GST EWB-02 have also been substituted with new forms.
11.	FORM GST RFD-01A	It has been provided in the notification that Statement-2, Statement-3 and Statement-4 shall be inserted under FORM GST RFD-01A. Such statements are same as those provided in FORM GST RFD-01.