

DESAI SAKSENA & ASSOCIATES

24th January, 2025

Friday Tax Alert

From:

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Important Changes in GST from 16th January 2025

1. **Fortified Rice Kernel (FRK): -**

New Notification No. 01/2025 is issued which states that the Fortified Rice Kernel (FRK) is now taxable at a concessional GST rate of 5%. Earlier it was taxable at the rate 18%. The notification is effective from 16th January 2025.

2. **Gene Therapy: -**

New Notification No. 02/2025 is issued through which a new entry, S. No. 105A, has been added to the exemption schedule for Gene Therapy, making it GST-exempt. This reflects the government's commitment to promoting advanced medical treatments in the public interest. The notification is effective from 16th January 2025.

3. **GST on Old and Used Vehicles: -**

New Notification No. 04/2025 issued which increases the GST rate on sale of old and used vehicles from 12% to 18%. The taxable value is determined based on the margin of the supplier. If Registered dealers claiming depreciation under the Income Tax Act, GST is calculated on the difference between the selling price and the depreciated value. In case of others GST is calculated on the difference between the selling price and the purchase price. The notification is effective from 16th January 2025.

4. **Specified Premises & Declared Tariff for Hotel Accommodation: -**

New Notification No. 05/2025 is issued which redefines the concept of "specified premises" and omits the definition of "declared tariff" for hotel accommodation services. The "Specified premises" for a financial year now refers to:

(a) Premises where the supplier provided hotel accommodation services in the previous financial year with the value of supply of any unit of accommodation exceeding ₹7,500 per unit per day or equivalent or

(b) Premises where a registered person files a declaration between 1st January and 31st March of the preceding financial year, declaring the premises as specified. [File Declaration in Annexure VII between 1st January and 31st March of the preceding FY]

(c) Premises where a new registrant files a declaration within 15 days of receiving the acknowledgment for their registration application, declaring the premises as specified. [File Annexure VIII within 15 days of registration acknowledgment]

Note: Those wishing to opt-out of the specified category must file Annexure IX during the same January-March period of preceding FY. All the annexure formats are prescribed in the said notification.

The notification is effective from 1st April 2025.

5. **Reverse Charge Mechanism (RCM): -**

New Notification No. 07/2025 is issued to amends RCM applicability for,

(a) **Sponsorship Services**

Sponsorship services provided by any person other than a body corporate will now attract RCM. Previously, sponsorship services provided by "any person" were subject to RCM. The amendment narrows the scope, excluding services provided by a body corporate from this provision. This means that such service provided by a body corporate will now attract GST under forward charge.

(b) **Renting of Immovable Property**

Service by way of renting of any immovable property other than residential dwelling provided by any unregistered person to any registered person (other than a person who has opted to pay tax under composition levy). So, RCM now applies only when the recipient is a registered person other than one opting for composition levy.

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Earlier, any registered person receiving such services was covered under RCM.
The notification is effective from 16th January 2025.

Waiver in late fees for pending GSTR-9C for FY 2017-18 to 2022-23 on filing on before 31st March, 2025

The Central Board of Indirect Taxes and Customs (CBIC) has issued Notification No. 08/2025-Central Tax (Rate) on January 23, 2025, which provides a waiver of late fees for pending GSTR-9C filings for financial years 2017-18 to 2022-23

1. **Waiver of late fees:** Late fees incurred under Section 47 of the Central Goods and Services Tax (CGST) Act for delayed filing of GSTR-9C will be waived if the reconciliation statement is filed on or before March 31, 2025.
2. **No refunds for already paid fees:** Late fees already paid will not be refunded.
3. **Applicability:** This waiver applies to registered taxpayers who were required to file GSTR-9C along with their annual return (GSTR-9) but failed to do so within the prescribed timelines.

Order to be set aside as SCN was served on wrong tab of GST portal and not through any other means- Madras High Court

Service of notice- Violation of natural justice - Period : 2019-20 - A show cause notice was issued to assessee in Form DRC-01 alleging discrepancies in comparison of taxable suppliers reported by assessee through GSTR 3B to compare with Form 26AS, however assessee neither filed reply nor availed opportunity of personal hearing, hence impugned order came to be passed - Assessee submitted that neither show cause notice nor impugned order of assessment had been served on assessee, instead it was uploaded under 'view additional notice and orders' tab on GST portal, thereby, assessee was unaware of proceedings - Assessee further submitted that if assessee was provided with opportunity, they would be able to explain discrepancies - Respondents did not have any serious objections
Held: Impugned order was to be set aside and impugned order was to be treated as show cause notice [Section 169 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017]

FACTS OF THE CASE:

- **Petitioner's Business:** The petitioner, Tvl. R. Jayaramakrishnan, is a registered dealer under the Goods and Services Tax (GST) Act, 2017. His business involves operating as a Goods Transport Agency.
- **GST Registration:** The petitioner's initial GST registration (GSTIN: 33AMQPJ7931H1ZS) was cancelled on 20.09.2018. He obtained a new registration certificate (GSTIN: 33AMPJ7931H2ZR) on 19.09.2019.
- **Assessment Year:** The assessment year in question is 2019-2020.
- **Show Cause Notice:** A show cause notice was issued to the petitioner in Form GST DRC-01 dated 22.09.2023. The notice was uploaded on the GST portal instead of being served by RPAD (Registered Post with Acknowledgment Due)
- **Personal Hearing:** A personal hearing was offered on 22.09.2023, but the petitioner did not attend or file a reply to the show cause notice.

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- **Turnover Discrepancies:** The respondent claimed that there were discrepancies in the petitioner's reported turnover, with a net difference of Rs. 77,10,000 for the year 2019-2020. Taxes of Rs. 6,93,900 under CGST were imposed.

CONCLUSION:

- The Madras High Court quashed the assessment order issued by the Deputy State Tax Officer for procedural irregularities, specifically the improper service of the show cause notice. The court emphasized the importance of following due process, which includes ensuring that notices are properly served to the concerned parties. Consequently, the court directed the authorities to re-evaluate the case and provide the petitioner with an opportunity for a personal hearing.

Tvl. R. Jayaramakrishnan vs. Deputy State Tax Officer - 1 [2025] 170 taxmann.com 395 (Madras) [09-12-2024]

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