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GST in the week gone by

The proposed law is far more pruned in its amended version, containing only 24 chapters as opposed to 34 given in June

Ranjeet Mahtani & Stella Joseph

The fifth meeting of the GST Council (GSTC) (https://www.thedollarbusiness.com/news/gst-council-meeting-rescheduled-on-december-23/48651) is underway, however, as per the inputs at the end of the first day (of the two-day meet), there was no consensus on the issue of dual control of assesses / tax-payers; this issue has remained as a bone of contention, lingering unresolved for some time now. Besides this, it is indicated that on day two (today), the GSTC will deliberate the impact of demonetisation on revenue.

During the week, the Union Finance Minister who is also the chairperson of the GSTC has re-stressed that GST must be rolled out prior to September 2017, since it will not be possible to run the nation without tax (collection).

(https://www.thedollarbusiness.com/exim-maps)

Some highlights of the draft GST legislations circulated in last week of November 2016

The Central Government made available drafts of the Central / State Goods and Services Tax Act, 2016 ("the Draft CGST Act/ SGST Act") and the Integrated Goods and Services Tax Act, 2016 ("IGST Act") on 26th November 2016. Some noteworthy aspects of these amended versions of the proposed law, in comparison with the drafts circulated in June 2016 ("MGL of June"), are:

- The proposed law is far more pruned in its amended version, containing only 24 chapters as opposed to 34 under MGL of June.
- A cap of 14% each for CGST and SGST and 28% for IGST has been incorporated in the drafts.
- The expression "supply" is almost un-altered. Branch transfers continue to be covered under Schedule I (supply without consideration), though the words used have been altered slightly.
- Securities has been cast out of the ambit of both "goods" and "services" (under the MGL of June, it was understood as goods) and hence will be out of GST altogether. Securities will thus not be leviable to a GST, much like in the

present indirect taxes regime, where these do not suffer a sales tax or service tax. (HTTPS://WWW.THEDOLLARBUSINESS.COM/LOGGED-IN)

- The clear prescription that “intangibles” would be considered as service, as provided under the MGL of June, has now been removed. This will open up a pandora’s box of a variety of issues, that could result in litigation. (HTTPS://WWW.THEDOLLARBUSINESS.COM/LOGGED-IN)
- Supply to an SEZ Developer or a Unit is now zero-rated, though chargeable to IGST, with a refund mechanism for such taxes. Supply by an SEZ Developer or Unit is now deemed to be an inter-state supply and liable to IGST. Thus, SEZ transactions will be continued to be incentivised.
- Though the key concept of what constitute as inter-state supply and intra-state supply has remained the same, one peculiar change is in Section 3(5) of the Draft IGST Act. In case the service provider is in India and the place of supply is outside India, the transaction would be deemed to be inter-State supply (and thus liable to IGST). In the absence of this deeming fiction, if the place of supply was outside India, an interpretation was that the transaction would neither be intra-State supply nor inter-State supply, hence out of the ambit of GST. If such a transaction cannot be shown to be an “export”, hence zero-rated, it will be liable to IGST. The foreign customers who cannot take credit of Indian GST may gravitate towards foreign suppliers, rather than Indian suppliers in such cases.
- Place of supply Rules have been overhauled, especially in the context of services. The place of supply provisions under the MGL of June was more or less made applicable only in a situation where both the service provider and service recipient are in India. This position stands altered with the detailed place of supply rules involving a recipient (of services) outside India. Separately a rule for “intermediary” services has been incorporated in the November version of the draft laws.
- The Chapter on e-commerce has been altered. The definition of “aggregator” has been removed while the concept of “electronic commerce operator” has been retained. The obligation of tax collection at source (at the rate of 1%) is cast on electronic commerce operators.
- New provisions have been introduced in relation to Online Information and Data Access or Retrieval Services (“OIDAR Services”) (https://www.thedollarbusiness.com/news/service-tax-of-15-levied-on-music-ebooks-downloaded-from-overseas/48540”) which are comparable to the changes made under Service tax law, effective from 1st December 2016.
- Peculiarly, the chapter on settlement of cases has been deleted.

These drafts are said to have been circulated to States in the week of 14th November for their comments and are now to be discussed by the GST Council during its current meeting on 2-3 December 2016.

The drafts circulated in November appear to be more streamlined, however, certain provisions are still prone to ambiguity e.g. intangibles, or the place of supply rules, which could result in avoidable litigation.



About the author

Stella Joseph
Senior Associate, ELP

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About the author

Ranjeet Mahtani
Partner, ELP

(The views expressed here are those of the author and do not necessarily represent or reflect views of *The Dollar Business*.)

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Sheela Mamidenna - Dec 03, 2016 12:00 IST

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The membership will enhance the scope of cooperation between EBRD and India.

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Development of logistics sector would give a boost to both domestic and external demand.

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China lifts restrictions on imports of non-basmati rice from India

China has granted phytosanitary clearances to 14 Indian rice exporters.

The Dollar Business Bureau

Good news for Indian rice exporters (https://www.thedollarbusiness.com/news/indian-basmati-rice-exports-likely-to-grow-in-fy-2015-16/17232)! China has for the first time granted phytosanitary clearances to 14 Indian rice exporters, including Amira Pure Foods, LT Foods and Kohinoor Foods after it had imposed non-tariff barriers on imports of non-basmati rice from India. The other Indian rice exporters who have also received exports approvals from China include Best Foods, DRRK Foods, Ebro India, KRBL, MR Overseas, Nature Bio Foods, Pari India, Sarveshwar Foods, SSA International, Sunstar Overseas and United Exports.

In September, a team consisting of 19 Indian rice millers visited China to address their concerns with the relevant Chinese authorities, following which China announced in a recent communication to the Indian government that it has okayed for 14 rice exporting companies out of the 19 to ship non-basmati rice into the Chinese market.

Several officials from China's Administration of Quality Supervision, Inspection and Quarantine paid their visits to these mills, located in Haryana, Madhya Pradesh, Punjab and Uttar Pradesh to inspect the quality of rice and the methods adopted by these millers in making the commodity safe and secured.

The rice exporters have to be registered with India's National Plant Protection Organisation (NPPO) if they plan to ship their commodities to China. China has by restricted imports of non-basmati rice citing concerns over the presence of khapra beetle in India's crop. The decision comes at a time when India's commodity exports, including rice have been witnessing a sharp decline.

However, India continues to be a major exporter of basmati rice to China, even though exports have been declining over the past few years. India's exports of basmati rice to China in 2015-16 stood at \$3.86 billion against \$4.78 billion in 2014-15 and \$5.03 billion in 2013-14.

The International Grains Council (IGC) (https://www.thedollarbusiness.com/news/el-nino-to-raise-the-global-rice-prices/27283) estimated China to import about 4.1 million tonnes of rice in 2016-17, slightly down from 4.2 million tonnes a year earlier, while India's rice exports during the same period will grow marginally to 10.5 million tonnes from 10.4 million tonnes a year ago.

India's rice exports fell considerably to \$5.79 billion in 2015-16 as against \$7.84 billion in 2014-15, but rice exports still accounted for 18% of country's total farm exports last year.

Earlier this year, India's Commerce and Industry Minister met Chinese ambassador-designate to India and expressed her concerns about the delay in issuing clearances. India has been seeking greater market access for its farm and commodity products, especially since India's trade deficit with China has continued to rise over the years. India's trade deficit with China mounted to almost \$53 billion in 2015-16 from \$48.48 billion in the previous fiscal. This year, its trade deficit with China has already reached \$25.22 billion during the April-September period of 2016-17.

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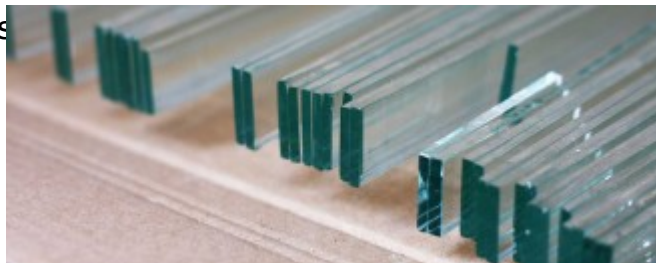
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