RECENT CHANGE IN GST ON GTA UNDER FCM & RCM, EFFECTIVE FROM 18 JULY 2022 VAISH GIRLS COLLEGE, SAMALKHA (PANIPAT) HARYANA

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Abstract: Goods and Services Tax is a major reform Indirect tax. GST is a single tax at a National level to levied at all stages right from Manufacturers up to final Consumption. This paper is about a recent change in GST on GTA in India. As per section 65 B (26) of the Finance Act 1994, Goods Transport Agency means any person who provide service in relation to transport of goods by road & issue consignment note. Issuance of consignment note was integral & mandatory requirements before any road transport could be brought within the ambit of GTA & also specified class of person, the tax liability falls on such recipients under the Reverse Charge Mechanism. The review of literature provide a basic understanding on how to proceed with research work & provide insight to learn new information. GST Rate for Goods transporter agencies (GTA) have been amended by the CBIC Department w.e.f. 18th July 2022. This research outcome will be favourable to all related parties and will be very strong & useful mechanism for transport agencies.

Keywords - Goods Transport Agency (GTA), Consignment Note, Reverse Charge Mechanism, Position of GTA after amendment forward charge Sec.9(3) of CGST ACT 2017.

RESEARCH METHODOLOGY:
The research paper is an attempt of exploratory research, based on the secondary data sourced from Journals, magazines, Articles, Media reports and Websites. Looking into requirements of the objectives of the study the research design employed for the study is of descriptive type.

INTRODUCTION:
The Levy of service Tax on Road Transportation Service has always been a continuous issue. The Finance Act 1997 had levied service Tax on Goods Transport Operators w.e.f. 16-11-1997 which was subsequently withdrawn after nation-wide Strike. Thereafter by the Finance (NO.2) Act 2004 Service Tax was imposed on transport of Goods by Road Service rendered by a Goods Transport Agency with effect from 10-09-2004. However, the levy was deferred until further notice again taking into account the recommendation of the Committee Notification NOS.32 to 35/2004Roadted 03-12-2004 were issued, levying tax on transport of Goods by Roads with effect from 01-01-2005. The Legal position prevailing under service Tax is being continued under GST regime. The services of transport of goods by road (except service of GTA) continue to be exempt under the GST regime In so far as the service (of Goods Transportation) are provide (by the GTA) to specified classes of person, the tax liability fall on such recipients under the RCM.

GOODS TRANSPORT AGENCY:
As per Section 65B (26) of Finance Act 1994, “Goods Transport Agency means any person who provide service in relation to Transport of Goods by road & issue Consignment Note,” Therefore in the ServiceTax regime issuance of Consignment Note (C/N) was integral & mandatory requirement before any road transport could be brought within the ambit of GTA.

CONSIGNMENT NOTE:-
Consignment Note is neither defined in the Act Nor in the Notification no.12/2017- Central Tax (Rate) Guidance can be taken from the meaning ascribed to the term under the Explanation to Rule 4B of Service Tax Rules, 1994. In terms of the said rule Consignment Note means ab document issued by Goods Transport Agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor, registration number of the goods carriage in which the goods are transported, detail of the place of origin & destination, person liable for paying Service Tax whether consignor, consignee or the Goods Transport Agency.

REVERSE CHARGE MECHANISM:
Reverse Charge is a Mechanism under which the recipient of the Goods or services is liable to pay the tax instead of the provider of the Goods & services. In RCM liability is pay tax shift from supplier to recipient. The service recipient can avail input tax credit on the tax amount that is paid under Reverse Charge Mechanism is that the Goods and Services are used or will be used for business or furtherance of business.

**Section under RCM**

- **Section 9(4)**: Applicable in all cases of supply from Un-registered dealer to registered dealer.
- **Section 9(3)**: Applicable in all cases of supply of specified goods & services which are notified by Govt.

**Earlier Position of GTA Under GST**

**Taxability of GTA**

- **GTA opts for Forward Charge**
  - GTA opts for 6% CGST + 6% SGST
  - Input tax credit in relation to Inputs, Input service or capital goods can be availed by the assessee.

- **GTA opts for Reverse Charge**
  - Service is provided to person residing in taxable territory.
  - Service is provided to person residing in non-taxable territory.
  - If person is not located in taxable territory then in that case GTA will be liable to tax on such supply at the rate of 2.5% CGST and 2.5% SGST.

- If service is provided to any specified person then such service will be exempted.

- In all other cases, the service will be liable to pay tax on reverse charge basis.

**Changes In GST applicability On GTA under Normal Charges Or Forward Charges**

- **W.e.f. 18th July 2022**, GTA has been provided with an option to choose either to charge GST @ 5% without ITC or 12% GST with ITC under Forward Charge (earlier only 12% Forward Charge is available).
- If such option has not been exercised, and GTA wants to be issue invoice @5% such service will be covered under RCM u/a 9(3) of CGST Act.
- Such option for a financial year needs to apply by 15th of March of preceding FY.
- The GTA wants to option for charging GST @5% or 12% 2022-2023 should apply the option or before 16th August 2022.
- The GTA issuing Tax Invoice under forward charge need to furnish a declaration in the tax invoice as per Notification No.: 05/2022 Central tax (Rate).
PRESENT GST ON GTA

REVERSE CHARGE IF THE GTA IS UNREGISTERED:
As per Notification No.32/2017 – Central Tax (Rate) dated 28th June 2017, intra-state Supplies of Services or both received by a registered person from any Unregistered Supplier, Was Exempted from GST if it does not exceed Rs.5000 in a day, However, the Government has Cancelled the Notification and hence, RCM applies on Unregistered purchases for only a Specified list of supplier, which is yet Notified.

THE FOLLOWING BUSINESSES (RECIPIENTS OF SERVICES) IS REQUIRED TO PAY GST UNDER REVERSE CHARGE
• Factory registered under the Factory Act, 1948.
• A society registered under Society Registration Act, 1860 or under any other Law.
• A Co-operative society established under any Law
• A GST registered person
• A body Corporate established by or under Law
• A partnership firm whether registered or not (including AOP)
• Causal taxable person

Belongs to 7 Persons including:
  a) Factory regd. under Factories Act
  b) Society regd. under any Act
  c) Co-Op Society
  d) Any person regd. in GST
  e) Body corporate in any law
  f) Partnership Firm
     whether regd. or not
     (including AOP also)
  g) Casual Taxable Person

RCM Applicable @5% and GST liability of the above seven.
(Provided that ITC on goods/services used in supplying such service by GTA has not been taken)

Belongs to another Category
(Individual/Unregd. Person)

Exempted vide Not-32/2017(CGST Rate)
Point No-21A

Forward Charge* @ 12% to be paid by GTA
(6% CGST+6% SGST)
Vide Notification-20/2017
WHO WILL PAY UNDER REVERSE CHARGE?

As per Notification No.13/2017 -Central Tax dated 28/06/2017 the person who pays or is liable to pay freight for the transportation of Goods Carriage, located in the taxable territory shall be treated as the receiver of Service

PAYMENT BY RECEIVER

If the liability of freight payment lies with the receiver (consignee), then the receiver of Goods will be treated as a receiver of transportation Services and he will pay HST o Reverse Charge basis.

EXAMPLE:

<table>
<thead>
<tr>
<th>No.</th>
<th>Case</th>
<th>Clarification</th>
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<tbody>
<tr>
<td>1</td>
<td>ABC Transport Company is Providing GTA services. It has opted to normal charge mechanism and it is declaring the same on its invoice. It has raised an invoice of Rs. 20,000 of GTA services on PQR Limited. ABC Transport Company do not want to take Input Tax Credit of inward services.</td>
<td>ABC Transport Company will pay tax at the rate of 5% without input Tax Credit (ITC). There is no need to pay tax under RCM by PQR Limited. The recipient can claim input tax credit of the amount of tax paid.</td>
</tr>
<tr>
<td>2</td>
<td>Would your answer be different in Question No. 1 if ABC Transport Company wants to avail Input Tax Credit on inward services?</td>
<td>ABC Transport Company will pay tax at the rate of 12% with claiming input Tax Credit (ITC) on its inward supply. There is no need to pay tax under RCM by PQR Limited. The recipient can claim input Tax Credit of the amount of tax paid.</td>
</tr>
<tr>
<td>3</td>
<td>Mittal Transporter has the following GTA services for 21st July, 2022: a. Goods transported nearby on a vehicle to M/s ABC (Firm) with freight value of Rs. 600. b. Goods transported nearby on a vehicle with total freight value of Rs. 1,200 in which M/s ABC (Firm) goods freight value is Rs. 800.</td>
<td>Since, the “freight based” exemptions have been withdrawn. So, in both the cases: Option1: if Mittal Transporter has opted for Normal Charge, then it can pay tax @ 5% (without ITC) or 12% (with ITC) as the case may be. Option 2: if Mittal Transporter do not opt for Normal Charge, then M/s ABC (Firm) will be Liable to pa tax under RCM on Rs. 600 and Rs. 800 Respectively</td>
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CONCLUSION:

The above discussion shows that not all transport of goods 350 Goods Transport Agency in GST by road is by a GTA. To qualify as services of GTA, the GTA should be necessary issuing a consignment note. Only services provided by a GTA are taxable under GST. Services of transportation of goods by a person other than GTA are exempt. Now recent changer in GTA has been provide with an option to choose either to charge GST @ 5% without ITC or @12% GST with ITC under forward charge or if such option has not been exercised, and GTA wants to issue invoice @ 5% such service will be covered under RCM U/s 9 (3) of CGST Act.

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