

SKKA IDT ALERT

34/2022 dt 19/12/2022

WEEKLY UPDATES

The GST Council in its **48th meeting held on 17.12.2022**, had recommended many changes in the GST law as well as the procedure part of the same. The brief proposals are as follows:

Sl. No.	Proposal by GST Council	Comments
1.	No GST will be attracted in case of renting of residential dwellings when given in personal capacity and not in the capacity of business	<i>A welcome clarification from the Council. Recently in a matter before the Hon'ble Delhi High Court in W.P.(C) 10986/2022 & CM APPL.32131/2022, the Hon'ble High Court on instructions placed on behalf of the UOI had held that "renting of a residential dwelling by a proprietor of a registered proprietorship firm, who rents it in his/her own personal capacity for use as his/her own residence as well as not for use in the course or furtherance of business of his/her proprietorship firm and such renting is on his/her own account and not that of proprietorship firm shall be exempt from GST".</i>
2.	High Sea Sales – NON GST SUPPLY WREF 01.07.2017	<i>It has been decided by the Council to treat High Sea Sales and other similar supplies as inserted by CGST Amendment Act, 2018 w.e.f. 01.02.2019 as NON GST supplies for the period 01.07.2017 to 31.01.2019 also. This would also mean no ITC reversal on the above would be required for the said period considering the explanation inserted to Sec 17(3) of the CGST Act, 2017 w.e.f. 01.02.2019.</i>
3.	Reversal of ITC for non payment to supplier within 180 days	<i>It has been decided to amend the Rule 37(1) of the CGST Rules, 2017 w.e.f. 01.10.2022 to provide for only proportionate reversal of ITC to the amount not paid to the supplier vis-à-vis the value of supply, including the tax payable. This would clear the ambiguity created w.e.f. 01.10.2022 by amendment to the rule.</i>
4.	New Rule 37A for compliance with section 16(2)(c) and section 41 of the act	<i>It has been proposed to introduce Rule 37A to provide mechanism for reversal of ITC by the recipient in case the supplier doesn't pay the tax to the government by a specified date and mechanism to avail the said credit if payment is made by the supplier. The rule would be an interesting one seeing the challenge to the vires of section 16(2)(c) of the Act at various High Courts throughout the country.</i>
5.	Circular to clarify ITC availability for cases under section 12(8) of IGST Act, 2017	<i>W.e.f. 01.02.2019, explanation was inserted to section 12(8) of the IGST Act 2017 which provided that the place of supply for supply of transport services when the goods are destined outside India would be the location of such destination and hence IGST would be charged in most of the cases. This led to a situation wherein for same location supplier and</i>

		recipient, IGST of other territory was being charged by the supplier leading to denial of ITC to the recipient. With this proposal, the above anomaly would be resolved.
6.	Other Changes	<ol style="list-style-type: none"> 1. Clarification on filing of certified copy of Order in Appellate stage 2. Clarification of tax dues in case of proceedings are under IBC, 2016 3. SOP for verification of difference in ITC as per GSTR 2A and GSTR 3B for FY 2017-18 AND 2018-19

SKKA COMMENTS:

With provision of online compliances and payments, the framework of GST has become more accountable. The one nation, one tax system aims to improve India's competitiveness in global markets. Being GST-compliant, organizations can experience the merits of having a unified tax system and easy input credits. Notwithstanding compliance challenges, it's clear that noncompliance is vastly more expensive and far riskier to an organization.

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