

Yet again - Spate of Notifications!!! – Part-I
(CA. B. Jeevan kumar)

Changes in rate of tax for Job work – wef 01 Oct 2019

Definition of the term “job work” as per Section 2 (68) of the CGST Act, 2017 means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly.

It may be noted from the above that any treatment or process undertaken by a person on goods belonging to another person would become “job work” only if the other person is a “registered person”. The same activity, if undertaken for an unregistered person, would not amount to “job work”. In other words, such activity would be reckoned to be a mere service undertaken for others.

#	Nature of service	New rate	Old rate
1	26 (ib) Services by way of job work in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);	1.5%	5%
2	26(ic) Services by way of job work in relation to bus body building;	18%	18%
3	26 (id) Services by way of job work other than (i), (ia), (ib) and (ic) above;	12%	18%

Note:

1. There are two residual entries currently subsequent to the above amendments.

- a. S. No. 26(id), a residual entry that has been newly inserted prescribes a rate of 12% for other JOB WORK undertaken whereas S. No. 26(iv) prescribes a rate of 18% on MANUFACTURING SERVICE ONLY and does not mention about Job work. This entry under 26(iv) would relate to “manufacturing” activity undertaken for an unregistered person unlike in the case of job work in certain categories, which is only for registered person.
 - b. If any service other than manufacturing activity undertaken to an unregistered person, 18% would be applicable for such transactions, under general residual entry.
 - c. So to put it in a nutshell if the recipient is registered it would be 12% and in case of unregistered recipient it would be 18%.
2. Tailoring, in all cases (registered or unregistered recipient) would attract only 5% GST [S.No. 26 (iii)]

Changes or additions to services covered under Reverse Charge Mechanism (RCM) – wef 01 Oct 2019

#	Nature of service	Service provider	Person liable to pay tax
1	Services of renting of a motor vehicle provided to a body corporate	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business.	Any body corporate located in the taxable territory.
2	Services of lending of securities under Securities Lending	Lender i.e. a person who deposits the securities	Borrower i.e. a person who borrows

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	Scheme, 1997 (“Scheme”) of Securities and Exchange Board of India (“SEBI”), as amended.	registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	the securities under the Scheme through an approved intermediary of SEBI.”
3	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	Publisher located in the taxable territory

Rent – a – cab : snapshot

#	Service	Rate	ITC restriction	RCM
1	Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	5%	No input credit other than of input service in the same line of Business	No
2	Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	12%	Nil	No
3	Renting of any motor vehicle	18%	Nil	No

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	designed to carry passengers where the cost of fuel is NOT included in the consideration charged from the service recipient.			
4	Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	5%	No input credit other than of input service in the same line of Business	Yes, if provided by non-body corporate to body corporate located in the taxable territory.

Time of supply –

1. Wherever services have been supplied prior to 01 Oct 2019 and invoice has been issued by the service providers prior to such date, no liability under RCM arises even if the payment to the supplier has been made post 1.10.2019, as the time of supply has arisen prior to such date only.
2. However, if service is provided prior to 01.10.2019 and invoice has been issued after 30 Sep and also payment is made after 30 Sep 2019, then the time of supply will be the date of payment by the recipient as per Section 13 (3).

Eligibility of un-reconciled ITC

The Government vide notification no. 49/2019, CT dated 09 Oct 2019 have introduced the following sub-rule (4) under Rule 36 of CGST Rules, 2017.

“Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37”.

As per New rule, Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers, shall not exceed 20 per cent of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers. The most common reason known to anybody would be that the supplier may be filing quarterly returns which would practically result in belated uploading of his outward supply.

This has far-reaching implications and may lead to difficulty in implementation and follow up and result in loss of ITC. Earlier, the documentary evidence and the supporting invoices were enough to claim ITC. Considering the above amendments, the taxpayers are advised follow up with the suppliers who have not filed their returns to file the same as early as possible.

Eg: Eligible ITC with respect to the invoices uploaded by the suppliers is Rs. 10,000. Actual eligible ITC based on the invoices received is Rs. 15,000. The sub-rule provides that ITC of only Rs. 2,000 (20% of Rs. 10,000) can be claimed additionally. Hence total ITC which can be claimed would be Rs. 12,000 and not Rs. 15,000.