

7.2 As per the recommendation of the GST Council in its 50th meeting, GST on imitation zari thread or yarn known by any name in trade parlance has been reduced from 12% to 5%. Accordingly, the rate has been notified vide S. No. 218AA with effect from 27th July, 2023.

7.2. In view of the confusion in the trade regarding the applicability of GST rate on these products, the issue for past period upto 27.7.2023 is hereby regularized on "as is" basis.

8. Plates, cups made from areca leaves

As per the recommendation of the GST Council, issues relating to GST on plates and cups made from areca leaves are hereby regularized on "as is basis" for the period prior to 01.10.2019.

9. GST rate on goods falling under HSN 9021

9.1 Representations have been received seeking clarification regarding the GST rates applicable on trauma, spine and arthroplasty implants falling under HSN heading 9021 for the period before 18.07.2022 stating that there are interpretational issues due to the duality of rates on similar items leading to ambiguity. The issue has arisen as prior to 18.07.2022 there existed two rates on the goods falling under HSN heading 9021 as per S. No. 257 of schedule I and S. No. 221 of schedule II of notification no. 01/2017-CT (Rate) dated 28.06.2017.

9.2 The issue was examined by GST Council in its 47th meeting and as per its recommendations, a single uniform rate of 5% was prescribed for such goods (except hearing aid, which continued to attract Nil under S.N. 142 of 02/2017-CT(Rate)) falling under HSN heading 9021 with effect from 18.07.2022.

9.3 As per recommendations of the GST council in its 50th Meeting, it is hereby **clarified** that the GST rate on all such goods falling under heading 9021 would attract a GST rate of 5% and in view of prevailing genuine doubts, the issue for the past periods is hereby regularized on "as is basis". However, it is **clarified** that no refunds will be granted in cases where GST has already been paid at higher rate of 12%.

10. It is further **clarified** that no refunds will be granted where GST has already been paid in any of the above cases.

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Clarifications regarding applicability of GST on certain services – **Circular No. 201/13/2023-GST**

1st August, 2023

Representations have been received seeking clarifications on the following issues

1. Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism;
2. Whether supply of food or beverages in cinema hall is taxable as restaurant service.

The above issues have been examined by GST Council in the 50th meeting held on 11th July, 2023. The issue -wise clarifications as recommended by the Council are given below:

Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism:

2. Reference has been received requesting for clarification whether services supplied by a director of a company or body corporate in personal or private capacity, such as renting of immovable property to the company, are taxable under Reverse Charge Mechanism (RCM) or not.

2.1 Entry No. 6 of notification No. 13/2017 CTR dated 28.06.2017 provides that tax on services supplied by director of a company or a body corporate to the said company or the body corporate shall be paid by the company or the body corporate under Reverse Charge Mechanism.

2.2 It is hereby **clarified** that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017.

Whether supply of food or beverages in cinema hall is taxable as restaurant service:

3. References have been received requesting for clarification whether supply of food and beverages at cinema halls is taxable as restaurant service which attract GST at the rate of 5% or not.

3.1 As per Explanation at Para 4 (xxxii) to notification No. 11/2017-CTR dated 28.06.2017, "Restaurant Service" means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied."

3.2 Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.

3.3 The cinema operator may run these refreshment or eating stalls/ kiosks/ counters or restaurant themselves or they may give it on contract to a third party. The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

3.4 It is hereby **clarified** that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

a) the food or beverages are supplied by way of or as part of a service, and

b) supplied independent of the cinema exhibition service.

3.5 It is further **clarified** that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

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Clarification relating to export of services – sub-clause (iv) of the Section 2 (6) of the IGST Act 2017

Circular No. 202/14/2023-GST

27th October, 2023

Various representations have been received requesting for clarification regarding admissibility of export remittances received in Special INR Vostro account, as permitted by RBI, for the purpose of consideration of supply of services to qualify as export of services as per the provisions of clause (6) of section 2 of the Integrated Goods & Services Tax Act, 2017 (herein after referred to as the 'IGST Act').

2. The issue has been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods & Services Tax Act, 2017 (herein after referred to as the 'CGST Act'), hereby clarifies the issue as under:

3. **Relevant legal provisions:**

3.1 Export of services has been defined under clause (6) of section 2 of IGST Act. As per the said definition, any supply of services needs to fulfill five conditions for it to qualify as export of services. Clause (6) of section 2 of the IGST Act is reproduced below for reference:

"(6) "export of services" means the supply of any service when, –

(i) the supplier of service is located in India;

(ii) the recipient of service is located outside India;

(iii) the place of supply of service is outside India;

(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and

(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;"

3.2 One of the conditions mentioned in sub-clause (iv) of Section 2(6) of the IGST Act is that the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India.

3.3 Reference is invited to RBI's **A.P. (DIR Series) Circular No.10 dated 11th July, 2022 regarding International Trade Settlement in Indian Rupees (INR)**, vide which it has been **clarified** that to promote growth of global trade with emphasis on exports from India and to support the increasing interest of global trading community in INR, it has been decided to put in