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**50 PRACTICAL FAQ'S
COVERING VARIOUS CHANGES
IN GST ON GOODS TRANSPORT
AGENCIES**

New Delhi / Faridkot /

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The logo consists of a dark blue square with a diagonal cut from the top-right corner. The letters 'RJA' are written in white, bold, sans-serif font within the square.

RJA

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A blue geometric shape, resembling a parallelogram or a tilted rectangle, positioned to the right of the 'About us' header.

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50 Practical FAQ's on GST changes for Goods Transport Agencies

[A cocktail of multiple rates with Forward charge & Reverse Charge]

Introduction:

Originally, at the time of introduction of GST, the services of Goods Transport Agencies (hereinafter referred to as 'GTA') were covered under the reverse charge mechanism wherein the recipient of the service was liable to pay GST, however, later a flavour of forward charge with 12% tax rate was also added as an option. This led to dual practices being followed in the industry with few levying tax under forward charge and few under reverse charge.

Now, by way of changes recommended in the 47th GST Council meeting, some more tweaking have been carried out in the tax rates for the GTA's with what seem to be like a three-tier rate structure with more flexibility to switch between the options of forward charge and reverse charge.

Easier said so, but the gamut of multiple combination of options can only lead to a complex tax environment for the industry. These subtle yet important changes could not only urge the GTA's to revisit its existing transaction structuring, but it could also lead to the tweak into the very business model that the GTA wishes to operate into.

In this article, we would try to understand these changes and its impact on the sector. For easy comprehension, the article is presented in the form of FAQ's so that the trade can dissect the practical scenarios applicable for them and take timely action.

Q1. What is the change in taxability for GTA's by virtue of recent amendment?

Ans: Pursuant to recommendations by the GST council in its 47th meeting, [Notification No. 03/2022- Central Tax \(Rate\) dated 13-07-2022](#) is issued

wherein, Now, w.e.f. July 18, 2022 the GTA's are having the following options of taxability:

Options	Tax rate	Condition
(a) GTA Opting for reverse charge	5%	<ul style="list-style-type: none"> Tax to be paid by recipient of services under RCM. The credit of input tax charged on goods and services used in supplying the service has not been taken by GTA.
(b) GTA Opting for forward charge	5% or 12%	<ul style="list-style-type: none"> ITC is eligible, where GTA's pay tax @ 12%, ITC on goods or services used is not eligible where GTA pay tax @ 5%. No need to pay liability under RCM in both the cases by recipient of services.

Q2. Who are covered within the ambit of 'Goods Transport Agency'?

Ans: The term 'Goods transport agency' (hereinafter referred to as 'GTA') is defined under Notification No. 11/2017-Central Tax (Rate) as amended as "any person who provides service in relation to transport of goods by road and issues a consignment note, by whatever name called."

This interalia means that only the transporters who undertake a road transport are covered within the ambit of 'Goods Transport Agency'. Further, such transporter must issue a consignment note.

In other words, rail, sea or air transportation of goods does not get covered within the ambit of GTA. Also, a goods transport operator who does not issue a consignment note also cannot be termed as a 'Goods transportation agency'.

Q3. What was the taxability of GTA's under GST prior to the amendment?

Ans: Originally, the taxability of GTA was covered under reverse charge, wherein the customer who is the recipient of service were liable to pay tax under reverse charge @ 5%.

Further, w.e.f. 22.08.2017, an option was given to the GTA's to charge GST @ 12% under forward charge to the customers, wherein they were also eligible for input tax credit.

The option once chosen had to be consistently followed and there was no mechanism to shift between the options year on year i.e., the GTA once opted for forward charge could not shift to the reverse charge mechanism.

Q4. How can a GTA exercise the option for paying tax under reverse charge or forward charge?

Ans: The option by GTA to itself pay GST under forward charge on the services supplied by it shall be exercised by making a declaration in Annexure V on or before the 15th March of the preceding Financial Year. For ex: If a GTA wishes to opt for paying tax under forward charge for FY 23-24, then it needs to submit a declaration on or before March 15, 2023.

Q5. What are the timelines for choosing the option for FY 2022-23?

Ans: The option for the Financial Year 2022-2023 shall be exercised on or before the 16th August, 2022.

Q6. What if the declaration is not submitted for FY 22-23 prior to Aug 16, 2022?

Ans: If a GTA does not submit a declaration for FY 22-23 before Aug 16, 2022, then it would be deemed that the GTA has opted for taxability under reverse charge. Further, such GTA cannot later opt to pay tax under forward charge for FY 22-23.

Q7. Can a GTA opt for multiple options within the same financial year?

Ans: No, the option once chosen would be valid for a financial year and a GTA cannot shift to a different option in a same financial year i.e., a GTA can either opt for paying taxes under forward charge mechanism (under either rate) or under reverse charge and not both for same financial year.

Q8. What if the GTA is currently already paying taxes under forward charge, whether it also needs to submit the declaration?

Ans: If a GTA is currently paying tax under forward charge and it wishes to continue paying the tax under forward charge, then such GTA also needs to submit the declaration as there is no relaxation mentioned for such GTA's in the Notification No. 03/2022- Central Tax (Rate) dated 13-07-2022.

Further, by submitting such declaration, the GTA would also be eligible to pay tax under forward charge @ 5% without ITC.

If such declaration is not given, then it would be deemed that the GTA has opted for taxability under reverse charge.

Q9. What if the GTA is currently covered under reverse charge, then whether it needs to submit the declaration?

Ans: If a GTA is currently covered under reverse charge and it wishes to continue paying the tax under reverse charge, then such GTA is not required to submit any declaration. If such declaration is not given, then it would be deemed that the GTA has opted for taxability under reverse charge.

However, if the GTA who is covered under reverse charge chooses to shift to forward charge, then it needs to give the declaration.

Summary position of declaration and liability for FY 2022-23 is as below:

Option presently followed by GTA	Proposed option by GTA	Action to be taken	Remarks
FCM	FCM	File declaration by 16 th August	NA
FCM	RCM	Do nothing	Ensure that tax is charged under RCM w.e.f. 16 th August. May continue to charge under FCM till 15 th Aug
RCM	RCM	Do nothing	NA
RCM	FCM	File declaration by 16 th August	Even if charged under RCM earlier, may charge under FCM w.e.f. 18 th July 22 provided declaration is filed by 16 th August.

Q10. What needs to be given in the declaration?

Ans: As per [Notification No. 03/2022- Central Tax \(Rate\) dated 13-07-2022](#), the GTA opting to pay tax under forward charge needs to give a declaration to the jurisdictional GST authorities expressing their intent of choosing the option. **(The format of the declaration is enclosed as Annexure I below)**

Q11. Whether the declaration needs to be given online or by way of a physical submission?

Ans: Presently, there is no functionality in place to submit this declaration online i.e., the declaration is required to be submitted offline by way of physical submission to the jurisdictional GST authority. It further states that the dated acknowledgement of the jurisdictional GST authority must also be obtained.

In view of the authors, this can lead to unnecessary consequences and harassment for the GTA's especially those having presence in multiple states.

Further, in view of authors, a submission by way of registered post with acknowledgement should also be considered as a valid physical submission.

Q12. Whether a separate declaration needs to be given for each financial year?

Ans: Yes, as per the condition stated in Notification No. 03/2022- Central Tax (Rate) dated 13-07-2022, a separate declaration is required to be submitted for each financial year. In view of the authors, this can lead to unnecessary compliance burden for the taxpayers and duplication in case where the GTA's have already obtained once.

Further, this can lead to unnecessary litigation with department on taxability over the procedural non-compliance due to non-submission or delay in submissions.

Q13. Whether a separate declaration is required to be given for each GST number or whether it needs to be given at entity level?

Ans: The declaration needs to be given for each GST number separately as each GSTIN constitutes a separate distinct person as per the GST law. Further, the declaration form requires a dated acknowledgement of each jurisdictional GST authority. As there are jurisdictional GST authorities for each GSTIN, therefore a separate acknowledgment must be obtained for each of the authorities under whose jurisdiction the registration has been obtained.

Q14. Can a GTA raise invoice under forward charge prior to 16th Aug 2022 for FY 2022-23?

Ans: Yes, the invoice for supply of the service charging GST may be issued during the period from the 18th July, 2022 to 16th August, 2022 before exercising the option for the financial year 2022-2023 provided that the GTA exercises the option to pay GST on its supplies on or before the 16th August, 2022. This option of charging tax under forward charge during interim period would be available irrespective of GTA charging operating under FCM or RCM in the earlier period.

Q15. How would a recipient come to know whether the GTA has opted for taxability under reverse charge or forward charge?

Ans: In case a GTA opts to pay tax under forward charge, then it would charge tax on the invoice which itself acts as evidence that the GTA is covered under forward charge and that the recipient is not required to pay tax under RCM.

Further, as per Notification No. 13/2017-Central Tax (Rate) as amended, the GTA needs to provide the following declaration on the face of tax invoice.

"I/we have taken registration under the CGST Act, 2017 and have exercised the option to pay tax on services of GTA in relation to transport of goods supplied by us during the Financial Year ____ under forward charge."

Further, apart from above, the GTA also needs to properly disclose its details in Form GSTR-1 declaring correctly as to whether or not the tax is payable under reverse charge by the recipient.

Q16. There is restriction on availment of ITC in case of 5% option or payment of tax under RCM. Such restriction is applicable to GTA or the service recipient?

Ans: In case a GTA opts for taxability under reverse charge, then it cannot avail the credit of input tax charged on goods and services used in supplying the GTA services. Similarly, if GTA is operating under 5% FCM option, it cannot avail the ITC to the extent of turnover comprising of 5% turnover. Thus, the restriction on availment of ITC is on GTA.

There is no restriction on availment of ITC on the recipient of services whether tax is charged @ 5% under FCM by GTA or paid by recipient under RCM.

Q17. In case of the above, what if GTA also has other taxable business viz., warehousing, supply chain management etc.?

Ans: In case a GTA is covered under reverse charge also has other taxable business i.e., warehousing, supply chain management etc. on which it collects and pays tax, then in such case the GTA needs to maintain separate account for the expenses as under:

- Expenses directly incurred towards the GTA business – No input tax credit would be eligible for the same.
- Expenses directly incurred for the taxable business viz., warehousing etc., – Full input tax credit would be available for the same.
- Common expenses used partly for supplying GTA services under RCM and partly for affecting other taxable supplies - Supplies of GTA services would be treated as an exempt supply and the common expenses needs to be proportionately reversed in accordance with the provisions of [section 17 \(2\)](#) of the [CGST Act, 2017](#) and the rules made thereunder.

Q18. What are flexibility available in case GTA opts to pay tax under forward charge mechanism?

Ans: GTA has following flexibility under forward charge mechanism:

- **Option to pay under FCM for some registration number and RCM for other registration number:** Where a GTA has been operating from multiple States, it shall have option to choose FCM (both under 5% and 12%) for some GSTIN whereas RCM option for other GSTIN.
- **Option to pay GST @ 5% or 12% at transaction level:** Once FCM option has been chosen for a particular GSTIN, GTA will have option to charge 12% or 5% as the case may be on each of the transaction.

- **Option to pay GST @ 5% or 12% for different supplies to same customer:** GTA can choose for taxability @ 12% or 5% for different transactions with the same customer. Decision to adopt a particular rate is to be guided by eligibility of ITC to the customer and a proper communication must be given to the customer. Further, proper disclosure of the tax rate and tax must be selected while filing Form GSTR-1
- **Option to change for each year but not within the year:** Once option to charge tax under FCM has been chosen for a particular FY, it shall not be permitted to change it within the year. However, option under RCM may be chosen at the beginning of next year.

Q19. What if the supply is wrongly assessed under reverse charge, while it is taxable under forward charge or vice-versa?

Ans: Yes, in case a GTA has wrongly assessed a transaction as liable under reverse charge, while the same is taxable under forward charge or vice-versa, then in such case, the GTA can cancel the original invoice and issue a new invoice if the correction is carried out in the same month.

However, if the correction is carried out in any subsequent month, then the same can be corrected by way of issuing a debit note as per section 34 of the CGST Act, 2017. While there is no time-limit for the debit note, however there is a time-limit for issuance of a credit note.

Q20. Whether GTA opting for 5% under forward charge can claim input tax credit?

Ans: In case a GTA opts for taxability @ 5% under forward charge, then it cannot avail the credit of input tax charged on goods or services used in supplying such services. In other words, the GTA cannot avail the input tax credit on goods or services used exclusively in supplying the GTA services covered by 5% under forward charge.

Further, on goods or services used partly for supplying GTA services @ 5% under forward charge and partly for effecting other supplies, then the supplies of GTA services would be treated as an exempt supply and it needs to reverse the proportionate input tax credit in accordance with the provisions of [section 17 \(2\)](#) of the [CGST Act, 2017](#) and the rules made thereunder.

Q21. Whether GTA can utilise the accumulated input tax credit for paying tax under forward charge @ 5%?

Ans: The restriction placed above is only with respect to availing the input tax credit and not with respect to the utilisation. In other words, if the GTA has rightly availed the input tax credit, then such credit can be utilised for payment of taxes liable to tax @ 5% under forward charge.

Q22. As the services supplied @ 5% are not eligible for ITC, whether GTA is required to issue bill of supply for such invoices?

Ans: The restriction is only for the purpose of availment of ITC by GTA. The transaction continues to be taxable @ 5% wherein GTA need to raise tax invoice (not bill of supply) and mention 5% rate of tax and tax amount on the invoice.

Q23. Whether same truck can be used for both 5% & 12% business? If yes, how ITC can be availed?

Ans: There is no restriction in the law for usage of capital goods for either of the businesses. Hence, GTA could use single truck for making supplies of services both @ 5% as well as 12 %.

However, it is pertinent to note that the supplies @ 5% would be deemed as an exempt supply and therefore if a GTA procures a truck and avails input tax credit on the same, then it needs to reverse the proportionate input tax credit based on the usage of the said truck towards turnover of 5% supplies to be computed over 60 months in accordance with rule 43 of the CGST rules, 2017.

Q24. What if the tax is payable under forward charge by the GTA but the same is paid by the customer under reverse charge, then whether the government can demand tax from the supplier again?

Ans: If the GTA undertakes to pay the tax under forward charge, but if the same is paid by the customer under reverse charge, then such payment of tax by the customer does not extinguish the liability to pay tax in the hands of GTA.

Since the levy of tax and liability to pay the same is covered under forward charge, it is the responsibility of the GTA to collect and pay the tax to the credit of the government and therefore upon non-payment of such taxes under forward charge, the Government can demand the tax from the GTA as well irrespective of the payment of tax by the recipient.

In case, GTA also opts for 5% rate of tax under forward charge, then it can plead for revenue neutrality which may be permitted possibly at appellate level.

Q25. Can government proceed to demand tax from the customer for the non-compliance of the GTA in paying tax under forward charge? Similarly, can the government proceed to demand tax from the GTA for non-compliance of the customer in paying tax under RCM?

Ans: If the liability to pay tax is undertaken by the GTA under forward charge @ 12% or 5%, then the levy of tax is governed by section 9(1) of the CGST Act, 2017 and any non-compliance in the payment of taxes cannot be proceeded against the customers under reverse charge.

Similarly, if the customer is liable to pay the tax under reverse charge @ 5%, then the levy and collection of tax is governed by section 9(3) of the CGST Act, 2017

and the any non-compliance in the payment of taxes can only be proceeded against the recipient of the service and there cannot be any proceedings or liability on the supplier of the GTA service.

Q26. Can a recipient claim input tax credit twice in case it has paid the taxes twice i.e., both under forward charge and also reverse charge?

Ans: Ideally, the recipient of the GTA service must remit the taxes only once i.e., either under forward charge or under reverse charge. Further, the taxes so paid can be claimed as input tax credit.

However, if the recipient pays the taxes twice (i.e., both under forward charge and also reverse charge) due to mistake, then in view of the authors the customer must be eligible for the input tax credit for both the taxes paid as there cannot be a double collection of the taxes on the same transaction.

However, it is pertinent to note that the issue could be disputed by the department on the premise that one of the taxes paid was not at all in the nature of “tax” per se and therefore corresponding input tax credit of the same also is not eligible.

Therefore, it is suggested that the due care be taken to understand whether or not the GTA is paying the taxes under forward charge and accordingly the liability to pay tax under reverse charge must be assessed.

Q27. If a GTA covered under forward charge has now opted for reverse charge, whether such GTA needs to reverse the input tax credit of inputs lying in stock?

Ans: As per section 18(4) of the CGST Act, 2017 where any registered person who has availed of input tax credit and where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock.

Now, the important question that arises is whether the payment of tax by the recipient of service under reverse charge be regarded as the supply wholly exempt.

In view of author, the liability to pay taxes under reverse charge in the hands of the recipient cannot be said to be a wholly exempt supply. In fact, the levy of tax remains u/s 9 (1) except that the payment of tax is to be made by the recipient of the supplies.

Further, definition of the term ‘exempt supply’ as defined u/s 2(47) of the CGST Act, 2017 only cover the scenarios where the tax in respect of the supply of goods or services is wholly exempt.

In the given case, the supply cannot be said to be wholly exempt as the levy of tax continues to remain with partial exemption in the rate of tax granted to the recipient of service.

Hence, in view of the authors, the conversion of a GTA from a forward charge to reverse charge does not contemplate reversal of input tax credit for inputs lying in stock.

Q28. In the above case, whether the GTA needs to reverse the input tax credit on capital goods/ trucks earlier purchased?

Ans: As mentioned above, there is no applicability of section 18 in case of services becoming liable to RCM from FCM.

However, taxpayer has to assess the impact under section 17 (2) read with Rule 43 to take a view if the case falls in any of the specific clause therein and optimise the tax accordingly.

Q29. In above case, what happens to the balance lying in the electronic credit ledger?

Ans: If there is no reversal of any input tax credit, the balance in the electronic credit ledger would not lapse and the same can be utilised for making payment of taxes towards any other taxable supplies or if GTA shifts to forward charge mechanism in future, may be set off against the liability arising on such taxable supplies.

Q30. If a GTA is covered under reverse charge has now opted for forward charge, whether such GTA can claim the input tax credit of inputs lying in stock?

Ans: As per section 18(1)(d) of the CGST Act, 2017 where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

Applying the principle discussed in previous part, GTA may not be entitled to claim ITC on the inputs lying in the stock.

Q31. In the above case, whether the GTA can claim the input tax credit on capital goods/ trucks earlier purchased? What would be impact of time limit u/s 16 (4)?

Ans: The taxpayer should logically be entitled to claim ITC in such cases. However, the case should specifically fall within the specific scenarios of section 17 (2) read with Rule 43 for the purpose of availment of ITC. The intention to use

the assets during its lifetime of 5 years could be a decisive factor for claiming the credit.

Also, as the time limit of claiming the credit for any FY is till end of September of next FY (proposed to be increased to November), in order to avoid the lapse of credit, it is suggestible to avail the ITC and reversal so that, in view of authors, an argument could be taken that time limit u/s 16 (4) is not applicable for re-availingment of ITC.

Q32. What if GTA obtains a vehicle hire service from another GTA, whether the same is liable to tax under forward charge or reverse charge?

Ans: In the course of making the transport services, if the GTA hires any vehicles from other GTA service provider or from any other supplier and uses the said vehicles for its GTA business, then in such case, the transaction would be exempt from GST under entry 22 (b) of the Notification No. 12/2017-Central Tax (Rate) as under:

“Services by way of giving on hire to a goods transport agency, a means of transportation of goods is exempt from the tax net.”

Therefore, the vehicle hire services received from the GTA would not be liable to tax either under forward charge or under reverse charge.

The supplier of services making supply of such vehicle on hire to GTA should consider appropriate classification of the services provided by it under heading 9966 (with operator) or 9973 (without operator). Also, the underlying document between parties should establish it in the nature of hiring transaction.

Q33. What if instead of on hiring, the vehicle is taken from other transporter under a contract for “transportation of goods”. Does it make any difference if consignment note is issued by party 1 or party 2?

Ans: If the first transporter is providing the services of transportation of goods without issuance of consignment note and the services are not in the nature of renting or hiring of means of transportation, the services could get covered within S. No. 18 of exemption notification and hence not liable to GST.

However, in case the consignment note is issued by party 1, the services may not get covered under entry 18 or 22 of the exemption notification. The tax position has to be appropriately planned (under FCM or RCM) by both the parties to ensure that there is no tax loss.

Q34. What if the transporter (GTA or otherwise) provides the vehicles on rent to another GTA or to any other person, whether the same is liable for tax?

Ans: S. No. 22 of exemption notification extends the benefit for hiring of means of transportation to a goods transport agency. Circular No. 164 /20 /2021-GST had clarified that the hiring and renting should be read interchangeably for the

purpose of claiming exemption under s. no. 22 of exemption entry. Accordingly, the authors are of the view that hiring/renting of means of transportation to a GTA would be exempted from GST.

However, in case the vehicles are given on hiring or renting by a GTA to non GTA, the same would be taxable under forward charge mechanism. w.e.f. 18-07-2022 in respect of vehicle rental contracts where the cost of fuel is included in the contracts, then the GTA would be required to levy GST @ 12%. If fuel cost is not included, tax would be payable @ 18%.

Q35. Contract is entered into for transportation of goods. However, no consignment note is issued. What would be taxability in such cases?

Ans: The exemption entry for transportation of goods is primarily intended to cover the transportation by unorganised sector on short term basis. However, if the contract is on hiring or renting basis with operator where the recipient retains right to operate vehicle as per its own control during the tenure of vehicles available with him, the services could be said to be more appropriately falling under renting or hiring of means of transportation with operator classifiable under 9966 with rate of tax 12% (with fuel) or 18% (without fuel) under FCM. Exemption of transportation of goods by road may not be available in such cases.

Q36. There was exemption limit of Rs 750/1500 for GTA. Whether such exemption would still continue?

Ans: prior to 18.07.2022, there was an exemption granted to the goods transport agencies as under:

(b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;

(c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty;”

It is pertinent to note that this exemption has been withdrawn w.e.f. 18.07.2022 by virtue of an amendment vide [Notification No. 04/2022 -Central Tax \(Rate\) dated 13-07-2022](#).

Therefore, the GTA's opting to pay tax under forward charge need to charge GST on the transactions below 750 /1500 (as the case may be) also. If RCM option is chosen by GTA, the recipient of such services needs to pay taxes under RCM even on the transactions below 750 /1500 (as the case may be).

Q37. Services are provided to unregistered person where transporter is issuing a consignment note. What would be liability of GST?

Ans: While there is an option for the GTA to opt for the reverse charge, wherein the tax needs to be paid by the recipient under reverse charge. However, if the

recipient of the service is an unregistered person, then the liability to pay tax is exempted by virtue of entry 21A of Notification No. 12/2017-Central Tax (Rate).

However, if the recipient is any of the following, then the above exemption does not apply and the recipient needs to obtain registration and pay tax liability under RCM:

- a. any factory registered under or governed by the Factories Act, 1948(63 of 1948); or
- b. any Society registered under the [Societies Registration Act, 1860 \(21 of 1860\)](#) or under any other law for the time being in force in any part of India; or
- c. any Co-operative Society established by or under any law for the time being in force; or
- d. any body corporate established, by or under any law for the time being in force; or
- e. any partnership firm whether registered or not under any law including association of persons.

In case the transporter opts to pay tax under forward charge, then there is no requirement for the recipient to register and pay tax under RCM and instead the transporter can collect and pay the taxes.

Q38. Whether expresses cargo service providers are also impacted by the said amendment?

Ans: In our view, express cargo services (i.e., courier service) is not impacted by this amendment and the same continues to be liable to tax @ 18% as a courier agency service. The term 'Courier Agency' is defined under Notification No. 12/2017-Central Tax(rate) as "any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;"

Q39. In case of return truck load booked through other agent, what would be tax liability of GTA?

Ans: The taxability would depend basis the party issuing consignment note. Presuming that the consignment note is issued by other agent, the return truck load service provided by a GTA would be akin to a service of giving a vehicle on hire to another GTA or transportation of goods by road services and the same would be exempt.

Therefore, the return truck load supplier is not liable to levy tax under forward charge. Further, the GTA receiving such service is also not required to levy tax under reverse charge.

Q40.If the vehicles are sold by GTA under different options, how would tax liability arises on GTA?

Ans: As per Notification No. 8/2018-C.T. (Rate), dated 25-1-2018, a concessional rate of tax is provided for sale of old and used motor vehicles wherein, the tax needs to be paid only on the value that represent margin of the supplier, on supply of such goods. For this purpose, the margin of the supplier can be computed as under:

- a. In case of a registered person who has claimed depreciation under section 32 of the Income-Tax Act, 1961 on the said goods, the value that represents the margin of the supplier shall be the difference between the consideration received for supply of such goods and the depreciated value of such goods on the date of supply, and where the margin of such supply is negative, it shall be ignored; and
- b. In any other case, the value that represents the margin of supplier shall be, the difference between the selling price and the purchase price and where such margin is negative, it shall be ignored.

Also, a concessional tax rate of 12% is provided for the sale of old and used motor vehicles.

Q41.Where the transporter is providing multimodal transportation services. What is the impact of amendment?

Ans: In case a transporter is providing multi-modal transportation i.e., transport involving more than one mode of transport viz., road, rail, sea or air. In such a case, the transaction would be governed by clause (vi) of entry 9 of the Notification No. 11/2017-Central Tax (Rate) and would be levied to tax @ 12%.

The transaction involving multiple modes of transport in a single supply would not be covered as a GTA service and thereby the option of reverse charge does not apply.

If a transporter is providing multimodal transportation services, he shall have option to remain in RCM w.r.t. GTA services.

Q42.What would be decision making criterion for any GTA to decide among various options?

Ans: Below could be indicative decision-making criterion for GTA to opt for forward charge or reverse charge:

- Eligibility of ITC to the customer: If the customer is eligible for ITC, forward charge @ 12%.
- Customer not eligible for ITC, either fully or partially- 5% (under FCM or RCM as the case may be)
- Planning of purchase of vehicles etc or major repair expenditure – Forward charge @ 12%

- Majority vehicles taken on hiring from other transporters – indifferent
- Transportation of household material – 5% under forward charge or claim exemption
- Engaged in providing only GTA services or other services from same GSTIN
- Average realisation period from customer
- Compliance burden based on presence in single State or multiple States

Q43. What would be decision making criterion for service recipient seeking selection of particular option by GTA?

Ans: Below could be indicative decision-making criterion for service recipient seeking selection of particular option by GTA:

- Organised status of vendor – if the GTA is organised, the recipient could ask GTA to be in FCM as there would be lesser challenges for service recipient to track ITC claim in GSTR-2B. However, if GTA is unorganised, better to have RCM option so that self-compliance can be made for payment of tax and availment of ITC by recipient
- Extent of vehicles owned by GTA – Higher number of vehicles owned by GTA, ask for FCM @ 12% along with reduced cost of services considering eligibility of higher ITC to GTA
- Other option as mentioned in answer to previous question.

Q44. Can service provider provide transportation services with and without consignment notes? What would be taxability in such cases?

Ans: The status of supplier as to GTA or not is determined qua each transaction and thus the service provider could wear different hat for different transactions. Summarised position of taxability could be as below:

Services where consignment note is issued – covered under GTA	5%/12% FCM 5% under RCM by recipient
Renting of vehicles with operator where possession and control is retained by recipient	12% under FCM (if fuel included) 18% under FCM (if fuel not included)
Leasing of motor vehicle with or without operator	Tax rate as applicable on underlying vehicles given on lease – under FCM
Transportation of goods without consignment note and not in the nature of renting or hiring	Covered under exemption entry. Not liable to GST.

The classification and nature of services to be determined carefully before adopting a particular tax position by GTA.

Q45. I have been engaged in renting of trucks along with fuel. Can I opt for RCM for GTA transactions? What would be rate of tax in both the cases?

Ans: Renting of trucks along with operator is covered under HSN 9966 whereas GTA service is covered under HSN 9965. The restriction placed for opting either forward charge or reverse charge is only with respect to the transportation services provided falling under HSN 9965. There are no restrictions on simultaneous provision of services under 9966 (renting) in forward charge and 9965 (GTA) under RCM.

Hence, in this case, the service provider can charge GST @ 12% on forward charge mechanism for renting services and opt for RCM for GTA services where recipient can pay @ 5%. There is no need of filing any declaration with department. However, the HSN code being used on the invoice should be clearly distinguishable along with scope of services.

Q46. Please clarify all available exemptions to GTA?

Ans: Following services provided by GTA continue to remain exempted after all amendments:

- Services by way of transportation of goods by road except the services of a goods transportation agency – Basically, a Goods Transport Operator;
- Services provided by a goods transport agency, by way of transport in a goods carriage of –
 - agricultural produce;
 - milk, salt and food grain including flour, pulses and rice;
 - organic manure;
 - newspaper or magazines registered with the Registrar of Newspapers;
 - relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
 - defence or military equipment's.
- Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person,
- Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, a Department or Establishment of the CG or SG or UT or local authority; or Governmental agencies, which has taken registration under the CGAT Act, 2017 only for the purpose of deducting TDS u/s 51 and not for making a taxable supply of goods or services.
- Services by way of giving on hire to a goods transport agency, a means of transportation of goods.

Q47. Whether Transportation of household goods are liable to GST?

Ans: Transportation of household goods is liable to GST under FCM @ 12% or 5% as the case may be. However, if the services of transportation of household goods are provided to unregistered person, GTA may claim exemption under Notification No. 12/2017-Central Tax (Rate).

Q48. What would be tax implication where vehicles purchased in one GSTIN are used by other GSTIN of the same entity? (e.g. GTA is registered under GST in State “A” as well as “B”)

Ans: Movement of vehicle from State “A” to State “B” in the course of providing the transportation services to the customers billed from State “A” is not treated as supply between distinct person and no liability of GST.

However, if the State “A” supplies vehicles to State “B” where such vehicles are further used by State “B” to provide transportation services to customers of State “B”, it could be said to be supply of hiring of means of transportation from State “A” and treated as exempted supply in State “A”. All corresponding consequences to follow accordingly.

Q49. What would be applicability of e-invoices to GTA under forward charge?

Ans: As per rule 54(3) of the CGST rules, 2017, where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the following information:

- gross weight of the consignment,
- name of the consigner and the consignee,
- registration number of goods carriage in which the goods are transported,
- details of goods transported,
- details of place of origin and destination,
- Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner,
- consignee or goods transport agency, and
- other information as mentioned under rule 46.

Further, as per Notification No. 13/2020–Central Tax Dated 21.03.2020, A Goods transport agency covered under above is not required to generate e-invoice even if the aggregate turnover in any preceding financial year exceeds Rs. 20 Crores.

The above position remains the same, even if the GTA is under forward charge and is required to generate a valid tax invoice.

Q50. Whether any specific declaration is required to be given on the invoices?

Ans: As per rule 46 of the CGST rules, 2017 as amended, a GTA is required to give a declaration on the invoice issued by them that it is not required to issue an e-invoice even though the aggregate turnover crosses Rs. 20 Crores.

I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified

under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule.

Conclusion:

Amidst these changes, it is important for the transporters to proactively analyse the impact on these changes in their business operations and most feasible option must be worked out based on the nature of business, product mix, historical data trends, future growth prospects etc.

Further, since impact of ITC on trucks, equipment's and other capex items would be substantial in this business and therefore if a decision is taken to shift the tax regime from forward charge to reverse charge or vice-versa or a shift in the rate of tax is made, then a proper implementation action plan must be put in place to take care of the spill over issues and optimisation of the corresponding benefits thereof.

ANNEXURES:**Annexure I – Declaration for opting for forward charge:****FORM**

Form for exercising the option by a Goods Transport Agency (GTA) for payment of GST on the GTA services supplied by him under forward charge before the commencement of any financial year to be submitted before the jurisdictional GST Authority.

Reference No. -

Date: -

1. I/We_____ (name of Person), authorised representative of M/s..... have taken registration/have applied for registration and do hereby undertake to pay GST on the GTA services in relation to transportation of goods supplied by us during the financial year.....under forward charge in accordance with section 9(1) of the CGST Act, 2017 and to comply with all the provisions of the CGST Act, 2017 as they apply to a person liable for paying the tax in relation to supply of any goods or services or both;

2. I understand that this option once exercised shall not be allowed to be changed within a period of one year from the date of exercising the option and will remain valid till the end of the financial year for which it is exercised.

Legal Name: -

GSTIN: -

PAN No.

Signature of Authorised representative:

Name of Authorised Signatory:

Full Address of GTA:

(Dated acknowledgment of jurisdictional GST Authority)

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