

GST CONCLAVE 2017.

DATE : 13th July 2017

VENUE : WIRC, Bandra Kurla Complex Bandra East

Topic :Composition under GST and Tax impact on certain sectors.

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Central Goods and Service Tax Act, 2017

Composition levy (Section 10):

- (1) Option for paying tax at a composite rate for a registered person, in lieu of the tax payable by him.,
- (2) Option admissible only to persons whose aggregate turnover in the preceding financial year did not exceed the prescribed limit.
- (3) Notification no 8/2017 specified the prescribed limit of 75 lakhs in the preceding year. (50 lakhs for specified north-eastern state and Himachal Pradesh.)
- (4) Option of paying tax at composite rate will lapse with effect from the day on which aggregate turnover during current financial year exceeds the prescribed limits.
- (5) If the registered persons is having different registration numbers (on account of registration in different states or different business verticals) then composition scheme is not available unless all such registered persons opt to pay tax under that sub-section.
- (6) A person who has opted for composition scheme is not entitled to collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
- (7) A person who has opted for composition has to issue bill of supply for supplies made by him.

Central Goods and Service Tax Act, 2017

Meaning of aggregate turnover in the preceding financial.

(6) “aggregate turnover” means the aggregate value of

- all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),
- exempt supplies,
- exports of goods or services or both
- and inter-State supplies

of persons having the same Permanent Account Number, **to be computed on all India basis** but excludes central tax, State tax, Union territory tax, integrated tax and cess;

Rate of tax of the composition levy:

Sl. No.	Category of registered persons	Rate of tax – CGST.
(1)	(2)	(3)
1	<p>Manufacturers, other than manufacturers of such goods as may be notified by the Government.</p> <p>2 (72) “Manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;</p>	2% (1% Central tax plus 1% State tax) of the turnover
2	<p>Suppliers providing services referred to in clause (b)of paragraph 6 of Schedule II.</p> <p>Entry reads as follows: (b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.</p> <p>Whether outdoor caterer is covered under composition ?.</p> <p>FAQ – Q 30. Can supplier of Services opt for composition levy? - Ans. No, the only exception being supplier of restaurant services.</p>	5% (2.5% Central tax plus 2.5% SGST) of the turnover

Rate of tax of the composition levy:

Sl. No.	Category of registered persons	Rate of tax – CGST.
(1)	(2)	(3)
3	Any other supplier eligible for composition levy <u>(other than service providers).</u>	1% (0.5% Central tax plus 0.5% State tax) of the turnover

- **Persons not eligible for composition.**

Manufacturer of following goods.

S. No.	Tariff item, sub-heading, heading or Chapter	Description
(1)	(2)	(3)
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan masala
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

Conditions for composition scheme under Act.

(a) Person should not be engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II. (i.e. other than services covered under composition provision).

Issues – A trader gets a fixed amount from a FMCG company for display of name board on top of his store.

(b) Person should not be engaged in making any supply of goods which are not leviable to tax under this Act.

Issues – A Restaurant having total turnover of upto 50 lakhs also serves alcoholic liquor. Whether composition is admissible?

(c) Persons should not be engaged in making any inter-State outward supplies of goods.

Issues – A trader received goods from outside the State and sells it locally – whether composition is admissible ?

(d) Persons should not be engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52.

Conditions and restrictions to be fulfilled for exercising the option for composition levy under Compositions rules.

The person exercising the option to pay tax under section 10 shall comply with the following conditions, namely:-

- (a)** He is neither a casual taxable person nor a non-resident taxable person;
- (b) For persons who have migrated from registration under old law** - The goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State.
- (c)** The goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under sub-section (4) of section 9. (**reverse charge**).

- (d) he shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both; (payment of tax under reverse charge)
- (e) he was not engaged in the manufacture of goods as notified under clause (e) of sub-section (2) of section 10, during the preceding financial year;
- (f) he shall mention the words “**composition taxable person, not eligible to collect tax on supplies**” at the top of the bill of supply issued by him.
- (g) he shall mention the words “composition taxable person” on every **notice or signboard displayed** at a prominent place at his principal place of business and at every additional place or places of business.
- (2) **The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.**

Procedure for intimation of Composition

Rule 3. Intimation for composition levy:

- (1) Any person who has been granted registration on a provisional basis under clause (b) of sub-rule (1) of rule 24 (migrated from registrations under existing laws) and who wants to opt to pay tax under section 10, is required to electronically file an intimation in **FORM GST CMP-01**, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
 - Intimation under GST CMP-01 needs to be filed prior to the appointed day, but not later than thirty days. Such period may be extended by the Commissioner in this behalf.
 - (As per the clarification, the intimation needs to be filed by 21st July 2017. If not then benefit of composition will not be available.)
 - If intimation in **FORM GST CMP-01** is filed after appointed date the registered person shall not collect any tax from the appointed day but shall issue bill of supply for supplies made after the said day.
- (2) Any person who applies for fresh registration can give an option to pay tax under section 10 in Part B of FORM GST REG-01 and such option shall be considered as an intimation to pay tax under the composition.

Option to

- (3) Any registered person who opts to pay tax under section 10 shall electronically file an intimation in **FORM GST CMP-02**, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, **prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and shall furnish the statement in FORM GST ITC-03** in accordance with the provisions of sub-rule (4) of rule 44 within a period of sixty days from the commencement of the relevant financial year.
- (4) Any person who files an intimation under sub-rule (1) to pay tax under section 10 shall furnish **the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in FORM GST CMP-03**, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within a period of sixty days from the date on which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.
- (5) Any intimation under sub-rule (1) or sub-rule (3) in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

Rule 4. Effective date for composition levy: -

(1)The option to pay tax under section 10 (composition) shall be effective from the beginning of the financial year, where the intimation is filed under sub – rule (3) of rule 3 and the appointed day where the intimation is filed under sub-rule (1) of the said rule.

For composition supplier who have migrated from existing law, the option of composition will be effective from 1-07-2017.

(2)The intimation under sub-rule (2) of rule 3, shall be considered only after the grant of registration to the applicant and his option to pay tax under section 10 shall be effective from the date fixed under sub-rule (2) or (3) of rule 10.

(for new registration applied with the composition option, the option will be available from the effective date of registration) for e.g. if application is made within 30 days of liability then effective date is date when person becomes liable to pay tax.

Validity and withdrawal of composition levy:-

- The option exercised by a registered person to pay tax under section 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and under these rules.
- The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04**, duly signed or verified through electronic verification code, electronically on the common portal.
- Every person who has opted for withdrawal of option may electronically furnish a statement in **FORM GST ITC-01** containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within a period of thirty days from the date from which the option is withdrawn.
- Any intimation or application for withdrawal in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

PAYMENT OF TAX UNDER COMPOSITION.

- The payment of GST for composition scheme needs to be made by 18th of each quarter.

RETURNS UNDER COMPOSITION.

- A composition supplier needs to be file GST return GSTR-4 by 18th of each quarter.
- Even Nil return needs to be furnished.

Input Tax credit under composition.

- **A registered person cannot avail the credit under composition scheme.**

- No benefit of transitional credit is allowed if composition scheme opted.

- **Person opted for composition switches to normal** - Where any registered taxable person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of **inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date** from which he becomes liable to pay tax. The credit on capital goods shall be reduced by such percentage points as may be prescribed in this behalf.

- **Person opting for composition from normal** - 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 and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option.

After payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Impact on Hospitality (Hotels, Restaurants and Banquets Industry.)

- Major Income

- Hotel Accommodation Activities – Paying Service Tax and Luxury Taxes.
- Restaurant Service - Paying Service Tax and VAT.
- Laundry & Internet Service –Paying Service Tax.

TAXES PAID ON INPUTS / INPUT SERVICES.

- A. SERVICE TAX ON INPUT SERVICES. – PRO-RATA WRITE OFF.
- B. EXCISE DUTY ON PURCHASES - NOT VAILABLE.
- C. VAT ON PURCHASES – NOT FULLY SET-OFF .
- D. CVD AND SAD – NOT VAILABLE.

After introduction of GST, the benefit of taxes paid on the inputs will be admissible to the Hotels.

- 18% - Supply of food/drinks in banquets / Outdoor Catering - **Full ITC**
- Restaurant - Supply of Foods/Drinks in Restaurant- **Full ITC**
- 12% - not having A.C or Central Heating at any time during the year and having license to serve liquor.
- 18% - having license to serve liquor
- 18% - having facility of A.C or central heating at any time during the year
- 18% - Air-conditioned Restaurant in 5-star or above rated.
- **18% - Other Services – not mentioned elsewhere - Full ITC.**
- **Internet,. Telephone recovery, Laundry, Club or membership, Health and fitness centre, etc.**

SCOPE OF THE TERM

Classification of Restaurant and Banquet services under GST

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:—

(a)

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

- Taxability of Alcoholic liquor for human consumption - State VAT to continue.
- Whether GST on service charges while serving alcoholic liquor?
- Complimentary supplies along with serving of alcoholic supply.
- Applicable Rate on serving of Aerated Waters.
- Takeaways from restaurant?

• GST rate on Accommodation Service

Sr. No.	Accommodation service (Room revenue)	GST Rate
1	Renting of hotels meant for residential or lodging purposes having DECLARED ROOM TARIFF Rs. 1,000/- and above but less than Rs. 2,500/- per room per day.	12% With Full ITC
2	Renting of hotels meant for residential or lodging purposes where DECLARED ROOM TARIFF of Rs 2,500/- and above but less than Rs 7,500/- per room per day.	18% With Full ITC
3	Accommodation in hotels including 5 star and above rated hotels meant for residential or lodging purposes, where DECLARED ROOM TARIFF is Rs 7500/- and above per night per room.	28% With Full ITC

Declared Tariff : Charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.

Impact of Credit of GST for Hotel industry..

- **Accommodation services by the Hotels are eligible input services when used by customers for business purposes.**
- **Accommodation service can be only Intra-state supplies i.e. Subject to CGST /SGST of the state in which the hotel is located.**
- **Eligibility of the credit of CGST / SGST levied for a hotel in other state.**
- **Similar Issues for Banquets and other services at the Hotel.**

Impact of GST on Event Management Industry.

- **Rate of GST on event management services is 18%.**
- **Liability to registration – whether event manager is a casual taxable person.**
- **Dispute with respect to rate under Event management whether it is to be treated as composite supply or mixed supply?**
- **Event Management Services - Benefit of Credit of GST paid on all expenses of Hotel, arrangements, manpower, etc can be availed.**
- **Even credit of car-hire use for the event will be admissible as it is used for the composite /mixed supply of event management.**
- **Eligibility of the credit of CGST / SGST charged for venue rent, banquet charges, etc in other state.?**

Impact of GST on Event Management Industry.

- **Rate of GST on event management services is 18%.**
- **Liability to registration – whether event manager is a casual taxable person.**
- **Place of Supply for Event Management service provider is**
 - **Location of registered service recipient if supply to GST registered person.**
 - **Location of event if supply to non-registered person.**

• Definition of casual taxable person.

(20) “casual taxable person” means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;

Impact of GST on Outdoor Caterer.

- **Rate of GST on outdoor catering services is 18%.**
- **Credit of GST paid on all goods and services like cutlery, crockery, furniture, etc.**
- **Cost of Compensation cess paid on items like aerated drinks.**
- **Benefit of Credit of GST paid on all purchases of food items, crockery, utensils, consumables, tables, etc.**
- **Disposal of business assets where ITC is taken without consideration – GST to be paid?**
- **RCM on stipend paid to Hotel Management Institute?**

Works contract service.

- **Definition under GST.**
- Clause 2 (119).
- Work contract means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning **OF ANY IMMOVABLE PROPERTY** wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

- **6. Composite supply**

- The following composite supplies shall be treated as a supply of services, namely:—

(a) works contract as defined in clause (119) of section 2; and

- **Rate of works contract – 18%.**

Works contract service.

- **Taxability of following contract:**
- **Construction of building.**
- **Painting of Building.**
- **Repairing contracts for buildings.**
- **Repairing contracts for Machinery with parts.**
- **Comprehensive Maintenance Contracts.**
- **Pest Control.**
- **Treatment of activities like interior works – e.g electrical, plumbing, false ceiling, furniture works.**

Works contract service.

- **Place of Supply for contracts with respect to Immovable Property is the location of the immovable property.**
- **Taxability of the contracts which are entered for works in different states.**
- **Implication of Credit of intra-state services / goods availed in other states.**
- **Implication of Casual Taxable Person.**

- **Construction Service**

Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier (**Excluding land Value**)*

Value of land for such **Supply Shall Be Deemed To Be One Third Of The Total Amount Charged For Such Supply**

- (a) **consideration charged for aforesaid service; and**
- (b) **amount charged for transfer of land or undivided share of land, as the case may be**

construction services other than above.

18%

Builders or Developers.

- **Full credit of GST paid on Purchase of Cement, Steel, Other materials, etc will be admissible for payment against GST.**
- **Many of the inputs are taxable @ 28%. Thus credit may be more than the liability.**
- **No refund of ITC will be admissible for builders due to inverted structure. However excess credit can be used for other liability.**
- **Anti-profiteering provisions to apply.**
- **Whether Credit of excise duty paid on goods used in under-construction building as on 30-06-2017?**
- **Taxability of Development Rights or Sale of FSI / TDR.? – Exclusion from GST is to .
Sale of land.**

GST rate on Imitation Jewellery and Gems

Natural or cultured pearls , precious or semi precious stone , precious metals, metals clad with precious metal , and article there of; imitation Jewellery :
Coins other than rough diamonds

3%

Rough Diamond

.25%

Manufacturing services on physical inputs (goods) owned by others -
Service by way of job work in relation to :
Cut and polished diamonds; precious and semi-precious stones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);

5%

Definition of Business.

- (17) “business” includes—
- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

Exempt Material
(Raw silk ,Silk Waste)

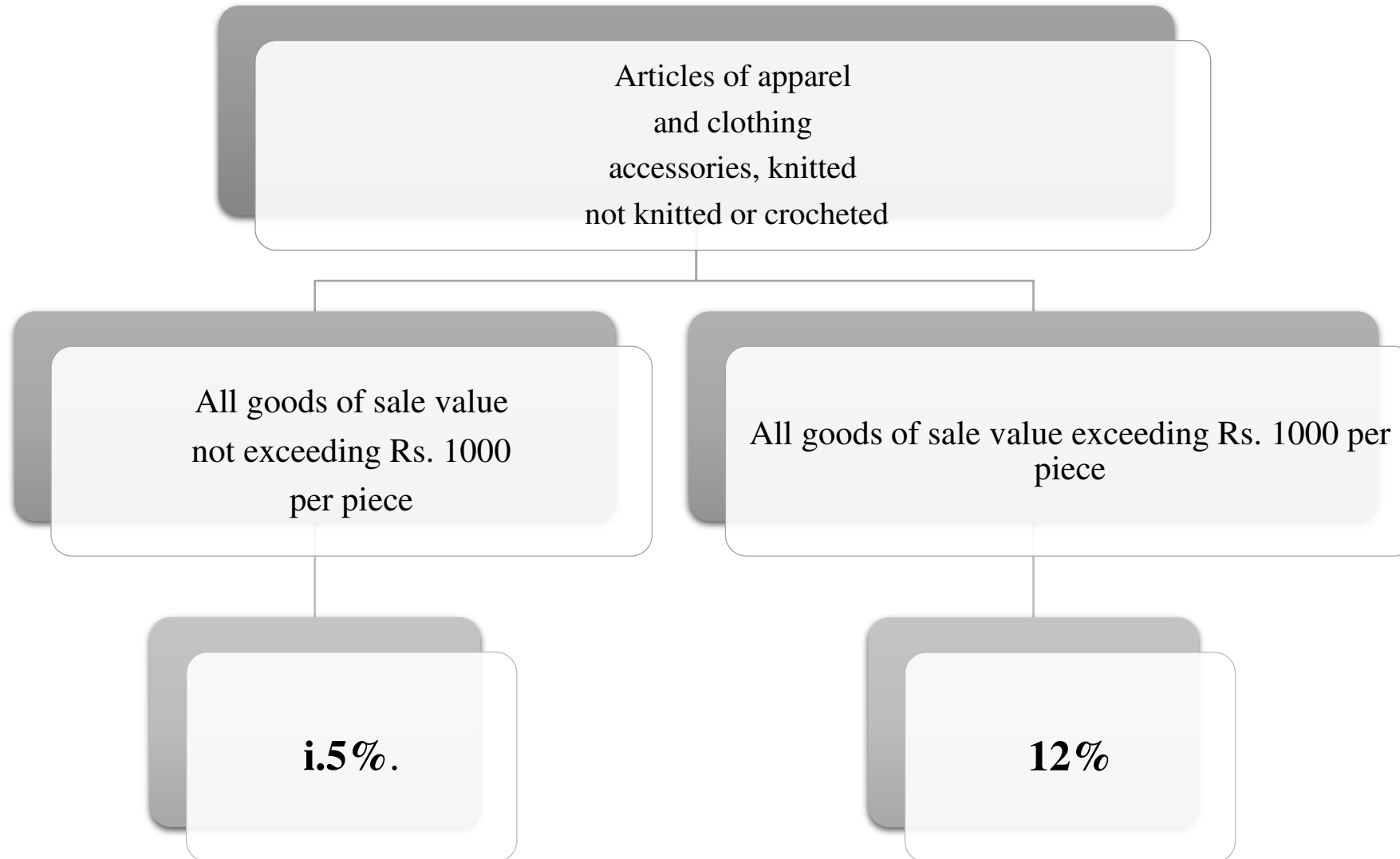
Material -5%
(Silk Yarn, fabrics of wool)

**Textile
Material**

Material -12%
(Rubber Thread and cord)

Material -18
(Synthetic filament)

• GST ON READY MADE GARMENT



Manufacturing service on physical inputs (goods) owned by others



Service by way of job work in relation to



Textile yarn (other than of man-made fibers) and
textile fabrics



5%

Service by way of job work other than mentioned above -18%