

GST UPDATE

(July, 2019)

Directorate of Training, Excise and Taxation Department, Punjab

ABSTRACT OF GST UPDATE

Sr. No.	Subject	Page No.
I.	<u>GIST OF GST NOTIFICATIONS</u>	01
II.	<u>PUNJAB GST NOTIFICATIONS/ORDERS</u>	05
III.	<u>CENTRAL TAX NOTIFICATIONS</u>	39
IV.	<u>CENTRAL TAX (RATE) NOTIFICATIONS</u>	47
V.	<u>IGST TAX (RATE) NOTIFICATIONS</u>	50
VI.	<u>CGST CIRCULARS</u>	53
VII.	<u>ADVANCE RULINGS</u>	67
VIII.	<u>COURT ORDERS/ JUDGEMENTS</u>	72

CONTENTS

Sr. No. Subject Page No.

I GIST OF GST NOTIFICATIONS 01

II PUNJAB GST NOTIFICATIONS/ORDERS

1	No. S.O.76/P.A.5/2017/Ss.9, 11, 15, 16 and 148/Amd./2019, dt. 18 th July, 2019	05
2	No. S.O.77/P.A.5/2017/S.9/Amd./2019, dt. 18 th July, 2019	33
3	No. S.O.78/P.A.5/2017/Ss.9 and 15/Amd./2019, dt. 18 th July, 2019	35
4	No. S.O.79/P.A.5/2017/Ss. 9, 11 and 16/Amd./2019, dt. 18 th July, 2019	37

III CENTRAL TAX NOTIFICATIONS

1	33/2019-Central Tax , dt. 18-07-2019	Seeks to carry out changes in the CGST Rules, 2017.	39
2	34/2019-Central Tax , dt. 18-07-2019	Seeks to extend the last date for furnishing FORM GST CMP-08	45
3	35/2019-Central Tax , dt. 29-07-2019	Seeks to extend the last date for furnishing FORM GST CMP-08 for the quarter April -June 2019 till 31.08.2019	46

IV CENTRAL TAX (RATE) NOTIFICATIONS

1	12/2019-Central Tax (Rate) , dt. 31-07-2019	Seeks to reduce the GST rate on Electric Vehicles, and charger or charging stations for Electric vehicles .	47
2	13/2019-Central Tax (Rate) , dt. 31-07-2019	Seeks to exempt the hiring of Electric buses by local authorities from GST.	49

V IGST TAX (RATE) NOTIFICATIONS

1	12/2019-Integrated Tax (Rate) , dt. 31-07-2019	Seeks to reduce the GST rate on Electric Vehicles, and charger or charging stations for Electric vehicles.	50
2	13/2019-Integrated Tax (Rate) , dt. 31-07-2019	Seeks to exempt the hiring of Electric buses by local authorities from GST.	52

VI CGST CIRCULARS

1	107/2019, dt. 18-07-2019	Seeks to clarify various doubts related to supply of Information Technology enabled Services (ITeS services).	53
2	108/2019, dt. 18-07-2019	Seeks to clarify issues regarding procedure to be followed in respect of goods sent / taken out of India for exhibition or on consignment basis for export promotion.	57

3	109/2019, dt. 22-07-2019	Clarification on issues related to GST on monthly subscription/contribution charged by a Residential Welfare Association from its members.	64
---	--------------------------	--	----

VII ADVANCE RULINGS

1	Advance Ruling No. RAJ/AAR/2019-20/13 dt. 02/07/2019	GST under RCM Payable on transportation Charges of cotton seed oil cake	67
2	Advance Ruling No. KER/50/2019 dt. 15/07/2019	Part of fishing vessels are taxable @ 5% GST	67
3	Advance Ruling No. KER/55/2019 dt. 15/07/2019	Separate GST registrations can be given to multiple companies functioning in a co-working space	68
4	Advance Ruling No. KAR ADRG 13/2019 dt. 16/07/2019	GST on Tool Amortisation cost on Capital Goods received on return basis	68
5	Advance Ruling No. KAR ADRG 15/2019 dt. 25/07/2019	GST on manufacturing & supply of submersible pump sets with installation	69
6	Advance Ruling No. KAR ADRG 16/2019 dt. 25/07/2019	GST on Partially completed flats	69
7	Advance Ruling No. KAR ADRG 17/2019 dt. 25/07/2019	GST payable on work executed under JDA on land owner's portion	70
8	Advance Ruling No. RAJ/AAR/2019-20/16 dt. 29/07/2019	GST Payable on execution related to transmission system of RVPN for customers	70

VIII COURT ORDERS/JUDGEMENTS

1	D.B. Civil Writ Petition No. 7684/2019 dt. 02/07/2019	HC upholds demand of Service Tax post introduction of GST	72
2	Special Civil Application No. 18591 of 2018 dt. 10/07/2019	9% Interest payable on delayed GST refund from filing date of GSTR 3B	72
3	Special Civil Application No.15925 of 2018 dt. 10/07/2019	Department to pay Interest on delay in Grant of IGST refund to Exporters @9% p.a	72
4	Special Civil Application No. 16213 Of 2018 dt. 17/07/2019	CGST Act does not provide for Lapse of ITC for inverted rate structure: HC	73
5	W.P.(C) No. 7743/2019 dt. 19/07/2019	DGAP cannot suo motu issue a notice requiring a company to submit information on all its products	73
6	W.P.(C) 12876/2018 dt. 22/07/2019	Delhi HC explains period for which Interest on VAT Refund Payable	74

(I) GIST OF GST NOTIFICATIONS

1. Carrying out changes in the CGST Rules, 2017

(i) The supplier with Multiplex screens should issue electronic ticket in accordance with Rule 46, except for the details of the recipient.

As per 4 Proviso to Rule 46 of CGST rules,

- if the value of invoice is less than Rs.200 [Sec 31(3)(b) of CGST act,2017],
- Recipient is not a registered person and
- The recipient also doesn't want an invoice,

the supplier need not issue invoice for each of the supplies, rather he can issue a consolidated invoice at the end of the day.

- The above said proviso has been amended to exclude the persons supplying services by way of admission to exhibition of cinematograph films in multiplex screens.
- Further new sub-rule 4A has been inserted in Rule 54 to specify that,
 - Such persons should issue an electronic ticket
 - The ticket should contain all the details as required in Rule 46, except the details of the recipient
 - Such ticket shall be considered as the tax invoice for all the purpose of the act.
- It is also specified that, for other than multiplex suppliers, this is optional.

(ii) New rule 83B, has been inserted to notify the forms for surrendering the enrolment of GST practitioner

- FORM GST PCT-06 for surrendering the registration by the GST practitioner
- FORM GST PCT-07 for issuing the order by the commissioner

(iii)The tenure of “The National Anti-Profiteering Authority” has been extended from 2yrs to 4yrs by amending rule 137.

(iv) The Rule 138E, related to Restriction on furnishing of information in PART A of the E-way bill, has been amended to notify the forms for releasing the restriction

- FORM GST EWB-05for the application by the supplier
- FORM GST EWB-06 for issuing the order by the commissioner

[Notification No. 33/2019 – Central Tax dated 18th July, 2019]

2. Due date for payment of tax through CMP-08 for the first quarter Apr'19-Jun'19 has been extended up to 31st Aug 2019

As per the recent amendments, the suppliers under composition scheme are required

(i) Pay tax on quarterly basis by filing FORM GST-CMP-08 by 18 of the month following the end of the quarter.

(ii) File the Annual return in FORM GSTR-4 **by 30 April** of the following the end of financial year

- However, since the GSTN is not ready with facility to file the same, the due date for the first quarter has been extended from 18 Jul'19 to 31 Jul'19.
- Further the same is extended up to **31st Aug 19**.

[Notification No. 34/2019 – Central Tax dated 18th July, 2019 and 35/2019 – Central Tax dated 29th July, 2019]

3. GST on 'Electrically operated vehicles'

(i) Tax rate for supply of such vehicles, Charger or Charging station has been reduced to 5%

(ii) Hiring of such vehicles, with capacity > 12 passengers, to a local authority has been exempted.

An explanation has been provided to state that the "Electrically operated vehicle" means

- Vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)
- Which is run solely on electrical energy derived from an external source

or from one or more electrical batteries fitted to such road vehicle'.

[Notification No. 12/2019 and 13/2019-Central Tax (Rate) dated 31st July, 2019]

4. Clarification on supply of IT enabled services – Person supplying services on his own account can never be an intermediary

Considering the different types of treatments for the transaction of Information technology enabled services (ITeS in short), the department has clarified that,

- The definition of intermediary services provides specific exclusion of a person i.e. that of a person who supplies such goods or services or both or securities on his own account
- Therefore, the person supplying services on his own account can never be an intermediary, irrespective of the facts to whom / on whose behalf such services were provided.

Further, the same is explained with 3 different scenarios:

Scenario	Treatment
Supplier A provides back end services to his client B or the customer of B i.e. C.	A is not an intermediary as he is providing his own services

The supplier A located in India arranges or facilitates the supply of goods or services or both by his client B located abroad to the customer of client C.
Such backend services may include support services, during pre-delivery, delivery and post-delivery of supply (such as order placement and delivery and logistical support, obtaining relevant Government clearances, transportation of goods, post-sales support and other services, etc.)

A is an intermediary, as he is just facilitating the supply of goods/services but not the actual supplier of Goods/Services.

Combination of the above two scenarios.

Would vary based on the facts of the case. Should be decided on Case-to-case basis.

[Circular No.107/2019- GST – dated 18th July, 2019]

5. Clarification for treatment of Goods sent/taken out of India “for exhibition” or “on consignment basis” for export promotion and the documents to be maintained

Considering the different types of treatments for the transaction of sending goods out of India as exports / otherwise, the department has issued the clarifications as below:

1. Whether the transaction amounts to Supply / Zero-rated supply?
 - The said movement doesn't amount to supply, as there is no consideration and also it doesn't fall under Deemed supplies as specified in Schedule-I of CGST act,2017
 - Since it is not a supply, it can't be a zero-rated
2. If not a supply, Documents & procedure for transportation:

Since it is not a supply,

- The goods should be sent by issuing a delivery challan.
- No GST required to be paid
- Also, no LUT/Bond are required to be executed

What if the goods taken outside are sold out?

- The transaction amounts to supply, to the extent of goods sold and
- The supplier should issue invoice for the part of the goods sold in accordance with the respective provisions
- Since, the goods are taken outside India, it amounts to export of Goods

i. What if the goods taken out were neither sold nor brought back to India?

If the goods sent/taken out doesn't come back within 6 months from the date of sending the goods,

- The same shall be treated as supply
- Since, the goods are taken outside India, it amounts to export of Goods
- The supplier should issue GST invoice upon expiry of 6 months

1. After issuing invoice, can we claim refund?

- Yes, the tax payers can claim the refund
- However, such refund should be for the accumulated credit but not for the taxes paid

2. Any other details are required to be maintained?

The supplier should maintain the data in the below format:

Folio No. / Reference No.	Description of specified goods	Quantity unit (Nos./ grams / piece etc.)	Value per unit	Total value of the specified goods	Date of removal from place of business	Delivery Challan No. & date	Shipping Bill no. & Date	Details of specified goods supplied (i.e. specified goods not brought back)	Invoice no. & date	Details of specified goods brought back	Bill of Entry No. & Date
---------------------------	--------------------------------	--	----------------	------------------------------------	--	-----------------------------	--------------------------	---	--------------------	---	--------------------------

[Circular No.108/2019- GST – dated 18th July, 2019]

6. Clarification on issues related to GST on monthly subscription/contribution charged by a Residential Welfare Association from its members

Various clarifications provided are summarized in the table below:

Issue	Clarification																		
What is the limit for exemption? Is there any exemption? If yes, what is the threshold limit?	Yes, it is exempted. Limit is as followed: 01-Jul-17 to 24-Jan-18: Rs. 5,000/- 25-Jan-18 onwards : Rs. Rs. 7,500/-																		
Threshold is per owner per flat? Mr. A is having 3 flats and maintenance is Rs. 7,000/- per flat totalling to Rs.21,000/- per month. Exemption is applicable or not?	It is per flat not per owner. Reason, in general, the membership is based on the flats but for the owners. Amount received from Mr. A is eligible for exemption.																		
Tax computation: If the monthly maintenance is >Rs. 7,500/-, say Rs. 9,000/- tax should be paid on gross amount of Rs. 9,000 or net amount of Rs. 1,500/- (9000-7500)?	The tax should be paid on gross amount. i.e. Rs, 9,000/- in the example.																		
GST Registration: If the monthly maintenance is more than Rs.7,500 and Annual turnover is less than Rs.20L, still they should get registered?	<table border="1"> <thead> <tr> <th>Annual turnover of RWA</th> <th>Monthly maintenance charge</th> <th>Registration</th> <th>Whether exempt?</th> </tr> </thead> <tbody> <tr> <td rowspan="2">More than Rs. 20 lakhs</td> <td>More than Rs. 7,500/-</td> <td>Required</td> <td>No</td> </tr> <tr> <td>Less than or equal to Rs. 7,500/-</td> <td></td> <td>Yes</td> </tr> <tr> <td rowspan="2">Less than or equal to Rs. 20 lakhs</td> <td>More than Rs. 7,500/-</td> <td>Not required</td> <td>Yes</td> </tr> <tr> <td>Less than or equal to Rs. 7,500/-</td> <td></td> <td>Yes</td> </tr> </tbody> </table>	Annual turnover of RWA	Monthly maintenance charge	Registration	Whether exempt?	More than Rs. 20 lakhs	More than Rs. 7,500/-	Required	No	Less than or equal to Rs. 7,500/-		Yes	Less than or equal to Rs. 20 lakhs	More than Rs. 7,500/-	Not required	Yes	Less than or equal to Rs. 7,500/-		Yes
Annual turnover of RWA	Monthly maintenance charge	Registration	Whether exempt?																
More than Rs. 20 lakhs	More than Rs. 7,500/-	Required	No																
	Less than or equal to Rs. 7,500/-		Yes																
Less than or equal to Rs. 20 lakhs	More than Rs. 7,500/-	Not required	Yes																
	Less than or equal to Rs. 7,500/-		Yes																
Input credit: If the amount charged per month per member is >Rs.7,500/-, RWA is Eligible for credit or not??	Eligible for all Goods, Capital goods and Services. E.g.: Capital goods: Generators, water pumps, lawn furniture etc Goods: taps, pipes, other sanitary/hardware fillings etc. Services: repair and maintenance services...etc.																		

[Circular No.109/2019- GST – dated 22nd July, 2019]

(II) PUNJAB GST NOTIFICATIONS/ORDERS

PUNJAB GOVT. GAZ. (EXTRA), JULY 23, 2019
(SRVN 1, 1941 SAKA)

357

PART III

GOVERNMENT OF PUNJAB

DEPARTMENT OF EXCISE AND TAXATION

(EXCISE AND TAXATION BRANCH-II)

NOTIFICATION

The 18th July, 2019

No. S.O.76/P.A.5/2017/Ss.9, 11, 15, 16 and 148/Amd./2019.- In exercise of the powers conferred by sub-sections (1), (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), and all other powers enabling him in this behalf, the Governor, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.17/P.A.5/2017/Ss.9, 11, 15 and 16/2017 dated the 30th June, 2017 published in the Punjab Government Gazette (Extraordinary), Part III, dated 30th June, 2017, namely:-

AMENDMENT

In the said notification, -

- (i) in the opening paragraph,-
 - (a) after the words, brackets and figure “conferred by sub-section (1)”, the words, brackets and figures “sub-section (3) and sub-section (4)” shall respectively be inserted;
 - (b) after the words and figures “sub-section (5) of section 15”, for the word "and", the sign "," shall be substituted ;
 - (c) after the word and figure “section 16”, the words and figure “and section 148” shall be inserted;
- (ii) in the Table, -
 - (a) against serial number 3, for item (i), and the entries relating thereto in column (3), (4) and (5), the following items and entries shall be substituted, namely, -

Table

(3)	(4)	(5)
<p>“(i) Construction of affordable residential apartments by a promoter in a Residential Real Estate Project (herein after referred to as RREP) which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay state tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, 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. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	0.75	<p>Provided that the state tax at the rate specified in column (4) shall be paid in cash, that is, by debiting the electronic cash ledger only; Provided also that credit of input tax charged on goods and services used in supplying the service hasnot been taken except to the extent as prescribed in Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP; Provided also that the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equivalent to the input tax credit attributable to construction in a project, time of supply of which is on or after 1st April, 2019, which shall be calculated in the manner as prescribed in the Annexure I in the case of REP other than RREP and in</p>
<p>(ia) Construction of residential apartments other than affordable residential apartments by a promoter in an RREP which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay State tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion</p>	3.75	<p>Annexure II in the case of RREP; Provided also that where a registered person (landowner- promoter) who transfers development right or FSI (including additional FSI) to a promoter (developer- promoter) against consideration, wholly or partly, in the form of construction of apartments, - (i) the developer- promoter shall pay tax on supply of construction of apartments to the landowner- promoter, and (ii) such landowner – promoter shall be eligible for credit of taxes charged from him by the developer promoter towards</p>

<p>certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	<p>the supply of construction of apartments by developer- promoter to him, provided the landowner- promoter further supplies such apartments to his buyers before issuance of completion certificate or first occupation, whichever is earlier, and pays</p>
<p>(ib) Construction of commercial apartments (shops, offices, godowns etc.) by a promoter in an RREP which commences on or after 1st April, 2019 which the promoter has not exercised option to pay State tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, 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. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	<p>tax on the same which is not less than the amount of tax charged from him on construction of such apartments by the developer- promoter. Explanation. - (i) “developer- promoter” is a promoter who constructs or converts a building into apartments or develops a plot for sale, (ii) “landowner- promoter” is a promoter who transfers the land or development rights or FSI to a developer- promoter for construction of apartments and receives constructed apartments against such transferred rights and sells such apartments to his buyers independently. Provided also that eighty percent of value of input and input services, [other than services by way of grant of development rights, long term lease of land (against</p>
<p>(ic) Construction of affordable residential apartments by a promoter in a Real Estate Project (herein after referred to as REP) other than RREP, which commences on or after 1st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay State tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the</p>	<p>upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be received from registered supplier only; Provided also that inputs and input services on which tax is paid on reverse charge basis shall be deemed to have been purchased from registered person; Provided also that where value of input and input services received from registered suppliers during the financial</p>

<p>entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	<p>year (or part of the financial year till the date of issuance of completion certificate or first occupation of the project, whichever is earlier) falls short of the said threshold of 80 per cent., tax shall be paid by the promoter on value of input and input services comprising such shortfall at the rate of eighteen percent on reverse charge basis and all the provisions of the Punjab Goods and Services Tax Act, 2017 shall apply to him as if he is the person liable for paying the tax in relation to the supply of such goods or services or both;</p>
<p>(id) Construction of residential apartments other than affordable residential apartments by a promoter in a REP other than a RREP which commences on or after 1st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay state tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, 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. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	<p>Provided also that notwithstanding anything contained herein above, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement at the applicable rates on reverse charge basis and all the provisions of the Punjab Goods and Services Tax Act, 2017, shall apply to him as if he is the person liable for paying the tax in relation to such supply of cement; (Please refer to the illustrations in annexure III)</p> <p>Explanation. -</p> <p>1. The promoter shall maintain project wise account of inward supplies from registered and unregistered supplier and calculate tax payments on the shortfall at the end of the financial year and shall submit the same in the prescribed form electronically on the common portal by end of the quarter following the financial year. The tax liability on the shortfall of inward supplies from unregistered person so determined shall be added to his output</p>

		<p>tax liability in the month not later than the month of June following the end of the financial year.</p> <p>2. Notwithstanding anything contained in Explanation 1 above, tax on cement received from unregistered person shall be paid in the month in which cement is received.</p> <p>3. Input Tax Credit not availed shall be reported every month by reporting the same as ineligible credit in GSTR-3B [Row No. 4 (D)(2)].</p>
<p>(ie) Construction of an apartment in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table, in respect of which the promoter has exercised option to pay state tax on construction of apartments at the rates as specified for this item. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	<p>6</p>	<p>Provided that in case of ongoing project, the registered person shall exercise one time option in the Form at Annexure IV to pay state tax on construction of apartments in a project at the rates as specified for item (ie) or (if), as the case may be, by the 10th of May, 2019; Provided also that where the option is not exercised in Form at annexure IV by the 10th of May, 2019, option to pay tax at the rates as applicable to item (i) or (ia) or (ib) or (ic) or (id) above, as the case may be, shall be deemed to have been exercised;</p>
<p>(if) Construction of a complex, building, civil structure or a part thereof, including,- (i) commercial apartments (shops, offices, godowns etc.) by a promoter in a REP other than RREP, (ii) residential apartments in an ongoing project, other than affordable residential apartments, in respect of which the promoter has exercised option to pay state tax on construction</p>		<p>Provided also that invoices for supply of the service can be issued during the period from 1st April 2019 to 10th May 2019 before exercising the option, but such invoices shall be in accordance with the option to be exercised.;</p>

<p>of apartments at the rates as specified for this item in the manner prescribed herein,</p> <p>but excluding supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) above 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.</p> <p>Explanation. -For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) in column (3) shall attract state tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service</p>	9	
---	---	--

(b) against serial number 3, -

- a. item (ii) and the entries relating thereto in columns (3), (4) and (5) shall be omitted;
- b. in item (iv) in column (3), -
 - (1) after the figures "2017", the words, brackets, figures and letters "other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above" shall be inserted;
- c. in item (v) in column (3), -
 - (1) after the figures "2017", the words, brackets, figures and letters "other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above" shall be inserted;
- d. after item (v) and entries relating thereto in column (3), (4) and (5), the following items and entries shall be inserted, namely, -

(3)	(4)	(5)
<p>(va) Composite supply of works contract as defined in clause (119) of section 2 of the Punjab Goods and Services Tax Act, 2017, other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of affordable residential apartments covered by sub-clause (a) of clause (xvi) of paragraph 4 below, in a project which commences on or after 1st April, 2019, or in an ongoing project in respect of which the promoter has not exercised option to pay state tax on construction of apartments at the rates as specified for item (ie) or (if), as the case may be, in the manner prescribed therein,</p>	<p>6</p>	<p>Provided that carpet area of the affordable residential apartments as specified in the entry in column (3) relating to this item, is not less than 50 per cent. of the total carpet area of all the apartments in the project; Provided also that for the purpose of determining whether the apartments at the time of supply of the service are affordable residential apartments covered by sub-clause (a) of clause (xvi) of paragraph 4 below or not, value of the apartments shall be the value of similar apartments booked nearest to the date of signing of the contract for supply of the service specified in the entry in column (3) relating to this item; Provided also that in case it finally turns out that the carpet area of the affordable residential apartments booked or sold before or after completion, for which gross amount actually charged was forty five lakhs rupees or less and the actual carpet area was within the limits prescribed insub-clause (a) of clause (xvi) of paragraph 4 below, was less than 50 per cent. of the total carpet area of all the apartments in the project, the recipient of the service, that is, the promoter shall be liable to pay such amount of tax on reverse charge basis as is equal to the difference between the tax payable on the service at the applicable rate but for the rate prescribed herein and the tax actually paid at the rate prescribed herein”;</p>

- e. in item (vi) in column (3), after the figures “2017”, the words, brackets, and figures “other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above” shall be inserted’;
- f. in item (xii) in column (3), for the entry, the following entry shall be substituted, namely:-
“(xii) Construction services other than (i), (ia), (ib), (ic), (id), (ie), (if), (iii), (iv), (v), (va), (vi), (vii), (viii), (ix), (x) and (xi) above.

Explanation. - For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id), (ie) and (if) in column (3) shall attract state tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry.”;

- (c) against serial number 16, in item (ii) in column (3), for the word, brackets and letters “sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi)”, the word, brackets, figures and letters “ (i) (ia), (ib), (ic), (id), (ie) and (if)” shall be substituted;
- (d) after serial number 38 in column (1) and the entries relating thereto in column (2), (3), (4) and (5), the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“39.	Chapter 99	Supply of services other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI) by an unregistered person to a promoter for construction of a project on which tax is payable by the recipient of the services under sub- section 4 of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), as prescribed in notification No. S.O.70/P.A.5/2017/S.9/2019 dated the 06th June, 2019, published in Punjab Government (Extraordinary) Gazette, dated the 24th June, 2019 Explanation. - This entry is to be taken to apply to all services which satisfy the conditions prescribed herein, even though they may be covered by a more specific chapter, section or heading elsewhere in this notification.	9	-”;

-
- (iii) in paragraph 2,-
- (a) for the words, brackets, letters and figures “sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi),” the word, brackets, letters and figures “ (i) (ia), (ib), (ic), (id), (ie) and (if)” shall be substituted;
 - (b) in the Explanation, after the words “this paragraph” the words “and paragraph 2A below” shall be inserted;
- (iv) after paragraph 2, the following paragraph shall be inserted, namely, -
- “2A. Where a registered person transfers development right or FSI (including additional FSI) to a promoter against consideration, wholly or partly, in the form of construction of apartments, the value of construction service in respect of such apartments shall be deemed to be equal to the Total Amount charged for similar apartments in the project from the independent buyers, other than the person transferring the development right or FSI (including additional FSI), nearest to the date on which such development right or FSI (including additional FSI) is transferred to the promoter, less the value of transfer of land, if any, as prescribed in paragraph 2 above.”;
- (v) in paragraph 4 relating to Explanation, after clause (xii), the following clauses shall be inserted, namely: -
- “(xiii) an apartment booked on or before the 31st March, 2019 shall mean an apartment which meets all the following three conditions, namely- (a) part of supply of construction of which has time of supply on or before the 31st March, 2019 and (b) at least one instalment has been credited to the bank account of the registered person on or before the 31st March, 2019 and (c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the 31st March, 2019;
 - (xiv) the term “apartment” shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);
 - (xv) the term “project” shall mean a Real Estate Project or a Residential Real Estate Project;
 - (xvi) the term “affordable residential apartment” shall mean, -
- (a) a residential apartment in a project which commences on or after 1st April, 2019, or in an ongoing project in respect of which the promoter has not exercised option in the prescribed form to pay state tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, having carpet area not exceeding 60 square meter in metropolitan cities or 90

square meter in cities or towns other than metropolitan cities and for which the gross amount charged is not more than forty five lakhs rupees.

For the purpose of this clause, -

- (i) Metropolitan cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR) with their respective geographical limits prescribed by an order issued by the Central or State Government in this regard;
- (ii) Gross amount shall be the sum total of; -
 - A. Consideration charged for the services specified at item (i) and (ic) in column (3) against sl. No. 3 in the Table;
 - B. Amount charged for the transfer of land or undivided share of land, as the case may be including by way of lease or sub lease; and
 - C. Any other amount charged by the promoter from the buyer of the apartment including preferential location charges, development charges, parking charges, common facility charges etc.
- (b) an apartment being constructed in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table above, in respect of which the promoter has not exercised option to pay state tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be.

(xvii) the term “promoter” shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xviii) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xix) the term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP;

(xx) the term “ongoing project” shall mean a project which meets all the following conditions, namely-

- (a) commencement certificate in respect of the project, where required to be issued by the competent authority, has been issued on or before 31st March, 2019, and it is certified by any of the following that construction of the project has started on or before 31st March, 2019:-

-
- (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or
 - (ii) a chartered engineer registered with the Institution of Engineers (India); or
 - (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.
- (b) where commencement certificate in respect of the project, is not required to be issued by the competent authority, it is certified by any of the authorities specified in sub-clause (a) above that construction of the project has started on or before the 31st March, 2019;
- (c) completion certificate has not been issued or first occupation of the project has not taken place on or before the 31st March, 2019;
- (d) apartments being constructed under the project have been, partly or wholly, booked on or before the 31st March, 2019.

Explanation.-For the purpose of sub-clause (a) and (b) above, construction of a project shall be considered to have started on or before the 31st March, 2019, if the earthwork for site preparation for the project has been completed and excavation for foundation has started on or before the 31st March, 2019.

(xxi) "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan;

(xxii) "development works" means the external development works and internal development works on immovable property;

(xxiii) "external development works" includes roads and road systems landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws;

(xxiv) "internal development works" means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal, water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as educational health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;

(xxv) the term "competent authority" as mentioned in definition of "commencement certificate" and "residential apartment", means the local authority or any authority created or established

under any law for the time being in force by the Central Government or State Government or Union Territory Government, which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;

(xxvi) The term “carpet area” shall have the same meaning assigned to it in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xxvii) the term “Real Estate Regulatory Authority” shall mean the Authority established under sub-section (1) of section 20 (1) of the Real Estate (Regulation and Development) Act, 2016 (No. 16 of 2016) by the Central Government or State Government;

(xxviii) “project which commences on or after 1st April, 2019” shall mean a project other than an ongoing project;

(xxix) “Residential apartment” shall mean an apartment intended for residential use as declared to the Real Estate Regulatory Authority or to competent authority;

(xxx) “Commercial apartment” shall mean an apartment other than a residential apartment;

(xxxi) “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.”.

2. This notification shall be deemed to have come into force on and with effect from 01st day of April, 2019.

Annexure I

Real estate project (REP) other than Residential Real estate project (RREP)

Input tax credit attributable to construction of residential portion in a real estate project (REP) other than residential real estate project (RREP), which has time of supply on or after 1st April, 2019, shall be calculated project wise for all projects which commence on or after 1st April, 2019 or ongoing projects in respect of which the promoter has not exercised option to pay state tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, in the prescribed manner, before the due date for furnishing of the return for the month of September following the end of financial year 2018-19, in the following manner:

1. **Where % completion as on 31st March, 2019 is not zero or where there is inventory in stock**

- (a) Input tax credit on inputs and input services attributable to construction of residential portion in a REP, which has time of supply on or after 1st April, 2019, may be denoted as Tx. Tx shall be calculated as under:

$$Tx = T - T_e$$

Where,

- (i) T is the total ITC availed (utilized or not) on inputs and input services used in construction of the REP from 1st July, 2017 to 31st March, 2019 including transitional credit taken on 1st July, 2017;
 - (ii) Te is the eligible ITC attributable to (a) construction of commercial portion and (b) construction of residential portion, in the REP which has time of supply on or before 31st March, 2019;
- (b) Te shall be calculated as under:

$$Te = Tc + Tr$$

Where, -

Tc is the ITC attributable to construction of commercial portion in the REP, calculated as under:

$Tc = T * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP})$ and

Tr is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31st March, 2019 and which shall be calculated as under,

$$Tr = T * F_1 * F_2 * F_3 * F_4$$

Where, -

$$F_1 = \frac{\text{Carpet area of residential apartments in REP}}{\text{Total carpet area of commercial and residential apartments in the REP}}$$

$$F_2 = \frac{\text{Total carpet area of residential apartment booked on or before 31st March, 2019}}{\text{Total carpet area of the residential apartment in REP}}$$

$$F_3 = \frac{\text{Such Value of supply of construction of residential apartments booked on or before 31st March, 2019 which has time of supply on or before 31st March, 2019}}{\text{Total value of supply of construction of residential apartments booked on or before 31st March, 2019}}$$

(F3 is to account for percentage invoicing of booked residential apartments)

$$F_4 = \frac{1}{\% \text{ Completion of construction as on 31st March, 2019}}$$

Illustration: where one- fifth (twenty percent) of the construction has been completed, F4 shall be $100 \div 20 = 5$.

Explanation: “% Completion of construction as on 31st March, 2019” shall be the same as declared to the Real Estate Regulatory Authority in terms of section 4 and section 11 of Real Estate (Regulation and Development) Act, 2016 (16 of 2016) and where the same is not required to be declared to the Real Estate Regulatory Authority, it shall be got determined and certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India).

(c) A registered person shall have the option to calculate ‘Te’ in the manner prescribed below instead of the manner prescribed in (b) above,-

Te shall be calculated as under:

$$Te = Tc + T1 + Tr$$

Where, -

Tc is the ITC attributable to construction of commercial portion in the REP, calculated as under:

$Tc = T3 * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP})$;

Wherein

$$T3 = T - (T1 + T2)$$

T1 = ITC attributable exclusively to construction of commercial portion in the REP

T2 = ITC attributable exclusively to construction of residential portion in the REP

and

Tr is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31.03.2019 and which shall be calculated as under,

$$Tr = (T3 + T2) * F_1 * F_2 * F_3 * F_4$$

or

$$Tr = (T - T1) * F_1 * F_2 * F_3 * F_4$$

(d) The amounts ‘Tx’ and ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(e) Where, Tx is positive, i.e. $Te < T$, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and Te. Such amount shall form part of the output tax liability of the registered person and the amount shall be furnished in FORM GST ITC- 03.

Explanation: The registered person may file an application in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due or for allowing payment of such taxes or amount in installments in accordance with the provisions of section 80. The commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly installments, not exceeding twenty-four, as he may deem fit.

(f) Where Tx is negative, i.e. $T_e > T$, the registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential portion in the REP, for which he shall not otherwise be eligible, to the extent of difference between T_e and T.

(g) The registered person may calculate T_c and utilize credit to the extent of T_c for payment of tax on commercial apartments, till the complete accounting of Tx is carried out and submitted.

(h) Where percentage completion is zero but ITC has been availed on goods and services received for the project on or prior to 31st March, 2019, input tax credit attributable to construction of residential portion which has time of supply on or after 1st April, 2019, shall be calculated and the amount equal to Tx shall be paid or taken credit of, as the case may be, as prescribed above, with the modification that percentage completion for calculation of F4 shall be taken as the percentage completion which, as certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India), can be achieved with the input services received and inputs in stock as on 31st March, 2019.

2. Where % completion as on 31st March, 2019 is zero but invoicing has been done having time of supply before 31st March, 2019, and no input services or inputs have been received as on 31st March, 2019, “Te” shall be calculated as follows: -

(a) Input tax credit on inputs and input services attributable to construction of residential portion in a REP, which has time of supply on or before 31st March, 2019 may be denoted as T_e which shall be calculated as under,

$$T_e = T_c + T_r$$

Where, -

T_c is the ITC attributable to construction of commercial portion in the REP, calculated as under:

$T_c = T_n * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP})$ and

Tr is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31st March, 2019 and which shall be calculated as under,

$$Tr = Tn * F_1 * F_2 * F_3$$

Where, -

Tn= Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of REP

F1, F2 and F3 shall be the same as in para 1 above

(b) The registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential portion in the REP, for which he shall not otherwise be eligible, to the extent of the amount of Te.

(c) The amount 'Te' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

3. Notwithstanding anything contained in paragraph 1 or paragraph 2 above, Te shall be determined in the following situations as under:

- (i) where percentage invoicing is more than the percentage completion and the difference between percentage invoicing (per cent. points) and the percentage completion (per cent. points) of construction is more than 25 percent. points; the value of percentage invoicing shall be deemed to be percentage completion plus 25 percent. points;
- (ii) where the value of invoices issued on or prior to 31st March, 2019 exceeds the consideration actually received on or prior to 31st March, 2019 by more than 25 percent. of consideration actually received; the value of such invoices for the purpose of determination of percentage invoicing shall be deemed to be actual consideration received plus 25 percent. of the actual consideration received; and
- (iii) where, the value of procurement of inputs and input services prior to 1st April, 2019 exceeds the value of actual consumption of the inputs and input services used in the percentage of construction completed as on 31st March, 2019 by more than 25 percent. of value of actual consumption of inputs and input services, the jurisdictional commissioner or any other officer authorized in this regard may fix the Te based on actual per unit consumption of inputs and input services based on the documents duly certified by a chartered accountant or cost accountant submitted by the promoter in this regard, applying the accepted principles of accounting.

Illustration 1:

Sl No	Details of a REP (Res + Com)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		75	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	5250	sqm
5	value of each residential apartment		0.60	crore
6	Total value of the residential apartments	$C2 * C5$	45.00	crore
7	No. of commercial apartments in the project		25	units
8	Carpet area of the commercial apartment		30	sqm
9	Total carpet area of the commercial apartments	$C7 * C8$	750	sqm
10	Total carpet area of the project (Resi + Com)	$C4 + C9$	6000	sqm
11	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
12	No of residential apartments booked before transition		40	units
13	Total carpet area of the residential apartments booked before transition	$C12 * C3$	2800	sqm
14	Value of booked residential apartments	$C5 * C12$	24	crore
15	Percentage invoicing of booked residential apartments on or before 31.03.2019		20%	
16	Total value of supply of residential apartments having t.o.s. prior to transition	$C14 * C15$	4.8	crore
17	ITC to be reversed on transition, $T_x = T - T_e$			
18	Eligible ITC (T_e) = $T_c + T_r$			
19	T (*see notes below)		1	crore
20	$T_c = T \times$ (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP)	$C19 * (C9 / C10)$	0.125	crore
21	$T_r = T \times F1 \times F2 \times F3 \times F4$			
22	F1	$C4 / C10$	0.875	
23	F2	$C13 / C4$	0.533	
24	F3	$C16 / C14$	0.200	
25	F4	$1 / C11$	5	
26	$T_r = T \times F1 \times F2 \times F3 \times F4$	$C19 * C22 * C23 * C24 * C25$	0.467	crore
27	Eligible ITC (T_e) = $T_c + T_r$	$C26 + C20$	0.592	crore
28	ITC to be reversed on transition, $T_x = T - T_e$	$C19 - C27$	0.408	crore

* Note:-
1. The value of T at C19 has been estimated for illustration based on weighted average tax on inputs.
2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.

Illustration 2:

Details of a REP (Res + Com)				
Sl No	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		75	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	5250	sqm
5	value of each residential apartment		0.60	crore
6	Total value of the residential apartments	$C2 * C5$	45.00	crore
7	No. of commercial apartments in the project		25	units
8	Carpet area of the commercial apartment		30	sqm
9	Total carpet area of the commercial apartments	$C7 * C8$	750	sqm
10	Total carpet area of the project (Resi + Com)	$C4 + C9$	6000	sqm
11	Percentage completion (Pc) as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
12	No of residential apartments booked before transition		40	units
13	Total carpet area of the residential apartments booked before transition	$C12 * C3$	2800	sqm
14	Value of booked residential apartments	$C5 * C12$	24	crore
15	Percentage invoicing of booked residential apartments on or before 31.03.2019		60%	
16	Total value of supply of residential apartments having t.o.s. prior to transition	$C14 * C15$	14.4	crore
17	ITC to be reversed on transition, $T_x = T - T_e$			
18	Eligible ITC (T_e) = $T_c + T_r$			
19	T (*see notes below)		1	crore
20	$T_c = T_x$ (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP)	$C19 * (C9 / C10)$	0.125	crore
21	$T_r = T_x F1 * F2 * F3 * F4$			
22	F1	$C4 / C10$	0.875	
23	F2	$C13 / C4$	0.533	
24	F3	$C16 / C14$	0.600	
25	F4	$1 / C11$	5	
26	$T_r = T_x F1 * F2 * F3 * F4$	$C19 * C22 * C23 * C24 * C25$	1.400	crore
27	Eligible ITC (T_e) = $T_c + T_r$	$C26 + C20$	1.525	crore
28	ITC to be reversed/ taken on transition, $T_x = T - T_e$	$C19 - C27$	-0.525	crore
29	T_x after application of cap on % invoicing vis-a-vis Pc			
30	% completion		20%	
31	% invoicing		60%	
32	% invoicing after application of cap ($P_c + 25%$)	$C11 + 25%$	45%	
33	Total value of supply of residential apartments having t.o.s. prior to transition	$C14 * C32$	10.80	crore
34	F3 after application of cap	$C33 / C14$	0.45	
35	$T_r = T_x F1 * F2 * F3 * F4$ (after application of cap)	$C19 * C22 * C23 * C34 * C25$	1.05	crore
36	Eligible ITC (T_e) = $T_c + T_r$ (after application of cap)	$C20 + C35$	1.18	crore
37	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of cap)	$C19 - C36$	-0.18	crore
38	T_x after application of cap on % invoicing vis-a-vis Pc and payment realisation			
39	% invoicing after application of cap ($P_c + 25%$)		45%	
40	Total value of supply of residential apartments having t.o.s. prior to transition	C33	10.80	crore
41	Consideration received		8.00	crore
42	Total value of supply of residential apartments having t.o.s. prior to transition after application of cap vis-a-vis consideration received	$8 \text{ cr} + 25\% \text{ of } 8 \text{ Cr}$	10.00	crore
43	F3 after application of both the caps	$C42 / C14$	0.42	
44	$T_r = T_x F1 * F2 * F3 * F4$ (after application of both the caps)	$C19 * C22 * C23 * C43 * C25$	0.97	
45	Eligible ITC (T_e) = $T_c + T_r$ (after application of both the caps)	$C20 + C44$	1.10	
46	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of both the caps)	$C19 - C45$	-0.10	crore

* Note:-

1. The value of T at C19 has been estimated for illustration based on weighted average tax on inputs.

2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.

Annexure II

Residential Real estate project (RREP)

Input tax credit attributable to construction of residential and commercial portion in a Residential Real estate project (RREP), which has time of supply on or after 1st April, 2019, shall be calculated project wise for all projects which commence on or after 1st April, 2019 or ongoing projects in respect of which the promoter has not exercised option to pay state tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, in the prescribed manner, before the due date for furnishing of the return for the month of September following the end of financial year 2018-19, in the following manner:

1. Where % completion as on 31st March, 2019 is not zero or where there is inventory in stock

(a) Input tax credit on inputs and input services attributable to construction of residential and commercial portion in an RREP, which has time of supply on or after 1st April, 2019, may be denoted as Tx. Tx shall be calculated as under:

$$Tx = T - T_e$$

Where,

- (i) T is the total ITC availed (utilized or not) on inputs and input services used in construction of the RREP from 1st July, 2017 to 31st March, 2019 including transitional credit taken on 1st July, 2017;
 - (ii) T_e is the eligible ITC attributable to construction of commercial portion and construction of residential portion, in the RREP which has time of supply on or before 31st March, 2019;
- (b) T_e shall be calculated as under:

$$T_e = T * F_1 * F_2 * F_3 * F_4$$

Where, -

$$F_1 = \frac{\text{Carpet area of residential and commercial apartments in the RREP}}{\text{Total carpet area of apartments in the RREP}}$$

(In case of a Residential Real Estate Project, value of "F1" shall be 1.)

$$F_2 = \frac{\text{Total carpet area of residential and commercial apartment booked on or before 31st March, 2019}}{\text{Total carpet area of the residential and commercial apartment in the RREP}}$$

$$F_3 = \frac{\text{Such value of supply of construction of residential and commercial apartments booked on or before 31st March, 2019 which has time of supply on or before 31st March, 2019}}{\text{Total value of supply of construction of residential and commercial apartments booked on or before 31st March, 2019}}$$

(F3 is to account for percentage invoicing of booked residential apartments)

$$F_4 = \frac{1}{\% \text{ Completion of construction as on 31st March, 2019}}$$

Illustration: where one-fifth (twenty percent) of the construction has been completed, F4 shall be $100 \div 20 = 5$.

Explanation: “% Completion of construction as on 31st March, 2019” shall be the same as declared to the Real Estate Regulatory Authority in terms of section 4 and section 11 of Real Estate (Regulation and Development) Act, 2016 and where the same is not required to be declared to the Real Estate Regulatory Authority, it shall be got determined and certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India).

(c) The amounts ‘Tx’ and ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(d) Where, Tx is positive, i.e. $T_e < T$, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and T_e . Such amount shall form part of the output tax liability of the registered person and the amount shall be furnished in FORM GST ITC- 03.

Explanation: The registered person may file an application in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due or for allowing payment of such taxes or amount in installments in accordance with the provisions of section 80. The commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly installments, not exceeding twenty-four, as he may deem fit.

(e) Where, Tx is negative, i.e. $T_e > T$, the registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of the RREP, for which he shall not otherwise be eligible, to the extent of difference between T_e and T.

(f) Where percentage completion is zero but ITC has been availed on goods and services received for the project on or prior to 31st March, 2019, input tax credit attributable to construction of residential and commercial portion which has time of supply on or after 1st April, 2019, shall be calculated and the amount equal to Tx shall be paid or taken credit of, as

the case may be, as prescribed above, with the modification that percentage completion for calculation of F4 shall be taken as the percentage completion which, as certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India), can be achieved with the input services received and inputs in stock as on 31st March, 2019.

2. Where % completion as on 31st March, 2019 is zero but invoicing has been done having time of supply before 31st March, 2019, and no input services or inputs have been received as on 31st March, 2019, “Te” shall be calculated as follows: -

(a) Input tax credit on inputs and input services attributable to construction of residential and commercial portion in an RREP, which has time of supply on or before 31st March, 2019 may be denoted as Te which shall be calculated as under,

$$Te = T_n * F_1 * F_2 * F_3$$

Where, -

T_n = Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of residential and commercial apartments in the RREP.

F₁, F₂ and F₃ shall be the same as in para 1 above

(b) The registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential or commercial portion in the RREP, for which he shall not otherwise be eligible, to the extent of the amount of Te.

(c) The amount ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

3. Notwithstanding anything contained in paragraph 1 or paragraph 2 above, Te shall be determined in the following situations as under:

- (i) where percentage invoicing is more than the percentage completion and the difference between percentage invoicing (per cent. points) and the percentage completion (per cent. points) of construction is more than 25 percent. points; the value of percentage invoicing shall be deemed to be percentage completion plus 25 percent. points;
- (ii) where the value of invoices issued on or prior to 31st March, 2019 exceeds the consideration actually received on or prior to 31st March, 2019 by more than 25 per cent. of consideration actually received; the value of such invoices for the purpose of determination of percentage invoicing shall be deemed to be actual consideration received plus 25 per cent. of the actual consideration received; and

- (iii) where, the value of procurement of inputs and input services prior to 1st April, 2019 exceeds the value of actual consumption of the inputs and input services used in the percentage of construction completed as on 31st March, 2019 by more than 25 per cent. of value of actual consumption of inputs and input services, the jurisdictional commissioner or any other officer authorized in this regard may fix the T_e based on actual per unit consumption of inputs and input services based on the documents duly certified by a chartered accountant or cost accountant submitted by the promoter in this regard, applying the accepted principles of accounting.

Illustration 1:

Details of a residential real estate project (RREP)				
Sl No	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		100	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	7000	sqm
5	value of each residential apartment		0.60	crore
6	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
7	No of apartments booked before transition		80	units
8	Total carpet area of the residential apartment booked before transition	$C3 * C7$	5600	sqm
9	Value of booked residential apartments	$C5 * C7$	48	crore
10	Percentage invoicing of booked residential apartments on or before 31.03.2019		20%	
11	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C10$	9.6	crore
12	ITC to be reversed on transition, $T_x = T - T_e$			
13	Eligible ITC (T_e)= $T \times F1 \times F2 \times F3 \times F4$			
14	T (*see notes below)		1	crore
15	F1		1	
16	F2	$C8 / C4$	0.8	
17	F3	$C11 / C9$	0.2	
18	F4	$1 / C6$	5	
19	Eligible ITC (T_e)= $T \times F1 \times F2 \times F3 \times F4$	$C14 * C15 * C16 * C17 * C18$	0.8	crore
20	ITC to be reversed on transition, $T_x = T - T_e$	$C14 - C19$	0.2	crore
<p>*Note:-</p> <p>1. The value of T at C14 has been estimated for illustration based on weighted average tax on inputs.</p> <p>2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.</p>				

Illustration 2:

Sl.No	Details of a residential real estate project (RREP)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		100	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	7000	sqm
5	value of each residential apartment		0.60	crore
6	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
7	No of apartments booked before transition		80	units
8	Total carpet area of the residential apartment booked before transition	$C3 * C7$	5600	sqm
9	Value of booked residential apartments	$C5 * C7$	48	crore
10	Percentage invoicing of booked residential apartments on or before 31.03.2019		60%	
11	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C10$	28.8	crore
12	ITC to be reversed on transition, $Tx = T - Te$			
13	Eligible ITC ($Te = T * F1 * F2 * F3 * F4$)			
14	T (*see notes below)		1	crore
15	F1		1	
16	F2	$C8 / C4$	0.8	
17	F3	$C11 / C9$	0.6	
18	F4	$1 / C6$	5	
19	Eligible ITC ($Te = T * F1 * F2 * F3 * F4$)	$C14 * C15 * C16 * C17 * C18$	2.4	crore
20	ITC to be reversed on transition, $Tx = T - Te$	$C14 - C19$	-1.4	crore
21	Tx after application of cap on % invoicing vis-a-vis Pc			
22	% completion		20%	
23	% invoicing		60%	
24	% invoicing after application of cap ($Pc + 25%$)	$C6 + 25\%$	45%	
25	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C24$	21.60	crore
26	F3 after application of cap	$C25 / C9$	0.45	
27	$Te = T * F1 * F2 * F3 * F4$ (after application of cap)	$C14 * C15 * C16 * C26 * C18$	1.80	crore
28	ITC to be reversed / taken on transition, $Tx = T - Te$ (after application of cap)	$C14 - C27$	-0.80	crore
29	Tx after application of cap on % invoicing vis-a-vis Pc and payment realisation			
30	% invoicing after application of cap ($Pc + 25%$)		45%	
31	Total value of supply of residential apartments having t.o.s. prior to transition	$C25$	21.60	crore
32	consideration received		16.00	crore
33	Total value of supply of residential apartments having t.o.s. prior to transition after application of cap vis-a-vis consideration received	$16 \text{ cr} + 25\% \text{ of } 16 \text{ Cr}$	20.00	crore
34	F3 after application of both the caps	$C33 / C9$	0.42	
35	$Te = T * F1 * F2 * F3 * F4$ (after application of both the caps)	$C14 * C15 * C34 * C26 * C18$	1.67	
36	ITC to be reversed / taken on transition, $Tx = T - Te$ (after application of both the caps)	$C14 - C35$	-0.67	crore

*Note:-
1. The value of T at C14 has been estimated for illustration based on weighted average tax on inputs.
2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.

Illustration 1:

A promoter has procured following goods and services [other than capital goods and services by way of grant of development rights, long term lease of land or FSI] for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/N)
1	Sand	10	Y
2	Cement	15	N
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y
6	Paints	5	Y
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows, Ply, commercial wood	15	Y

In this example, the promoter has procured 80 per cent. of goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], from a GST registered person. However, he has procured cement from an unregistered supplier. Hence at the end of financial year, the promoter has to pay GST on cement at the applicable rates on reverse charge basis.

Illustration 2:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity,

high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/N)
1	Sand	10	Y
2	Cement	15	Y
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y
6	Paints	5	N
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows, Ply, commercial wood	15	N

In this example, the promoter has procured 80 per cent. of goods and services including cement from a GST registered person. However, he has procured paints, aluminum windows, ply and commercial wood etc. from an unregistered supplier. Hence at the end of financial year, the promoter is not required to pay GST on inputs on reverse charge basis.

Illustration 3:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs procured from registered supplier? (Y/N)
1	Sand	10	N
2	Cement	15	N
3	Steel	15	Y
4	Bricks	10	Y

(SRVN 1, 1941 SAKA)

5	Flooring tiles	10	Y
6	Paints	5	Y
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows	15	N
9	Ply, commercial wood	10	N

In this example, the promoter has procured 50 per cent. of goods and services from a GST registered person. However, he has procured sand, cement and aluminum windows, ply and commercial wood etc. from an unregistered supplier. Thus, value of goods and services procured from registered suppliers during a financial year falls short of threshold limit of 80 per cent. To fulfill his tax liability on the shortfall of 30 per cent. from mandatory purchase, the promoter has to pay GST on cement at the applicable rate on reverse charge basis. After payment of GST on cement, on the remaining shortfall of 15 per cent., the promoter shall pay tax @ 18 per cent. under RCM.

Annexure IV

FORM

(Form for exercising one time option to pay tax on construction of apartments in a project by the promoters at the rate as specified for item (ie) or (if), against serial number 3 in the Table in this notification, as the case may be, by the 10th of May, 2019)

Reference No. _____

Date _____

To _____

(To be addressed to the jurisdictional Commissioner)

1. GSTIN:
2. RERA registration Number of the Project:
3. Name of the project, if any:
4. The location details of the project, with clear demarcation of land dedicated for the project along with its boundaries including the longitude and latitude of the end points of the project:
5. The number, type and the carpet area of apartments for booking or sale in the project:
6. Date of receipt of commencement certificate:

Declaration

1. I hereby exercise the option to pay tax on construction of apartments in the above mentioned project as under :

I shall pay tax on construction of the apartments: (put (✓) in appropriate box)	At the rate as specified for item (ie) or (if), against serial number 3 in the Table in this notification, as the case may be	At the rate as specified for item (i) or (ia) or (ib) or (ic) or (id), against serial number 3 in the Table in this notification, as the case may be
--	--	---

2. I understand that this is a onetime option, which once exercised, shall not be allowed to be changed.

3. I also understand that invoices for supply of the service can be issued during the period from 1st April 2019 to 10th May 2019 before exercising the option, but such invoices shall be in accordance with the option being exercised herein.

Signature _____

Name _____

Designation _____

Place _____

Date _____

M.P. SINGH,
Additional Chief Secretary-cum-
Financial Commissioner (Taxation) to
Government of Punjab,
Department of Excise and Taxation.

PART III

GOVERNMENT OF PUNJAB

**DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION BRANCH-II)**

NOTIFICATION

The 18th July, 2019

No. S.O.77/P.A.5/2017/S.9/Amd./2019.- In exercise of the powers conferred by sub-section (3) of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.S.O.35/P.A.5/2017/S.9/2017, dated the 30thJune, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30thJune, 2017, namely:-

AMENDMENT

In the said notification, -

(i) in the Table, after serial number 5A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
“5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter.”;

(ii) in the Explanation, after clause (h), the following clauses shall be inserted, namely: -

“(i) The term “apartment” shall have the same meaning as assigned to it in clause (e) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(j) the term “promoter” shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(k) the term “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);

(l) “the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).

(m) The term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.

(n) “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.”.

2. This notification shall be deemed to have come into force on and with effect from 01st day of April, 2019.

M.P. SINGH,

Additional Chief Secretary-cum-
Financial Commissioner (Taxation) to
Government of Punjab,
Department of Excise and Taxation.

PART III

GOVERNMENT OF PUNJAB

**DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION BRANCH-II)**

NOTIFICATION

The 18th July, 2019

No. S.O.78/P.A.5/2017/Ss.9 and 15/Amd./2019.- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification S.O.16/P.A.5/2017/S.9/2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

AMENDMENT

In the said notification, in Schedule III @ 9%, after serial number 452P, in column (1) and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)
“452Q	Any chapter	Supply of any goods other than capital goods and cement falling under chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975), by an unregistered person to a promoter for construction of the project on which tax is payable by the promoter as recipient of goods under sub-section 4 of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), as prescribed in notification No. S.O.70/P.A.5/2017/S.9/2019 dated the 06th June, 2019, published in Punjab Government (Extraordinary) Gazette, dated the 24th June, 2019 Explanation. For the purpose of this entry,— (i) the term “promoter” shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016). (ii) “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP). (iii) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the

Real Estate (Regulation and Development) Act, 2016 (16 of 2016).

(iv) "Residential Real Estate Project (RREP)" shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.

(v) This entry is to be taken to apply to all goods which satisfy the conditions prescribed herein, even though they may be covered by a more specific chapter/ heading/ sub heading or tariff item elsewhere in this notification."

2. This notification shall be deemed to have come into force on and with effect from 01st day of April, 2019.

M.P. SINGH,

Additional Chief Secretary-cum-
Financial Commissioner (Taxation) to
Government of Punjab,
Department of Excise and Taxation.

PART III

GOVERNMENT OF PUNJAB

**DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION BRANCH-II)**

NOTIFICATION

The 18th July, 2019

No. S.O.79/P.A.5/2017/Ss. 9, 11 and 16/Amd./2019.- In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (1) of section 16 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017) (herein after referred to as the “said Act”), and all other powers enabling him in this behalf, the Governor of Punjab, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.32/P.A.5/2017/Ss.9, 11 and 16/2019, dated the 08th day of April, 2019 published in the Punjab Government Gazette (Extraordinary), Part III, dated the 11th day of April, 2019, namely:-

AMENDMENT

In the said notification, -

(i) in the Table, in column 3, after clause 7, the following clause shall be inserted, namely:-

“8. Where any registered person who has availed of input tax credit opts to pay tax under this notification, 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 and on capital goods as if the supply made under this notification attracts the provisions of section 18(4) of the said Act and the rules made there-under and after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.”;

(ii) in paragraph 3, in the Explanation, after clause (ii), the following clause shall be inserted, namely: -

“(iii) the Punjab Goods and Services Tax Rules, 2017, as applicable to a person paying tax under section 10 of the said Act shall, mutatis mutandis, apply to a person paying tax under this notification.”.

2. This notification shall be deemed to have come into force on and with effect from 01st day of April, 2019.

M.P. SINGH,
Additional Chief Secretary-cum-
Financial Commissioner (Taxation) to
Government of Punjab,
Department of Excise and Taxation.

1821/7-2019/Pb. Govt. Press, S.A.S. Nagar

(III) CENTRAL TAX NOTIFICATIONS

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs**

Notification No. 33/2019 – Central Tax

New Delhi, the 18th July, 2019

G.S.R.....(E). - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Fifth Amendment) Rules, 2019.

(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 12, in sub-rule (1A),-

(a) after the words “A person applying for registration to”, the words “deduct or” shall be inserted;

(b) after the words “in accordance with the provisions of”, the words and figures “section 51, or, as the case may be,” shall be inserted.

3. In the said rules, in rule 46, in the fourth proviso, with effect from the 1st day of September, 2019, after the words “Provided also that a registered person”, the words “, other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens,” shall be inserted.

4. In the said rules, in rule 54, after sub-rule (4), with effect from the 1st day of September, 2019, the following sub-rule shall be inserted, namely:-

“(4A) A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice for all purposes of the Act, even if

such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46:

Provided that the supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure.”.

5. In the said rules, after rule 83A, with effect from such date as may be notified by the Central Government, the following rule shall be inserted, namely:-

“83B. Surrender of enrolment of goods and services tax practitioner.-

(1) A goods and services tax practitioner seeking to surrender his enrolment shall electronically submit an application in **FORM GST PCT-06**, at the common portal, either directly or through a facilitation centre notified by the Commissioner.

(2) The Commissioner, or an officer authorised by him, may after causing such enquiry as deemed fit and by order in **FORM GST PCT-07**, cancel the enrolment of such practitioner.”.

6. In the said rules, in rule 137, for the words “two years”, the words “four years” shall be substituted.

7. In the said rules, in rule 138E, in the first proviso,-

(a) after the words “Provided that the Commissioner may,” , the words, letters and figures “on receipt of an application from a registered person in **FORM GST EWB-05**,” shall be inserted;

(b) after the words “reasons to be recorded in writing, by order”, the words, letters and figures “in **FORM GST EWB-06**” shall be inserted.

8. In the said rules, after **FORM GST PCT –05**, with effect from such date as may be notified by the Central Government, the following forms shall be inserted, namely:-

“FORM GST PCT-06 [See rule 83B]	
APPLICATION FOR CANCELLATION OF ENROLMENT AS GOODS AND SERVICES TAX PRACTITIONER	
1. GSTP Enrolment No.	
2. Name of the GST Practitioner	<Auto Populated>
3. Address	< Auto Populated>
4. Date of effect of cancellation of enrolment	

I hereby request for cancellation of enrolment as GST Practitioner for the reason(s) noted below:

- 1.
- 2.
- 3.

DECLARATION

The above declaration is true and correct to the best of my knowledge and belief. I undertake that I shall continue to be liable for my actions as GST Practitioner before such cancellation.

(SIGNATURE)

Place:
Date:

FORM GST PCT-07
[See rule 83B]

ORDER OF CANCELLATION OF ENROLMENT AS GOODS AND SERVICES TAX PRACTITIONER

1. GSTP Enrolment No.	
2. Name of the GST Practitioner	< Auto Populated >
3. Address	<Auto Populated >
4. No. and Date of application	
5. Date of effect of cancellation of enrolment	

DECLARATION

This is to inform you that your enrolment as GST Practitioner is hereby cancelled with effect from

(SIGNATURE)

Place:
Date: ”.

9. In the said rules, in **FORM GST RFD-01**, in Annexure 1, for **Statement 5B**, the following Statement shall be substituted, namely:-

“Statement 5B [rule 89(2)(g)]

Refund Type: On account of deemed exports

(Amount in Rs)

Sl.	Details of invoices/credit notes/debit notes of outward supplies in case refund is	Tax paid

No.	claimed by supplier/Details of invoices of inward supplies in case refund is claimed by recipient					Integrated Tax	Central Tax	State Tax /Union territory Tax	Cess
	GSTIN of the supplier	No.	Date	Taxable Value	Type (Invoice/ Credit Note/ Debit Note)				
1	2	3	4	5	6	7	8	9	10
									”.

10. In the said rules, in **FORM GST RFD-01A**, in Annexure 1, for **Statement 5B**, the following Statement shall be substituted, namely:-

“Statement 5B [rule 89(2)(g)]

Refund Type: On account of deemed exports (Amount in Rs)

Sl. No.	Details of invoices/credit notes/debit notes of outward supplies in case refund is claimed by supplier/Details of invoices of inward supplies in case refund is claimed by recipient					Tax paid			
	GSTIN of the supplier	No.	Date	Taxable Value	Type (Invoice/ Credit Note/ Debit Note)	Integrated Tax	Central Tax	State Tax /Union territory Tax	Cess
1	2	3	4	5	6	7	8	9	10
									”.

11. In the said rules, after **FORM GST EWB-04**, the following forms shall be inserted, namely:-

<p>“FORM GST EWB-05</p> <p>[See rule 138 E]</p> <p>Application for unblocking of the facility for generation of E-Way Bill</p>
--

1	GSTIN	<Auto>
2	Legal Name	<Auto>
3	Trade Name	<Auto>
4	Address	<Auto>
5	Facility of furnishing of information in Part A of FORM GST EWB 01 (i.e. facility for generation of E-Way Bill) blocked w.e.f.	<Auto>
6	Reasons of unblocking of facility for generation of E- Way Bill	<User input>
(i)		
(ii)		
(iii)		
7	Expected date for filing of returns for the period under default	<User input>

8. Verification

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory

Name

Designation /Status

Date:

Place:

FORM GST EWB – 06

[See rule 138 E]

Reference No.:

Date:

To

_____ GSTIN

----- Name

_____ Address

Order for permitting / rejecting application for unblocking of the facility for generation of E-Way Bill

Application ARN:

Date:

The facility for generation of E- Way Bill was blocked in respect of the aforementioned registered person w.e.f. ----- in terms of rule 138E of the Central Goods and Services Tax Rules, 2017.

I have carefully considered the facts of the case and the application / submissions made by the aforementioned registered person.

I hereby accept the application and order for unblocking of the facility for generation of E-Way Bill on the following grounds:

- 1.
- 2.

Please note that the system will block the facility for generation of E-Way Bill after _____(date) if the registered person continues to be defaulter in terms of rule 138E of the Central Goods and Services Tax Rules, 2017.

OR

I have carefully considered the facts of the case and the application / submissions made by the aforementioned registered person.

I hereby reject the application for unblocking the facility for generation of E-Way Bill on following grounds:

- 1.
- 2.

Signature:

Name:

Designation:

Jurisdiction:

Address:

Note: Separate document may be attached for detailed order / reason(s).”.

[F. No. 20/06/16/2018-GST]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* notification No. 3/2017-Central Tax, dated the 19th June, 2017, published *vide* number G.S.R. 610 (E), dated the 19th June, 2017 and last amended *vide* notification No. 31/2019 - Central Tax, dated the 28th June, 2019, published *vide* number G.S.R. 457 (E), dated the 28th June, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs**

Notification No. 34/2019 – Central Tax

New Delhi, the 18th July, 2019

G.S.R.....(E).– In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2019- Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23rd April, 2019, namely:–

In the said notification, in paragraph 2, the following proviso shall be inserted, namely: –

“Provided that the due date for furnishing the statement containing the details of payment of self-assessed tax in said **FORM GST CMP-08**, for the quarter April, 2019 to June, 2019, or part thereof, shall be the 31st day of July, 2019.”.

[F. No. 20/06/16/2018-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note:- The principal notification No. 21/2019-Central Tax, dated the 23rd April, 2019 was published in the Gazette of India, Extraordinary, vide number G.S.R. 322(E), dated the 23rd April, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs**

Notification No. 35/2019 – Central Tax

New Delhi, the 29th July, 2019

G.S.R.....(E).– In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2019-Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23rd April, 2019, namely:–

In the said notification, in paragraph 2, in the proviso, for the figures, letters and words “31st day of July, 2019”, the figures, letters and word, “31st day of August, 2019” shall be substituted.

[F. No. 20/06/16/2018-GST (Pt. I)]

(Ruchi Bisht)
Under Secretary to the Government of India

Note:- The principal notification No. 21/2019-Central Tax, dated the 23rd April, 2019 was published in the Gazette of India, Extraordinary, vide number G.S.R. 322(E), dated the 23rd April, 2019 and was subsequently amended by notification No. 34/2019-Central Tax, dated the 18th July, 2019, published in the Gazette of India, Extraordinary, vide number G.S.R. 514(E), dated the 18th July, 2019.

(IV) CENTRAL TAX (RATE) NOTIFICATIONS

[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No. 12/2019-Central Tax (Rate)

New Delhi, the 31st July, 2019

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 673(E), dated the 28th June, 2017, namely:-

In the said notification, -

(a) in Schedule I - 2.5%,-

(i) after serial number 234A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

“234B	8504	Charger or charging station for Electrically operated vehicles”;
-------	------	--

(ii) after serial number 242 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

“242A	87	Electrically operated vehicles, including two and three wheeled electric vehicles. <i>Explanation</i> .- For the purposes of this entry, “Electrically operated vehicles” means vehicles which are run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicles and shall include E- bicycles.”;
-------	----	--

- (b) in Schedule II - 6%, serial number 206 and the entries relating thereto shall be omitted;
- (c) in Schedule III - 9%, against serial number 375, in the entry in column (3), after the word “inductors”, the words “, other than charger or charging station for Electrically operated vehicles” shall be inserted.

2. This notification shall come into force on the 1st August, 2019.

[F.No.354/47/2018-TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Note: - The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 673(E), dated the 28th June, 2017 and last amended by notification No. 24/2018-Central Tax (Rate), dated the 31st December, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 1261(E), dated the 31st December, 2018.

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No.13/2019- Central Tax (Rate)

New Delhi, the 31st July 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.12/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 691(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, against serial number 22, in the entries in column (3), after clause (a), the following clause shall be inserted, namely: -

(3)
‘(aa) to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers; or <i>Explanation.-</i> For the purposes of this entry, “Electrically operated vehicle” means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.’

2. This notification shall come into force with effect from the 1st of August, 2019.

[F. No.354/47/2018 -TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Note: -The principal notification was published in the Gazette of India, Extraordinary, *vide* notification No. 12/2017 - Central Tax (Rate), dated the 28th June, 2017, *vide* number G.S.R. 691 (E), dated the 28th June, 2017 and was last amended by notification No. 4/2019 - Central Tax (Rate), dated the 29th March 2019 *vide* number G.S.R. 251(E), dated the 29th March 2019.

(V) INTEGRATED TAX (RATE) NOTIFICATIONS

[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No. 12/2019-Integrated Tax (Rate)

New Delhi, the 31st July, 2019

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017- Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 666 (E), dated the 28th June, 2017, namely:-

In the said notification, -

(a) in Schedule I - 5%,

(i) after serial number 234A and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

“234 B	8504	Charger or charging station for Electrically operated vehicles”;
--------	------	--

(ii) after serial number 242 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

“242A	87	Electrically operated vehicles, including two and three wheeled electric vehicles. <i>Explanation</i> .- For the purposes of this entry, “Electrically operated vehicles” means vehicles which are run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicles and shall include E- bicycles.”;
-------	----	--

(b) in Schedule II - 12%, serial number 206 and the entries relating thereto shall be omitted;

(c) in Schedule III - 18%, against serial number 375, in the entry in column (3), after the word “inductors”, the words “, other than charger or charging station for Electrically operated vehicles” shall be inserted.

2. This notification shall come into force on the 1st August, 2019.

[F.No.354/47/2018-TRU]

(Gunjan Kumar Verma)

Under Secretary to the Government of India

Note: - The principal notification No.1/2017-Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 666(E), dated the 28th June, 2017 and last amended by notification No. 25/2018-Integrated Tax (Rate), dated the 31st December, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 1264 (E), dated the 31st December, 2018.

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 13/2019- Integrated Tax (Rate)

New Delhi, the 31st July 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.9/2017- Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 684 (E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, against serial number 23, in the entries in column (3), after clause (a), the following clause shall be inserted, namely: -

(3)
‘(aa) to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers; or <i>Explanation.-</i> For the purposes of this entry, “Electrically operated vehicle” means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.’

2. This notification shall come into force with effect from the 1st of August, 2019.

[F. No.354/47/2018 -TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Note: -The principal notification No. 9/2017 - Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 684 (E), dated the 28th June, 2017 and was last amended by notification No. 4/2019 – Integrated Tax (Rate), dated the 29th March, 2019 vide number G.S.R. 257(E), dated the 29th March, 2019.

(VI) CGST CIRCULARS

Circular No. 107/26/2019-GST

CBEC-20/06/03/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 18th July, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners/
Commissioners of Central Tax (All) /

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification on doubts related to supply of Information Technology enabled Services (ITeS services) - reg.

Various representations have been received seeking clarification on issues related to supply of Information Technology enabled Services (hereinafter referred to as “ITeS services”) such as call center, business process outsourcing services, etc. and “Intermediaries” to overseas entities under GST law and whether they qualify to be “export of services” or otherwise.

2. The matter has been examined. In view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues in succeeding paragraphs.

3. Intermediary has been defined in the sub-section (13) of section 2 of the Integrated Goods and Service Tax Act, 2017 (hereinafter referred to as “IGST” Act) as under -

“Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.”

3.1 The definition of intermediary *inter alia* provides specific exclusion of a person i.e. that of a person who supplies such goods or services or both or securities on his own account. Therefore, the supplier of services would not be treated as 'intermediary' even where the supplier of services qualifies to be 'an agent/ broker or any other person' if he is involved in the supply of services on his own account.

4. Information Technology enabled Services (ITeS services), though not defined under the GST law, have been defined under the sub-rule (e) of rule 10 TA of the Income-tax Rules, 1962 which pertains to Safe Harbour Rules for international transactions. It defines ITeS services as-

"information technology enabled services" means the following business process outsourcing services provided mainly with the assistance or use of information technology, namely:—

- (i) back office operations;*
- (ii) call centres or contact centre services;*
- (iii) data processing and data mining;*
- (iv) insurance claim processing;*
- (v) legal databases;*
- (vi) creation and maintenance of medical transcription excluding medical advice;*
- (vii) translation services;*
- (viii) payroll;*
- (ix) remote maintenance;*
- (x) revenue accounting;*
- (xi) support centres;*
- (xii) website services;*
- (xiii) data search integration and analysis;*
- (xiv) remote education excluding education content development; or*
- (xv) clinical database management services excluding clinical trials,*

but does not include any research and development services whether or not in the nature of contract research and development services”.

5. There may be various possible scenarios when a supplier of ITeS services located in India supplies services for and on behalf of a client located abroad. These scenarios have been examined and are being discussed in detail hereunder:

5.1 Scenario -I:

The supplier of ITeS services supplies back end services as listed in para 4 above. In such a scenario, the supplier will not fall under the ambit of intermediary under sub-section (13) of section 2 of the IGST Act where these services are provided on his own account by such supplier. Even where a supplier supplies ITeS services to customers of his clients on clients' behalf, but actually supplies these services on his own account, the supplier will not be categorized as intermediary. In other words, a supplier "A" supplying services, listed in para 4 above, on his own account to his client "B" or to the customer "C" of his client would not be intermediary in terms of sub-section (13) of section 2 of the IGST Act.

5.2 Scenario -II:

The supplier of backend services located in India arranges or facilitates the supply of goods or services or both by the client located abroad to the customers of client. Such backend services may include support services, during pre-delivery, delivery and post-delivery of supply (such as order placement and delivery and logistical support, obtaining relevant Government clearances, transportation of goods, post-sales support and other services, etc.). The supplier of such services will fall under the ambit of intermediary under sub-section (13) of section 2 of the IGST Act as these services are merely for arranging or facilitating the supply of goods or services or both between two or more persons. In other words, a supplier "A" supplying backend services as mentioned in this scenario to the customer "C" of his client "B" would be intermediary in terms of sub-section (13) of section 2 of the IGST Act.

5.3 Scenario -III:

The supplier of ITeS services supplies back end services, as listed in para 4 above, on his own account along with arranging or facilitating the supply of various support services during pre-delivery, delivery and post-delivery of supply for and on behalf of the client located abroad. In this case, the supplier is supplying two set of services, namely ITeS services and various support services to his client or to the customer of the client. Whether the supplier of such services would fall under the ambit of intermediary under sub-section

(13) of section 2 of the IGST Act will depend on the facts and circumstances of each case. In other words, whether a supplier “A” supplying services listed in para 4 above as well as support services listed in Scenario -II above to his client “B” and / or to the customer “C” of his client is intermediary or not in terms of sub-section (13) of section 2 of the IGST Act would have to be determined in facts and circumstances of each case and would be determined keeping in view which set of services is the principal / main supply.

6. It is also clarified that supplier of ITeS services, who is not an intermediary in terms of sub-section (13) of section 2 of the IGST Act, can avail benefits of export of services if he satisfies the criteria mentioned in sub-section (6) of section 2 of the IGST Act, which reads as under –

“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; 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”.

7. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

8. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Principal Commissioner (GST)

CBEC-20/06/03/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 18th July, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Customs / Customs (Preventive) (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification in respect of goods sent/taken out of India for exhibition or on consignment basis for export promotion - reg.

Various representations have been received from the trade and industry regarding procedure to be followed in respect of goods sent / taken out of India for exhibition or on consignment basis for export promotion. Such goods sent / taken out of India crystallise into exports, wholly or partly, only after a gap of certain period from the date they were physically sent / taken out of India.

2. The matter has been examined and in view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) hereby clarifies various issues in succeeding paragraphs.

3. As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely-

(i) it should be for a consideration by a person; and

(ii) it should be in the course or furtherance of business.

4. The exceptions to the above are the activities enumerated in Schedule I of the CGST Act which are treated as supply even if made without consideration. Further, sub-section (21) of section 2 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”) defines “supply”, wherein it is clearly stated that it shall have the same meaning as assigned to it in section 7 of the CGST Act.

5. Section 16 of the IGST Act deals with “Zero rated supply”. The provisions contained in the said section read as under:

16. (1) “zero rated supply” means any of the following supplies of goods or services or both, namely:—

(a) export of goods or services or both; or

(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Therefore, it can be concluded that only such ‘supplies’ which are either ‘export’ or are ‘supply to SEZ unit / developer’ would qualify as zero-rated supply.

6. It is, accordingly, clarified that the activity of sending / taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act (hereinafter referred to as the “specified goods”), do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as ‘Zero rated supply’ as per the provisions contained in section 16 of the IGST Act.

7. Since the activity of sending / taking specified goods out of India is not a supply, doubts have been raised by the trade and industry on issues relating to maintenance of records, issuance of delivery challan / tax invoice etc. These issues have been examined and the clarification on each of these points is as under: -

Sl.No.	Issue	Clarification
1.	Whether any records are required to be maintained by registered person for sending / taking specified goods out of India?	The registered person dealing in specified goods shall maintain a record of such goods as per the format at Annexure to this Circular.
2.	What is the documentation required for sending / taking the specified goods out of India?	<p>a) As clarified above, the activity of sending / taking specified goods out of India is not a supply.</p> <p>b) The said activity is in the nature of “sale on approval basis” wherein the goods are sent / taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place. The activity of sending / taking specified goods is covered under the provisions of sub-section (7) of section 31 of the CGST Act read with rule 55 of Central Goods & Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”).</p> <p>c) The specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules.</p> <p>d) As clarified in paragraph 6 above, the activity of sending / taking specified goods out of India is not a zero-rated supply. That being the case, execution of a bond or LUT, as required under section 16 of the IGST Act, is not required.</p>
3.	When is the supply of specified goods sent / taken out of India said to take place?	a) The specified goods sent / taken out of India are required to be either sold or brought back within the stipulated period of six months from the date of removal as per the provisions contained in sub-

		<p>section (7) of section 31 of the CGST Act.</p> <p>b) The supply would be deemed to have taken place, on the expiry of six months from the date of removal, if the specified goods are neither sold abroad nor brought back within the said period.</p> <p>c) If the specified goods are sold abroad, fully or partially, within the specified period of six months, the supply is effected, in respect of quantity so sold, on the date of such sale.</p>
4.	Whether invoice is required to be issued when the specified goods sent / taken out of India are not brought back, either fully or partially, within the stipulated period?	<p>a) When the specified goods sent / taken out of India have been sold fully or partially, within the stipulated period of six months, as laid down in sub-section (7) of section 31 of the CGST Act, the sender shall issue a tax invoice in respect of such quantity of specified goods which has been sold abroad, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.</p> <p>b) When the specified goods sent / taken out of India have neither been sold nor brought back, either fully or partially, within the stipulated period of six months, as laid down in sub-section (7) of section 31 of the CGST Act, the sender shall issue a tax invoice on the date of expiry of six months from the date of removal, in respect of such quantity of specified goods which have neither been sold nor brought back, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.</p>
5.	Whether the refund claims can be preferred in respect of specified goods sent / taken out of	<p>a) As clarified in para 5 above, the activity of sending / taking specified goods out of India is not a zero-rated supply. That being the case, the sender of goods cannot prefer any refund claim</p>

	India but not brought back?	<p>when the specified goods are sent / taken out of India.</p> <p>b) It has further been clarified in answer to question no. 3 above that the supply would be deemed to have taken place:</p> <p>(i) on the date of expiry of six months from the date of removal, if the specified goods are neither sold nor brought back within the said period; or</p> <p>(ii) on the date of sale, in respect of such quantity of specified goods which have been sold abroad within the specified period of six months.</p> <p>c) It is clarified accordingly that the sender can prefer refund claim even when the specified goods were sent / taken out of India without execution of a bond or LUT, if he is otherwise eligible for refund as per the provisions contained in sub-section (3) of section 54 the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules, in respect of zero rated supply of goods after he has issued the tax invoice on the dates as has been clarified in answer to the question no. 4 above. It is further clarified that refund claim cannot be preferred under rule 96 of CGST Rules as supply is taking place at a time after the goods have already been sent / taken out of India earlier.</p>
--	-----------------------------	--

8. The above position is explained by way of illustrations below:

Illustrations:

i) M/s ABC sends 100 units of specified goods out of India. The activity of merely sending / taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan

issued in accordance with the provisions contained in rule 55 of the CGST Rules. In case the entire quantity of specified goods is brought back within the stipulated period of six months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case. In case, however, the entire quantity of specified goods is neither sold nor brought back within six months from the date of removal, a tax invoice would be required to be issued for entire 100 units of specified goods in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules within the time period stipulated under sub-section (7) of section 31 of the CGST Act.

ii) M/s ABC sends 100 units of specified goods out of India. The activity of sending / taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules. If 10 units of specified goods are sold abroad say after one month of sending / taking out and another 50 units are sold say after two months of sending / taking out, a tax invoice would be required to be issued for 10 units and 50 units, as the case may be, at the time of each of such sale in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. If the remaining 40 units are not brought back within the stipulated period of six months from the date of removal, a tax invoice would be required to be issued for 40 units in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. Further, M/s ABC may claim refund of accumulated input tax credit in accordance with the provisions contained in sub-section (3) of section 54 of the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules in respect of zero-rated supply of 60 units.

9. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

10. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Principal Commissioner (GST)

ANNEXURERECORD OF SPECIFIED GOODS SENT / TAKEN OUT OF INDIA AND BROUGHT BACK / SOLD ABROAD

Folio No./Reference No.	Description of specified goods	Quantity unit (Nos./grams/piece etc.)	Value per unit	Total value of the specified goods	Date of removal from place of business	Delivery Challan No. & date		Shipping Bill no. & Date		Details of specified goods supplied (i.e. specified goods not brought back)		Invoice no. & date		Details of specified goods brought back		Bill of Entry No. & Date	
						No.	Date	No.	Date	Quantity	Value	No.	Date	Quantity	Value	No.	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

Circular No.109/28/2019- GST

F. No. 332/04/2017-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

New Delhi, the 22nd July, 2019

To,

The Principal Chief Commissioner/ Chief Commissioners/ Principal Commissioner/ Commissioner of Central Tax (All)/ The Principal Director Generals/ Director Generals (All)

Madam/ Sir,

Subject: Issues related to GST on monthly subscription/contribution charged by a Residential Welfare Association from its members- reg.

A number of issues have been raised regarding the GST payable on the amount charged by a Residential Welfare Association for providing services and goods for the common use of its members in a housing society or a residential complex. The same have been examined and are being clarified below.

Sl. No.	Issue	Clarification
1.	Are the maintenance charges paid by residents to the Resident Welfare Association (RWA) in a housing society exempt from GST and if yes, is there an upper limit on the amount of such charges for the exemption to be available?	Supply of service by RWA (unincorporated body or a non- profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of Rs. 7500 per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST. Prior to 25 th January 2018, the exemption was available if the charges or share of contribution did not exceed Rs 5000/- per month per member. The limit was increased to Rs. 7500/- per month per member with effect from 25 th January 2018. [Refer clause (c) of Sl. No. 77 to the notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 as amended vide notification No. 2/2018- Central Tax (Rate), dated 25.01.2018]

Circular No.109/28/2019- GST

2.	A RWA has aggregate turnover of Rs.20 lakh or less in a financial year. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than Rs. 7500/- per month per member?	<p>No. If aggregate turnover of an RWA does not exceed Rs.20 Lakh in a financial year, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds Rs. 7500/- per month per member.</p> <p>RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than Rs. 7500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services and goods is also Rs. 20 lakhs or more.</p> <table border="1" data-bbox="715 819 1303 1218"> <thead> <tr> <th>Annual turnover of RWA</th> <th>Monthly maintenance charge</th> <th>Whether exempt?</th> </tr> </thead> <tbody> <tr> <td rowspan="2">More than Rs. 20 lakhs</td> <td>More than Rs. 7500/-</td> <td>No</td> </tr> <tr> <td>Rs. 7500/- or less</td> <td>Yes</td> </tr> <tr> <td rowspan="2">Rs. 20 lakhs or less</td> <td>More than Rs. 7500/-</td> <td>Yes</td> </tr> <tr> <td>Rs. 7500/- or less</td> <td>Yes</td> </tr> </tbody> </table>	Annual turnover of RWA	Monthly maintenance charge	Whether exempt?	More than Rs. 20 lakhs	More than Rs. 7500/-	No	Rs. 7500/- or less	Yes	Rs. 20 lakhs or less	More than Rs. 7500/-	Yes	Rs. 7500/- or less	Yes
Annual turnover of RWA	Monthly maintenance charge	Whether exempt?													
More than Rs. 20 lakhs	More than Rs. 7500/-	No													
	Rs. 7500/- or less	Yes													
Rs. 20 lakhs or less	More than Rs. 7500/-	Yes													
	Rs. 7500/- or less	Yes													
3.	Is the RWA entitled to take input tax credit of GST paid on input and services used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than Rs. 7,500/- per month per member?	RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.													
4.	Where a person owns two or more flats in the housing society or residential complex, whether the ceiling of Rs. 7500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per	As per general business sense, a person who owns two or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of Rs. 7500/- per month per member shall be applied separately for each residential apartment owned by him.													

Circular No.109/28/2019- GST

	person?	For example, if a person owns two residential apartments in a residential complex and pays Rs. 15000/- per month as maintenance charges towards maintenance of each apartment to the RWA (Rs. 7500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.
5.	How should the RWA calculate GST payable where the maintenance charges exceed Rs. 7500/- per month per member? Is the GST payable only on the amount exceeding Rs. 7500/- or on the entire amount of maintenance charges?	The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed Rs. 7500/- per month per member. In case the charges exceed Rs. 7500/- per month per member, the entire amount is taxable. For example, if the maintenance charges are Rs. 9000/- per month per member, GST @18% shall be payable on the entire amount of Rs. 9000/- and not on [Rs. 9000 - Rs. 7500] = Rs. 1500/- .

2. Difficulty, if any, in implementation of the Circular may be brought to the notice of the Board.



22-07-2019

Susanta Kumar Mishra
Technical Officer (TRU-II)
Contact No: 011-23095558
e-mail: susanta.mishra87@gov.in

(VII) ADVANCE RULINGS

1. GST under RCM Payable on transportation Charges of cotton seed oil cake

Case Name : **In re M/s Sanjay Kumar Jain (GST AAR Rajasthan)**

Appeal Number : Advance Ruling No. RAJ/AAR/2019-20/13

Date of Judgement/Order : 02/07/2019

Whether the applicant is liable to pay tax on the basis of reverse charge mechanism on the freight paid by the applicant on transportation of cotton seed oil cake having HSN code 2306?

The applicant uses service of GTA for transportation purpose, hence the applicant is recipient of service and concerned GTA is service provider. Being recipient of services the applicant is liable to pay GST as per the provisions mentioned in the above said Notification. Further, during the personal hearing the applicant submitted that since the transportation of food grains, milk and agricultural produce are exempted from GST similarly cattle feed and other articles of animal consumption might also be exempt. The contention of the applicant is purely hypothetical as GST liability is decided on the basis of factual position determined as per prevailing GST law. The various products of human consumption like milk and food grains are exempted from GST as goods as well as their transportation. The same is notified through **Notification No. 12/2107 dated 28.06.2017**.

The cotton seed oil cake is not exempted under the GST Act in general and is also not covered under **Notification No. 12/2017** (as amended from time to time). Thus being recipient of GTA services the applicant is liable to pay tax under Reverse Charge Mechanism.

2. Part of fishing vessels are taxable @ 5% GST

Case Name : **In re M/s Gurudev Metal Industries (GST AAR Krala)**

Appeal Number : Advance Ruling No. KER/50/2019

Date of Judgement/Order : 15/07/2019

M/s. Gurudev Metal Industries is engaged in manufacturing of fishing boat, fishing vessels, parts and accessories. They have requested for an advance ruling on the following items customized for fishing vessels and fishing boat.

Propeller, Shaft/SS Rod, Gun Metal Bush/Bearing, Stuffing Box, Brass Tube/SS tube, Rudder shaft and blade, Sea cork/ Water strainer, GM Gate Valve, MS Pipe, Propeller Nut / GM Nut, Coupling, SS Rods & Square, SS Flat, GM Gland and Ring and MS Plate used in fishing or floating vessels.

Propeller, Shaft/SS rod, Gun metal bush/bearing, Sniffing box, Brass Tube/SS Tube, Rudder Shaft and Blade, Sea Cork/Water Strainer, GM Gate Valve, MS Pipe, Propeller Nut/GM Nut, Coupling, SS Rods & Square, SS Flat, GM Gland and Ring and MS Plate used as parts of fishing / floating vessels come under the HSN Code 8902 and are taxable @ 5% (2.5% CGST + 2.5% SGST) under serial No.252 of First Schedule of the Notification No.01/2017 Central Tax (Rate) dtd.28-06-2017 (SRO.No.360/2017 dt 30-06-2017).

3. Separate GST registrations can be given to multiple companies functioning in a co-working space

Case Name : **In re M/s. Spacelance Office Solutions Pvt. (GST AAR Kerala)**

Appeal Number : Advance Ruling No. KER/55/2019

Date of Judgement/Order : 15/07/2019

Can GST registrations allowed for multiple companies from same address, provided they follow all GST rules related to 'Principal place of business'? These are start-up companies in service sector, where no stock has to be maintained.

Separate GST registration can be allowed to multiple companies functioning in a "coworking space" and which provide services alone. Such companies shall upload the rental agreement with the land lord and lessee. If there is any sub-lease, then rental agreement between lessee and sub lessee should also be uploaded as proof of address of principal place of business of respective suit or desk number assigned to them. In addition to this, the applicants can upload a copy of "monthly utility bill" in connection with payment towards electricity charges, water charges or other common services availed by the respective suit or desk number.

4. GST on Tool Amortisation cost on Capital Goods received on return basis

Case Name : **In re M/s. Toolcomp Systems Private Limited (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 13/2019

Date of Judgement/Order : 16/07/2019

Clarification regarding applicability of Tool Amortisation cost (Transaction Value) in GST Regime on Capital Goods received freely on returnable basis from the recipients (Customer) for parts production and supply.

Applicant contends that the tool/ mould is received free of cost and on returnable basis. This implies that the tool is provided free of cost by Tata Autocomp Systems Ltd., and the applicant is bound to return the same to them after completion of the supply or as instructed. In other words, the applicant is not under contract to supply components made by using the tools/ moulds belonging to them but the same have been supplied by Tata Autocomp Systems Ltd., on FOC basis,

The CBIC in its **Circular No 47/2112018-GST dated 08.06.2018** has clarified that Moulds and dies (Tools) owned by OEM that are provided to a component manufacturer on FOC basis do not constitute a supply as there is no consideration and in such cases, the value of goods provided on FOC basis shall not be added to the value of supply of However, in ease the contractual obligation is cast upon the component manufacturer to provide moulds/ dies but the same have been provided by the OEM on FOC basis, then the amortized cost of the Moulds/dies is required to be added to the value of the components supplied.

In view of the above it is apparent that the issue raised by the applicant is covered under Issue number 1 and Clarification 1 and 1.2 of the **Circular No 47/21/2018-GST dated 08.06.2018**.

It is emphasised that this Ruling is based on examination of the contract / purchase order furnished by the Applicant in the case of their customer Mis Tata Autocomp systems Ltd., (OEM) where the applicant is not under any obligation to use their own tools/moulds for manufacture of the components and the same are supplied to them free of cost and on returnable basis. This ruling will apply to other contracts entered

into by the Applicant if and only if the terms and conditions contained therein are the same as those contained in the contract placed before us.

5. GST on manufacturing & supply of submersible pump sets with installation

Case Name : **In re M/s United Engineering Works (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 15/2019

Date of Judgement/Order : 25/07/2019

The Applicant is a proprietary concern and is registered under the Goods and Services Act, 2017. The applicant seeks Advance Ruling on the following question:

The applicable rate of GST for the manufacture and supply of submersible pump sets and accessories with installation, electrification and energisation under Ganga Kalyana scheme to Social Welfare departments of Government of Karnataka meant for various beneficiaries (farmers) as notified by the departments and they also provide guarantee and maintenance of installed submersible pump sets till 2 years which is used for irrigational purposes.

The applicable rate of GST for the manufacturing and supply of submersible pump sets and accessories with installation, electrification and energisation under Ganga kalyana scheme to Social welfare department of Government of Karnataka meant for various beneficiaries (farmers) as notified by the departments and they also provide guarantee and maintenance of installed submersible pump sets till two years which is used for irrigational purpose.

The Applicant's supply does not qualify as Works Contract". It is a composite supply wherein the principal supply is that of the supply of goods i.e submersible pumps. The applicable GST rate to the applicant's supply would be the rate applicable on the Principal supply i.e. submersible pump sets.

6. GST on Partially completed flats

Case Name : **In re Durga Projects and Infra Structure Private Limited (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 16/2019

Date of Judgement/Order : 25/07/2019

a) GST on Partially completed flats having identified customers before GST regime

In respect of Partially completed flats having identified customers before GST regime, *the Applicant is liable to pay service tax under the Finance Act 1994 proportionate to the services provided up to 30.06.2017 and from 01.07.2017 onwards liable to pay GS?' proportionate to the services provided effective from 01.07.2017, in terms of Section 142(11)(b) of the COST Act 2017.*

b) GST on Partially completed flats, where customers are identified after implementation of GST regime, and

In respect of partially completed flats, where customers are identified after implementation of GST, the Applicant is liable to pay GST on the transaction value of supply.

c) GST on Partially completed flats, where no customers are identified.

In respect of partially completed flats, where no customers are identified the applicant is not liable to GST as no supply is involved. However, if the supply is made prior to the issuance of completion certificate then GST is liable to be paid on the transaction value of supply, as answered in (b) above.

7. GST payable on work executed under JDA on land owner's portion

Case Name : **In re Durga Projects and Infra Structure Private Limited (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 17/2019

Date of Judgement/Order : 25/07/2019

Whether Applicant is liable for GST towards work executed under JDA on land owner's portion where work commenced during pre-GST and continued under GST Law. If tax is applicable the valuation for payment of tax?

In the instant case it is apparent from the advance ruling application filed by the applicant and also an admitted fact that the construction commenced during pre-GST regime and continued thereafter also. Further the applicant has not furnished any information as to whether the applicant has transferred the possession of the land owner's share of flats or not. Hence it is inferred that the possession of the land owner's share of flats has not been given to the land owner. Therefore, the said possession obviously would happen during the GST regime and hence would attract applicable GST. In terms of **Notification No.4/2018-Central Tax (Rate) dated 25.01.2018** the time of supply would fall under the purview of GST law. Therefore, the tax liability arises not partly under the earlier law and partly under the GST law, but entirely under the GST law.

*The Applicant is liable to pay GST towards work executed under Joint Development Agreement on Land owner's portion, on the value to be arrived at in terms of para 2 of the **Notification No.11/ 2017-Central Tax (Rate) dated 28.06.2017** at the time of transfer of possession of the land owners' portion of the flats.*

8. GST Payable on execution related to transmission system of RVPN for customers

Case Name : **In re M/s Rajasthan Rajya Vidyut Prasaran Nigam Limited (GST AAR Rajasthan)**

Appeal Number : Advance Ruling No. RAJ/AAR/2019-20/16

Date of Judgement/Order : 29/07/2019

1. Whether facilitating the execution of works requiring *modification/ augmentation/ shifting/ additions to the transmission system* of RVPN at the specific request of the consumer/intending agency under Deposit Work is a 'Supply' in terms of Section 7 of the CGST Act, 2017?

Facilitating the execution of work (Deposit Work) by the applicant to the consumer/intending agency is covered under the 'scope of supply' in terms of section 7 of GST Act, 2017.

2. If the Deposit Work as aforesaid is a 'Supply', what shall be the value of the supply in terms of Section 15 of the GST Act, 2017 in the event of :

a. Work executed by RVPN itself.

b. Work executed by the consumer/ intending agency under supervision of RVPN.

In both the cases as mentioned by the applicant, value shall be the transaction value, that is the price actually paid or payable in terms of Section 15 of the GST Act 2017.

3. What would be the applicable GST tax rate on the above supply?

The rate of GST shall be 18% (SGST 9% +CGST 9%).

(VIII) COURT ORDERS/ JUDGEMENTS

1. HC upholds demand of Service Tax post introduction of GST

Case Name : **Aravali Minerals and Chemical Industries Private Limited Vs. Union of India (Rajasthan High Court, Jodhpur Bench)**

Appeal Number : D.B. Civil Writ Petition No. 7684/2019

Date of Judgement/Order : 02/07/2019

High Court upholds power of Revenue to demand Service Tax post introduction of GST

Facts: Petitioner impugning that the SCN issued to it for recovery of service tax is not legally valid as w.e.f 01.07.2017, the legal regime has changed with introduction of GST which by section 174 repealed the Finance Act, 1994.

The Hon'ble High Court held as under

Section 174(2)(c) of CGST Act, 2017 prima facie seems to preserve the levy insofar as any liability to pay tax was incurred by the individual or concern. Court is of the opinion that the present writ petition cannot be maintained. It is open to the Writ petitioner to raise all contentions including levy and extent of levy of service tax before the adjudicating officer concerned. Writ petition is disposed of.

2. 9% Interest payable on delayed GST refund from filing date of GSTR 3B

Case Name : **Willowood Chemicals Pvt. Ltd. Vs Union of India (Gujarat High Court)**

Appeal Number : Special Civil Application No. 18591 of 2018

Date of Judgement/Order : 10/07/2019

For the reasons assigned in the Special Civil Application No.15925 of 2018, decided on 10/07/2019, this writ application is allowed to the extent that the writ applicants are entitled to the interest for the delayed payment at the rate of 9% per annum. The authority concerned shall look into the chart provided by the writ applicants, which is at Page 30, Annexure D to the writ application and calculate the aggregate amount of refund. On the aggregate amount of refund, the writ applicants are entitled to 9% per annum interest from the date of filing of the GSTR 3B. The respondents shall undertake this exercise at the earliest and calculate the requisite amount towards the interest. Let this exercise be undertaken and completed within a period of two months from the date of receipt of the writ of this order. The requisite amount towards the interest shall be paid to the writ applicants within a period of two months from the date of receipt of the writ of this order.

3. Department to pay Interest on delay in Grant of IGST refund to Exporters @9% p.a

Case Name : **Saraf Natural Stone Vs UOI (Gujarat High Court)**

Appeal Number : Special Civil Application No.15925 of 2018

Date of Judgement/Order : 10/07/2019

After **implementation of GST**, refund on exports got substantially delayed to most of

the exporters resulting into blockage of working capital and harming the business of exporter community.

In a recent Judgement delivered by The Hon'ble Gujarat High Court in Matter of M/s. Saraf Natural Stone Vs Union Of India it was held that Department is liable to pay simple interest on the delayed payment of IGST refund paid on export, at the rate of 9% per annum. The Said interest is payable from the date of filing of GSTR-3B till date of actual receipt of refund. The Hon'ble High Court also says that "The provisions relating to an interest of delayed payment of refund have been consistently held as beneficial and non-discriminatory. It is true that in the taxing statute the principles of equity may have little role to play, but at the same time, any statute in taxation matter should also meet with the test of constitutional provision." The matter was argued by Advocate Vinay Shraff, Advocate Nipun Singhvi and Advocate Vishal Dave. The learned counsel had placed reliance on below judgement:

The Calcutta High Court in the case of Shiv Kumar Jain Vs. Union of India reported in 2004 (168) E.L.T. 158 (Cal.)

A Five Judge Bench of the Supreme Court in the matter of T. Plantation Pvt. Ltd. & Anr. Vs. State of Karnataka reported at (2011) 9 SCC 1

A Division Bench of this Court in the matter of State of Gujarat Vs. Doshi Printing Press reported at MANU/GJ/0420/2015

4. CGST Act does not provide for Lapse of ITC for inverted rate structure: HC

Case Name : **Shabnam Petrofils Pvt. Ltd. Vs Union of India (Gujarat High Court)**

Appeal Number : Special Civil Application No. 16213 Of 2018

Date of Judgement/Order : 17/07/2019

Honourable Gujarat High Court in a landmark judgement which will benefit entire Textile Weaving Industry of India has struck down the second clause of Notification No 20/2018 due to which now the Weavers Are Not Required to Lapse ITC.

5. DGAP cannot suo motu issue a notice requiring a company to submit information on all its products

Case Name : **Reckitt Benckiser India Private Limited Vs Union of India (Delhi High Court)**

Appeal Number : W.P.(C) No. 7743/2019

Date of Judgement/Order : 19/07/2019

Grievance of the Petitioner is that Director General of Anti Profiteering (DGAP) has by the impugned notice dated 8 /9 April, 2019 sought information on all products of the Petitioner. In this context, he has referred to the recent amendment by which Sub-Rule 5

(a) has been inserted after Sub-Rule 4 in Rule 133 of the Central Goods and Service Tax Rules 2017 ('CGST Rules) which contemplates the NAPA, for reasons to be recorded in writing, and that too after receipt of the report of the DGAP on the Complained Product, to require the DGAP to cause 'investigation and inquiry with regard to such other goods or services or both' in accordance with the provisions of the Central Goods and Services Tax Act, 2017 (CGST Act). It is the case of the Petitioner that without there being a report of the DGAP on the complained product followed by an order of NAPA in terms of Rule 133 (5) (a) of the CGST Rules, the

DGAP cannot suo motu issue a notice requiring the Petitioner to submit information on all its products which are approximately 3500 in number.

The Court is of the view that the Petitioner has made out a prima facie case for granted of limited interim relief. It is directed that, till the next date, it will not be required to furnish information to the DGAP pursuant to the impugned notice other than information pertaining to the Complained It is, however, clarified that the NAPA's inquiry as far as the Complained Product is concerned will proceed in accordance with law.

6. Delhi HC explains period for which Interest on VAT Refund Payable

Case Name : Corsan Corviam Construcccion S.A.- Sadhbhav Engineering Ltd. JV Vs Commissioner of Trade & Taxes (Delhi High Court)

Appeal Number : W.P.(C) 12876/2018

Date of Judgement/Order : 22/07/2019

The wording of Section 42(1) of DVAT Act is unambiguous. It talks of the two dates i.e. date the refund was due to be paid to the person and until the date' on which the refund is given'. The word given' should in the context of the provision mean, the date on which the refund amount is actually received by the Petitioner and not the date simply on which the refund order is issued. As a matter of routine, the Court notes that invariably, the refund amount is not received by an Assessee on the date of issuance of the refund order. That date is usually a later date. In the present case, as already noted, the Respondent has not disputed the fact that the refund amount was in fact received by the Petitioner only on 14 September, 2017.

In that view of the matter, it is held that the Petitioner is entitled to interest on the refund amount issued by the order dated 25 August, 2017 for the period from 11 September, 2015 till 14 September, 2017. The said interest amount calculated in terms of Section 42 read with Rule 34 and 36 of the DVAT Rules will be credited to the Petitioner's account not later than 16 August, 2019. It is further directed that if the said amount is not credited by that date, the Respondent will pay the Petitioner Rs.50,000/- as compensation.