

GST UPDATE

(June, 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>	06
III.	<u>CENTRAL TAX NOTIFICATIONS</u>	15
IV.	<u>CENTRAL TAX (RATE) NOTIFICATIONS</u>	39
V.	<u>IGST TAX (RATE) NOTIFICATIONS</u>	40
VI.	<u>CGST CIRCULARS</u>	42
VII.	<u>ADVANCE RULINGS</u>	60
VIII.	<u>COURT ORDERS/ JUDGEMENTS</u>	70

V IGST TAX (RATE) NOTIFICATIONS

1	10/2019-Integrated Tax (Rate), dt. 29-06-2019	Seeks to specifies retail outlets established in the departure area of an international airport, beyond the immigration counters, making tax free supply of goods to an outgoing international tourist, as class of persons who shall be entitled to claim refund.	40
2	11/2019-Integrated Tax (Rate), dt. 29-06-2019	Seeks to exempts any supply of goods by a retail outlet established in the departure area of an international airport, beyond the immigration counters, to an outgoing international tourist.	41

VI CGST CIRCULARS

1	102/2019, dt. 28-06-2019	Clarification regarding applicability of GST on additional/ penal interest – reg.	42
2	103/2019, dt. 28-06-2019	Clarification regarding determination of place of supply in certain cases – reg.	45
3	104/2019, dt. 28-06-2019	Processing of refund applications in FORM GST RFD-01A submitted by taxpayers wrongly mapped on the common portal – reg.	48
4	105/2019, dt. 28-06-2019	Clarification on various doubts related to treatment of secondary or post-sales discounts under GST - reg.	51
5	106/2019, dt. 29-06-2019	Refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters when supplied to outgoing international tourist against foreign exchange - reg.	54

VII ADVANCE RULINGS

1	Order No. RAJ/AAR/2019-20/11 Dated 03/06/2019	GST on goods and services supplied to implement and maintain Software VC up to Gram Panchayat Government offices	60
2	Order No. 07/WBAAR/2019-20 Dated 10/06/2019	Notification on TDS under GST not applicable on exempt supplies	61
3	Order No. 03/WBAAR/2019-20 Dated 10/06/2019	Upgrading navigability of Mandarmoni River is exempt supply under GST	61
4	Order No. 04/WBAAR/2019-20 Dated 10/06/2019	Whether drainage of channels and riverbeds is an exempt supply?	62

5	Order No. 05/WBAAR/2019-20 Dated 10/06/2019	Whether resuscitation of a river is an exempt supply under GST	62
6	Advance Ruling No. RAJ/AAR/2019-20/12 Dated 19/06/2019	GST TDS provisions applicable only to persons specified U/s. 51(1)(d)	63
7	Order No. 09/WBAAR/2019-20 Dated 25/06/2019	18% GST payable on land filling and site preparation work: AAR	64
8	Order No. 10A/WBAAR/2019-20 Dated 25/06/2019	18% GST payable on railway pushing and towing service: AAR	64
9	Advance Ruling No. KAR ADRG 12/2019 Dated 25/06/2019	28% GST on mere mounting of body on chassis supplied by owner	65
10	Advance Ruling No. KAR ADRG 11/2019 Dated 25/06/2019	GST on oil used for lighting lamp for God	65
11	Order No. 08/WBAAR/2019-20 Dated 25/06/2019	GST paid on inward supply of motor vehicles for supplying rent-a-cab service not admissible	66
12	Order No. 11/WBAAR/2019-20 Dated 27/06/2019	GST on dredging to improve navigability of river-bed and channels	67
13	Order No. 12/WBAAR/2019-20 Dated 27/06/2019	GST on works contract of dredging a river-bed for government entity	67
14	Order No. 13/WBAAR/2019-20 Dated 27/06/2019	No GST on Renting of residential property for residence to Company	68
15	Order No. 14/WBAAR/2019-20 Dated 27/06/2019	No GST TDS on conservancy & waste management service to municipality	68

VIII COURT ORDERS/JUDGEMENTS

1	Writ Petition Nos.17989 & 23971/2018 (T – Res) Dated 17/06/2019	ITC Benefits cannot be denied to purchaser merely for subsequent de registration of selling dealers	70
2	Special Civil Application No. 18962 of 2018 Dated 24/06/2019	GSTR 3B is not a return under Section 39 of CGST Act 2017: Gujarat HC	70

Sr. No. Subject

Page No.

3	Special Civil Application No. 11016 of 2019 Dated 26/06/2019	Goods without E-Way Bill cannot be detained without notice U/s. 129	71
4	Special Civil Application No. 20126 of 2018 Dated 27/06/2019	Circular cannot run contrary to Statutory Provisions to deny IGST Refund	72

(I) GIST OF GST NOTIFICATIONS

1. Blocking of e-way bills on non-filing of returns

Notification No. 25/2019 seeks to extend the date from which the facility of blocking and unblocking on e-way bill facility as per the provision of Rule 138E of CGST Rules, 2017 shall be brought into force to 21.08.2019.

[Notification No. 25/2019 – Central Tax dated 21st June, 2019]

2. Due date for TDS return in GSTR-7 extended

Notification No. 26/2019 seeks to extend the due date of filing returns in FORM GSTR-7 (for October, 2018 to July, 2019) till 31 August, 2019.

[Notification No. 26/2019 – Central Tax dated 28th June, 2019]

3. Due dates for furnishing GSTR-1 and GSTR-3B, for the months Jul'19- Sep'19 notified

The due dates for furnishing of **GSTR-1 and GSTR-3B** for the period Jul'2019 to Sep'19 are:

Return	Related to	Period	Due date
GSTR-1_Quarterly	Persons with t/o < 1.5Cr\$	Jul'19-Sep'19	31-Oct-19
GSTR-1_Monthly	All	Jul'19-Sep'19	11th of following month
GSTR-3B_Monthly	All	Jul'19-Sep'19	20th of following month

[Notification No. 27,28 and 29/2019 – Central Tax dated 28th June, 2019]

4. Registered Person supplying OIDAR services from outside India to an Unregistered Person in India, are exempted from compliances of annual return and Audit

The persons supplying “*Online Information and Data Access and Retrieval*” (OIDAR) services from Outside India, to unregistered recipients in India are liable to get registered under GST. Such persons need to file the details of outward supplies and pay tax through GSTR-5A on monthly basis by 12 of the Following month.

Earlier, there were no exceptions for these persons from applicability of Sec 44 and Sec 35 of the CGST act. Therefore, they had to file the Annual return (GSTR-9) and reconciliation with certification of the auditor in GSTR-9C. Considering the practical possibilities of the compliance requirements, the same are now exempted from the compliance of GSTR-9 & 9C.

[Notification No. 30/2019 – Central Tax dated 28th June, 2019]

5. Amendments to CGST Rules, 2017

a) Furnishing of Bank Account Details: The taxpayer needs to furnish the following information within 45 days or due date of returns u/s 39, whichever is earlier:

- Details of bank account, or
- Any other information

GST registration shall be cancelled, if new registered person fails to submit the same.

b) Value of supply in cases where Kerala Flood Cess is applicable:

For Kerala, all intra-state B2C supply of good or services, the value of supply shall not include the Kerala Flood Cess charged thereon. This shall be effective from August 1, 2019.

c) QR Code: The Government may notify the requirement to include Quick Response (QR) code on the tax invoice/ bill of supply

d) PMT-09: Transfer of amount from one account head to another account head in electronic cash ledger.

A registered person can transfer following amounts available in the electronic cash ledger through FORM GST PMT-09: Tax, Interest, Penalty, Fee, Any other amount

e) Duty Free Shops:

- Retail outlets established in departure area of an international Airport beyond immigration counters can claim refund of taxes (i.e. paid by it on inward supply of goods) in FORM GST RFD- 10B.
- It should make tax free supply i.e. exports without payment of taxes to an outgoing international tourist.

f) Interest rate on profiteering amount: If Profiteered amount is not deposited as per the order of the authority, supplier shall be liable for 18% interest.

g) E-way bill:

The validity of the e-way bill may be extended within eight hours from the time of its expiry.

[Notification No. 31/2019 – Central Tax dated 28th June, 2019]

6. Due date for Job-work return in ITC-04 extended

Notification No. 32/2019 seeks to extend the due date for furnishing the declaration FORM GST ITC-04 (July 17 to June 19) till 31 August, 2019.

[Notification No. 32/2019 – Central Tax dated 28th June, 2019]

7. Clarification regarding applicability of GST on additional/ penal interest

- Any interest (or late fee or penalty) for delayed payment of any consideration charged by the supplier shall be included in the value of supply for the payment of GST.

– If any third party is involved like any bank or any other person, other than the supplier himself, who extends credit facility for such transaction, then the interest paid by the recipient would not be subject to GST.

[Circular No.102/2019- GST – dated 28 June, 2019]

8. Clarification regarding Place of Supply in certain cases

Issue	Clarification
<p>Services Provided by Ports – Various services are being provided by the port authorities to its clients in relation to cargo handling. E.g. services in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel, etc</p>	<p>Such services are ancillary to or related to cargo handling services. They are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.</p>
<p>Services rendered on goods temporarily imported in India Place of supply in case of supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India</p>	<p>In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in sub-section (2) of Section 13 of the IGST Act</p>

[Circular No.103/2019- GST – dated 28 June, 2019]

9. Processing of refund applications wrongly mapped on the common portal

– Where reassignment of refund applications to the correct jurisdictional tax authority is not possible on the common portal, the processing of refund claims should not be held up, rather it should be processed by the tax authorities to whom refund applications have been electronically transferred by the common portal.

– After processing of refund application, the refund processing authority may inform on the common portal about the incorrect mapping with a request to update it. This will ensure that all the subsequent refund applications are sent to correct jurisdictional tax authority.

[Circular No.104/2019- GST – dated 28 June, 2019]

10. Treatment of Secondary or Post Sales Discount

The Circular is issued for clarification for Post Sales discount issued pursuant to Sec 15(3)(b) of the **CGST Act, 2017 –**

Category	Obligation of Dealer	Treatment
Post sales discount given by supplier to Dealer	Dealer not to undertake any further activity or action to obtain such discount	Value of such discount not to be included in the value of supply subject to fulfilment of provisions of Sec 15(3) of the CGST Act, 2017
Post sales discount given by supplier to Dealer	Dealer to undertake some special sales drive, advertisement campaign, exhibition, etc	Such transaction is treated as a separate transaction. Additional discount shall be consideration for such activity. The dealer being supplier of such services, shall raise an invoice and charge applicable GST. Supplier of Goods (being recipient of Service) shall claim ITC of the GST so charged. <i>E.g. ABC Ltd is a manufacturer of Motor Vehicles, provides a special discount to PQR Ltd (dealer of ABC Ltd) for undertaking a special marketing campaign.</i> <i>PQR Ltd shall raise an invoice for such marketing campaign (amount reimbursed by M/s ABC) to ABC Ltd and ABC Ltd shall claim ITC on such Invoice.</i>
Additional Discount from Supplier to Dealer	Dealer to offer special reduced price to customer to augment the sales volume	Such additional discount shall be treated as consideration from supplier to dealer for supply of goods from dealer to customer. It should be added to the consideration payable by customer. The customer, if registered, shall be eligible to claim ITC on such additional consideration.
Post sales discount by supplier by way for financial or commercial credit notes	Financial/Commercial Credit Notes (Refer to Circular No 92/11/2019-GST dated 7th March 2019)	<i>Dealer</i> is not required to reverse the ITC attributable to such post sales discount received by way of financial/commercial credit note if: The dealer pays the value of supply less the amount of credit note plus <i>amount of original tax charged by the supplier</i>

[Circular No.105/2019- GST – dated 28 June, 2019]

11. Suppliers located in the departure area of international airports and making tax free sales can claim refund of accumulated credit

The procedure for claim and processing of the refund was clarified vide circular 106/25/2019 dated 29 June 2019. The key points are:

- Since the supplier is not eligible for credit, the refund is for the taxes paid on inward supplies but not for the accumulated credit.
- The refund is invoice based but not the basis of the credit ledger or other returns.

- The supplier should maintain the details of inward supplies and the corresponding outward supply details in the format given as **Annexure A** to the Circular.
- The supplier should also maintain the declarations from the passenger in the format prescribed in the **Annexure B** to the circular.
- Till the time the refund application is available online, the application should be filed manually.

The scheme shall be applicable for outward supplies made from 01 Jul 19, i.e. tax paid on procurements prior to 01Jul 19 can also claimed as refund, if the same are sold after 01 Jul 19.

[Circular No.106/2019- GST – dated 29 June, 2019]

(II) PUNJAB GST NOTIFICATIONS/ORDERS

PUNJAB GOVT. GAZ. (EXTRA), JUNE 24, 2019
(ASAR 3, 1941 SAKA)

320

PART III
GOVERNMENT OF PUNJAB
DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION BRANCH-II)

NOTIFICATION

The 6th June, 2019

No. S.O. 68/P.A.5/2017/S.11/Amd./2019.- In exercise of the powers conferred by sub-section (1) of section 11 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 being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to make the following amendment in the Punjab Government, Department of Excise and Taxation, Notification No. S.O.37/P.A.5/2017/S.11/2017, 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, -

- (i) in the opening paragraph, for the words, brackets and figures “sub-section (1) of section 11”, the words, brackets, sign and figures “, sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148” shall be substituted;
- (ii) in the Table, -
- (a) after serial number 41 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“41A	Heading 9972	Service by way of transfer of development rights (herein refer TDR) or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of residential apartments by a promoter in a project, 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.	Nil	Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner - [GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the

		<p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p>[GST payable on TDR or FSI (including additional FSI) or both for construction of the project] x (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project)</p>		<p>project which remain un- booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project)</p> <p>Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5per cent.of the value in case of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un- booked on the date of issuance of completion certificate or first occupation</p> <p>The liability to pay state tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may be, whichever is earlier.</p>
41B	Heading 9972	<p>Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more, on or after 01.04.2019, for construction of residential apartments by a promoter in a project, 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>The amount of GST exemption available for construction of residential apartments in the project under this notification</p>	Nil	<p>Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable to the residential apartments, which remain un- booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner -</p> <p>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the residential apartments in the projectbut for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project);</p> <p>Provided further that the tax payable in terms of the first proviso shall not exceed 0.5 per cent.</p>

shall be calculated as under:
[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project] x (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project).

of the value in case of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation.
The liability to pay state tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation of the project, as the case may be.

(iii) after paragraph 1, the following paragraphs shall be inserted, namely, -

“1A. Value of supply of service by way of transfer of development rights or FSI by a person to the promoter against consideration in the form of residential or commercial apartments shall be deemed to be equal to the value of similar apartments charged by the promoter from the independent buyers nearest to the date on which such development rights or FSI is transferred to the promoter.

1B. Value of portion of residential or commercial apartments remaining un-booked on the date of issuance of completion certificate or first occupation, as the case may be, shall be deemed to be equal to the value of similar apartments charged by the promoter nearest to the date of issuance of completion certificate or first occupation, as the case may be.”

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

“(v) 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).

(vi) The term “affordable residential apartment” shall have the same meaning as assigned to it in the Punjab Government, Department of Excise and Taxation, Notification No. S.O.17/P.A.5/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, as amended.

(vii) 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).

(viii) The term “project” shall mean a Real Estate Project or a Residential Real Estate Project.

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

(x) 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;

(xi) The term “carpet area” shall have the same meaning as assigned to it clause (k) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(xii) “an apartment booked on or before the date of issuance of completion certificate or first occupation of the project” shall mean an apartment which meets all the following three conditions, namely-

- (a) part of supply of construction of the apartment service has time of supply on or before the said date; and
 - (b) consideration equal to at least one instalment has been credited to the bank account of the registered person on or before the said date; 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 said date.
- (xiii) "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 6th June, 2019

No. S.O.69/P.A.5/2017/S.148/2019.- In exercise of the powers conferred by 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 of Punjab, on the recommendations of the Council, is pleased to notify the following classes of registered persons, namely:-

- (i) a promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;
- (ii) a promoter, who receives long term lease of land on or after 1st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name),

as the registered persons in whose case the liability to pay State tax on, -

- (a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);
- (b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relating to construction of residential apartments in project;
- (c) the upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relating to construction of residential apartments in the project; and
- (d) the supply of construction service by him against consideration in the form of development rights or FSI (including additional FSI), -

shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

2. *Explanation:-* For the purpose of this notification,-

- (i) 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);

-
- (ii) the term “promoter” shall have the same meaning as assigned to it in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);
- (iii) the term “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);
- (iv) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);.
- (v) 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.
- (vi) the term “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.
- (vii) Tax on services covered by sub-para (i) and (ii) of paragraph 1 above is required to be paid under reverse charge basis in accordance with Punjab Government, Department of Excise and Taxation, Notification No. S.O. 35/P.A.5/2017/S.9/ 2017, dated 30.06.2017 published in the Punjab Government Gazette (Extraordinary), Part III, dated 30.06.2017, as amended.
3. 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 6th June, 2019

No. S.O.70/P.A.5/2017/S.9/2019.- In exercise of the powers conferred by sub-section (4) 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 notify that the registered person specified in column (3) of the table below, shall in respect of supply of goods or services or both specified in column (2) of the Table below, received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services or both, namely:-

Table

Sl. No.	Category of supply of goods and services	Recipient of goods and services
(1)	(2)	(3)
1	Supply of such goods and services or both [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)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in Punjab Government Notification No. S.O.17/P.A.5/2017/Ss.9, 11, 15 and 16/2017 dated 30th June, 2017, , at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in the Punjab Government Gazette (Extraordinary), Part III, dated 30th June, 2017, as amended.	Promoter
2	Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in Punjab Government Notification No. S.O.17/P.A.5/2017/Ss.9, 11, 15 and 16/2017 dated 30th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in the Punjab Government Gazette (Extraordinary), Part III, dated 30th June, 2017, as amended.	Promoter
3	Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project	Promoter

on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in Punjab Government Notification No. S.O.17/P.A.5/2017/Ss.9, 11, 15 and 16/2017 dated 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated 30th June, 2017, as amended.

Explanation. - For the purpose of this notification, -

- (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) the term “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.

1797/6-2019/Pb. Govt. Press, S.A.S. Nagar

PART III

GOVERNMENT OF PUNJAB

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

ORDER

The 6th June, 2019

No. S.O.71/P.A.5/2017/S.172/2019. – Whereas, sub-section (2) of section 17 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017) (hereafter in this Order referred to as the “said Act”) provides that the input tax credit shall be restricted to so much of input tax as is attributable to the taxable supplies;

And whereas sub-section (3) of section 17 of said Act provides that the value for the purpose of sub-section (2) of section 17 of the said Act shall be such as prescribed by rules;

Now, therefore, in exercise of the powers conferred by section 172 of the said Act, the Governor of Punjab, on recommendations of the Council, hereby makes the following Order, namely:-

1. (1) Short title. -- This Order may be called the Punjab Goods and Services Tax (Removal of Difficulties) Order, 2019.

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

2. For the removal of difficulties, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, the amount of credit attributable to the taxable supplies including zero rated supplies and exempt supplies shall be determined on the basis of the area of the construction of the complex, building, civil structure or a part thereof, which is taxable and the area which is exempt.

M.P. SINGH,

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

(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. 25 /2019 – Central Tax**

New Delhi, the 21st June, 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, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendment in the notification of the Government of India, Ministry of Finance, Department of Revenue No.22/2019- 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. 323(E), dated the 23rd April, 2019, namely:-

In the said notification, for the figures, letters and words “21st day of June, 2019” the figures, letters and word “21st day of August, 2019” shall be substituted.

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

(Ruchi Bisht)
Under Secretary to the Government of India

Note: -The principal notification No.22/2019- Central Tax, dated the 23rd April, 2019 was published in the Gazette of India, Extraordinary, vide number G.S.R. 323(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. 26/2019 – Central Tax

New Delhi, the 28th June, 2019

G.S.R.(E).—In exercise of the powers conferred by sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), and in supercession of the notifications of the Government of India in the Ministry of Finance, Department of Revenue –

- (i) No. 66/2018 - Central Tax, dated the 29th November, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1150(E), dated the 29th November, 2018;
- (ii) No. 8/2019 - Central Tax, dated the 8th February, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 101(E), dated the 8th February, 2019; and
- (iii) No. 18/2019 - Central Tax, dated the 10th April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 301(E), dated the 10th April, 2019,

except as respects things done or omitted to be done before such supercession, the Commissioner hereby extends the time limit for furnishing the return by a registered person required to deduct tax at source under the provisions of section 51 of the said Act in **FORM GSTR-7** of the Central Goods and Services Tax Rules, 2017 under sub-section (3) of section 39 of the said Act read with rule 66 of the Central Goods and Services Tax Rules, 2017 for the months of October, 2018 to July, 2019 till the 31st day of August, 2019.

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

(Ruchi Bisht)
Under Secretary to the Government of India

[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. 27/2019 – Central Tax

New Delhi, the 28th June, 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) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who shall follow the special procedure as mentioned below for furnishing the details of outward supply of goods or services or both.

2. The said registered persons shall furnish the details of outward supply of goods or services or both in **FORM GSTR-1** under the Central Goods and Services Tax Rules, 2017, effected during the quarter as specified in column (2) of the Table below till the time period as specified in the corresponding entry in column (3) of the said Table, namely:-

Table

Sl. No.	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
(1)	(2)	(3)
1	July –September, 2019	31 st October, 2019

3. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the said Act, for the months of July, 2019 to September, 2019 shall be subsequently notified in the Official Gazette.

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

(Ruchi Bisht)

Under Secretary to the Government of India

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. 28/2019 – Central Tax

New Delhi, the 28th June, 2019

G.S.R.....(E). - In exercise of the powers conferred by the second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of the Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from July, 2019 to September, 2019 till the eleventh day of the month succeeding such month.

2. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the said Act, for the months of July, 2019 to September, 2019 shall be subsequently notified in the Official Gazette.

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

(Ruchi Bisht)
Under Secretary to the Government of India

[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. 29/2019 – Central Tax

New Delhi, the 28th June, 2019

G.S.R...(E).- In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby specifies that the return in **FORM GSTR-3B** of the said rules for each of the months from July, 2019 to September, 2019 shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month.

2. Payment of taxes for discharge of tax liability as per FORM GSTR-3B. – Every registered person furnishing the return in **FORM GSTR-3B** of the said rules shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as specified in the first paragraph, on which he is required to furnish the said return.

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

(Ruchi Bisht)
Under Secretary to the Government of India

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.30 /2019 – Central Tax

New Delhi, the 28th June, 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) (hereinafter referred to as “the said Act”), the Central Government, on the recommendations of the Council, hereby notifies the persons registered under section 24 of the said Act read with rule 14 of the Central Goods and Services Tax Rules, 2017, (hereinafter referred to as “the said rules”), supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person as the class of registered persons who shall follow the special procedure as mentioned below.

2. The said persons shall not be required to furnish an annual return in **FORM GSTR-9** under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules.

3. The said persons shall not be required to furnish reconciliation statement in **FORM GSTR-9C** under sub-section (2) of section 44 of the said Act read with sub-rule (3) of rule 80 of the said rules.

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

(Ruchi Bisht)

Under Secretary to the Government of India

[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. 31/2019 – Central Tax

New Delhi, the 28th June, 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 (Fourth 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), after rule 10, the following rule shall be inserted, namely: -

“10A. **Furnishing of Bank Account Details.**-After a certificate of registration in **FORM GST REG-06** has been made available on the common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall as soon as may be, but not later than forty five days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier, furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision.”.

3. In the said rules, in rule 21, after clause (c), the following clause shall be inserted, namely:-
“(d) violates the provision of rule 10A.”.

4. In the said rules, after rule 32, with effect from the 1st day of July, 2019, the following rule shall be inserted, namely: -

“32A. Value of supply in cases where Kerala Flood Cess is applicable.- The value of supply of goods or services or both on which Kerala Flood Cess is levied under clause 14 of the Kerala Finance Bill, 2019 shall be deemed to be the value determined in terms of section 15 of the Act, but shall not include the said cess.”.

5. In the said rules, in rule 46, after the fifth proviso, with effect from a date to be notified later, the following proviso shall be inserted, namely:-

“Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code.”.

6. In the said rules, in rule 49, after the third proviso, with effect from a date to be notified later, the following proviso shall be inserted, namely:-

“Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the bill of supply shall have Quick Response (QR) code.”.

7. In the said rules, in rule 66, in sub-rule (2),-

(a) for the words, letters and figures “suppliers in **Part C** of **FORM GSTR-2A** and **FORM-GSTR-4A**” the word “deductees” shall be substituted;

(b) the words “the due date of” shall be omitted;

(c) after the words, letters and figures “ **FORM GSTR-7**” the words “for claiming the amount of tax deducted in his electronic cash ledger after validation” shall be inserted.

8. In the said rules, rule 67, in sub-rule (2),-

(a) the words, letters and numbers “in **Part C** of **FORM GSTR-2A**” shall be omitted;

(b) the words “the due date of” shall be omitted;

(c) after the words, letters and figures “**FORM GSTR-8**” the words “for claiming the amount of tax collected in his electronic cash ledger after validation” shall be inserted.

9. In the said rules, in rule 87,-

(a) in sub-rule (2), the second proviso shall be omitted.

(b) in sub-rule (9),-

(i) the words, letters and figures “in **FORM GSTR-02**” shall be omitted;

(ii) the words and figures “in accordance with the provisions of rule 87” shall be omitted.

(c) after sub-rule (12), with effect from a date to be notified later, the following sub-rule shall be inserted, namely:-

“(13) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in **FORM GST PMT-09**.”.

10. In the said rules, in rule 91, in sub-rule (3), with effect from a date to be notified later, at all the places where they occur, for the words “payment advice”, the words “payment order” shall be substituted.

11. In the said rules, in rule 92, with effect from a date to be notified later,-

(a) in sub-rule (4), at all the places where they occur, for the words “payment advice”, the words “payment order” shall be substituted;

(b) in sub-rule (4), after the words “application for refund”, the words “on the basis of a consolidated payment advice” shall be inserted;

(c) after sub-rule (4), the following sub-rule shall be inserted, namely:-

“(4A) The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (4).”;

(d) in sub-rule (5), for the words “ an advice”, the words “a payment order” shall be substituted.

12. In the said rules, in rule 94, with effect from a date to be notified later, for the words “payment advice”, the words “payment order” shall be substituted.

13. In the said rules, after rule 95, with effect from the 1st day of July,2019, the following rule shall be inserted, namely: -

“95A. Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist.-

(1) Retail outlet established in departure area of an international airport, beyond the immigration counters, supplying indigenous goods to an outgoing international tourist who is

leaving India shall be eligible to claim refund of tax paid by it on inward supply of such goods.

(2) Retail outlet claiming refund of the taxes paid on his inward supplies, shall furnish the application for refund claim in **FORM GST RFD- 10B** on a monthly or quarterly basis, as the case may be, through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

(3) The self-certified compiled information of invoices issued for the supply made during the month or the quarter, as the case may be, along with concerned purchase invoice shall be submitted along with the refund application.

(4) The refund of tax paid by the said retail outlet shall be available if-

- (a) the inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;
- (b) the said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;
- (c) name and Goods and Services Tax Identification Number of the retail outlet is mentioned in the tax invoice for the inward supply; and
- (d) such other restrictions or conditions, as may be specified, are satisfied.

(5) The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.

Explanation.- For the purposes of this rule, the expression “outgoing international tourist” shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.”.

14. In the said rules, in rule 128,-

(a) in sub-rule (1), after the words “receipt of a written application,” the words “or within such extended period not exceeding a further period of one month for reasons to be recorded in writing as may be allowed by the Authority,” shall be inserted;

(b) in sub-rule (2),-

- i. after the words “All applications from interested parties on issues of local nature” the words, “or those forwarded by the Standing Committee” shall be inserted;
- ii. after the words “the State level Screening Committee and the Screening Committee shall,” the words “within two months from the date of receipt of a written application, or within such extended period not exceeding a further period of one month for reasons to be recorded in writing as may be allowed by the Authority,” shall be inserted.

15. In the said rules, in rule 129, in sub-rule (6), for the word “three” used in the phrase “shall complete the investigation within a period of three months”, the word “six” shall be substituted.

16. In the said rules, in rule 132, in sub-rule (1), before the words “Director General of Anti-profiteering” the word “Authority,” shall be inserted.

17. In the said rules, in rule 133,-

(a) in sub-rule (1), for the word “three” the word “six” shall be substituted;

(b) after sub-rule (2), the following sub-rule shall be inserted, namely:-

“(2A) The Authority may seek the clarification, if any, from the Director General of Anti Profiteering on the report submitted under sub-rule (6) of rule 129 during the process of determination under sub-rule (1).”;

(c) in sub-rule (3), in clause (c), after the words “fifty per cent. of the amount determined under the above clause”, the words “along with interest at the rate of eighteen per cent. from the date of collection of the higher amount till the date of deposit of such amount” shall be inserted;

(d) in sub-rule (3), in the Explanation, after the words “the expression, “concerned State” means the State”, the words, “or Union Territory” shall be inserted;

(e) after sub-rule (4), the following sub-rule shall be inserted, namely:-

“(5) (a) Notwithstanding anything contained in sub-rule (4), where upon receipt of the report of the Director General of Anti-profiteering referred to in sub-rule (6) of rule 129, the Authority has reasons to believe that there has been contravention of the provisions of section 171 in respect of goods or services or both other than those covered in the said report, it may, for reasons to be recorded in writing, within the time limit specified in sub-rule (1), direct the Director General of Anti-profiteering to cause investigation or inquiry with regard to such other goods or services or both, in accordance with the provisions of the Act and these rules.

(b) The investigation or enquiry under clause (a) shall be deemed to be a new investigation or enquiry and all the provisions of rule 129 shall mutatis mutandis apply to such investigation or enquiry.”.

18. In the said rules, in rule 138, in sub-rule (10),-

(a) in the Table, in column (3), against serial no. 1 to serial no. 4, after the words “Over Dimensional Cargo”, the words “or multimodal shipment in which at least one leg involves transport by ship” shall be inserted;

(b) after the second proviso, the following proviso shall be inserted, namely:-

“Provided also that the validity of the e-way bill may be extended within eight hours from the time of its expiry.”.

19. In the said rules, in rule 138E, in sub-clause (a),-

(a) after the words “being a person paying tax under section 10” the words and figures “or availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 189, dated the 7th March, 2019,” shall be inserted;

(b) for the word “returns” the words, letters and figures “statement in **FORM GST CMP-08**” shall be substituted;

(c) for the words “tax periods” the word “quarters” shall be substituted.

20. In the said rules, in **FORM GST REG-01**, in the Table appended to “List of Documents to be uploaded”, against serial no. 4, in the heading, after the words “Bank Account Related Proof”, the words “, where details of such Account are furnished:” shall be inserted.

21. In the said rules, in **FORM GST REG-07**, in **PART-B**, after entry 12, the following entry shall be inserted, namely:-

“12A. Details of Bank Accounts (s) [Optional]

Total number of Bank Accounts maintained by the applicant (Upto 10 Bank Accounts to be reported)	
--	--

Details of Bank Account 1

Account Number																				
Type of Account											IFSC									
Bank Name																				
Branch Address	To be auto-populated (Edit mode)																			

Note-Add more bank accounts”.

22. In the said rules, in **FORM GST REG-12**, after entry 12, the following entry shall be inserted, namely:-

“13. Details of Bank Accounts (s) [Optional]

Total number of Bank Accounts maintained by the applicant (Upto 10 Bank Accounts to be reported)	
--	--

Details of Bank Account 1

Account Number																				
Type of Account											IFSC									
Bank Name																				
Branch Address	To be auto-populated (Edit mode)																			

Note-Add more bank accounts”.

23. In the said rules, for **FORM GSTR-4**, the following form shall be substituted, namely:-

“FORM GSTR-4

[See rule 62]

Return for financial year of registered person who has opted for composition levy or availing benefit of notification No. 02/2019- Central Tax (Rate)

Year					
------	--	--	--	--	--

1.		GSTIN																		
2.	(a)	Legal name of the registered person	<Auto>																	
	(b)	Trade name, if any	<Auto>																	
3.	(a)	Aggregate turnover in the preceding Financial Year (Auto populated)																		
	(b)	ARN	<Auto>(after filing)>																	
	(c)	Date of ARN	<Auto>(after filing)>																	

4. Inward supplies including supplies on which tax is to be paid on reverse charge

GSTIN of supplier	Invoice details			Rate	Taxable value	Amount of tax				Place of supply (Name of State/UT)
	No.	Date	Value			Integrated Tax	Central Tax	State/UT Tax	CESS	
1	2	3	4	5	6	7	8	9	10	11
4A. Inward supplies received from a registered supplier (other than supplies attracting reverse charge)										
4B. Inward supplies received from a registered supplier (attracting reverse charge)										

4C. Inward supplies received from an unregistered supplier										
4D. Import of service										

5. Summary of self-assessed liability as per FORM GST CMP-08

(Net of advances, credit and debit notes and any other adjustment due to amendments etc.)

Sr. No.	Description	Value	Amount of tax			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
1.	Outward supplies (including exempt supplies)	<Auto>	<Auto>	<Auto>	<Auto>	<Auto>
2.	Inward supplies attracting reverse charge including import of services	<Auto>	<Auto>	<Auto>	<Auto>	<Auto>
3.	Tax paid (1+2)	<Auto>	<Auto>	<Auto>	<Auto>	<Auto>
4.	Interest paid, if any	<Auto>	<Auto>	<Auto>	<Auto>	<Auto>

6. Tax rate wise details of outward supplies / inward supplies attracting reverse charge during the year

(Net of advances, credit and debit notes and any other adjustment due to amendments etc.)

Sr. No.	Type of supply (Outward/ Inward)	Rate of tax (%)	Value	Amount of tax			
				Integrate d tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7	8
				<Auto>	<Auto>	<Auto>	<Auto>
				<Auto>	<Auto>	<Auto>	<Auto>
				<Auto>	<Auto>	<Auto>	<Auto>
		Total		<Auto>	<Auto>	<Auto>	<Auto>

7. TDS/TCS Credit received

GSTIN of Deductor / e-commerce operator	Gross Value	Amount	
		Central Tax	State/UT Tax
1	2	3	4

8. Tax, interest, late fee payable and paid

Sr. No.	Type of tax	Tax amount payable (As per table 6)	Tax Amount already paid (Through FORM GST CMP-08)	Balance amount of tax payable, if any (3-4)	Interest payable	Interest paid	Late fee payable	Late fee paid
1	2	3	4	5	6	7	8	9
1.	Integrated tax	<Auto>	<Auto>	<Auto>				
2.	Central tax	<Auto>	<Auto>	<Auto>				
3.	State/UT tax	<Auto>	<Auto>	<Auto>				
4.	Cess	<Auto>	<Auto>	<Auto>				

9. Refund claimed from Electronic cash ledger

Description	Tax	Interest	Penalty	Fee	Other	Debit Entry Nos.
1	2	3	4	5	6	7
(a) Integrated tax						
(b) Central Tax						
(c) State/UT Tax						
(d) Cess						
Bank Account Details (Drop Down)						

Verification

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

Signature of Authorised Signatory

Place

Name of Authorised Signatory

Date

Designation /Status

Instructions:-

1. Terms used:
 - (a) GSTIN: Goods and Services Tax Identification Number
 - (b) TDS: Tax Deducted at Source
 - (c) TCS : Tax Collected at Source
2. The details in **FORM GSTR-4**, for every financial year or part thereof, should be furnished till the thirtieth day of April following the end of such financial year.
3. Aggregate turnover of the taxpayer for the immediate preceding financial year would be auto-populated.
4. Table 4 to capture information, on a consolidated basis, related to inward supplies, rate-wise, GSTIN wise:
 - (i) Table 4A to capture inward supplies from registered supplier other than those attracting reverse charge;
 - (ii) Table 4B to capture inward supplies from registered supplier attracting reverse charge;
 - (iii) Table 4C to capture supplies from unregistered supplier;
 - (iv) Table 4D to capture import of services.
5. Table 5 to capture details (and adjustments thereof) of outward supplies (including exempt supplies) and inward supplies attracting reverse charge including import of services as declared earlier in **FORM GST CMP-08** during the financial year.
6. TDS/TCS credit received from deductor/e-commerce operator would be auto-populated in Table 7.”

24. In the said rules, in **FORM GSTR-9**,-

- (a) in the Table, in serial no. 8, in column 2, in row C, for the words and figures “to September, 2018”, the figures and word “2018 to March 2019” shall be substituted;
- (b) in the Table, in Pt. V, in column 2, in the heading, for the words and letters “previous FY declared in returns of April to September of current FY or upto date of filing of annual return of previous FY whichever is earlier”, the letters, figures and words “FY 2017-18 declared in returns between April 2018 till March 2019” shall be substituted;
- (c) in instructions, serial no. 3 shall be omitted;
- (d) in instructions, in serial no. 4, after the sentence ending with “declared in this part.”, the following words, letters and figures shall be inserted, namely:-

“It may be noted that additional liability for the FY 2017-18 not declared in **FORM GSTR-1** and **FORM GSTR-3B** may be declared in this return. However, taxpayers cannot claim input tax credit unclaimed during FY 2017-18 through this return.” ;

(e) In the instructions, in serial no. 5, in the Table, in column 2,-

(i) against serial no. 8A, after the words, letters and figures “corresponding suppliers in their **FORM GSTR-1**.”, the following words, letters and figures shall be inserted, namely:-

“It may be noted that the **FORM GSTR-2A** generated as on the 1st May, 2019 shall be auto-populated in this table.”;

(ii) against serial no. 8C, for the words “to September 2018”, the figures and words “2018 to March 2019” shall be substituted;

(f) in the instructions, in serial no. 7,-

(i) for the words, letters, brackets and figures “of April to September of current FY or date of filing of Annual Return for previous financial year (for example in the annual return for the FY 2017-18, the transactions declared in April to September 2018 for the FY 2017-18 shall be declared), whichever is earlier”, the words and figures “between April 2018 to March 2019” shall be substituted;

(ii) in the Table, in column 2-

(A) against serial no. 10 & 11, for the words “to September of the current financial year or date of filing of Annual Return for the previous financial year, whichever is earlier”, the figures and words “2018 to March 2019” shall be substituted;

(B) against serial no. 12, for the words “to September of the current financial year or date of filing of Annual Return for the previous financial year, whichever is earlier”, the figures and words “2018 to March 2019” shall be substituted;

(C) against serial no. 13, for the words “to September of the current financial year or date of filing of Annual Return for the previous financial year whichever is earlier”, the figures and words “2018 to March 2019” shall be substituted.

25. In the said rules, after **FORM GST PMT –07**, with effect from a date to be notified later, the following form shall be inserted, namely:-

FORM GST PMT –09*[See rule 87(13)]***Transfer of amount from one account head to another in electronic cash ledger**

1.	GSTIN	
2.	(a) Legal name	<Auto>
	(b) Trade name, if any	<Auto>
3.	ARN	
4.	Date of ARN	

5. Details of the amount to be transferred from one account head to another
(Amount in Rs.)

Amount to be transferred from			Amount to be transferred to		
Major head	Minor head	Amount available	Major Head	Minor head	Amount transferred
1	2	3	4	5	6
<Central tax, State/ UT tax, Integrated tax, Cess>	Tax		<Central tax, State / UT tax Integrated tax, Cess>	Tax	
	Interest			Interest	
	Penalty			Penalty	
	Fee			Fee	
	Others			Others	
	Total			Total	

6. Verification

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

Place

Signature

Name of Authorized Signatory

Date

Designation /Status

Instructions -

1. Major head refers to - Integrated tax, Central tax, State/UT tax and Cess.
2. Minor head refers to – tax, interest, penalty, fee and others.
3. The form may be filled up if amount from one major / minor head is intended to be transferred to another major/minor head. Minor head for transfer of amount may be same or different.
4. The amount from one minor head can also be transferred to another minor head under the same major head.

5. Amount can be transferred from the head only if balance under that head is available at the time of transfer.

”

26. In the said rules, in **FORM GST RFD-05**, with effect from a date to be notified later,-

- (a) in Line 3 for the word “Advice”, the word “order” shall be substituted;
- (b) in Line 4 for the word “Advice”, the word “order” shall be substituted;
- (c) in Line 6, for the words and letters “To <Centre> PAO/ Treasury/ RBI/ Bank”, the words and letters “To PAO, CBIC” shall be substituted.

27. In the said rules, after **FORM GST RFD - 10**, with effect from the 1st day of July, 2019, the following form shall be inserted, namely:-

“

FORM GST RFD-10 B														
<i>[See rule 95A]</i>														
Application for refund by Duty Free Shops/Duty Paid Shops (Retail outlets)														
1. GSTIN:														
2. Name:														
3. Address:														
4. Tax Period (Monthly/Quarterly) : From <DD/MM/YY>To <DD/MM/YY>														
5. Amount of Refund Claim: <INR><In Words>														
6. Details of inward supplies of goods received and corresponding outward supplies:														
DETAILS OF SUPPLIES														
Inward Supplies										Corresponding outward supplies				
GSTIN of supplier	Invoice details				Rate	Taxable value	Amount of tax				Invoice details			
	No / Date	HSN Code	Qty.	Value			Integrated Tax	Central Tax	State /UT	CESS	No. / Date	HSN Code	Qty.	Taxable Value

										Tax									
--	--	--	--	--	--	--	--	--	--	-----	--	--	--	--	--	--	--	--	--

7. Refund applied for:

Central Tax	State/UT Tax	Integrated Tax	Cess	Total
<Total>	<Total>	<Total>	<Total>	<Total>

8. Details of Bank Account:

- i. Bank Account Number
- ii. Bank Account Type
- iii. Name of the Bank
- iv. Name of the Account Holder/Operator
- v. Address of Bank Branch
- vi. IFSC
- vii. MICR

9. Declaration:

I _____ as an authorized representative of _____ (Name of Duty Free Shop/Duty Paid Shop – retail outlet) hereby solemnly affirm and declare that,-

- (i) refund has not been claimed against any of the invoices in respect of outward supplies submitted with this application.
- (ii) the information given herein above is true and correct to the best of my knowledge and belief.

Date:

Signature of Authorized Signatory:

Place:

Name:
Designation / Status

Instructions:

1. Application for refund shall be filed on monthly/quarterly basis depending upon the frequency of furnishing of return by retail outlets.
2. Application shall be made in respect of one inward supply invoice only once. Therefore, it is advised that refund shall be applied only for those inward supply invoices the goods received against which have been completely supplied.
3. Applicant should ensure that all the invoices declared by him have the GSTIN of the supplier and the GSTIN of the respective Duty Free Shop /Duty Paid Shop (retail outlet) clearly marked on them.
4. Documents to be attached with the refund application:
 - a) Undertaking that all indigenous goods on which refund is being claimed have been received by the Duty-Free Shop/Duty Paid Shop (retail outlet);
 - b) Undertaking that the indigenous goods have been sold to eligible outgoing international tourist;
 - c) Copy of the returns for the period for which application is being filed.

”.

28. In the said rules, for **FORM GST DRC-03**, the following FORM shall be substituted, namely:–

“

“FORM GST DRC- 03		
<i>[See rule 142(2) & 142 (3)]</i>		
Intimation of payment made voluntarily or made against the show cause notice (SCN) or statement		
1.	GSTIN	
2.	Name	< Auto>
3.	Cause of payment	<< drop down>> Audit, investigation, voluntary, SCN, annual return, reconciliation statement, others (specify)
4.	Section under which voluntary payment is made	<< drop down>>

5.	Details of show cause notice, if payment is made within 30 days of its issue					Reference No.			Date of issue			
6.	Financial Year											
7.	Details of payment made including interest and penalty, if applicable (Amount in Rs.)											
Sr. No.	Tax Period	Account	Place of supply (POS)	Tax / Cesses	Interest	Penalty, if applicable	Others	Total	Ledger utilised (Cash / Credit)	Debit entry no.	Date of debit entry	
1	2	3	4	5	6	7	8	9	10	11	12	

8. Reasons, if any - << Text box >>

9. 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 Authorized Signatory

Name

Designation / Status

Date – ”.

”.

[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. 20/2019 - Central Tax, dated the 23rd April, 2019, published *vide* number G.S.R. 321 (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. 32/2019 – Central Tax

New Delhi, the 28th June, 2019

G.S.R... (E). - In pursuance of section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and sub-rule (3) of rule 45 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), and in supercession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 15/2019-Central Tax, dated the 28th March 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.242(E), dated the 28th March 2019, except as respects things done or omitted to be done before such supercession, the Commissioner, hereby extends the time limit for furnishing the declaration in **FORM GST ITC-04** of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to June, 2019 till the 31st day of August, 2019.

[F. No. 20/06/17/2018-GST]

(Ruchi Bisht)

Under Secretary to the Government of India

(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. 11 /2019 – Central Tax (Rate)

New Delhi, the 29th June, 2019

G.S.R.....(E).— In exercise of the powers conferred by section 55 of the Central Goods and Services Tax Act, 2017 (12 of 2017) , the Central Government, on the recommendations of the Council, hereby specifies retail outlets established in the departure area of an international airport, beyond the immigration counters, making tax free supply of goods to an outgoing international tourist, as class of persons who shall be entitled to claim refund of applicable central tax paid on inward supply of such goods, subject to the conditions specified in rule 95A of the Central Goods and Services Tax Rules, 2017.

Explanation. - For the purposes of this notification, the expression “outgoing international tourist” shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

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

[F. No. 354/90/2019-TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

(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. 10/2019 – Integrated Tax (Rate)

New Delhi, the 29th June, 2019

G.S.R.....(E).— In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with section 55 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby specifies retail outlets established in the departure area of an international airport, beyond the immigration counters, making tax free supply of goods to an outgoing international tourist, as class of persons who shall be entitled to claim refund of applicable integrated tax paid on inward supply of such goods, subject to the conditions specified in rule 95A of the Central Goods and Services Tax Rules, 2017.

Explanation. - For the purposes of this notification, the expression “outgoing international tourist” shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

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

[F. No. 354/90/2019-TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

[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. 11 /2019-Integrated Tax (Rate)

New Delhi, the 29th June, 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, and on the recommendations of the Council, hereby exempts any supply of goods by a retail outlet established in the departure area of an international airport, beyond the immigration counters, to an outgoing international tourist, from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Services Tax Act, 2017.

Explanation. - For the purposes of this notification, the expression “outgoing international tourist” shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

2. The notification shall come into force with effect from the 1st day of July, 2019.

[F. No. 354/90/2019-TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

(V) CGST CIRCULARS

Circular No. 102/21/2019-GST

**F. No. CBEC- 20/16/04/2018 – GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th June, 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 regarding applicability of GST on additional / penal interest – reg.

Various representations have been received from the trade and industry regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI). An EMI is a fixed amount paid by a borrower to a lender at a specified date every calendar month. EMIs are used to pay off both interest and principal every month, so that over a specified period, the loan is fully paid off along with interest. In cases where the EMI is not paid at the scheduled time, there is a levy of additional / penal interest on account of delay in payment of EMI.

2. Doubts have been raised regarding the applicability of GST on additional / penal interest on the overdue loan i.e. whether it would be exempt from GST in terms of Sl. No. 27 of notification No. 12/2017-Central Tax (Rate) dated 28th June 2017 or such penal interest would be treated as consideration for liquidated damages [amounting to a separate taxable supply of services under GST covered under entry 5(e) of Schedule II of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”]. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarification.

3. Generally, following two transaction options involving EMI are prevalent in the trade:-

- Case – 1: X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. However, X gives Y an option to pay in installments, Rs 11,000/- every month before 10th day of the following month, over next four months (Rs 11,000/- *4 = Rs. 44,000/-). Further, as per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional / penal interest amounting to Rs. 500/- per month for the delay. In some instances, X is charging Y Rs. 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional / penal interest amounting to Rs. 500/- per month for each delay in payment.
- Case – 2: X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s ABC Ltd. The terms of the loan from M/s ABC Ltd. allows Y a period of four months to repay the loan and an additional / penal interest @ 1.25% per month for any delay in payment.

4. As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the value of supply shall include “*interest or late fee or penalty for delayed payment of any consideration for any supply*”. Further in terms of Sl. No. 27 of notification No. 12/2017-Central Tax (Rate) dated the 28.06.2017 “*services by way of (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services)*” is exempted. Further, as per clause 2 (zk) of the notification No. 12/2017-Central Tax (Rate) dated the 28th June, 2017, “*‘interest’ means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;*”.

5. Accordingly, based on the above provisions, the applicability of GST in both cases listed in para 3 above would be as follows:

- Case 1: As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the amount of penal interest is to be included in the value of supply. The

Circular No. 102/21/2019-GST

transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.

- Case 2: The additional / penal interest is charged for a transaction between Y and M/s ABC Ltd., and the same is getting covered under Sl. No. 27 of notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. Accordingly, in this case the 'penal interest' charged thereon on a transaction between Y and M/s ABC Ltd. would not be subject to GST, as the same would not be covered under notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. The value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST.

6. It is further clarified that the transaction of levy of additional / penal interest does not fall within the ambit of entry 5(e) of Schedule II of the CGST Act i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”, as this levy of additional / penal interest satisfies the definition of “interest” as contained in notification No. 12/2017- Central Tax (Rate) dated 28.06.2017. It is further clarified that any service fee/charge or any other charges that are levied by M/s ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, and accordingly will not be exempt.

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 immediately. Hindi version follows.

(Upender Gupta)
Principal Commissioner (GST)

F. No. CBEC- 20/16/04/2018 – GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th June, 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 regarding determination of place of supply in certain cases – reg.

Various representations have been received from trade and industry seeking clarification in respect of determination of place of supply in following cases: -

- (I) **Services provided by Ports** - place of supply in respect of various cargo handling services provided by ports to clients;
- (II) **Services rendered on goods temporarily imported in India** - place of supply in case of services rendered on unpolished diamonds received from abroad, which are exported after cutting, polishing etc.

2. The provisions relating to determination of place of supply as contained in the Integrated Goods & Services Tax Act, 2017 (hereinafter referred to as “the IGST Act”) have been examined. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”) clarifies the same as below: -

Circular No. 103/22/2019-GST

S. No.	Issue	Clarification
1	<p>Various services are being provided by the port authorities to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc.</p> <p>Doubts have been raised about determination of place of supply for such services i.e. whether the same would be determined in terms of the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be or the same shall be determined in terms of the provisions contained in sub-section (3) of Section 12 of the IGST Act.</p>	<p>It is hereby clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.</p>
2	<p>Doubts have been raised about the place of supply in case of supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India?</p>	<p>Place of supply in case of performance based services is to be determined as per the provisions contained in clause (a) of sub-section (3) of Section 13 of the IGST Act and generally the place of services is where the services are actually performed. But an exception has been carved out in case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or</p>

Circular No. 103/22/2019-GST

		<p>process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process.</p> <p>In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in sub-section (2) of Section 13 of the IGST Act.</p>
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3. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
4. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board immediately. Hindi version follows.

(Upender Gupta)
Principal Commissioner (GST)

CBEC-20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th June, 2019

To,

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

The Principal Director Generals / Director Generals (All)

The Principal CCA, CBIC

Madam/Sir,

**Subject: Processing of refund applications in FORM GST RFD-01A submitted by taxpayers
wrongly mapped on the common portal – reg.**

Doubts have been raised in respect of processing of a refund application by a jurisdictional tax authority (either Centre or State) to whom the application has been electronically transferred by the common portal in cases where the said tax authority is not the one to which the taxpayer has been administratively assigned. The matter has been examined. In order 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 paras.

2. It has been reported by the field formations that administrative assignment of some of the tax payers to the Central or the State tax authority has not been updated on the common portal in accordance with the decision taken by the respective tax authorities, in pursuance of the guidelines issued by the GST Council Secretariat, vide Circular No. 01/2017 dated 20.09.2017, regarding division of taxpayer base between the Centre and States to ensure Single Interface under GST. For

Circular No. 104/23/2019-GST

example, a tax payer M/s XYZ Ltd. was administratively assigned to the Central tax authority but was mapped to the State tax authority on the common portal.

3. Prior to 31.12.2018, refund applications were being processed only after submission of printed copies of **FORM GST RFD 01A** in the respective jurisdictional tax offices. Subsequent to the issuance of Circular No.79/53/2018-GST dated 31.12.2018, copies of refund applications are no longer required to be submitted physically in the jurisdictional tax office. Now, the common portal forwards the refund applications submitted on the said portal to the jurisdictional proper officer of the tax authority to whom the taxpayer has been administratively assigned. In case of the example cited in para 2 above, as the applicant was wrongly mapped with the State tax authority on the common portal, the application was transferred by the common portal to the proper officer of the State tax authority despite M/s XYZ Ltd. being administratively assigned to the Central tax authority. As per para 2(e) of Circular No. 79/53/2018-GST dated 31.12.2018, the proper officer of the State tax authority should electronically re-assign the said application to the designated jurisdictional proper officer. It has, however, been reported that the said re-assignment facility is not yet available on the common portal.

4. Doubts have been raised as to whether, in such cases, application for refund can at all be processed by the proper officer of the State tax authority or the Central tax authority to whom the refund application has been wrongly transferred by the common portal.

5. The matter has been examined and it is clarified that in such cases, where reassignment of refund applications to the correct jurisdictional tax authority is not possible on the common portal, the processing of the refund claim should not be held up and it should be processed by the tax authority to whom the refund application has been electronically transferred by the common portal. After the processing of the refund application is complete, the refund processing authority may inform the common portal about the incorrect mapping with a request to update it suitably on the common portal so that all subsequent refund applications are transferred to the correct jurisdictional tax authority.

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

Circular No. 104/23/2019-GST

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

(Upender Gupta)
Principal Commissioner (GST)

CBEC-20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th June, 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 various doubts related to treatment of secondary or post-sales
discounts under GST - reg.**

Circular No. 92/11/2019-GST dated 7th March, 2019 was issued providing clarification on various doubts related to treatment of sales promotion schemes under GST. Post issuance of the said Circular various representations have been received from the trade and industry seeking clarifications in respect of tax treatment in cases of secondary discounts or post sales discount. The matter has been examined in order to ensure uniformity in the implementation 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”) clarifies the issues in succeeding paragraphs.

2. For the purpose of value of supply, post sales discounts are governed by the provisions of clause (b) of sub-section (3) of section 15 of the CGST Act. It is crucial to examine the true nature of discount given by the manufacturer or wholesaler, etc. (hereinafter referred to as “the supplier of goods”) to the dealer. It would be important to examine whether the additional discount is given by the supplier of goods in lieu of consideration for any additional activity / promotional campaign to be undertaken by the dealer.

3. It is clarified that if the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer’s end, then the post sales discount

given by the said supplier will be related to the original supply of goods and it would not be included in the value of supply, in the hands of supplier of goods, subject to the fulfilment of provisions of sub-section (3) of section 15 of the CGST Act. However, if the additional discount given by the supplier of goods to the dealer is the post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc., then such transaction would be a separate transaction and the additional discount will be the consideration for undertaking such activity and therefore would be in relation to supply of service by dealer to the supplier of goods. The dealer, being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim input tax credit (hereinafter referred to as the "ITC") of the GST so charged by the dealer.

4. It is further clarified that if the additional discount is given by the supplier of goods to the dealer to offer a special reduced price by the dealer to the customer to augment the sales volume, then such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer. This additional discount as consideration, payable by any person (supplier of goods in this case) would be liable to be added to the consideration payable by the customer, for the purpose of arriving value of supply, in the hands of the dealer, under section 15 of the CGST Act. The customer, if registered, would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the said customer to the dealer in view of second proviso to sub-section (2) of section 16 of the CGST Act.

5. There may be cases where post-sales discount granted by the supplier of goods is not permitted to be excluded from the value of supply in the hands of the said supplier not being in accordance with the provisions contained in sub-section (3) of section 15 of CGST Act. It has already been clarified vide Circular No. 92/11/2019-GST dated 7th March, 2019 that the supplier of goods can issue financial / commercial credit notes in such cases but he will not be eligible to reduce his original tax liability. Doubts have been raised as to whether the dealer will be eligible to take ITC of the original amount of tax paid by the supplier of goods or only to the extent of tax payable on value net of amount for which such financial / commercial credit notes have been received by him. It is clarified that the dealer will not be required to reverse ITC attributable to the tax already paid on such post-sale discount received by him through issuance of financial / commercial credit notes by the supplier of goods in view of the provisions contained in second proviso to sub-rule (1) of rule 37 of the CGST Rules read with

Circular No. 105/24/2019-GST

second proviso to sub-section (2) of section 16 of the CGST Act as long as the dealer pays the value of the supply as reduced after adjusting the amount of post-sale discount in terms of financial / commercial credit notes received by him from the supplier of goods plus the amount of original tax charged by the supplier.

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

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

(Upendar Gupta)
Principal Commissioner (GST)

CBEC-20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 29th June, 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 (All)

The Principal Director Generals / Director Generals (All)

The Principal CCA, CBIC

Madam / Sir,

Subject: - Refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters when supplied to outgoing international tourist against foreign exchange -reg.

The Government vide notification no. 11/2019-Central Tax (Rate), 10/2019-Integrated Tax (Rate) and 11/2019-Union territory Tax (Rate) all dated 29.06.2019 issued in exercise of powers under section 55 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act') has notified that the retail outlets established at departure area of the international airport beyond immigration counters shall be entitled to claim refund of all applicable Central tax, Integrated tax, Union territory tax and Compensation cess paid by them on inward supplies of indigenous goods received by them for the purposes of subsequent supply of goods to outgoing international tourists i.e. to a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes against foreign exchange (hereinafter referred to as the "eligible passengers"). Identical notifications have been issued by the State or Union territory Governments under the respective State Goods and Services Tax Acts (hereinafter referred to as the "SGST Act") or Union Territory Goods and

Services Tax Acts (hereinafter referred to as the “UTGST Act”) also to provide for refund of applicable State or Union territory tax.

2. With a view to ensuring expeditious processing of refund claims, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby specifies the conditions, manner and procedure for filing and processing of such refund claims in succeeding paras.

3. **Duty Free Shops and Duty Paid Shops:** -It has been recognized that international airports, house retail shops of two types - ‘Duty Free Shops’ (hereinafter referred to as “DFS”) which are point of sale for goods sourced from a warehoused licensed under Section 58A of the Customs Act, 1962 (hereinafter referred to as the “Customs Act”) and duty paid indigenous goods and ‘Duty Paid Shops’ (hereinafter referred to as “DPS”) retailing duty paid indigenous goods.

4. **Procurement and supply of imported / warehoused goods:** - The procedure for procurement of imported / warehoused goods is governed by the provisions contained in Customs Act. The procedure and applicable rules as specified under the Customs Act are required to be followed for procurement and supply of such goods.

5. **Procurement of indigenous goods:** - Under GST regime there is no special procedure for procurement of indigenous goods for sale by DFS or DPS. Therefore, all indigenous goods would have to be procured by DFS or DPS on payment of applicable tax when procured from the domestic market.

6. **Supply of indigenous goods by DFS or DPS established at departure area of the international airport beyond immigration counters (hereinafter referred to as “the retail outlets”) to eligible passengers:** The sale of indigenous goods procured from domestic market by retail outlets to an eligible passenger is a “supply” under GST law and is subject to levy of Integrated tax but the same has been exempted vide notification No. 11/2019-Integrated Tax (Rate) and 01/2019-Compensation Cess (Rate) both dated 29.06.2019. Therefore, retail outlets will supply such indigenous goods without collecting any taxes from the eligible passenger and may apply for refund as per procedure explained in succeeding paragraphs.

7. **Who is eligible for refund:**

7.1 **Registration under CGST Act:** The retail outlets applying for refund shall be registered under the provisions of section 22 of the CGST Act read with the rules made thereunder and shall have a valid GSTIN.

7.2 Location of retail outlets: Such retail outlets shall be established at departure area of the international airport beyond immigration counters and shall be entitled to claim a refund of all applicable Central tax, State tax, Integrated tax, Union territory tax and Compensation cess paid by them on all inward supplies of indigenous goods received for the purposes of subsequent supply of such goods to the eligible passengers.

8. Procedure for applying for refunds:

8.1. **Maintenance of Records:** The records with respect to duty paid indigenous goods being brought to the retail outlets and their supplies to eligible passengers shall be maintained as per **Annexure A** in electronic form. The data shall be kept updated, accurate and complete at all times by such retail outlets and shall be available for inspection/verification of the proper officer of central tax at any time. The electronic records must incorporate the feature of an audit trail, which means a secure, computer generated, time stamped record that allows for reconstruction of the course of events relating to the creation, modification or deletion of an electronic record and includes actions at the record or system level, such as, attempts to access the system or delete or modify a record.

8.2. **Invoice-based refund:** It is clarified that the refund to be granted to retail outlets is not on account of the accumulated input tax credit but is refund based on the invoices of the inward supplies of indigenous goods received by them. As stated in para 6 above, the supply made by such retail outlets to eligible passengers has been exempted *vide* notification No. 11/2019-Integrated Tax (Rate) and 01/2019-Compensation Cess (Rate) both dated 29.06.2019 and therefore such retail outlets will not be eligible for input tax credit of taxes paid on such inward supplies and the same will have to be reversed in accordance the provisions of the CGST Act read with the rules made thereunder. It is also clarified that no refund of tax paid on input services, if any, will be granted to the retail outlets.

8.3. Any supply made to an eligible passenger by the retail outlets without payment of taxes by such retail outlets shall require the following documents / declarations:

- (a) Details of the Passport (via Passport Reading Machine);
- (b) Details of the Boarding Pass (via a barcode scanning reading device);
- (c) A passenger declaration as per **Annexure B**;
- (d) A copy of the invoice clearly evidencing that no tax was charged from the eligible passenger by the retail outlet.

8.4. The retail outlets will be required to prominently display a notice that international tourists are eligible for purchase of goods without payment of domestic taxes.

8.5. **Manual filing of refund claims:** In terms of rule 95A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the 'CGST Rules') as inserted vide notification No. 31/2019-Central Tax dated 28.06.2019, the retail outlets are required to apply for refund on a monthly or quarterly basis depending upon the frequency of furnishing of return in **FORM GSTR-3B**. Till the time the online utility for filing the refund claim is made available on the common portal, these retail outlets shall apply for refund by filing an application in **FORM GST RFD-10B**, as inserted *vide* notification No. 31/2019-Central Tax dated 28.06.2019 manually to the jurisdictional proper officer. The said refund application shall be accompanied with the following documents:

- (i) An undertaking by the retail outlets stating that the indigenous goods on which refund is being claimed have been received by such retail outlets;
- (ii) An undertaking by the retail outlets stating that the indigenous goods on which refund is being claimed have been sold to eligible passengers;
- (iii) Copies of the valid return furnished in **FORM GSTR – 3B** by the retail outlets for the period covered in the refund claim;
- (iv) Copies of **FORM GSTR-2A** for the period covered in the refund claim; and
- (v) Copies of the attested hard copies of the invoices on which refund is claimed but which are not reflected in **FORM GSTR-2A**.

9. Processing and sanction of the refund claim :

9.1. Upon receipt of the complete application in **FORM GST RFD-10B**, an acknowledgement shall be issued manually by the proper officer within 15 days of the receipt of application in **FORM GST RFD-02**. In case of any deficiencies or any additional information is required, the same shall be communicated to the retail outlets by issuing a deficiency memo manually in **FORM GST RFD-03** by the proper officer within 15 days of the receipt of the refund application. Only one deficiency memo should be issued against one refund application which is complete in all respects.

9.2. The proper officer shall validate the GSTIN details on the common portal to ascertain whether the return in **FORM GSTR- 3B** has been filed by the retail outlets. The proper officer may scrutinize the details contained in **FORM RFD-10B**, **FORM GSTR-3B** and **FORM**

GSTR-2A. The proper officer may rely upon **FORM GSTR-2A** as an evidence of the accountal of the supply received by them in relation to which the refund has been claimed by the retail outlets. Normally, officers are advised not to call for hard copies of invoices or details contained in **Annexure A**. As clarified in clause (v) of Para 8.5 above, it is reiterated that the retail outlets would be required to submit hard copies of only those invoices of inward supplies that have not been reflected in **FORM GSTR-2A**.

9.3. The proper officer shall issue the refund order manually in **FORM GST RFD-06** along with the manual payment advice in **FORM GST RFD-05** for each head i.e., Central tax/State tax/Union territory tax/Integrated tax/Compensation Cess. The amount of sanctioned refund along with the bank account details of the retail outlets shall be manually submitted in the PFMS system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to the PAO for disbursal of the said amount.

9.4. Where any refund has been made in respect of an invoice without the tax having been paid to the Government or where the supply of such goods was not made to an eligible passenger, such amount refunded shall be recovered along with interest as per the provisions contained in the section 73 or section 74 of the CGST Act, as the case may be.

9.5. It is clarified that the retail outlets will apply for refund with the jurisdictional Central tax/State tax authority only, however, the payment of the sanctioned refund amount in relation to Central tax / Integrated tax / Compensation Cess shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to State Tax / Union Territory Tax shall be made by the State tax/Union Territory tax authority. It therefore becomes necessary that the refund order issued by the proper officer of Central Tax is duly communicated to the concerned counter-part tax authority within seven days for the purpose of disbursal of the remaining sanctioned refund amount. The procedure outlined in para 6.0 of Circular No.24/24/2017-GST dated 21stDecember 2017 should be followed in this regard.

10. The scheme shall be effective from 01.07.2019 and would be applicable in respect of all supplies made to eligible passengers after the said date. In other words, retail outlets would be eligible to claim refund of taxes paid on inward supplies of indigenous goods received by them even prior to 01.07.2019 as long as all the conditions laid down in Rule 95A of the CGST Rules and this circular are fulfilled.

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

Circular No. 106/25/2019-GST

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

(Upender Gupta)
Principal Commissioner (GST)

Circular No. 106/25/2019-GST

Annexure-A

Form to be maintained by a Retail Outlet

(as per Circular No. 106/25/2019- GST dated 29.06.2019)

Airport:

GSTIN Number:

Inward Supplies										Corresponding Outward Supplies (Not charged to tax)														
Name of the Supplier	GS TIN	Invoice No.	Date	HS Code	Quantity	Taxable value	Integrated Tax	Ce ntra l Tax	St at e / U T Tax	C es	Name of Passenger	Flight No./date	Pass port No.	Date of Issue	Arr ival flig ht/ date	Tax inv oic e No./date	HS Code	Quantity	Tax able valu e	Integ rated Tax	Ce ntra l Tax	St at e / U T Tax	C es	

Circular No. 106/25/2019-GST

Annexure-B

Declaration for purchase of Tax free Goods by a eligible passenger

I (Name _____), holder of the passport No: _____ issued in (country name) declare that I am presently resident of _____, _____ (City / Country) and arrived in India on Flight _____ on _____ (date). I further declare that I have purchased tax free goods from M/s _____ (Name of Retail outlet) vide Invoice No. _____ dated _____.

(Signature)

(Name)

Email

Date:

Place:

(VI) ADVANCE RULINGS

1. GST on goods and services supplied to implement and maintain Software VC up to Gram Panchayat Government offices

Case Name : **In re M/S Vedant Synergy Pvt. Ltd. (GST AAR Rajasthan)**

Appeal Number : Order No. RAJ/AAR/2019-20/11

Date of Judgement/Order : 03/06/2019

The applicant is a company has applied for bidding in RFP “RFP for selection of an SI to implement and maintain Software VC up to Gram Panchayat Government offices” issued by Centre for e-Governance, Government of Karnataka, Gate-2, 1st Floor, MS Building, Bangalore 560001.

The applicant will supply following goods and services to the Centre for e-Governance, Government of Karnataka:-

S. Particulars

No.

1	Supply, installation, commissioning and AMC and 0 as M support for 5 years-of central MCU and other equipment in high availability mode to meet the requirements in RFP.
2	Supply, installation, commissioning of 7000 nos. of client licenses and AMC and 0 86 M support for 5 years.
3	Supply, installation, commissioning of Speaker Type 1 (1000 Locations) and AMC and 0 86 M support for 5 years.
4	Supply, installation, commissioning of Camera Type 1 (1000 Locations) and AMC and 0 86M support for 5 years.
5	Supply, installation, commissioning of Camera Type 2 (10 Locations) and AMC and 0 86 M support for 5 years.
6	Supply, installation, commissioning of Speaker Type 2 (10 Locations) and AMC and 0 86 M support for 5 years.
7	Supply of 2 nos. of VC engineers for 60 months.
8	Supply of 2 no of helpdesk engineers for 60 months.

QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

- What is the classification of goods and services supplied by the applicant?
- What will be the applicable rate of GST on goods and services supplied by the applicant?

RULING

The goods and services supplied by the applicant are classifiable under HSN 998316 (*Information technology infrastructure and network management services*) attracting GST @ 18% (SGST 9% + CGST 9%).

2. Notification on TDS under GST not applicable on exempt supplies

Case Name : **In re Indrajit Singh (GST AAR West Bengal)**

Appeal Number : Order No. 07/WBAAR/2019-20

Date of Judgement/Order : 10/06/2019

The Applicant is stated to be providing conservancy/solid waste management service to the Conservancy Department of the Howrah Municipal Corporation (hereinafter the HMC). The HMC, however, is deducting TDS while paying consideration for the above supply in terms of **Notification No. 50/2018 — Central Tax dated 13/09/2018** (corresponding State Notification No. 1344 — FT dated 13/09/2018) and State Government Order No. 6284 — F(Y) dated 28/09/2018 (hereinafter collectively referred to as TDS Notifications). The Applicant seeks a ruling on whether the above supply is exempted in terms of SI No. 3 or 3A of **Notification No. 12/2017 — Central Tax (Rate) dated 28/06/2017** (corresponding State Notification No. 1136 — FT dated 28/06/2017), as amended from time to time (hereinafter collectively referred to as Exemption Notification), and if so, whether the notifications regarding TDS are applicable in his case.

RULING

The Applicant's supply to the Howrah Municipal Corporation, as described in para 3.5, is exempt from the payment of GST under SI No. 3 of **Notification No. 12/2017 — Central Tax (Rate) dated 28/06/2017** (corresponding State Notification No. 1136 — FT dated 28/06/2017), as amended from time to time.

As the Applicant is making an exempt supply, the provisions of section 51 and, for that matter, **Notification No. 50/2018 — Central Tax dated 13/09/2018** (corresponding State Notification No. 1344 — FT dated 13/09/2018) and State Government Order No. 6284 — F(Y) dated 28/09/2018, to the extent they mandate and deal with the mechanism of TDS, do not apply to his supply.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.

3. Upgrading navigability of Mandarmoni River is exempt supply under GST

Case Name : **In re Dredging and Desiltation Company Private Limited (GST AAR West Bengal)**

Appeal Number : Order No.03/WBAAR/2019-20

Date of Judgement/Order : 10/06/2019

The West Bengal Fisheries Corporation limited (hereinafter the recipient) has awarded the Applicant a contract for up-gradation of Jalda Kuti Landing Centre by protection to Mandarmoni River and up-gradation of navigability by dredging of Mandarmoni River in Purba Medinipur. The Applicant seeks a ruling on whether an exemption under SI No. 3A of **Notification No 9/2017 – Integrated Tax (Rate) dated 28/06/2017** (hereinafter the Exemption Notification), as amended by **Notification No. 2/2018 dated 25/01/2018 Integrated Tax (Rate) dated 25/01/2018**, applies to the above supply.

The contract is meant for up-gradation of the Jalda Khoti Landing Centre at the confluence of Mandarmoni River and Bay of Bengal. Heavy siltation at the area has eroded the navigability of the river, affecting the livelihood of a large number of fishermen, as they are facing problems in negotiating the channel with their fishing boats. At the same time, the landing centre needs to be protected from land erosion, as the river swings back to the bank at the Jalda Khoti area. The Applicant's supply involves the construction of spurs for

providing protection against land erosion and improving navigability by dredging the channel. It is a works contract, intended to construct, improve/alter the immovable property, and involves the supply of goods such as granite stone, boulders, polypropylene gabions, nylon crates and filaments. It further involves supply of services like dredging, loading/unloading and transportation of the excavated material etc. It is, therefore, a composite supply of goods and service. It is also apparent from the price schedule that supply of goods constitutes about 11% of the value of the composite supply.

RULING

Exemption under SI No. 3A of **Notification No 9/2017 – Integrated Tax (Rate) dated 28/06/2017**, as amended by **Notification No. 2/2018 dated 25/01/2018 Integrated Tax (Rate) dated 25/01/2018**, applies to the Applicant's supply, as mentioned in para 1.1, to the West Bengal Fisheries Corporation Ltd.

4. Whether drainage of channels and riverbeds is an exempt supply?

Case Name : **In re Arihant Dredging Developers Private Limited (GST AAR West Bengal)**

Appeal Number : Order No. 04/WBAAR/2019-20

Date of Judgement/Order : 10/06/2019

The Irrigation and Waterways Directorate, Govt of West Bengal (hereinafter the recipient), has awarded the Applicant a contract for resectioning of river Jamuna from the upstream of Charghat Bridge to the downstream of Ghonja Haspur Bridge in Block and P.S Swarupnagar, Habra — 1 and Gaighata in North 24 Parganas. The Applicant seeks a ruling on whether an exemption under SI No. 3 or 3A of **Notification No 9/2017 — Integrated Tax (Rate) dated 28/06/2017** (hereinafter the Exemption Notification), as amended from time to time, applies to the above supply.

The recipient is the State Government. The contract is meant for resectioning of river Jamuna. It involves the earthwork in the excavation of the drainage channels and deposit of the excavated materials to locations outside the government land. The total contract value includes the cost of services like loading and unloading, transportation, the arrangement of land etc. It is evident from the description of the work that it is a composite supply of various services, where excavation and re-excavation of the drainage channel is the principal supply. Supply of goods, if any, is purely incidental, and is not accounted for separately in the price schedule.

The recipient is engaged in the development of irrigation and waterways, which includes activities in relation to the function listed under SI No. 5 of the Eleventh Schedule, and, therefore, entrusted to a panchayat under Article 243G of the Constitution of India. The recipient certifies that the work awarded to the Applicant, involving drainage of channels and riverbeds, is an activity undertaken in relation to the function referred to above.

The Applicant's service to the recipient, therefore, is exempt under SI No. 3A of the Exemption Notification.

5. Whether resuscitation of a river is an exempt supply under GST

Case Name : **In re Neo Built Corporation (GST AAR West Bengal)**

Appeal Number : Order No. 05/WBAAR/2019-20

Date of Judgement/Order : 10/06/2019

The Irrigation and Waterways Directorate, Govt of West Bengal (hereinafter the recipient) has awarded the Applicant a contract for the resuscitation by re-excavation of river Palaspai from Banskhal to Mahisghata, along with raising and strengthening of embankment on both sides of the river in Block Daspur — 1 & 2 and P.S Daspur in Paschim Medinipur. The Applicant seeks a ruling on whether exemption under SI No. 3 or 3A of **Notification No 9/2017 — Integrated Tax (Rate) dated 28/06/2017** (hereinafter the Exemption Notification), as amended from time to time, applies to the above supply.

The recipient is engaged in the development of irrigation and waterways, which includes activities in relation to the function listed under SI No. 5 of the Eleventh Schedule. Resuscitation of a river means reviving the water flow. It is, therefore, relatable to the function listed under SI No. 5 of the Eleventh Schedule, especially when undertaken by a department of the State Government, which is primarily entrusted to execute such functions. The Applicant's service to the recipient, therefore, is exempt under SI No. 3A of the Exemption Notification.

6. GST TDS provisions applicable only to persons specified U/s. 51(1)(d)

Case Name : **In re Jaipur Zila Dugdh Utpadak Sahakari Sangh Ltd. (GST AAR Rajasthan)**

Appeal Number : Advance Ruling No. RAJ/AAR/2019-20/12

Date of Judgement/Order : 19/06/2019

QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

Whether the applicant being a cooperative society registered under the Rajasthan Cooperative Societies Act, 1965, now consolidated to Rajasthan State Co-operative Society Act, 2001 is liable to deduct tax at source (TDS) under GST from payment made to it by vendors for providing/ procuring taxable goods and services for making its supplies?

Central Government by way of **Notification No. 50/2018 (Central Tax) dated 13.09.2018** appointed the 1st day of October, 2018, as the date on which the provisions of section 51 of the said Act shall come into force with respect to persons specified under clauses (a), (b) and (c) of sub-section (1) of section 51 of the said Act and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act, namely:-

- (a) an authority or a board or any other body, –
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with fifty-one per cent or more participation by way of equity or control, to carry out any function;
- (b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
- (c) Public sector undertakings.

While going through the Section 51 of GST Act, 2017 read with **Notification No. 50/2018 (Central Tax) dated 13.09.2018**, we find that the applicant is neither established under **Societies Registration Act, 1860** (21 of 1860) nor it is established/constituted by any government (viz. Central Government/State Government/Local Authority).

RULING

The applicant is not covered under the provisions of Section 51 of GST Act, 2017 therefore not liable to deduct tax at source.

7. 18% GST payable on land filling and site preparation work: AAR

Case Name : **In re Ashis Ghosh (GST AAR West Bengal)**

Appeal Number : Order No. 09/WBAAR/2019-20

Date of Judgement/Order : 25/06/2019

The Applicant has procured two contracts from M/s Mackintosh Burn Ltd (hereinafter MBL) for filling in the compound, tank, low land etc. with silver sand and earthwork in layers, including spreading and compacting the same at the district Correction Home, Baruipur. He seeks a ruling on whether it is classifiable as a supply of sand (HSN 2505).

In terms of the description of the work, contained in the work orders, the Applicant is required to fill in the foundation or plinth by silver sand in layers and consolidating the same by saturation with water ramming. The work also involves earth work for filling in the compound, tank, low land, ditches etc. with good earth spread in layers, including breaking clods and consolidating the same by ramming and dressing. It is, therefore, not a contract for the supply of goods, but the transfer of property in such goods in the course of preparing the site for construction of the New Central Correctional Home at Baruipur. It, therefore, amounts to improving and modifying land — an immovable property and is works contract, as defined under section 2(119) of the GST Act.

The Applicant's reference to the order of the AAR is not relevant. SI No. 3 (vii) of **Notification No. 39/2017-IGST dated 13/10/2017** applies to works contracts, where the earthwork constitutes more than 75% of the value of the contract. As evident from the table in para no. 2.2, the earthwork constitutes less than 25% of the value of the Applicant's contracts with MBL. Moreover, the State Government holds only 51.01% of the shares of MBL, which qualifies it as a State Government Company for the purpose of the Companies Act, 2013, but does not make it a government authority or a government entity, as defined in Explanation 4(ix) and 4(x) respectively.

The Applicant's supply is, therefore, classifiable as site preparation service (SAC Group 99543) and taxable @ 18% under SI No. 3(xii) of **Notification No. 11/2017-CT (Rate) dated 28/06/2017** (corresponding State Notification No. 1135-FT dated 28/06/2017), as amended from time to time. In this respect, this Authority agrees with the views of the concerned officer from the Revenue.

8. 18% GST payable on railway pushing and towing service: AAR

Case Name : **In re Champa Nandi (M/s Industrial Handling) (GST AAR West Bengal)**

Appeal Number : Order No. 10A/WBAAR/2019-20

Date of Judgement/Order : 25/06/2019

The Applicant, stated to be leasing out cranes and equipment and locomotives, provides diesel-hydraulic locomotives to several companies for placement/shunting of rakes/wagons/oil tankers from the siding or terminal of the Indian Railways to the factory premises of the company and vice versa. The Applicant seeks a ruling on the classification of the above service and the applicable rate of tax under **Notification No. 11/2017 – Central Tax (Rate) dated 28/06/2017** (corresponding State Notification No. 1135 – FT dated 28/06/2017), as amended from time to time [hereinafter collectively referred to as Rate Notifications (Service)].

Art 366(20) of the Constitution excludes from the ambit of 'railway' only (a) a tramway wholly within a municipal area and (b) any line of communication wholly situated in one State and declared by Parliament by law not to be a railway. The Parliament excludes by

law, apart from the tramways, the lines of rails mentioned under section 2(31)(ii) of the Railways Act, 1989, being rails built solely for recreation. The term 'public carriage', therefore, cannot be given any meaning that may add more exclusion than specifically provided under section 2(31)(ii) of the Railways Act, 1989. The DVC is the owner of the DSTPS Railway Siding. It is meant for the carriage of coal to DSTPS. The purpose of the carriage of goods is, therefore, not recreation, but producing public goods like electricity. It is, therefore, not excluded under section 2(31)(ii) of the Railways Act, 1989.

Transportation of coal from Andal Station to DSTPS Siding is, therefore, railway transport, and the service of moving empty or loaded wagons/rakes at DSTPS Siding is nothing but the supporting service of railway pushing and towing (SAC 996731). It describes the nature of the Applicant's service more specifically than 'leasing or rental services concerning transport equipment, including containers with or without operator (SAC 997311). The communication from the East Central Railway referred to above, which deals with the GST applicable to different services that the Railways offer to the customer, is not relevant in the present context.

The Applicant's service to the DVC, as described in para no. 4.1, is classifiable as 'railway pushing and towing service' (SAC 996731) and taxable @ 18% under SI No 11(ii) of **Notification No. 11/2017 – Central Tax (Rate) dated 28/06/2017** (corresponding State Notification No. 1135 – FT dated 28/06/2017), as amended from time to time.

9. 28% GST on mere mounting of body on chassis supplied by owner

Case Name : **In re M/s Tata Marcopolo Motors Ltd. (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 12/2019

Date of Judgement/Order : 25/06/2019

The Applicant is a company incorporated under the Companies Act, 1956 and is registered under the Goods and Services Act, 2017. The company has sought advance ruling in respect of the following question:

Whether the activity of building and mounting of the body on the chassis by the Applicant will result in supply of goods under HSN 8707 or supply of services under HSN 9988?

The Applicant sought for the advance ruling in respect of their activity as to whether it amounts to supply of goods or supply of services and also the respective classifications. The question of the applicant is covered under Section 97 (2) (a) of CGST Act 2017, as it is with regard to classification and hence the application is admissible under the CGST Act 2017.

RULING

i. The supply of ready built body and the activity of mere mounting the body on chassis supplied by the owner amounts to supply of goods and merits classification under HSN 8707, attracting 28% of GST.

ii. The activity of step by step building of the body on the chassis supplied by the owner using their own inputs & capital goods amounts to supply of service, in terms of Circular dated 9.8.2018 and merits classification under SAC 9988, attracting 18% of GST.

10. GST on oil used for lighting lamp for God

Case Name : **In re M/s Sri Kanyakapameshwari Oil Mills (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 11/2019
Date of Judgement/Order : 25/06/2019

a) What is rate of tax for ‘Perfumed Deepam Oil’ which is prepared by mixing Gingely Oil, Palmoline Oil, Rice Bran Oil or any one oil with perfume or chemical and used for lighting lamp for God (not for cooking) with HSN Code?

The “Perfume Deepam Oil” (Not for Cooking) – which is prepared by adding perfume to either a mixture of Gingely Oil, Palmoline Oil and Rice Bran Oil or to any one of the above oils – is covered under HSN 1518 & is taxable at 6% under CGST Act, 6% under KGST Act and 12% under the IGST Act.

b) What is rate of tax for ‘Non- perfumed Deepam Oil’ which is prepared by mixing Gingely Oil, Palmoline Oil, Rice Bran Oil or any one oil without perfume or chemical and used for lighting lamp for God (not for cooking) with HSN Code?

“Deepam Oil” (Not for Cooking)- which is prepared by either a mixture of Gingely Oil, Palmoline Oil and Rice Bran Oil or any of the above oil and ‘not for cooking’ would fall under Chapter Heading 1518 and attract CGST @ 6%, KGST @ 6% and IGST @ 12%.

c) What is rate of tax for a mixture of Gingely Oil, Palmoline Oil, Rice Bran Oil or any one oil?

Each of the oils, namely Palmoline Oil falling under Chapter heading 1511, Gingely Oil & Rice Bran Oil falling under Chapter Heading 1515 and the mixture of the said edible oils falling under Chapter Heading 1517 would attract CGST @ 2.5%, KGST 2.5% and IGST @ 5%.

11. GST paid on inward supply of motor vehicles for supplying rent-a-cab service not admissible

Case Name : **In re Mohana Ghosh (GST AAR West Bengal)**

Appeal Number : Order No. 08/WBAAR/2019-20

Date of Judgement/Order : 25/06/2019

The Applicant, stated to be supplying cabs on a rental basis, seeks a ruling on whether a credit is admissible of the input tax paid on the purchase of motor vehicles for the supply of the above service.

Rent-a-cab is not defined in the GST Act. Nature of the Applicant’s service is, therefore, derived from what is stated in the Application and what can be ascertained from the invoices. The Applicant provides cab rental service inter alia to institutions like West Bengal Postal Service. The recipient has to pay the Applicant a certain amount per month as consideration irrespective of what distance the cab travels in a particular month. The additional amount has to be paid if the cab is retained for extra hours or requisitioned on holidays. To cover the cost of fuel, the distance travelled needs to be brought into play, but only if it crosses a certain threshold. It is, therefore, clear from the above discussion that the nature of the service the Applicant provides is classifiable under SAC 9966 as renting of a motor vehicle. The credit of GST paid on the [inward supply] of motor vehicles for the supply of the Applicant’s service is not, therefore, admissible in terms of section [17(5)(a)] of the GST Act.

RULING

GST paid on the [inward supply] of motor vehicles for supplying rent-a-cab service is not admissible for credit in terms of section [17(5)(a)] of the GST Act.

12. GST on dredging to improve navigability of river-bed and channels

Case Name : **In re Arihant Dredging Developers Private Limited (GST AAR West Bengal)**

Appeal Number : Order No. 11/WBAAR/2019-20

Date of Judgement/Order : 27/06/2019

The Orissa Construction Corporation Limited (hereinafter the recipient) has awarded the Applicant a contract for sectioning of Sunamuhin Drainage Channel (From Narsinghapatna Bridge to Brahmadeva Resort) and from pond near Harachandi mouth to outfall of Chilika in Orissa. The Applicant seeks a ruling on whether the recipient is a government entity in terms of clause 2 (zfa) of **Notification No 9/2017 — Integrated Tax (Rate) dated 28/06/2017** (hereinafter the Exemption Notification). He further seeks a ruling on the taxability of his supply in terms of the **Notification No. 8/2017 — Integrated Tax (Rate) dated 28/06/2017** (hereinafter the Rate Notification) and the Exemption Notification, as the case may be, and as amended from time to time.

RULING

The recipient, namely Orissa Construction Corporation Ltd, is a government entity in terms of clause 2 (zfa) of **Notification No 9/2017 — Integrated Tax (Rate) dated 28/06/2017**. The Applicant's supply to Orissa Construction Corporation Ltd, as mentioned in para 4.1 above, was taxable @18% under SI No. 3(vii) of **Notification No. 8/2017 — Integrated Tax (Rate) dated 28/06/2017** till 12/10/2017. The supply was taxable @ 5% under SI 3(vii) of **Notification No. 8/2017 — Integrated Tax (Rate) dated 28/06/2017**, as amended by **Notification No. 39/2017 — Integrated Tax (Rate) dated 13/10/2017** with effect from 13/10/2017 till 24/01/2018. It has since been exempted under SI No. 3A of **Notification No 9/2017 — Integrated Tax (Rate) dated 28/06/2017**, as amended by **Notification No. 2/2018 -Integrated Tax (Rate) dated 25/01/2018**.

13. GST on works contract of dredging a river-bed for government entity

Case Name : **In re Dredging and Desiltation Company Private Limited (GST AAR West Bengal)**

Appeal Number : Order No.12/WBAAR/2019-20

Date of Judgement/Order : 27/06/2019

The Orissa Construction Corporation Limited (hereinafter the recipient) has awarded the Applicant a contract for sectioning of Makara River (Right Drainage) and Garanimumha branch of Makara River (Part A, Makara Right Drainage) in Orissa. The Applicant seeks a ruling on whether the recipient is a government entity in terms of clause 2 (zfa) of **Notification No 9/2017 — Integrated Tax (Rate) dated 28/06/2017** (hereinafter the Exemption Notification). He further seeks a ruling on the taxability of his supply in terms of the **Notification No. 8/2017 — Integrated Tax (Rate) dated 28/06/2017** (hereinafter the Rate Notification) and the Exemption Notification, as the case may be, and as amended from time to time.

Applicant is required to perform desiltation by dredging the river/nallah, including fixing of pipe lines, floaters and floating pipe lines for disposing water slurry consisting of silt, sand etc. The value of the contract includes cost of labour, materials, consumables, POL, and spare parts and accessories for maintenance of the dredgers. It also includes cost of building islands/dykes by providing geo tubes/geo fabrics and accessories or by tin sheets required for formation of bunds for dumping of the dredged materials. The contract also

includes the cost of all pre and post dredging survey. The contract includes the cost of clearing thickly grown water hyacinth from canal and drainage channels. It is evident from the description of the work that it is a composite supply of works contract, improving and modifying the river-bed and embankments. It further appears from the work order that 98% of the work is related to dredging. Communication received from the Executive Engineer, Drainage Division, Puri, referred to in para no. 2.4, clarifies that the cost of material transferred for completion of the dredging work is 5% of the total contract value. Dredging of channels, which includes desiltation of the channels, dumping of dredged materials and building of dykes etc., therefore, appears to be predominantly earthwork, as understood in common parlance.

Applicant is executing a works contract, more than 75% of which is earthwork. The recipient is a government entity and the work being executed is part of an irrigation project under the Department of Water Resources, Government of Odisha. The Applicant's supply to Orissa Construction Corporation Ltd. was taxable @18% under SI No. 3(vii) of **Notification No. 8/2017 — Integrated Tax (Rate) dated 28/06/2017** till 12/10/2017. The supply was taxable @ 5% under SI 3(vii) of **Notification No. 8/2017 — Integrated Tax (Rate) dated 28/06/2017**, as amended by **Notification No. 39/2017 — Integrated Tax (Rate) dated 13/10/2017** with effect from 13/10/2017 till 24/01/2018. It has since been exempted under SI No. 3A of **Notification No 9/2017 — Integrated Tax (Rate) dated 28/06/2017**, as amended by **Notification No. 2/2018 -Integrated Tax (Rate) dated 25/01/2018**.

14. No GST on Renting of residential property for residence to Company

Case Name : **In re Borbheta Estate Pvt Ltd (GST AAR West Bengal)**

Appeal Number : Order No. 13/WBAAR/2019-20

Date of Judgement/Order : 27/06/2019

Whether renting a residential property for residential purpose to a company is an exempt supply under GST?

It appears that the dwelling units rented to individuals, as described in the relevant contracts, are meant for residential accommodation. The dwelling unit rented to M/s Larsen & Toubro Ltd is a flat in the housing complex named South City. The South City Apartment Owners' Association certifies that the Applicant owns the flat and it is a residential flat and cannot be used for any other purpose. The said association further confirms that an employee of M/s Larsen & Toubro Ltd is staying at the flat.

The Applicant's service is classifiable as rental or leasing service involving own/leased residential property (SAC 997211). Applicability of SI No. 12 of the Exemption Notification depends upon whether the dwelling unit is used as residence. It appears from the documents produced that all the above dwelling units are being used for residence, irrespective of whether they are let out to individuals or a commercial entity. The Applicant's service of renting/leasing out the dwelling units for residential purpose is, therefore, exempt under SI No. 12 of the Exemption Notification.

15. No GST TDS on conservancy & waste management service to municipality

Case Name : **In re Time Tech Waste Solutions Private Limited (GST AAR West Bengal)**

Appeal Number : Order No. 14/WBAAR/2019-20

Date of Judgement/Order : 27/06/2019

Whether TDS notifications applies to conservancy and waste management service to a municipality and and whether he is required to obtain registration under the GST Act even if he is making exempt supplies only.

The Applicant's supply to the Bally Municipal Corporation, as described in para 3.5, is exempt from the payment of GST under SI No. 3 of **Notification No. 12/2017 — Central Tax (Rate) dated 28/06/2017** (corresponding State Notification No. 1136 — FT dated 28/06/2017), as amended from time to time. As the Applicant is making an exempt supply, the provisions of section 51 and, for that matter, **Notification No. 50/2018 — Central Tax dated 13/09/2018** (corresponding State Notification No. 1344 — FT dated 13/09/2018) and State Government Order No. 6284 — F(Y) dated 28/09/2018, to the extent they mandate and deal with the mechanism of TDS, do not apply to his supply.

If the Applicant's turnover consists entirely of exempt supplies, he is not liable to registration in terms of section 23(1)(a) of the GST Act.

(VII) COURT ORDERS/ JUDGEMENTS

1. ITC Benefits cannot be denied to purchaser merely for subsequent de registration of selling dealers

Case Name : **M/s Onyx Designs Vs Assistant Commissioner of Commercial Taxes (Karnataka High Court)**

Appeal Number : Writ Petition Nos.17989 & 23971/2018 (T – Res)

Date of Judgement/Order : 17/06/2019

Conclusion: In absence of any other allegations made against the purchasing dealer in the assessment orders, merely for the reason that selling dealers had not deposited the collected tax amount or some of the selling dealers had been subsequently deregistered could not be a ground to deny the input tax credit. Thus, re-assessment orders and the demand notices were set aside.

Held: Assessee-dealer of bags and gift items had availed the credit of input tax paid on the purchases made from the dealers. After deducting the same from the output tax, it discharged the net tax liability. Department initiated re-assessment proceedings against assessee by holding that dealer with whom assessee had transacted with were all deregistered and hence input tax on purchases made by assessee was not available. It was held the benefit of input tax could not be deprived to the purchaser dealer if the purchaser dealer satisfactorily demonstrated that while purchasing goods, he had paid the amount of tax to the selling dealer. If the selling dealer had not deposited the amount in full or a part thereof, it would be for the revenue to proceed against the selling dealer. If there was any default on the part of such registered dealers in not remitting the tax, so collected into the Government treasury or any designated bank and furnish monthly returns as specified u/s 35 to the prescribed authority, the proceedings were required to be initiated against such registered selling dealers in accordance with the provisions of the KVAT Act. In view of admission of the genuine transaction as well as bonafide claim and in the absence of any other allegations made against the purchasing dealer in the assessment orders, merely for the reason that selling dealers had not deposited the collected tax amount or some of the selling dealers had been subsequently deregistered could not be a ground to deny the input tax credit. Thus, re-assessment orders and the demand notices were set aside.

2. GSTR 3B is not a return under Section 39 of CGST Act 2017: Gujarat HC

Case Name : **AAP And Co. Vs Union of India (Gujarat High Court)**

Appeal Number : Special Civil Application No. 18962 of 2018

Date of Judgement/Order : 24/06/2019

The writ-application has been filed seeking quashing and setting aside of the press release dated 18th October 2018 to the extent that its para 3 purports to clarify that the last date for availing the input tax credit relating to the invoices issued during the period from July 2017 to March 2018 is the last date for the filing of the return in Form GSTR-3B for the month of September 2018. As per the above clarification, a taxpayer will not be able to claim the input tax credit for the period from July 2017 to March 2018 after filing of the return in Form GSTR-3B for the month of September 2018. It disentitles a taxpayer to claim the input tax credit for the aforesaid period which could not be taken on account of any error or omission. It is submitted that the aforesaid clarification is not in consonance with Section 16(4) of the CGST Act/GGST Act which provides for the last date for taking

the input tax credit. It is submitted that the last date of taking the input tax credit should be due date of filing of return in Form GSTR-3 or annual return whichever is earlier.

Section 16(4) of the CGST Act/GGST Act provides that the last date for taking the input tax credit in respect of any invoice or debit note pertaining to a financial year is the due date of furnishing of the return under Section 39 for the month of September following the end of the financial year or furnishing of the relevant annual return, whichever is earlier.

Therefore, the moot question is, whether the return in Form GSTR-3B is a return required to be filed under Section 39 of the CGST Act/GGST Act. The aforesaid press release is valid and in consonance with Section 16(4) of the CGST Act/GGST Act only if Form GSTR-3B is a return required to be filed under Section 39 of the CGST Act/GGST Act. Section 39(1) of the CGST/GGST Act provides that every taxpayer, except a few special categories of persons, shall furnish a monthly return in such form and manner as may be prescribed. Rule 61 of the CGST Rules/GGST Rules prescribes the form and manner of submission of monthly return. Sub-rule 1 of Rule 61 of the CGST Rules/GGST Rules provides that the return required to be filed in terms of Section 39(1) of the CGST/GGST Act is to be furnished in Form GSTR-3.

It would be apposite to state that initially it was decided to have three returns in a month, i.e. return for outward supplies i.e. GSTR-1 in terms of Section 37, return for inward supplies in terms of Section 38, i.e. GSTR-2 and a combined return in Form GSTR-3. However, considering technical glitches in the GSTN portal as well as difficulty faced by the tax payers it was decided to keep filing of GSTR-2 and GSTR-3 in abeyance. Therefore, in order to ease the burden of the taxpayer for some time, it was decided in the 18th GST Council meeting to allow filing of a shorter return in Form GSTR-3B for initial period. It was not introduced as a return in lieu of return required to be filed in Form GSTR-3. The return in Form GSTR-3B is only a temporary stop gap arrangement till due date of filing the return in Form GSTR-3 is notified. Notifications are being issued from time to time extending the due date of filing of the return in Form GSTR-3, i.e. return required to be filed under Section 39 of the CGST Act/GGST Act. It was notified vide Notification No.44/2018 Central Tax dated 10th September 2018 that the due date of filing the return under Section 39 of the Act, for the months of July 2017 to March 2019 shall be subsequently notified in the Official Gazette. It would also be apposite to point out that the Notification No.10/2017 Central Tax dated 28th June 2017 which introduced mandatory filing of the return in Form GSTR-3B stated that it is a return in lieu of Form GSTR-3. However, the Government, on realising its mistake that the return in Form GSTR-3B is not intended to be in lieu of Form GSTR-3, rectified its mistake retrospectively vide Notification No.17/2017 Central Tax dated 27th July 2017 and omitted the reference to return in Form GSTR-3B being return in lieu of Form GSTR-3.

Thus, in view of the above, the impugned press release dated 18th October 2018 could be said to be illegal to the extent that its para-3 purports to clarify that the last date for availing input tax credit relating to the invoices issued during the period from July 2017 to March 2018 is the last date for the filing of return in Form GSTR-3B.

The said clarification could be said to be contrary to Section 16(4) of the CGST Act/GGST Act read with Section 39(1) of the CGST Act/GGST Act read with Rule 61 of the CGST Rules/GGST Rules.

3. Goods without E-Way Bill cannot be detained without notice U/s. 129

Case Name : **Sri Krishna Traders Vs State of Gujarat (Gujarat High Court)**

Appeal Number : Special Civil Application No. 11016 of 2019
Date of Judgement/Order : 26/06/2019

The writ-applicant is operating from the State of Tamil Nadu. It appears that the consignment of betel nuts was being transported from Vellor, State of Tamil Nadu, to Delhi. While the goods were in transit and passing through the State of Gujarat, the vehicle was intercepted by the officers of the GST and the same came to be detained on the ground that **E-Way Bill** was not produced when demanded. In such circumstances, the vehicle along with the goods came to be seized.

It was pointed out that firstly, under section 129 of the Act, the officer is required to issue a notice as contemplated under sub-section (3) thereof and thereafter, after affording an opportunity of hearing to the person concerned, pass an order thereunder. It was submitted that it is only if there is no compliance of the order passed under section 129 of the Act, that the provisions of section 130 of the IGST Act can be resorted to. The attention of the court was invited to the impugned show-cause notice dated 1.3.2019, to submit that the same seeks to impose penalty, redemption fine and confiscation under section 130 of the Act without initiating any proceedings under section 129 of the Act, which is not permissible in law.

Prima facie, it appears that the show-cause notice under section 130 of the CGST Act has been issued without complying with the requirements of section 129 of the CGST Act.

4. Circular cannot run contrary to Statutory Provisions to deny IGST Refund

Case Name : **M/s. Amit Cotton Industries vs. Principal Commissioner of Customs (Gujarat High Court)**

Appeal Number : Special Civil Application No. 20126 of 2018
Date of Judgement/Order : 27/06/2019

Facts:

Writ-applicant had exported goods in July 2017. It is the case of the writ-applicant that it is eligible to seek refund of the IGST in accordance with the provisions of the **IGST Act, 2017**. However, according to the writ-applicant, without any valid reason the refund to the tune of Rs.19,05,121/- has been withheld.

The Hon'ble High Court held as under

It is not in dispute that the goods in question are one of zero rated supplies. A registered person making zero rated supplies is eligible to claim refund under the options as provided in sub-clauses (a) and (b) to clause (3) of Section 16. Respondents have fairly conceded that the case of the writ applicant is not falling within sub-clauses (a) and (b) respectively of clause (4) of Rule 96 of the Rules, 2017. The stance of the department is that, as the writ-applicant had availed higher duty drawback and as there is no provision for accepting the refund of such higher duty drawback, the writ applicant is not entitled to seek the refund of the IGST paid in connection with the goods exported, i.e. 'zero rated supplies'.

If the claim of the writ-applicant is to be rejected only on the basis of the circular issued by the Government of India dated 9th October 2018 referred to above, then we are afraid the submission canvassed on behalf of the respondents should fail as the same is not sustainable in law. We are not impressed by the stance of the respondents that although the writ-applicant might have returned the differential drawback amount, yet as there is no option available in the system to consider the claim, the writ-applicant is not entitled to the refund of the IGST.

First, the circular upon which reliance has been placed, in our opinion, cannot be said to have any legal force. The circular cannot run contrary to the statutory rules, more particularly, Rule 96 referred to above. Rule 96 is relevant for two purposes. The shipping

bill that the exporter may file is deemed to be an application for refund of the integrated tax paid on the goods exported out of India and the claim for refund can be withheld only in the following contingencies as enumerated in sub-clauses (a) and (b) respectively of clause (4) of Rule 96 of the Rules, 2017. Insofar as the circular is concerned, apart from being merely in the form of instructions or guidance to the concerned department, the circular is dated 9th October 2018, whereas the export took place on 27th July 2017. Over and above the same, the circular explains the provisions of the drawback and it has nothing to do with the IGST refund. Thus, the circular will not save the situation for the respondents. We are of the view that Rule 96 of the Rules, 2017, is very clear.

In view of the same, the writ-applicant is entitled to claim the refund of the IGST. In the result, this writ-application succeeds and is hereby allowed. The respondents are directed to immediately sanction the refund of the IGST paid in regard to the goods exported, i.e. 'zero rated supplies', with 7% simple interest from the date of the shipping bills till the date of actual refund.